

Women Behind Bars: Penal Policies and Women Offenders in the Late Ottoman Empire (1840-1918)

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vorgelegt von

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aus

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To victims of femicide in Turkey...

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Projects

Human Rights Violations Project, Ludwig Maximilians University, Ethnology Institute, Dr. Deniz Yonucu August-October 2019, Research Assistant.

Tarihname History Journal, Istanbul Bilgi University History Department, 2012 (two volumes).

Failure of the Ottoman Police Institution (1845-1908), (Bachelor Senior Project, 2014).

PUBLISHING

Sivri, Gizem, “The Politics of Women Imprisonment within the Discussion of the Ottoman Prison Reform (1840-1919)”, Forthcoming.

Sivri, Gizem, “Hapiste Kadın Olmak: Osmanlı İmparatorluğu’nda Kadın Suçluluğu ve Kadınların Hapsedilmesi (1840-1919)”, *Feminist Tahayyül*, Vol 1, Issue 1. Jan.2020.

Sivri, Gizem, “The Politics of Women’s Imprisonment in the Late Ottoman Empire (1840-1918): Imams’ Houses as Spatial Place and Detention Question of Women Inmates”, CISST& TCPS International Conference on Alternatives to Imprisonment 24-25 November 2018, Conference Book, Istanbul: TCPS Kitaplığı, December 2018.

Sivri, Gizem, “Osmanlı’da Kadın Mahkum Olmak: Kadınları Mahkum Etme ve Denetleme Pratikleri Üzerine Bir Değerlendirme, 1840-1919”, *Toplumsal Tarih*, Vol. 283, July 2017, 84-91.

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Master Graduation Honor, Boğaziçi University, 2017.

Bachelor Graduation Honor, İstanbul Bilgi University, 2014.

SEMINARS AND CONFERENCES:

Forthcoming: MESA Annual Meeting 2021, (Middle East Studies Association): "Prisons, dungeons and arsenals: Confinement in the Middle East" 28-31 October, Quebec-Montreal, Canada (Panelist).

Europen Social Science History Conference, 24-27 March 2021, “Neglected or Considered: Being a Woman Inmate in the Ottoman Prisons (1840-1918)”, Virtual Conference.

Türkiye’de Arşivciliğin Bugünü Yarını, Kadınların Arşivlerdeki Yeri Sempozyumu, Beykoz University-İstanbul, 10-11 April 2021, “Osmanlı Arşivi’nde Mahkum Kadınların İzini Sürmek (1840-1919),” Virtual Conference.

Al-Salon-10 Years of Movement (Arab Spring) in the Middle East, NAWARA Berlin 19 November 2020-11 February 2021, “Defeat and the State; Syria and Egypt cases after the 6 Days War”, *Selected Discussant* with Prof. Khaled Fahmy and Yasin Al-Haj Saleh.

Dicle Koğacıoğlu Makale Ödülü Töreni ve Konferansı, “Hapiste Kadın Olmak: Osmanlı İmparatorluğu’nda Kadın Suçluluğu ve Kadınların Hapsedilmesi (1840-1919)” Minerva Palas, İstanbul-Karaköy, 21 December 2019.

CISST, TCPS International Conference 2018, Alternatives to Imprisonment, “*Women Criminality and Women Imprisonment in the Late Ottoman Empire (1840-1919)*”, Istanbul: Mimar Sinan Fine Arts University, Bomonti Campus Conference Hall, 24-25 November 2018

Zeit Stiftung, Trajectories of Change Student Conference 2018, Evangelische Bildungsstätte auf Schwanenwerder, Berlin Wannsee, “Perception of Female Inmates Under the Discussion of Gendered Criminality: Special Prison and Punishment Practices for Women Prisoners in the Late Ottoman Empire (1840-1920)” 23-27 May 2018.

Zeit Stiftung, Trajectories of Change Fellows, Dissertation Development Workshop, “Women’s Criminality and Imprisonment Process of the Women Inmates in the Late Ottoman Empire (1840-1919)”, 8-9 February 2018.

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Sabancı University Graduate Student Workshop 2017, Governance and Authority in the Ottoman Realm, “Women’s Prisons and Women Prisoners: From Invisibility to Expendability”, 19 May 2017.

Turkologentag 2016, Second European Convention on Turkic, Ottoman and Turkish Studies, the invention as an organizer, chair, and speaker in the section of “Crime, Punishment, and Prisons in the Late Ottoman Empire” with the presentation namely “Womens’ Prisons and Women Prisoners in the Late Ottoman Empire.” 14-17 September 2016.

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Abstract (English)

This dissertation discusses the representation of female criminals in penal scripts, the place of women in the Ottoman prison reform agenda, and imprisonment practices for women inmates in the late Ottoman Empire. In the recurrent reforms of this era, the femininity of prisoners was central to the construction of special punitive practices and carceral sphere for the imprisonment of women. Along with the effects of fewer female inmates and special concentration on the influences of femininity on imprisonment, this dissertation has a thematic flow: *ad hoc* imprisonment areas, guardianship and control methods, the epidemic crises, amnesty and release policies, tolerant and lenient imprisonment practices for pregnant and breastfeeding mothers, a varied criminal status of prostitutes in prisons, and feminine ways of penal labour in the prison workshops during the prison reformation process that took place between 1840 and 1918. This study mainly used Ottoman archival records to show a separate female carceral sphere that included and spilled outside of the prisons to encompass temporary leased locations and imams' houses, dreadful living conditions of prisons, and guardianship in female prisons within the analysis of prison reform interrupted by budgetary problems in the waning years of the Ottoman Empire.

Prison officials emphasized the peculiarities and uniqueness of the situations of female prisoners, even if they had committed violent offences, such as homicide. Their being females also entailed their representation as more vulnerable, and as a result, more deserving of the state's male-centric concern. As a result, state officials developed distinct treatments that they presented as more tolerant and "lenient," especially for inmates who were also mothers. Young mothers were marked off, and the prison system developed original and idiosyncratic approaches for handling pregnant women and breastfeeding mothers. These punitive methods engendered the unique dynamics and prison policies for female inmates, while prostitutes were exposed to discrimination and stigmatization regarding their immoral acts. Although women suffered under woeful living conditions of dilapidated prisons amid ongoing prison reform, the prison policy shaped itself regarding female issues of prisoners as occasionally tolerant, discriminative, and ignorant depending on the context. Using archival cases, judicial records, penal scripts, and architectural plans, this dissertation sheds light on the impact of the multi-layered and gendered representations of female prisoners in the penal

codes, prison regulations, reform attempts, bureaucratic interventions, and above all, imprisonment practices that were constructed by the reception of women's criminal agency as dangerous criminals, vulnerable mothers, infirm, pregnant murderers, old women, prostitutes, penal laborers, pardoned and released women to show that these were effective on the punitive practices of the late Ottoman prison system.

Abstract (Deutsch)

Die vorgelegte Dissertation beabsichtigt einen neuen Blick auf Frauenkriminalität und Frauengefängnisse Osmanischen Reichs im 19. Jahrhundert innerhalb des geschichtswissenschaftlichen Diskurses zu werfen. Der Diskurs soll um eine kritische Perspektive erweitert werden, um eine bestehende Forschungslücke zu schließen. Die Arbeit soll dazu beitragen, eine Debatte unter Wissenschaftlerinnen und Wissenschaftlern der Frauenforschung, Osmanistik sowie Kriminal- und Strafrechtsgeschichte zu entfachen.

Der bisherige Diskurs zu Frauenkriminalität ist maßgeblich von einem Blick bestimmt, der kriminelles Handeln von Frauen grundsätzlich zurückweist und von einer Utauglichkeit von Frauen für kriminelle Handlungen ausgeht. Dadurch wird jedoch das Dasein einer kriminellen weiblichen Identität missachtet und die Präsenz von Frauen in Haftanstalten ignoriert. Die Geschichtsschreibung nimmt Frauen selbst als Täterinnen lediglich im Rahmen eines Opfernarrativs, im Sinne von Opfer der Verhältnisse, wahr bzw. wird eine Täterin als Person definiert, die lediglich aus Gründen der Verteidigung zur Täterin werden musste. Dieses Verständnis dominiert den gesamten akademischen Diskurs.

Diese sich in der Geschichtsschreibung und im akademischen Diskurs wiederholenden und klischeebehafteten Festschreibungen von weiblichen Straftäterinnen und Häftlingen sollen mit der vorliegenden Arbeit durch neue Perspektiven, Diskussionen und Analysen gebrochen werden, so dass eine bisher nichtbeachtete Seite der weiblichen Kriminalgeschichte aufgezeigt werden kann.

Zu diesem Zweck wurden zahllose Primärquellen gesichtet, um so einen Beitrag zur Straf-, Rechts- und Strafrechtsgeschichte der Frauen in der osmanischen Literatur zu leisten. Um die Debatte über weibliche Gefangenschaft und Frauengefängnisse in der spätosmanischen Periode zu erweitern, werden zudem bisher nicht beachtete Argumente herangezogen.

Die Dissertation umfasst fünf Hauptkapitel, jedes Kapitel skizziert einen breiten Rahmen osmanischer Rechtslinguistik zur Definition des kriminellen Verhaltens von Frauen, zu sich veränderten strafrechtlichen Perspektiven im 19. Jahrhundert, zu spezifischen Bestrafungsmethoden für weibliche Häftlinge, zur Politik und Praxis von

Frauenhaft sowie zur Kluft zwischen Reformrhetorik und -praxis im Zeitalter der Gefängnisreform zwischen dem 19. und Anfang des 20. Jahrhunderts.

Folgenden Themen werden Schwerpunkte gewidmet: Ad Hoc Inhaftierungsanstalten in Form von Wohnräumen geistlichen Personals, Bewachungs- und Inspektionsmethoden, epidemische Krisen, Amnestie- und Befreiungspolitiken, Praktiken von toleranter und milder Inhaftierung, Mutterschaft und Schwangerschaft in Frauengefängnissen sowie Frauenstrafarbeit in Gefängniswerkstätten in der Zeit der Gefängnisreformprozesse zwischen 1840 und 1918.

Darüber hinaus enthält diese Dissertation mehrere aufschlussreiche und wertvolle Archivdokumente, die die bisher bestehende Forschung zur Kriminalgeschichte von Frauen im Osmanischen Reich ergänzen sollen. Vor allem werden mithilfe der vorliegenden Arbeit Fragen zur bisher unerforschten Welt von osmanischen Frauen in Haft gestellt.

Insgesamt schlägt die vorliegende Dissertation eine neue Seite zur bisher unbekannten Forschung von osmanischen Frauengefängnissen auf und stellt Fragen zu verschiedenen Themen: zur Wahrnehmung von Täterinnen in der osmanischen Gefängnispolitik, zur Stellung von Straftäterinnen im osmanischen Strafrechtssystem, zur Ad-hoc-Inhaftierung weiblicher Insassinnen, zu Inspektions- Aufsichtsfunktionen weiblicher Wärterinnen, Misshandlung und Nötigung in Frauengefängnissen, gesundheitlichen Bedingungen in Haftanstalten und Epidemien unter weiblichen Häftlingen, zu Mutter- und Schwangerschaft in osmanischen Frauengefängnissen, zur Inhaftierungspolitik für Prostituierte, weiblichen Strafarbeit in Gefängniswerkstätten sowie letztlich zur Amnestie- und Entlassungspolitik gegenüber weiblichen Insassinnen im späten Osmanischen Reich.

Das erste Kapitel befasst sich eingehend mit sich innerhalb der westlichen Literatur und ihrer Theorien wiederholenden Forschungskonzepten und Annäherungsweisen an Frauenkriminalität und -inhaltierung. Innerhalb der Diskurse und Argumente feministischer Strafrechtlerinnen und Strafrechtler zeichnet dieses Kapitel ein neuartiges Bild von weiblicher Kriminalität, osmanischer Frauenkriminalität und -inhaltierung nach indem die Auswirkungen und Beiträge feministischer Straftheorien und wissenschaftlicher Perspektiven berücksichtigt werden. Sicherlich verstärkte die Adaptation feministischer Methodologie das

erkenntnistheoretische Ziel dieser Studie, welches beabsichtigt, eine historische und faktenbasierte Wahrheit zu erreichen. Darüber hinaus berührt das erste Kapitel die sich im 19. Jahrhundert verändernden Bestrafungsmethoden sowie den Einfluss des Gefängnisses als Hauptbestrafungsmethode.

Das zweite Kapitel befasst sich mit den justiziellen und strafrechtlichen Umgestaltungsversuchen der osmanischen Verwaltung, die Auswirkungen auf unterschiedliche Bereiche hatte: Strafmethoden, Schaffung von Inhaftierungsräumen, Konsequenzen strafrechtlicher Kodifizierungen angewandt auf Institutionen der Justiz und des Strafvollzugs sowie vor allem den strafrechtlichen Zugang auf osmanische Frauenkriminalität, der alle bisher im hoheitlichen Strafrecht bestehende Praktiken zerstreute. Die Artikel der strafrechtlichen Kodifizierungen wurden vor allem basierend auf Definitionen, Bestrafungen und weiblichen Straftäterinnen hinsichtlich der Identifizierung von kriminellen Handlungen, der Arten von Verstößen, der Klassifizierung kriminellen Verhaltens, der Quellen von Strafgesetzbüchern und der Einflüsse der osmanischen Sprache umfassend analysiert. Vor allem die Stellung von Täterinnen und Opfern wird anhand der Strafgesetzbücher und den eintretenden Veränderungen innerhalb der justiziellen Organe tiefgreifend untersucht, die gleichzeitig den Weg für eine häufigere Verhängung von Freiheitsstrafen als Hauptbestrafungsmethode ebneten. Somit wird in diesem Kapitel die Präsenz weiblicher Täterinnen und Opfern nachgezeichnet. Vor allem die Wahrnehmung der Frau in der Rolle der Täterin und des Opfers im Rahmen eines Verbrechens wird anhand von einschlägigen Artikeln der Strafgesetzbücher nachgezeichnet. Ohne eine Analyse von Transformationsversuchen innerhalb der Rechts- und Justizorgane des Osmanischen Reiches wäre jedoch die Erforschung von Verhaftungspraktiken als Bestrafungsmethode sowie Konzepte von Einsperrung müßig und unergiebig. Daher wurden alle Arten von Reformen im Justiz-, Rechts- und Strafvollzugsbereich in Kapitel zwei eingehend untersucht.

Entsprechend konzentriert sich das dritte Kapitel auf die osmanische Gefängnisreform und ihre weiblichen Subjekte. Die anhaltenden Reformpakete zur Transformation osmanischer Gefängnisse in “moderne” Zuchthäuser und weibliche Täterinnen betreffende Gefängnisverordnungen, Frauengefängnisprojekten und Artikel über weibliche Insassen werden anhand von verkündeten Verordnungen,

Reformpaketen und Berichten im Lichte der Einmischung europäischer Bürokraten und deren Reformvorschlägen und Untersuchungsberichten umfassend untersucht.

Divergierende, geschlechtsspezifische, also zum Beispiel umsichtige und „tolerante“ Politiken gegenüber Mütter und schwangere Insassinnen innerhalb des osmanischen Gefängnissystems konnten anhand von schriftlichen Quellen, wie zum Beispiel Gefängnisvorschriften sichtbar gemacht werden. Die wiederholend veröffentlichten Artikel zu Organisation, Ordnung, Hygiene, Inspektionsmethoden, Bewachung und Verbesserung der physischen Bedingungen in Haftanstalten zeugten häufig vom Anspruch, dem Bestreben einer osmanischen Gefängnisreform während der Herrschaft von Abdülhamid II. und der KEF-Regierung entgegenzukommen.

Schließlich geben die Fallkapitel (Kapitel 4 und 5) weitere thematische Einblicke in die allgemeinen Lebensbedingungen in Frauengefängnissen und in die Praxis des Frauenstrafvollzugs des späten 19. und frühen 20. Jahrhunderts des Osmanischen Reiches. Hier werden näher betrachtet, Konzepte von Frauenhaftierung, Hafträume, Aufsicht und Inspektion in Frauengefängnissen, finanzielle und sexuelle Missbrauchsfälle, Auswirkungen von Mutter- und Schwangerschaft, Hygiene und Haftbedingungen, Amnestie- und Entlassungspolitik weiblicher Häftlinge und schließlich weibliche Strafarbeit in Gefängniswerkstätten.

Zusammenfassung der Dissertation

Das Klischee des "Unsichtbar-Werdens und Verborgen-Werdens in der Geschichte" ist für die osmanische Frauen- und Geschlechterforschung von zentraler Bedeutung. Insbesondere die neuesten Werke der osmanischen Frauengeschichte verorteten sie überwiegend im häuslichen Bereich und konzentrierten sich auf unschuldige und passive Frauenfiguren wie Mütter, Ehefrauen, Bräute usw. Diese Tendenz verhinderte mehrdimensionale und umfassende Ansätze zur Erforschung der Kriminalität osmanischer Frauen.

Insgesamt wurden sie als übergangene, häusliche, passive und unschuldige Figuren innerhalb ihres Milieus identifiziert. Obwohl diese Studien scheinbar eine geheimnisvolle, verborgene Welt innerhalb der Frauengeschichte enthüllen, befassen sie sich außerhalb eines Kontextes von Schuldbarkeit lediglich mit Frauen innerhalb eines Alltagslebens, ihres sozialen oder ehelichen Status oder ihrer Rolle als Klägerinnen am osmanischen Hof, was mehrdimensionale und umfassende Ansätze zur Beschreibung von Frauen als aktive Subjekte und handelnde Personen verhindert.

Mit anderen Worten, ich bin überzeugt, dass weibliche Kriminalität und die Identifizierung von weiblichen Straftätern als "Täterinnen" in der osmanischen Frauenforschung mehrdimensional diskutiert werden muss.

So habe ich einen thematischen Rahmen für diese Studie geschaffen, um die historische Beziehung von gewöhnlichen und kriminellen Frauen zu ihrer Außenwelt, ihrer Kriminalität, ihrem Leben als Häftlinge, ihrer Aufnahme als weibliche Gefangene, ihrem entbehrlichen Status und der ambivalenten Praxis in Bezug auf weibliche Insassen in osmanischen Gefängnissen zu beschreiben.

In konzentriere mich bei den in dieser Studie näher betrachteten Frauen auf ihre Rolle der Täterin, statt sie lediglich als Angeklagte und somit als bemitleidenswertes Opfer des osmanischen Gefängnisses zu betrachten. Daraus ergibt sich eine nähere Betrachtung des Alltags der Verurteilten, ihren Geschlechterrollen, ihren geschlechterspezifischen Herausforderungen als handelnde Person in *ad hoc* Gefängnissen wie Wohnungshäusern von Imamen. Darüber hinaus wird eine Betrachtung der staatszentrierten Annäherung der Osmanischen Regierung gegenüber Frauenkriminalität im Lichte der archivalischen Dokumente erforderlich.

Zusammengefasst ziele ich darauf ab einen Diskurs zu entwickeln, der über die klassische Charakterisierung einer weiblichen Agenda unter Betrachtung von Frauenkriminalität und des Daseins als weibliche Insassin in osmanischen Gefängnissen hinausgeht.

Obwohl weibliche Insassen denselben elenden Verhältnissen ausgesetzt waren wie männliche Insassen, waren inhaftierte Frauen oftmals ausschließlich aufgrund ihres Geschlechts unweigerlich Vergewaltigung, Missbrauch, Nötigung und Ausgrenzung innerhalb des osmanischen Gefängnissystems ausgesetzt. Die folgenden Fälle verdeutlichen, dass weibliche Sträflinge in der osmanischen Modernisierungsmentalität der Hamidian- und der konstitutionellen Ära unterdrückt und völlig entbehrlich gemacht wurden (im Falle der Gefängnisreform).

Bevor ich auf diese Fälle eingehe, möchte ich einen kurzen Blick auf den Prozess der Gefängnisreform im osmanischen Reich werfen.

Die Bedingungen in den osmanischen Gefängnissen waren insgesamt unerträglich. Gefangene mussten mit schlechten Lebensbedingungen wie unhygienischen, staubigen und lichtlosen Gefängniszellen zureckkommen. Ein Heizsystem war in den Gefängnissen nicht vorhanden. Mit der Verkündigung des Tanzimat-Verdikts im Jahre 1839 versuchte die osmanische Regierung mit unterschiedlichem Erfolg Reformen durchzuführen, die oft durch ausländische politische Interventionen angeregt wurden und mit Zwang und Vorgabe europäischer Staaten im Sinne einer Modernisierungsidee auf den Weg gebracht wurden.

Als ein Beispiel ist der ausführliche Gefängnisbericht des britischen Botschafters Sir Stratford Canning aus dem Jahre 1851 zu nennen. Er beschrieb und bewertete das bestehende Gefängnissystem und schlug ein Modell für moderne Gefängniseinrichtungen im osmanischen Reich vor. Das Bekanntwerden der massiven Baufälligkeit der Gebäude sowie der unhygienischen und ungesunden Lebensbedingungen in den Gefängnissen, vor allem in den osmanischen Provinzen verstärkte das internationale Interesse. Dies wiederum bewegte die osmanische Verwaltung dazu, die osmanischen Gefängnisgebäuden zu erneuern und zu renovieren. Sie begannen zudem die Lebensbedingungen der osmanischen Gefangenen zu verbessern. Möglicherweise war selbst der erste große Meilenstein in den

Reformmaßnahmen, der Bau des Gefängniskomplexes Hapishâne-i Umûmî im Jahr 1871 durch diesen eindringlichen Appell des Botschafters inspiriert.

Kurz darauf wurde die erste Gefängnisverordnung mit dem Titel "1880 Hapishâneler Nizamnâmesi" verkündet. Daraufhin begannen in den osmanischen Provinzen moderne Gefängniskomplexe nach dem Vorbild dieser Verordnung zu entstehen. Die Gefängnisordnung von 1893 wiederum folgte diesen Reformversuchen mit detaillierten Verordnungen und anschaulichen Erklärungen über das Gefängnispersonal, seine Aufgaben, die vorgeschlagenen Lebensstandards der Insassen usw.

Erst zu Beginn des 20. Jahrhunderts, in der Hamidischen Periode und dann unter der Herrschaft des Fortschrittskomitees und der Unionsregierung nach 1908, wurde das Bestreben, die Gefängnisse des osmanischen Reichs zu verbessern, Teil der Regierungskultur.

Die erste Behörde zur Verwaltung der Gefängnisse des osmanischen Reiches wurde 1911 unter dem Namen *Mebâni-i Emîriyye Hapishâneler İdaresi* gegründet. In den Jahren 1911-12 führte die KEF-Regierung die erste Untersuchung und Zählung überhaupt zu Gefängnissen durch. Diese Erhebungen wurden zwischen 1911 und 1919 insgesamt vier Mal durch die *Mebâni-i Emîriyye Hapishâneler İdaresi* in mehreren osmanischen Provinzen durchgeführt. Nichtsdestotrotz resultierten alle Gefängnisreformen und angepassten Vorschriften in erfolglosen Wiederholungen und Adaptationen. Die gesteckten Ziele konnten nie erreicht werden.

Nach einem kurzen Überblick über die Gefängnisreform möchte ich auf die räumlichen Probleme des Frauengefängnissystems eingehen. Darüber hinaus sollen anschauliche Beispiele das unterentwickelte Gefängnissystem und seine unvermeidlichen Folgen für weibliche Gefangene zeigen.

Die Tatsache, dass die osmanische Regierung mit der Steuerfrage kämpfte, erschwerte den Bau neuer Gefängnisgebäude. Dies war häufig eine der vielen vorangestellten Gründe der osmanischen Regierung während des Modernisierungsprozesses des Reiches, wenn Ziele nicht erreicht wurden. Die Steuerfragen verhinderten den Bau geeigneter Frauengefängnisse oder angemessener Zellen in den Gefängnissen der Männer (*zîkûr hapishânesi*). Daher mietete die osmanische Regierung vorübergehend *Ad-hoc*-Häuser (*isticar usûlü*) zur Nutzung als

Frauengefängnisse, so dass in osmanischen Provinzen Frauen überhaupt inhaftiert werden konnten. Auf diese Weise vermied die osmanische Regierung auch Kosten für Bauprojekte, die vor allem auf weibliche Gefängnisinsassen zugeschnitten wären.¹

Diese einzigartige *Ad-hoc*-Lösung involvierte hauptsächlich die Umnutzung von Wohnhäusern lokaler Imame und Ortvorsteher als Teil des osmanischen Gefängnissystems. Es handelte sich bei diesen Gefängnissen häufig um verlassene oder baufällige Anwesen, die von lokalen Imamen oder Ortsvorstehern in osmanischen *kazâs* (Bezirken) und *kariyes* (Unterbezirken) gemietet wurden. Zweifellos brachten die Wohnhäuser der Imame auch eine Vielzahl von Problemen in Bezug auf Sicherheit, Inhaftierung, Isolierung und Rehabilitierung von weiblichen Gefangenen mit sich. Diese speziellen Fälle werden im Weiteren beispielhaft einzeln veranschaulicht.

So gab es beispielsweise einen Briefwechsel zwischen der osmanischen Gefängnisverwaltung (*Mebâni-i Emîriyye Hapishâneleri İdaresi*) und dem örtlichen Gouverneur des Bezirks Brana in der Provinz Kosova. Neben dem Männergefängnis in Brana wurde auch das Anwesen des Imams Hâfiz Nail Efendi als Frauengefängnis angemietet. Hafiz Nail Efendi kümmerte sich daneben auch um die Sicherheit, Inhaftierung und die täglichen Bedürfnisse der weiblichen Gefangenen.² Obwohl die Archivdokumente keine Einzelheiten über den Inhaftierungsprozess, den Lebensstandard oder den Tagesablauf im Haus des Imams von Brana enthalten, ist es nicht schwer festzustellen, dass die Tradition der Nutzung von Wohnhäusern im Osmanischen Reich weit verbreitet war. Als solche waren sie inoffizielle, unregelmäßige und nicht-institutionelle Frauengefängnisse, darüber hinaus stellten sie einzigartige räumliche Orte für weibliche Gefangene dar.

Während Imame und Ortvorsteher häufig gleichzeitig Grundbesitzer und Wärter der osmanischen Frauengefängnisse waren, war deren männliches Geschlecht für eine Vielzahl von Problemen für die weiblichen Insassen, insbesondere in den Frauengefängnissen verantwortlich. Trotzdem wurden Imame, Ortvorsteher oder andere lokale Beamte aufgrund ihrer angesehenen Stellung in der osmanischen Gesellschaft als Gefängniswärter für Frauen bevorzugt. Ungeachtet des Geschlechts, der Menschlichkeit oder der grundlegenden Bedürfnisse, erfüllten die Wohnhäuser der

¹ Gültekin, Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni* (1839-1908), (Istanbul: Kitabevi, 2012), 203-205-211.

² BOA. DH. MB. HPS. M. 6/46.

Imame die Funktion, Gefangene von der Gesellschaft zu isolieren und sie in geschlossenen Häusern einzusperren, was gleichzeitig im Widerspruch zu den zwischen 1840 und 1918 erlassenen Gefängnisreformpaketen stand. Zusammenfassend lässt sich feststellen, dass ein bestimmtes Geschlecht kein Kriterium für die Tätigkeit als Gefängniswärter in Wohnhäusern oder institutionellen Gefängnissen war. Diese Situation ebnete den Weg für den Missbrauch von weiblichen Insassen, wie in dieser Studie erörtert wird.

Trotz der vielen und bekannten Probleme war die osmanische Regierung nicht in der Lage, eine radikale Lösung für die Gefängnisfrage zu finden, da sie sich wirtschaftlich in einer Sackgasse befand. So wurde beispielsweise am 6. April 1887 in Bezug auf ein Frauengefängnis in Kalonya (auf der Insel Lesbos) von den örtlichen Beamten eine Petition an die Regierung in Istanbul gestellt, mit der Forderung rückständigen Mieten und unbezahlten Wach- und Inspektionsgebühren nachzukommen. Im Gegenzug beschwerte sich das Innenministerium über die hohe Miete für das Frauengefängnis auf Lesbos und schlug Verhandlungen zur Senkung der Miete vor. Auch die Mieten für die Frauengefängnisse des Süleymaniye Sanjak und des Mudurnu-Bezirks des Bolu Sanjak konnten nicht bezahlt werden, so dass die Eigentümer der Gefängnisse die Unterbringung und Beaufsichtigung weiblicher Sträflinge aufgaben.³ Diese Beispiele veranschaulichen, dass die Finanzkrise entgegen einer Langlebigkeit und Beständigkeit zum System der gepachteten Gefängnisse stand. Einerseits erkannte die osmanische Regierung die wesentliche Notwendigkeit institutionelle und große Frauengefängnisse einzurichten, andererseits erlaubten die wirtschaftlichen Probleme dies nicht in nachhaltiger Weise. Bedauerlicherweise belegen Archivdokumente allgemeine fiskalische Probleme wie verspätete Mietzahlungen und die Anhäufung von Schulden. Obwohl Artikel sechs der Gefängnisordnung von 1880 (*Hapishâne Nizamnâmesi*) vorschlug, dass in allen Provinzen angemessene Gefängnisgebäuden und getrennte Abteilungen für männliche und weibliche Gefangene errichtet werden sollen, wurden weder angemessene Gefängnisse für weibliche Insassen gebaut, noch die Mieten für Wohnhäuser rechtzeitig bezahlt.

³ BOA. DH. MB. HPS 41/20.

Ein weiteres Problem war die Entlohnung der Wärterinnen und Wärter. Während männliche Gefängniswärter ein festes Gehalt erhielten, war dies für weibliche Wärterinnen nicht vorgesehen. Dies war der Anzahl der weiblichen Insassinnen geschuldet. (Hier sei die Zahl der weiblichen Insassen aus dem Buch von Kent Schull erwähnt: Die Gefängniserhebung 1911-1912 ergab, dass die weiblichen Gefangenen 4,4 Prozent der Gefängnispopulation ausmachten (1.494 von 34.085).⁴ Da es weitaus weniger weibliche als männliche Häftlinge gab und so der Arbeitsaufwand entsprechend geringer ausfiel, entschied sich die Gefängnisverwaltungsbehörde für ein „auf Provision“ basierendes Gehaltsmodell, das sich als der Zahl der weiblichen Insassen bemaß. So verdienten Wärterinnen in großen Städten wie Istanbul, Izmir und Aydin und in den provisorischen Zentren zwischen 130-200 Piaster, ein relativ hoher Betrag. Das Gehalt von Wärterinnen auf dem Land fiel niedriger aus. Nichtsdestotrotz verdienten sie zweifelsohne weitaus weniger als ihre männlichen Kollegen, unabhängig davon, ob sie in urbanen Räumen oder Provinzen beschäftigt waren.

Die schlechte Bezahlung auf dem Land führte jedoch zu häufigen Kündigungen unter weiblichen Wärterinnen. Zum Teil erhielten sie ihr Gehalt häufig gar nicht oder die Frauen litten unter aufgeschobenen Zahlungen. Zayel Kadın, eine Wärterin des Hapishâne-i Umûmî (Sultanahmet-Gefängniskomplex), kündigte 1912, weil ihr Gehalt über längere Zeit nicht gezahlt wurde.⁵ Dies führte zu einem Mangel an weiblichen Wärterinnen auf dem Land, was durch die osmanische Gefängnisverwaltung provisorisch gelöst wurde. Es wurde vorgeschlagen, die weiblichen Insassen einfach von männlichen Wärtern inhaftieren zu lassen. So konnten zwei Probleme gelöst werden: der Mangel an weiblichen Wärterinnern wurde aufgehoben, da nun die männlichen Kollegen übernahmen, zudem fiel die Provisionszahlung aus, da diese aufgrund des festen Gehalts der männlichen Wärter ausgeschlossen war. Auf diese Weise konnte die Inhaftierung weiblicher Häftlinge ohne zusätzliche Kosten durchgeführt werden. Die provisorische Lösung der osmanischen Verwaltung war jedoch gleichbedeutend mit einer Ignoranz der geschlechterspezifischen Bedürfnisse und der Weiblichkeit der Insassinnen. Weder diese noch die sozialen und islamischen Normen der osmanischen Gesellschaft fanden bei dieser Praxis angemessene Berücksichtigung.

⁴ Nurgül Bozkurt, “20. Yy. Başlarında Kütahya Hapishanesinin Genel Durumu”, *The Journal of International Social Research*, Volume: 5 Issue: 21, 272.

⁵ BOA. DH. MB. HPS. M 3/19.

Diese vorübergehende Praxis diente zwar den Zielen der osmanischen Regierung, führte aber zu Missbrauch, Nötigung und Folter von weiblichen Insassen durch männliche Wärter. Hier möchte ich auf ein bemerkenswertes Beispiel aus dem Archiv hinweisen. Aus einem Archivdokument geht hervor, dass Mehmed Çavuş, Wärter in der Frauenabteilung des Gefängnisses von Karesi (Balıkesir), die Insassinnen zwang, sich zu seinem wirtschaftlichen Vorteil zu prostituieren. Mehmed Çavuş wurde daraufhin entlassen und selbst für drei Monate verhaftet. Zudem wurde er zu einer Geldstrafe von 220,5 Piaster verurteilt.⁶ In der Quelle selbst wird die sexuelle Ausbeutung der weiblichen Insassin zu wirtschaftlichen Zwecken angesprochen. Weibliche Insassinnen seien zudem von Missbrauchen, Nötigung und Auflagen betroffen. Wie aus den Dokumenten ersichtlich wird, wurde ihr sozialer Ausschluss, ihre entbehrliche soziale Position sowie die Häufigkeit des Missbrauchs im Gefängnis noch weiter verfestigt.

Diese dramatische Missbrauchsgeschichte sollte nicht ohne Folgen bleiben. Die osmanische Verwaltung ließ untersuchen, weshalb Männer überhaupt als Aufseher oder Wärter in Frauengefängnissen und -abteilungen eingesetzt wurden. Hier begegnet uns ein bemerkenswerter Fall. Der Gefängniswärter im Kengiri (Çankırı) Frauengefängnis namens Ahmet Hamdi Efendi (*nisâ gardiyani*), forderte eine Lohnerhöhung angesichts seiner besonderen Dienste. Als die Behörden feststellten, dass es sich bei Ahmet Hamdi Efendi um einen männlichen Wärter handelte, der in einem Frauengefängnis arbeitete, wurde sein Anliegen abgelehnt.⁷ Begründet wurde dies mit dem Verbot für männliche Wärter als Aufseher für weibliche Insassinnen.

Zusammenfassend lässt sich hervorheben, dass die immer wieder kehrenden Übergangslösungen der osmanischen Bürokratie zu Umwälzungen sowohl in Männer-, als auch in Frauengefängnissen führten, insbesondere jedoch im Hinblick die Überwachung und Inhaftierung von weiblichen Gefangenen. Diese Studie ist ein Versuch, die Präsenz weiblicher Insassinnen für die Forschung hervorzuheben und sie sichtbar zu machen. Das osmanische Gefängnissystem und dessen scheinbaren Anpassungen beweisen, dass weibliche Häftlinge häufig anfällig waren Experimente

⁶ BOA. DH. MB. HPS 89/23: 5 November 1913. “..... Mahkûminden bağlı kadınları hûddef- i tahliyeleri hariç çıkardığı ve fuhuşata sevk ve tahrik ettiği iddiasıyla taht-ı mahkemeye alınıp mühlebi üzere livaca üç ay müddetle hapse mahkum edilmiş nisâ gardiyani Mehmed Çavuş'un istifadan cerimesini eden mahkemesi.....”; BEO. 4228/317032: 28 October 1913.

⁷ BOA. DH. MB. HPS: 96/40: 26 April 1914.

der osmanischen Gefängnisverwaltung. Obwohl Prüfungsberichte veröffentlicht und Institutionen zur Aufsicht der Gefängnisse eingerichtet wurden, konnten Abbilder der Modernisierungsziele nicht geschaffen werden. Nichtsdestotrotz blieben Praktiken wie der zu Gefängnissen umfunktionierten Wohnhäuser von Imamen, die Sonderbehandlungen weiblicher Wärterinnen, die Arbeitslosigkeit, der sexuelle Missbrauch sowie die katastrophalen hygienischen Bedingungen in den Gefängnisgebäuden beibehalten. Dies geschah vor dem Hintergrund, dass das osmanische Gefängnisverwaltungssystem bereits mit seinen temporären Lösungen ohnehin von unterentwickelten Strukturen und sowohl in Männer- als auch in Frauengefängnissen betroffen war.

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Abbreviations

BOA Başbakanlık Osmanlı Arşivi (The Prime Ministry's Ottoman Archives)

CUP Committee of Union and Progress

BOA.BEO. Bab-ı Ali Evrak Odası (The Document Office of Sublime Porte)

BOA.EUM. Şube1-2-3-4-5-6 (The Secretariat of the Directorate of Public Security)

DH.EUM.TK. Dâhilliye Nezâreti, Emniyet-i Umumiye Müdüriyeti, Tahrirat Kalemi (The Secretariat of the Directorate of Public Security, Ministry of the Interior)

DH.MB.HPS. Dâhilliye Nezâreti, Mebanî -î Emiriyye ve Hapishâneler Müdüriyeti (The Directorate of Prisons and Building Construction, Ministry of the Interior)

DH.MB.HPS.M. Dâhilliye Nezâreti, Mebâni-i Emiriyye ve Hapishâneler Müdîriyyeti Belgeleri Müteferrik
(Various Documents of the Directorate of Prisons and Building Construction, Ministry of the Interior)

DH.MU.İ Dâhilliye Nezâreti, Muhaberat-i Umûmiye İdaresi (The General Communications Office of the Ministry of the Interior)

DH.MKT. Dâhiliyye Nezâreti Mektubi Kalemi

DH.ŞD. Şurâ-yı Devlet

DH.TMIK. Dâhilliye Nezâreti, Tesrî -î Muâmelat ve Islâhat Komisyonu (The Commission for Expediting Initiatives and Reforms, Ministry of the Interior)

DH.MVL. Meclis-î Vâlâ (The Supreme Court)

YEE. Yıldız Esas Evrakı

ZB. Zaptiye Belgeleri

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Chapter 1: Introduction

*“The dominant meaning of women’s imprisonment in Scotland is that it is imprisonment denied: it is denied that the women’s prison is a real prison, it is denied that the prisoners are ‘real women’”*⁸

This dissertation’s main departure point comes from the limited involvement of women inmates in the imprisonment system as Carlen’s analysis shows for Scottish women’s imprisonment experience. Undoubtedly, this limited involvement derived from the different perception of women’s criminal acts, descriptions of their criminal identity, the perception of women’s criminality by penal policies, as discussed below.

As an intertwined issue of the deliberation of women’s criminality, the identification of women offenders, the practices of women’s imprisonment and special carceral policy for female inmates in the late Ottoman Empire became the main discussion point of this study. In this sense, this dissertation has aimed at carrying out a study to reveal women’s criminal acts, their identification as doers and offenders, and imprisonment implementations for women in the Ottoman prisons, within the light of unique empirical data, namely archival sources from the Ottoman archives.⁹

This study targets going beyond the general discourse on women’s criminality and women’s imprisonment based on systematic victimization and ignorance that were maintained more or less throughout prison policy in the late 19th and the early 20th centuries in the Ottoman context. When it comes to the point of pregnancy of female inmates, the Ottoman imprisonment policy for women exemplified unique concerns and practices.

This study fills a gap in the literature and creates a fresh debate for the scholars who concentrate on Ottoman women’s studies, and criminal and penal history regarding its open-minded discussions on women’s criminal agency. The general approach to women’s criminality was based on the failure to conceive of women’s criminal behaviour, assumption of female inescapability to commit criminal acts, and the neglect of female criminal identities and hiding their presences in prisons, their description as victims, and acting in self-defense when they committed offenses, as Chapter 2 examines.¹⁰ These discourses are common in all academia, this understanding, having originated in the penal and criminal perspectives, is then re-

⁸ Pat Carlen, *Women Imprisonment: A Study in Social Control*, (Routledge & K. Paul: 1983), 211.

⁹ “Doer” is used as a term for the identification of female offender who intentionally and willingly commit violent offences. This term refers to women’s mental and physical capability to commit serious crimes. Foucault also mentioned “doer” to indicate activity of offenders while committing illegal acts.; Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. Translated by A. Sheridan. (New York: Vintage Books, 1979), 37.

¹⁰ See Chapter 2.

used/recycled in later scholarship on the period of the 1850s in the Ottoman Empire. This dissertation aspires to eschew these identifications of female offenders and women inmates with its fresh concepts, discussions, and analysis, which open a new page showing women's capabilities and abilities to commit even serious offences on women's criminal history. Briefly, this scholarly work utilized dozens of primary sources in order to contribute to women's penal, legal, and criminal history in Ottoman literature in terms of its new arguments, fresh approaches, and a wider debate based on active and vivid presences of women in the criminal world and prisons, contrary to the maintained conceptualization for women's criminal acts in the late Ottoman period.

This study involves five main chapters, each chapter sketching a broad framework for Ottoman legal and penal language on the definition of women's criminal behaviours, the altered penal perspectives in the 19th century, and specific punishment methods for women inmates. It includes women's imprisonment policies and practices, and the gap between reform rhetoric and its practices during the age of prison reform in the 19th and the early years of the 20th centuries. This study follows these themes respectively, *ad hoc* imprisonment areas, namely imams' houses, guardianship and control methods, the epidemic crises, amnesty and release policies, prostitutes as distinct criminal women, tolerant and lenient imprisonment practices, motherhood and pregnancy in women's prisons, and women penal laborers in the prison workshops during the prison reformation process that took place between 1840-1918. This study also looks at how women responded to the strategic construction that defined them as incapable of committing crimes; this will be sought in the punitive practices. However, the stories of criminal women demonstrate that they committed several types of offences, including both violent and sexual crimes bravely and conspiratorially as mothers, wives, brides and daughters.

1.1. Ottoman Prison Literature

In recent years, the concentration of Ottoman studies has shifted from legal, economic, and military concepts to penal, social, women's and gender history. Specifically, the number of penal studies and comparative works on the Ottoman Empire and European legal and penal developments has increased in the last decade. In the same vein, Ottoman prison literature has also been developed in the last decade. Hence, this section sketches a larger framework on existing studies on prisons and women's imprisonment in the late Ottoman period.

The pioneer study was written by Gültekin Yıldız, who focuses on prison reform and the reform agenda of Ottoman penal and legal organs during the Tanzimat and Hamidian periods. It

was prepared as a master's thesis in 2002.¹¹ A decade later, Yıldız published an edited volume of his master's study as a book in 2012, *Mapusâne*.¹² His study filled a huge gap in the Ottoman crime, punishment and prison history literature with its deep research through archival sources. His study concentrates on imprisonment as the main punishment method in the Ottoman criminal system with a wider discussion of imprisonment policies during the age of prison reform. Also, *Mapusâne* sheds light on the Tanzimat mentality, the effects of the Tanzimat's reform on the criminal justice system and Ottoman prisons, the aspiration of the Ottoman government to modernize prisons, and the interventions of the British and French bureaucrats in the prison reform attempts, until the Second Constitutional Period. He draws a large framework that illuminates the underdeveloped prison conditions that are depicted in archival sources as filthy and dreadful. His work insists that, unfortunately, prison reform was not successfully fulfilled despite the ambitious efforts during the Tanzimat and Hamidian periods. He shows how underdeveloped jails and dungeons without heating systems, regular meals, hygiene, and other vital facilities led to suffering by the prisoners. He pursues the trajectories and ensuing stages of attempts at Ottoman prison reform, comparing the system to European prison systems (especially those of the British and French). Moreover, his work includes clues and data about women's prisons and women prisoners whose poor living conditions and imprisonment standards are vividly described in the archival documents of Yıldız's work. All in all, undoubtedly, his work as the first comprehensive study on Ottoman prisons and Ottoman prison reform during the Tanzimat and Hamidian periods still gives inspiration for ongoing prison studies.

The second inspiring study belongs to Kent Schull, who deals with the stages of Ottoman prison reforms during the government of the CUP. His book, *Prisons in the Late Ottoman Empire: Microcosms of Modernity*, as stated in its introduction, "weaves together six intersecting themes: transformation through continuity and ruptures, a focus by reformers on prisoner rehabilitation, administrative centralization and governmentality, order and discipline, considering welfare with population of the Ottoman Empire and finally juxtaposition of prison reform with the reality of prison life."¹³ The book's six chapters are conceptualized to understand the state-centric monopolization and administrative attempts within the establishment of the first Prison Administration for the ongoing the Ottoman prison reform by comparing issues of the legal and penal systems during the prison reform period. Schull

¹¹ Gültekin Yıldız, "Osmanlı Devleti'nde Hapishane İslahatı (1838-1908)." (MA thesis, Marmara Üniversitesi, İstanbul, 2002).

¹² Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908* (İstanbul: Kitabevi, 2012).

¹³ Kent F. Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 12.

collected empirical data and statistical information from the Union and Progress Party (CUP) government's prison surveys and questionnaires that provided significant clues about the situations and capacities of provincial prisons, background information about Ottoman prisoners, and above all a departure point for the data collecting aspirations of the CUP government with their positivistic ideology, tight control mechanisms, and nationalistic governmental perspectives.

Schull reinforces previous prison studies by looking at the daily lives of inmates: their living conditions, imprisonment standards, health, hygiene, and nutrition during the first decade of 20th century. He also sketches a broader framework for understanding the process of professionalization of prison employees and the relationship between prisoners and guards during the CUP government. Remarkably, he touches briefly on Ottoman women's imprisonment, ad hoc imprisonment areas, and the tolerant punishment methods for pregnant women and mothers. In the last chapter of the book, he focuses on juvenile delinquents and the special implementation for incarcerated children in the Ottoman prison system. Most importantly, the prison surveys and questionnaires provide detailed information about Ottoman prisoners such as their ages, gender, occupations, marital status, and the crimes they had committed. In doing so, he presents wide information about women prisoners and data on their ages, marital status, ethno-religious identities, etc., through the censuses and surveys. Moreover, the analytical and descriptive evaluations of Schull shed light on the CUP government's ideological approach, namely its positivist understanding and the social engineering of prison reform through their reform attempts, improvement plans, and regulations. Kent Schull summarizes his general perspective on the CUP's aim for Ottoman prison reform: "Prison became a microcosm of the CUP's larger plans to meld the empire's population and administration into a modern nation-state."¹⁴ Also, he commented on the institutionalization and monopolization attempts for the Ottoman prison administration during the rule of the CUP government that occurred step-by-step between 1908 and 1918. His work enhanced my dissertation project with its analysis on the CUP government's institutional and administrative efforts and theory-based perspective of the Ottoman prison policy which involved the contribution of social engineering and positivistic approaches of the CUP, specifically after 1909 until the demise of the Empire.

Thirdly, *Hapishane Kitabi* (2005) is an edited book containing articles that analyze the history of the prisons and carceral punishment concepts before the Ottoman Empire, in the early and late Ottoman periods and during Republican Turkey.¹⁵ From the Seljuk era to Republican Turkey, its articles pursue the trajectories of the establishment of modern prisons

¹⁴ Schull, 53.

¹⁵ E. Gürsoy Naskali, H. Oytun Altun, *Hapishane Kitabi* (İstanbul: Kitabevi Yayınları, 2005).

and the transformations of punishment methods (shifted from corporal punishment to incarceration). This comprehensive prison study particularly points out Foucault's contribution to penology and then chronologically addresses spatial incarceration areas before the Ottoman Empire, Ottoman prison reform and its fresh carceral practices and institutions, and lastly, the general situation of modern prisons in Republican Turkey.

Lastly, Ufuk Adak's dissertation gave me more inspiration on the general structures of central prisons and implementation of prison policy in the Ottoman penitentiary.¹⁶ He focuses on Izmir Prison and prisoners of Izmir's central penitentiary with the discussion of urbanization of Ottoman cities namely Salonica, Istanbul and Izmir within an analytical approach towards Ottoman prison modernization at the end of the 19th century. He sheds light on Ottoman prison policy and the criminal justice system with the questions of prison and prisoners through a micro-historical approach to Izmir prison.¹⁷

Some of the book chapters reinforced the content and analysis of my study, including Ali Karaca's work dealing with punishment methods such as banishment (exile) and incarceration that were carried out specifically for prostitutes in the 19th century.¹⁸ Yasemin Gönen's study focuses on the institutional developments of prison reforms, prison improvement reports and suggestions that were prepared by foreign political figures probably British and German bureaucrats at the beginning of 20th century.¹⁹

Also, Timur Demirbaş's article, "Hürriyeti Bağlayıcı Cezaların ve Cezaevlerinin Evrimi" (The Evolution of Imprisonment and Prisons), discusses the abolition of body-oriented punishments, prohibition of torture and the transition to imprisonment as the main punitive method under the influence of Foucauldian perspective in the 19th century.²⁰

Crime, punishment, public security, and the relationship between public surveillance and policing in the late Ottoman period were the topics of 14 articles in the edited book, *Osmanlı'da Asayiş, Suç ve Ceza 18.- 20. Yüzyıllar* (Security, Crime and Punishment in the Ottoman Empire, 18th - 20th centuries), which ushered in a new path for historians focusing on

¹⁶ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015).

¹⁷ Adak, 80-131.

¹⁸ Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahıṣe Hatunlara Uygulanan Cezalar: Hapis ve Sürgün," In *Hapishane Kitabı*. Edited by Emine Gürsoy Naskalı- Hilal Oytun Altun (Kitabevi Yayınları: İstanbul 2005), 152-162.

¹⁹ Yasemin Gönen, "Osmanlı İmparatorluğu'nda Hapishaneleri İyileştirme Girişimi, 1917 yılı" In *Hapishane Kitabı*. Edited by Emine Gürsoy Naskalı, Hilal Oytun Altun (İstanbul: Kitabevi, 2005), 176-183.

²⁰ Timur Demirbaş, "Hürriyeti Bağlayıcı Cezaların ve Cezaevlerinin Evrimi" in *Hapishane Kitabı* edited by Emine Gürsoy Naskalı, Hilal Oytun Altun (İstanbul: Kitabevi, 2005), 3-41.

the issues of policing, public order, surveillance, security and punishment.²¹ It contributed to new perspectives, critical points, and historical debates on relationship of crime and punishment.

Özgür Sevgi Göral's article, for instance, discusses the incoherence between the Foucauldian perspective and the practices of imprisonment in the 19th century in Istanbul.²² She sketches a broader framework for the discussion of penology theories and the current situation of the prisons in the 19th century Ottoman Empire. Remarkably, she found inefficient the Foucauldian approach for the theoretical discussions of Ottoman prison studies. In other words, for Göral, the Foucauldian perspective does not fit into the theoretical analysis of Ottoman prison transformations that was rudimentary during the age of imperial reform, in terms of its modern penitentiary concepts and ideals.

On the other side, several works on Ottoman prisons enhanced the existing literature of Ottoman prison history with their unique archival documents, cases, and worthy academic research on provincial prisons, their physical conditions, and vital questions of the inmates who were incarcerated in provincial and central jails and prisons in the late Ottoman period. This dissertation utilizes dozens of articles, and master's and doctoral theses prepared by academics from provincial Turkish universities.²³ Each study provides unique archival data, empirical

²¹ *Osmanlı'da Asayış, Suç ve Ceza 18.- 20. Yüzyıllar* edited by Noemy Levy, Alexandre Toumarkine, (İstanbul: Tarih Vakfı Yurt Yayınları, 2007).

²² Özgür Sevgi Göral, "19. Yüzyıl İstanbul'unda Suç, Toplumsal Kontrol ve Hapishaneler Üzerine Çalışmak," In *Osmanlı'da Asayış, Suç ve Ceza 18.- 20. Yüzyıllar*. Edited by Noemy Levy, Alexandre Toumarkine (İstanbul: Tarih Vakfı Yurt Yayınları, 2007), 17-33.

²³ Hatice Akın, "Osmanlı Devleti'nde Hapishane Islahatına Dair 1893 Tarihli Bir Nizamname Önerisi," *History Studies: International Journal of History*, 3:3, 2011, 23-36.; Zafer Atar, "20. Yüzyılın Başlarında Turgutlu Hapishanesi'nin Genel Durumu," *Celal Bayar Üniversitesi Sosyal Bilimler Dergisi*, Vol. 9, No. 1 (Manisa: 2011), 87-101.; Tülay Alim Baran, "Mütareke Döneminde İtilaf Devletlerinin Hapishaneler Üzerindeki Denetimi," *Belleten*, 263/LXXII, 2008, 155-174.; Serpil Bilbaşar, "19. Yüzyıl Osmanlı İmparatorluğu'ndan Cumhuriyet'e hapis cezasının örgütsel ve hukuksal gelişimi: Hapishaneden Cezaevine," *Birikim*, 136, 2000, 44-48.; Yüksel Çelik, "Hapishane Tarihimizden Bir Kesit: Üsküdar Paşakapısı Tevkifhanesi ve Mütareke Dönemi'nde İşgali," *Belleten*, 264/LXXII, 2008, 603-627.; Emel Demir, 'Osmanlı Devleti'nde Hapishane Reformu: Çanakkale Hapishanesi Örneği,' (MA thesis, Çanakkale Onsekiz Mart Üniversitesi, 2013).; Kurtuluş Demirkol, 'II. Meşrutiyet Döneminde Edirne Vilâyeti Hapishaneleri,' (PhD Dissertation, Sakarya Üniversitesi, 2012).; Ali Rıza Gönüllü, "Osmanlı Devleti'nin Son Döneminde Isparta Hapishanesi (1867-1920)," *Selçuk Üniversitesi Tarihi Araştırmaları Enstitüsü Tarihi Araştırmaları Dergisi*, No. 29, Konya, 2011, 349-393.; Alev Çakmakoglu Kuru, *Sinop Hapishanesi*, (Ankara: Atatürk Kültür Merkezi, 2004).; Murat Hanilçe and Ersin Şeyhöglü, "Osmanlı Devleti'nde Bir Ceza İnfaz Kurumu Olarak Hapishane ve Kadınlar," *Stratejik ve Sosyal Araştırmalar Tarihi*, Vol. 4, Issue 2, July 2020, 406-436.; Mücahit Özçelik, "Mütareke Dönemi'nde Osmanlı Hapishanelerinin Durumu," *Hacettepe Üniversitesi Cumhuriyet Tarihi Araştırmaları Dergisi*, Year 7, No. 14, Ankara: 2011, 16-40.; Sevcan Öztürk, 'XIX. Yüzyıl Osmanlı Ceza Sisteminde Dönüşüm: Zindandan hapishaneye geçiş,' (MA thesis, Adnan Menderes Üniversitesi, 2014); Oya Şenyurt, "20. Yüzyılın İlk Çeyreğinde Anadolu ve İstanbul'da Bazı Hapishane İİşşatları," *Arredament Mimarlık: Tasarım Kültür Dergisi*, 9, İstanbul: Boyut Yayıncılık, 2003, 76-80.; Saadet Tekin, "Dr. Polliç Bey'in 1918 Tarihli Raporuna Göre Berlin ve Aydın Vilayeti Hapishanelerine Genel Bir Bakış," *Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi (OTAM)*, N. 24/2008, 205-222.; Saadet Tekin, "19. Yüzyıl Sonu 20. Yüzyıl Başlarında Nazilli Hapishanelerine Kısa Bir Bakış," *Tarih ve*

information and useful analysis on the administration, living conditions, and imprisonment standards of the provincial prisons in the late Ottoman Empire.

As underscored above, these studies are particularly concerned with prison reform, altered punishment methods, practices of imprisonment, the establishment of a penitentiary system, and bureaucratic and political interventions to Ottoman prison reform. In this regard, women's prisons and female prisoners were not comprehensively analyzed with the archival data, rather all of the studies merely touched very little on the issue of women's incarceration and women prisoners. Ayşe Özdemir Kızılkan is the only one name, who studied women's prisons and women prisoners in the late Ottoman period as a dissertation project, as the following section analyses her work.²⁴

1.2. Hearing the Voices of Women in the Criminal Courts

Before mentioning the content of this dissertation, the introductory part aspired to evaluate the existing literature on Ottoman prison history to sketch a broader framework on the current scholarly works and their contribution to Ottoman prison studies. In the following pages, the available scholarly works including books, articles, theses and dissertations on the Ottoman women's and gender studies, feminist approaches and methodologies will be analyzed.

The scholarship of gender studies in the Middle East began to be revealed by scholars in the early 1980s. While the invisible presence of women subjects began to be taken into consideration with the efforts of feminist scholars, this promised "genuine" history writing with the involvement of the missing actors, in other words, women finally entered the picture of history.²⁵ As an acknowledgement of this circumstance, Tucker claims that women's activity, access to property, integration into social life, and generally women's place in the social history of the Middle East were overall neglected by scholars until the 1980s.²⁶ Undoubtedly, this resulted in male-based history writing. In other words, as a consequence of the marginalization of women's activities in history, the way was paved for the making and writing of history by

Toplum, Ocak 2001, Vol. 205, 11-14.; Muharrem Uslu, 'Erzincan'da Suç, Suçlu ve Hapishane,' (MA thesis, Erzincan Üniversitesi, 2010).; Murat Yıldız, "Osmanlı Devleti'nde Bir Saray Hapishanesi: 18.-19. Yüzyıllarda Bostancıbaşı Mahbesi," *Türkiyat Mecmuası*, c. 22/Bahar, 2012, 239-275.; Mümin Yıldıztaş, 'Mütareke Döneminde Suç Unsurları ve İstanbul Hapishaneleri,' (MA thesis, İstanbul Üniversitesi, 1997).

²⁴ Ayşe Özdemir Kızılkan, "Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar (1839-1922)." (PhD diss., Süleyman Demirel University, Graduate School of Social Sciences, 2011).

²⁵ Ayşe Durakbaşı, "Feminist Tarihyazımı Üzerine Notlar," In Farklı Feminizmler Açısından, Kadın Araştırmalarında Yöntem. Edited by Serpil Çakır and Necla Akgökçe (İstanbul: Sel Yayıncılık, 2000), 217.

²⁶ Judith E. Tucker, "Problems in the Historiography of Women in the Middle East: The Case of Nineteenth-Century Egypt," *International Journal of Middle East Studies* 15, No. 3 (1983): 322.

males who deserved to make history as recorders and actors, surely not meritedly.²⁷ Furthermore, according to Meriwether, both Eastern and Western women's histories were the product of male observations, above all with masculine evaluations in the 17th and 18th centuries, as another result of male-centric history writing.²⁸ However, shortly after the widening wave of feminist understanding in the 1980s, feminist scholars, including historians, have encouraged research into the issue of women's presence and agency in Middle Eastern social history. Following this, studying women's history in the Middle East archives became a trendy academic path with the guidance of the 1980s wind of change. With this movement, academics began to be familiar with the roles of women subjects in their families, houses, marriages, courts, etc., in addition to their sexuality and body-oriented history, e.g., exotic harem scenes and Oriental women's depictions. While marriage, divorce, inheritance, and the property rights of women as themes, in sum, family law and women's relationships, have been discussed by academics, scholars remarkably began to deal with the economic and legal activities of women, such as the founding of waqfs, claiming inheritance rights in courts, suing debtors, harassers and rapists in the Shari'a courts, and requesting blood money or *mehr* (*donatio propter nuptias*)²⁹ for the sake of their right to legal remedies.

Although male dominance in the cultural norms has pushed women's social and economic activities into being "marginal" phenomena due to the patriarchal root of the general mentality and the androcentric social structure in the Middle East, the genuine roles of women were much more varied than stated by males.³⁰ As Tucker discusses in her article of 1983, women's status in the domestic fields such as family, marriage, and domestic economic activities has been investigated with the sense of feminist understanding for the first time in the field of women's studies. The fact is that the limits of the framework under the domination of patriarchal history writing, which incarcerated women in the domestic area, highlighting their inactive roles, veiled genuine women's activities in social and economic relationships. Contrary to the tendency of constructing domestic and closed areas for women in which to confine them, indeed, they were not merely hidden subjects or victims in history, rather they contributed to

²⁷ Fatmagül Berkay, *Tarihin Cinsiyeti* (İstanbul: Metis Yayınları, 2003), 19.

²⁸ Madeline Zilfi, "Muslim Women in the Early Modern Era," In edited by Suraiya N. Faroqhi, *The Cambridge History of Turkey: Volume 3, The Later Ottoman Empire, 1603-1839* (Cambridge: Cambridge University Press, 2006), 227.

²⁹ *Donatio propter nuptias*: a marriage gift or settlement required by law of the husband or his family early during the later Roman Empire. It was required by Justinian to be equal to the wife's dowry but permitted to be made after and used for expenses of the marriage. *Merriam-Webster.com Dictionary*, s.v. "donatio propter nuptias," accessed July 24, 2021, <https://www.merriam-webster.com/dictionary/donatio%20propter%20nuptias>.

³⁰ Tucker criticizes that the 1980s women's history writing understood women's activity product of set of ideas of Western scholarships. See Judith Tucker, "Problems in the Historiography of Women in the Middle East: The Case of Nineteenth-Century Egypt," *International Journal of Middle East Studies*, Vol. 15, No. 3 (Aug., 1983), 323-24.

history as active characters and doers.³¹ It should be frequently underlined that women were more active in their milieus socially, as social historians reveal; hence, gendered themes and women's issues have been waiting for discovery by scholars as limitless fields of study.

In this regard, this dissertation aims at revealing another neglected part of women's history, namely female criminality, women's imprisonment, and the questions of female inmates in the late Ottoman prison system. First of all, we shall look at the oldest women's offence: prostitution. Admittedly, the most widespread women's illegal act has surely been prostitution, from the beginning of humankind.³² However, history writing does not include stories of other women criminals, such as murderers, thieves, or burglars. Contrary to this repetitive and deficient literature, in addition to prostitutes, other female offenders and inmates must come to light from the dusty shelves of archives and libraries. In doing so, scholars can achieve shifting women's places from domestic areas to the public spheres with innovative knowledge production in women's history. Finally, scholarly works have begun to pay attention to the voices of muted women characters with the feminist reconstruction of a rough relationship between women and the outside world, such as dealing with women plaintiffs to claim their rights in the courts, as discussed in the upcoming pages.

The identification of women's agency has undergone vast changes with Ottoman scholars who have fruitfully concentrated on "active" women characters, who began to be placed in gender history writing in Middle Eastern studies.³³ However, Kandiyoti notes that the cliché tendency of describing women's history in the Middle East, which was embedded in Islamic concepts and Islamic social notions, such as enshrinement of brides, wives, and mothers, became the main hindrance to the conceptualization of women's acts in social history.³⁴ Here this study intentionally eschews the dominant and tight structural norms and concepts in history writing to pursue the facts and real stories of women's criminal history. Whether the scholars ventured to displace women from conservative, closed, and domestic areas, the relationship between crime and women cannot be visible in Middle Eastern women's history.

³¹ Berkay has made a convincing argument that behind, to some extent, the invented curtain of women's invisibility, in fact women were very active in family relations, such as marriage, divorce, raising children, social contacts with their neighbors and effective influence on internal economic relations, even if their activity remained in domestic areas. See Fatmagül Berkay, *Tarihin Cinsiyeti* (İstanbul: Metis Yayıncılık, 2003), 31.

³² Anne Keegan, "World's oldest profession has the night off," *Chicago Tribune*, July 10, 1974. New World Encyclopedia.

³³ See Kate Fleet and Ebru Boyar, *Women in Public Space*. Edited by Kate Fleet and Ebru Boyar (Leiden & Boston: Brill Publishing, 2016), 1-18, 91-150, 187-230.

³⁴ Deniz Kandiyoti, *Cariyeler, Bacılar, Yurttaşlar: Kimlikler ve Toplumsal Dönüşümler* (İstanbul: Metis Yayıncılık, 1997), 10.

There is an important question that has waited for the answers of academics. Why have the scholars not revealed the stories of criminal women as a new breath for the existing literature that focuses on the roles of women in closed places such as harems, bedrooms, kitchens, and domestic places? Once, the scholars began to discover the mysterious world of women in domestic areas. However, it meant that they were unintentionally subjected to “becoming invisible and hidden from history,” and “passive orientalist caricatures” had been constructed by historians as a major hindrance of the active characterization of women’s agency.³⁵ Also, this historiographical tradition tended to make history through Islamic legal documents, namely the Shari'a court records (*kadi sjils*), which exemplify cases of divorce, marriage, inheritance, and other cases on family law, shedding light on the roles of women in the domestic areas in Middle Eastern societies.³⁶ These themes and discourses became the key topics in Ottoman women’s and gender studies, especially, as the vast of majority of studies inescapably situated them in the domestic fields, as being a mother, a wife, a bride or in court for a divorce, under the Islamic rules of marriage, before the 1980s. However, in the last 30 years women’s history writing has shifted its route into a varied way of “creating an active voice and hearing their original sounds” through archival records, particularly court records. Instead, the scholarly works drew attention to the unknown world of ordinary women with their social contacts, access to the courts, seeking justice by their own claims, their roles as plaintiffs, their positions as wives and mothers, their agency as waqf owners or managers, and so on. Gerber and Jennings claim that women participated in public life and became visible in the Shari'a courts in Ottoman Anatolia, in Bursa and Kayseri, contrary to the general characterization of women as passive agents.³⁷ Although this passive appearance and downtrodden understanding inevitably retained its dominance in women’s studies that tackle the earlier periods of the 17th and 18th centuries, historians profoundly began to elucidate the real sounds of archival records that inventively claim to construct a lucid perspective on ordinary women’s active voices. Through the court records, they ferreted out their active roles in social and economic affairs, and they began to depict them as considerably more independent subjects in women’s historiography.³⁸ These historians who deal with the themes, such as marriage, divorce, family law, or claiming their rights as plaintiffs, as innocent victims except for prostitution, litigants in prosecutions, or waqf founders, have brought to light various sorts

³⁵ Ebru Boyar and Kate Fleet, "Women and Gender: the Middle East and the Islamic World" In *Ottoman Women in Public Space*, Edt. Ebru Boyar and Kate Fleet, (Leiden: Brill Publishing, 2016), 1.

³⁶ Iris Agmon, "Women's History and Ottoman Shari'a Court Records: Shifting Perspectives in Social History," *Hawwa* 2, No. 2 (2004), 173.

³⁷ Haim Gerber, "Social and Economic in an Ottoman Position," *International Journal of Middle East Studies* 12, No. 3 (1980), 232.

³⁸ Dror Ze'evi, "The Use of Ottoman Shari'a Court Records as a Source for Middle Eastern Social History: A Reappraisal," *Islamic Law and Society* 5, No. 1 (1998), 36.

of issues and topics that had not been explored before. Even though these studies reveal the mysterious and hidden world of women, unanswered questions on innocent and ordinary women's daily lives, social and marital status, and the presence of ordinary women in Ottoman courts as plaintiffs are waiting for scholars' interests. As a consequence of this situation, Ottoman women's criminal acts and crime-committing women were also neglected once again, and studies remained far from multi-dimensional and comprehensive evaluations seeking historical facts. In that sense, this dissertation also calls for the need to pay attention to fresh topics: the perception of women's criminal status especially as "doers," the place of women offenders in the Ottoman penal codes, their status in the Ottoman prisons, special treatments and unique carceral methods for them that contribute to the current Ottoman women's history writing in terms of their unique findings, cases, documents and analysis on Ottoman women's criminal agency.

As a good example for the scholarly efforts to hear Ottoman and other Middle Eastern women's muted voices, Leslie Pierce's contribution has gone beyond the Orientalist "harem" depictions and royal women's history during the 16th and 17th centuries.³⁹ In addition to her reappraisal towards Orientalist *harem* descriptions,⁴⁰ she sketches a broader framework to re-evaluate the legal status of Ottoman women in Aintab by means of Islamic court records (*kadi sijils*), which illustrate both the victims and guilty women who appeared in the Islamic courts for their prosecutions. Not only victims and justice-seeking women but also female offenders (doers) were analyzed by Pierce in her book, "Morality Tales: *Law and Gender in the Ottoman Court of Aintab*," even though the cases overwhelmingly deal with sexual crimes such as adultery, rape, prostitution, and fornication (*zina*) trials.⁴¹ The stories of the trials illustrated both innocent and guilty female subjects who were claiming their rights in the legal, penal, and gender-specific examination of Pierce. In a similar vein with Pierce's study on the visibility of women in Aintab Kadı Sijils, Ergene also dealt with the Kadı Sijils of Kastamonu, which specifically have women's voices in the illicit sex cases.⁴² In short, he enlightened the application of Ümmü Gülsüm to the Kastamonu court without any proof of rape after her notice about her pregnancy in the 16th century. He addressed women's voices, their positions, and efforts to seek justice in the kadi courts as plaintiffs with unique archival examples. According to Ergene, "Women did not come to court to win their cases, but to make their voices heard and

³⁹ Leslie Pierce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (Oxford: Oxford University Press, 1993).

⁴⁰ Pierce, 124-132.

⁴¹ Leslie Pierce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003).

⁴² Boğaç A. Ergene, "Why Did Ümmü Gülsüm Go to Court? Ottoman Legal Practice between History and Anthropology," *Islamic Law and Society* 17, No. 2 (2010), 215-44.

tell their sides of the story, regardless of the legal consequences.”⁴³ This provides remarkable clues on the legal positions of women in the Ottoman courts both as litigants (offender, self-defender, or victim) and plaintiffs whose fundamental target was to represent their agency and to have voices in the Shari'a courts.

Başak Tuğ contributes to the relationship between women and the Shari'a courts in the 18th century Ottoman provinces through kadı sijils. She creates a varied path in the discussion of women and the law in Shari'a jurisprudence with several examples exemplifying divorce cases. Variously, these divorce trials were sued by women litigants who rejected their marriages that had occurred with the consent of their protectors before their adolescence (*hiyarü'l-buluğ*), whether they were slaves (*köle*) or free.⁴⁴ In Tuğ's study, young women succeeded in ending their unwilling marriages with normative legal ways. In terms of the women characters who eagerly sought justice in the Shari'a courts in order to, this time, be the ones to determine their future lives using legal apparatuses, her study also has a significant place in the field of gender-based legal history.

The relationship between crime, courts, judicial mechanisms and above all women's roles in criminal cases has been examined by Judith Tucker. Tucker has drawn attention to women's legal status, the functions of Islamic legal procedures, the place of women in Islamic legal practices, and the outcomes of judicial processes for female subjects in the light of Egyptian archival cases. However, she concentrates on gendered, familial and legal issues, such as marriage, divorce, sexuality, reproduction, parental issues, and parental rights in courts.⁴⁵ Also, Tucker focuses on the defending and testifying of Egyptian women in trials, the differences between women and men as plaintiffs in the Islamic courts, the status of women and men in the gendered space of law, in addition to the discussion of the legal subjectivity of women in Islamic marriage and divorce.⁴⁶ Studies by Tucker pave the way for new perspectives and new concentrations on the legal and judicial subjectivity of female figures in Egypt before the 1840s.

Nevertheless, Ottoman women's studies have concentrated on depicting and identifying women's status as innocent and vulnerable characters as plaintiffs in the courts, instead of

⁴³ Ibid., 216.

⁴⁴ Başak Tuğ, “Osmanlı Mahkemelerinde ‘Akile, Balığa ve Reşide’ Kahramanlar,” *Toplumsal Tarih*, Vol. 314, Feb. 2020, 46-52.

⁴⁵ Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (London: University of California Press, 1998); Madeline Zilfi, “Muslim Women in the Early Modern Era,” in *The Cambridge History of Turkey: Vol. 3 The Later Ottoman Empire, 1603-1839*, edited by Suraiya N. Faroqhi, (Cambridge: Cambridge University Press, 2006), 226-238.

<https://doi.org/10.1017/CHOL9780521620956>. Zilfi, 228. Zilfi makes a critical approach against the classical representation of Eastern women who were placed into domestic fields with their sexuality with orientalist depictions by European travelers.

⁴⁶ Judith Tucker, *Women, Family and Gender in Islamic Law* (Cambridge: Cambridge University Press, 2008).

studying cruel crime-committing women's representations, and their criminal agency and social perception as female criminal figures, in that they were susceptible to committing violent criminal acts according to the general perspective, as discussed in Chapter 2.⁴⁷ Initially, scholars overwhelmingly addressed the agency and social status of prostitutes as criminal characters regarding their sinful and illegal professions in the field of women's criminal history. Prostitutes became the only "evil-doers"⁴⁸ within their identification as criminal figures who committed illegal and sinful occupations that engendered moral and security risks in society as women workers and financially semi-free subjects maintaining their subsistence economy.⁴⁹ That is why the prostitutes' "liminal and marginal" status remarkably derived from the coexistence of their relative independence, at least financially, and their sexual identity and womanhood, which provided them fulfilling this illegal act. Elyse Semerdjian's worthy contribution to prostitution paved the way for social and legal perspectives towards the status of Syrian prostitutes in the 18th and 19th centuries. The marginal status of prostitutes politically affected their legal and social perception as discussed by her.⁵⁰ Also, Semerdjian examines the tolerant attitudes of Syrian society towards prostitution vis-à-vis the Islamic legal perspective against illicit sex. She undermined the meaning and perception of prostitution as a family occupation in the social context. Furthermore, Müge Özbeğ comprehensively touches upon the institutionalization of prostitution (establishment of an official brothel in Karaköy during the Hamidian period, in 1884)⁵¹, and the social and political function of official brothels amid the Ottoman efforts coping with idleness, vagrancy, and streetwalkers who were rose due to migration waves from the lost territories in the late 19th century, as well as the social and marginal positions of prostitutes in 19th century Istanbul.⁵²

Therefore, except for the representation and depiction of prostitutes as criminal, marginal, and liminal characters, there is still a deep gap in women's history literature that does not involve the representation of women as criminals, their crime committing, their criminal potential, and their status as female criminals in the social context in Ottoman women's

⁴⁷ See Chapter 2.

⁴⁸ I prefer to use "doers" instead of "offender." "Doers" as a term refers to intentionally crime committing people, while "offenders" covers both self-defenders, victims and doers. That is why this study aims at creating its own concept to comprehensively analyze women's criminality and women's imprisonment.

⁴⁹ Elyse Semerdjian, "Sinful Professions: Illegal Occupations of Women in Ottoman Aleppo, Syria," *Hawwa* 1, No. 1 (2003), 60–85, https://doi.org/10.1163/156920803100420289.60_77_82-84. Procuring and prostitutions were mainly a family occupation in Syria during the early 19th century.

⁵⁰ Elyse Semerdjian, *Off the Straight Path: Illicit Sex, Community and Law in Ottoman Aleppo* (New York: Syracuse University Press, 2008).

⁵¹ Müge Özbeğ, "Single, Poor Women in Istanbul, 1850-1915: Prostitution, Sexuality and Female Labor." (PhD Diss., Boğaziçi University, 2017).

⁵² Müge Özbeğ, "The Regulation of Prostitution in Beyoğlu (1875–1915)," *Middle Eastern Studies*, 46:4 (2010), 555–568.; Müge Özbeğ, "Single, Poor Women in Istanbul, 1850-1915: Prostitution, Sexuality, and Female Labor." (PhD Dis., Boğaziçi University, 2017).

literature, instead of depictions of vulnerable, innocent victims. Analyzing women's imprisonment and women's prisons also became difficult to study as an intertwined section of women's criminality.

Fariba Zarinebaf presents more insights about the crime, punishment, and criminal justice system during the 18th century in Istanbul. She tackles various types of crimes, criminals, and the cases on criminal justice and current punitive methods that engendered disarray and disorder in the practices of punishment.⁵³ Also, she focuses on the punishment ways of women offenders who generally had committed prostitution in 18th century Istanbul. Nevertheless, Zarinebaf aimed at revealing crimes that derived from the femininity of women criminals, namely prostitution, the vice trade, and illicit sex "zina" as an umbrella category for sexual crimes, including adultery, rape, and fornication.⁵⁴ She went beyond the classical rhetoric of victimized women's identifications within the construction of a framework to recognize prostitution as a profession, at the same time as it was placed into the professional crime category. In the light of archival examples, Zarinebaf aims at portraying powerful, professional, and potentially criminal prostitutes (they are in a class of prostitutes who commit other crimes as well, such as theft and murder) through selected archival sources. While she saliently deals with very dominant and potentially criminal women prostitutes, she does not neglect prostitutes who frequently were exposed to sexual violence, attacks, and torture mostly by male subjects (their pimps, lovers and partners) in the 18th century. Zarinebaf's study gives us more insight into illustrating the condition of prostitutes in Istanbul and their other offences with illustrations of the criminal world of the 18th century Ottoman capital city through archival records. According to Zarinebaf:

The report from a police officer cited above is rare example of the arrest of a prostitute in Istanbul who had also been implicated in the death of her client, a janissary officer. Her nickname, Deli kiz, Ayşe (crazy woman), underlines her reputation for violent conduct, her marginal status, and her moral impropriety that drove her neighbors to cooperate with the police in her arrest after she allegedly caused the death of her lover.⁵⁵

While she multi-dimensionally addresses the criminal potential of prostitutes with Ayşe's murder story, in this way, she aspires to displace women from being a victimized, innocent, and self-defending characterization with similar cases to Ayşe's in order to create another women character in the Ottoman history.

⁵³ See Fariba Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (California: University of California Press, 2010). Zarinebaf touches on the disorganized and disordered punitive practices that engendered several prison breaks and unfulfilled punishment practices. In the long term, it reinforced recidivism potential and the high criminal rate in 18th century Istanbul.

⁵⁴ Zarinebaf, 86-112.

⁵⁵ Zarinebaf, 86.

Briefly, even though Zarinebaf's study overwhelmingly examined legal and penal issues that are directly related to prostitutes, it posed fresh questions in terms of the criminal status of women in Ottoman literature. According to Ebru Aykut, "So far, in the Ottoman history writing, violent female criminality has rarely attracted the attention of scholars, while female poisoners have only come to the fore in the context of imperial harem narratives."⁵⁶ As an acknowledgment of Aykut's quotation, female criminality and the identification of female criminals as 'doers or offenders' urgently needed to be discussed in Ottoman women's studies. The hidden agency of criminal women was intentionally constructed to prevent a vivid characterization of women in history. Concisely, with the impact of women's subjugation under male based history writing, they were omitted from history and, most importantly, women's literature, stimulated scholars to remove women from the bedrooms and kitchens into the open, in order to reveal their real stories, as a reminder of the call for studying women's activities just as much as their male counterparts, especially in social history. The stories of Ottoman criminal women still wait to be revealed from the dusty shelves of the archives and libraries.

In this sense, Aykut's work is a valuable contribution to the literature in terms of turning on criminal women's voices in the late Ottoman period. Ebru Aykut's dissertation which focuses on women poison murderers and arsonists, their claims and confessions in the interrogation reports, their legal defenses, arguments and motivations in homicide cases, the judicial processes which were held in the *Nizâmiye* courts (after 1863), and above all their criminal status in the 19th century Ottoman Empire can be given a significant place.⁵⁷ Aykut benefited from *interrogation* reports (*istintaknâme*) that provide detailed information on poison murder cases, the female poison murderers, use of herbs and mixes of natural products to kill somebody, and above all the effects of poison murders creating a new familial history in the Ottoman history. Thus, her work vividly gives very much inspiration and encouragement to this study with its conceptual discussions providing a basis for Ottoman women's criminal agency discussion, before discussing Ottoman female inmates. According to Aykut:

.....female criminality and poison murder provide fascinating examples to examine women's agency from a new perspective. The cases of poisoning wives and arsonist women reveal a rather different picture of Ottoman women than that depicted by exotic harem narratives. The Nizâmiye court records with interrogation reports illustrate these women culprits' experiences better than any other source in the absence of written documents directly

⁵⁶ Ebru Aykut, "Toxic Murder, Female Poisoners, and the Question of Agency at the Late Ottoman Law Courts, 1840-1908," *Journal of Women's History*, Vol. 28, No. 3, Fall 2016, 114.

⁵⁷ Ebru Aykut, "Alternative Claims on Justice and Law: Rural Arson and Poison Murder in the Nineteenth-Century Ottoman Empire." (PhD diss., Boğaziçi University, İstanbul, 2011).

*produced by these women and give us a key to go into the ordinary Ottoman households that clearly reflect the fabric of traditional gender roles and conjugal discords.*⁵⁸

Aykut explains that domestic women's representations were reinforced by the "victimized" and "innocent" women narratives; however, Aykut aspires to disabuse these depictions in order to go beyond the classical Orientalist "Ottoman women" portraits in her pioneering study. In other words, she opened a new page on Ottoman women's history writing with her valuable contribution that professionally found out the relationship between women and poison murder as a vigilant act to create their courts of justice that helped to annihilate their unwilling marriages and other undesirable familial relations in the late Ottoman rural areas. While she was dealing with the issue of women's criminality, she created a varied and fresh "criminal women" model based on "being female doers /offenders in violent criminal cases."⁵⁹ Above all, Aykut struggles with the perception of female offenders as "weak-minded" subjects who accidentally and unintentionally committed crimes in the formulaic expression of Ottoman legal and penal documents, such as correspondence, interrogations, and jurisdictional decisions.⁶⁰

According to Aykut:

".... Even when they voluntarily took full responsibility for the crimes they committed and sought to justify their acts by precisely explaining their motives, the courts displayed an unwillingness to recognize this capacity for agency, preferring to see them as victims of 'some corrupting influence from without.'

The Ottoman bureaucratic language also reflected the lost, namely the hidden agency of criminal women who were identified as incapable of committing violent acts by their own will, intentions and plans. Instead, the repetitive language rejected their mental and physical capability in criminal cases in that they dominantly depicted them as "victims" or "self-defenders."

Notoriously, women's mental abilities and their other skills were neglected once again by the legal authorities, even though they committed very cruel crimes, such as homicide, arson. Aykut's dissertation paves the way for gendered criminality discussion and a re-appraisal of Ottoman women's agencies in light of arson and poison murder cases in Ottoman studies. Her study encouraged me to ferret out the stories of women prisoners who were punished by

⁵⁸ Ebru Aykut, "Alternative Claims on Justice and Law: Rural Arson and Poison Murder in the Nineteenth-Century Ottoman Empire." 12.

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, No. 3 (2016): 128., <https://doi.org/10.1353/jowh.2016.0027>.

⁶⁰ Aykut, "Toxic Murder, Female Poisoners, and the Question of Agency at the Late Ottoman Law Courts, 1840-1908," 128.

⁶¹ Ibid.

incarceration in the Ottoman prisons and above all their imprisonment processes, specific punitive methods for them, and the general treatment of the Ottoman criminal justice system towards women offenders in the late 19th and early 20th centuries. Last but not the least, it stimulates my curiosity towards the unknown worlds of criminal women and their punishment with imprisonment during the age of Ottoman prison reform.

Let us point out the only one comprehensive work on Ottoman women prisoners. Ottoman prison literature has a pioneering study dealing with women prisoners - a PhD dissertation (2015) by Ayşe Özdemir Kızılkın: *Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar 1839-1918* (Women's Prisons and Women Prisoners in the Ottoman Empire 1839-1918).⁶² She divided her dissertation into three parts: the first chapter examines the Ottoman legal history (Shari'a), including penal law and prison reforms, and the concept of the prisons. The second starts with an overview of women's prisons and deals with the daily lives of women prisoners, women's prison employees and their duties, prison infirmaries, epidemics and disease among female inmates, penal labor in women prisons, amnesty and release policies for women prisoners, and prison break cases in the late Ottoman women's prisons. The last part of the dissertation concentrates on the crimes and punishment according to penal codes, female offenders and their crimes and punishments, such as prostitution, fornication, murder, and larceny through archival documents.

Interestingly, she skipped modern Ottoman courts and modern judicial apparatuses, such as the *Nizâmiye* courts (*Nizâmiye mahkemeleri*), preferring instead to focus on Shari'a law and its penal classifications, such as *t'azir, had, and kisas*, specifically in the last part of the dissertation.⁶³ Her work was pioneering and very remarkable in the literature in terms of being the first comprehensive study on Ottoman women prisoners. Also, her source materials from the Prime Ministry Ottoman Archives scoped a new page on Ottoman women inmates, women's imprisonment practices, their living condition in the provincial imprisonment areas, health conditions of carceral places, guardianship methods and the general prison policy, which all exemplified filthy living conditions of non-standardized women's prisons along with the prison reform attempts of the late Ottoman government. All in all, her dissertation contributes to the scarce literature of women's prisons studies with its archival cases and documents.

1.3. Voices Heard of Other Women's Stories: Involvement of Women in Social, Financial and Intellectual Life

⁶² Ayşe Özdemir Kızılkın, "Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar (1839-1922)." (PhD diss., Süleyman Demirel University, Graduate School of Social Sciences, 2011).

⁶³ Kızılkın, 111-161.

This section takes an overview of existing Ottoman women's literature that dealt with the relationship between Ottoman and Middle Eastern women and sexual, familial, financial, social, legal, and intellectual spheres with a critical approach in order to draw a general framework of the themes, concepts, and perspectives of scholarly works on women's history.

Let us start with Margaret Meriwether, who revealed the veiled and mysterious part of the financial status of Syrian women in the 19th century through her detailed research in Aleppo's archives in that she contributed literature mainly focusing on sexual and feminine concepts in Middle Eastern women's history.⁶⁴ Meriwether insists that Syrian women were not weak and passive in claiming property rights and founding family waqfs. They could establish and conduct their family waqfs, also have their voices heard on their financial incomes in terms of waqfs, inheritance, dowries, and so on. Her study became a revolutionary step in terms of revealing women's rights and property relations which identified women as founders, administrators and also beneficiaries of the endowments as against Baer's statements which claimed that Ottoman women had limited property rights and no chance to access properties such as family waqfs.⁶⁵ Meriwether says; "Through involvement in waqfs as founders, beneficiaries, and administrators, women had opportunities to exercise some control over the use to which their own and others' resources were put and to have greater access to family resources than they might have had otherwise."⁶⁶ Besides, Mary Ann Fay also contributes to Meriwether's statement with her exploration of Egyptian waqfs and property relations among female subjects in the Muslim community.⁶⁷ According to Tucker:

Gabriel Baer first broached the subject through an examination of waqf in sixteenth-century Istanbul and argued that waqfs founded by women were of a small size and tended to weaken their control of property since they often named male beneficiaries and male managers, so that the waqf served to return control of property that women had inherited to men. Studies of other times and places, however, have reached different conclusions. In eighteenth-century Cairo, elite women endowed very sizeable waqfs and were able to retain control of this property as both managers and beneficiaries. In Aleppo in the same time period, women not

⁶⁴ Margaret Meriwether, "Women and Waqf Revisited: The Case of Aleppo, 1770-1840" in *Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era, The Ottoman Empire and Its Heritage: Politics, Society and Economy*, Edited by Madeline Zilfi, (Leiden: E. J. Brill, 1997), 128-153.

⁶⁵ See Meriwether, 131; Gabriel Baer, "Women and Waqf: An Analysis of the Istanbul Tahrir of 1546," *Asian and African Studies* 17 (1983), 9-27.

⁶⁶ Meriwether, 152.

⁶⁷ Mary Ann Fay, 'Women and Waqf: Property, Power, and the Domain of Gender in Eighteenth-Century Egypt' in *Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era, The Ottoman Empire and Its Heritage: Politics, Society and Economy*, Edited by Madeline Zilfi, (Leiden: E. J. Brill, 1997). 28-48.

only endowed waqfs but also were active as managers and beneficiaries of major waqf properties that had been founded by their ancestors.⁶⁸

Iris Agmon scoped another perspective on knowledge production about women's domestic, social, legal, and financial acts in the Shari'a courts. Agmon underlines the importance of Shari'a sijils for the scholarly works on women's history in the Middle East, even though the *Nizamiye* courts were established in 1863. The *Nizâmiye* courts merely dealt with serious criminal cases. Hence, the *Shari'a sijils* overwhelmingly contain more information on Ottoman women and their relations in the outside world.⁶⁹ She shows the active roles of women in the Shari'a courts as litigants and plaintiffs who sought justice, while she criticizes Orientalist Middle Eastern women's descriptions that are based on describing women as sexual objects.⁷⁰ Moreover, Agmon traces familial relationships and women's roles in their familial ties in early 20th century Jaffa and Haifa through *kadi sijils*.⁷¹ Mostly, the relationship between domestic financial issues such as inheritance, waqfs, etc. and women were re-discovered with the new gaze on women's social history by scholars in the 1990s. As Ze'evi states, Muslim women removed from being "characterized as downtrodden and exploited" and "as relatively independent in control of their property, began to be actively engaged in social and economic affairs".⁷²

All in all, women's history writing left the discourses that are generally concentrated on women's sexuality as a main focus. Hence it began to find out women's active roles in social and economic affairs in the early years of 1980. Even though these studies seem to shed light on the mysterious and hidden world of women in the past, they mostly ferret out the stories of innocent and ordinary women's daily lives, social and marital status, or the presence of victim women in Ottoman courts as plaintiffs. Therefore, the women's study has to say something on Ottoman women's criminality.

On the other side, the Ottoman women's history studies have scholarly works on intellectual and elite women. Meanwhile, the Ottoman historiography has a special place for the intellectual and upper-middle-class women's biographies and contributions and the intellectual and elite women's lives and backgrounds, with access to the social and political relations in the

⁶⁸ Judith Tucker, *Women, Family and Gender in Islamic Law* (New York: Cambridge University Press, 2008), 155.

⁶⁹ Iris Agmon, "Women's History and Ottoman Sharia Court Records: Shifting Perspectives in Social History," *Hawwa* Vol. 2, Issue 2, 2004, 178.

⁷⁰ Agmon., 179.

⁷¹ Iris Agmon, "Women, Class, and Gender: Muslim Jaffa and Haifa at the Turn of the 20th Century," *International Journal of Middle East Studies* 30, No. 4 (1998): 484–488, <https://doi.org/10.1017/S0020743800052521>.

⁷² Dror Ze'evi, "The Use of Ottoman Shari'a Court Records as a Source for Middle Eastern Social History: A Reappraisal," *Islamic Law and Society* 5, No. 1 (1998), 36.; Kate Fleet and Ebru Boyar. *Women in Public Space* (Leiden: Brill Publishing, 2016), 1.

19th and early 20th centuries. Moreover, their intellectual contributions were examined in biographical works and intellectual history studies. Serpil Çakır gives more insight on women's movements in the 19th century through the first Ottoman women's magazine, Women's World (*Kadınlar Dünyası*), and Fatma Aliye's political, literary background through her works.⁷³

Yaprak Zihnioğlu is another scholar who presents a broad perspective and worthwhile archival work to explore the little-known world of Ottoman feminists and intellectual women. She specifically sheds light on Nezihe Muhiddin, an Ottoman woman thinker, journalist and activist, whose individual, familial, and intellectual background presents a wider perspective on the 19th century Ottoman women's movement, feminist understanding, and the first spark of Ottoman women's political action.⁷⁴ Within the Empire but outside the Muslim majority, Armenian women's positions gave them unique perspectives. Lerna Ekmekçioğlu's works pursue the background of Armenian intellectual and feminist women such as Zabel Yesayan and Hayganuş Mark's valuable contributions to the Ottoman women's movement, to Armenian literature and the intellectual world of women.⁷⁵ On the one hand, Armenian scholar Ekmekçioğlu never skipped dealing with ordinary women's suffering, their efforts to survive, their lives amid and after the genocide and its terrible results for their future lives during the age of post-genocide.⁷⁶ Furthermore, Maksudyan's academic contribution with her edit book to the existing literature cannot be ignored, which puzzles over gender-specific history writing and being Muslim and non-Muslim women in the Ottoman urban centers under the discussion of modernism.⁷⁷ Meanwhile, she aims at ferreting out the hidden history of 1915 genocide survivors, their social and individual adaptations, surviving as Armenian subjects both male and female, but she overwhelmingly sheds light on the females.⁷⁸ By this, she presents a work on understanding women and urban city relationships at the same time as the surviving efforts of the Armenian people, mostly children as orphans and domestic servants in the Ottoman elites' houses under the post-genocide conditions.⁷⁹

⁷³ Serpil Çakır, *Osmanlı Kadın Hareketi* İstanbul: Metis, 2001; Serpil Çakır, *Erkek Kulübünde Siyaset: Türkiye'de Kadın Parlamenteler Sözlü Tarih Çalışması* (İstanbul: Versus Yayınları, 2013).

⁷⁴ Yaprak Zihnioğlu, *Kadınsız inkılap: Nezihe Muhiddin, Kadınlar Halk Fırkası, Kadın Birliği* (İstanbul: Metis Yayınları, 2003).

⁷⁵ Edited by Lerna Ekmekçioğlu and Melissa Bilal, *Bir Adalet Feryadi, Osmanlı'dan Cumhuriyet'e Beş Ermeni Feminist Yazar (1862-1933)*, (İstanbul, Aras Yay., 2017).

⁷⁶ Lerna Ekmekçioğlu. "A Climate for Abduction, a Climate for Redemption: The Politics of Inclusion during and after the Armenian Genocide," *Comparative Studies in Society and History*, 55(3), 2013, 522-553.

⁷⁷ Edited by Nazan Maksudyan, *Women and the City, Women in the City: A Gendered Perspective to Ottoman Urban History* (New York: Berghan Books, 2014).

⁷⁸ Nazan Maksudyan, *Orphans and Destitute Children in the Late Ottoman Empire* Syracuse (New York: Syracuse University Press, 2014).

⁷⁹ Nazan Maksudyan, "Foster-Daughter or Servant, Charity or Abuse: Beslemes in the Late Ottoman Empire," *Journal of Historical Sociology* 21, No. 4 (2008), 488-512.

After drawing a general picture on existing women's history literature, to back to the point, I must underlined that I constructed a thematic framework for this study to initiate writing a history of the relationship of ordinary women criminals to the outside world: their criminal agency, their criminal experiments as "active offenders", the perception of them as female offenders and prisoners by Ottoman prison policies, discrepant imprisonment practices, their criminal status, and the ambivalent punitive practices (occasionally tolerant and occasionally harsh or ignorant) regarding pregnant women and mothers in addition to prostitute inmates in the late Ottoman prisons. Hence, this study will deal with a theoretical discussion that discovers the genuine place of women offenders, the peculiarities of female criminality, perception of female criminal subjects, the agency of women as criminal characters, the background of their criminal behaviors, and above all the effects of understanding female criminality on the prison policies in the late Ottoman Empire. In fact, the perception of female criminality, the approaches to female criminal subjects, and the definitions of women's criminal acts clearly explain the essential reasons of the late Ottoman's prison policy making against female inmates by the Ottoman prison administration, which particularly shaped their own punitive methods and incarceration areas for women inmates. In other words, the gender roles of prisoners revealed the sort of outcomes for the legal and judicial processes, the last but not the least the penological understanding of the gendered criminality issue along with the effects of lower crime rates of women vice versa their male counterparts and budgetary questions of Ottoman prisons. This study intends to understand the transformation of prisons within the global change, with imprisonment becoming the major method of punishment and the shifted punitive ways that were undermined during the 19th century as a part of the global trend to be discussed in Section 2.1.

To sum up, this dissertation mainly deals with being a woman criminal as an inmate in the Ottoman prisons and jails during the Tanzimat period and until 1918, through deep analysis of legal and penal scripts, institutional developments for the implementations of prison reform, the place of women offenders in the prison reform package, particular punitive methods and imprisonment practices for female inmates, and women's prison concepts through archival records that demonstrate the dire circumstances of Ottoman prisons, the imprisonment standards for female inmates, and above all the general prison policies towards female prisoners in the 19th and early 20th centuries.

1.4. Scope of the Study

The second chapter concentrates on the concepts and repetitive approach towards women's criminality and their imprisonment through Western literature and theories that also represent the same perspective against women offenders and gendered criminality. However,

with the discourses and arguments of feminist penologists, this chapter draws a new picture of female criminality, Ottoman women's criminality, and women's imprisonment through the effects and contributions of feminist penal theories and scholarly perspectives. Surely, the adaptation of feminist methodology reinforced the epistemological goal of this study that is based on revealing the truth and reaching historical facts. On the other side, the second chapter touches on the transformed punitive methods and the influences of imprisonment as a major punishment method during the 19th century.

The third chapter deals with the legal and penal reform attempts of Ottoman bureaucracy, its effects on punitive methods, creation of imprisonment areas, the consequences of penal codifications on the judicial and penal institutions, and above all the Ottoman penal approach to women's criminality that diffused all the penal, legal and punitive practices of the imperial criminal law. The articles of penal codifications are comprehensively analyzed regarding their content based on the identification of criminal acts, types of offences, classification of criminal behaviours, sources of penal codes, the influences of Shari'a law, and above all, crime definitions, fresh punishments, and women's criminal acts. The place of female offenders and victims is examined with an analysis of penal codes and transformations of judicial organs that also paved the way for the more frequent practice of imprisonment as the major punishment method. Besides, without any analysis of transformative attempts on legal and judicial organs, the practice of imprisonment as a punitive method and confinement concepts would be infertile and unfruitful in this thesis. Hence, all kinds of reforms in the judicial, legal, and penal areas are examined in Chapter 3.

The fourth chapter concentrates on Ottoman prison reform and its female subjects. The ongoing reform packages for the transformation of Ottoman jails into "modern" penitentiaries and the female subjects of prison regulations, women's prison projects, and articles on women inmates are comprehensively examined through proclaimed regulations, reform packages, and reports in the light of interference by European bureaucrats with their recommendations, reports, and records. In this sense, the concrete lenient and tolerant attitudes of Ottoman prison policies became visible in the regulations especially for mothers and pregnant women inmates. The repetitive articles on organization, order, hygiene, control methods, guardianship, and the enhancement of the physical conditions of prison buildings were frequently proclaimed to fulfil the "Ottoman prison reform" aspiration during the reign of Abdülhamid II and during the CUP government.

Lastly, the case chapters (Chapters 5 and 6) thematically give more insight on general circumstances in women's prisons, women's imprisonment practices and the living conditions of women inmates in the late 19th and early 20th centuries. The concepts of women's

imprisonment, ad hoc incarceration places, the guardianship question in leased and proper women's prisons, the potential financial and sexual abuse cases, prostitutes as women inmates, the effects of motherhood and pregnancy, prison surveys and censuses, health conditions and the epidemic crisis in women's prisons, amnesty and release policies for women inmates, and finally female penal laborers in the prison workshops are examined in these chapters.

1.5. Sources and Methodology

This study has used mainly Ottoman archival sources collected from several catalogues. The empirical data consist overwhelmingly of archival correspondence, orders, prison plans, surveys, censuses, interrogations, and other written sources on the Ottoman judicial, legal and penal organs, mainly prisons. The complicated and irregular classification of the Ottoman archives led to the collection of data from various kinds of catalogues and files. Therefore, this study also benefited from several archival catalogues.⁸⁰ The names of these catalogues are listed in the abbreviations list.⁸¹ Specifically, the prison censuses and surveys were repeated several times during the Hamidian era and the period of the CUP government. The most comprehensive surveys and censuses were held by the CUP government in 1911-1918, which include statistical information on the number of prisoners and other details about inmates: ages, gender, ethnoreligious identity, occupations, marital status, literacy, and so on. These censuses fruitfully helped this study to have detailed information on women prisoners in the provincial prisons, although they were collected from only 12 proper provincial prisons. However, except for these prisons, the censuses and surveys could not collect information on prisoners who were incarcerated in leased prison houses and ad hoc imprisonment areas (imams' houses, abandoned places, dungeons, courtyards, madhouses, poorhouses, basements of government's offices, police stations, etc.

Undoubtedly, data collecting and knowledge producing from the Ottoman archives on women offenders, women prisoners and women's prisons was a difficult process, which is why androcentric origins of prison and crime themes and the lesser numbers of women offenders hinder reaching sources and producing empirical data on women's imprisonment in the 19th and 20th centuries. Concisely, not only the collection of documents from the Ottoman archives but also getting more information on women's criminality have proved very difficult for the researcher. Nevertheless, this dissertation eagerly aims at finding out historical information on

⁸⁰ The abbreviations of the mostly used archival catalogues: BOA.CZ., BOA.ZB., BOA.EUM.Şube 1-2-3-4-5-6, BOA.DH. EUM. KLH., BOA.DH. EUM. MH., BOA.DH. EUM. MKT., BOA.DH. EUM. THR., BOA.DH. EUM. VRK., BOA.MVL, BOA.DH.MB.HPS, BOA.DH.MB.HPS.M, BOA. ŞD., BOA.BEO., BOA.İ.AZN. BOA.MVL, BOA.DH.MKT, BOA.TMIK.S., BOA.İ.AS., BOA.İ.DH., BOA.İ.HR., BOA.İ.MMS., BOA.İ.MVL., BOA.İ.ŞD., BOA.TFR.I.A., BOA.TFR.I.AS., BOA.TFR.I.SL.

⁸¹ See List of Abbreviations.

women's prisons and women prisoners in the late Ottoman Empire. For this aim, this study also sought other published sources, for instance, *Polis Mecmuası* (Police Journal) containing much information and visual sources, namely photographs, and criminal stories with biographic information on the male offenders in 1913-1918, whereas there is no specific information or visual material on female offenders. Nonetheless, Police Journal contains dozens of visual sources, such as photos of offenders, criminal people, police schools, successful police officers, prisons and graphics providing modern investigation and prosecution methods as an effect of global penal changes. In other words, providing information about the criminal justice system (*Kism-i Adli*) and scientific (*Kism-i Fenni*)⁸² methods of investigation of criminal cases by the Ottoman police is very significant for understanding contemporary policing and criminal justice systems in the late Ottoman period.

Even though it is very difficult to produce information on women's prisons and female offenders from that period, the structural methodology and research strategy based on feminist penal approaches and critics, this study combines the information, photos, surveys, censuses, and prisons' architectural plans, yearbooks, journals and magazines to explore the muted and invisible world of Ottoman women prisoners. Producing archival information is not easy work when the study focuses on women's issues. The limits of archival sources, the androcentric structure of the "crime" as a concept, written sources mostly by males, the undiscovered world of women offenders in the criminal cases, biased representations of women's criminal identity, and the scarcity of documents on women offenders could not inhibit this study, which ceaselessly tries to reveal the genuine stories of women prisoners and the implementations of Ottoman prison policies in women's prisons in the late Ottoman Empire.

I collected archival data from all the imperial provinces without any geographic or provincial limit. The issue of women's imprisonment has shown the same peculiarities in all the imperial regions. Briefly, when I collected archival documents on female offenders, female inmates and women's prisons, the limitations of geographical areas became unnecessary due to the similarity between the cases, issuance of documents and mutuality of questions of provincial women's prisons. The perception of their criminal identity engendered ambivalent punishment practices (occasionally ignorant, expendable, discriminative, and tolerant) in all imperial women's prisons. Therefore, this study has no geographical or provincial limits, rather it aims at creating a large perspective on women's imprisonment practices in the Ottoman Empire from the Balkan provinces to the North African regions.

⁸² See Eren Korkmaz, "Polis Mecmuasına Göre Osmanlı'da Suçlar ve Adli Kovaçturma (1913-1922)," (MA Thesis, Adnan Menderes University, Institute for Social Sciences, 2019), 22-26.

All the issues of Police Journal (*Polis Mecmuası*): It was published bi-weekly between 1913-1924 in Istanbul. Later it was published by the Republican Police Directorate (*Emniyet Müdürlüğü*) in 1930-1937 in Ankara.

All in all, this study contains several unique and precious archival documents that will contribute to the existing and limited literature on women's criminality, women's imprisonment, and women's prisons in the late Ottoman period. This study answers the questions of the undiscovered world of Ottoman women offenders and female prisoners with its deep analysis and intensive research in the Ottoman archives to reveal their criminal acts as female offenders, women doers and above all their vigilance while they sought out justice. Hence, this dissertation opens a new page on the hidden world of Ottoman women's imprisonment with the enlightened questions about themes on women's criminal statuses, women's prisons and female inmates, the perception of women offenders in Ottoman prison policy, the place of women offenders in the Ottoman criminal justice system, ad hoc (leased) imprisonment areas for female inmates, control methods for women prisoners, abuse and coercion cases by women's prison wardens and guards, the health conditions of Ottoman women's imprisonment areas, the epidemic crises among female inmates, tolerant treatments for pregnant inmates and mothers, discriminative imprisonment policy for prostitutes, female penal laborers and prison workshops, and lastly, the amnesty and release policy of the Ottoman government against women inmates in the late Ottoman Empire.

Chapter 2: Recent Issues in Women's Criminality and Imprisonment

This chapter discusses women's criminality in the penal theories and feminist penal works with their special critics towards gendered criminality to draw a broad perspective on the influence of the perception of women's criminal acts on women's imprisonment policies. This chapter mainly utilizes scholarly and theoretical works on imprisonment becoming the major punishment method, the abolition of corporal punishment, the birth of prisons and reformatories, and above all the approaches and theories for women's criminality and women's imprisonment. This chapter also helps us to understand the essential mentality of the 19th century's general carceral policies, punishment practices for female inmates, theorization of women's delinquency and women's punishments with a special conceptual framework for the relationships between women and crime. In other words, this chapter deals with the meaning of being a women offender and a female inmate in the late 19th and early 20th centuries. The flow of this chapter targets drawing a general picture on the transformations of punishment understanding and punitive mechanisms, the establishment of prisons and reformatories, and the examination of the agency of female delinquents, of all these penal transformations and punishment mentalities.

2.1. Imprisonment as a Major Punishment Method: Emergence of Prisons

Here this section briefly touches on the existing theories and literature on the birth of prisons to open a wider perspective before analyzing female criminality through types of penal perspectives. The transformation of punitive methods, shifting from corporal punishment to incarceration, imprisonment becoming the major method of punishment, which all occurred during the 19th century through the global wind of change, was the innovative penal transformation.⁸³ These circumstances inevitably invoked the "birth of prisons" and a fresh penitentiary system which had to have a structured punitive and control mechanisms involving convenient architectural plans, separate wings for each crime types and each gender, professional prison employees such as wardens and guards, regular control and surveillance, standard correction methods and prison workshops, instead of the jails inside of fortresses, dockyards, dungeons, arsenals, etc. in the 19th century.⁸⁴ According to Spierenburg, "Elsewhere

⁸³ Clive Emsley, *Crime, Police and Penal Policy: European Experiences 1750-1940* (Oxford& New York: Oxford University Press, 2007), 94.

⁸⁴ Emsley traces the transformation of punitive methods both in Britain and other European states during the 19th century. He underlined the shift from corporal punishment (especially public punishment shows including public executions, mainly hanging) and the death penalty as a major change on penal culture. See Clive Emsley, *Crime and Society in England:1750-1900* (Harlow: Person/Longman: 2005), 253, 277-78.

in Europe imprisonment gradually became more common as a judicial sanction from the middle of the seventeenth century onward. At the same time, the number of prison-workhouses increased penal labor centers.”⁸⁵ In that sense, the quick spreading of new punitive concepts and the construction of prisons and penitentiaries rapidly accelerated, moreover prison workshops had been established from the 17th century in European countries. However, imprisonment becoming as the main punitive way instead of torture and corporal punishment methods was more visible in the political agenda of empires in the 19th century.⁸⁶

This altered penal understanding paved the way for creating new imprisonment areas in that fortresses, arsenals and dungeons became insufficient for hosting all offenders, needy, vagrant and insane people without separation.⁸⁷ Undoubtedly, these changes in penal mentality were the outcome of several intellectual works and influences which also brought along several penal ideals and goals. Here this section follows a chronology to sketch a comprehensive framework for penal transformations from the 18th century up to the 19th century as an essential discussion before the analyzing of female delinquency and punishment.

In the late 18th century, Italian penal reformer, Cesare Beccaria, was the first Italian thinker and criminal lawyer who proposed the propositions between crimes and punishments and the classification of crime types in the 1760s.⁸⁸ As a pioneer, Beccaria has affected other European prison transformations with his ideas on the division of criminal acts and abolishment of corporal punishment. Besides, John Howards, as a British social reformer, aimed at enhancing existing prisons’ living conditions and having health standards in the prisons in his book of 1777.⁸⁹ Howard’s attempt towards the institutionalization of prisons stimulated the promulgation of the Act of Penitentiary 1779 which proposed a diet and hard labor plan for prisoners’ correction in England.⁹⁰ His reformatory proposals were not only for British Empire but also for other European countries, which effectively reinforced the transformation of jails to reformatories in 18th century Europe.

⁸⁵ Pieter Spierenburg, “Four Centuries of Prison History,” in *Institutions of Confinement*, Edited by Norbert Finzsch and Robert Jütte, (Cambridge: Cambridge University Press, 2013), 23, <https://doi.org/10.1017/cbo9781139052535.003>.

⁸⁶ See Michael Ignatieff, *A Just Measure of Pain: The Penitentiary and the Industrial Revolution, 1750-1850*, (New York: Pantheon Books, 1978).

⁸⁷ Before the age of prison reform, without distinction of insane, criminal, poor people who were all confined in the same places. Nevertheless, this confinement practice remained during the early beginning of the birth of prisons, both in Europe and in the Ottoman Empire.

⁸⁸ Cesare Beccaria, ‘*On Crimes and Punishment*’ and Other Writings, Translated by Richard Davies (Cambridge: Cambridge University Press, 1995), 19-22, 22-24.

⁸⁹ John Howard, *The State of the Prisons in England and Wales with Preliminary Observations, and Account of Some Foreign Prisons* (Warrington: William Eyres, 1777); *The Life of John Howard* (Newcastle upon Tyne: W. Thompson, 1790).

⁹⁰ Roger Matthews, *Doing Time: An Introduction to the Sociology of Imprisonment* (London: MacMillan Press, 2011), 23.

Jeremy Bentham's Panopticon was another pioneer contribution to prison works. Bentham mostly focused on monitoring, sentinelling and the control of prisoners through architectural structures and physical mechanisms. In this sense, he created a circular penitentiary plan which had a tower in the middle, namely panopticon style, in order to regularly control and sentinel the prisoners. Bentham undoubtedly aspired to form a concrete and ceaseless control mechanism through technical equipment such as the circular architectural form of prisons, and watchtowers with prison guards in the middle of prisons.⁹¹ As observed in his study, he overwhelmingly concentrates on the ways to control and sentinel prisoners in their own wards and cells, with separate imprisonment areas for each gender in the panopticon system.⁹²

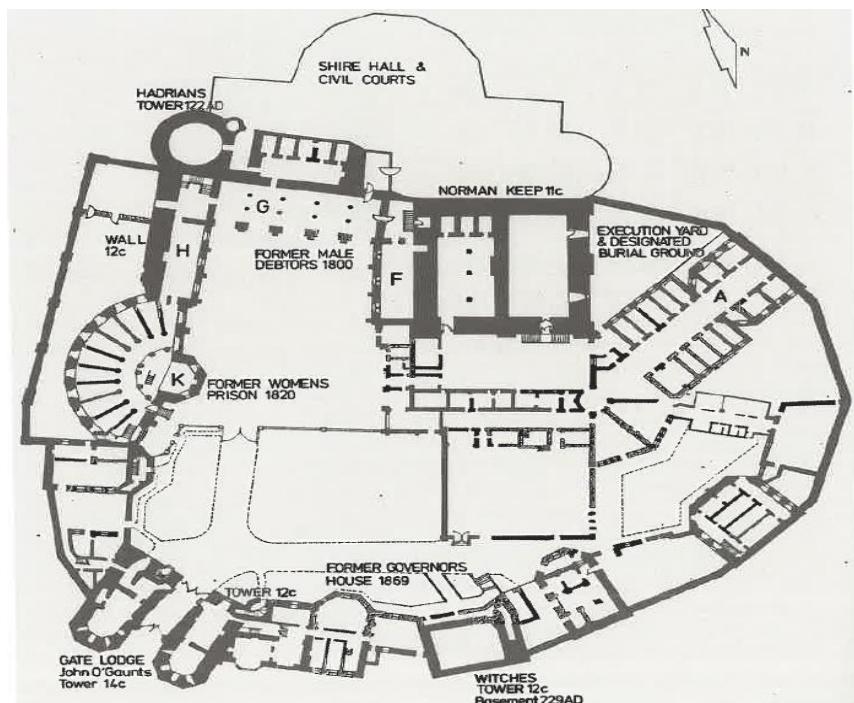


Figure 2. 1: Panoptic women's prisons in Lancaster Castle, British Empire, 1820.⁹³

On the other hand, Cesare Lombroso was one of the most important Italian penal anthropologists in the early 19th century, who dealt with the female offenders without tendency to hide them, but with a positivistic approach which pathologize women's criminality, as seen below.⁹⁴ He mainly concentrated on the causes and effects of criminal behavior, and he also believed that genetic factors were very significant determinants of individuals' criminal

⁹¹ Jeremy Bentham, *The Panopticon Writings* translated by Miran Bozovic (London & New York: Verso Book, 1995), 35.

⁹² Bentham, 35.

⁹³ Norman Johnston, *Forms of Constraint: A History of Prison Architecture* (Urbana and Chicago: University of Illinois Press, 2000), 52.

⁹⁴ Cesare Lombroso and Guglielmo Ferrero, *Criminal Woman, The Prostitute, and the Normal Woman* (Durham: Duke University Press, 2004).

tendencies.⁹⁵ In other words, Lombroso pursued the concrete factors of criminal tendency such as race, geography, culture, sex, body proportions, hereditary roots, and religious factors with his own scientific path.⁹⁶

Last but not the least, one of the most significant philosopher, academics and theorists of the 20th century is Michel Foucault, whose works have affected the studies of scholars in sociology, history, and philosophy. His precious contribution to prison studies enabled the beginning of a new movement in the penal studies, in other words, prison studies began to be examined by a Foucauldian approach to the analysis and interpretation of social history concepts after the 1980s. His penal ideals and perspectives were specifically concerned with the creating control mechanisms to consolidate power with emergence and development of modern prisons, the shift in punitive methods to imprisonment instead of corporal punishment, surveillance ways, and means of control and supervision not only in modern prison systems but also in hospitals, asylums, madhouses, poorhouses, etc. ⁹⁷ According to Emsley: “In the case of the prison, Foucault connects the development of penal and other total institutions (asylums and hospitals) in the 19th century, with the emergence of new forms of knowledge (psychiatry and medicine) which embodied a new, enclosing and restricting orientation to the body.”⁹⁸

As Emsley states, Michel Foucault offered incarceration, confinement, and control to create “docile bodies,” isolation concepts, rehabilitation practices, and the purification of inmates by penal labor as the essential imprisonment goals.⁹⁹ However, his ideals and models on the establishment reformatories, prisons, hospitals, madhouses were far from being practicable and overwhelmingly stayed as ideals.¹⁰⁰

In the early 19th century, with the effects and contributions of scholarly and theoretical works, the global wave on the mentality of transformation of punishment began to give concrete results. A fresh standard penitentiary structure came from New York in 1817. Auburn¹⁰¹, initiated a system of silent prison wards, guaranteeing the obedience of prisoners to

⁹⁵ See Cesare Lombroso, *Crime: Its Causes and Remedies* (London: William Heinemann, 1911); Cesare Lombroso-Gina Lombroso Ferrero, *Criminal Man* (New York: The Knickerbocker Press, 1911); Cesare Lombroso-Guglielmo Ferrero, *Criminal Woman, The Prostitute, and the Normal Woman* (Durham: Duke University Press, 2004); *The Cesare Lombroso Handbook* edited by Paul Knepper- P.J. Ystehede (New York: Routledge, 2013).

⁹⁶ See: Cesare Lombroso, *Crime: Its Causes and Remedies* translated by Henry P. Harton (London: William Heidemann, 1911).

⁹⁷ Michel Foucault, *Discipline and Punish: The Birth of the Prison* Translated by A. Sheridan. (New York: Vintage Books, 1979), 298-299.

⁹⁸ Clive Emsley, *Policing and Its Context, 1750-1870* (London: The Macmillan Press 1983), 6.

⁹⁹ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1979), 73-104.

¹⁰⁰ Clive Emsley, *Policing and Its Context, 1750-1870* (London: The Macmillan Press , 1983), 6.

¹⁰¹ Britannica, T., Editors of Encyclopaedia."Auburn System." *Encyclopedia Britannica*, July 20, 1998. <https://www.britannica.com/topic/Auburn-system>.

the prisons' employees, sleeping in their cells, and above all urging inmates to produce in the prison workshops.¹⁰²

Solitary confinement became the fundamental discipline method in American penitentiaries which resulted the construction of a Pennsylvania confinement area in 1829 with strict silence rules and a cell system. In the Pennsylvania system, the prisoners were merely allowed to work prison workshops for weaving and shoe making.¹⁰³

In the following years, the Pentonville penitentiary system was erected in 1842 in North London, as a planned and structured imprisonment area with a unique architectural form.¹⁰⁴ According to Ignatieff: "Pentonville quickly became a model for prison architecture and discipline not only in England but in most of Europe. It represented the culmination of three generations of thinking and experimentation with penitentiary routine. Standing on a huge six-acre site, behind twenty-five-foot-high walls, it loomed over the workers' quarters around it, a massive, three-pronged fortress of the law."¹⁰⁵ As Ignatieff states the Pentonville system diffused throughout all European countries as a model penitentiary with rigid disciplinary plans, respectively: wake-up, work, meals, chapel, exercise, inspection, lights out; but the prisoners did these acts in total silence.¹⁰⁶

Whilst these confinement theories, penal changes and the establishment of new reformatories with special architectural plans namely prisons, penitentiaries and reformatories became more visible in the political agenda of each empire, here some questions come to mind: where are the women in these penological works and theories? Where are the female delinquents in these structured imprisonment systems? How did all the theorists, scholars, penal experts and prison reformers who practically implemented these penitentiary plans give places for women offenders and female inmates? The upcoming section broadly discusses the gender perspective in penal theories and reforms before the examination of feminist penal critics which iconoclastically aim at destroying virile, masculinist, and androcentric walls of classical penology.

¹⁰² See Eileen McHugh, *Auburn Correctional Facility: Images of America* (New York: Arcadia Publishing, 2010). This book involves several unique visual sources on the Auburn Correctional Facilities; Norman Johnston, *Forms of Constraint: A History of Prison Architecture* (Urbana and Chicago: University of Illinois Press, 2000), 75-77.

¹⁰³ Britannica, T., Editors of Encyclopaedia. "Pennsylvania System." Encyclopedia Britannica, July 20, 1998. <https://www.britannica.com/topic/Pennsylvania-system>.

¹⁰⁴ See more for the architectural plan and disciplinary mechanisms of Pentonville Penitentiary System. Michael Ignatieff, *A Just Measure of Pain: The Penitentiary and the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978), 3-15.

¹⁰⁵ Ignatieff, 3.

¹⁰⁶ Ignatieff, 4.

2.2. The ‘Gender Neutrality’ Argument in Prison Literature: How ‘neutral’?

This section analyses the perception of the gender identities of prisoners, the identifications of the criminal status of women delinquents, and the representation of women’s criminal agency in pioneer works on criminology and penology.

Let’s start with the analysis of Michel Foucault’s gender understanding in his carceral theory. Most of scholars who deal with penal studies believed that the Foucauldian perspective has an indispensable ideologic frame for the discussion of penal reforms, in that here I briefly touch on Foucauldian perspective on women’s delinquency and women’s imprisonment discussions. However, unfortunately, the Foucauldian perspective does not involve any sense of gendered criminality, any statement or proposal about women’s criminality, and women’s imprisonment; rather, his understanding concentrates on docile bodies more than genders of prisoners. According to Ramazanoğlu, his gender neutrality is very apparent in his penal perspectives.¹⁰⁷ Hence this section takes a critical position towards the Foucauldian gender-neutral point of view in light of analytical perspectives that apparently shed light on Foucault’s blindness to gender roles and the division of the sexes in prison systems. Initially, the gender neutrality of Foucauldian analysis dramatically hampers the examination of gendered imprisonment concepts, specifically for studies on women’s imprisonment. According to Angela King, “Foucault’s apparent gender neutrality is problematic precisely because we live in a society that is far from gender neutral and in fact, constantly seeks to reiterate the polarization of the sexes through these ‘techniques of gender’.”¹⁰⁸ Negligence of the gender roles of prisoners and the rejection of differences between the delinquents’ genders posed several scholarly questions in penal studies. The fact is that female imprisonment required varied kinds of penal practices regarding their various physical characteristics as against their male counterparts. A gender-neutral point of view from the Foucauldian perspective also insisted that female and male inmates encountered the same disciplinary practices in the prisons.¹⁰⁹ He underlined that power enables the creation of resistance among all subjects, whether male or female. The gender roles of prisoners lose their significance against the discipline mechanism of power. As Howe summarizes his gender perspective: “Foucault fortunately concentrated on the body of those condemned more than gender. While he neglected gender roles of condemned

¹⁰⁷ Caroline Ramazanoğlu, “Introduction” In *Up against Foucault: Explorations of Some Tensions between Foucault and Feminism*, edited by Caroline Ramazanoglu (New York: Routledge, 1993), 2-4.

¹⁰⁸ Angela King, “The Prisoner of Gender: Foucault and the Disciplining of the Female Body”, *Journal of International Women’s Studies* 5(2), 2004, 33.

¹⁰⁹ King, 30.

people, he assumed that the prisoners consisted of incarcerated, controlled and disciplined bodies.”¹¹⁰

However, this reflected another view on women’s and men’s imprisonment in the late 19th century. As such, Foucault did not consider gender roles either in his book, “Discipline and Punish: The Birth of Prisons” 1975.¹¹¹ Furthermore, he puts the body in the center without gender roles in that modern feminism criticizes the Foucauldian perspective which found his perspective blind and neutral against gender issue, although feminist intellectuals utilize his theory on power relations.¹¹² Hence, modern feminists and feminist penologists developed their own attitude to criticize both androcentric penal approaches and the Foucauldian perspective in terms of its gender neutrality, apathy about sexual violence and gender blindness, as the following section broadly discusses.¹¹³

Patricia O’Brien also criticizes Foucault’s central concentration on the exclusive relationship between the individuals and the institutions, overlooking the fact that 19th century prisons separated inmates and delinquents in terms of sex, age and crime. According to O’Brien;

*Foucauldian focus is the exclusive relationship between the individual and the institution. Yet men, women, and children as inmates of institutions were separated from each other for the first time in 19th-century prisons. Separation was determined on the basis of sex, age, offense, and ultimately on the individual basis; each prisoner came to be isolated from every other prisoner. Sex remained the basis for the difference in institutional response for most of the 19th century. The sequence of isolation and the nature of rehabilitation were different for men and for women. These differences, which Foucault for the most part ignores, occurred in a system where all prisoners were treated and legally considered as minors.*¹¹⁴

As O’Brien claims, although sex and gender were the fundamental determinant for individual basis, Foucault intentionally or unintentionally skipped that.¹¹⁵ Even though Foucault’s contribution has been placed in a unique area in penology studies, the hidden

¹¹⁰ Adrian Howe, *Punish and Critique: Towards a Feminist Analysis of Penalty* (London: Routledge, 1994), <https://doi.org/10.2307/591377.116>.

¹¹¹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by A. Sheridan. (New York: Vintage Books, 1979).

¹¹² Wijitbusaba Marome, “Foucault’s Work for the Analysis of Gender Relations: Theoretical Reviews,” *Journal of Architectural Planning Research and Studies* 3 (2005): 119.

¹¹³ Marome, 119; Christopher Falzon, Timothy O’Leary, and Jana Sawicki, “Introduction,” In *A Companion to Foucault*, Edited by Christopher Falzon, Timothy O’Leary, and Jana Sawicki. (Blackwell Publishing: 2013), 4-5.

¹¹⁴ Patricia O’Brien, “Crime and Punishment as Historical Problem,” *The Journal of Social History*, Vol 11, No 4, 1978, 508–20.

¹¹⁵ O’Brien, 516.

presence of female prisoners, the negligence of the difference between male and female offenders, and gender -neutral prison ideals have dramatically hindered the examination of women's imprisonment under his theories and perspectives on shifting from corporal punishment to the imprisonment as a global punitive trend in the 19th century

Secondly, this section also sheds lights on Lombroso's gendered criminality understanding in his penal theorizations. His punishment understanding is apparently based on male-centrism, atavism, reversionism, while Foucault ignored the entire gender roles in his studies. As a consequence of his androcentric and atavistic approach, women's criminality was identified mostly with sexual crimes, such as prostitution, abortion and infanticide, and he considers female delinquents who mostly committed crimes accidentally.¹¹⁶

According to Lombroso:

Most of female criminals are only criminals from accident or passion, passing frequently from one to the other of these two classes. They very rarely show the type and tendencies of the criminal and commit only from 11% to 20% as many crimes as men. They lead, it is true, in poisoning, abortion, and infanticide; but of the highway robberies only 6% to 8% are committed by women.

Lombroso highlights those women offenders who tended to commit crimes by accident or passion in Italy, whereas they committed up to 20% of the violent acts committed by their male counterparts. Their low criminal potential did not hinder drawing the attention of Lombroso, nevertheless his female criminality understanding has shared the same pattern, confined female delinquents into sexual crimes and self- defense, as in general penal perspectives. Undoubtedly, his perspective on female delinquency leaned on his statistical data which shows lower female criminality vis-à-vis their male counterparts.¹¹⁷ Most importantly, Lombroso as a penal anthropologist focused on features and reason of criminal tendencies of delinquents. In this regard, Lombroso and Guglielmo divided women into three categories; normal women, prostitutes and criminal women in their books which were published in 1893. Their deep research gives more insight on women's bodies, soul and physiology, showing criminal and prostitute women's physical features with several visual materials.¹¹⁸ However, all

¹¹⁶ Cesare Lombroso, *Crime: Its Causes and Remedies*, translated by Henry P. Harton (London: William Heidemann, 1911) 31, 128, 406-410.

¹¹⁷ See Section 5.3 for statistical information on the numbers of female offenders and types of Ottoman women's criminal acts.

¹¹⁸ See several criminal women stories, prostitutes and their photos from France, Italy, Germany, and Russia. Cesare Lombroso and Ferrero Guglielmo, *Criminal Woman, the Prostitute, and the Normal Woman*, translated by Nicole Hahn Rafter, and Mary Gibson, (Durham; London: Duke University Press, 2004), 135-143.

of these insights based on positivistic and scientific methods, and the pathological results for the definition of women's criminality.¹¹⁹

According to Lombroso and Guglielmo: "Several women in the photographs look like members of the same family. All have the same repulsive, virile air, the same big, sensual lips and so on."¹²⁰ Moreover, when he collected criminal women photos from several countries, such as Germany, France, Russia and Italy, they described criminal women who were completely ugly and masculine. He placed prostitutes into a different category from other criminal women for this reason. The prostitutes had the beauty of devils, an abundance of soft, fresh flesh, and absence of wrinkles on their skins, which enabled them to mask their anomalies.¹²¹ According to Lombroso and Guglielmo: "The savage women, like female animals, committed fewer crimes than, although they were more evil than good. The women's crime that corresponds most closely to men's crime, as we will see, is that of prostitution."¹²² Within this quotation, the women criminals were exposed to depersonalization and dehumanization, in that women were identified as wild animals, as upcoming pages deals with.



Figure 2.2: The skulls of Italian women delinquents. According to Lombroso; anomalies of skulls indicate criminal tendency.¹²³

¹¹⁹ Anne Worral, *Offending Women: Female Lawbreakers and the Criminal Justice System* (London: Routledge, 1990), 7.

¹²⁰ Cesare Lombroso and Ferrero Guglielmo, *Criminal Woman, the Prostitute, and the Normal Woman*, translated by Nicole Hahn Rafter and Mary Gibson (Durham & London: Duke University Press, 2004), 139.

¹²¹ Lombroso and Guglielmo, 142-143.

¹²² Lombroso and Guglielmo, 99.

¹²³ Lombroso, 109.



Figure 2.3: Lombroso insists that the criminal women (French, German and Italian) had the typical masculine and virile physiognomy and posture.¹²⁴

All in all, Lombroso used positivistic and scientific approaches to discover women's offences, while he gathered considerable statistical information and scientific information on the rates and numbers of women's criminal acts. However, his women's categorization in his book reinforces the dehumanization for female delinquents except prostitutes, their intentional criminal acts such as violent offences, and capability of women to commit crimes as "doers" with their active agents.

On the other hand, an important attempt for the regulation of women's prisons from British Empire in the early 19th century. Elizabeth Fry is a British philanthropist and female prison reformer¹²⁵ whose observations on the contemporary situations of women's prisons in the 1820s in British prisons seem very remarkable in women's confinement history.¹²⁶ She published her observations on British female offenders who suffered the terrible living conditions in jails where there was limited separation for offenders' gender roles.¹²⁷ Fry prepared 12 fundamental rules on the prohibition gambling and card playing, frequent visitors,

¹²⁴ See several criminal women stories, including prostitutes with their photos from France, Italy, Germany, and Russia. Lombroso used anthropometry as identification method for criminals. Cesare Lombroso, and Ferrero Guglielmo, *Criminal Woman, the Prostitute, and the Normal Woman*, translated by Nicole Hahn Rafter, and Mary Gibson. (Durham & London: Duke University Press, 2004), 135-143.

¹²⁵ Francisca de Haan, 'Fry, Elizabeth (1780–1845)', Oxford Dictionary of National Biography, Oxford University Press, 2004.

¹²⁶ Elizabeth Fry, *Observations on the Visiting, Superintendence, and Government of Female Prisoners* (London: John and Arthur Arch, Cornhill, 1827).

¹²⁷ Fry, 31-32.

proposals for classification of offenders, and monitoring by female prison guards for Newgate Women's Prison, which emphasized the importance of the supervision of women's wards by female prison guards and wardens.¹²⁸ In addition, she published her observations and suggestions also for visiting rules for female prisoners in order to prevent frequent contact prisoners with outside prisons.¹²⁹ According to Roger Mathews, immediately after the publications of Fry's observations and proposals, the 1823 Gaol Act was proclaimed that imposed new systems for the classification of delinquents involving the separation of male, female and juvenile prisoners.¹³⁰ Her contributions for female prisoners' correction, rehabilitation, punishment and confinement conditions are very remarkable in the history of women's confinement not only in England but also in Europe. In this regard, Elizabeth Fry's attempts are very significant in terms of awareness of female delinquents, women's prisoners and their imprisonment which deprived of proper imprisonment standards vis-à-vis their male counterpart in the early 19th century.

All in all, against these ignorant or cliché attitudes towards female delinquency, (except for Elizabeth Fry's reformative attempts for female prisons), feminist penologists will help us to create gender specific penal perspectives and critiques in respect of repetitive and ignorant discourses against female delinquency, as examined in the following sections.

2.3. The Crime Committing Woman, the Identity of Woman as Offender

This study concentrates on women's prisons and women prisoners- specifically Ottoman female inmates, the effects of prison reform, and special implementations with respect to the femininity of female inmates, in the prison policies in the late Ottoman era. This requires an understanding of what it meant to be a female offender in the prison systems of the 19th century. Therefore, this section pursues the following discussion to shed light on the hidden and excluded position of female inmates in the prison system and the perception of women's criminality from the 19th century until the present.¹³¹ In this context, here this section shall illuminate the anomalies, and the ambivalent and discrepant confinement practices with respect to feminine concepts in the women's prisons. This section intends to find out answers to these questions as a navigator for the following chapters: how criminality among women is perceived by penal theories, how women offenders are represented by the penal theories, why women

¹²⁸ Fry, 26-27.

¹²⁹ Fry, 10-14.

¹³⁰ See table of some important reform attempts for British Prisons in England and Wales; Roger Mathews, *Doing Time: An Introduction to the Sociology of Imprisonment* (London: MacMillan Press, 2011), 23.

¹³¹ The questions of female prisoners dramatically retained in today's prison policies. See Ezgi Duman, Duygu Doğan, Mine Akarsu, *Türkiye'de Kadın Mahpus Olmak* (İstanbul: TCPS Kitaplığı, 2019), 55-72.

inmates are overwhelmingly subjected to peculiar and ambivalent punishment methods, how did the femininity of women inmates affect their punishment in the prisons. This also explores the fundamental reasons for the gap between existing, male centric prison policies and their punitive implementations in women's prisons through the guidance of US and British female criminality studies, feminist penal theories and classical penology perspectives, to draw a wide framework for the conceptualization of women's imprisonment.¹³² Most of criminal and penal theories are not gender specific as seen above, hence women's imprisonment urgently requires its own theory or approach to female criminality and imprisonment, as the feminist penologist criticize.¹³³

The intention is to elucidate a general perspective on female offenders as "doers," in the sense of agent, Pat Carlen describes women as criminal actors with their own unique presences in criminal world and she also deals with how women offenders were perceived by penal systems.¹³⁴ Thus, an examination of the stages in which the features and comprehension of the criminality of male and female inmates have been differentiated, the perception of women offenders as doers, a critical discussion of being a female inmate in the penitentiary system, and the special punitive methods practiced in women's prisons are essential to draw a general overview.

To begin with, this part touches on dramatic differences in the concepts of male and female criminality which demonstrate that the prison system has rejected the equivalence of women's and men's criminality in the penal context.¹³⁵ Angela King underscores that while males represent the mind and culture based on rational, unified, thinking subjects, women represent the body and nature, dealing with irrational, emotions and instincts and physical needs as a cliché in a social context and above all in penal implementations.¹³⁶ This representation of male and female subjects occupied all the penal ideals and concepts which perseveringly insisted on women's incapability to commit criminal acts. The positivistic perspective with respect to crime and women was that women were more emotional, sensitive, vulnerable and domestic both biologically and physiologically.¹³⁷ Therefore, their more

¹³² James Panton, "Personality Differences Between Male and Female Prison Inmates: Measured by the MMPI", In *The Female Offender*, edited by Annette M. Brodsky (London: Sage Publication, 1974), 40.

¹³³ Pat Carlen and Anne Worral, *Analyzing Women's Imprisonment* (Devon, UK: Willan Publishing, 2004).

¹³⁴ Carlen and Worral, 133.

¹³⁵ Adrian Howe, *Punish and Critique, Towards a Feminist Analysis of Penalty* (New York: Routledge, 1994), 134.

¹³⁶ Angela, King, "The Prisoner of Gender: Foucault and the Disciplining of the Female Body," *Journal of International Women's Studies* 5(2), 2004, 31.

¹³⁷ Pat Carlen and Anne Worrall, *Analyzing Women Imprisonment* (Devon, UK: Willan Publishing, 2004), 32.

susceptible and weaker origins derive from this prevented their crime committing as males. Their biological and emotional characteristics encouraged their depiction as innocent victims in criminal cases. Therefore, this understanding went beyond the recognition of biological differences between males and females, rather it created its own rejection mechanisms for female delinquency which remained in the modern prison system as seen in all the non-feminist penology discourses, as following pages discuss.

As Carlen notes, there were two different theories answering why women are not criminals to the same extent as men, - involving biology and socialization, respectively.¹³⁸ Hence, female criminals were seen as something other than aggressive perpetrators per se. The biological features of women inferred being nurturers and nursing mothers, yet far beyond this, their gender roles and femininity have been constructed and socialized under these concepts by society.¹³⁹ Therefore, stories of innocent, victimized women became a central concern of gendered criminality discussions with denial perspective against female delinquency.

Female delinquents and women offenders were divided into two in British prisons in the 19th century: into mad (doers) and the innocent (victims).¹⁴⁰ Regarding the vulnerable status of female offenders, if they had committed a crime, they began to be depersonalized and they were portrayed as tigresses, -wild and mad- by their social environment and the penal system.¹⁴¹ According to Davis:

In seeking to understand this gendered difference in the perception of prisoners, it should be kept in mind that as the prison emerged and evolved as the major form of public punishment, forms of punishment that have not been acknowledged as such. For example, women have been incarcerated in psychiatric institutions in greater proportions than in prisons. Studies indicating that women have been even more likely to end up in mental facilities than men suggest that while jails and prisons have been dominant institutions for the control of men, mental institutions have served a similar purpose for women. While criminal men have been identified as criminal, while deviant women have been constructed as insane.¹⁴²

As Davis notes that the female offenders were described as mentally ill, namely insane. Thus, the emotional and susceptible components of women being women enables an evaluation

¹³⁸ Carlen and Worrall, 119.

¹³⁹ Carlen and Worrall, 119.

¹⁴⁰ Carlen and Worrall, 9.

¹⁴¹ Christine Rache, "The Female Offender as an Object of Criminological Research," In *The Female Offender*, Edited by Annette M. Brodsky, (London: Sage Publication, 1975), 13.

¹⁴² Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003), 66.

in which female criminal agency was denied once again.¹⁴³ When female criminality is identified by ignorance, accidents, self-defence, domesticity and womanhood; the treatment of women prisoners in prison wards reflects this notion of femininity: lenient and compassionate; especially for pregnant, breastfeeding mother delinquents.¹⁴⁴ From the 19th century until today, the perception of women's criminality has relied on the biological, psychological, and sociological aspects of being a fragile, sensitive and susceptible woman. While criminality among women was denied, given the biological and sociological factors that illustrate their purified, innocent, and victimized presence, female offenders as doers who were murderers, or larcenists were all depersonalized, dehumanized and perceived as deviant, mad, and sadist.¹⁴⁵ Nevertheless, scholars of penology, criminology, gender and women's studies have not deliberated the dramatic peculiarities of criminality among women and women inmates, so that female criminal behaviours have been stuck into the crime stories based on accidental crime committing, self-defence, and victimization as well. Worrall also criticized this situation, when she enjoyed feminist critics towards denial of female criminality; "Perhaps most fruitful in recent years has been the study of women's imprisonment, in which we can clearly see a rejection of the pathologizing consequences of positivistic and liberal approaches."¹⁴⁶

Moreover, as Freedman's work reveals, female inmates and women offenders in North American prisons were not considered members of a dangerous criminal class from the early 19th century up to the 1930s, due to their femininity and susceptibility.¹⁴⁷ Hence, this situation is reflected in the rates of crime and lawbreaking by women; crimes committed by female offenders were very low vis-à-vis the male criminal potential, as same as Lombroso's approach. Moreover, for these approaches, the sensitive, emotional body and soul combination of female subjects caused the number of women prisoners to be overwhelmingly fewer than that of male prisoners. Brodsky also believes that discriminatory practices, negligence, and the cliché representation of women inmates derived from their lower numbers. As the 1970s census demonstrated, female inmates comprised less than 5 percent of the entire prison population in the United States.¹⁴⁸ Although crime rates varied from year to year, the percentage of women in the prison population always remained low vis-à-vis male offender. Both American and British

¹⁴³ Christine Rache, "The Female Offender as an Object of Criminological Research," In *The Female Offender*, edited by Annette M. Brodsky, (London: Sage Publication, 1975), 12.

¹⁴⁴ Peter King, *Crime and Law in England, 1750–1840: Remaking Justice from the Margins* (Cambridge: Cambridge University Press, 2006), 62.

¹⁴⁵ Christine Rache, "The Female Offender as an Object of Criminological Research," In *The Female Offender*, edited by Annette M. Brodsky, (London: Sage Publication, 1975), 9.

¹⁴⁶ Anne Worrall, *Offending Women: Female Lawbreakers and the Criminal Justice System* (London: Routledge, 1990), 7.

¹⁴⁷ Estelle B. Freedman, *Their Sister's Keepers, Women's Prison Reform in America 1830-1930* (USA: The University of Michigan Press, 1981), 10.

¹⁴⁸ Freedman, 10.

societies generally understood that women were not eligible to commit crimes as doers or as lawbreakers.

To revert Ottoman women's criminality, as it states in the introduction, Ebru Aykut's study discusses the agency of Ottoman female offenders with the case of female poisoners and their interrogation documents. According to Ebru Aykut, "In the Ottoman case, too, the fate of female poisoners was largely dependent upon cultural and gendered stereotypes, which led the judges to perceive these women as incompetent human beings, susceptible to external influences with a limited sense of agency, although they continued to rely on Hanafi law vis-à-vis murder by poison."¹⁴⁹ Moreover, the discourse of Ottoman courts effectively underlined the perception of female criminals. They used to describe female criminals as 'nâkîsat-ül-akl' meaning 'weak-minded', or female offenders were characterized as having 'intellectual feebleness', as touched on introductory part.¹⁵⁰ Apparently, in common with British and American feminist penologists' critics on the identification of female criminality, in the Ottoman case women criminals were identified with their susceptibility, inadequacy, and incompetence in the 19th century, even if they committed serious and violent criminal acts.

Androcentric criminal history writing has retained its rooted position in that a sub-component of critical penologist, the feminist penologists struggle against the perspective on women was assumed unable to commit a crime by their own free will; this was the point of view which has overwhelmingly prevailed in criminality literature. As Piper and Guerero state: "Feminist penal theories view patriarchy as the male power and domination in society as an influence on female criminality." Moreover, Piper and Guerrero added:

"Feminist theories attempt to define criminology and criminal justice based upon the experiences, understanding, and view of the world as perceived by women. The feminist perspective attempts to counter most theories of criminology that have been developed, tested, and applied by men to men, which have only incorporated women as an afterthought. Chesney-Lind (2006) calls this "add women and stir."¹⁵¹

As Piper and Guerrero say, while female subjects were involved the criminal history; indeed, female criminals were perceived by society as unique, peculiar, and deviant characters who remained a sub-topic within the larger issue of male based criminality. Feminist penology

¹⁴⁹ Ebru Aykut, "Toxic Murder, Female Poisoners, and the Question of Agency at the Late Ottoman Law Courts, 1840-1908," *Journal of Women's History*, Vol. 28, No. 3, Fall 2016, 130.

¹⁵⁰ See Chapter 1.

¹⁵¹ Doshie Piper and Georgen Guerrero, "The Female Thief," In *Women in the Criminal Justice System: Tracking the Journey of Females and Crime*, edited by Tina L. Freiburger and Cathrine D. Marcum, CRC Press (Boca Raton: CRC Press, 2016), 161.

started in the 1980s and destroyed the walls of androcentric penal theories with an iconoclastic critical approach.

Moreover, it contributed to gendered criminality theory and the theory of women's imprisonment in five steps; firstly, women were also eligible to commit crimes just the same as their male counterparts; secondly, the profile of women inmates was completely different than that of males; thirdly punitive ways for female offenders were shaped by femininity and womanhood; fourthly; the feminist theorists went beyond the classical theorization of female criminality in that they developed the feminist criminology and feminist punishment concepts; and lastly, they created new campaigns to enhance the judicial and punitive processes of women offenders.¹⁵² Most importantly, the feminist criminologists and penologists asked how female criminality and women's imprisonment should be studied for the first time in this field in the late 1980s and early 1990s. The following section broadly examines the consequences of classical identification towards women's criminality in incarceration practices.

2.4. The Woman in Prison

Here this section examines the reflection of perception of women's criminality and the presence of women in the prison system, following the trajectories of punitive methods- mostly incarceration. Admittedly, the low percentage of female inmates caused limited involvement of women inmates to the imprisonment policies along with peculiar and diverse practical implementations of incarceration methods in women's wards and women's prisons. As Panton states, prison research and prison policies have been carried out with concern for male inmates and a male-centric discourse.¹⁵³ Here this section seeks the consequences of special arrangements for women delinquents and the concerns of female inmates within a male-based prison system.

As elucidated above, women offenders and lawbreaking women were identified as deviant or insane, or they were victimized by their biology, on which their innocence was presumed. A male-based prison system did not allow the inclusion of women inmates in punitive methods which were all designated for the rehabilitation and purification of male inmates. Carlen writes: "On the one hand, it can be argued that the fundamental problem with women's prisons is that they are inappropriately modeled on institutions designed for men. "¹⁵⁴

¹⁵² Pat Carlen and Anne Worrall, *Analyzing of Women Imprisonment* (Devon, UK: Willian Publishing, 2004), 109.

¹⁵³ James Panton, "Personality Differences Between Male and Female Prison Inmates: Measured by the MMPI," In *The Female Offender*, edited by Annette M. Brodsky, (London: Sage Publication, 1975), 40.

¹⁵⁴ Pat Carlen and Anne Worrall, *Analyzing of Women Imprisonment* (Devon, UK: Willian Publishing, 2004), 9.

Adrian Howe agrees that the prison concept was founded solely for male inmates, as the interwoven result of androcentric perspective against women's delinquency.¹⁵⁵ As acknowledgement, the imprisonment practices also show the same thing with Howe and Carlen. According to Freedman:

The women who served in penal institutions between 1820 and 1870 were not subject to the prison reform experienced by male inmates. Officials employed isolation, silence, and hard labor to rehabilitate male prisoners. The lack of accommodations for female inmates made isolation and silence impossible for them and productive labor was not considered an important part of their routine. The neglect of female prisoners, however, was rarely benevolent. Rather, a pattern of overcrowding, harsh treatment, and sexual abuse recurred throughout prison histories¹⁵⁶

As Freedman highlights, even US prisons do not allow the participation of female offenders in general punitive and carceral practices. Undoubtedly, designing prisons for male prisoners inevitably paved the way for a sort of insufficiency especially for spatial incarceration areas for the female inmates regarding their neglected criminality.¹⁵⁷ Carlen also states in her study concerning the current situation of Scottish female inmates, that "the dominant meaning of women's imprisonment in Scotland is that it is imprisonment denied: it is denied that the women's prison is a real prison, it is denied that the prisoners are 'real women'".¹⁵⁸ This quotation summarizes the point of the arguments of this study very well.

Until the second half of the 19th century, women inmates in England were generally imprisoned in *ad hoc* rooms or wings inside of male prisons except some central penitentiaries due to insufficient incarceration places for women. As we later see in the case chapters, this was also the critical point for Ottoman female prisons, which consisted of *ad hoc* prison buildings.¹⁵⁹ Therefore, it is possible to say that the women who had no proper and ordered place to be incarcerated during the age of pre-prisons. Scarcity of female imprisonment areas led to the incarceration of men and women together in the same wards and wings.¹⁶⁰ The British

¹⁵⁵ Adrian Howe, *Punish and Critique, Towards a Feminist Analysis of Penalty* (New York: Routledge, 1994), 135.

¹⁵⁶ Estelle B. Freedman, *Their Sisters' Keepers: Women's Prison Reform in America, 1830-1930* (Ann Arbor: University of Michigan Press, 1984).

¹⁵⁷ Carlen and Worral, 83.

¹⁵⁸ Pat Carlen, *Women Imprisonment, A Study in Social Control* (London: Routledge & K. Paul, 1983), 211.

¹⁵⁹ See Section 5.1.

¹⁶⁰ Linda Moore, Phil Scraton, *The Incarceration of Women, Punishing Bodies, Breaking Spirits* (Basingstoke: Palgrave Macmillan Publishing, 2014), 6.

penal reformer, Elizabeth Fry, also states “men and female inmates were confined in the same buildings in England, But, as this good end is,”¹⁶¹.

Androcentric and paternalistic attitudes shaped the treatment of prison staff such as guards and wardens, who closely inspected and controlled female inmates. The exclusion of women inmates from the male-based imprisonment system paved the way for several ad hoc implementations such as appointing male guards and wardens for the female inmates who suffered sexual abuse and harassment in the prisons. We frequently encounter sexual assault, physical coercion and abuse cases by male prison staff in women’s prisons not only in Europe and America but also in the Ottoman Empire, as the case section shows.¹⁶² Elizabeth Fry also shared her observations on the potential of sexual abuse in British women’s prisons in this way:

*In visiting small prisons, I have frequently observed one or two unfortunate young women- committed, perhaps, for some minor offence, (such as running, away from an apprenticeship, or purloining a teaspoon)- placed under the sole care of a man, whose key will at any time unlock their door, and afford him admission to their society.*¹⁶³

Rafter acknowledges Fry’s statement with his examination on the status of women prisoners under the quantitative domination of male prisoners and male prison employees in American female prisons in the 19th century:

*The custodial model was a masculine model: derived from men’s prisons, it adopted their characteristics – retributive purpose, high-security architecture, a male-dominated authority structure, programmes that stressed earnings and harsh discipline ... women’s custodial institutions treated women like men. But ... this did not mean that women’s care and experience of incarceration were identical to those of males. Probably lonelier and certainly more vulnerable to sexual exploitation, easier to ignore because so few in number, and viewed with distaste by prison officials, women in custodial units were treated as the dregs of the state prisoner population.*¹⁶⁴

Nevertheless, while women prisoners were excluded from existing prison systems, female inmates were forced to reconstruct their identities in reference to—even consciously making use of—their womanhood.¹⁶⁵ Carlen examined the discourse of prison administrations

¹⁶¹ Elizabeth Fry, *Observations on the Visiting, Superintendence, and Government of Female Prisoners* (London: John and Arthur Arch, Cornhill & Hatchard & Son, Piccadilly and by S. Wilkin, 1827), 31.

¹⁶² See Section 5.2.

¹⁶³ Elizabeth Fry, *Observations on the Visiting, Superintendence, and Government of Female Prisoners* (London: John and Arthur Arch, Cornhill & Hatchard & Son, Piccadilly; and by S. Wilkin, 1827), 26-27.

¹⁶⁴ Nicole Rafter, *Partial Justice: Women in State Prisons 1800–1935* (Boston: Northeastern University Press, 1985), 21.

¹⁶⁵ Pat Carlen and Anne Worrall, *Analyzing of Women Imprisonment* (Devon, UK: Willian Publishing, 2004), 2.

and reformers who proposed the crucial necessity of reminding women prisoners their femininity especially through penal laboring methods. There were three methods used in Great Britain in the early years of the 20th century: feminization, domestication, and medicalization.¹⁶⁶ As the interwoven approach of the rejection of female criminality, women inmates were also denied in the male-based prison system, and they were re-identified with femininity and womanhood as a way of correction and rehabilitation for the women inmates.¹⁶⁷ Women were potential housewives in most societies in the 19th century. Even if they worked as housewives inside of the prisons, they could be “purified” with feminine and domestic ways. Of course, the physical weakness of women was also dominant reason on the assignment of domestic works for the female inmates as rehabilitative penal labor method. Hence, prison systems were constructed to remind women of their femininity with penal labor such as laundry, dishwashing, knitting and sewing. According to Worrall:

..... the women are disqualified as speakers about their own condition and are, instead, strategically constructed as the programmable objects of professional discourses. They are effectively offered a contract which promises to minimize the consequences of their criminality by rehabilitating them within the dominant discourses of femininity (that is, domesticity, sexuality, and pathology). Despite these programmes of feminization, such women, it is argued, attempt to resist such construction by exploiting the contradictions of official discourses. As a result, the ‘experts’ find such women impossible to define and they appear to be beyond definition both as women and as criminals.¹⁶⁸

As Worrall states, whereas women offenders were just as brave and cruel their male counterparts while committing violent offences, criminal and legal experts tended to focus on their femininity and domesticity rather than their offences and violent acts. The women inmates who made up this work were not only feminized but also domesticated, remembering their existential features and roles. By doing so, the prison was transformed into a house for female inmates.¹⁶⁹ As stated above, female offenders were disciplined by means of domestication and

¹⁶⁶ Carlen and Worrall, 9.; See more on 19th century’s British prisons: Lucia Zedner, *Women Crime and Custody in Victorian England* (Oxford: Oxford University Press), 2002; Linda Moore, Phil Scraton, *The Incarceration of Women, Punishing Bodies, Breaking Spirits* (Basingstoke: Palgrave Macmillan Publishing), 2014. Edited by Margaret L. Arnot, Cornelie Usborn, *Gender and Crime in Modern Europe* (London: UCL Press, 1999); Alyson Brown, *English Society and the Prison, Time, Culture and Politics in the Development of the Modern Prison 1850-1920* (Woodbridge: Boydell and Brewer Press, 2003).

¹⁶⁷ Carlen and Worrall, 10.

¹⁶⁸ Worrall, 163.

¹⁶⁹ Adrian Howe, *Punish and Critique, Towards a Feminist Analysis of Penalty* (New York: Routledge, 1994), 132.

feminization; that is, as Carlen and Worrall explain, being more or less forced into a standard “feminine” mold.¹⁷⁰

In case the women prisoners became pregnant, or were nursing mothers, the imprisonment practices could be lenient and tolerant even before. Mandaraka-Sheppard claims that:

*Young, single and childless women were found to be more badly behaved in prison than older women and mothers; and there were significant differences between the prisons which had the most severe punishment systems and those where the disciplinary procedures were more lenient.*¹⁷¹

As Sheppard claims, the prison policy quickly became tolerant, lenient and empathetic for the pregnant, breastfeeding and mother inmates regarding their reproductivity functions, as the Ottoman cases also demonstrate, as seen in the section on Pregnancy and Motherhood.¹⁷²

On the other hand, the lenient and tolerant judicial and penal treatments derived from not only motherhood and pregnancy, and physical weakness¹⁷³ but also from the fewer number of women murderers who were mostly self-defenders, not genuine killers, vis-à-vis their male counterparts.¹⁷⁴ Pat Carlen also acknowledges Frost’s claim: “the overwhelming reasons for this apparent leniency are that women commit less serious offenses and have fewer previous convictions than men.”¹⁷⁵ Carlen’s ideas are predominantly right, however, in my opinion, the reason for the tolerant approaches through judicial organs towards women offenders was not only the lower criminal rate among women and general belief on incapability of women with their domestic, fragile and vulnerable components, as discussed above. Above all, their femininity and reproductivity functions remarkably make female offenders visible in prison policies occasionally, whereas the small numbers of female inmates inevitably enabled them to remain invisible in the prison system. Hence, it became a well contribution to their visibility in women’s prisons.

All in all, undoubtedly women’s imprisonment dramatically differed from its male counterpart, as theoretical discussions also demonstrated. Female inmates were deemed

¹⁷⁰ Pat Carlen and Anne Worrall, *Analyzing of Women Imprisonment* (Devon, UK: Willian Publishing, 2004), 7.

¹⁷¹ Alexandra Mandaraka-Sheppard, *The Dynamics of Aggression in Women’s Prisons in England* (Aldershot: Gower, 1986), 90-91.

¹⁷² See Section 5.4.

¹⁷³ See Peter King, “Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-Century England,” In *Gender and Crime in Modern Europe*, edited by Margaret L. Arnot and Cornelie Usborn (London: UCL Press, 1999), 46. The Victorian government abolished flogging for female inmates regarding their vulnerability and bodily weaknesses within the proclamation of 1823 Gaol Act.

¹⁷⁴ Ginger Frost, “‘She is but a Woman’: Kitty Byron and the English Edwardian Criminal Justice System,” *Gender & History*, Vol. 16 No. 3, November 2004, 538–540.

¹⁷⁵ Pat Carlen and Anne Worrall, *Analyzing of Women Imprisonment* (Devon, UK: Willian Publishing, 2004), 29.

incapable to commit any kind of crime except sexual crimes. The violent offences of women delinquents identified as cruel, deviant doers even dehumanized characters such as witches or wild tigresses, whereas they must be described variously as innocent victims, as doers, vigilantes, and active justice seekers. As intertwined factors, both the fewer number of female offenders and the tendency of depicting women as incapable to commit crime shaped imprisonment policies for female delinquents who were forced to be involved into male-based imprisonment policies. Besides, as a part of neglected presences of women offenders in prisons, they were supervised and controlled by male guards and wardens who led to sexual abuse and violence in the androcentric imprisonment system. The convicted women behind the bars in dilapidated prison houses struggled with disordered, irregular, androcentric prison discipline, abusive treatments, and poor living conditions both in European, American, and Ottoman prisons amid prison reform in the 19th century; their misery remained despite all culture-specific imprisonment implementations such as confinement in *imams' houses in the Ottoman Empire*, as the section 5.1 examines.¹⁷⁶ Succinctly, male-based prison reform does not cover female prisoners in the prison policies. Even though, female offenders overwhelmingly became invisible in the prison policies, the reproductivity and fertility functions reinforced their appearances through the particular leniency and tolerance for pregnant and breastfeeding inmates. The variety of the female offenders' criminal acts, including violent offences such as murder and homicide, also proved their eligibility to commit crime intentionally, despite the lower numbers of female inmates vis-à-vis their male counterparts. Last but not the least, the cliché identification of female offenders can be replaced by active and vivid criminal women's representations, as the historical sources evidently illustrate the diversity of women's criminal acts, including violent, sexual and petty offences, despite their lower criminal rate.¹⁷⁷

¹⁷⁶ See section 5.1.

¹⁷⁷ See appendices. In order to sketch a larger perspective as an acknowledgement of the oxymoron relationship between the rhetoric and its practice, this part provides nine remarkable examples of women's criminal acts in the 19th and early 20th century Ottoman provinces. As clearly seen in the Ottoman archives, Ottoman women committed larceny, murder, adultery, prostitution, aiding and abetting, and they abundantly could defend themselves against violent attacks. Contrary to clichés and repetitive discourses on women's criminal identity, they could prove their capability and eligibility to commit crime as much as their male counterparts.

Chapter 3: Women's Agency in the Late Ottoman Criminal Justice

Undoubtedly, the major body of the criminal justice system has been built by penal codes, judicial organs such as courts, legal experts, and the judges together with, practical implementations of legal and penal scripts, the content and scope of legal agenda, and above all the punishment methods which later invoked the necessity of prisons. Therefore, the initial framework of this chapter is based on the analysis of the transformed legal and penal understanding of the Ottoman Empire through the examination of the Ottoman courts' legal sources, judicial methods, dominant punishment ways, their judicial mechanisms for criminal cases, and, most importantly, all their influences not only on the Ottoman criminal justice system but also Ottoman prisons. However, this chapter mainly aims at tracing the place of women offenders in penal scripts, the identification of female offences, the representation of both female offenders and victims' agency in the penal codes, their criminal status, and gender-specific crime categories in the penal codifications which were proclaimed in 1840, 1851 and 1858. This chapter deals with the transformation of the Ottoman criminal justice system and imprisonment becoming the major punitive method, but it does not lose its way while eagerly teasing out the women subjects and their involvement in Ottoman criminal justice as female offenders and victims.

The dusty shelves of history provide abundant legal scripts and materials which exemplify gender specific punishment implementations and the involvement of female offenders/victims. The frequent proclamation of penal codes (1840-1851-1858), the establishment of new judicial apparatuses, courts, and abundant reforms of judicial mechanisms were a perpetual sign of the legal and penal reform aspiration of the Ottoman government during the Tanzimat period. These prominent efforts enabled changes to the existing punishment methods, imprisonment standards, and the criminal justice system of the Ottoman Empire in the 19th century. On the other hand, modernity, westernization, and secularization as concepts and phenomena of the Tanzimat's (1839) spirit maintained their place in a big debate among scholars on Ottoman legal transformation which is briefly touched on in this chapter.¹⁷⁸ Particularities of the legal and penal developments of the Tanzimat stipulated traditional,

¹⁷⁸ Kent F. Schull, "Comparative Criminal Justice in the Era of Modernity: A Template for Inquiry and the Ottoman Empire as Case Study," *Turkish Studies* 15, No. 4 (2014): 621–37.; Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005); Avi Rubin, "Legal Borrowing and Its Impact on Ottoman Legal Culture in the Late Nineteenth Century," *Continuity and Change* 22, No. 2 (2007): 279–303.; Avi Rubin, "Modernity as a Code: The Ottoman Empire and the Global Movement of Codification," *Journal of the Economic and Social History of the Orient* 59, No. 5 (2016): 828–56; Omri Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-Late 1860s)," *Islamic Law and Society*, Vol. 21, 2014, 81-113.

mostly corporal, punishment methods which were implemented within the Shari'a courts. In the following sections, penal scripts (three penal codes), whose important articles offer a meaningful framework to understand the altered imprisonment practices and fresh penal policies of the late Ottoman government, are covered. In this way, this chapter tackles the legal and penal changes which paved the way for adjusting imprisonment as the main punishment method, which enhanced the necessity for prison buildings and imprisonment areas in the provinces during the late Ottoman Empire.

All in all, this chapter gives a deep overview of the general trajectory of legal and penal developments, shifting from corporal punishment to corrective punitive methods through penal codes, imprisonment becoming the main punishment, and the involvement of female subjects both as victims and offenders in criminal justice through penal codifications before examining the general structure of Ottoman prison policies, prison reform, and imprisonment implementations for female inmates in the upcoming chapters.

3.1. Criminal Justice Before the Tanzimat, 1839: Punishment and Shari'a Courts

Before the deep discussion on penal codifications, their female subjects, and their influence on Ottoman prisons, this section briefly touches on the criminal justice mechanism before the Tanzimat period. Before the proclamation of the Imperial Edict of Gülhane (*Gülhâne Hatt-ı Hümâyûnu*) in 1839, the only legal source of the Ottoman imperial justice was the Holy Quran as the main basis of *Shari'a* law. The customary law (*örf*), which organizes and sets social relations, contacts, and contracts among society in the public sphere, maintained its dominance in law.¹⁷⁹ As Baer claims, the secular phase of penal codes that were directly enacted by Sultanic law, namely *Qanuns*, was forsaken due to the increasing power of the *kadi* (Islamic judges) and other members of the Ulema.¹⁸⁰ This legal system enabled the underpinning of the authority and function of *kadis* in the Shari'a courts.¹⁸¹ Along with Islamic and customary law, Sultanic law (*Kânûnnâme*) retained its secular mold and the basis of Ottoman penal structure specifically in Suleyman the Magnificent's *Kânûnnâme* of the 16th century.¹⁸²

¹⁷⁹ Gabriel Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," *Studia Islamica*, No. 45 (1977), 139-140.

¹⁸⁰ Ibid., 140.

¹⁸¹ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 19.; Miller notes that the Ottoman bureaucrats attempted to diminish authority of judges, as touched on in the following pages by the Ottoman Penal Codes.

¹⁸² Uriel Heyd, *Studies in Old Ottoman Criminal Law* (Oxford: Clarendon Press, 1973), 26-27.

Although the Ottoman legal concept retained its functions within the combination of Sultanic, customary and Islamic legal and judicial concepts, the criminal justice could be carried out through Shari'a jurisprudence before the promulgation of Ottoman penal codes.¹⁸³ The combination of Sultanic law and Shari'a was applied by the *kadis* in the Shari'a courts until the middle of the 19th century for all the court trials such as murder, theft, divorce, debt cases, and so on.

Sultanic and Islamic law worked together within the considerable embodied principles of *örf* (local custom), and this triple amalgam aimed at punishing offenders, providing retribution for the victims, consolidating state power, and securing society.¹⁸⁴ In the Islamic jurisprudence book (*fiqh*), the crimes were divided into three sections: crimes against individuals, offenses that were directly forbidden in the holy Quran in violation of God's claims, and lastly sinful and forbidden offenses against public order and state security.¹⁸⁵ These varied sorts of forbidden acts and offenses had been punished by three varied crime-punishment categories such as *hadd* (crime against God), *kisas* (retaliation), and *ta'zir* (reprimand).¹⁸⁶ For instance, in Shari'a law, while homicide and wounding had been punished by *kisas* and *diyet* (blood-money), *zinâ* (illicit sex), *sirkat* (theft), apostasy, and alcohol consumption had been punished by *hadd*.¹⁸⁷ In addition to these categories, "kazf" (aspersion of *zinâ*) was also embedded in the *hadd* punitive category to prevent aspersion specifically for illicit sex cases.¹⁸⁸ Akgündüz notes that the largest crime and punishment category was *kisas*, which mainly covered crimes against God and offences against public order.¹⁸⁹ Last but not least, *siyâset* (discretionary punishment) and *ta'zir* (minor crimes which have not been specified in the Holy Quran or by Sunnah (*sünnet*) or Hadith (*hadis*) paved the way for a re-evaluation of the crime categories by the legal

¹⁸³ Gabriel Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," *Studia Islamica*, No. 45 (1977), 139-140.

¹⁸⁴ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 21.

¹⁸⁵ Rudolph Peters. *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth Century to the Twenty-first Century* (New York: Cambridge University Press, 2005), 7-8.

¹⁸⁶ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyideleri* (İstanbul: 1989), 4-6.

¹⁸⁷ See more details on the *hadd*, *ta'zir*, *kisas* and *siyâset* crime-punishment categories: Rudolph, Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth Century to the Twenty-first Century* (New York: Cambridge University Press, 2005), 53-68.; See more details on *hadd* crime and punishment for *zina* cases: Abdülmecit Mutaf, "Osmanlı'da Cinsel Suçların Cezalandırılmasında Cinsiyet Ayırımı," *Toplumsal Tarih*, Vol. 279, March 2017, 24-30; Ahmet Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 803-804.

¹⁸⁸ Fikret Yılmaz, "Fahişe, Subaşıya Karşı," *Toplumsal Tarih* 220: 22-31, and for more details on "kazf": Ahmet Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 803.

¹⁸⁹ Ahmet Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 803.

and political authorities in the Ottoman Empire.¹⁹⁰ Besides, Shari'a law covered the classified categorical parts for offences: respectively *Kitâb 'ül Hudûd* for the crimes identified by the holy Quran and Prophet's Sunnah, *Kitâb 'ül Cinâyât* for *cinâyet* (homicide), and *Kitâb 'ül Kisâs* for *yaralama* (bodily injury), and *Kitâb 'ül Düvvât* for *tazmîn* (indemnification).¹⁹¹ As seen, apparently, the Shari'a law had more or less specified and classified the crime and punishment categories.¹⁹² Yet, as a legal Islamic jurisprudence source (*fiqh*) had not clearly articulated the crimes and punishment categories in detail, therefore it engendered the shifting, complex, and interwoven crime categories and punishment methods, and above all these led to different trial results for the cases. On the other hand, the judicial authorities (*nâibs*) and Shari'a judges (*kadîs*) obtained more jurisdictional initiative to adjudicate the trials, therefore this discretionary judicial authority engendered abundance in the implementation of corporal punishments such as flogging, beating, chaining, amputation, etc. which all inevitably enhanced the abuse and manipulation potential of the claims and legal decisions by the Islamic judges and plaintiffs, at the same time causing frequently undue prosecutions. Although the *kadîs* had to apply the Islamic jurisprudence book (*fiqh*) and Sultanic law (*kânûn*) together, they overwhelmingly held a *siyâset* (discretionary punishment) right that relied on the initiatives of court leaders and judges (*nâibs and kadîs*).¹⁹³ During the Tanzimat's innovative legal and penal reform attempts on criminal justice, it was attempted to outlaw *siyâset* (discretionary) punishment, as following sections examines.¹⁹⁴

Studies of provincial Shari'a *sijils* (courts' registers) demonstrated that the courts functioned for the adjudgment not only for criminal and property cases but also the regularization and organization of social contracts and familial issues such marriages, divorces, and allowances (*nafaka*). According to Ergene and Hoşgel,

They also operated as public notaries and court officials, in particular, the kadîs (or, in their absence, nâibs, the deputy judges) held administrative responsibilities within their jurisdictions. Thus, in addition to hearing and resolving disputes, court officials recorded

¹⁹⁰ The holy Quran does not include particular *Taz'ir* and *Siyâset* crimes and their specific punishments. Therefore, it paved the way of discretionary judgment processes for the *Siyâset* (discretionary) and *Taz'ir* (petty offences) crime categories that had been punished by the judicial authorities within their quasi-fluid adjudications.

¹⁹¹ Ahmet Akgündüz, *Mukayeseli İslâm ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 803.

¹⁹²Ibid., 804.; Servet Armağan, "Abdulkadir Udeh, Et-Teşri'ül-Cinai'l-İslami," *Journal of Istanbul University Law Faculty*. Vol. 42 (2011), 775-784. Armağan addresses Abdulkadir Udeh's theory and perspective through his work, *Et-Tesri'ül Cinay'ül Islam* on crime and punishment categories of Islamic law.

¹⁹³ Metin Coşgel and Boğaç A. Ergene, *The Economics of Ottoman Justice: Settlement and Trial in the Shari'a Courts* (United Kingdom: Cambridge University Press: 2016), 66-67.

¹⁹⁴ See Chapter 4.

*contractual agreements in the court ledgers, appraised and divided estates among heirs, received and conveyed government orders to the local populace, supervised the assessment and collection of local taxes, and participated in provincial administrative and decision-making processes alongside other government functionaries.*¹⁹⁵

In addition to Ergene and Coşgel's statement on the administrative and regulative authorities of Islamic court leaders, Tamdoğan also highlighted that Shari'a courts functioned as the arbitrary mechanism of finding an amicable agreement among litigants especially inheritance cases with its notary function.¹⁹⁶

After drawing general concepts on the functions and duties of the three Ottoman normative legal sources, Shari'a, *örf* and *kānūn*, here this part sketches a larger framework for the judgement of Shari'a courts for criminal cases and the approaches to the implementations of imprisonment as a punishment method. According to Rosenthal, "The Qur'an shows itself familiar with the institution of prisons. This is obvious from the story of Joseph in the twelfth sūrah."¹⁹⁷ Although God committed Prophet Joseph to prison for 10 years in the 12th Sūrah, the Quran rarely referred to the confinement differently from "a real imprisonment" punishment.¹⁹⁸ Moreover, in practice, imprisonment as a punitive method was ignored by the Islamic jurists during the early Islamic period, even though it already existed in Islamic law specifically for debtors.¹⁹⁹ The scarcity of sources on imprisonment in Islamic law hinders more expanded research, however, Schneider dealt with the issue, addressing the specific circumstances in which an Islamic judge sent the offenders to prison, the punitive functions of confinement, the spatial concepts of these prisons, and doctrinal clarification of the imprisonment.²⁰⁰ The Islamic jurists carried out three types of imprisonment: administrative detention, pre-trial detention, lastly punitive detention, which is similar to modern imprisonment.²⁰¹ While administrative detention was carried out for the debtors for short periods, maximal one month, pre-trial

¹⁹⁵ Metin Coşgel and Boğaç A. Ergene, *The Economics of Ottoman Justice: Settlement and Trial in the Shari'a Courts* (United Kingdom: Cambridge University Press: 2016), 13-14.

¹⁹⁶ See Işık Tamdoğan, "Amicable Agreements (Sulh) and the Eighteenth-Century Ottoman Courts of Üsküdar and Adana," *Islamic Law and Society* 15, No. 1 (2008), 55-83. Tamdoğan examines amicable agreements (*sulh*) that were a combination of three normative systems: Shari'a, *kānūn* and *örf*, among the litigants as an arbitrary function of Shari'a courts in Üsküdar and Adana within the light of *kadı sjıls* (court records). She deeply evaluated these amicable agreements' practical results in the Ottoman society in the second half of the 18th century.

¹⁹⁷ Franz Rosenthal, *Man Versus Society in Medieval Islam*, edited b. Dimitri Gutas, E-Conversion - Proposal for a Cluster of Excellence (Leiden/ Boston: Brill Publishing, 2018), 55.

¹⁹⁸ Franz Rosenthal., 55-56.

¹⁹⁹ Irene Schneider, "Imprisonment in Pre-Classical and Classical Islamic Law," *Islamic Law and Society* 2, No. 2 (1995), 157; Franz Rosenthal, 55-90.

²⁰⁰ Schneider, 157-58.

²⁰¹ Ibid., 159-162.

detention functioned in the same way as in modern Western law.²⁰² It was applied for murder, theft, high-way robbery, multiple false accusations of unchastity, and incest cases, with corporal punishment such as whipping, beating, fetters etc.²⁰³ Meanwhile, the Hanafi, Shafi, and Maliki sectarians' doctrines offered different lengths of imprisonment for each crime category.²⁰⁴ According to Schneider, "Islamic jurists regarded imprisonment as a means of dealing with debt, and they regarded corporal punitive methods as the most accepted and normal form of punishment."²⁰⁵ As Schneider underlines that punitive detention was not frequently implemented by the *kadis* or *nâibs*, except for debt cases. Rosenthal also acknowledges Schneider: "However, such detention at home, while it constitutes a deprivation of liberty, can hardly be considered comparable to modern imprisonment."²⁰⁶ Briefly, although the mentality of Islamic practice of detention at home and modern confinement shared the mutual principles which were based on the restriction of offenders' liberty, it is really far from a modern imprisonment understanding. Instead of confinement to a fortress or dungeon, they preferred to apply corporal punitive ways for murderers, thieves, high-way robbers, etc.

On the other hand, confinement in houses, namely home confinement as a punitive way was practiced for women who had committed fornication (*zinâ*), as prescribed in the Quran in surah 4.15/f.19.f.²⁰⁷ As court records tell us, it was not a widespread punitive method in Islamic societies, the incarceration of women in their houses was replaced with flogging, which became the major punishment for fornication in Shari'a jurisprudence during the medieval Islamic world.²⁰⁸ Nevertheless, these Quranic insights give us more clue on the background information of women's imprisonment in the imams' houses in the Ottoman Empire since the 14th century. In my opinion, it is not hard to say the incarceration practices for women inmates in imam's houses could derive from this surah, and it can be an ongoing tradition of this confinement practice.²⁰⁹

In consequence, the Shari'a courts acted as a major judicial organ that organized all the social, fiscal, and familial cases within the light of Islamic jurisprudence. Even though the Islamic court retained its significant functions in the legal history of the Ottoman Empire until its decline, the Ottoman courts would undergo all sort of changes and transformations through

²⁰² Ibid., 161.

²⁰³ Ibid., 161-166.

²⁰⁴ Ibid., 163.

²⁰⁵ Ibid., 172.

²⁰⁶ Franz Rosenthal, *Man Versus Society in Medieval Islam*; Frances Heidensohn and Adrian Howe, "Punish and Critique: Towards a Feminist Analysis of Penality", *The British Journal of Sociology*, Vol. 47, 1996, 56.

²⁰⁷ Franz Rosenthal., 56.

²⁰⁸ Ibid., 56.

²⁰⁹ See Section 5.1.

Ottoman bureaucratic touches on legal and penal institutions, as the next sections discusses. Consequently, it is possible to say, unlike the Tanzimat's penal scripts, the Shari'a judicial mentality did not have a close relationship with imprisonment as a method of punishment both in the early and medieval Islamic world, and also in the Ottoman Empire.

3.2. Meclis-i Vâlâ-yı Ahkâm-ı Adliye (The Supreme Court)

After sketching a brief framework on the Sharia's courts, its approach to imprisonment as a punitive method, and the general principles and functions of three major legal sources of Ottoman legal practices; *Shari'a*, *kânûn* and *örf*, this section seeks out the effects of the Tanzimat's wind of change on criminal justice in the Ottoman Empire. Within the proclamation of the *Gülhâne- Hatt-ı Hümayûnu* (1839), the Ottoman government aimed at guaranteeing the security of the lives and property of all subjects of the Empire.²¹⁰ For the sake of protecting the people under the security of the Ottoman state, the government of Abdülmecid hastily embarked on the promulgation of a new written source for criminal justice. Shortly after the proclamation of Tanzimat in 1839, the first Ottoman penal codification was announced on 3 May 1840.²¹¹ This penal code became a pioneer of later penal codifications as a sign of the Tanzimat reform's tangible effect on the legal arena. In this regard, this code was made up for a concrete penal code deficiency with its proper articles and punishments. Thereafter, this attempt for a systematic criminal code would inevitably evoke a convenient judicial system (the establishment of new courts and new judicial organs to carry out penal code).

Initially, this section should mention some specific institutional developments before the examination of the 1840 Ottoman Penal Codification in order to draw a large picture to understand penal scripts and their practices in the courts. A year before the proclamation of *Gülhâne Hatt-ı Hümayûnu*, the Ottoman government had taken firm action to transform the legal, judicial and administrative institutions with the establishment of the *Meclis-i Vâlâ* (Council of Judicial Ordinances) in 1838, that became the main bureaucratic and administrative institution driving the entire administrative, legal, and judicial works of the state bureaucracy.²¹² Within the foundation of *Meclis-i Tanzimat*, *Meclis-i Vâlâ* (the Supreme

²¹⁰ Stanford Shaw and Ezel Kurancı, *History of the Ottoman Empire and Modern Turkey, Volume II: Reform, Revolution, and Republic: The Rise of Modern Turkey, 1808-1975* (New York: Cambridge University Press, 1977), 60.

²¹¹ See Ahmed Lütfi, *Mir'ât-ı Adâlet*, 127-150; Ahmet Akgündüz, *Mukayeseli İslâm ve Osmanlı Hukuku Külliyyati*, 809-820; Ahmet Gökcen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Ceza Müeyyidleri*, 95-104.; Taner, "Tanzimat Devrinde Ceza Hukuku", Tanzimat, I, 226-228; Mustafa Şentop, Tanzimat Dönemi Osmanlı Ceza Hukuku, 28-32.

²¹² Mehmet Seyitdanoğlu, "Tanzimat Döneminde Yüksek Yargı ve Meclis-i Vâlâ-yı Ahkâm-ı Adliye (1838-1876)," in *Adalet Kitabı*, edited by B. Arı and S. Aslantaş (Ankara: Adalet Bakanlığı Yayınevi,

Council) began to function as the joint legislative and judicial body until the foundation of the *Meclis-i Vâlâ-yı Ahkâm-ı Adliye* (Appeal Court) in 1854.²¹³

According to Shaw:

*In the end, a basic decision was made to separate the two major functions of the Meclis-i Vâlâ leaving it largely with judicial tasks and creating a new body to deal with legislation. The Sultan's decree on the subject, issued on 8 September 1854/15 Zilhicce 1270, dealt only in generalities, emphasizing his desire to ensure the stable and efficient administration of government and justice as well as the prosperity of all his subjects and suggesting that these objectives might best be achieved by creating smaller, more specialized, bodies than the Meclis-i Vâlâ.*²¹⁴

As Shaw succinctly states, *Meclis-i Vâlâ-yı Ahkâm-ı Adliye* as the major component of *Meclis-i Vâlâ* had been concerned with merely judicial issues after its institutional separation in the year 1854.²¹⁵ Shortly afterwards, these two distinct institutions were reunified due to insufficient functions that derived from a decentralization.²¹⁶ Unfortunately, it led to several discrepant and disorganized implementations as a result of incoherency among the offices in 1861. By unification, the *Meclis-i Vâlâ* became the highest court that maintained its functions as the supreme court until the foundation of the *Nizâmiye Courts* in 1868.²¹⁷ In principle, cases such as larceny, murder, wounding, and generally crimes against the subjects which entailed the use of fetters (*pranga*) and imprisonment as the main punishment method, began to be prosecuted in the *Meclis-i Vâlâ* after their initial prosecution in the local Mejlis of the

2007), 207-209, 220.; Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 28.

²¹³ However, the legislative authority and responsibility had been given to the *Meclis-i Tanzimat* by the year 1854. Within this development, a tiny decentralization in the *Meclis-i Vâlâ* had begun.

Stanford J. Shaw, "The Central Legislative Councils in the Nineteenth Century Ottoman Reform Movement before 1876," *International Journal of Middle East Studies* 1, No. 1 (1970), 63-64.; See details of the bureaucratic structure of *Meclis-i Vâlâ*: Bülent Tanör, *Osmanlı-Türk Anayasal Gelişmeleri* (İstanbul: Yapı Kredi Yayıncılık, 2014), 52-53.

²¹⁴ Stanford J. Shaw, "The Central Legislative Councils in the Nineteenth Century Ottoman Reform Movement before 1876," *International Journal of Middle East Studies* 1, No. 1 (1970), 64.

²¹⁵ For more details on the establishment of *Meclis-i Vâlâ* and its administrative and judicial functions as an institution: Ekrem Buğra Ekinci, *Tanzimat ve Sonrası Osmanlı Mahkemeleri* (İstanbul: Arı Sanat Yayınevi, 2004), 142-157; Mehmet Seyitdanoğlu, "Tanzimat Döneminde Yüksek Yargı ve ve Meclis-i Vâlâ-yı Ahkâm-ı Adliye (1838-1876)," in *Adalet Kitabı*, edited by B. Arı and S. Aslantaş (Ankara: Adalet Bakanlığı Yayınevi, 2007), 209.

²¹⁶ Legislation and judgment functions were unified under the umbrella of *Meclis-i Vâlâ* that carried out both legislative and judicial activities after 1854. Mehmet Seyitdanoğlu, "Tanzimat Döneminde Yüksek Yargı ve Meclis-i Vâlâ-yı Ahkâm-ı Adliye (1838-1876)," In *Adalet Kitabı*, edited by B. Arı and S. Aslantaş (Ankara: Adalet Bakanlığı Yayınevi, 2007), 208.

²¹⁷ See details of general structure, cadre, duties, and salaries of the members and hierarchical relations among the members of *Meclis-i Vâlâ*: Stanford J. Shaw, "The Central Legislative Councils in the Nineteenth Century Ottoman Reform Movement before 1876," *International Journal of Middle East Studies* 1, No. 1 (1970), 61-63.

provinces.²¹⁸ In addition to its works, the *Meclis-i Vâlâ* served as a court of cassation that rejudged and re-evaluated the judicial decisions of Shari'a courts and other local courts (the provincial Mejlis's prosecutions) through the judicial guidance of members from the *İlmiye* class, namely the *Meclis-i Vâlâ müftisi*.²¹⁹ Above all, the most significant administrative function of *Meclis-i Vâlâ* was carrying out the Tanzimat's regulations (*nizâmnâmeler*) in all state offices, the penal codes, and other legal reform attempts, and even the epitome of the Tanzimat itself.

According to Rubin,

*It was the earliest attempt to form a high court that had the potential to challenge the judicial monopoly of the Şeriat courts. The Supreme Council was primarily in charge of legislation in certain, limited fields, but it also served as a high court for cases that originated from such legal bodies as the governors' divans in the provinces and other qualified judicial organs.*²²⁰

As Rubin states, the Shari'a courts were faced with the re-judgment of their final decisions by the Supreme Courts for the first time in Ottoman history. Therefore, *Meclis-i Vâlâ*'s judicial function in Ottoman criminal justice became very significant regarding its challenge against the Shari'a courts and judges. Ginio points out that criminal cases seem very few in the Shari'a court records, also in the 18th century in Salonica and for him, they do not actually reflect the real crime rate.²²¹ In other words, Ginio says that the fact that criminal rates ought to be higher than the Shari'a sijils records demonstrate that, as a simple consequence, the people of Salonica preferred to pursue their criminal cases in other courts.²²²

According to Ginio,

The low number of registered criminal cases may have its basis in any or all of the following explanations: (1) The Şeriat court was only one of several institutions that handled crime in Salonica. Many other disputes were settled by informal arbitration or were adjudicated by

²¹⁸ Fatmagül Demirel, *Adliye Nezareti'nin Kuruluşu ve Faaliyetleri (1876-1914)*, (İstanbul: Boğaziçi Üniversitesi Yayınları, 2007), 8-9.

²¹⁹ Mehmet Seyitdanoğlu, "Tanzimat Döneminde Yüksek Yargı ve Meclis-i Vâlâ-yı Ahkâm-ı Adliye (1838-1876)," in *Adalet Kitabı*, edited by B. Arı and S. Aslantaş (Ankara: Adalet Bakanlığı Yayınevi, 2007), 216.

²²⁰ Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave Macmillan, 2005), 24.

²²¹ Eyal Ginio, "The Administration of Criminal Justice in Ottoman Selânik (Salonica) during the Eighteenth Century," *Turcica* 30, No. 0 (1998), 188.

²²² See: Boğaç A. Ergene, "Local Court, Provincial Society, and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)," *Studies in Islamic Law and Society*, 2003, <https://doi.org/10.1017/CBO9781107415324.004>. During the 19th century, the legal and judicial changes led to have several courts, respectively, such as Shari'a courts, local mejlis courts, commercial courts, community courts, consulate courts, and Nizamiye courts.

*someone other than the kadi. We cannot discern from our sources what was the relative portion of crimes handled by the kadi; (2) Some groups in eighteenth-century Salonica were reluctant to apply to the *Şeriat* court in criminal cases, preferring their internal mechanisms; (3) Some of the criminal cases recorded in the *sicil* of Salonica are quite severe in nature — for one thing, there is a relatively high proportion of military personnel (*askerî*) among those accused of crime.*²²³

Ginio's remarkable claims refer to another mechanism for the solution in favor of both litigant in the criminal cases in Salonica in the middle of 18th century. As he stated lastly, the with Shari'a practices' very harsh corporal punitive ways for the offenders, especially for the murder cases, offenders were frequently executed (mostly hanging).²²⁴ On the other hand, the arbitrary function of Shari'a courts prevented the fair trials for murder cases which some judges tried to solve with blood-money, in the 18th century, therefore the plaintiffs preferred to seek justice with the other courts and mechanisms.²²⁵ In this regard, the foundation of *Meclis-i Vâlâ* stimulated "real and fair" prosecution fulfilments with its legal, judicial and penal "ideals" and within the guidance of the 1840 Penal Code. Later, this ideal of lawful trials would be consolidated with the establishment of the *Nizâmiye* courts instead of *Meclis-i Vâlâ* in 1868, in that the criminal cases such as murder, theft, wounding, kidnapping, etc. began to be prosecuted in the Ottoman Empire's fresh and modern court system with its fresh investigations, evidence collection and prosecution ways, as the forthcoming section examines.²²⁶

Here, we mentioned the functions of the Supreme Court, which functioned along with the *kadi* courts during the early Tanzimat period. Well, the fact that Shari'a courts were not preferred in criminal cases, brings to mind the question of which penal codes conducted these courts and what was the legal framework of the 1840 Penal Code and ongoing Penal Codifications? Let us examine the content and functions of the Tanzimat's penal codifications.

3.3. The 1840 Penal Code: The First Attempt at Penal Codification

This section examines the proclamations of the 1840 Ottoman penal code, its penal concepts and theories, crime delineations and categorizations, identifications of female offenders, and the places of victim and offender female subjects in penal scripts, with special concern. It is in this spirit that I firstly focus on the 1840 Penal Code (*Cezâ Kânunnâmesi*) and its stipulations that underwent a significant legal evaluation during its preparation process,

²²³ Eyal Ginio, "The Administration of Criminal Justice in Ottoman Selânik (Salonica) during the Eighteenth Century," *Turcica* 30, (1998), 188.

²²⁴ Ginio, 203.

²²⁵ This caused using of several courts and court decisions which had various judicial outcomes and punishments as a proof of the legal multiplicity.

²²⁶ Ahmet Akgündüz, "1274/1858 tarihli Osmanlı Ceza Kanunnamesinin Hukuki Kaynakları, Tatbik Şekli ve Men'i İrtikâb Kanunnamesi," *Belleten*, Vol. 199, 1987, 167-168.

before analyzing the general structure and contents of the articles of the 1840 Penal Codification. Along with its legal and penal concepts, this section briefly points out modernization, secularization, and westernization discussions within the political and bureaucratic mentality through special notes.²²⁷

The 1840 Penal Code which was proclaimed on 3 May 1840, consisted of one epilogue and thirteen articles within the forty-two sections. Meanwhile, the code reorganized the existing Islamic crime/punishment category which is *taz'ir* (retaliation).²²⁸ Although the code originally included new crime categories specifically against the state such as embezzlement, banditry, tax evasion, and rebellion against the state authority, the Islamic punishment methods such as blood money (*diyet*)²²⁹ and the new method of punishment, imprisonment with hard labor coexisted together in the code.²³⁰ In this regard, the code combined Islamic punishment methods such as exile and hard labor with incarceration, while *taz'ir* and *siyâset* (discretionary) punishment methods were maintained by the *kadi* and the *nâib* in the Shari'a courts.

To examine the codification's mentality, the fundamental target of the Ottoman government, and the contents and arguments of the articles, I mainly aimed at elaborating the statements of articles at length below. Above all, as this study focuses on women's criminality and their imprisonment methods, it eagerly intended to concentrate on the specific articles for the crimes committed by females, crimes against women, and the peculiar punitive methods for

²²⁷ Ahmet Akgündüz, "1274/1858 tarihli Osmanlı Ceza Kanunnamesinin Hukuki Kaynakları, Tatbik Şekli ve Men'i İrtikâb Kanunnamesi," *Belleten*, Vol. 199, 1987, 167-168. The abundant transformations and changes depended on the political context and the Sultan's peculiar political understanding. Thus, we shall briefly touch on the bureaucratic and political shape of the freshly formed penal experiment, namely the 1840 Penal Code. Paz notes that the Ottoman state's political and legal phases before the Tanzimat and during the first years of its proclamation were defined as activist and reactive, these two different depictions deriving from the legal shaping by political interventions of the Ottoman state. Likewise, these designations of the Ottoman legal changes engendered addressing the decentralization of the Ottoman state through the new approaches to the state-individual relationship, as observed in the legal developments. In addition to this scholarly debate, Miller teases out the place of the 1840 Ottoman penal system on the Ottoman state mind and the religious court system, namely Shari'a. Besides, Akgündüz contributes to the discussion on the concept of the 1840 Penal Code which was convenient to Şer'i Şerif (Shari'a's legal/penal honor) as the same as the forthcoming penal codifications in 1851 and 1858.; See Omri Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840s-late 1860s)," *Islamic Law and Society* 21: 2014, 84; Kent Schull, "Criminal Codes, Crime and transformation of Punishment," in *Law and Legality in the Late Ottoman Empire and Republic of Turkey*, Edited by Kent Schull, M. Safa Saraçoğlu and Robert Zens, (Bloomington: Indiana University Press, 2016).; Rubin, "Legal Borrowing and Its Impact on Ottoman Legal Culture in the Late Nineteenth Century,"; Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 804-805.; Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005).

²²⁸ Ahmet Gökçen. *Tanzimat Dönemi Cezâ Kânûnnâları ve Bu Kânûnlarındaki Cezâ Müeyyidleri* (İstanbul: 1989), 19.; Ahmet Akgündüz, (1986). *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı*. (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 805.

²²⁹See Rudolph Peters. "Murder on the Nile: Homicide Trials in 19th Century Egyptian Shari'a Courts," *Die Welt Des Islams* 30, No. 1/4 (1990): 115-116, <https://doi.org/10.2307/1571047>.

²³⁰ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014). 25.

women offenders, with special examination on the Ottoman approach towards women's delinquency and women's criminal agency. However, unfortunately, the 1840 Penal Codification has not provided any information or any specific article on the crimes committed by female offenders and their punishment methods. Therefore, here we take a brief look at the articles and their contents which illustrate the altered criminal understanding as well as the different perception for crimes against state and individuals by the Ottoman government, with definitions of criminal acts and punitive methods, as a necessary effort to elucidate the first codification attempt.

The previous Ottoman criminal law, Suleyman's *Kânûns* had aimed not at protecting the Ottoman subjects *per se*, but at controlling or defining the powers of administrative officials.²³¹ The 1840 Penal code aimed at protecting not only the state but also individual's lives, honor, and property through the code, as a result of the Tanzimat's influence, in that this was emphasized in depth in the codification's introductory part.²³²

The first article of the code meted out that rebellion to the state, disloyalty to the Sultan, and homicide (*katl maddesi*)²³³ should be punished with an Islamic punitive method, namely *kisas*. Prominently, the article first stipulated equal judgment processes for all Ottoman subjects, both high bureaucrats and ordinary people, when they committed crimes against the state and individual's lives and honors.²³⁴ Moreover, as explicitly seen, such a traditional Islamic punishment and crime category, *kisas*, was retained by the imperial code's preliminary article. Unfortunately, the code did not divide the crimes into certain categories. In addition to the interwoven and complex crime categories, the lengths and form of punishments for certain crime types have not been clarified as well. For instance, the 3rd article of the 5th section meted out imprisonment from fifteen days up to three-months for violent wounding (*yaralama*).²³⁵ Even though the code's limited and uncertain crime and punishment categories coexisted together with Islamic jurisprudence's corporal punitive methods such as flogging, chaining, etc., the code determinedly outlawed the *tazi'r* (*retaliation*) and *siyâset* (*discretionary*) punishments to cope with the abuse and exploitation of prosecution (specifically during the

²³¹ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 26.

²³² Ahmet Gökçen, *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Müeyyidleri* (İstanbul: 1989), 96-98.

²³³ Kâtl/ Kâtil (Murder): The crime of unjustly ending a person's life, homicide. Ali Bardakoğlu, "Katil," TDV İslâm Ansiklopedisi, <https://islamansiklopedisi.org.tr/katil>.

²³⁴ Ahmet Gökçen, *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Müeyyidleri* (İstanbul: 1989), 96. "Bila' istisnâ Tebea-ı Devlet-i Aliyye'den olanların metbû'u şer'isi olan Padişahına ihânet ve Devlet-i Aliyye Aleyhine ikâz-ı fitneye cesaret ve katl-i nefse cüret misillü bir hareket-i sârihası vukû bulunub da şer'an ve kânûnen..... ve hiç kimsenin canına kast olunmamasına tarâf-ı eşref-i Hazret-i şâhâneden ahd- ü mis'ak buyrulmuş olunduğundan Devlet-i Aliyye memurlarından ve âle'l-İtlak sâ'ir eşhastan hiç kimse diğer birisinin canına kast edemeyeceğine binâen "farâza vü'zer âdan birisi tarafından bir çobanın bile canına kast vukûnda ol vezirin hakkında dahî *kisas-ı şer'ri* rica olunur."

²³⁵ Ibid., 98.

judicial decision-making process) by the Islamic judges and local administrators.²³⁶ Meanwhile, in this codification, each punishment method (*kıisas, katl, kürek, hapis, nefy, tekđır, memuriyetten azl*)²³⁷ predominantly derives from Shari's jurisprudence except hard labor (*kürek cezâsı*).²³⁸

Whereas the codification was comprised of abundant articles and sections on bribery, embezzlement, rebellion against the state and the Sultan²³⁹, disappointingly actions against the lives, honor, and properties of individuals have not been enacted with this codification, as legal historians expected.

In this regard, the codification could be called a rudimental codification experiment in terms of its uncategorized crime concepts, deficient crime delineations and using corporal punishment which derived from Shari'a. As Gökçen notes, the 1840 Penal Code is far from a modern penal code, but merely a reforming attempt to transform the Ottoman penal system along with its challenge against the authority of Islamic legal cadre.²⁴⁰ Its significant place on the dusty shelves of legal history derives from being the first systematized penal codification attempt, even though it was to be completely altered and undergone three times (1851-1858-1911) in the late Ottoman period.²⁴¹

Although there were limited crime categories against individual's lives, honor and property, scholars have recognized that the Ottoman government ambitiously embarked on withdrawing the discretionary judgment and privileges of the local judges (e.g. discretionary punishment) and the dominance of Islamic authorities by this codification, in the provincial courts of the Ottoman Empire, as Gökçen previously notes. The first article demonstrated that in case the offenders committed rebellion against the state or sedition (as the 2nd article meted out) in the provinces, the judicial processes had to be carried out by the local councils (*memleket meclisi*), and afterwards (if required) could be transferred to the Council of Judicial

²³⁶ Kent F. Schull, "Comparative Criminal Justice in the Era of Modernity: A Template for Inquiry and the Ottoman Empire as Case Study," *Turkish Studies Journal*, December 2014, 4.

²³⁷ Translations of the punishment methods respectively: retaliation, execution, hard labor, incarceration, exile, reprimand, dismissing from work.

²³⁸ See *Kirek cezâsı*: A punishment created in the 16th century to provide the manpower of the Ottoman navy. <https://islamansiklopedisi.org.tr/kurek-cezasi>.

Neşe Erim, "18. Yüzyılda Osmanlı İmparatorluğunda Kürek Cezası," *IXth International Congress of Economic and Social History of Turkey*, Ankara, 2005, 179-188.

²³⁹ See details on embezzlement and bribery as crime types in the 1840 Penal Code: Cengiz Kirli. "Yolsuzluğun İcadı: 1840 Ceza Kanunu: İktidar ve Bürokrasi," *Tarih ve Toplum: Yeni Yaklaşımlar*, Vol. 4, Fall 2006, 45-119.

²⁴⁰ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 19.

²⁴¹ Gökçen, 19.; İştar Gözaydın, "Türkiye Hukukunun Batılılaşması," In *Modern Türkiye'de Siyasi Düşünce Ansiklopedisi: Modernleşme ve Batiçılık* (İstanbul: İletişim Yayınları, 2002), 286-97. As Gözaydın noted that 1/3 of 1858 Penal Code has been altered by the CUP government within the effects of the 1889 Italian Penal Codification in 1911.

Ordinances (*Meclis-i Vâlâ*).²⁴² While the 1840 Penal Codification was hastily aimed at preventing abuses by local authorities and judges (prevention of abuse of discretionary judgments), its primary target was the consolidation of state power through the penal scripts and proper judicial organs more than codifying for the crimes against individuals' lives, honor and properties.²⁴³

All in all, the 1840 Penal Code does not provide innovative crime categories, delineations of the offences, or punitive methods, except the combination of imprisonment with hard labor, and above all there is no article on female offenders or female victims. Therefore, I left the analysis of articles to the upcoming code, with the examination of the 1851 Penal Code.

3.4. The 1851 Penal Code: Women Enter the Scene

Shortly after the proclamation of the 1840 Penal Code, an expanded and revised version of the first penal code namely the 1851 Penal Code (*Kânûn-i Cedîd*) was promulgated on 14th July 1851.²⁴⁴ The code consisted of an introduction, three sections, and forty-three articles. Remarkably, this expanded version included more descriptive and detailed delineations of crimes, new crime categories, tangible consideration for the offenders (particularly leniency towards the physically sick and poor offenders during their imprisonment) including special care and concrete tolerance for those prisoners. As Baer notes, the codification proposed new arrangements in that it contained the additional crime and offense categories, such as manslaughter (violent homicide), the abduction of girls, the falsification of documents, and offenses which directly related to agricultural activities and taxes; it also laid down the procedures of implementation of punishment ways and different punitive practices for the state officials, slaves, and murderesses.²⁴⁵

Above all, the code proposed different penal implementations for female and male offenders who committed homicide in the first section, the 14th and 15th articles, and in section three, Article 19, as the upcoming pages analyze.²⁴⁶ The consideration of different types of offense and violent acts, and most importantly the perception of gender-specific penal deliberations of homicide offenses, opened a new page on the penal history of the Ottoman Empire. The *Kânûn-i Cedîd* has been embedded in a particular place in terms of its awareness

²⁴² Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 20.

²⁴³ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 26.

²⁴⁴ Ahmed Lütfi. *Osmanlı Adalet Düzeni-Mirât-ı Adalet yahut Tarihçe-i Adliye-i Devlet-i Aliye* (İstanbul: Marifet Yayınları, 1887), 150-176.

²⁴⁵ Gabriel Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," *Studia Islamica*, No. 45 (1977), 143.

²⁴⁶ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 27-108.

of prisoners' gender roles, sicknesses, and living conditions with its specific articles by scholars. Though the lawmakers created fresh crime categories as an innovative step, the significance of the security of the lives, honor, and properties of each Ottoman subject was not discussed as much in the 1840 Penal Code as with the 1851 *Kânûn-i Cedîd*.

Here I shall touch on the dominant punitive ways of the code. The 1851 Penal Code meted out more Islamic judicial prosecutions and punishment methods as against the abolition attempts of the 1840 Penal code for retaliation (*kisas*) and discretion (*siyâset*) punishments. Undoubtedly, *Kânûn-i Cedîd* also remained the inspiration for Shari'a law regarding its punitive ways.²⁴⁷ The code respectively exemplified punitive ways *such as kisas including beating and flogging, and diyet, had cezası, siyaseten katl, kürek, hapis, nefy and tağrîp, tekdîr and tevbîh, dayak, memuriyetten azl, and meslekten men.*²⁴⁸ As observed, corporal punishment, specifically beating (*dayak*) and flogging (*kirbaç*) and discretionary execution (*siyâseten katl*) remained themselves as much the Shari'a law. These indications invoked the apparent support for the religious authorities and the divesting of judicial rights which were given back to local judges and administrative authorities (*kadîs and nâibs*) with the discretionary execution power.²⁴⁹ Hence, the abundance of Islamic punishment methods seems not very surprising.

According to Miller,

*The 1851 code, for example, like its predecessors, begins with the 1839 Gülhane Edict. There is, however, an immediate difference between the two. Whereas in the 1840 text, the ideas presented at Gülhane Edict are "joined to justice", in the 1851 version they are the "companion of Imperial Majesty". By 1851, the personification of political power had become equal to if not synonymous with the concept of "justice". Life, honor, property-the tenants of the Gülhane decree- no were longer functioning on their own but were instead re-imagined as the "companions" of the state. This slight shift in emphasis sets the tone for the rest of the new code.*²⁵⁰

Miller exemplified that as a recall, the 1840 Code underlined the equality of all imperial subjects within the article which stressed that; "even when the vizier attempted to kill

²⁴⁷ Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 805.

²⁴⁸ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 116.

²⁴⁹ See Kent F. Schull, "Criminal Codes, Crime, and the Transformation of Punishment in the Late Ottoman Empire," in *Law and Legality in the Ottoman Empire and Republic of Turkey*, Edited by Kent Schull and M. Safa Saracoglu (Bloomington: Indiana University Press, 2016), 1,4-21. Schull also highlighted that the 1840 Penal Code struggled against the discretionary punishment rights of local Islamic judges.

²⁵⁰ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 43.

a shepherd” it would be punished with *kısas*.²⁵¹ This indication set out a remarkable shift from the equality emphasis of 1840 Penal Code which underscored the egalitarian perspective among all imperial subjects. However, the 1851 code highlighted the companion of Imperial majesty, as a clear sign of undergone bureaucratic mentality which shifted to reinforce the authority and power of the state, state authority, and bureaucratic power.²⁵² As Miller states, it demonstrated the sign of the shaping of the modern authoritarianist state with this code.²⁵³ Furthermore, the 1851 Code proposed irrelevant crime categories that could be identified as more strict articles were based on the sanction against the state and Sultanic authority. It apparently aimed at consolidating the state power, loyalty to the Sultan, and the reinforcement of bureaucratic control. This tendency leaned on the authoritarian state-building by the 1851 Penal Code separately from the egalitarian manner of the 1840 Penal Code.²⁵⁴ The fact is that the 1851 Penal Code piously emphasized the equality of the Ottoman subjects, both bureaucrats and ordinary people, as in its previous counterpart, but the crimes against individuals’ lives and property had been paradoxically embedded together into the code.²⁵⁵ The efforts to consolidate state power and a high awareness of offenders’ vital needs and special situations coexisted, creating a clear contradiction that can be expressed with the aspiration of having a modern penal code entailing special care and awareness for the offenders as being a clear necessity of being a modern state.²⁵⁶ There is an ambivalent codification mentality in the 1851 Penal Code, although its eager efforts seem also very remarkable for the protection of offenders, more than ever by this codification, as seen from its articles.²⁵⁷.

After touching on the general concept and mentality of the code, we shall analyse the content of the code through special discussions of the selected articles. Initially, the 1851 Code was divided into three main categories, and the first one consistently dealt with homicide cases and crimes against the state together in the same category.²⁵⁸ This intertwined and disordered

²⁵¹ Ahmet Akgündüz, “1274/1858 tarihli Osmanlı Ceza Kanunnamesinin Hukuki Kaynakları, Tatbik Şekli ve Men’i İrtikâb Kanunnamesi,” *Belleten*, Vol. 199, 1987, 153-191.

²⁵² Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 105-106.

²⁵³ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 43.

²⁵⁴ Ruth Miller, 43.

²⁵⁵ Ruth Miller, 42.

²⁵⁶ The transformation of punitive mechanisms as a trend among imperial states during the 19th century stimulated the Ottoman government’s reformatory efforts to establish the systematic punitive organs and institutions. As seen on Chapter 4, prison reform has been affected these transformations which targeted to protect prisoners’ lives and prevent deaths of inmates.

²⁵⁷ Kent F. Schull, “Criminal Codes, Crime, and the Transformation of Punishment in the Late Ottoman Empire” In *Law and Legality in the Late Ottoman Empire and Republic of Turkey* Edt. Kent Schull M. Safa Saracoğlu, and Robert Zens. (Bloomington: Indiana University Press, 2016) 156.

²⁵⁸ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 43.

structure of the code led to blurred and complex crime categories in which crimes against the lives and the state coexisted under the umbrella of the same crime category.²⁵⁹

Mumcu notes the 1st article of the 1851 Penal Code articulated crimes against the Sultan and his state authority (riot, rebellion, and instigation against the state, treachery against the Sultan, attacks on the lives of people) which required execution/death sentences.²⁶⁰ Moreover, the first two crimes (riot and instigation against the state, treachery against the Sultan) required a discretionary death sentences (*siyâseten katl*) whereas the last offense (attacks on the lives of people/ homicide) required death sentences (not discretionary) under Shari'a law.²⁶¹

The Penal Code aimed at preventing unfair judicial decisions and the discretionary punitive rights of Islamic judges within the limitation of the authorization by pashas, grand viziers, and other state authorities specifically for the discretionary death sentences.²⁶² While most crime categories entailed a discretionary death sentence (*siyâseten katl*) under Islamic law, before the promulgation of the 1840 Penal Code, instead of discretionary sentences, the 1851 Penal Code went beyond the previous code with imprisonment and hard labor as major punishment methods.²⁶³ Besides, the *Kânûn-i Cedîd* meted out abundant relevant articles that dealt with murder cases.²⁶⁴ As an explicit distinction from the 1840 Penal Code, the Article 9 abolished the blood money paid to the heirs of victims or amnesty for offenders who committed murder.²⁶⁵ In so doing, blood money lost its retaliation function among the litigants in that the Code of 1851 overwhelmingly offered imprisonment and hard labor as the main sentences for *katl maddesi* (murder) after the abolishment of blood money.²⁶⁶

²⁵⁹ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 108-106. Section 1, Article 1: “Bilâ istisnâ tebea-i Devlet-i Aliyyeden olanların metbû-u şer’isi olan Devlet-i Aliyye aleyhine ikâz-ı fitneye cesaret ve katil nefse cür’et misilli bir hareket vuk’û bulup da şer’an ve kânûnen ve alenen tahkikat-ı lâzîme ve tetkikat-ı mukteziye ile kiraren ve miraren davası görülerek bilâ -garaz cünhası bâdes subüt hükm-i şer’i tertip etmeksizin hâfi ve celi katilen ve tesmîmen ve gerek her türlü süver-i mümkünke ile hiç kimseyin canına kasد olunmaya ve kasد vukûnda bizzat etsün veya ettürsün her kim olursa olsun hakkında kısas ve hükmü şerî’i icrâ oluna. Velev ol maktûlün veresesi diyet ahziyle râzî olmak veya kabîhâsına cesaret eden memur beher hal siyâseten ve nizâmen idâm kılınâ. Velhâsîl iş bu katl-i nefş maddesinde büyük ve küçük müsâvî tutulâ.”

²⁶⁰ Ahmet Mumcu, *Osmanlı Devleti’nde Siyaseten Katl* (Ankara: Ajans Türk Matabası, 1963), 177.

²⁶¹ See more details on the discretionary death sentence and its background prior to the Tanzimat; Mumcu, 177. The Tanzimat’s codifications gradually limited authorization of the powerful bureaucrats by means of penal articles, on the one hand, it aimed at completely preventing *siyâseten katl* applications with the diligent efforts of Sultan Abdülmecid with the last Ottoman Penal Code in 1858.

²⁶² Mumcu, 177-178.

²⁶³ Mumcu., 178.

²⁶⁴ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri* (İstanbul: 1989), 108-109.

²⁶⁵ Gökçen, 23.

²⁶⁶ See Omri Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-Late 1860s)," *Islamic Law and Society*, Vol. 21, 2014, 111. Blood money still continued in the Shari'a courts as the major punishment for the offense of homicide.

With the 14th article, instigators of murder offences also began to be punished. Article 14 meted out that the instigator of a murder would be punished by *kürek* and fetters (*pranga*) from one year up to three years,²⁶⁷ whereas a murderer (the genuine offender) would be punished by hard labor and fetters from one year up to five years.

The second section included seven articles that generally dealt with crimes against honor. However, this section contained articles that dramatically stipulated obedience and respect to the code to reinforce the supremacy of law.²⁶⁸ Briefly, honor belonged to the state and code in that the code meted out punishments for the offences against state honor on behalf of the supremacy of law.

The last section of the code meted out the sentences for the crimes against property. This section particularly focuses on embezzlement, corruption, bribery and theft (*sirkat*), and other financial crimes. In addition to these crimes, section two proposes that the confiscation of the property of individuals by the state and by other individuals without any reason had to become completely illegal with this Code. This section gives more insight for us to understand the relationship between property and the state during the Tanzimat period, rather than the prevention of larceny against individual's property. The fact is that, as Miller states, by definition of the 1851 Code, the state and state authority occupied all categories of Code.²⁶⁹ Thus, this mold of the codification experiment fell short of expectations from the second code in this respect.

Most importantly, the *Kânûn-i Cedîd* may be identified as the first Ottoman penal code which considered gender-specific criminal identities and punitive methods. In terms of "gendered criminality issues", it was the pioneer providing awareness of women's criminality and the recognition of female offenders (in addition to prostitutes) in the imperial state.

In this Code, women's criminality and gender-specific crime delineations with the emphasis of legal egalitarianism became prominently visible in the sentences of murder cases for the first time with the 1851 codification. The first section, articles 14 and 15 demonstrated that women murderers were subjected to the same punishment methods such as *diyet* and as their male counterparts. However, if another woman (*accessory*) supported the female offender

²⁶⁷ Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 824. "Bir adam diğer adamın canına kasد ile fakat bizzat îcare etmeyerek başka bir şâhis akçe veya hâl sair cihetle itmâ' ve îğfal edipde onun vesatetiyle idam ettirecek olur ise asıl katil hakkında şer'ân ve kânûnen iktiza eden hüküm icrâ olunacağından madde-i katli âmir olan şâhis derecesine göre bir seneden beş seneye ve katl-i müâni bulunan kimse kezâlik bir seneden üç seneye kadar vaz-ı kürek ve pranga kilına."

²⁶⁸ Omri Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-Late 1860s)," *Islamic Law and Society*, Vol. 21, 2014, 111-113.

²⁶⁹ Ruth Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 42-43.

(*nisâ katile*) in killing somebody, she had to be incarcerated in the women's prisons (*tâ'ife-i nisâya mahsûs mahbes*) until the end of her correction (*islâh-i nefس*).²⁷⁰ As clearly seen in the 14 and 15, the durations for the imprisonment were not specified, instead the judges could confine them for the time between the lower and upper limits for the imprisonment lengths. As an exception, for the accessory women offenders, judges had wider authority on the length of imprisonment of women who had to be corrected during their imprisonment.

For the female accessories who assisted in murder, the first section, fifteenth article of the codification enacted that the state budget (*Cânib-i Beyt 'ül mâل*) had to provide food and other daily needs, in case they did not have a protector (*veli*) from their family members or relatives.²⁷¹ Above all, the 15th article of the Code underlined the women offenders also had to be punished the same punitive methods (*diyet* and *kîsâs*) with their male counterparts (*nisâdan katil zuhûrunda katil veya katile hakkında diyet ve kîsâs, muktezâ-yi şer'i şerîf üzere bir raddede olduğundan o makule katile hakkında zükûr hakkında olan kânûn icrâ olunup*), however women aider and abettor (*mu 'înî*) for murder cases had to be imprisoned until their correction (*islâh-i nefس edinceye kadar*) without any certain imprisonment lengths.²⁷²

In addition to this, in the third section, the 19th article metes out the crimes committed by male servants and female concubines which were embedded in the section of crimes against property in terms of their representation as slaves.²⁷³ According to article 19 of the last section, if a concubine (female servant) committed homicide, she would be sentenced by imprisonment from five up to fifteen years.²⁷⁴ Even if the female servant was forced to kill someone without

²⁷⁰ See details of Articles 14 and 15 of *Kânûn-i Cedid*: Ahmet Lütfi. *Mirât-i Adalet* (İstanbul: Fatih Yayınevi, 1979), 145. The 1851 Penal Code paved the way for imprisonment that became the main punitive method. In this regard, it reinforced having more imprisonment areas in the Ottoman Empire.

²⁷¹ Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri," (MS. Thesis, Istanbul Technical University, Faculty of Architecture, 2020), 70. Dirihan insists that the lower and upper limits were stated for sentences of crime categories. It paved the way for discretionary sentence length for the Ottoman judges, even though the codes seem to struggle against the wider authorization of *kâdis* and *nâibs*.

²⁷² Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 824. Article 15: "Nisâdan kâtil zuhûrunda kâtil veya kâtile hakkında diyet ve kîsâs, mukteâ-i şer'i şerîf üzere bir raddede olduğundan o makule kâtile hakkında zükûr hakkında olan kânûn icrâ olunup, fakat mûini kâtil nisâdan ise tâife-i nisâya mahsus mahbesde ıslâh-ı nefس edinceye kadar haps ile müddet-i mahbûsiyetinde infak ve iksâsına icbâr ve veli ve akrabası olmadığı halde cânib-i beyt 'ül maldan infâk ve iksâ oluna." See Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri." (MS Thesis, Istanbul Technical University, Faculty of Architecture, 2020), 70. Dirihan also emphasized that the women murderers were not punished with specific length of imprisonment; they had to be incarcerated until they were corrected (*ıslâh-i nefس*). This also paved the way for discretionary imprisonment lengths for the Ottoman judges.

²⁷³ Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications 1986), 824. Article 15: "Nisâdan kâtil zuhûrunda kâtil veya kâtile hakkında diyet ve kîsâs, muktezâ-i şer'i şerîf üzere bir raddede olduğundan o makule kâtile hakkında zükûr hakkında olan kânûn icrâ olunup, fakat mûini katil nisâdan ise tâife-i nisâya mahsus mahbesde ıslâh-ı nefس edinceye kadar haps ile müddet-i mahbûsiyetinde infak ve iksâsına."

²⁷⁴ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri* (İstanbul: 1989), 115-116.

²⁷⁴ Slaves' imprisonment lengths were longer than free women, as seen in Article 19.

her agreement, the sentence was a minimum of two and up to five years imprisonment. Thus, if she unintentionally committed the murder, the incarceration could take from two years up to five years.²⁷⁵ The code specified the duration of imprisonment for the slave women (concubines), whilst it did not mete out special lengths for the imprisonment of free women offenders in homicide cases.

Remarkably, this code considered gender-specific crime delineation and imprisonment locations for the women offenders for the first time. “*Tâ’ife-i nisâya mahsûs habshâneler*”, special women’s prisons as a carceral concept, have been embedded in the code for the first time in Ottoman penal history.

All in all, the Code’s gender awareness and the acceptance of female offenders as criminal characters could certainly not be neglected. This code paved the way for the tangible perception and reception of women’s criminal acts, through detailed and peculiar articles for female murderers (*nisâ katile*) and female slave (concubines) offenders. Furthermore, beyond the perception of women’s criminal identity and the innovation of imprisonment becoming frequent punishment, the code stated the requirements for special women’s prisons and jails for the women inmates who had committed murder.

In addition to the sections which cover female offenders in murder cases, particular punishments’ lengths are stipulated for female offenders, considering their daily needs and recovery processes; in the third section, articles 16 and 17 remarkably touch on the lenient and tolerant treatments of the prisoners, in cases of specific and chronic health questions (sicknesses) during their imprisonment. According to article 16, if the prisoners had extreme and mortal health problems, they could stay in their homes until they recovered (*ağırca hasta olanların kâvi kefile rabti ile bür’i tam edinceye kadar hânelerde ikâmet ve tedavi eylemelerine ruhsat veriliüp eyyâm-ı hastalıkları müddet-i mu’âyene-i mahbûsiyetlerine mahsûb oluna*), provided that the recovery times were reduced from the imprisonment lengths.²⁷⁶ Provided that sick offenders were controlled by a medical doctor assigned by the Affairs of Civil Service (*Umûr-ı Mülkiye*) once every fifteen days, with the medical report, the sick offenders could be transferred to their homes until their recoveries. According to article 17, the local commission of state budget had to provide for the necessities of sick prisoners, if they did

²⁷⁵ Gökçen, 115-116: Section 3, Article 19: “.... Kâtil nisâdan olduğu takdirde (nisâ câriye), beş seneden on beş seneye ve imree-i mucbire olduğu surette (icbar edilen nisâ), kezalik beş seneden on beş sene ve imree-i gayri mücbirenin dahi iki seneden beş seneye ve mûini katil nisâdan zuhûrunda beş seneden yedi seneye kadar nisâya mahsus mahbête haps ve müddet-i mahbûsiyetinde infâk ve iktâsına icbar olunacak veli ve akrabası olmadığı takdirde cânib-i beyt’ülmal’dan infak ve iksâ oluna.”

²⁷⁶ Gökçen, 25, 114. Section 3, Article 16: “Alelitâk mahpus olanlardan ağırca hasta olanların kâvi kefile rabti ile bür’i tam edinceye kadar hânelerde ikâmet ve tedavi eylemelerine ruhsat veriliüp eyyâm-ı hastalıkları müddet-i muâyene-yi mahbûsiyetlerine mahsub oluna ve bu vecihle hasta olduğu cümle indinde tebeyyün ederek ruhsat verilen mahbûsun kesb-i ifâkat edip etmedikleri on beş günde bir kere tahkik olunmasına ol beldenin umûr-ı mülkiyesine memur tarafından dikkat oluna.”

not have family members, a relative, or a guardian.²⁷⁷ Meanwhile, the article stressed that the prison administrations had to avoid superfluous expenses for the inmates.

All in all, the 1851 penal codification did not go further in terms of the imbalance between state and religious authorities, providing discretionary judgment to the Islamic judges and the complex categorization of criminal behaviors; however, its content occasionally covered the awareness of women murderers, gender-specific punishment proposals and the consideration of sick and poor offenders. Moreover, the Code stipulated imprisonment within specific ranges for incarceration lengths, as seen in the articles which mete out punitive methods and durations for homicide and other violent offences. It is in this spirit I shall articulate that the 1851 Penal Code can be identified as an innovative penal code in terms of consideration of offenders' sicknesses, special medical care and food services for the inmates, above all the perception of women offenders as criminal subjects (in addition to prostitution, the Ottoman penal code firstly mentioned women murderer) and gender-specific additions for homicide cases within the emphasizing of equal judgement and punishment for male and female offenders except for the female aider and abettor of murder cases.²⁷⁸

3.5. A Critical Milestone: The 1858 Penal Code

The 1858 Penal Code (*Ceza Kânunnâme-i Hümayûnu*) was proclaimed on 9 August 1858 with the inspiration of the French Penal Code, 1810.²⁷⁹ Therefore, the effects of French legal and penal mentality seem to dominate, as the preparation process of the code shows.²⁸⁰ With the stimulation of international interventions and aspiration for a systematic penal structure, the Ottoman bureaucracy hastily embarked on the promulgation of a Code within the inspiration of French penal ideas.²⁸¹ The Ottoman state did not imitate the French articles directly by legal borrowing, rather the code resulted in an amalgamation of Shari'a law and the French code.²⁸² Indeed, this penal code led to debates on modernization, secularization, and

²⁷⁷ Gökçen, 25, 114. Article 17: “..... haps olunmuş olan fukâra-yı eshâb-ı cünhâdan müddet-i mahbûsiyetilerinden infâk ve iksâsına icbar olunacak veli ve akrabası bulunmayanların nafakaları bulundukları mahallin emvâl-i mürettebe-i miriyesinden verilecek ancak medâr-ı kifâyeden ziyâde sarf ile emvâl-i mezkûrenin itlâfindan ittika ve münâcet oluna.”

²⁷⁸ Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 824. Article 15: “Nisâdan kâtil zuhûrunda kâtil veya kâtile hakkında diyet ve kısas, muktezâ-i şer’i şerif üzere bir raddede olduğundan o mâtûle kâtile hakkında zükûr hakkında olan *kânûn* icrâ olunup, fakat müini katil nisâdan ise tâife-i nisâya mahsus mahbesde ıslah-ı nefs edinceye kadar haps ile müddet-i mahbûsiyetinde infâk ve iksâsına.”

²⁷⁹ DVN.MKL 74/31/28 Zilhicce1274/ 9 August 1858.

²⁸⁰ Ahmet Akgündüz, “1274/1858 tarihli Osmanlı Ceza Kanunnamesinin Hukuki Kaynakları, Tatbik Şekli ve Men’i İrtikâb Kanunnamesi,” *Bulleten*, Vol. 199, 1987, 164-166.

²⁸¹ Avi Rubin, “British Perceptions of Ottoman Judicial Reform in the Late Nineteenth Century: Some Preliminary Insights,” *Law and Social Inquiry* 37, No. 4 (2012): 992, <https://doi.org/10.1111/j.1747-4469.2012.01293.x>.

²⁸² Timur Demirbaş, *Ceza Hukuku: Genel Hükümler* (Ankara, Seçkin Yayıncılık, 2006), 94.

westernization among scholars, in addition to the discussion on its adaptation from the 1810 French Penal Code.²⁸³ The adaptation of the 1810 French Penal Code was conducted by eight Ottoman legal and penal experts namely Ahmet Cevdet Pasha, Muhammed Rüşdü, Ahmed Celal, Şevket, Seyyid Mustafa Hıfzı, Mahmud Pasha, Ibrahim Edhem, and Muhammed; these intellectuals altered and revised the proposal for the penal codification more than one hundred times until its final draft.²⁸⁴ The 1858 Penal Codification with its 264 articles²⁸⁵ can be acknowledged as an innovative and more developed penal experiment than the previous penal codes, in terms of its detailed-separated crime categories, expanded crime delineations, eager attempts to prevent discretionary judicial rights and punishments, the abolition of corporal punitive methods, and above all, the recognition of incarceration as the main punishment method.²⁸⁶ Even though, until the proclamation of the 1858 Penal Code, Islamic jurisprudence and punishment methods retained their significant position in the penal articles, the 1858 codification paved the way for a secularization debate in terms of the tangible arguments that stipulated the reduction of Islamic punitive ways and fresh crime categories that were mostly imitated directly from the French Penal Code, 1810.

In this regard, I shall shed light on the content of the articles before discussing the bureaucratic language, secular, and modern phases of the code. Initially, this section aims at sketching a broad framework for the 1858 Penal Code's general structure, crime categories, dominant punitive methods, and its genders specific articles and additions for some crime types. The Code consisted of an introduction, three chapters, and 265 articles. Unusually, the third chapter has not been divided into the articles but has been unified under the umbrella of merely one article, as the following pages touch on.²⁸⁷

The code divided crimes into three major categories: *cinâyet* (serious offenses), *cünha* (less serious offenses), and finally *kabahat* (misdemeanor).²⁸⁸ Also it illustrated the attributions of these crimes with details. As the 3rd article explicitly expressed, *cinâyet* (serious offenses)

²⁸³ See İştar Gözaydın, “Türkiye Hukukunun Batılılaşması,” in *Modern Türkiye’de Siyasi Düşünce Ansiklopedisi: Modernleşme ve Bütçilik* (İstanbul: İletişim Yayınları, 2002), 287–88. Gözaydın addresses the differences between the 1810 French Penal Code and the 1858 Ottoman Penal Code within their various articles and punishments. She insists that the Ottoman Penal Code had more lenient content vice versa its French counterpart, specifically for punishment of homicide and wounding cases.

²⁸⁴ Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 806-07.

²⁸⁵ Serpil Bilbaşar, “Hapis Cezasının ÖrgütSEL ve Hukuksal Gelişimi,” *Birikim Dergisi* Vol.136, No. 1995 (2000): 45-46. 1858 Penal codification underwent small changes and revisions in 1911, however it remained until the promulgation of the 1926 Penal Code.

²⁸⁶ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 26.

²⁸⁷ Even though the codification presented its innovations within classified crime categories and demarcated criminal acts, it surely included abundant statements that ensured the authoritarian constituents of the Ottoman legal language.

²⁸⁸ *The Imperial Ottoman Penal Code 1858*, translated by Bucknill, J. and Utidjian H. (London: Oxford University Press, 1913), 5.

called for deterrent punishments such as the death penalty/ execution (*katl*), hard labor (*kürek*) accompanied by exposure in public, confinement in a fortress (*kalebendlik*), perpetual exile, perpetual deprivation of rank or duty, and deprivation of civil rights.²⁸⁹ Secondly, the 4th article meted out that the *cünha* (less serious offenses) were the illegal acts which called for corrective punishments such as imprisonment for more than one week, temporary exile, dismissal from professions, and fines. Lastly, *kabahat*'s (misdemeanour) punishments were expressed in article 5, invoking the admonitory sentences from one day up to one-week imprisonment and fines which ought not to exceed one hundred piasters.²⁹⁰ Each category of the *cinâyet* and *cünha* crimes was divided into two: against state and the individuals.

Here we shall go into details of each chapter and article. The first chapter consists of sixteen sections based on crimes (*cinâyet* and *cünha*) against the state.²⁹¹ Besides, article 72 of the first part proposes specific sentences for women offenders; in the case of a female bribe-taker whose husband had previously informed her about his corruptive behaviour, both she and her husband would be sentenced together by provisional confinement to a fortress and dismissal from their professions.²⁹² In addition to these sentences, they had to pay back embezzled money doubly.

The code interestingly added a specific section for women bribers. If a woman committed corruption, embezzlement, or bribery without the knowledge of her husband or if she had no husband, she would be sentenced to double reimbursement of the stolen amount and one-year imprisonment in women's prisons. This article is very important in terms of specifying punishment options for a possibility that the Ottoman women could commit crimes such as embezzlement alone. Although it is thought that this article was imitated from the French penal code²⁹³, the reasons for borrowing this article raise questions about how and in what way Ottoman women committed corruption or embezzlement by themselves, without any involvement to the financial and bureaucratic fields.²⁹⁴

²⁸⁹ *The Imperial Ottoman Penal Code 1858*, 6.

²⁹⁰ *The Imperial Ottoman Penal Code 1858*, 7. Specifically, Section 3, Article 68 outlines the sentences such as dismissal from professions, and provisional incarceration in a fortress as punishments for bureaucrats and state officials who have committed corruption and embezzlement. Section 4 deals with larceny (*sirkat*) cases against the state. This section deals with state officials who committed larceny and corruption in state offices (in addition to individual theft and embezzlement cases).

²⁹¹ Ahmet Gökçen, 130.

²⁹² Ibid., 130. “Mürteşî nisâ tâifesinden olduğu ve kocası olup da madde-î irtîşada onun dahî ilminin lâhik bulunduğu bilisbat tebeyyün eylediği surette alınan rüşvet kezâlik iki kat olarak kendilerinden tahsil olunup kocası ile beraber haklarında 68. Madde de beyan olunan mürteşî cezası icrâ olunur. Ve mürteşiyenin kocası olmadığı veya hukukî olup da madde-i irtîşâda haber ve rîzası bil’muhâkeme tahakkuk etmediği surette yalnız karı hakkında mücâzat-î nakdiye.”

²⁹³ Ibid., 130.

²⁹⁴ See more information on bribery. Christoph Herzog, “Corruption and Limits of the State in the Ottoman Province of Baghdad during the 19th Century,” *MIT Electronic Journal of Middle East Studies* Vol 3, 2003. 38

On the other hand, the category of crimes against individuals ferreted out new acts such as abortion (*iskat-i cenîn*), rape (*hetk-i irz*), abduction of children (both boys and girls), and women, separately from homicide and larceny cases, as the following pages deal with. Indeed, these crimes may be evaluated as an embedded category of sexual crimes or crimes against honor with their gender-specific arguments. However, irrelevantly, this category involved lottery, public auction, and gambling in the same category as crimes against individuals.²⁹⁵

As a remarkable development, the Penal Code of 1858 proposed a new crime type: for persons causing abortion, and selling adulterated drinks and poisons without surety (*Iskat-i Cenîn ve Karışık Meşrûbât ve Kefilsiz Semmiyât, Fürûht Edenlerin Mücâzât-i Müterettibeleri*,) immediately following homicide (*katl maddesi*). This article stipulated hard labor and blood-money sentences for offenders who intentionally caused miscarriage (*iskat-i cenîn*) of a pregnant woman, according to articles 192 and 193. Although these articles are discussed in the section 5.4, it should be underlined that the Ottoman bureaucracy began to deal with deaths of mothers and babies by abortion and intentional miscarriage with the 1858 Penal Code for the first time in Ottoman penal history.²⁹⁶

The following articles also ventured to secure the lives and honor of young boys and girls. The articles between 197 and 202 deal with rape and sexual abuse cases towards children and juveniles, both boys and girls. The related articles covered a lot of versions and possibilities of rape and abuse cases for young boys and girls with additions and detailed crime delineations.

Initially, article 197 stated that in case of a sexual act towards a child under the age of eleven, offenders would be punished by imprisonment for a minimum of six months and also by hard labor. In addition to article 197, if a person attempted to rape someone, he would be punished by a minimum of three months imprisonment and hard labor.²⁹⁷

Remarkably, article 199 codified domestic rape cases (apart from incest). In case someone who was the guardian, instructor, or master of a victim attempted rape, the offender would be sentenced to a minimum of five years of hard labor. This article directly referred to servant girls and boys and other types of slaves who worked in their masters' houses performing household tasks. Meanwhile, we should say that these cases were very widespread at the beginning of the 20th century (especially after the Armenian genocide which led to millions of Armenian people being deported, killed, and raped in 1915). During the genocide

²⁹⁵ *The Imperial Ottoman Penal Code 1858*, translated by Bucknill, J. and Utidjian H. (London: Oxford University Press, 1913), 187-192.

²⁹⁶ See Section 5.4.

²⁹⁷ *The Imperial Ottoman Penal Code 1858*, 150-151.

and post-genocide period, Armenian girls and boys lost their families and became orphans, later servant girls and boys at rich Muslim families' residences.²⁹⁸

In the following article (article 200), if the victim of a rape case (*fi 'il-i şen'i*) was a virgin, the offenders had to pay indemnity (*tazmîn*) in return for her deflowered virginity.²⁹⁹ In addition to article 200, the lawmakers interpolated that if a person deflowered a girl with the condition of promising to marry her, if they could not get married, the offender had to pay the indemnity, and additionally, would be sentenced with imprisonment for one week up to six months.³⁰⁰ However, the code saliently stipulated the medical proof from the victim girls' relatives or the confession of the offender during the prosecutions.³⁰¹

The following article, Article 201, meted out that forcing someone to work as a prostitute (male or female) through rape would be sentenced by imprisonment from one month up to one year.³⁰² The same article notably meted out a minimum of six months up to one and half years imprisonment for incest cases. In case the victim was raped and/or sexually abused by the mother, father, brother or sister in their nuclear families, the code proposed imprisonment (the length has not been noted).³⁰³ As seen, section three enlarged on the rape, sexual abuse, and adultery cases with its articles and their additions which included several possibilities and potentialities with the details (*ilâve and zeyil*).³⁰⁴ These all were remarkable attempt for protecting honor and body of women and children through deterrent and standard punishments, mostly imprisonment.

After dealing with victim female subjects' positions and rights in the penal code, here we touch on the offending women in adultery (*zinâ*) cases. As Shari'a jurisprudence underlined, honor belonged firstly to her husband, or if she had no husband, the honor belonged to her guardian (usually father). In case the commission of adultery by a woman was proved, the female offender would be punished with imprisonment of not less than three months and a maximum of two years in a women's prisons, as a follow-up incarceration of the Quranic punishment for women offenders who had to be confined in their houses.³⁰⁵ Whilst women

²⁹⁸ See more details on Armenian servant girls and boys. Maksudyan deeply studied the issue of Armenian servant children who were survivors of the genocide. Their forlornness led to sexual abuse and rape by their masters. Nazan Maksudyan, "Foster-Daughter or Servant, Charity or Abuse: Beslemes in the Late Ottoman Empire," *Journal of Historical Sociology* 21, No. 4 (2008): 488–512.

²⁹⁹ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 150-151. Surely, defloration had to be proved with a medical report, as the Code states.

³⁰⁰ Ibid., 151. Article 200.

³⁰¹ Ibid., 151.

³⁰² Ibid., 152.

³⁰³ Ibid., 152; The length of imprisonment for the first-degree relatives has not been noted, most probably the imprisonment duration might be longer than the other relatives in practice.

³⁰⁴ Article 201. This article was amplified on 17 December 1860. *The Imperial Ottoman Penal Code* 1858, translated by Bucknill, J. and Utidjian H. (London: Oxford University Press, 1913), 153-54.

³⁰⁵ Ibid., 153-54.

offenders were punished with imprisonment in adultery cases, the male offenders who committed adultery were punished by only a penalty and (fine) of five *mecidiye* gold coins up to one hundred.³⁰⁶ As apparently underlined with this article, adultery cases were punished by varying punitive methods such as imprisonment, fines, and commutation depending on the gender role of the offender. Thus, the code apparently demonstrated double standards which leaned on the Shari'a law for the punishment of male and female offenders. As an intertwined approach to female involvement in adultery cases, article 188 gives very significant insights on women's sexual crimes. This code was added into the 1858 Penal Code on 4 June 1911, and article 188 meted out pardon for males who saw their wives or sisters, or other female relatives (their *mahram*)³⁰⁷ in an unlawful bed or watched while his wife or sister was committing the abominable act of adultery, in case they killed or wounded the male and female offenders, or only his *mahram*, he was pardoned.³⁰⁸ As the code underlined, honor belonged to male, in case their female relatives committed adultery (*zinâ*), therefore, this section gave privileges to men to protect their honor.³⁰⁹

Section four covered the crimes of illegally or unduly imprisoning and detaining people, kidnapping children and young boys, and also the abduction of girls (*kız kaçırma/dağa kaldırma*).³¹⁰ Article 203 meted out a minimum of six months up to three years imprisonment for illegally imprisoning or detaining people or keeping somebody as a hostage.³¹¹ As we easily trace in the following articles, articles 203 and 204 were mainly enacted to hamper the unlawful and undue imprisonment or detaining of offenders by state officials or ordinary people seeking justice for themselves. According to article 204:

If a person dares to commit the offences of detaining individuals, as mentioned in the preceding article, by assuming the guise or the appearance of an official of the state or by giving a fictitious name or by producing a fictitious order from officials, the punishment of temporary kürek (hard labor) is imposed on him. Likewise, if a person detained has been

³⁰⁶ Medjidiye (*mecidiye*) was an Ottoman currency that was used during the reign of Sultan Abdülmecid.

³⁰⁷ See Mahram or mahrem is a fiqh term (Shari'a jurisprudence) that means relatives who are religiously forbidden to marry each other. <https://islamansiklopedisi.org.tr/mahrem>.

³⁰⁸ *The Imperial Ottoman Penal Code 1858*, translated by Bucknill, J. and Utidjian H. (London: Oxford University Press, 1913), 141.

³⁰⁹ *The Imperial Ottoman Penal Code 1858*, 141. Article 188 was repealed from the 1858 Penal Code by the 1911 Penal Revisions on 6 C 1329, 4 June 1911. The CUP government aimed at preventing a double standard for female and male litigants, in doing so, they could prevent probable attacks in the fornication and adultery cases.

³¹⁰ See details on abduction cases: Gamze İlaslan, "Abduction of Women and Elopement in the Nineteenth Century Ottoman Nizamiye Courts." (MA Thesis, Bogacizi University, 2015).119-121.

³¹¹ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Miiyyidleri*, (İstanbul: 1989), 153.

*intimidated with death or bodily torment or torture has been inflicted on him, the person who dares to do this incurs the punishment of temporary kurek in every case.*³¹²

Section four meted out not less than six months up to three years for the kidnapping of children (*sabi*) or changing the parents of children, in article 205. If people kidnapped a child and did not give it back to his/her family, the offender was sentenced to life imprisonment.³¹³ On the other hand, the kidnapping of boys and girls engendered an apparent difference in punishment methods. Article 206 proposed that anyone kidnapping a child (preadolescent boy or girl) had to be punished by not less than three months up to one-year imprisonment. In case a girl (preadolescent) was kidnapped the offender would be imprisoned and also punished by hard labor.³¹⁴ Furthermore, article 206 involved additional proposals which state that in case a female victim had a husband when she was abducted, the offender would be sentenced not only with imprisonment but also hard labor, as in the previous section for the kidnapping of girls. On the one hand, only when a preadolescent girl had been abducted and raped, would the offender be punished by the codified sentence for rape cases.³¹⁵ Furthermore, in case the kidnapper married/solemnized the girl who was abducted, the offender might be beaten (corporal punishment) according to an addition to Article 206.³¹⁶

The code defended the virginity of female victims and the moral outcomes of rape, sexual abuse, and the abduction of females, engendering varied punishment methods for the female inmates *vis-à-vis* their male counterparts. As an acknowledgment of guaranteeing the honor and chastity of young women, the code meted out double sentences specifically in kidnapping and abduction cases, as seen above.

Let us go into details of the most exciting part of the 1858 Penal Code. It provided significant insight into women's involvement in violent cases as offender and specific punitive practices, with an article that directly dealt with female murderers and pregnant inmates with its lenient punishment applications. Article 18 was directly translated from the French Penal Code, which proposed tolerant treatment towards women offenders who committed homicide, in case they were aware of their pregnancy during the judicial process or during the confinement. The code offered postponed death sentences for pregnant female offenders who had to prove their pregnancy to the Ottoman courts with a medical report from the prisons doctors who was

³¹² *The Imperial Ottoman Penal Code 1858*, translated by Bucknill, J. and Utidjian H. (London: Oxford University Press,1913),158.

³¹³ Ahmet Gökçen, *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Miiyyidleri*, (İstanbul: 1989), 153.

³¹⁴ The code targets protecting female's honor and virginity by these articles (205 and 206), therefore it meted out imprisonment and hard labor together for girls differently than boys' kidnapping cases.

³¹⁵ *The Imperial Ottoman Penal Code 1858*, translated by Bucknill, J. and Utidjian H. (London: Oxford University Press,1913), 160-161.

³¹⁶ Ahmet Gökçen, *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Miiyyidleri*, (İstanbul: 1989),153.

assigned by the state. In other words, the courts could postpone the death penalty until after delivery (giving birth) for pregnant murderers.³¹⁷ This article paves the way for a new discussion on the biopolitical and demographic policies of the Ottoman bureaucratic and legal platforms which are also observed in articles 192-194 for the *İskat-i Cenin*, through the imitation of the 1810 French Penal Code, as section 5.4 broadly examines.³¹⁸

All these articles seen above, foresee the harm that may occur to a woman's body and dignity, and try to protect women, regardless of guilt, with special concern brought through the Shari'a provisions and Western law.

As a follow-up of the same understanding, article 43 referred to gender-specific punitive methods contrary to the gender equivalence of the code, regarding the susceptibility of women's bodies. The code directly indicated that female and male offenders were indisputably equal in the face of Ottoman law, however, in the modes of carrying out certain punishments, it became necessary to consider the peculiarities of offenders' specific conditions.³¹⁹ As Bucknill and Utidjian's commentary on article 43 states, the peculiarities of the imprisonment conditions for female offenders referred to their pregnancy or physical weakness, and incapability also the susceptibility of their bodies, as exceptions.³²⁰ The vulnerability and susceptibility of the women were emphasized once again with their reproductivity function.³²¹ Besides, the code stated that after the execution (hanging) of a female offender, her body could not be publicly shown³²² and explicitly referred to the intimacy, dignity and honor of the female body in social, cultural and religious contexts.

Additionally, during hard labor (*kürek cezâsi*), female offenders could not be in chains, according to same article. While the emphasis of equality of the sentence methods and the punishment process of the male and female offenders was persistently underlined in the code, it explicitly considered the special situations of female inmates, such as pregnancy, physical weakness, sickness, fragility, and the sensitivity of their bodies.

Moreover, on the last page of the 1858 Penal Code, there was an addition that directly dealt with the special conditions of women offenders and female convicts: (*Mahkûm olan Nisâ tâ'ifesinin Husûsiyet Hallerine Ne Yolda Ri'âyet Olunmak Lâzım Geleceğine Dair Tezkire-i Aliye*).³²³ Indeed, this regulation was proclaimed within the 1880 Prison Regulation

³¹⁷ *The Imperial Ottoman Penal Code 1858*, 16.

³¹⁸ See Section 5.4.

³¹⁹ *The Imperial Ottoman Penal Code 1858*, 31.

³²⁰ *Ibid.*, 31.

³²¹ See 5.4. The Motherhood and pregnancy section broadly discussed this article and its implementation.

³²² See more details about the application of death penalty (*idam*) for the serious offences (*cinâyet*): Ebru Aykut, "Judicial Reforms, Sharia Law, and the Death Penalty in the Late Ottoman Empire," *Journal of the Ottoman and Turkish Studies Association*, Vol. 4, No. 1, May 2017, 7-29.

³²³ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989, 164).

(*Hapishâneler Nizâmnâmesi*) during Abdülhamid II's era, however, within the revisions of code in 1911, it was attached to the 1858 Penal Code as a particular regulation for only female offenders. This is analysed in the Section 4.4 with a deep overview of its articles and proposals for the women inmates.³²⁴

It must be pointed out that the 1858 Penal Code underwent fundamental changes during the government of CUP. As Schull states, on 4 June 1911, the Ottoman Parliament reissued the 1858 IOPC in its most modified and expanded form. Several articles had been edited, revised and expanded with additions and attached large explanations.³²⁵ Even though every section of the code was revised and updated, the Ottoman government called the expanded version of the code the 1858 Penal Codification until the demise of the Empire without namely changes. According to Schull: "These changes range widely over various issues important to the empire and its peoples and deal with private property, personal rights, prevention of government oppression and corruption, protection of honor, protection of state officials, and so forth..... In fact, out of the 265 articles contained in the IOPC, a total of 56 articles were rescinded, revised, and/or, expanded."³²⁶ The last penal codification was revised in 1911 by a Commission of lawmakers who benefitted from the 1889 Italian Penal Code through translation/legal borrowing similarly to the preparation of the first promulgated version of the 1858 Penal Code.³²⁷

All in all, undoubtedly the most innovative and advanced codification of the Tanzimat period is the 1858 Penal Codification in terms of its content, such as abundant crime types, detailed crime descriptions, types of criminal acts against the individuals, and special occasions for each criminal category. The Code divided the crimes against individuals into three categories for the first time in Ottoman legal history: crimes against life and security, crimes against honor and dignity, and crimes against property.³²⁸ Thus, the preliminary part profoundly highlighted crimes against subjects and the ensuring of the rights of individuals who were exposed to offensive behavior within the code and its Shari'a provisions.³²⁹ Although this

³²⁴ See Section 4.4 for the details of this regulation.

³²⁵ They utilized the 1889 Italian penal codification, the Zanardelli Code, to expand the 1858 Penal Code in 1911 and approximately 70 articles have been changed. Gülnihal Bozkurt, *Bati Hukukunun Türkiye'de Benimsenmesi: Osmanlı Devleti'nde Türkiye Cumhuriyeti'ne Resepsiyon (1939-1939)* (Ankara: Türk Tarih Kurumu Basımevi, 1996), 102.

³²⁶ Schull interestingly states the 59 articles were revised, contrary to Bozkurt who claims 70 articles were revised in 1911. Schull, "Criminal Codes, Crime, and the Transformation of Punishment in the Late Ottoman Empire," 9.

³²⁷ Said Nuri Akgündüz, "Tanzimat Dönemi Osmanlı Ceza Kanunlarının Kaynağı," *Dergiabant (AİBÜ İlahiyat Fakültesi Dergisi)*, Fall 2016, Vol: 4, Issue: 8, 13-14.

³²⁸ Gabriel Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," *Studia Islamica*, No. 45 (1977), 144.

³²⁹ *The Imperial Ottoman Penal Code 1858*, translated by J. Bucknill, and H. Utidjian (London: Oxford University Press, 1913), IX-XVI.

statement has involved apparent hints and points of maintenance of Shari'a law, a considerable amount of the 1810 French Penal Code was borrowed via legal borrowing from French to Ottoman Turkish with limited touches and revisions. While Sharia's legal provisions in the Code may be observed in articles 1, 9, 171, 172, 177, 180, 181, 182, 183, 185, 192, and 206, the other articles and punishment methods were inspired from the French Penal Code without non-invasive effects of Shari'a.³³⁰ The 1858 Penal Code overwhelmingly meted out imprisonment in almost every crime category (with the combination of hard labor) as a main punitive method vis-à-vis the previous codes. Consequently, the 1858 Code has been postulated as the entrance to western/ modern criminal law, namely the modern criminal justice system, in terms of its detailed crime delineations, crime categorization, several additions to each crime which aimed at protecting individual's lives and honor (especially female subjects, both victims and offenders), and above all with imprisonment becoming the major punitive method. The Code rigorously meted out exile (banishment) as the second major punishment method as against the previous codification.³³¹ Nevertheless, the dominance of imprisonment as a main punitive method illustrated the coherence of Ottoman penal changes with the global shift from corporal punishment methods to incarceration during the 19th century, as previous chapter examines.³³²

Zohrab underlines the significance of incarceration which when directly meted out took firm action on the expansion of imprisonment in criminal justice as a rehabilitative and deterrent punishment.³³³ In the following step, the 1858 Penal Code meted out not less than one day up to one-week imprisonment for misdemeanors (*kabahat*), while it codified the less serious offenses (*cünha*) with a minimum one-week incarceration. Moreover, as article 40 stipulated, in case the offender had the criminal capacity (mental health) to commit a serious crime (*cinâyet*), they had to be sentenced by not less than five years up to fifteen years imprisonment for *islâh-i nefs* (rehabilitation and correction).³³⁴ In addition to imprisonment, as Gökçen claims, during the first years of the 1858 Penal Code, Ottoman lawmakers proposed that the inmates could work in workshops or in factories outside the prison instead of mere

³³⁰ See the published *Mazbata* (Reporter) of the 1858 Penal Code: Serkiz Karakoç, *Külliyyat-ı Kâvânin*, Dosya 5, (Ankara: Türk Tarih Kurumu Yayınları), Metin No: 993. S. 1. "Li-ecli't-tetkik (tetkik için) icâbeden zevât-i fiham hazerât-na birer nüshâsi gönderildiği sirada taraf-ı meşihat penâhiye dâhi gönderilmiş idi. Tarâf-ı Hazret-i müşarünileyhden derci tensip buyurulan bir kaç mesele-i mühimme dâhi müteallik olduğu maddelere ilâve ve izâm.;" Akgündüz states that the copy of the 1858 Penal Code was sent to Seyhülislamlık to check its compliance with Shari'a law (*Şer-i Şerif*).; Ahmet Akgündüz, "1274/1858 tarihli Osmanlı Ceza Kanunnamesinin Hukuki Kaynakları, Tatbik Şekli ve Men'i İrtikâb Kanunnamesi," *Belleten*, Vol. 199, 1987, 163-64.

³³¹ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 24.

³³² See Section 2.1.

³³³ Krikor Zohrab. *Hukûk-ı Ceza* (İstanbul: Ahmet Saki Bey Matbaası, 1909). 263.

³³⁴ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Mîcîyyidleri*, (İstanbul: 1989), 46.

imprisonment, to prevent the idleness of the prisoners, as Section 6.3 broadly examines the trajectory of hard labour in the Ottoman prisons.³³⁵

Hence, the expansion of imprisonment sentences in this Code enabled the increase in the numbers of prisoners in all imperial provinces which did not have adequate and sufficient prisons and jails, in other words imprisonment areas, to incarcerate offenders. Therefore, with the effects of the 1858 Penal Code, the Ottomans hastily attempted to build prisons, establish new penitentiaries, and renovate the existing prisons and jails in the provinces to fulfil the fresh criminal justice standards and articles of the Code, as broadly expressed in chapter 4.³³⁶

Beyond these collaborative punitive concepts, gender specific punitive implementations, lenient, tolerant attitudes and positive discrimination of penal law towards female and pregnant offenders were profoundly considered by the law. Moreover, female criminal subjects (*miicrîmin*), both victims and offenders, were acknowledged within articles 18, 43, 72, 73, 216, 188, 192, and lastly 193 with the protection mentality against both the honor and lives of offenders and victims. In this regard, the 1858 penal law considered women's criminality and likewise the 1851 Penal Code, which was the premise of a salient awareness of female criminality, with additions to articles and detailed explanations which navigate the judicial organs regarding women's particular biologic and physical features, as the related sections comprehensively discuss.³³⁷

3.6. A Little Touch on Legal Borrowing Discussions on 1858 Penal Code

This section briefly deals with legal borrowing discussions on 1858 Penal Code. There are different scholarly approaches and evaluations, as this section succinctly discusses. According to Avi Rubin, this codification became a pioneer of legal borrowing for the Ottoman legal bureaucracy.³³⁸ While Rubin calls the process “*legal borrowing*”, other scholars identified “law making through translation” as a term for this codification, which refers to the translation of the French code to create a composition of Islamic jurisprudence and French law in the Ottoman penal code.³³⁹ However, apart from these conceptual frameworks, this code was enacted neither by way of a direct translation of the 1810 French Penal Code namely

³³⁵ Ibid., 46. See Section 6.3.

³³⁶ See Chapter 4, Prison Reform.

³³⁷ See Sections 5.4 and 6.3.

³³⁸ Avi Rubin, “Legal Borrowing and its Impact on Ottoman Legal Culture in the late Nineteenth Century,” *Continuity and Change* 22 (2), 2007, 279–303.

³³⁹ Senem Öner and Ayşe Banu Karadağ, “Lawmaking through Translation: ‘Translating’ Crimes and Punishments,” *Perspectives: Studies in Translatology*, 2016, 15.

Napoleonic law, nor by the Ottoman lawmakers' unique legal production.³⁴⁰ In this sense, the 1858 Code borrowed legal and penal insights through translating the French code, at the same time the Code's legal language sounded like Shari'a legal and penal influences particularly in the category of crimes against individual's honor, namely sexual crimes, which have been listed above. Endless discussion on the legal borrowing engendered a new debate among historians, who profoundly began to discuss modernization and the reform aspirations of the Ottoman Empire, specifically in legal and judicial areas. Likewise, the discussion of the Tanzimat's pervasive and ostensible reform wave on Ottoman bureaucracy's modernization understanding, rooted changes in administrative and legal apparatuses have occurred neither by the results of international and national interventions nor by the Ottoman state's own free will. As an acknowledgment of my statement, Paz claims that the French-inspired legal system was not an outcome of international interventions from the European states. Rather, it derived from the Ottoman state's internal needs such as learned decision making, which is based on for instance, an extensive pilot program in the provinces (*Vilâyet Nizâmnâmesi 1864*).

Rubin's critics also struggle against the main tendency of the historian to examine the reformation aspect during the 19th century, they tended to oversimplify the reform concept in administrative and legal arenas based on a save project of the Empire from a decline.³⁴¹

According to Rubin:

*Historians have tended to use the signifiers of westernization, secularization, and modernization as synonyms that either describe or explain Ottoman realities in the long nineteenth century. These terms carry the seal of the modernization meta-narrative, also known in the field as 'the impact of the West' which may be traced back to the pioneering works of Gibb and Bowen, Lewis, Berkes, and Davison and is structured around three interrelated postulations that may be simplified as follows: First, the reforms of the nineteenth century resulted primarily or solely from European pressures in a context of growing Ottoman submissiveness and lack of agency. Secondly, the Ottoman reformist grand design, at the end of the day, was a more or less full imitation of the Western ways. Thirdly, some coherent entity known as 'the West' is the exclusive benchmark for evaluating the success of Ottoman policies.*³⁴²

As Schull noted, the long 19th century comprised the juxtaposition of modernization, secularization, adaptation, continuity, change, rupture, innovation, and Westernization as active, influential and vivid concepts which all together paved the way for reforms and

³⁴⁰ Ahmet Akgündüz, *Mukayeseli Islam ve Osmanlı Hukuku* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 806.

³⁴¹ Avi, Rubin, "Ottoman Judicial Change in the Age of Modernity: A Reappraisal," *History Compass* 7/1 (2009): 120.

³⁴² Rubin, 122.

transformations in the Empire.³⁴³ Thus, this study also will not set aside these effects and the outcomes of these oversimplified articulations. Rather, as seen in the articles of the 1858 Penal Code, the code was created as an amalgamation of Islamic and modern law in the legal history of the Ottoman Empire with the equal influence of French, Italian and occasionally Swiss legal and penal inspirations and the transformation aspirations of Ottoman bureaucracy.³⁴⁴

Furthermore, the coexistence of secular and Islamic law together in the 1858 Penal Code engendered a new issue namely legal duality. The French and Shari'a driven judicial systems have posed the judicial duality question for the Ottoman legal system within the establishment of *Nizâmiye* Courts.³⁴⁵ Let us look at the foundation and functions of *Nizâmiye* courts on the purpose of implementation of the 1858 Penal Code and its duality debate in the upcoming section.

3.7. A Breath of Fresh Air for the Criminal Justice: The *Nizâmiye* Courts

This section concentrates on the judicial and penal outcomes of the establishment of the *Nizâmiye* Court, particularly influences on the imprisonment system, in that the effects of *Nizâmiye* courts meticulously encouraged the establishment of state prisons. Therefore, beyond the debate on the legal borrowing of the penal codes, the Ottoman bureaucracy created a different judicial system in order to implement penal codifications that officially became the backbone of Ottoman criminal justice. In this regard, this section's goals are to explore the new judicial system, its devices, legal mentality, and functions on the Ottoman criminal justice and above all the effects on the existing prison system.

Shortly after the promulgation of the 1858 Penal Code, the *Nizâmiye* courts were established in 1868 as a major judicial organ, especially for the criminal cases, along with Shari'a courts.³⁴⁶

³⁴³ Kent Schull, "Criminal Codes, Crime and transformation of Punishment" in *Law and Legality in the Late Ottoman Empire and Republic of Turkey*, Edited by Kent Schull, M. Safa Saraçoğlu and Robert Zens, (Bloomington: Indiana University Press, 2016), 177.

³⁴⁴ Zafer Toprak, "From Plurality to Unity: Codification and Jurisprudence in the Late Ottoman Empire," in *Ways to Modernity in Greece and Turkey – Encounters with Europe, 1850-1950*, edited by Anna Frangoudaki & Çağlar Keyder, (London&New York; I. B. Tauris, 2007), 17.

³⁴⁵ Omri Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840s-late 1860s)," *Islamic Law and Society* 21, 2014, 86.

³⁴⁶ Fatmagül Demirel, *Adliye Nezâreti'nin Kuruluşu ve Faaliyetleri (1876-1914)* (İstanbul: Boğaziçi Üniversitesi Yayınları, 2007).

Indeed, the *Nizâmiye* court system was initially established in the Danube Province (*Tuna Vilâyeti*) as a pilot region in 1864 through the 1864 Vilâyet Law's judicial section.³⁴⁷ Shortly after their foundation in the Danube Province, the *Nizâmiye* courts were expanded to all imperial provinces as one of the main judicial organs of the Ottoman criminal legal tools in 1868.³⁴⁸ The Vilâyet law reorganized and regulated the whole judicial and administrative system in the provinces through the separated courts which were established in the provincial areas by the administrative authorities.³⁴⁹ Meanwhile, the other judicial offices such as the Shari'a court, the criminal tribunal, and the commercial court performed simultaneously in the provincial centers.³⁵⁰ Indeed, *Nizâmiye* courts prosecuted only ongoing lawsuits that could not complete their judicial process in the Shari'a courts, local communities' courts, and the commercial courts (if the cases were on a fiscal issue).³⁵¹

Thus, each imperial province began to have both *Nizâmiye* courts and Shari'a courts along with commercial and communities' religious courts which coexisted, this coexistence engendering judicial duality discussions in Ottoman legal history. However, as Agmon emphasizes, the Shari'a courts overwhelmingly dealt with family and civil issues, while the high-ranking courts (*Meclis-i Vâlâ-yi Ahkâm-ı Adliye* and *Nizâmiye Courts*) prosecuted criminal cases such as serious offenses, namely homicide, larceny, and so on, as divided judicial organs during the late Ottoman Empire.³⁵²

According to Rubin:

Representations of Ottoman legal change along the binarisms of religious/ secular and western/eastern are embedded in the ubiquitous notion of dualism, which signifies a century-long competition between modernist and traditionalist forces. By 'dualism' historians have referred to an assumed divide between religious and secular spaces, evident in the realms of education, cultural production, politics, and law. In the field of law, dualism has been represented by the co-existence of the 'westernized' Nizâmiye courts and the associated

³⁴⁷ Avi Rubin, "Legal Borrowing and its Impact on Ottoman Legal Culture in the Late Nineteenth Century," *Continuity and Change* 22 (2), 2007, 282.

³⁴⁸ See for more details on the judicial functions of local meclis as courts during the Tanzimat until the establishment of the Nizâmiye court system: Omri Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840s-late 1860s)," *Islamic Law and Society*, 21, 2014, 94.

³⁴⁹ See Avi Rubin, Ottoman Nizâmiye Courts: Law and Modernity (New York: Palgrave Macmillan, 2005), 28; The Vilâyet (Provincial) Law proposed setting the Court of Appeals (*Divan-ı Temyiz*) in the center of each province and each sub-province (sanjak and *liva*), and districts (*kazâ*) there would be a Council of Appeals (*Meclis-i Temyiz*) and a Judicial Council (*Deâvi Meclisi*). Also, a head-judge (reis) was assigned, with assistant judges (*mümeyyiz*) in addition to other elected members who were the legal representatives of Muslim and non-Muslim communities (*a'za*).

³⁵⁰ Rubin, 28.

³⁵¹ Fatmagül Demirel, *Adliye Nezâreti'nin Kuruluşu ve Faaliyetleri (1876-1914)* (Istanbul: Boğaziçi Üniversitesi Yayınları, 2007), 25.

³⁵² Iris Agmon. "Recording Procedures and Legal Culture in the Late Ottoman Sharia Court of Jaffa, 1865-1890," *Islamic Law and Society* 11, No. 3 (2004): 341.

*borrowing from European law on the one hand, and the ‘traditional’ şeriat courts on the other.*³⁵³

After sketching a tiny frame on the reality of legal dualism with Rubin’s brief notes, to seek out the application of penal codes and imprisonment as the major punitive methods, here we shall focus on prosecution ways of the *Nizâmiye* court system and above all, the effects of the *Nizâmiye* court system on the Ottoman prisons. Contrary to the Shari‘a courts, the *Nizâmiye* court system strictly leaned upon the 1858 Imperial Penal Code whose articles had to be followed by the *Nizâmiye* court judges, consisting of elected local notables, assigned local officials, and bureaucrats.³⁵⁴ As an acknowledgment, Velidedeoğlu states that the modern penal codifications remarkably stipulated a new judicial system to implement all the reformed codes and enactments.³⁵⁵ Thus, the *Nizâmiye* court system compensated for this necessity of Ottoman law.

Above all, the *Nizâmiye* court’s judicial structure and prosecution methods differed from its Sharia counterparts. While the main judge of a Shari‘a court, namely a *kadi*, listened to both litigants and their witnesses during the judicial process, the *Nizâmiye* court professionally collected data and pieces of evidence through witnesses and the police force while it propelled the special investigation process via the interrogation (as seen on the reports of interrogation namely *istintaknâme*) of convicted people.³⁵⁶ As seen in the prosecution process, this court system provided modern and developed investigation methods and tools, such as collecting witness’ statements, collecting pieces of criminal evidence, and investigating offenders, through its specific legal apparatuses. Meanwhile, as discussed above, the 1858 Imperial Penal Code paved the way for punishing offenders with imprisonment, that became the dominant punishment method under the Code. Imprisonment was a commonly used punitive method by the regular courts, especially for the serious offences. Therefore, the *Nizâmiye* court system, as the main implementor of the Penal Code, caused an increase in the number of prisoners in provincial jails.

On other hand, the *Nizâmiye* court records present abundant and detailed trial reports and interrogation registries, (*istintâknâme*) showing the modern and innovative features of the *Nizâmiye* judicial procedures. Besides, the *Nizâmiye* court system altered the “deposition”

³⁵³ Avi Rubin, “Ottoman Judicial Change in the Age of Modernity: A Reappraisal,” *History Compass* 7/1 (2009), 124.

³⁵⁴ Jun Akiba, “Shari‘a Judges in the Ottoman Nizâmiye Courts, 1864-1908,” *The Journal of Ottoman Studies*, LI (2018), 210.

³⁵⁵ Hıfzı Veldet Velidedeoğlu, *Kanunlaşturma Hareketleri ve Tanzimat*, *Tanzimat I* (İstanbul: Maarif Vekaleti Yayınları, 1940), 202-203.

³⁵⁶ Milen V. Petrov, “Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864-1868,” *Comparative Studies in Society and History* 46/4 (2004): 737.

system which took place with more formulaic, fair, and regular methods.³⁵⁷ These interrogation records covered the questions, claims, motivations, answers of the defendants, and the statements of plaintiffs and even their social status, their crimes, and personal backgrounds, all of which are potentially fruitful for scholarly works on Ottoman social, criminal and legal history. The interrogation reports involved formulaic language as spoken by offenders who thus highlighted their obedience to the court with those words. As Petrov summarized, phrases like “I would be resigned to my punishment” (*cezâma râzi olurum*), “I would be in the wrong” (*kabahatlı olurum*), “there would be nothing left for me to say” (*diyeceğim kalmaz*), “what can I do—I shall suffer [my punishment],” (*ne yapalım, çekeriz*), “My knowledge doesn’t reach that far” (*benim ilmim lâhik değildir*), “Do as you see fit!” (*nasıl bilürseniz öyle icrâ ediniz*), and “it will be as you decide” (*sizin bileyceğiniz şeydir*) are some of the frequent, repetitive, and symbolic statements in the interrogation reports.³⁵⁸ These terms and phrases demonstrated that the people had a grasp of the legal system and judicial functions of the courts, when offenders presented their obedience to and trust of the court’s decisions. In other words, the litigants were informed on their legal rights, the punitive methods, and the functions of the fresh system of the *Nizâmiye* courts, as the symbolic and formulaic language of interrogation and the other court records demonstrate.³⁵⁹

On the other hand, as Petrov’s table illustrates from the archival document, the juxtaposition of Shari’ā and *Nizâmiye* courts dramatically showed distinct reactions and results for the same trials. Petrov’s table claims that for murder cases, the Shari’ā court resulted in blood money (*diyet*) for the heirs of the victim, even if the plaintiffs submitted evidence or witnesses, whereas in cases where the victim had no relatives, the prosecution was dismissed by the *kadi*.³⁶⁰ Contrary to Shari’ā courts, the *Nizâmiye* courts re-examined and re-investigated cases as a court of appeal (*Temyîz mahkemesi*), and re-tried offenders according to the 1858 Imperial Penal Code. As a result of the re-judgment process, its outcomes mostly leaned on conviction and imprisonment with hard labor (*kürek*) in addition to blood money for the heirs with regard to Islamic law. According to Petrov:

A brief look at the lawsuit summaries inscribed in the so-called Ayniyat registers for the Danube province suggests that the application of the system of a dual trial did indeed enable Midhat’s provincial administration to prosecute criminals more “vigorously” and to achieve a high rate of incarceration. Table 1 lists the main scenarios in which the state was

³⁵⁷ See information on the comparison of the disposition methods of Shari’ā and *Nizâmiye* Courts: Iris Agmon, “Recording Procedures and Legal Culture in the Late Ottoman Sharia Court of Jaffa, 1865-1890,” *Islamic Law and Society* 11, no. 3 (2004), 356-369.

³⁵⁸ Milen V. Petrov, “Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864-1868,” *Comparative Studies in Society and History* 46, No. 4 (2004): 730-59.

³⁵⁹ *Ibid.*, 747.

³⁶⁰ *Ibid.*, 739.

able to modify “unsatisfactory” şerî outcomes in murder cases through recourse to the *nizamî* courts.³⁶¹

Moreover, as an acknowledgment of the statement by Petrov, Gözaydın also states that this judicial duality posed questions which leaned on the different punitive results that could be derived from two different courts. For example, in a homicide case, the murderers could be imprisoned for 15 years of hard labor, while the Shari'a court (when sued by the victim's heirs) punished murderers with “execution” death sentence.³⁶² The *Nizâmiye* courts punished the offenders by imprisonment for homicide cases as meted out by article 174 of the imperial Code.³⁶³ Petrov notes that the frequent implementation of imprisonment by the *Nizâmiye* courts engendered the question of scarcity of imprisonment areas in the Ottoman provinces, as this study mainly concentrates on. In doing so, there was a great increase in the implementation of imprisonment with hard labor (*kürek*) as the main punishment method according to the Code; thus, it became the great Ottoman prison question in terms of the insufficiency of prison/jail buildings and overpopulated prison wards in the Ottoman Empire. The following sections deals with the insufficient prisons and overcrowded prison wards which made abundant and serious troubles for the prisoners in provincial areas.

3.8. The 1876 Ministry of Justice (*Adliye Nezâreti*) Grapples with the Pre-Trial Process and Inadequate Prison Conditions

This section examines the foundation of the Ministry of Justice, its institutional structure, judicial functions, and its place in the criminal justice system along with its effect on prisons in the late Ottoman period. With a proclaimed legal regulation, the Ottoman government declared the *de facto* establishment of the Ministry of Justice in 1875. Since the year 1875, the name of the Ministry of Justice (*Adliye Nezâreti*) has been visible in archival sources.³⁶⁴ However, the first institutional announcement of its foundation was promulgated by *Teşkîlat nizamnâmesi* in 1879.³⁶⁵ With the first institutional regulation, the Ottoman government clarified the administrative structure of the Ministry, the goals of this legal organ, its legal cadre, responsibilities, and the duties of the attached institutions and the commissions

³⁶¹ Ibid., 740.

³⁶² İstar Gözaydın, “Türkiye Hukukunun Batılılaşması” In Modern Türkiye'de Siyasi Düşünce Ansiklopedisi: Modernleşme ve Batiçılık (İletişim yayınları: İstanbul, 2002), 289.

³⁶³ Ahmet Gökçen, Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri, (İstanbul: 1989), 147. Article 174: “Bir kimse mingayı ta’ammüd bir şahsi itâf etmiş ise on beş sene müddetle küreğe vaz’ olunur. Fakat iş bu telef-i nefş kaziyyesi ahâr bir cinâyeti icrâ eder iken ya kâble’l-icrâ’ ya da ba’del icrâ’ veyahut bir cünhâyi beray-i icrâ vûkû bulmuş ise itlâfi nefş eden şahıs kânûnen idâm cezâsına mücâzat olunur.”

³⁶⁴ Ibid., 31.

³⁶⁵ Ibid., 31-32.

in detail within the presidency of Ahmet Cevdet Pasha as the Minister (*nâzır*).³⁶⁶ As Demirel states with direct transliterations from the archival documents in her study, by the establishment of the Ministry, the legal institutions, and local and provincial courts were separated into nine different parts in the entire imperial provinces. *Bidâyet Mahkemeleri* (lower courts), Kazâ *Bidâyet Mahkemeleri* (district trial courts), *Liva Bidâyet Mahkemeleri* (sanjak trial courts), *Vilâyet Bidâyet Mahkemeleri* (provincial trial courts), *Dersaâdet Bidâyet Mahkemesi* (the trial court of Istanbul), *İstinaf Mahkemeleri* (the court of appeal), *Dersaâdet İstinaf Mahkemesi* (the court of appeal of Istanbul), *Temyîz Mahkemeleri* (the court of cassation), and *Ticâret Mahkemeleri* (the commercial courts such provincial and central in Istanbul) were unified under the umbrella of the Ministry of Justice as directly attached courts from 1879. Above all, the working system and structural organization of these courts result from the standardization of the criminal justice system of the Empire during the last decades of the 19th century.

As was lucidly emphasized, with the proclamation of the 1858 Penal Code, the Ottoman justice system widely intended to punish offenders by the sentence of imprisonment (*hapsetme*) although the insufficiency of prison buildings had not been solved.³⁶⁷ Hence, after the establishment of various local and provincial courts through the consolidation of the Ministry of Justice, the Ottoman criminal justice system confronted the great “underdeveloped and inefficient” prison question. According to Demirel, the offenders and inmates were directly affected by the delay of judicial processes, long durations of prosecutions, and the over long waiting processes of trials. Hence, the insufficiency of jails (*tevkifhâne*) for offenders who were waiting for their trials, causing the steep and uncontrollable rise in prisoners’ population, added to the urgent necessity for larger prison complexes (*hapishâne*) in all imperial provinces.³⁶⁸ Moreover, offenders frequently sent complaint letters that claimed that they could not defend themselves due to delays in their prosecution or postponements of their suits.³⁶⁹ Besides, the question of overcrowded jails and prison buildings led to several vital questions which jeopardized the offenders’ lives causing of deaths. During the interrogation process (*istintâk süreci*), investigations of crimes (*soruşturma*), and judicial prosecutions (*hukukî kovuşturma*), together with a quantitatively insufficient legal cadre reinforced the problem as well.³⁷⁰ On the other hand, specifically in provincial areas, the local notables (members of local courts) raked off bribes (great an amount of money) from the plaintiffs during the judicial process. Thus, the

³⁶⁶ Ibid., 35-37.

³⁶⁷ Ahmet Gökçen, *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Mîeyyidleri*, (İstanbul: 1989), 46-47.

³⁶⁸ Fatmagül Demirel, *Adliye Nezâreti'nin Kuruluşu ve Faaliyetleri (1876-1914)* (İstanbul: Boğaziçi Üniversitesi Yayınları, 2007), 291.

³⁶⁹ Ibid., 296.

³⁷⁰ Ibid., 296-297.

listed factors notoriously engendered the question of postponed trials, undue prosecutions and also long imprisonment processes for the inmates' awaiting trials.³⁷¹

Due to these unlawful imprisonments of offenders and the delayed judicial processes, the Ottoman jails and prison houses consisted of doomed prisoners in all imperial provinces.³⁷² With reference to Demirel, 164 accused people (male and female) were subjected to awaiting trial, also some of them had been waiting for prosecution in İstanbul for two years as temporary inmates in the last decades of the 19th century.³⁷³ The Ottoman government received a great number of petitions from the imperial prisons, and they were confronted with a very high number of complaints on the overpopulated jails and prisons. Thus, Abdülhamid II intervened in the question with a special decree which dealt with the acceleration of judicial prosecutions and the prevention of undue punishments. Moreover, Abdülhamid II founded a new commission from the Ministry of Justice that would solely deal with delayed, and postponed trials and awaiting lawsuits.³⁷⁴

All in all, neither regulations nor the special arrangements of Sultan Abdülhamid could solve the problems that elicited a great prison question, namely overcrowding and the insufficient jails and prisons, for both the male and female offenders. As the following chapter comprehensively examines, the Ottoman prisons became hellish, filthy, and dreadful for the inmates who desperately suffered under the dire living conditions, albeit the diligent efforts and attempts to enhance existing prisons.

This chapter aimed at creating a path to understand how carrying out of penal codifications, judicial organs and transformations on Ottoman criminal justice went arm in arm with prison policies with the special consideration on the place, identification and criminal agency of female offenders and victims in the penal codes. Since the early years of the Tanzimat period until the demise of the Empire, this chapter tried to draw its own framework to examine the transformation of Ottoman criminal justice, its foreseeable results for the Ottoman prison system, and newly developed gender-specific punitive implementations as the follow- up results of the increasing visibility of women's delinquency through penal codes, freshly established judicial organs, and the shifting of legal authority.

As traced in this chapter, while the Ottoman government eagerly took firm action to have its own standard and systematized criminal justice with the proclamation of three penal codes (1840, 1851, 1858) including the establishment of courts and judicial cadres for the prosecutions, it also intended to secure women's bodies and honor through the special articles in the 1851 and 1858 Penal Codes. The Ottoman government targeted following the global

³⁷¹ Ibid.

³⁷² Ibid., 298.

³⁷³ Ibid.

³⁷⁴ Ibid., 298.

trend on the shifting from corporal punishment to the imprisonment as the main punishment way in the legal scripts, which also invoked standard prisons and penitentiaries with a new upcoming reform attempt. Whilst women's bodies have been criminalized by the codes for abortion, female murderers have been recognized with their violent offences as criminal subjects as much as their male counterparts. On the other hand, the Ottoman penal scripts have proposed protective, positive discriminative and lenient judicial and punitive concepts for the female offenders, in case they were pregnant, sick and physically weak. All in all, this chapter deals with the involvement of women into the criminal cases as offenders and victims, the perception of women in the Ottoman penal codes, under the light of the transformed legal and penal mentality of the Ottoman Empire during the 19th and early 20th centuries, before discussing the Ottoman prison reform and its female subjects in the next chapter.

Chapter 4: The Place of Women Prisoners in Ottoman Prison Reform (1839-1918)

“If the words 'prison reform' so easily slip from our lips, it is because 'prison' and 'reform' have been inextricably linked since the beginning of the use of imprisonment as the main means of punishing those who violate social norms.”

Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003), 40.

This chapter examines the trajectories of Ottoman prison reform, the underdeveloped prison system, the peculiar imprisonment practices, and above all the place of women prisoners in prison regulations from the *Tanzimat* (1839) until the demise of the Ottoman Empire. The special place of women inmates in Ottoman prisons discussed focusing on gender-specific regulations and arrangements. This chapter has been divided into three periodic sections: the *Tanzimat* era (1839-1876), the Hamidian era (1876-1908), and the period governed by Society for Union and Progress (1908-1918). This study recounts the imprisonment methods, special incarceration areas, the transformation of punishment methods, and the birth of the “modern” prison in the Ottoman Empire within the light of reform proposals, observation reports, and prison regulations that have been issued as a consequence of the Ottoman bureaucracy’s attempts for penitentiary reform.

As Yıldız says, prison reform (*Hapishâne islahâti*) has been visible as a key term in the official correspondence of Ottoman bureaucracy since the 1850s with the effects of international interventions.³⁷⁵ Modernization as a notion has been relevantly conceptualized by scholars to discuss the Ottoman prison transformation process even with its achievements and failures during the 19th century.³⁷⁶ Beyond this reform aspiration, the Ottoman penal practices underwent a major change based on new punitive concept, imprisonment instead of corporal punishment by the Penal Codes during the *Tanzimat* period, as Chapter 3 discusses.³⁷⁷

Whilst this chapter deliberates the transformation of punishment methods and the establishment of a new prison system, most importantly it sheds light on the place of women inmates in prison reform, proposals for their imprisonment, the effects of the femininity of

³⁷⁵ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 110.

³⁷⁶ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 5-6.

³⁷⁷ See Chapter 3.

women prisoners on the imprisonment policies for female inmates. The main target of this chapter is to seek out the particular regulations for female inmates, specific reform proposals for women's imprisonment, and reform attempts for women's prisons, through official bureaucratic documents from the Ottoman archives.

During the prison reform process from the *Tanzimat* up to the demise of the Empire, there were direct political interventions by European states through the foreign ambassadors and guest inspectors such as British Ambassador Stratford Canning, British Commander Major Gordon, and lastly German prison inspector Paul Pollitz, who were assigned to inspect and observe the Ottoman prisons at various times during the late Ottoman Empire. While addressing the main aim of these international interventions and the content of the observation reports and reform proposals issued by European bureaucrats, this study sheds light on the gender-specific commentaries concerning women's imprisonment and reform proposals for women's prisons. In the end, this chapter also reveals the practical influences of ongoing prison reform and regulation attempts on the Ottoman prisons until the decline of the Empire in 1918.

Consequently, this chapter provides a larger overview to analyze the transformation of Ottoman prisons which pursued a considerable number of stages in order to fulfil the reform of a fresh penitentiary system in the Ottoman Empire.

4.1. The Ottoman Prison System Before the *Tanzimat* 1839

The global penal trend was towards the abolition of body-oriented punitive methods such public execution, flogging, fetters, chains, and other methods of torturing prisoners in European states which began to construct prisons and penitentiaries with special prison reform attempts.³⁷⁸ As an inevitable effect of these global penal changes, the Ottoman Empire aspired to replace imprisonment as the main punishment method instead of corporal punitive methods with the penal codifications and new judicial institutions in the 19th century, as Section 2.1 addresses.³⁷⁹ Admittedly, it paved the way for several innovations for a standardized criminal justice system including fresh punitive forms, proper penal standards and above all the construction of imprisonment areas to carry out incarceration as the main sentencing method. For the sake of these punitive goals, the Ottoman government began on a greasy pole which took seventy-eight years. This trend stimulated a new prison understanding, namely a "penitentiary" structure which targets correcting, purifying, and rehabilitating the prisoners,

³⁷⁸ Norman Johnston, *Forms of Constraint: A History of Prison Architecture* (Urbana and Chicago: University of Illinois Press, 2000), 44-45, 101-104.

³⁷⁹ See Section 2.1.

instead of the classical confinement practices of the existing Ottoman jails which mostly consisted of dungeons, shipyards, towers, fortresses, citadels, and so on.³⁸⁰

In this regard, here we shall take a brief look at the previous punitive methods and the confinement areas before the *Tanzimat* to have a background before the discussion on the transformation of Ottoman prisons. Before the breeze of the *Tanzimat*'s wind of change affecting the transformation of Ottoman criminal justice and prisons, offenders had generally been punished by the death penalty (*İdam*), hard labor (*kürek*), flogging (*kırbaç*), banishment (*nefy*, *siürgün*), fetters (*pranga*) and such similar punishments which mainly derived from the Shari'a punitive methods.³⁸¹ These rudimentary punitive ways based on corporal punishment, namely body-oriented punitive methods, intentionally underwent abundant changes and serial abolition in the mid-*Tanzimat* period.³⁸² Following these body-oriented punitive ways, spatial imprisonment areas traditionally remained the same, also consisting of shipyards (*tersane*), fortresses (*kale*), dungeons (*zindan*), and bastions (*kale burçları*) which were used as imprisonment areas to incarcerate the offenders.³⁸³ Along with these disorganized imprisonment areas, the hospitals and poorhouses also hosted prisoners who could be defined as criminal or (occasionally) insane, that is why criminal and mentally ill people have certainly not been distinguished from each other.³⁸⁴ This tendency derives from the scarce knowledge between the distinction of criminality and mental illness in identifying criminal people who had to be confined with corrective punishments or treated by medical support.³⁸⁵ As the 19th century criminal anthropologist and psychiatrist Cesare Lombroso insisted, criminal and mentally ill characters share similar physical and psychological features, which dramatically hindered the differentiation between the criminal and mentally ill characters in the 19th century.³⁸⁶ As a

³⁸⁰ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 58.

³⁸¹ Ahmet Akgündüz. *Mukayeseli İslam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle University Faculty of Law Publications, 1986), 803-804.

³⁸² See Tuna Başbék, "Tanzimat and Penal Modernity: The Abolition of Torture in the mid-Nineteenth Century." (MA Thesis, Boğaziçi University, 2015).

³⁸³ See Chapter 3 for the imprisonment practices of the Shari'a jurisprudence.; Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Sertîveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 10.

³⁸⁴ See Artvinli, Fatih, *Delilik, Siyaset ve Toplum: Toptaşı Bimarhanesi (1873-1927)* (İstanbul: Boğaziçi Üniversitesi Yayınları, 2013), 18. Artvinli underlines that the separation of abnormal people, including the mentally ill, insane, people and prisoners, etc., who all damaged the society with their deviant and criminal behaviors. Thus, they have been incarcerated into closed areas, such as madhouses, asylums, hospitals and prisons. The tendency of confining criminals into these areas without any separation derived from this categorization and stigmatization of people as "abnormal" without any distinction in the 19th century.

³⁸⁵ Cesare Lombroso, *Crime: Its Causes and Remedies* translated by Henry P. Horton (USA: The University Press Cambridge, 1911), 93-99.; Artvinli, Fatih, *Delilik, Siyaset ve Toplum: Toptaşı Bimarhanesi (1873-1927)*, (İstanbul: Boğaziçi Üniversitesi Yayınları, 2013), 18-19.

³⁸⁶ Lombroso, 93-94.

component of this identification tendency, delinquents (especially prostitutes) and insane people, could be sent to the *Tavhâne* (an Ottoman poorhouse in Istanbul) or hospitals e.g Balıklı Rum Hospital to be confined.³⁸⁷ The major target of confining the mentally ill and criminal subjects together is keeping these deficient people apart from the healthy people of society with incarceration.³⁸⁸ Undoubtedly, this application paved the way for using mutual spatial areas for the incarceration of mentally ill and criminal people in hospitals, mad houses, jails, prisons and even poorhouses which have been commonly used. Moreover, Artvinli notes that these confinement implementations for the mentally ill, poor and criminal people in hospitals and prisons remained until the 1870s in Istanbul.³⁸⁹ In case murderers had hysteria attacks, they could be sent to Sultanahmet Prison instead of Toptaşı *Bimarhânesi* (madhouse) merely for their incarceration without any medical diagnosis or treatment in the middle of the 19th century in Istanbul.³⁹⁰ Furthermore, mentally ill and criminal members of non-Muslim communities such Greeks, Armenians, and Jews could be incarcerated in the communities' hospitals to reduce the high population of the police jails and avoid the deaths of inmates due to the dire conditions of these imprisonment areas.³⁹¹ The Greek-Orthodox *ispitalyas* (hospitals) were very dominant for the incarceration of insane, poor people and delinquents in mixed rooms in Istanbul.³⁹² This practice seems to have been carried out in order to hinder the jeopardization of the prisoners' health, to prevent mass deaths of prisoners and surely removing these dangerous people (regarding their mental disorders and criminal tendencies) with incarceration during the early years of the *Tanzimat*.³⁹³ However, in my opinion, it mainly functioned for reducing the number of inmates in overcrowded jails in that the Ottoman government overwhelmingly coped with the overpopulated jails and dungeons issue in those years, as the following sections address.

On the other hand, Yedikulehisarı, Rumelihisarı (fortresses), Baba Cafer (dungeon) and Haliç (citadels), and the Galata Tower, Tersâne (shipyard) functioned as major confinement areas which were defined as dungeons in which offenders were exposed to corporal punishment

³⁸⁷ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 20-21.

³⁸⁸ Michel Foucault, *History of Madness*, edited by Jonathan Murphy and Jean Khalfa (London: Routledge, 2006).

³⁸⁹ Fatih Artvinli, *Delilik, Siyaset ve Toplum: Toptaşı Bimarhanesi (1873-1927)* (İstanbul: Boğaziçi Üniversitesi Yayınları, 2013), 68-69.

³⁹⁰ Artvinli, 89-91.

³⁹¹ Artvinli, 72-73.

³⁹² BOA.İ.ŞD. 30/1453: 18 Safer 1293 / 15 March 1876. Bimarhaneler Nizamnâmesi was proclaimed with its 22 articles. The first and third articles directly related to recording names and other information of the mentally ill people. They aimed at preventing unregistered reception of insane people to the *ispitalyas* and madhouses.

³⁹³ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 158-159.

such as fetters, flogging, hard labor, and so on, along with hunger, dark, humid and cold, namely inhumane conditions, without any vital facilities.³⁹⁴ In other words, delinquents and insane people were completely forgotten in desperate and deep misery. Şen claims that most of the observations and descriptive scenes from these dungeons have been found from the notes and diaries of diverse European travelers and ambassadors, such as Austrians and British officials who dealt with observing and protecting the rights of prisoners of war.³⁹⁵ These scenes provide the sort of information which was mostly in observations in the reports of ambassadors about the living conditions of war prisoners in the Ottoman prisons. The prisoners suffered under the dreadful conditions. This study abundantly gives several examples from the writings and reports of foreign officials in the following pages.³⁹⁶ As an acknowledgment of Şen's claims, according to Gültekin Yıldız, *Baba Cafer Zindani* (a citadel near Yemiş İskelesi in İstanbul) was identified as a dungeon due to its dreadful living conditions for the prisoners, and it had been performing as a jail from the 16th century up to the end of the 19th century, especially for female inmates.³⁹⁷ This citadel consisted of several parts and a basement that was a dark and humid dungeon (located in its basement) was solely for convicts who had committed serious offenses.



Figure 4.1: Yemiş İskelesi (Fruits Pier), 1870s. Sébah & Joaillier Photo Archives.³⁹⁸

³⁹⁴ Ömer Şen, *Osmanlı'da Mahkum Olmak, Avrupalılaşma Sürecinde Hapishaneler*. (İstanbul: Kapı Yayıncılık, 2007), 6-9.

³⁹⁵ Ibid., 10-11.

³⁹⁶ See BOA.HR.TO. 215/58: 24 § 1267/ 24 June 1851; MVL. 246/49: 4 R 1268/ 27 January 1852; BOA.DH.MB.HPS. 92/18.12 Ramazan 1334/ 13 July 1916.

³⁹⁷ Baba Cafer citadels are located near the Eminönü bus stops today. Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908*. (İstanbul: Kitabevi Yayımları, 2012), 14.

³⁹⁸ See Digital Archives of Sébah & Joaillier Photography Studio in Galata.
<https://en.sebahjoaillier.com/fotograf-arsivi>

Above all, it comprised a women's ward (as a part of the fortress) inside dungeons which incarcerated specifically Ottoman prostitutes who were punished by *nefy* (banishment), before they were sent to their penal colony.³⁹⁹ In case the prostitutes might maintain their immoral acts (*uygunsuz hareketleri*) in their penal colonies, they set up a separate place for prostitutes in Baba Cafer dungeon to confine them to prevent them performing immoral acts somewhere else.⁴⁰⁰

Furthermore, Ottoman fortresses and citadels enormously exemplified the most dominant punitive areas that were composed of dilapidated corridors and basements of government offices or the other institutions, unfortunately providing inhumane life standards for the inmates. Hence, the prisoners' health conditions were jeopardized under the drastic conditions of these dungeons which had no heating, lighting, and bed-clothes, no hygiene kits, nutritional services or other vital facilities (e.g., toilets) for the inmates.⁴⁰¹ Moreover, the prison cadre such as guards, inspectors, gaolers, and floggers, etc. was not officially on salary from the Ottoman state.⁴⁰² Thus, as this study intensively demonstrates, prison employees frequently resigned, corrupted and abused prisoners sexually and financially, and hence were mostly guilty of malpractices.⁴⁰³ As evidence of their misery, the prisoners had to feed themselves with their own money, they survived within their own limits during the age of dungeons.⁴⁰⁴ Nevertheless, not only during the pre-prison era but also in the early beginnings of prison reformation, like the Ottoman inmates, Egyptian prisoners also suffered under similar living conditions in prisons, for example: Alexandria's shipyard, and Bulaq's spinning factory (*iplikhâne*). As Rudolph Peters notes, the Egyptian prisoners dramatically survived under dreadful conditions akin to Ottoman prisoners even in the 1850s during the age of prison reformation.⁴⁰⁵

All in all, although the punitive methods and criminal justice system were reviewed by Ottoman bureaucratic touches as a quick and insistent response to the global call for prison reform, the Ottoman prisons maintained their dreadful and dilapidated physical conditions for the inmates during the age of pre-prisons and even in the early years of Tanzimat as the literature explicitly illustrates in the following sections.

³⁹⁹ Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahişe Hatunlara Uygulanan Cezalar: Hapis ve Sürgün," In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005), 153.

⁴⁰⁰ Ali Karaca, 153-154.

⁴⁰¹ Ufuk Adak, The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 141-183.

⁴⁰² Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 24-25.

⁴⁰³ See Section 5.2.

⁴⁰⁴ Yıldız, 24-25.

⁴⁰⁵ Rudolph Peters, "Controlled Suffering: Mortality and Living Conditions in 19th Century Egyptian Prisons," *International Journal of Middle East Studies*, Vol. 36, No. 3 (Aug., 2004), 394-95.

4.2. Transformations of the Ottoman Prisons during the Tanzimat (1839-1876)

The *Tanzimat*'s reformation idea overwhelmingly dominated legal and penal fields which firmly stipulated institutional and bureaucratic changes for the transformation of Ottoman jails into prisons, even though their practical reflections were insufficient for the fulfilment of reforms, depending on the political context and financial situation. This section also traces international political interventions by European representatives with the notes of two most important names of Ottoman prison reform, Stratford Canning and Major Gordon, during the *Tanzimat* period, in order to sketch a wider frame on the development story of the Ottoman prisons. Above all, this section examines the place of women prisoners who entered picture of the Ottoman prison reform attempts, specifically during the early years of the *Tanzimat*. Hence, this section seeks out the interwoven questions of Ottoman prisons and women's imprisonment through the regulations, reform proposals, and other institutional efforts which all shaped the Ottoman imprisonment policy towards women prisoners. The purpose is to understand whence the Ottoman prison reform attempts derived, how they confronted the "great question of Ottoman prisons", what was the main motivation of the aspiration of prison transformation and most significantly, what was the place of women's imprisonment in the penal policies of Ottoman bureaucracy. Furthermore, this section offers the examination of standardization, systematization, and the institutionalization of imprisonment as the major punitive method, which became the gist of the birth of prisons and contemporary discussions on the great Ottoman prison issue during the late Ottoman Empire.

In this regard, we shall start with the establishment of the Ottoman Police Institution and its functions on the transformation for criminal justice. Quasi-uniformed prisons as spatial-punitive areas became initially visible inside police stations in İstanbul in the early years of the *Tanzimat* after the foundation of the *Zabıtiyye Teşkilâti* (Police Organization) in 1844, during the reign of Sultan Abdülmecid to control and secure society and to consolidate public surveillance in İstanbul.⁴⁰⁶ Shortly after its establishment, the *Zabıtiyye Teşkilâti* and *Polis Meclisi* (Police Council) were established as organizations attached to Tophâne *Zabıtiye Müşirîyeti* in İstanbul in 1845.⁴⁰⁷ According to Schull:

⁴⁰⁶ Noemy Levy and Alexandre Toumarkine, *Osmanlı'da Asayiş, Suç ve Ceza 18.- 20. Yüzyıllar* (İstanbul: Tarih Vakfı Yurt Yayınları, 2007); Ali Sönmez, "Polis Meclisinin Kuruluşu ve Kaldırılışı (1845-1850)" *Ankara Üniversitesi Dil ve Tarih-Coğrafya Fakültesi Tarih Bölümü Tarih Araştırmaları Dergisi*, Vol. 24, Issue 37, 2005; Halim Alyot, *Türkiye'de Zabıta: Tarihi Gelişim ve Bugünkü Durum* (Ankara: İçişleri Bakanlığı Yayınları, 1947); Hikmet Tongur, *Türkiye'de İlk Zaptiyeler Zaptiyeler Kolluk Tarihizdenb İlk Vesikalar* (Ankara: Güney Matbaacılık ve Gazetecilik. T.A.O, 1948).

⁴⁰⁷ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 80-81.

*The assumptions and world view associated with Ottoman modernity governed this transformation. In other words, Ottoman officials implemented these reforms in order to centralize power over existing criminal justice institutions and practices through the rationalization and standardization of legal procedure, criminal codes, court practices and jurisdictions, and the establishment of powerful police forces.*⁴⁰⁸

Schull insists that the Ottoman bureaucracy eagerly embarked on the revision of the criminal justice system through fresh penal and legal institutions of which the structured police force became one of the most significant cornerstones of Ottoman security. As an apparent sign of the institutionalization of the Ottoman police force, they promulgated the 1845 *Polis Nizamnâmesi* (Police Regulation).⁴⁰⁹ The first police regulation aimed at standardizing the way of keeping society under the state's control, reducing crime rates, struggling against banditry, and controlling the public relations and keeping surveillance⁴¹⁰ in the Ottoman provincial centers such as Istanbul, Izmir, Sarajevo, etc.⁴¹¹ The regulation also covered the systematic investigative methods such as police interrogations, collecting proof, etc. especially for violent offences, such as homicide, and bodily injury, along with the obligation for the bringing *mürür tezkîresi* (passport) for domestic travels.⁴¹² Moreover, the Police Force began to function as a systematic control mechanism instead of the previous controlling methods such as “*Havadis Jurnalleri*” (Journals) and “*Yoklama Defterleri*” (Muster Records).⁴¹³ Consequently, the Police Institution became another backbone of the criminal justice system of the Empire, although widespread corruptions, malpractices and resignations among police officers posed

⁴⁰⁸ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 22.

⁴⁰⁹ See details on the foundation and nationalization of Ottoman Police (Zabıtiyye) Force: Noémi Lévy-Aksu, “Building Professional and Political Communities: The Value of Honor in the Self-Representation of Ottoman Police during the Second Constitutional Period,” *European Journal of Turkish Studies* 2014, No. 18 (2014), 4-5; Ali Sönmez, “Zaptiye Teşkilatı’nın Düzenlenmesi (1840-1869),” *Tarih Araştırmaları Dergisi*, Ankara Üniversitesi, Mart 2006, 39, 199-219; Ali Sönmez, ‘Zaptiye Teşkilatının Kuruluşu, 1846-1879’, (PhD diss., Ankara Üniversitesi, 2005), 98.

⁴¹⁰ Fırdan Ergut, *Modern Devlet ve Polis, Osmanlı’dan Cumhuriyet'e Toplumsal Denetimin Diyalektiği* (İstanbul: İletişim Yayıncılığı, 2015), 123-124.

⁴¹¹ Noémi Lévy-Aksu, “Building Professional and Political Communities: The Value of Honor in the Self-Representation of Ottoman Police during the Second Constitutional Period,” *European Journal of Turkish Studies* 2014, No. 18 (2014), 13-14.

⁴¹² See details of investigation methods of Ottoman police force with the light of Panayot’s Murder case in 1851 in Aydin province as a microhistorical study of Paz: Omri Paz, *Who Killed Panayot? Reforming Ottoman Penal Culture in the 19th Century* (New York: Routledge, 2021), 1-15, 219-225.; Bingöl concentrates on using “*mürür tezkîresi*” obligation for travel as a way of prevention for the mobility of criminals. Sedat Bingöl, “Osmanlı Devleti’nde Tanzimattan Sonra Kriminal Kimlik Tespit Yöntemlerine Dair Notlar ve Belgeler,” *Belleten* 274 (2011), 845.

⁴¹³ See Cengiz, Kırlı, “Coffeehouses: Leisure and Sociability in Ottoman Istanbul,” *Leisure Cultures in Urban Europe, 1700-1870*, edited by Peter Nigel Borsay and Jan Hein Furnee (Manchester: Manchester University Press, 2016), 161-181.; Cengiz, Kırlı, *Sultan ve Kamuoyu: Osmanlı Modernleşme Sürecinde “Havadis Jurnalleri (1840-1844)*, (İstanbul: İş Bankası Kültür Yayıncılığı, 2009).

irregularities and undue prosecutions in Ottoman criminal justice.⁴¹⁴ In the following years, this professionalization and institutionalization of criminal investigation standards stimulated new methods of criminal identity determination such as anthropometry in other words “*Mesâha-i Ebdân*”, dactyloscopy (handprints), and physiognomy which prevented malpractices of police officers at least for the investigation processes.⁴¹⁵

In addition to these innovative criminal investigation methods, the Ottoman government aimed at building new prisons in addition to the earlier punitive areas such as tomruks (logging chain centers) in Beşiktaş, Dersâdet (central prison), and Üsküdar police offices, as apparent evidence of willingness to make incarceration the principal method of punishment.⁴¹⁶

Yet, these underdeveloped imprisonment areas (dungeons, *mehterhânes*, shipyards, citadels, towers, basements of official buildings, etc.) did not provide convenient conditions to incarcerate offenders who were sentenced specifically for a long period of time (up to 15 years imprisonment especially for homicide cases) as enacted by the imperial penal codifications.⁴¹⁷. These imprisonment areas became insufficient for the offenders who were sentenced for longer imprisonment, hence the necessity of new imprisonment areas increased day by day in the 1840s. On the other side, although the first Ottoman penal codification (1840 Penal Code) remarkably meted out imprisonment, offenders continued to be punished by corporal punishment namely torture such as fetters, flogging, chaining, and hard labor in fortresses, citadels, shipyards, and other ad hoc imprisonment areas. As Karaca states, most of the prisons, namely *Tersâne-i Âmire Zindani*, *Babiâlî Tomruğu*, *Bâb-i Seraskerî Tomruğu*, *Ticarethâne-i Âmire*, and *Tophâne-i Âmire* jails (*mahbes*) simultaneously implemented the practices of

⁴¹⁴ See more details on the regulative guide for the ethics of policing that had been taught in the police schools in Salonica and Istanbul in 1910 in order to prevent corruption and irregularities among police officer candidates. Fatih Beren, "Polis Efendilere Mahsus Terbiye ve Malumat-ı Meslekiye" "İsimli Yazıyla İlişkin Bir Değerlendirme," in *Polis Meslek Etiği*, ed. İhsan Bal and M. Bedri Eryılmaz (Ankara: Polis Akademisi Başkanlığı Yay., 2002), 289-300.

⁴¹⁵ See more details on the 19th century's trendy investigative methods that derived from "modern criminology technics" were all created and discussed by pioneer criminologists and penologists, such as A. Bertillon, Francis Galton, and Henry Faulds; Henry T.F. Rhodes. *Alphonse Bertillon: Father of Scientific Detection* (New York: Abelard-Schuman, 1956), 27; Francis Galton, "On the Anthropometric Laboratory at the Late International Health Exhibition," *The Journal of the Anthropological Institute of Great Britain and Ireland*, 14: 205–221, 1 January 1885; Henry Faulds, *Guide to Fingerprint Identification* (Wood, Mitchell and Co., 1905); Sedat Bingöl, "Osmanlı Devleti'nde Tanzimat Sonra Kriminal Kimlik Tespit Yöntemlerine Dair Notlar ve Belgeler," *Belleten* 274 (2011), 855-862.

⁴¹⁶ See "Zindan," in Mehmet Zeki Pakalın, *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, Vol. 1 (İstanbul: Millî Eğitim Basımevi, 1971), 663. Pakalın notes the *tomruğa bağlama* (logging chains) was a traditional punitive method and there were several *tomruk* centers along with dungeons and *mehterhânes* in the Ottoman Empire.; Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908*, (İstanbul: Kitabevi Yayımları, 2012), 82-83.

⁴¹⁷ See Chapter 3 for the Ottoman Penal Codifications and their proposed punishment ways (1840 and 1851).

imprisonment and harsh corporal punishments together as punitive methods in these underdeveloped jails until the second half of the 19th century.⁴¹⁸

Besides, the first *Zaptiyye Müşirî*, Hafiz Mehmed Pasha (Head of Police Force in Istanbul) and *Meclis-i Vâlâ* (The Supreme Council) collectively proposed that the prisoners who were incarcerated in *Babiâlî Tomruğû*, *Bâb-ı Seraskerî Tomruğû*, *Bâb-ı Zabtiyye, Tersâne-i Âmire Zindanî* and *Tophâne-i Âmire* had to be separated according to their crimes as a consequence of the suggestions of the 1846 report.⁴¹⁹ This proposal was a very surprising attempt for the classification of crimes and criminals that would be fulfilled as late as the promulgation of the 1858 Penal Code. Furthermore, a newly built prison construction namely *Bâb-ı Zabtiyye Tevkîfîhânesi* had separated wards for the different crime categories in Istanbul, in 1846. The first persistent regularization step (*mahbeslere bir nizam vermek*) mainly coped with the insufficiency of separate wards for each crime category. The fact that there was not room to swing a cat in the jails of Istanbul led to close contact and interaction among prisoners in these narrow jails (*mahbes*). The 1846 regulation report proposed that in case they were able to find sufficient funding from the budget, new prison constructions could be built in Istanbul and in the provincial areas. The Supreme Council (*Meclis-i Vâlâ*) aspired to hastily embark on building new prisons in provincial areas where the budget provided a sufficient amount of money (maximum 2000 piasters (*guruş*) for each prison construction).⁴²⁰ On the other hand, they touched upon the question of sick and unhealthy prisoners, whose lives were highly jeopardized in overcrowded jails under direful living conditions by the report. That is why sick prisoners could be sent to hospital and at least controlled by the prison doctors (if provided) which could be a prevention of mass prisoners' deaths.⁴²¹ Therefore, the ordinance stated that each prisons' administrative cadre had to be warned about reducing high humidity and the polluted air in the prisons, at the same time they had to provide mattresses for prisoners and more coal to keep the prisons warm during winter.⁴²² In consequence, the *Meclis-i Vâlâ* aimed at enhancing the prisons with the 1846 prison regulation draft which eagerly ordered the building of new prisons both in Istanbul and the provinces.

⁴¹⁸ Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahîse Hatunlara Uygulanan Cezalar: Hapis ve Sürgün," In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005), 154.

⁴¹⁹ This crime classification is very remarkable in that it was done before the proclamation of the 1858 Penal Codifications. Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 84-85.

⁴²⁰ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi, 2012), 83-84.

⁴²¹ The jails consisted of dilapidated and disordered (*nizamsız ve uygunsuz*) constructions; thus, this chapter focuses on the content of these proposals to be carried out in the jails. Notwithstanding, under the conditions of these underdeveloped systems, the prisons could not afford any medical doctors or any medical facilities.; Yıldız, 84.

⁴²² Yıldız, 84.

Above all, these proposals might be evaluated as a concrete step of the reform attempts which targeted the standard and regular prison constructions and separate prison wards for inmates, both female and male. The Supreme Council was aware of scarce imprisonment areas for the female delinquents in that it urged the increase of confinement areas for females (*taife-î nisâya mahsus mahbesde habsi lâzım geleceği*), as seen in the *Meclis-i Vâlâ*'s internal correspondences.⁴²³

Not only in the provinces but also in Istanbul, there was no separate and proper place which functioned as a prison to incarcerate women prisoners. As a provisional solution, the female inmates, including prostitutes, began to be incarcerated in *Haseki Ticarethânesi* (commercial building in Istanbul) during the early years of the Tanzimat.⁴²⁴ Even though the Ottoman government's reports dealt with the imprisonment question of female inmates, the traditional way of imprisoning of women offenders and inmates continued, in leased imprisonment areas, from local clergy (*imams*) and local headmen (*muhtars*).⁴²⁵ These leased imprisonment areas were completely *ad hoc* and they dramatically continued to compensate for the insufficiency of women's prisons in the early years of the *Tanzimat*.⁴²⁶ Ali Karaca insists that female offenders (mostly prostitutes) were overwhelmingly incarcerated in an imam's house near Ağa Kapısı, İstanbul before the *Tanzimat*. In addition to this claim of Karaca's, Tavhane (poorhouse) was another women's prison near Ağa Kapısı in İstanbul during the early years of the *Tanzimat*.⁴²⁷

4.3. The First International Intervention: British Ambassador Stratford Canning

During the early years of the *Tanzimat*, the Western states dealt closely with the Ottoman prisons. Charles McFarley, a British commander who visited the Ottoman Empire for the second time and wrote a travel diary, mentioned that the French Minister of Internal Affairs, namely Duchatel, demanded a report that would concern the “economical and disciplinary regiment of the Turkish prisons” from a French political economy professor, M. Blanqui who was assigned to duty to the Ottoman Balkans at that time.⁴²⁸ Hence, from the

⁴²³ Yıldız, 84-85.

⁴²⁴ Yıldız, 84.

⁴²⁵ See Section 5.1 for more information on Imams' Houses.

⁴²⁶ Güler Demir, *Ceza ve İnfaz Kurumu Kütüphaneleri: Dünyada ve Türkiye'de Durum* (İstanbul: Hiperlink, 2015). 108.

⁴²⁷ Ali Karaca, “XIX. Yüzyılda Osmanlı Devleti’nde Fahîse Hatunlara Uygulanan Cezalar: Hapis ve Sürgün.” In *Hapishane Kitabı*, edited by Emine Gürsoy Naskalı and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005), 154.

⁴²⁸ See details of prisons in Istanbul in 19th century. Imprimerie Administrative de Paul Dupont *Rapports sur Les Prisons de la Prusse, sur le Régime de Quelques Prisons de L'Espagne, de L'Angleterre et de L'Allemagne et sur le Régime des Prisons de la Turquie, Paris*, 1843. 79-82. This report was written by

aspect of data collecting from the imperial prisons within a “reform cloak”, the name of M. Blanqui preceded that of Stratford Canning, as seen his detailed report which was published in French.⁴²⁹ As Yıldız notes, this could be postulated as a first international political interest from the French government in Ottoman prisons.⁴³⁰

Here it is essential to touch on British Ambassador Sir Stratford Canning’s valuable contributions to the Ottoman prison reform with his observations and notes. While he spent much time in the imperial town of Istanbul during his ambassadorship, he was able to collect observation reports and data on the Ottoman dungeons and jails, hence Canning drew up a significant report on Ottoman prisons. The British Consulate reports involved specific observations and supervision anecdotes dealing with non-Muslim and foreigner prisoners who comprehensively consisted of the bulk of the captives after the battles between the Ottoman army and the British forces. Therefore, the foreign prisoners were incarcerated in the fortresses, shipyards, and other dungeons generally located in abandoned castles. As Lane-Poole states, Ambassador Canning primarily aimed at controlling the foreign prisoners (captives of battles) and other non-Muslim prisoners who were Protestant Armenian, Nestorians and local members of Greek-Orthodox communities.⁴³¹ Also, Canning specifically concentrated on the Tophâne-i Âmire (*Tomruk Center*) which largely incarcerated British captives and other British prisoners, more than the other jails in Istanbul.⁴³² As a result of Canning’s special interest in Tophâne Jail, which was described as a dungeon in 1856, the British consulate emphasized the necessity for a new imprisonment area where there ought to be a separate ward only for British inmates, in addition to their special anecdotes for the conditions of *Bâb-i Zabtiyye* jails.⁴³³ These demands and requests concerning the incarceration of British captives or imprisoned diplomats in the “modern” and standard prison buildings demonstrated that while the British consulate aspired to keep their citizens secure during their imprisonment in the Ottoman Empire, they had a chance to intervene in the prison politics of the Ottoman state using British prisoners as a

M. Blanqui who was a French bureaucrat sent by French government in 1841 for the observation of Bulgarian public revolts in the Balkan region. During his travel, he prepared a report on the prisons of Vidin, Sofia and Constantinople. His observations had dramatic depictions on Tophane jails and other bagnios in which prisoners suffered misery, hunger and woeful living conditions of non-standard imprisonment areas. As M. Blanqui’s observations show, the letter sent to French Foreign Minister on 27 September 1841. This book also has detailed information on Spanish, British, German prisons along with Ottoman prisons. Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 110.

⁴²⁹ Ibid., 110-111.

⁴³⁰ Ibid., 111.

⁴³¹ Stanley Lane-Poole, *The Life of the Right Honorable Stratford Canning* (London: Longmans & Green, 1888), 85-87.

⁴³² Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 75; BOA.HR.TO. 215/58: 24 § 1267/ 24 June 1851; BOA.MVL. 246/49: 4 R 1268/ 27 January 1852. Canning frequently used “dungeon” for the definition of Ottoman jails.

⁴³³ Ibid., 75-76.

political tool, as the following pages touch on. According to Yıldız, demands for special imprisonment areas by European ambassadors for their citizens increased in the beginning of the 19th century, hence this engendered “the international prison question” as a diplomatic issue in the international relations of the Ottoman state.⁴³⁴

His report, namely, “Memorandum on the Improvement of Prisons in Turkey”⁴³⁵ was written by Ambassador Canning and sent to Ali Pasha on 24 June 1851, during the reign of Sultan Abdülmecid.⁴³⁶ In the report, he proposed an innovative criminal justice system, “modern” punitive methods, deterrent penal ways for crime prevention, the improvement of prisons’ living conditions, and moral rehabilitation and corrective punitive techniques for the prisoners.⁴³⁷ His report involved remarkable and unique observations from provincial prisons in places such as İstanbul, Bursa, İzmir, Kayseri, Sivas, Samsun, Erzurum, Adana, Hamah, Humus, Haleb, Damascus, Alexandria, Baghdad, Mosul, Beirut, Akka, Jaffa, Jerusalem, Rhodes, Crete, Cyprus, Lesvos island, Edirne, Salonica, Enos, Tulca, Varna, Plovdiv, Albania, Benghazi, Gıdamis (a district in Trablusgarb), Marzuk and Tripoli throughout the Empire formed during his ambassadorship in British consulate in Constantinople.⁴³⁸ According to the collected data about the current situation of prisons in the provinces, the imprisonment areas consisted of the basements and dungeons of the local governor’s offices (*vali konağı*) which were also located the residences of the provincial governors (vali pashas), narrow places like the tiny gaps (*delik*) or hypogeums (*mahzen*) on occasion inside fortresses and towers.⁴³⁹

According to Canning:

In Turkey where prisons exist in every city and town of a certain extent, and where little attention has hitherto been paid to the science of constructing and administering them, there is ample room for improvement without any considerable out lay. Much unnecessary bodily suffering, much of the evil resulting from moral contagion and from a corrupt and cruel exercise of authority not contemplated by the law, may be removed at once by a few judicious regulations and corresponding arrangements. Even the adoption of these indispensable

⁴³⁴ Ibid., 45.

⁴³⁵ FNO 608/52; FO 608/03: Reports on Conditions in Turkish Prisons; BOA.MVL 246/49: 1 R 1268/ 24 January 1852; BOA.HR.TO. 215/58: 24 § 1267/ 24 June 1851. Ambassador Stratford Canning prepared a memorandum, “Prisons in Turkey.” This report includes not only suggestions of Canning for a modern penitentiary system but also observations on provincial prisons which was written and sent by British delegates in the Ottoman provinces. In this archival file, there is a special letter of Canning’s sent to Grand Vizier Ali Pasha with its original English version.

⁴³⁶ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire.” (PhD diss., University of Cincinnati, 2015), 21. Schull, *Prisons in the Late Ottoman Empire*, 26, 42-43; Yıldız, *Mapusâne*, 110-161.; BOA.HR.TO. 215/58: 24 § 1267/ 24 June 1851.

⁴³⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 43.

⁴³⁸ See Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 111-134.

⁴³⁹ Yıldız, 112.

*preliminaries to a more complete system of improvement could hardly be affected without some additional expense. But in the present advanced state of human knowledge and public opinion no government which respects itself and claims a position among civilised communities can shut its eyes to the abuses which prevail, or to the horrors which past ages may have left in that part of its administration which separate the repression of crime and the personal constraint of the guilty or the accused.*⁴⁴⁰

As he claimed, the Ottoman prisons urgently needed to be renovated with a considerable budget and the Ottoman state had to follow deterrent punitive methods instead of corporal punishment in order to be more “civilized” and a “modern” state. Furthermore, in the report, five different measures were highlighted as urgent questions for Ottoman prisons and prisoners. Adak summarizes with five points:

1. *the buildings themselves, their position, dimensions, and internal distribution*
2. *the means of lighting, warming, ventilating, and keeping the premises clean and dry;*
3. *the prisoners. Their safe-custody, health, fair treatment, moral amendment, and separation in classes;*
4. *authority within the prisons or over them. The responsibility of its exercise, and facility for carrying complaints to the controlling magistrate;*
5. *the means of religious consolation enjoyed by prisoners of the different forms of worship.*⁴⁴¹

Stratford Canning’s report also inspired the enhancement attempts of British government which eagerly supported the transformation of Ottoman punitive methods, improvement of the physical conditions of prisons, the enhancement of the health and living standards of inmates, abolishment of corporal punishment, control of prisons’ cadres and separation of the offenders regarding their crimes and sex.⁴⁴² Remarkably, the religious consolation and worship facilities were also prioritized within Canning’s report which explicitly referred to the purification, rehabilitation, correction, and deterrence of the offenders by worship and hard labor.⁴⁴³

Above all, he drew a valuable attention to the issue of women’s imprisonment in his report in 1851. According to his observations, “Female prisoners are generally handed over to the İmam, the Rabbi, the priests or the Parish authorities. At the capital (Istanbul), they were

⁴⁴⁰ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 191.

⁴⁴¹ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire,” (PhD diss., University of Cincinnati, 2015), 60-61.

⁴⁴² BOA., HR.TO. 215/58: 24 § 1267/ 24 January 1851; MVL. 246/49: 4 R 1268/ 27 January 1852.

⁴⁴³ BOA., HR.TO. 215/58: 24 § 1267/ 24 January 1851; MVL. 246/49: 4 R 1268/ 27 January 1852.

treated the same as the men and controlled by a woman gaoler, the Kolgee Khanum (Gölge Hanım)".⁴⁴⁴ As a result of this fact, he referred to imams' houses in which women offenders were incarcerated in the local religious leaders' houses depending on the religious affiliation of the offender.⁴⁴⁵ Notwithstanding, imam's houses provided a peculiar women's imprisonment area which was maintained as the most widespread spatial carceral place for the female prisoners especially in the imperial provinces from before the Tanzimat up to the decline of the Empire, as the section 5.1 broadly argues.⁴⁴⁶

To touch on his genuine target, nonetheless, all the interventions in the Ottoman prisons, the reformation aspiration, the interventions aimed at fulfilling Ottoman prison reform, and their efforts cannot be clarified by only oversimplified reasons, such as the civilizing, modernizing and Europeanizing goals of the British Empire. The trajectories of Canning's concerns demonstrated deep, intensive and rooted observations and studies on Ottoman prisons, as seen above. The fact is that Stratford Canning initially work to have a grasp of the current circumstances of imperial prisons in order to use this information as the apparatus to intervene in the internal politics of the Ottoman state.⁴⁴⁷ In this regard, both the concepts of "civilization," "modernization," and "the white man's burden" understanding became equally effective on Canning's and other foreign bureaucrats' special interest in the Ottoman prison. Beyond these reasons, tracing the trajectories of the data collecting and knowledge production process would create a useful path towards widening our approach to the issue of European interventions in the Ottoman prison politics. Both colonial state perspective and bringing modernity to the underdeveloped country as a major part of interventionist politics affected Canning's special interest in the Ottoman prisons during his ambassadorship. Furthermore, urgent reform aspirations and the invitation of the Ottoman government cannot be neglected as the dominant reasons for Canning's intervention in Ottoman prisons. Schull and Yıldız, who have all studied prison reform in the Empire during the age of the Tanzimat, the Hamidian and the CUP government, interpreted the political intervention of British Ambassador Stratford commonly as a reflection of the colonial state of mind.⁴⁴⁸ According to Yıldız, Canning's commentaries and

⁴⁴⁴ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire," (PhD diss., University of Cincinnati, 2015), 160.

⁴⁴⁵ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncılı, 2012), 112.

⁴⁴⁶ See Section 5.1.

⁴⁴⁷ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press), 2014, 43.

⁴⁴⁸ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire," (PhD diss., University of Cincinnati, 2015), 60; Kent, Schull. *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 42-43; Gültekin, Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908*, (İstanbul: Kitabevi Yayıncılı, 2012), 77-79.

evaluations of the contemporary situations of Ottoman prisons were very hyperbolic when we juxtapose the British and Ottoman prisons in the 19th century.⁴⁴⁹ That is why both the British Empire and the Ottoman Empire were faced with similar questions in their penal systems which was a very new global trend not only for the Ottoman Empire but also for the European states.⁴⁵⁰ As an acknowledgement of this argument, while Canning, Major Gordon and other British officers criticized the Ottoman prison system during the early years of the Tanzimat, the Victorian government also attempted to create an innovative and modern prison system since the early beginning of the 19th century in the British Empire.⁴⁵¹ They reinforced the building of penitentiaries from 1820, such as Brixton, Strangeways, Pentonville, Wormwood Scrubs, and Holloway, which are still used as prisons in Great Britain today.⁴⁵²

According to Williams:

*Conditions in such places could be dire. Unequipped for long-term habitation, large cells would hold numerous prisoners without adequate bedding or sanitation. Disease and infection spread easily. Corruption amongst those who ran or were incarcerated within the prison walls was rife. Gaolers could be bribed for access to more food, alcohol and preferential treatment. Some accounts suggest that women too could be bought and sold within the prison walls, or coerced into sex by the gaolers who controlled access to provisions and visits.*⁴⁵³

As Williams underlined both male and female prisoners suffered similar living conditions and they were exposed to malpractices of the prison cadres in Victorian England just as in the Ottoman Empire. Women inmates were even forced to whore by the prison employees outside the prisons, akin to Ottoman prisons, as section 5.2 addresses.⁴⁵⁴

In this sense, the genuine goal and the main intention of Canning's keen efforts⁴⁵⁵ to transform Ottoman prisons is still occupying the agenda of Ottoman historians who specifically concentrate on the prison history of the Ottoman Empire. According to Cunningham, "Canning's invariable conclusion was that the Empire could only survive through

⁴⁴⁹ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908*. (İstanbul: Kitabevi Yayınları, 2012), 77.

⁴⁵⁰ Paul Rock and Stanley Cohen, *Visions of Social Control: Crime, Punishment and Classification* (Glasgow: Polity Press, 1985). 58.

⁴⁵¹ See Chapter 1: The British government also gives effort to establish a proper penal system within the establishment of the Pentonville prison model in North London.

⁴⁵² Lucy Williams, *Wayward Women: Female Offending in Victorian England* (South Yorkshire: Pen and Sword Books, 2016), 2.

⁴⁵³ Williams, 2-3.

⁴⁵⁴ See Section 5.2.

⁴⁵⁵ See more details about Canning's contribution and works on Ottoman diplomacy, domestic and international politics. Transt. Can Yücel. *Lord Stratford Canning'in Türkiye Anıları* (İstanbul: Tarih Vakfı Yurt Yayınları, 1999).

Europeanization, a view which all the Turkish reform ministers came to share to a greater or lesser degree.”⁴⁵⁶ Cunningham claims that the only way for the Ottoman Empire to survive was Europeanization. As an acknowledgement of Cunningham’s commentary, Canning also insisted that transformation and reformation efforts were the main duty of Great Britain.⁴⁵⁷ Canning noted that “Our vocation is not to enslave but to set free..... Our task is to lead the way and to direct the march of other nations.”⁴⁵⁸ In consequence, the only way to carry out reforms of the legal, penal, institutional, and administrative arenas was simply following European civilizations for the uncivilized and underdeveloped empires like the Ottoman Empire. As Schull notes, it could most fully be evaluated within the “White man’s burden” understanding apropos of the Ottoman Empire.⁴⁵⁹

As Canning also says in his own words, the ambitious efforts for the reform of prisons by Ambassador Canning derived from the classical colonial discourse that states “in different places and slower time than a current moment.”⁴⁶⁰ In the same vein as this statement, Canning’s memorandum provided several “modern” prison and imprisonment models from Europe and North America as standardized imprisonment models in order to show the excellence of Western reformatories as penitentiary examples.⁴⁶¹ In consequence, Canning affirmed that “being modern and civilized” required having European standards. According to Byrne:

*What is important is that Stratford Canning perceived the fundamental necessity of reform and became, certainly, the chief and most persevering European exponent of reform. He never claimed for himself the title of "Reformer of Turkey" mistakenly given to him by contemporary admirers. Indeed, he had all but lost hope of seeing effective reform accomplished under the Ottoman framework.*⁴⁶²

Byrne claims that Canning lost his hope of fulfilling reforms in the Ottoman Empire probably due to the imperial bureaucracy’s careless attitude towards prison reform and their ostensible efforts which had pretended belief in the reform. Nevertheless, the contribution of

⁴⁵⁶ Cunningham Allan, “Stratford Canning and the Tanzimat,” in *Beginnings of the Modernization in the Middle East: The Nineteenth Century*, Edt. William Polk, and Richard Chambers (Chicago: The University of Chicago, 1968), 248.

⁴⁵⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 42-43

⁴⁵⁸ Schull, 262.

⁴⁵⁹ Schull, 42-43.

⁴⁶⁰ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908*. (İstanbul: Kitabevi Yayıncılı, 2012). 77-78.

⁴⁶¹ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire,” (PhD diss., University of Cincinnati, 2015), 59-60.

⁴⁶² Leo Gerald Byrne, *The Great Ambassador* (Ohio: Ohio State University Press, 1964), 362.

British Ambassador Stratford Canning cannot be denied, though he did not consider himself as a “reformer of Turkey”.⁴⁶³

All in all, Canning’s contributions, reports, and proposals for the transformation of prisons during the early years of the Tanzimat, brought a fresh breath of air to the contemporary Ottoman imprisonment understanding and the prison system providing remarkable turning points during prison reform. Following pages pursue hints of domination of considerable motivation for prison reform in the Ottoman women’s imprisonment policies.

In the following years, as a specific point in the direction of female imprisonment, new prison complexes had to involve separate wards for female inmates as explicitly touched on in the 1851 and 1858 Ottoman Penal Codes.⁴⁶⁴ However, as previously mentioned, a consequence of the blurred dichotomy of the notions and features of madhouses and prisons which derived from the nineteenth century was that women prisoners who committed prostitution could be incarcerated in *Haseki Bimarhânesi* (madhouse) in 1847.⁴⁶⁵ The Ottoman bureaucracy aimed at ferreting out fresh solutions which urgently sought out places for women’s imprisonment areas such as Edirnekâpı Gurebâ Hospital, Tavhâne (poorhouse) in order to compensate for the scarce prisons for females. In addition to these buildings, they aspired to build a new prison complex with a separate women’s prison (the first Ottoman penitentiary) in Sultanahmet square in 1870s. Nonetheless, these bureaucratic efforts and reform aspirations towards the transformation of the former jail system to the modern prison system were frequently hampered by budgetary questions which became the main and repetitive hindrance of the “establishment of a modern prison system” as stated in the official correspondence between *Zabıtiyye* and *Meclis-i Vâlâ* in the archival documents.⁴⁶⁶

The prison building demands for male prisoners from the provinces were increasing day by day and the insufficient prison buildings for offenders of both genders rapidly transformed into a major question for the Ottoman Empire. Shortly after the end of the Crimean War in 1856, an Imperial Edict (*Islahat Fermanı*) was promulgated as an improved, edited and expanded version of *Gülhâne Hatt-ı Hümâyûnu* 1839. The Imperial Edict 1856 prominently underlined the concepts of “*hukuk-ı insaniyye*” (human rights) and “*hukuk-ı adâlet*” (justice of law) that entailed certain and standard punishments, namely imprisonment, with both short and

⁴⁶³ See more about Ambassador Stratford Canning: Steven Richmond, *The Voice of England in the East: Stratford Canning and diplomacy with the Ottoman Empire* (London: Tauris, 2017), Stanley Lane Poole, *The Life of the Right Honourable Stratford Canning Viscount Stratford De Redcliffe: From His Memoirs and Private and Official Papers* (London: Longmans, Green, 1888); Allan Cunningham, “Stratford Canning and the Tanzimat,” in *Beginnings of Modernization in the Middle East: The Nineteenth Century*, edited by William R. Polk- Richard L. Chambers (Chicago: University of Chicago Press, 1968), 245-264.

⁴⁶⁴ See Section 3.4 and 3.5.

⁴⁶⁵ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908*. (İstanbul: Kitabevi Yayınları, 2012), 21.

⁴⁶⁶ Yıldız, 145.

long sentences, which had to be systematically meted out by the penal codifications.⁴⁶⁷ In doing so, corporal punitive methods were abolished with the Edict.⁴⁶⁸ Moreover, as a concept, “prison and imprisonment” were used as primary punishment concepts and carceral places for the first time in an Ottoman edict.⁴⁶⁹ Bozkurt claims that the Imperial Edict 1856 dramatically touched upon the prison issue with a significant statement:

In order to tie “human rights” and “justice”, the living conditions of convicts and detainees who were imprisoned in jails and prisons had to be enhanced and corporal punishment, torture, infliction had to be completely abolished except as enacted disciplinary rules by the state. In case the prison employee (wardens, guards or administrators) implemented torture or other infliction practices, they had to be punished within the convenient article of 1840 Penal Code which meted out reshuffling their places of work.⁴⁷⁰

As an acknowledgment of Bozkurt, Schull also contributes to the reform edict’s emphasis on guaranteeing the human rights and justice for everyone through the law.

.....the 1856 Islahat Fermani: ‘Proceedings shall be taken . . . for the reform of the penitentiary system as applied to houses of detention, punishment, or correction . . . so as to reconcile the rights of humanity with those of justice.’ The connection between prison reform and ‘the civilization of a country’ was part of Ottoman imperial discourse and it continued to grow throughout the rest of the Empire’s existence.⁴⁷¹

The statement of Schull recalled the “modernization” and “civilization” discussion on prison reform, above all the usage of these terms as a way of being modern state which increased year by year during the late Ottoman Empire. While Prison improvement attempts of the Ottoman state continued, they received support from European prison experts and bureaucrats with special invitations as seen on British Commander, Major Gordon’s visit to the Ottoman prisons.

Shortly after the proclamation of the Imperial Edict of 1856, the British military officer Major Gordon appeared on the scene. Major Gordon was invited by the Ottoman state from London in order to be assigned as an inspector and head officer of the Ottoman prisons with a considerable salary (its amount consisted of a very generous budget).⁴⁷² As Yıldız notes, due to the political crisis in domestic and international politics as a consequence of the Crimean defeat

⁴⁶⁷ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire,” (PhD diss., University of Cincinnati, 2015), 59.

⁴⁶⁸ Gülnihal Bozkurt, *Batı Hukukunun Türkiye’de Benimsenmesi: Osmanlı Devleti’nde Türkiye Cumhuriyeti’ne Resepsiyon (1939-1939)* (Ankara: Türk Tarih Kurumu Basımevi, 1996), 109.

⁴⁶⁹ Yıldız, 164-165.

⁴⁷⁰ Gülnihal Bozkurt, *Batı Hukukunun Türkiye’de Benimsenmesi: Osmanlı Devleti’nde Türkiye Cumhuriyeti’ne Resepsiyon (1939-1939)*, (Ankara: Türk Tarih Kurumu Basımevi, 1996). 109.

⁴⁷¹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014) 43.

⁴⁷² Schull, 45.

in 1856, the Ottoman state brought the prison question to their current agenda with the invitation of Major Gordon from London.⁴⁷³ Major Gordon was hired for the preparation of prison regulations (*hapishâneler nizamnâmesi*) which aimed at regularizing the existing prisons and jails (*islah etmek*), carrying out reform attempts and standardizing the Ottoman prisons.⁴⁷⁴ After the assignment of Gordon as a prison inspector and reformer, a council was convened namely (*Meclis-i Mahsûs-u Muvakkat*) under the umbrella of *Meclis-i Tanzimat*.⁴⁷⁵ This council remarkably emphasized the division of criminal behaviours, offenses and illegal acts with the separation of the offenders according to their offenses in the prisons. In order to diminish criminal jeopardization and reduce the criminal potential of mixed rooms and wards in prisons the commission proposed imprisonment in completely separate wards for each type of crime of the inmates. Furthermore, it also proposed separate wards for the different genders: women, men, and juvenile delinquents.⁴⁷⁶ With the individual efforts of Major Gordon *Meclis-i Mahsûs-u Muvakkat* suggested the obligatory renovation of the existing prison buildings and an additional hospital for each prison construction. Nevertheless, these provisions could not be carried out due to budgetary limits (it required 50.000 Lira).⁴⁷⁷ Gordon notes that several prisoners died in the Ottoman jails due to limited ventilation, no heat and no light under the dire conditions of the jails. Therefore, he emphasized urgent enhancement steps for the existing prisons and new prison reconstruction projects in order to prevent deaths of prisoners.⁴⁷⁸ His observations and reports also emphasized the dilapidated physical conditions of the jails and dungeons, which required an urgent renovation first.⁴⁷⁹ He also paid attention to the idleness of the prisoners especially in *Tersâne* dockyard penal labor center (*kürek merkezi*). The idle prisoners had to be forced to work in order to be rehabilitated and corrected during their incarceration, and above all to avoid recidivism, according to Gordon's and visitor economist Nassau Senior's suggestions.⁴⁸⁰ Both Canning and Gordon aimed at establishing penal labor

⁴⁷³ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncılığı, 2012), 173.

⁴⁷⁴ Ibid., 45.; BOA.İ. HR. 155/ 8216: 28 N 1274/ 12 May 1858. Habshâne nizâmâtri için Londra'dan celb edilen Major Gordon'a verilecek olan hâne kirâsi bedeli; BOA.HR. MKT. 238/76: 29 L 1274/ 3 May 1858. Habshâneler nizâmâtri ve islahi için önceden Londra'dan getirilmiş olan Major Gordon'a senelik kira bedeli verilmesi.; BOA.İ.DH. 529/36582: 17 N 1281/13 February 1865.

⁴⁷⁵ Gülnihal Bozkurt, *Bati Hukukunun Türkiye'de Benimsenmesi: Osmanlı Devleti'nde Türkiye Cumhuriyeti'ne Resepsiyon (1939-1939)*, (Ankara: Türk Tarih Kurumu Basımevi, 1996), 109.

⁴⁷⁶ Bozkurt, 110.

⁴⁷⁷ Ibid., 110.

⁴⁷⁸ BOA.İ.MMS 12/497: 10 R 1275/ 13 February 1859: "mahbûsinin fena halde bulundurulmalarından naşı bir hayli adâmın dâima fevt ve telef olmakda bulunması kifâyetine dair..... Dersâdet hapishânelerinin bir yoluna konulması zîmnâde Bâb-ı Zabtiyede tevkîfâne ve bir büyük hastâhâne ile sâir zabtiye merkezlerine küçük tevkîfâneleri yapdırılması..."

⁴⁷⁹ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire," (PhD diss., University of Cincinnati, 2015), 56.

⁴⁸⁰ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncılığı, 2012), 174-175.

standards to force the prisoners to work for three main aims: first, to prevent idleness along with the goals of rehabilitation and corrections, second, to avoid more expenses to provide prisons' and prisoners' fundamental needs, and third, to exploit their free or occasionally cheap labor for the financial profits. With their suggestions, they referred to contemporary prison systems such as Auburn and Pentonville which aimed at correcting prisoners with penal labor and silent wards.⁴⁸¹ According to Schull, Major Gordon (Charles George Gordon) also attempted to implement penal labor as a correction method in the Ottoman prisons, however, existing Ottoman prisons consisted of dilapidated imprisonment areas without any workshop or prison factory facilities.⁴⁸²

On the other hand, Major Gordon proposed a new plan for turning the *Ticarethâne* into a prison to compensate for scarce imprisonment areas in Istanbul.⁴⁸³ Above all, Major Gordon touched upon the women's imprisonment issue which was tackled by the commission within the *Meclis-i Tanzimat*. In these commission meetings, Major Gordon submitted the proposal that strongly recommended building new prisons and wards specifically for female offenders. In addition to the women's prisons project, Gordon suggested that hospitals and an infirmary had to be built as attached to the prisons. The commission responded the request of Major Gordon's this with leasing two different prison houses for the confinement of women and using as women's hospitals.⁴⁸⁴ At the end, he conceded the ongoing system which was based on leasing jails for female prisoners namely imams' houses around the central police stations (*Zabıtiyye merkezleri*) in Beyoğlu, Galata, Beşiktaş, Üsküdar, and Kanlıca districts in Istanbul due to the lower numbers of women prisoners vis-à-vis their male counterparts and the limits of the Ottoman budget.⁴⁸⁵

It should be underlined that Gordon's report and suggestions were taken seriously by the *Meclis-i Tanzimat* (Tanzimat Council), *Meclis-i Vükelâ* (Ottoman State Cabinet), and Sultan Abdülmecid. This report mentioned the term "penitentiary" (*hapishâne*) as a conceptual spatial area for the imprisonment and correction of offenders for the first time.⁴⁸⁶ "Penitentiary" is a prison concept derived from modern incarceration and punishment understanding based on rehabilitation, correction and purification to prevent the recidivist tendency of prisoners, as the

⁴⁸¹ Yıldız, 176.

⁴⁸² Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 45.

⁴⁸³ BOA.HR.MKT. 248/2: 9 Ca 1275/ 15 December 1858.

⁴⁸⁴ Yıldız., 156.

⁴⁸⁵ Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahîse Hatunlara Uygulanan Cezalar: Hapis ve Sürgün," In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005), 155-156.

⁴⁸⁶ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 179.

modern solution for crime prevention.⁴⁸⁷ Meanwhile, Major Gordon's effective contributions shaped the content and above all crime classification of the 1858 Penal Code.⁴⁸⁸ As already discussed in Section 3.5, the Imperial penal Code 1858 innovatively divided criminals into four categories: accused (*zanlı*), misdemeanours (*kabahat sahipleri*), less serious offenses (*erbâb-ı cünha*), and serious offenses/felonyes (*mürtekib-i cinâyet*). As a result of the different criminal categories, these divided criminal behaviors paved the way for separated wards for each crime category in the prisons.⁴⁸⁹ Naturally, this required new architectural plans for prison constructions, in that the interaction between convicts (awaiting trial), offenders who had committed serious crimes and juvenile delinquents could be prevented as a way of diminishing contact among the prisoners.

In the following years, Sir Henry Bulwer was appointed as the British ambassador to the imperial capital of Istanbul. He carried out his duty for seven years, between 1858-1865.⁴⁹⁰ Ambassador Bulwer also dealt with the Ottoman prison question as much as his previous counterparts.⁴⁹¹ His observations and suggestions about Ottoman prisons followed the similar vein of those of Canning and Gordon. As Adak notes, he concentrated on the dilapidated prisons and their dreadful living conditions in his report, which also involved suggestions and ideas based on forcing the prisoners to work in prisons and public workshops (as penal laborers) particularly during the summer time.⁴⁹² In addition, he claimed that the filthy conditions of the prisons jeopardized the health of prisoners, including British offenders as same as the previous British prison reformers.⁴⁹³

As clearly seen in repetitive discourses of reports and Ottoman regulations, the filthy physical standards and dire living conditions of prisons were the most significant question for

⁴⁸⁷ Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978), 80-81; 91,114.

⁴⁸⁸ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (London: Edinburgh University Press, 2014), 27.

⁴⁸⁹ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncılığı, 2012), 179-180.

⁴⁹⁰ Laurence Guymer, *Curing the Sick Man: Sir Henry Bulwer and the Ottoman Empire 1858-1865* (Dordrecht: Republic of Letters Publishing, 2011), Xvii, 1-3.; BOA.İ.HR. 156/ 8336: Henry Bulwer'in İngiltere elçisi olduğuna dair gelen namelerin arzı. 22 R 1275/ 29 November 1857.

⁴⁹¹ See more details on Bulwer's works and ideas on reformation of the Ottoman military force, administrative structure, taxation system and legal practices.; K. Bell, "The Constantiople Embassy of Sir Henry Bulwer 1858-65." (PhD diss., University of London, 1961), 70-115.

⁴⁹² Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 61-62.; BOA. HR.TO. 233/54: 8 N 1278/ 30 March 1860. Bulwer wrote his observations about Istanbul prisons and sent it directly to Fuad Pasha (Grand Vizier) on 30 March 1860. He mostly emphasized the idleness of the prisoners who had to work to be rehabilitated and purified. "You would moreover derive some benefit from the labor of those whose idleness is now costly and unprofitable,"; BOA. İ. DH. 468/31279: 25 R 1277/ 6 February 1861: Bulwer's suggestions mainly on the idleness of Ottoman inmates by forcing them to work in prison factories.

⁴⁹³ Adak, 62.

the Ottoman government. Besides, the 1859 *Muhâkemât Nizamnâmesi* (The Regulation of Judicial Procedure, 1859) was proclaimed with a specific article, namely article 27, which explicitly dealt with the current physical situation of prisons and the living standards of prisoners. The article proposed that the physical and sanitary conditions of prisons should be inspected by the police chief (*Zabıtiye müşiri*) and the head chief of the *Nizâmiye* Council who was also responsible for providing the vital needs of prisoners, considering their health, and ensuring their medical treatment; also, if required, informing the Sublime Porte (*Bab-ı Ali*).⁴⁹⁴ All these attempts and recommendations for Ottoman prison reform diligently stimulated architectural plans for the new penitentiary construction. In this regard, the Ottoman government opened the Tanzimat's first and most developed prison complex (the first penitentiary), Sultanahmet Penitentiary, namely Hapishâne-i Umûmî alias *Dersââdet* Hapishâne-i Umûmîsi or Ishak Pasha Prison with a magnificent ceremony in 1871.⁴⁹⁵ Although the Ottoman bureaucrats aspired to build a new prison complex outside the city walls of Istanbul, at the end of the day the prison was built near Sultanahmet square, near Bab-ı Ali.⁴⁹⁶

By the establishment of Hapishâne-i Umûmî, the Ottoman government intended to carry out the urgent proposals of Ambassador Canning, Major Gordon and Henry Bulwer which were listed in their reports, as stated above. To show the eager efforts of Ottoman government for the prison reform, first penitentiary was established by Sultan Abdülaziz at great expense, approximately one million piasters, including the costs of construction and employees' salaries.⁴⁹⁷ The administration of the first prison complex of the Ottoman Empire was incumbent on the Ottoman Police Institution (*Zaptiyye Müşâriyyeti*).⁴⁹⁸ The *Dersââdet* Penitentiary included an infirmary, church, mosque, laundry, bath, separated wards for male, female, and juvenile inmates, individual beds, and duvets and pillows for each prisoner. Moreover, the prison involved not only a workshop to induce the prisoners to work for the prevention of idleness, but also a school for the education of juvenile delinquents and street urchins who were collected from the streets, to improve their miserable living conditions.⁴⁹⁹ Most of all, female offenders were also welcomed in the Sultanahmet penitentiary which leased

⁴⁹⁴ Hatice Akın, "Osmanlı Devleti'nde Hapishane İslahatına Dair 1893 Tarihli Bir Nizamname Önerisi," *History Studies* 3/3 (2011): 25; Gülnihal Bozkurt, *Bati Hukukunun Türkiye'de Benimsenmesi: Osmanlı Devleti'nde Türkiye Cumhuriyeti'ne Resepsiyon (1939-1939)*, (Ankara: Türk Tarih Kurumu Basımevi, 1996), 111.

⁴⁹⁵ See Oya Şenyurt, "20. Yüzyılın İlk Çeyreğinde Anadolu ve İstanbul'da Bazı Hapishane İnstâtları," *Mimarlık Tasarı Kültürü Dergisi*, 2003, 79. Şenyurt notes that *İshakpaşa Cinayet Hapishanesi* (serious offences' prison) is known as Sultanahmet Prison today.

⁴⁹⁶ Ufuk Adak, The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire," (PhD diss., University of Cincinnati, 2015), 64.

⁴⁹⁷ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908* (İstanbul: Kitabevi, 2012), 275.

⁴⁹⁸ Yıldız, 272-273.

⁴⁹⁹ Yıldız, 279.

a separate place (a mansion adjacent to the prison buildings) merely for female inmates.⁵⁰⁰ The mansion did not look like a separated area but rather a composite construction in which high living standards and imprisonment conditions for the female inmates were provided.

Interestingly, the Sultanahmet Penitentiary (*Dersaâdet Hapishâne-i Umûmîsi*) was opened for visits by the public. According to Adak, this seems to demonstrate the fulfilment of reform and a genuine aspiration for prison transformation.⁵⁰¹ Besides, Yıldız identifies the meaning of the foundation of *Sultanahmet Hapishâne-i Umûmîsi* as a “civilization example” (*medeniyet numûnesi*) of the Ottoman government.⁵⁰² Yıldız also evaluates the great opening ceremony of the first penitentiary as a cover and disclosure of the negation of the Tanzimat in the entire political arena, both internal and international.⁵⁰³ The penitentiary was kept open for public visits for a while in order to show a “modern” and “civilized” prison and its high standard of living conditions.⁵⁰⁴ State chronicler (*Vakan’üvis*) Ahmet Lütfi criticized the public visits to the prison saying that the comfortable living conditions of the prison could be solicitation for people who had not committed crimes yet.⁵⁰⁵

Nevertheless, the Sultanahmet penitentiary was transformed into a dilapidated and overcrowded prison building in the ensuing years. Even though it was opened with great ceremony to demonstrate proof of the Tanzimat’s goal, as a result of the imprecise construction, the building promptly became ramshackle. The poor physical conditions catalyzed the increase of individual and mass jailbreaks.⁵⁰⁶ At the end of the day, the Ottoman bureaucrats abandoned the penitentiary to its fate. It quickly became an overpopulated imprisonment area with the quick rise in the numbers of criminals, due to delayed trial judgment processes and the increased number of crimes that were punished with imprisonment.⁵⁰⁷ As Bozkurt notes, the older incarceration areas such as fortresses, shipyards, basements, *tomruks*, and *mehterhâne* near Sultanahmet square as well as other dungeons, were still used due to scarce imprisonment places for the inmates in Istanbul.⁵⁰⁸ Despite all the regulations, corrective punitive ways (*islah-i nefis içün*), tortures and other corporal punishments such as flogging, beating, chaining, and whipping remained the ongoing punitive practices towards the prisoners. Also, *Meclis-i Tanzim*

⁵⁰⁰ Yıldız, 280-81.

⁵⁰¹ Yıldız, 64.

⁵⁰² Yıldız, 267.

⁵⁰³ Yıldız, 270.

⁵⁰⁴ Ahmet Lütfi Efendi, *Vakanüvis Ahmet Lütfi Tarihi* (Haz. Münir Aktepe), Vol. 12, (Ankara: Türk Tarih Kurumu Yayınları, 1989), 100.

⁵⁰⁵ Ahmet Lütfi Efendi, 101-102.

⁵⁰⁶ See Section 6.4.; Yıldız, 288.

⁵⁰⁷ See Section 3.8. Ömer Şen, *Osmanlı'da Mahkûm Olmak, Avrupalılışma Sürecinde Hapishaneler* (İstanbul: Kapı Yayıncılık, 2007), 28.

⁵⁰⁸ Nurgül Bozkurt, “20. yy Başlarında Kütahya Hapishanesinin Genel Durumu,” *The Journal of International Social Research* 5/21 (2012), 262-263.

continued to reject all the prison construction demands from provincial areas due to the insufficient budget.

The Ottoman government's main goal was reducing the number of prisoners in the overcrowded and dilapidated prison wards in Istanbul with different ways of confirmation of pardons (*afv-ı âli*) and frequent proclamations of amnesty (*afv-ı umûmi*), as the most widespread method, as section 6.3 examines.⁵⁰⁹

All in all, the Ottoman bureaucracy could not achieve its goal of transforming Ottoman jails and dungeons (*mahbes* and *zindan*) into modern prisons and proper penitentiaries during the Tanzimat period, albeit the penal codes, prison regulations and other bureaucratic efforts seemed very frequent. As a result of the shifting punitive ways away from body-oriented punishment to the soul-oriented (restriction of liberty of the inmates) as a global penal trend, the Ottoman state attempted to fulfil the changes and shifts of their legal, penal and judicial mentalities in order to eagerly carry out prison reform to be a civilized and modern state. Nonetheless, the whole attempt was ostensibly carried out by the Ottoman state and it, unfortunately, resulted in a greatly disappointing outcome. Although the Ottoman state ventured to process the written plans and projects of prison reforms, these all remained on paper, were not implemented in practice. According to Schull, "Although these changes and activities mark very important steps in the direction of concrete penal reform, further developments did not take place until the Hamidian era (1876–1908)."⁵¹⁰ Nevertheless, the Ottoman government's awareness of the women's imprisonment questions along with the general reform attempts for the Ottoman prisons, became visible in the political agenda of the Ottoman government with the influence of international interventions during the Tanzimat period. An upcoming section shows efforts of the Hamidian government for prison reform and women's prisons.

4.4. More Special Provisions for Women Inmates: The Hamidian Era (1876-1908)

During the reign of Abdülhamid II, prison reform attempts went beyond those of the Tanzimat period. Contrary to the Tanzimat's ostensible reform efforts, Abdülhamit II's unsteady internal and international policies did not hamper the insistence on developing reform attempts only on paper but also in practice. Indeed, Abdülhamid's paternalistic political understanding as an apparatus for his political legitimations had a considerable impact on

⁵⁰⁹ See Section 6.3.

⁵¹⁰ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 46.

prison reform.⁵¹¹ His political understanding, which was based on paternalistic legitimization methods, animated the philanthropic activities of the Hamidian regime which also included concrete efforts and aspirations for the transformations of Ottoman prisons during the despotic regime of the Sultan.⁵¹²

Let us start with the first years of Hamidian regime and its political agenda including Ottoman prison reform. First of all, the Ottoman government proclaimed the first constitutional monarchy in 1876, during the reign of Abdülhamid, and within this proclamation, the Ottoman government aimed at securing the lives of all imperial subjects under this constitutional monarch system.⁵¹³ However, shortly after the proclamation, the Hamidian regime heralded the abolition of the parliamentary system, Ottoman government quickly turned into a new totalitarian regime under the authority of Sultan Abdülhamid.⁵¹⁴ Both the loss of territories and ongoing battles with European forces, together with imbalanced internal and international politics, and above all the instability of the Ottoman regime designated all the reform attempts and politics under the Hamidian government.⁵¹⁵ However, Abdülhamid II ceaselessly continued to make reformative attempts to embed a systematic and regular penitentiary system in the imperial provinces.

Shortly after the Berlin Congress 1878 (defeat in the Russo-Ottoman War of 1877-78 for the Ottoman Empire), Abdülhamid II assigned an inspector committee to control the Ottoman prisons in order to ferret out the fundamental and urgent questions of the prisons.⁵¹⁶ In this regard, the initial goals of this systematic control were directly based on the enhancement of the prisons' direful conditions and the urgent fulfilment of the "improvement of the

⁵¹¹ See more information about the Hamidian regime and its paternalistic politics: Selim Deringil, *Well-Protected Domains: Ideology and the Legitimation of Power in the Late Ottoman Empire 1876-1909* (New York: I.B Tauris, 1998), 22-26, 43.

⁵¹² See Nadir Özbek, "Philanthropic Activity, Ottoman Patriotism and the Hamidian Regime, 1876-1909," *International Journal of Middle East Studies* 37, no. 1 (2005): 63-68.

⁵¹³ See content and details of the first Ottoman Constitution: Kānūn-ı Esāsī, 7 Zilhicce 1293/ 24 December 1876. <https://www.anayasa.gov.tr/tr/mevzuat/onceki-anayasalar/1876-k%C3%A2n%C3%BCn-ı-es%C3%A2s%C3%AE/>

⁵¹⁴ Abdülhamid II attached importance to a secret police commission in the *Zabıtiyye Teşkilâtı* which was already established during the Sultan Abdülmecid's period in order to collect secret data and detailed information about his authority and power. See Süleyman Kani İrtem, *Abdüllâhîmî Devrinde Hafiyelik ve Sansür: Abdülhamîd'e verilen Jurnaller* (İstanbul: Temel Yayınları, 1999), 140-144.; See details on secret police commission and data collection methods of Hamidian government: Cengiz Kırlı, *Sultan ve Kamuoyu: Osmanlı Modernleşme Sürecinde Havadis Jurnalleri (1840-1844)* (İstanbul: Türkiye İş Bankası Kültür Yayınları, 2009); Cengiz Kırlı "Coffeehouses: Public Opinion in the Nineteenth-Century Ottoman Empire," in *Public Islam and the Common Good*, eds. Armando Salvatore-Dale F. Eickelman, (Leiden: Brill, 2004), 75-97.

⁵¹⁵ Selim Deringil, *Well- Protected Domains: Ideology and the Legitimation of Power in the Late Ottoman Empire 1876-1909* (New York: I. B Tauris, 1998), 22-26.

⁵¹⁶ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 380

prisoners' living standards.”⁵¹⁷ The inspection report claimed that the Ottoman prisons were completely underdeveloped. In other words, the conditions of Ottoman prisons were out of date in the 19th century (*hüküm-i zamana uygun degildi*).⁵¹⁸ The committee also drew attention to mass and individual jailbreaks and escapes that abundantly occurred in the Hapishâne-i Umûmî which became overpopulated penitentiary in that this obstructed tight control and supervision for the prisoners in the 1880s. In order to reduce jail breaks, the inspectors proposed building new prisons on the islands of Istanbul, such as in Imralı island, to keep the prisoners far away from land. However, the project could not be carried out by the Ottoman government until the demise of the Empire.⁵¹⁹

In another innovative attempt regarding prisons, in 1878, the Hamidian government hastily embarked on the collection of criminal cases and qualifications (*vukûat cetvelleri*) from all provinces in order to have full knowledge on the crime types and the numbers of criminals, but then this data collection could not be used well.⁵²⁰ Data collection as the imperial goal has been very visible in the political agenda of Hamidian government which aimed at creating new ways to survey and control society. *Vukûat Cetvelleri* is one of the most significant proofs of maintaining public surveillance politics of the Hamidian government.⁵²¹ These crime reports provided much information especially on the violent cases, murderers, victims, locations, and the stories of murder cases including their prosecutions and punishments, in detail.

A united institutional and administrative body for the Ottoman courts, namely the Ministry of Justice (*Adliye Nezâreti*), was established in 1876. Shortly after the foundation of the Ministry, the administration of Ottoman prisons shifted from the Ottoman Police Force (*Zabıtiyye Müşârîyeti*) to the Ministry of Justice, as a notable administrative alteration concerning jails and prisons during the Hamidian period. A tight relationship between the court system and prison reform might have huge influences on the length of sentences for both convicts and accused people. As Section 3.8 briefly touches on, in the institutional, systematized, and monopolized court administration, the Ministry of Justice had strong

⁵¹⁷ Ibid.

⁵¹⁸ Ibid.

⁵¹⁹ Ibid. Republican Turkey established a prison on the island of Imralı in 1935. The island is located in the northern part of the Sea of Marmara. It still serves as an F type prison (high criminal prison) in Turkey.

⁵²⁰ Abdulkadir Güл, “Osmanlı Taşrasında Suç ve Suçlular: 1919 Yılı Ocak Ayı Erzincan Sancağı Örneği,” *EÜHFD XVII*, No. 1–2 (2013), 1–28. As seen in Güл’s study on the crimes and crime rates in Erzincan Sanjak, the criminal rate and crime diversity were various each province.

⁵²¹ See Fatih Öztop, “Suç Cetvellerine Göre Osmanlı’da Adam Öldürme Suçu (1908-1918),” *Türk ve İslam Dünyası Araştırmaları Dergisi*, Year 2, Vol. 3, June 2015, 75–85. In the last period of the Ottoman Empire, there were two kinds of crime schedules maintained in order to follow crimes and see batch information about perpetrators. First was the “felony schedules” that contained information about crime scenes, perpetrators’ name and details about felonies; while the second was “general crime schedule” that contained all occurring crimes in the province and characteristics of perpetrators with their numbers.

influences on the prisons, which got overcrowded in a short time due to longer prosecutions and awaiting trials. This direct effect of judicial processes, especially prosecutions, dramatically enhanced the awareness of overpopulated prisons and jails where the prisoners desperately suffered. As Demirel states, not only extremely long judicial durations for those awaiting trials but also the high criminality rate (it rose day by day) led to overcrowded jails and prisons, even though all the Ottoman courts (regular courts) had their own jails inside their buildings for those awaiting trial.⁵²² Yet, neither these courts' jails (*tevkifhâne*) nor the other local jails in Istanbul provide sufficient place for the inmates on remand.⁵²³

Along with overcrowded prison wards, the prison cadres were another significant question for the Ottoman prisons during the Hamidian Period. The initial official Regulation of Sultan Abdülhamid II was issued for the prison cadres, their selection criteria, responsibilities, and duties. The Sultan's contribution to the development of Ottoman prison reform continued concerning prison wardens, guards, and their eligibility and responsibilities, which were promulgated within the standardized and systematized regulation in 1876, namely the Prison Wards and Guards Regulation (*1876 Hapishâne Gardiyânları Talimatnâmesi*).⁵²⁴ Whereas this Regulation specified the professional selection criteria, and professional tasks of guards and wardens, unfortunately (not surprisingly), there was no specific article about women guards (*kolcu kadın*). However, all the duties were unified in just one employee's responsibility, namely the prison guards, who had many more duties and works⁵²⁵ Cleaning the prisons, controlling prison wards, handing out food, controlling the heating and lighting systems, preventing diseases and epidemics, treating the sick inmates and providing the other daily needs and routines of inmates, briefly, providing the basic needs of the inmates, became the major duties of the guards.⁵²⁶ In this way the Ottoman government eschewed more expense, therefore they aimed at assigning too many duties to only one employee, prison guards, to avoid assignment more personnel in return for a considerable salary. The Regulation overwhelmingly focused on the selection criteria and basic conditions of being a guard in prisons rather than their responsibilities. According to the Regulation, to be a prison guard, the candidates had to be between the ages of 20 and 50 and without any criminal record.⁵²⁷ The guards could be selected from all the subjects of the Ottoman state (*reâya*), Muslim or non-Muslim, without

⁵²² Fatmagül Demirel, "Osmanlı Hapishanesi'nin Gardiyânları," *Hukuk ve Adalet Eleştirel Hukuk Dergisi*, Vol. 9 Cilt. 4, 2007, 257-59.

⁵²³ Demirel, 258-59.

⁵²⁴ BOA.DVN.MKL. 13/28: 30 Ra 1293/25 April 1876

Fatmagül Demirel, "Osmanlı Hapishanesi'nin Gardiyânları," *Hukuk ve Adalet Eleştirel Hukuk Dergisi*, Vol. 9 Issue. 4, 2007, 258-259.

⁵²⁵ Düstur, Vol. 3, 220.; Fatmagül Demirel, "Osmanlı Hapishanesi'nin Gardiyânları," *Hukuk ve Adalet Eleştirel Hukuk Dergisi*, Vol. 9 Issue. 4, 2007, 257-259.

⁵²⁶ Demirel, 258.

⁵²⁷ Ibid.

limit and restriction.⁵²⁸ Local councils could select the guards, who had to be capable and competent of professing their duties. On the other hand, Regulation did not allow bringing sharp object such as a pocketknife, to prevent violence against the prisoners by the guards. Furthermore, local officials (*valis*) could inspect the prisons and guards whenever they wanted. In case the inspectors encountered malpractices of guards who maltreated the inmates, for example in case the prisoners were exposed to violent acts and maltreatment such as torture, bribery, sexual abuse, rape, etc., they could be dismissed from their work by local officials. Moreover, prison inspectors could sue these guards immediately in the Ottoman courts regarding their malpractices.⁵²⁹

In the following years, a prominent Law namely *Usûl-i Muhakemat-i Cezâiye Kânûnu* (Code of Civil and Criminal Procedure) was proclaimed as a symbol of the tight relationship between courts, judicial cadres and the prisons in 1879. It contained 487 articles in total which dealt with the duties of the judicial cadre, strict rules and instructions for the judicial processes of criminal trials in the categories of *kabahat*, *cünha* and *cinâyet*, their specific codes of judicial practices, dispatching between the courts, and so on.⁵³⁰ Most importantly, Articles 448 and 458 specifically related directly to the regulations on jails and prisons. These articles meted out again that all courts had to have a jail inside the building for those awaiting trial. Moreover, the Regulation distinguished the imprisonment areas as jails (*tevkîfâne*) and as prisons (*hapîshâne*) to differentiate their functions for those prisoners on remand (awaiting trials) and the other convicts. In doing so, the Ottoman courts could have more space for the convicts and accused people who were separately imprisoned as well.

Moreover, the Code covered proposals on the duties of the prison cadre, security, the control of the prisons and jails, and also recommendations for enhancement of the health standards for the prisoners.⁵³¹ The code referred to the general questions of prisons within these articles and it urgently suggested regular, systematic, healthy, sanitary, controlled and above all enhanced imprisonment facilities for the prisoners. In addition to the proposals of the code for the general standards of prisons, articles 450-455 particularly aimed at avoiding the unlawful and undue imprisonment of the inmates who had to be recorded name by name, in this way their release would function to reduce prison population.⁵³² Lastly, the Code highlighted that the judicial cadres had to abide by the 1858 Imperial Penal Code's articles on the sentence lengths of each crime. Furthermore, the initial concentration was on the enhancement of

⁵²⁸ The regulation emphasized the equality of the Ottoman subjects whether Muslim or non-Muslim.

⁵²⁹ Demirel, 258.

⁵³⁰ Fatmagül Demirel, "Osmanlı Usul-i Muhakemat-i Cezaiye Kanununda Hapishaneler," *Hukuk ve Adalet Eleştirel Hukuk Dergisi* 6-7 (2005), 69.

⁵³¹ Ibid., 69.

⁵³² Ibid., 69.

hygiene standards (*sıhhî şartlara uygunluk*) and foodservice as a vital necessity for the prisoners. In this sense, article 456 meted out that the *mustantiks* (coroner judges) had to inspect the prisons a minimum of once a month, whereas the chief judge of the criminal courts had to inspect them once every three months.⁵³³

Lastly, the prison cadres had to be inspected regularly by the head inspectors.⁵³⁴ Indeed, the Ottoman government eagerly embarked on the prevention of malpractice by prison cadres through regular inspections by the authorities. The correspondence between the courts and the Ministry demonstrates that the articles of the Code overwhelmingly stipulated the prevention of undue judicial practices and corruption possibilities of the legal cadre through inspections, regulations, and certain rules. The vast majority of the irregular applications belonged to unlawful sentencing even imprisonment and hard labor of offenders without proper and lawful judgment processes.⁵³⁵ Besides, the reclamation and enhancement of prisons' living conditions was the second major target of this Code, as the articles show above.

According to Demirel, shortly before the proclamation of *Usûl-i Muhakemat-ı Cezâiye Kânunu*, the Hamidian regime promulgated *Mehâkim-i Nizâmiye Kânunu* (*The Law of Nizâmiye Judicial Organization*) which proposed a new form for the inspection of both courts and the prisons by *Adliye Mûfettişliği* (Inspectorship of the Court of Law).⁵³⁶ *Adliye Mûfettişliği* was charged with systematic and regular control of prisons' and jails' which had to regularly control the prison cadres such as head-officers (*hapishâne müdürii*), head inspectors (*sergardiyan*), guards (*zükûr ve nisâ kolcusu/gardiyani*) and gatekeepers (*kapıcı/ kapı muhafizi*). It is very apparent that the Hamidian government aimed at reconstructing a tight control mechanism through the fresh inspection commissions and organizations, in that most prison employees had a tendency for corruption and malpractice. We should remember that the attempts of spreading and increasing surveillance, control and inspection by the Ottoman bureaucracy undoubtedly derived from the repressive, restrictive and totalitarian political mold of the Hamidian regime, which perpetually aimed at constituting tighter political structure in the Ottoman state along with the goal of reducing malpractices among Ottoman officials.⁵³⁷

In the same year as the proclamation of the *Codes of Civil and Criminal Procedure in 1879*, the Ottoman government gave a considerable amount of the budget of *Zabıtiyye Nezâreti* (Ministry of Police Force) to *Adliye Nezâreti* (Ministry of Justice) for the renovations of

⁵³³ Ibid., 70.

⁵³⁴ Ibid., 69-70.

⁵³⁵ Ibid., 70.

⁵³⁶ Ibid., 69-70.

⁵³⁷ See Fatmagül Demirel, *II. Abdülhamit Döneminde Sansür* (İstanbul: Bağlam Yayıncılık, 2007), 23-43.

provincial prisons that were coping with direful living conditions.⁵³⁸ This amount was paid for urgent renovation expenditures and the enhancement of the hygienic needs of prisons.

After the promulgation of the 1879 regulations, the first comprehensive prison regulation in Ottoman history was proclaimed by Abdülhamid II, namely the 1880 Prison Regulation (*Memâlik-i Mahrûsa-i Şâhâne Bulunan Tevkîfâne ve Hapishânelerin İdâre-i Dahiliyyelerine Dâir Nizâmnâme*) on 29 December 1880.⁵³⁹ Schull notes that this Regulation importantly performed as a proposed template for prison reform and the institutional administration throughout the rest of the Empire. Also, this Regulation was an adaptation of French and Prussian prison regulations which proposed detailed articles on the prison administration, professional prison cadres, their duties, and the living conditions of the prisoners, including hygiene standards and the physical condition of the prison buildings.⁵⁴⁰ Meanwhile, the administration of the imperial prisons was turned over to the Ministry of Interior from the Ministry of Justice as a result of the heralding of this Regulation.⁵⁴¹ The Regulation's first article noted that "every district (*kazâ*), sub-division (*liva*), and the provincial center (*vilâyet*) shall possess a prison and a house of detention (jail)."⁵⁴² Whereas in the first article, the Regulation underlined the insufficiency and scarcity of jails and prison buildings in provincial areas and in the imperial capital, Istanbul, budgetary restraints (*tâhsîsat sıkıntısı*) were the major excuse for inadequate building standards and insufficient prison capacity in all the imperial provinces, until the decline of the Empire.⁵⁴³

The third article proposed that the Hapishâne-i Umûmî (Sultanahmet Penitentiary, Istanbul) had to incarcerate only inmates punished by hard labor (*kürek*) for more than five years, and this had to be mandatorily implemented by the courts in the centers of the

⁵³⁸ Serpil Bilbaşar, "Hapis Cezasının Örgütsel ve Hukuksal Gelişimi," *Birikim Dergisi* 136, 2000, 45.

⁵³⁹ BOA.DH.MB.HPS.M. 1/2; 23 Za 1330/ 25 October 1883; *Ceride-i Mehâkim* No. 45. / BOA.A.DVN. MKL. 19/28: Memâlik-i Mahrusa dâhilindeki tevkîfâne ve hapishânelerin idâre-i dahiliyyelerine dâir talimatnâme. 26 M 1298/ 29 December 1880

⁵⁴⁰ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 48.; Fatmagül Demirel, "1890 Petersburg Hapishaneler Kongresi," *Toplumsal Tarih*, Vol. 89 (May 2001), 47-48.

⁵⁴¹ Zafer Atar, "20. Yüzyıl Başlarında İstanbul Hapishane-i Umumi'de Mahkûmların Üretim Faaliyetleri," *SDU Faculty of Arts and Sciences Journal of Social Sciences* 34 (2014): 20-21.

⁵⁴² BOA.A.DVN. MKL. 19/28: 26 M 1298/ 29 December 1880. Memâlik-i Mahrûsa dahilindeki tevkîfâne ve hapishânelerin idâre-i dahiliyyelerine dâir talimatnâme. 1. Article - Her kazâ ve liva ve vilâyet merkezlerinde birer tevkîfâne ve hapishâne bulunacaktır.

⁵⁴³ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncıları, 2012), 96, 108, 220.

provinces.⁵⁴⁴ In other words, long sentence lengths entailed regular imprisonment areas for inmates who had committed violent crimes, in the provinces.⁵⁴⁵

Significantly, the classification of criminal behaviours into those accused of misdemeanors, less serious offenses, and felonies was highlighted by this Regulation. According to this, the wards and wings of the standardized prisons (penitentiaries) would require separate wards and rooms according to the criminal behaviour of the offenders, in addition to separate wards for male, female and juvenile delinquents. This tendency demonstrated the eager intention of the Ottoman government to improve the prison system and cope with the criminalization potential of those convicted of misdemeanours due to the rudimentary prison concept (mixed imprisonment areas without any separation by different crime types and sexes). Above all, article 6 of the 1880 Prison Regulation emphasized the necessity of separate wards (*nisâya mahsus ayrıca bir daire*) for women inmates.⁵⁴⁶ According to the article, in case budget restrictions impeded the building of separate wards for female offenders in jails and prisons (*tevkifhâne* and *habshâne*), the local government had to lease a prison house especially for females.⁵⁴⁷ The Ottoman government aspired to prevent mixed prison wards in which female and male inmates shared the same place in order to avoid potential sexual interactions and sexual assault by the male prisoners. Although female inmates had to be incarcerated far from their male counterparts, the insufficient budget impeded building new prisons with separate male, female and juvenile wards. Hence, the Ottoman government consented to the leased prisons for female delinquents as a quick and ad hoc solution. Article 8 proposed that if required, the prisoners (male and female) could be transferred to other prisons for their imprisonment.⁵⁴⁸ This was mostly related to scarce imprisonment areas for women inmates who generally transferred to prisons in district centers

⁵⁴⁴ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire,” (PhD diss., University of Cincinnati, 2015), 101.

⁵⁴⁵ BOA.A.DVN. MKL. 19/28: 26 M 1298/ 29 December 1880. Memâlik-i Mahrûsa dahilindeki tevkifhâne ve hapishânelerin idâre-i dahiliyyelerine dâir talimatnâme. 3. madde - Hapishâneler mahkûm olanlara mahsus olup, kazâ hapishâneleri kabahat ve cünhadan dolayı nihayet üç aya kadar mahkûm olanlara ve elviye-yi cünhaneleri o sancak dahilinde bulunan kazâ mehâkiminden üç seneye kadar hapis cezası ile mahkûm bulunanlara ve merkez vilâyet hapishâneleri dahi o sancağıın üç sene hapis cezasıyla mahkûm olanlarına mahsustur.

⁵⁴⁶ See Yasemin Gönen, “Osmanlı İmparatorluğu’nda Hapishaneleri İyileştirme Girişimi, 1917 yılı” in *Hapishane Kitabı* ed. Emine Gürsoy Naskali, Hilal Oytun Altun, (İstanbul: Kitabevi, 2005), 174.; BOA.A.DVN. MKL. 19/28: Memâlik-i Mahrûsa dâhilindeki tevkifhâne ve hapishânelerin idâre-i dahiliyyelerine dâir talimatnâme. 26 M 1298/ 29 December 1880. 6. madde - Tevkifhâne ve hapishâne ve Hapishâne-i Umûmilerde nisâya mahsus ayrıca bir dâire bulunacaktır.

⁵⁴⁷ Emine Gümüşsoy, “Osmanlı Devleti’nin Son Dönemlerinde Eskişehir Hapishanesi (1890-1920),” *Journal of School of History*, Vol. 20, (2014), 222.

⁵⁴⁸ BOA.A.DVN. MKL. 19/28: Memâlik-i Mahrûsa dâhilindeki tevkifhâne ve hapishânelerin idâre-i dahiliyyelerine dâir tâlimatname. 26 M 1298/ 29 December 1880. 8. madde - Lüzûmu takdirinde mahbûsinin umûmi hapishânelerin birinden diğerine nakli Adliye Nezâreti’nin iş’arıyla câiz olabilecektir.

(*kazâ merkezi*) for their incarceration, as seen section 5.1.⁵⁴⁹ In doing so, within the transfer method, the Ottoman government could avoid the extra expense of leased women's prisons in the provincial areas.⁵⁵⁰

As seen clearly in the repetitive sections, articles and proposal of regulations, the spatial question of female imprisonment, even in leased houses or proper prison wards, remained as a fundamental question of women's imprisonment until the collapse of the Ottoman Empire. Nevertheless, it seems very apparent that the Hamidian government showed their special concern and concrete efforts for female offenders by the special articles for their carceral problems in the 1880 Prison Regulation. The addition of the Regulation enormously elucidated the specific position of female offenders who had committed murder. As expressed in article 43 of the 1858 Penal Code, female and male inmates were equal under the law. Whilst they committed the same offenses, the prosecution and implementations of the punishment had to be equally carried out as code meted out. However, in case women's pregnancy continued in the prisons, the tolerant way of punishment revealed by the Code, as discussed in motherhood and pregnancy section.⁵⁵¹

According to addition to the regulation's text (*Mahkûm Olan Nisâ Tâifesinin Husûiyet Hallerine Ne Yolda Riâyet Olunmak Lâzım Gelineceğine Dâir 15 Safer Sene 1297 Tarihli Tezkire-i Aliye*),⁵⁵² although it was explained by article 43 of the current penal codification, this addition sheds light on the details of tolerant treatment for female inmates and medical treatment proposals for them.⁵⁵³ In addition, the articles of the 1880 Prison regulations which directly focus on the pregnant and breastfeeding female inmates in prisons, this implementation derived from the reproductivity and femininity of female inmates, as overwhelmingly discussed in section 5.4 in the light of a biopolitical perspective.⁵⁵⁴

After touching on the special places of women inmates in the 1880 Prison Regulation, here this part shall tackle the supervision question for the female inmates. Article 33 of the

⁵⁴⁹ See Section 5.1.

⁵⁵⁰ Emine Gümüşsoy, "Osmanlı Devleti'nin Son Dönemlerinde Eskişehir Hapishanesi (1890-1920)," *Journal of School of History*, Vol. 20, (2014), 225.

⁵⁵¹ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 123.; See 5.4.

⁵⁵² BOA.A.DVN.MKL 19/28: 26 M 1298/ 28 January 1880.; Gülnihal Bozkurt, *Bati Hukukunun Türkiye'de Benimsenmesi: Osmanlı Devleti'nde Türkiye Cumhuriyeti'ne Resepsiyon (1939-1939)*, (Ankara: Türk Tarih Kurumu Basımevi, 1996), 112-113.

⁵⁵³ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 164.

⁵⁵⁴ Michel Foucault. *Society Must be Defended' Lectures at the College De France: 1975-76*, Trans. by David Macey, (New York: Picador Books, 1984), 239-265.; Section 5.4.

Regulation proposed assignment of women guard to the women's prisons as needs, as the Section 5.2 guardianship analyses.⁵⁵⁵

On the other hand, 69-72 articles of the 1880 prison regulation remarkably proposed that penal labor (*ameliyat*) had to be a major sentence with incarceration.⁵⁵⁶ Inmates had to improve their skills and abilities on a handicraft to work in sewing or shoemaking workshops, at specific times of day in the prison factories. The income would be used for prison expenditures and also for their individual needs.⁵⁵⁷ The regulation offered penal labor as a main rehabilitative and corrective penal application, which was also proposed by Stratford Canning's prison report in 1851, as section 6.3 examines.⁵⁵⁸

All in all, even though the 1880 Regulation contained articles designated to puzzle out the dreadful conditions of existing prison and jail buildings, renovate them all and create a new penitentiary model including regular vital facilities and penal labor and including worship for the correction in the Ottoman provinces, this unfortunately remained untouched until the first years of Republican Turkey.⁵⁵⁹

As already touched on, the aspirations of consolidation of security, public surveillance, and the enhancement of the control mechanism resulted from the unique features of Abdülhamid II's authoritarian policies.

The last regulation of the Hamidian period was proclaimed in 1893. This *nizamnâme* was translated from its French original by the legal expert Sarkis Karakoç.⁵⁶⁰ The 1893 Regulation noticeably involved proposals and observations on the current situation of Ottoman prisons.⁵⁶¹ The regulation on prison reform 1893 respectively touched on not only the current physical conditions of the Ottoman prisons and prisoners but also proposals, suggestions and reports: to enhance health standards, to add separated wards for the different crime categories and gender roles, to prevent idleness and disorderliness of the inmates, to facilitate lighting and heating systems, to prevent consumption and the selling of tobacco products in the prisons, to set up visiting rules for the visitors of inmates, to rebuild and renovate prison buildings, with

⁵⁵⁵ See Section 5.2.

⁵⁵⁶ BOA.A.DVN. MKL. 19/28: Memâlik-i Mahrûsa dahilindeki tevkifhâne ve hapishânelerin idâre-i dâhiliyyelerine dâir talimatnâme. 26 M 1298/ 29 December 1880.

⁵⁵⁷ Nurgül Bozkurt, "20. yy Başlarında Kütahya Hapishanesinin Genel Durumu," *The Journal of International Social Research*, Vol. 5, Issue 21, 268.

⁵⁵⁸ See Section 6.3.; BOA.HR.TO 215/ 58: 26 M 1298/ 24 June 1851. Stratford Canning sent his memorandum about current situations of Ottoman jails. Above all, he begged Grand Vizier Ali Pasha to take this report under special consideration.

⁵⁵⁹ Serpil Bilbaşar, "Hapis Cezasının ÖrgütSEL ve Hukuksal Gelişimi," *Birikim Dergisi* 136, (2000), 45.

⁵⁶⁰ See Sarkis Karakoç's biography: <https://islamansiklopedisi.org.tr/karakoc-sarkis>.

⁵⁶¹ See: Sarkis Karakoç. *Kavânin ve Nizâmat ve Ferâmin ve Berevât ve İrâdat-ı Seniyye ile Muahedat ve Umuma Ait Mukâvelati Mühtevir* Vols. 1-2, (Ankara: Türk Tarih Kurumu, 2006).

the establishment of an infirmary or a hospital near or inside prisons, to have a standard prisoners' uniform, to create a working schedule in the prison workshops as a rehabilitative way with regard to prisoners' skills and abilities and the income from the prisons' workshops, to provide food and other needs of the prisoners, to order the wards by control by the guards with certain responsibilities, to provide the uniforms of guards, to state duties of prisoners such as cleaning their wards, to provide ventilation systems in wards, and, above all, to enforce the obligatory silence and working rules listed line by line with the highlighting of the urgent need for prison reform.⁵⁶² However, the regulations had not included any specific suggestion about female inmates. Nevertheless, its content seems very innovative in terms of its punitive concepts specifically regarding the working obligation of prisoners as penal laborers, hence it looks like the Auburn penitentiary system.⁵⁶³

While the Ottoman government aimed at reforming and transforming the Ottoman prison system by the regulations listed above during the Hamidian era, they diligently coped with the overcrowded prison buildings with the tool of frequent proclamations of mass and individual amnesty, as examined in section 6.5.⁵⁶⁴ The frequent amnesty proclamations dramatically demonstrated that the high numbers of prisoners and their ceaseless increase might derive from both the high criminality rate and also the determination of imprisonment as the main punishment for most of the crime categories.

Here I shall revert the issue of prison reform attempts and the effects of international political interventions on the enhancement of prisons during the age of Abdülhamid II. The St. Petersburg Congress would be carried out in 1890, hence it could be into an important international meeting on prison reform in the last decade of the 19th century.⁵⁶⁵ The previous International Penal Congress gathered the "civilized" and "modern" European states together to improve their penal systems and the prisons in Rome, in 1855.⁵⁶⁶ The European states invited Ottoman representatives as a guest state in 1870 and 1871.⁵⁶⁷ However, Celal Bey (General

⁵⁶² Hatice Akin, "Osmanlı Devleti'nde Hapishane İslahatına Dair 1893 Tarihli Bir Nizamname Önerisi," *History Studies* 3/3 (2011), 27-35.

⁵⁶³ See Section 2.1. for more information on Auburn and Pennsylvania Reformatory Systems.

⁵⁶⁴ See Section 6.4.

⁵⁶⁵ *The Fourth International Prison Congress*, St. Petersburg Russia, C. D. Randall (Washington: Government Printing Office, 1891, 10-12).

⁵⁶⁶ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 68.

⁵⁶⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 48.; Fatmagül Demirel, "1890 Petersburg Hapishaneler Kongresi," *Toplumsal Tarih*, 89 (May 2001), 11.; See more for the history of St. Petersburg Prison Congress: *The Fourth International Prison Congress*, St. Petersburg Russia, C. D. Randall (Washington: Government Printing Office, 1891), 33-50.

DIRECTORATE OF PENAL AFFAIRS)⁵⁶⁸, on behalf of The Ottoman state, attended the 1890 St. Petersburg Prison Congress to show the Ottoman's aspirations and efforts for creating a modern penitentiary system in the Empire as one of the modern and civilized state.⁵⁶⁹ As stated by Schull and Demirel, both the invitations and the participation of the Ottoman state, marked a significant turning point for the self-participation in their civilization goals.⁵⁷⁰ In my opinion, it might be evaluated as an example of the ostensible efforts for prison reform that were performed to consolidate the political power of the Ottoman state in international politics with the European states. As a consequence of the congress, the Hamidian government established a cooperated commission which brought together the officials of the Police Institution (*Zabtiyye Teşkilâti*) and the Ministry of Justice (*Adliye Nezâreti*) to carry out prison reform attempts systematically.⁵⁷¹ The Ottoman government attended the congress with a report which involved the Ottoman prison reform package and its achievements.⁵⁷² The participant states broadly discussed the issues of the returning of foreign offenders, the effects of inebriation on crime committing, offering courses on imprisonment as the major punishment in the law faculty, the suspension of sentences, the rehabilitation of juvenile delinquents, and finally, the reasons and motivations for committing crimes.⁵⁷³ Besides, the major discussions were overwhelmingly on the division of offenders according to their crimes, separated wards for the offenders and the convicted, and lastly penal labor and its rehabilitative functions.⁵⁷⁴ As seen, the issues and discussions of the congress aimed at creating a very developed imprisonment system with its proposal, which show the European diligent efforts to establish a structured and corrective punitive system in order to struggle with crimes and criminals since the 1850s. However, we still do not know where the place of the Ottoman Empire regarding the woeful conditions of Ottoman prisons in this congress was.

Shortly after the participation in the St. Petersburg Prison Congress, Abdülhamid II founded a commission, namely *Tesri-i Muamelât ve Islahât Komisyonu* (The Commission for Expediting Initiatives and Reform), under the direction of the Ministry of Interior which began to supervise the reform implementations all around the imperial institutions, administrations,

⁵⁶⁸ Gizem Parlakoğlu, "II. Abdülhamit Dönemi Hapishanelerinin Genel Özellikleri ve Uygulamaları." (MA Thesis, Mardin Artuklu University, 2018), 37, 48.

⁵⁶⁹ BOA, İ. HR., 366/64:23 Zilhicce 1317/ 24 April 1900; BOA, BEO, 3704/277785: Safer 1268/ 6 17 February 1910.

⁵⁷⁰ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 48.

⁵⁷¹ Fatmagül Demirel, "1890 Petersburg Hapishaneler Kongresi." *Toplumsal Tarih*, 89 (May 2001), 11–14.

⁵⁷² Ibid., 11.

⁵⁷³ Ibid., 12. *The Fourth International Prison Congress*, St. Petersburg Russia, C. D. Randall (Washington: Government Printing Office, 1891, 117-118.

⁵⁷⁴ Ibid., 13-14.

provincial governments, and so on, in 1893.⁵⁷⁵ The commission aspired to hasten the inspection of particularly prisons' and hospitals' physical conditions and health standards, the administrative structures of corrective and medical public institutions, and the living standards of prisoners and patients in the medical and penal institutions not only in prisons and hospitals but also in madhouses and poorhouses. According to Schull:

*The commission's efforts align with Hamidian goals for the state to take greater responsibility for public health and hygiene, especially in the prevention and spread of communicable diseases such as cholera and syphilis. During the time in which the commission operated (1896–1908), numerous reports detailed specific prison health concerns and described the general state of Ottoman prison disrepair. These reports provide a general picture of prison conditions in the empire, demonstrating that most prisons were not abiding by the hygiene directives issued by the Sublime Porte or to be found in the 1880 Prison Regulation.*⁵⁷⁶

The fact was that the Hamidian government's main goal was based on the prevention of spreading disease among prisoners, while they aspired to enhance the hygienic living standards of these crowded public institutions, especially prisons and hospitals. On the one hand, they aimed at consolidating the legitimization of the Hamidian regime due to abundant political crises and his totalitarian regime through the Sultan's mercifulness, benevolence, and philanthropist political understanding with all the legal implementations.⁵⁷⁷ Shortly after foundation of the Commission in 1893, Abdülhamid II gave a special decree on the establishment of a new "modern" penitentiary in the Yedikule dungeons.⁵⁷⁸ This project could not be fulfilled, even though the Hamidian government aimed at achieving the construction of a modern penitentiary as a concrete symbol of a "civilized" state, as same as the establishment of the Hapishâne-i Umûmî in 1871.⁵⁷⁹

All in all, the Hamidian government was explicitly pursuing innovative patterns to transform Ottoman dungeons into modern prisons with various innovations such as penal labor for the rehabilitation of inmates, separate wards for each crime and sex, and enhancement of the

⁵⁷⁵ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 49.

⁵⁷⁶ Ibid.

⁵⁷⁷ See more details: Nadir Özbek, "Philanthropic Activity, Ottoman Patriotism, and the Hamidian Regime, 1876-1909," *International Journal of Middle East Studies* 37, No. 2005 (2005), 59–81.; Selim Deringil, "Legitimacy Structures in the Ottoman State: The Reign of Abdülhamid II (1876-1909)," *IJMES*, 23:3, Aug. 1991, 345-359.

⁵⁷⁸ Selahaddin Sezer, Ceren Katipoğlu Özmen, "Making the Unwanted Visible: A Narrative on Abdülhamid II's Ambitious Project for Yedikule Central Prison in Istanbul," *Prostor: A Scholarly Journal of Architecture and Urban Planning* 2, No. 60 (2020), 364-65.

⁵⁷⁹ Selahattin Sezer and Ceren Katipoğlu Özmen, 372-373.

living conditions in prisons.⁵⁸⁰ The Hamidian government's efforts transform the rudimentary prisons into "modern", developed and standard penitentiary systems through the 1876, 1879, 1880, and 1893 Regulations cannot be ignored.

Schull evaluates the Hamidian prison reforms and their achievements with these sentences:

Notwithstanding these efforts, prison reform was still hampered by administrative inefficiency. No single ministry or department possessed full responsibility for administering or financing the empire's sprawling prison network. The centralization of bureaucratic responsibilities between the palace (Sultan Abdülhamid II) and the Sublime Porte (the Ministries of Justice, Finance, and Interior) was still in the process of being rationalized. The Ottomans had yet to create a central Prison Administration with the comprehensive powers to implement the 1880 Prison Regulation.⁵⁸¹

As an acknowledgment of Schull's opinion even if the Hamidian government could not fulfil the regulations under the rule of a special institution for prison administration due to wars, defeats, political imbalances, lost territories and mass migration, their efforts and attempts for prison reform transcended the previous counterparts. The presence of women inmates and their imprisonment issue prominently became visible in the agenda of the Ottoman prison policy with tangible regulations and specific articles. In this sense, as an articulation, the 1880 Prison Regulation shifted the trajectories of Ottoman prison reform with its gender-specific approaches towards the inmates. In the end, the Hamidian government passed on the rudimentary prison system as a great prison question to the CUP government, as the following section concentrates on.⁵⁸²

4.5. The Second Constitutional Period: Women Inmates as Starring Characters (1908-1918)

The Second Constitutional period has resulted in most of the changes and alterations to the structure of Ottoman internal politics. It resulted in the regime change, namely from a constitutional monarchy, by the proclamation of the second constitution in 1908, as a

⁵⁸⁰ See Servet-i Fünûn, Vol. 267, 1896. 5 Şevval 1312/ 1 April 1895. Journalist Agâh Hüseyin wrote about his observations on French Penitentiary system. According to Agâh Hüseyin, French Penal system aimed at correcting criminals, while the Ottoman prisoners suffered misery. He suggested French penal models for the ongoing Ottoman prison reform. In this article, he criticized the Hamidian government's ostensible efforts for prison reform.

⁵⁸¹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 49.

⁵⁸² Hatice Akin, "Osmanlı Devleti'nde Hapishane İslahatına Dair 1893 Tarihli Bir Nizamname Önerisi," *History Studies* 3/3 (2011): 26.

consequence of a planned military revolution.⁵⁸³ After Abdülhamid II's thirty year despotic regime, the Committee of Union and Progress Party began to govern with wider tolerance specifically for the press, liberal administration, political activism, extensive bureaucratic and institutional reforms vis-à-vis the Hamidian government.⁵⁸⁴ However, the fundamental base of the CUP government's policies was based on nationalistic ideologies and identity politics during its government in 1908-1918.⁵⁸⁵ Even though harsh struggles between the nations in the Balkan region, wars, territory loss, mass migrations, resettlement of migrants, and WWI occupied the agenda of the CUP government, they dealt with the issue of public control, surveillance, policing, and positivist political understanding towards the criminal cases more strategically and scientifically than the Hamidian despotic regime.⁵⁸⁶ The most effective manner of CUP's aspiration to enhance the control of the social regime relied on the aspect of "social engineering" which engendered the monopolization of prison administrations, more structural and systematic administrative apparatuses, and data collection, in order to have a deeper grasp of criminality rates and a positivist approach to the prison question of the Ottoman Empire.⁵⁸⁷ As Atar notes, the CUP government pursued eager and determinant policies to improve Ottoman prison conditions within these political characteristics of the CUP government.⁵⁸⁸ According to Schull, "Police and prisons constitute key institutions for maintaining power and imposing order and discipline upon a population, especially during times of crisis."⁵⁸⁹ As an acknowledgment of Schull's statement, the CUP government initiatives aimed at increasing the tightness of public surveillance, creating fresh control, and monitoring mechanisms to keep Ottoman society under control through tools such as the police,

⁵⁸³ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 72.

⁵⁸⁴ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 44.

⁵⁸⁵ See details on the regime and political mentality of the CUP government: Turfan Kansu, *Rise of the Young Turks; Revolution of 1908, and Politics in Post-revolutionary Turkey*; Donald Quartaert, *Social Disintegration and Popular Resistance*, 'Economic Climate,' and '1908 Young Turk Revolution'; Faroz Ahmad, *Young Turks*; Şükrü Hanioglu, *Young Turks in Opposition and Preparation for a Revolution*; Eric J. Zürcher, *The Young Turk Legacy and Nation Building: From the Ottoman Empire to Atatürk's Turkey* (New York: I.B Tauris, 2010).

⁵⁸⁶ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 53

⁵⁸⁷ Schull, 53. See details on statistics and social engineering; Schull, 'Penal Institutions, Nation-state Construction, and Modernity in the Late Ottoman Empire, 1908-1919,' (PhD diss., University of California, 2007), 115-171; Schull, "Identity in the Ottoman Prison Surveys of 1912 and 1914," *IJMES*, Cambridge 2009, 365-367; Schull, "Tutuklu Sayımı: Jön Türklerin Sistematisk Bir Şekilde Hapishane İstatistikleri Toplama Çalışmaları ve Bunların 1911-1918 Hapishane Reformu Üzerine Etkileri," In *Osmanlı'da Asayiş, Suç ve Ceza, 18.-20. Yüzyıllar*, edited by Noémi Lévy-Alexandre Toumarkine (İstanbul: Tarih Vakfı Yurt Yayınları, 2007), 212-238.

⁵⁸⁸ Zafer Atar, "20. Yüzyıl Başlarında İstanbul Hapishane-i Umûmi'de Mahkûmların Üretim Faaliyetleri," *SDU Faculty of Arts and Sciences Journal of Social Sciences*, Vol. 34, 2014, 20.

⁵⁸⁹ Schull, 50.

military force, other institutional mechanisms, and above all data collection. In this regard, the government of the CUP consolidated the domination of its tools to pursue the general conditions of prisons which had become a great issue for Ottoman internal and international politics since the Tanzimat period. With the motivation of these enhanced controlling and monitoring aspirations, the CUP government enacted a law in 1909, namely, “Law on Vagabonds and Suspected Persons” (*Serseri ve Mazanna-i Sû-i Eşhas Hakkında Kânûn*) to cope with idleness and vagrancy which posed a considerable security question in provincial centers. As a consequence of the loss of territories, the migration rate dramatically rose, and it led to high criminal potentiality particularly in big towns such as İstanbul, İzmir, Adana, etc.⁵⁹⁰

Shortly after the promulgation of this law, the CUP founded the Directorate of Public Security (*Emniyet-i Umûmiye Müdürüyeti*) instead of the Ministry of Police Force (*Zabıtiyye Nezâreti*) in order to construct a tight control mechanism against the high criminal rate. The institution’s main target was controlling society, enhancing public surveillance, and monitoring the vagrants, vagabonds, unemployed and idle people in order to consolidate public security with the new structured institutional organization.⁵⁹¹ This new institution was attached to the Ministry of Interior (*Dâhiliyye Nezâreti*) with a considerable budget. More importantly, this new security force (*Emniyet- ümûmiye Müdürüyeti*) gathered very detailed information on the vagrants, unemployed, idle people, bandits, immigrants, political riots, and uprising potential in all imperial territories in 1910.⁵⁹² The CUP government intended to collect more detailed data on these people to have a grasp of their criminal potential and above all to prevent them from committing crime. In other words, the CUP government intended to collect more detailed data with systematic and planned data collecting methods through its institutional apparatuses that created their positivistic, nationalistic politics and social engineering understanding.

To go back to the point, here this section shall concentrate on the CUP’s prison policies. The CUP government persistently fulfilled the first article of 1880 Prison Regulations which offered building prisons and jails in the centers of provinces (*vilâyet*) and districts (*kazâ*) across the Empire.⁵⁹³ They aimed at improving and regulating not only the physical conditions of prison buildings but also the hygiene and health standards of the prisons through systematized prison administration. Therefore, the CUP government aspired to establish a central, systematized, and institutional prison administration to establish a fresh prison system in all the imperial provinces in the first years of their government. The CUP government laid the foundations of the first prison administrative body, namely the prison administration body

⁵⁹⁰ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire.” (PhD diss., University of Cincinnati, 2015), 72-73.

⁵⁹¹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 51.

⁵⁹² Ibid., 51.

⁵⁹³ Ibid., 51.

(*Hapishâneler İdâresi*) in 1911 to carry out 1880 Prison Regulation under the umbrella of a structured prison institution.⁵⁹⁴ According to Schull:

*As the CUP revised the IOPC, it also implemented the first of its extensive prison reforms in late 1911 and early 1912 including the creation of the first centralized prison administration, a comprehensive prison survey, a wide-ranging program to completely refurbish and modernize the empire's prisons and jails, and efforts to professionalize the prison cadre and rehabilitate prisoners.*⁵⁹⁵

They aspired to consolidate their bureaucratic authority and centralize governmental power, regarding the fundamental political changes in Ottoman government, by the revised penal codification that delineated the new crime types, codified the fresh punitive manners, consolidated the state's authority, circumscribed the court judges and local administrators, and increased state authority to intervene in all the penal and legal issues across the Empire.⁵⁹⁶ As a component of the penal change, codification and administrative improvements, the CUP government drew up a pilot project as a proposed regulation in 1911. However, the prison reform project of the CUP was postponed due to the Balkan Wars and the great defeat; thus, this led to postponing the prison renovations which would eventually be carried out as late as in 1917.⁵⁹⁷ The 1911 Prison Reform Project involved proposals which contained several projects on prison construction, renovations and architectural plans.⁵⁹⁸

A while later, at the end of 1912, the Prison Administration was *Mebâni Emîriyye Hapishâneler Müdüriyeti*. The monopolization and centralization of the prison administration were ultimately achieved; while the control, repair, renovation, construction, and

⁵⁹⁴ Kurtuluş Demirkol, "II. Meşrutiyet Döneminde İzmit Hapishanesi." in *Uluslararası Gazi Akçakoca ve Kocaeli Tarihi Sempozyumu Bildirileri*, edited by Haluk Selvi and Bilal Çelik, (Kocaeli: Kocaeli Büyükşehir Belediyesi Kültür ve Sosyal İşler Daire Başkanlığı Yayınevi, 2015), 989.

⁵⁹⁵ Kent Schull, "Criminal Codes, Crime, and the Transformation of Punishment", in *Law and Legality in the Late Ottoman Empire and Republic of Turkey*, edited by Schull, Kent, Saracoğlu M. Safa, Zens, Robert (Bloomington: Indiana University Press, 2016). 164.

⁵⁹⁶ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 52.

⁵⁹⁷ Yasemin Gönen, "Osmanlı İmparatorluğu'nda Hapishaneleri İyileştirme Girişimi, 1917 Yılı," in *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayıncılık, 2005), 174-175.

⁵⁹⁸ As Özyurt addresses that during the second Constitutional Period, prison construction projects stimulated to carry out them both in İstanbul and the other provinces. On the other hand, the CUP government aimed at enhancing the psychical conditions of prisons under the umbrella of "*Dâhiliyye Nezâreti Mebâni-i Emirriye Hapishâneler İdâresi Heyet-i Fenniyyesi*". This organization conducted several prison projects (renovation and re-building) in Üsküdar, Paşakapısı, İshakpaşa Prisons in İstanbul, Bursa, Edirne, Balıkesir and in other provinces in between 1913-1922. Moreover, this organization has included many significant Muslim-, non- Muslim and foreign architects, construction engineers, construction workers and prison inspectors, etc., such as architectures George D. Stampa, Alaaddin Bey.; See Oya Özyurt, "20. Yüzyılın İlk Çeyreğinde Anadolu ve İstanbul'da Bazi Hapishane İnşaatları," *Mimarlık Tasarım Kültürü Dergisi*, Vol 9, 2003, 78-80.

administration duties were unified under the umbrella of the prison directorate, which was institutionally attached to the Ministry of Interior (*Dâhiliyye Nezâreti*).⁵⁹⁹

Then, the CUP ensured its political consolidation after the 1909 counter-revolution attempt, albeit with the ongoing battles and riots (1911-1912 Balkan Wars), and they could continue to plan and undertake projects to transform Ottoman prisons.

According to Schull: “Prisons became microcosms of the CUP’s larger plans to meld the empire’s population and administration into a modern nation-state.”⁶⁰⁰ As seen in the quotation of Schull’s, the prisons were used as an apparatus of becoming a more modern and civilized nation-state in the political agenda of the CUP government. In this regard, the CUP government heralded a great prison reform packet in order to enhance the health and hygiene standards, renovate dilapidated prison buildings, wipe out the woeful living conditions of prisoners, standardize the judicial forms, establish rehabilitative workshops and small factories associated with a considerable budget, and also, to build a nation-state.⁶⁰¹ Nonetheless, both Balkan wars, their great defeat, and the internal political turmoil which all occurred after the parliamentary elections interrupted the ongoing prison reform package. These troubles led to the sacrifice of reform attempts; hence the prison reform program was halted until the decline of the Empire.⁶⁰²

Notwithstanding, the CUP government firmly attempted to revise the institutional and administrative structure of the Ministry of the Interior (*Dâhiliyye Nezâreti*) in order to retain its political control and power by the institutional tools. In 1913, Talat Pasha proclaimed the ‘Regulation for the Restructuring of the Ministry of the Interior’ (*Dâhiliyye Nezâreti Teşkilâti Hakkında Nizamnâme*). According to this regulation, in addition to the eleven institutions associated with the Ministry of Interior, two distinct institutions, namely the Directorate of Public Security (*Emniyet-i Umumiye Müdirîyeti*) and the Directorate of Prisons (*Hapishâneler Müdirîyeti*) began to work with the Ministry of Interior.⁶⁰³ As seen, the Prison Administration (*Hapishâneler İdaresi*) became the Prison Directorate (*Müdirîyet*) by this institutional regulation. With these institutional developments,⁶⁰⁴ the CUP government began to collect more data on the ethno-religious identities, nationalities and communal identities of the prisoners in all the imperial provinces.⁶⁰⁵ Also, with the second prison survey held in 1914, they

⁵⁹⁹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 55.

⁶⁰⁰ Schull, 53.

⁶⁰¹ Ibid., 53-54.

⁶⁰² Ibid., 54.

⁶⁰³ Ibid., 55.

⁶⁰⁴ Ibid.

⁶⁰⁵ Kent Schull, “Identity in the Ottoman Prison Surveys of 1912 and 1914,” *International Journal of Middle East Studies* Vol. 41, Issue 3, 365.

collected more feedback and demands on renovations from the provincial prisons that had complained about their filthy physical and dreadful living conditions with photographs and blueprints of the dilapidated buildings which urgently needed to be renovated and occasionally rebuilt in the provincial areas.⁶⁰⁶ While they aimed to embed their nationalist ideology as a rehearsal for nation-state building projects, they tried to expose and improve the woeful conditions of the imperial prisons which consisted of torture areas (*işkencehâne*) and graveyards (*mezarhâne*).⁶⁰⁷ Therefore, they set aside a considerable budget, and more concern and projects for their prison reform program.

As an innovative attempt, female inmates who were incarcerated with their children famished which was because the prison management served insufficient food for them, as section 5.4 concentrates on. Hence the prison management had to consider their specific situations.⁶⁰⁸ By 1914, the prison directorate remarkably increased their attention and concern towards female inmates. The CUP government enhanced their concerns on pregnant and breastfeeding females. The Prison Directorate had to provide extra food for pregnant women, nursing mothers and also female inmates who were incarcerated with their children under the age of six.⁶⁰⁹ The prison directorate began to allow women's imprisonment with their children under the age of six. As it proved to be the special concern of the CUP government, another special implementation crucially was carried out for women inmates and their children, who could be incarcerated in a separate part from the major population of the poor house (*Dâr'iilaceze*) to avoid the criminalization of children.⁶¹⁰ In case relatives of women inmates could protect the children, they were not required to send them to poor houses, as another measure of avoiding the high criminalization potential of the prisons. As it was broadly examining the population data of Ottoman prisons by the censuses which were held during the CUP government, albeit the lesser population of female inmates vis-à-vis their male counterparts, the concern for female inmates and gender-specific imprisonment applications diligently increased. According to Schull:

Both the Prison Administration and the Directorate of Prisons made the improvement of prison conditions for women a special priority during the Second Constitutional Period. Even though women made up less than 6 per cent of the total prison population, administrators made provisions to provide separate space and special supervision and provisioning for female

⁶⁰⁶ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 55.

⁶⁰⁷ See Yozgad Vilâyet Gazetesi, Vol.60, 21 Ra 1309 /22 March 1911. Page 2. "Hapishâne mi Mezbâha mi?" Author: A.N.; Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 210.

⁶⁰⁸ Ibid., 215; See Section 5.4

⁶⁰⁹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 126-127.

⁶¹⁰ Ibid., 127.

inmates. Therefore, Ottoman prisons became sites for gendered space, gendered supervision, and gendered provisioning wherein the state assumed greater responsibility for its female prisoners.⁶¹¹

As Schull notes, the Prison Administration of the CUP's government target rising their special concern on women's and juvenile delinquent's special questions during their imprisonment along with the prevention of criminalization of juvenile delinquents in prisons, although they represent very low number of total prison populations.

The CUP government began to examine the prison regulations, administrations and construction projects of diverse countries such as Germany and Italy. In this regard, they examined the German Prison Regulations, Berlin Prison Project and also Italian German prison construction projects to get inspiration from modern European prisons.⁶¹² In addition to their effort, the Ottoman officials sought a European prison expert to utilize his professional advice, supervision and proposals for their reform package.⁶¹³ The head of Berlin-Tegel Penitentiary, prosecutor and judge of German courts Alexander Klein, and German psychiatrist, prison head of Düsseldorf-Derendorf prison Dr. Paul Pollitz were the two main candidates selected by the CUP government to be assigned as prison inspectors.⁶¹⁴ As a consequence of the conversation between Ministry of Interior Talat Pasha and the Grand Vizier Said Halim Pasha, they decided to hire a supervisor from Germany as the head Inspector General of Prisons and Penitentiary Establishments for the Ottoman Empire.⁶¹⁵ On the occasion of Germany's great support during WWI, the Ottoman Empire had chosen to utilize the precious support and proposals of a German prison expert who was Paul Pollitz.⁶¹⁶ As a consequence of the close relations and ideological resemblance of CUP government with the Prussian government and Dr. Pollitz's ability to speak French, he, known as Pollich Bey, became the General Inspector of Prisons and Houses of Detention (*Hapishâne ve Tevkifhâneleri Müfettiş-i Umûmisi*).⁶¹⁷ He was hired in 1916 on an annual salary of 1,200 Turkish Lira and he also received 1,500 Francs for his travel

⁶¹¹ Ibid., 127.

⁶¹² Yasemin Gönen, "Osmanlı İmparatorluğu'nda Hapishaneleri İyileştirme Girişimi, 1917 Yılı," In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005). 176.

⁶¹³ Ibid., 176.

⁶¹⁴ Ibid.

⁶¹⁵ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 57.

⁶¹⁶ See details on Pollitz's studies on psychology of criminals: Pollitz, Paul. *Strafe und Verbrechen: Geschichte und Organisation des Gefängniswesens* (Leipzig: Teubner, 1910).

⁶¹⁷ BOA.DH.MB.HPS. 92/18.12 Ramazan 1334/ 13 July 1916. French Biography of Paul Pollitz and Alexander Klein and Pollich Beyin raporu.

Saaadet Tekin. "Dr. Pollich Bey'in 1918 Tarihli Raporuna Göre Berlin ve Aydın Vilayeti Hapishanelerine Genel Bir Bakış," *OTAM* 24 (2010): 208.

expenses for the five-year term.⁶¹⁸ Moreover, he was granted a small house and food support by the *Mebâni-i Emîriyye Hapishâneler Müdüriyyeti*.⁶¹⁹ He carried out his duties with his inspection excursions and preparation of reports which were held specifically in Gelibolu, Kale-i Sultaniye (Çanakkale), Edirne, İzmit, İzmir and Aydın in between 1917-1918, with his translator and assistant Nazım Efendi.⁶²⁰ On the other hand, he requested detailed information on the names of districts' prisons and jails in the regions of Tekirdağ (Tekfurdağı), İzmit, Gelibolu, Biga, and Çanakkale (Kale-i Sultaniye) from the administration of Hapishâne-i Umûmî's Statistical Office, Istanbul, in May 1917, in order to expand his inspections.⁶²¹ In 1917, he prepared a 28-page observation report on a comparative perspective on German and Turkish prisons⁶²², with a detailed report on the central prison of Aydın.⁶²³ However, he could not get a detailed and regular report from Istanbul's prisons and jails during his incumbency. Therefore, he frequently complained about the irregularities and chaotic structures of Hapishâne-i Umûmî's Statistical Office. During his duty as head prison supervisor and inspector, he prepared another special

⁶¹⁸ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 57.

⁶¹⁹ BOA.DH.MB.HPS. 79/13: 8 Ra 1337/ 12 December 1918. "Hapishâneler Müdüriyyeti Celilesi, Hapishâneler Umûm müfettişi Pollitz Bey'in ikametgâhının sekiz numarasının mübeyyin pusulanın leffan iş'ar kılındığından müamileyhe de ... ekmek ve tâyinat vesikâsı itâsı. Marûz-u çekineleridir efendim."

⁶²⁰ BOA.DH.MB.HPS. 79/38: 12 Ca 1337/ 13 February 1919; Emel Demir. "Osmanlı Devleti'nde Hapishane Reformu: Çanakkale Hapishanesi Örneği." (MA Thesis, Çanakkale 18 Mart University), 73.

⁶²¹ Demir, 73.

⁶²² See details the conditions of German prisons in the 1840s. *Rapports sur Les Prisons de la Prusse, sur le Régime de Quelques Prisons de L'Espagne, de L'Angleterre et de L'Allemagne et sur le Régime des Prisons de la Turquie* (Paris: Imprimerie Administrative de Paul Dupont, 1843), 3-50.

⁶²³ DH.MB.HPS 161/46: 30-33. Varaka: 9 Zilhicce 1336/ 15 September 1918: Aydın Hapishân-i Umûmisi, İnâs tevkîfhânesi hakkında gözlemler; Eski cinâyet mahkemesine cephesi önünde mâil bir vaz'iyyetde kavşî şeklinde inşâ edilmiş üçüncü inâs tevkîfhânesi kîndir. Mezkûr tevkîfhâne bilâhare cinâyet mahkemesinin iki hitââsına mülâhîkdir. İnâs tevkîfhânesinde olan haklarında henüz tahkîkat yapılib sâniyen ceza kânûnnâmesine tevfîkan taht-ı tevkîfe alınan sâlisan hukuk-ı medeniyyeye aid bir cûrûmden dolayı habislerine karar verilen kadınlar muhâfaza olunur. İki zükûr tevkîfhânesi (panopitik) tarz-ı mimârisinde inşâ edilmiş iki inâs tevkîfhânesinin her katında kalın ve sağlam dösemeler ve kemerli tavanlar bulunmaktadır. Zükûr tevkîfhânesinde ve tek mil müştemilâtında olduğu gibi inâs tevkîfhânesinin zemin katı altında dahi bodrum vardır. Burada banyo tekneleri, bir tathîrât dairesi, kadın çamaşırhanesi ve çamaşırların kurutulduğu mahal, cînnet-i müttehevîre 'alâmeti gösteren kadınlara mahsûs bir hücre, tevkîfhânedede bir kabahat işlemiş olanların ayrıca habsine mahsûs iki habs-ı şedid odası (Chambre d'ârrets) ...muhafazasına mahsûs bir oda mevcuddur. Mahbûsînin bulundukları hücrelerin ve koğuşların pencereleri eski cinâyet mahkemesinin havlisine nâzîrdir. Koğuşlar ve mubâssîralara mahsûs hücreler büyük dîvarlar ile tevkîfhâne arasında kâin 9 numerolu havli cihetindedir. Dört katlı olan inâs tevkîfhânesi (205) mahbûs ihtiva edebilir. Bunların (55) i münkadlar olarak hücrelerde (15) i de müctemi' bir halde koğuşlarda muhafaza olunabilir. Mezkûr tevkîfhânedede (32) yataklık bir hastahâne vardır. Bu yatakların (25) i koğuşlarda ve yedisi hücrelerde bulunmaktadır. Bundan mâ'adâ inâs tevkîfhânesinde hükkâma mahsûs bir oda, kalem odaları, bir mekteb vardır. Bir kişilik hücrelerin hamam istîmâsi (27) metrotûldür. Zükûr tevkîfhânesinde olduğu gibi bunlarda da musluklu bir lavabo, bir elektrik lambası ve bir talurika (?) vardır. Mikdâri sekize bliğ olan koğuşlardaki karyolalar yatak takımları ile mücehhezdir. Koğuşların yedisinde yirmi kişi için ve birinde on kişi için yer vardır. Mevkûfinin müctemi'an muhafaza olundukları koğuşlar dahi elektrik ziyâsi ile tenvîr olunmaktadır. Bu koğuşlardan her biri için ayrı abdesthâneleri vardır.

request to collect data from the provincial prisons. This survey consisted of five different sections which respectively dealt with the numbers and names of the prison cadre, the numbers of male, female and juvenile inmates, and above all the numbers of inmates who were farmers or repairmen who had a maximum of six months to complete their sentences, (excluding political criminals), the numbers of idle prisoners and lastly the facilities of food service of the prisons.⁶²⁴ Besides, he diligently collected data from other imperial prisons to have a grasp of the fundamental problems of prison buildings and the prisoners at that time.⁶²⁵ As a result of these surveys, he summarized the problems which derived from the insanitary and dire living conditions of prison buildings, the idleness of the prisoners, and the scarce wards for the varied crime sections which enhanced the criminal potential of offenders especially juvenile delinquents. The chronic problems of prisons and prisoners had continued without any improvement, albeit regulation reports, since the beginning of the Tanzimat, as Dr. Pollitz's detailed observations dramatically show.⁶²⁶

Meanwhile, they promulgated a memorandum that proposed detailed prison construction projects that had the same and repetitive standardization goals, such as separate wards, prison factories, sanitary baths and toilets, and a medical infirmary attached to prisons in 1915.⁶²⁷ Shortly after the 1915 Prison Memorandum of the CUP government, they proclaimed another fresh prison regulation namely "*Memâlik-i Osmâniye Hapishânelerinin İdâre-i Dâhiliyyelerine Dâir Nizamnâme*" which contained 7 chapters and 197 articles, in 1916.⁶²⁸ The regulation report became the expanded version of the 1880 Prison Regulation which also underlined that central and local prisons had to have a separated women's wards or if the numbers of women's inmates were higher, they had to build separate women's prisons in the provincial areas (Article 16 of the regulations).⁶²⁹ According to the regulation, women's prisons had to have at least two women guards to inspect female inmates. In addition, the regulation proposed the enhancement of the living standards of prisons with the food service, hygiene standards, and other vital support to the inmates, while women prisoners would have regular clean clothes and underwear during their imprisonment (Article 96).⁶³⁰ Despite the revision and expansion of the articles of

⁶²⁴ Yasemin Gönen, "Osmanlı İmparatorluğu'nda Hapishaneleri İyileştirme Girişimi, 1917 Yılı." In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, 173-183, (İstanbul: Kitabevi Yayınları, 2005). 177.

⁶²⁵ BOA.DH.MB.HPS. 79/38: 12 Ca 1337/ 13 February 1919.

⁶²⁶ BOA.DH.MB.HPS 161/46: 30-33 pages: 9 Zilhicce 1336/ 15 September 1918.

⁶²⁷ See details of budgets, capacities, structure and locations of proposed prison construction projects: Emel Demir, "Osmanlı Devleti'nde Hapishane Reformu: Çanakkale Hapishanesi Örneği." (MA Thesis Çanakkale 18 Mart University,) 58-59.

⁶²⁸ Emel Demir, "Osmanlı Devleti'nde Hapishane Reformu: Çanakkale Hapishanesi Örneği." (MA Thesis Çanakkale 18 Mart University), 60.

⁶²⁹ Ibid., 61.

⁶³⁰ Ibid., 68.

the 1880 Prison Regulations, its expanded articles, which aimed at standardizing salaries for all prison employees according to their positions and experiences, gave clear guidelines regarding prisoners' health and hygiene, daily prison routines, and, above all, penal labor standards in 1917.⁶³¹ Nevertheless, this version was never adopted due to the insufficient budget (*tahsîsat sikintisi*). Instead, the 1880 prison regulations were sent out to all the imperial prisons as a standardized, official, and formal prison regulations once again.

To understand the discrepancy between the regulations on paper and their practical applications, this dissertation includes two case chapters. They shed light on the contemporary situation of the prison issues and the practices of female imprisonment in the 19th and beginning of the 20th centuries. Albeit all of the regulations, reports, institutional developments, etc., the Ottoman prisoners, including women prisoners, retained their misery in the dilapidated and ad hoc imprisonment areas. The upcoming sections sketch a larger picture on the ongoing questions of women's prisons and women prisoners in the late Ottoman Empire through several archival sources, including official correspondence, such as petitions, demands, complaints, visual materials, and architectural plans.

All in all, this chapter creates a broader framework that enables the pursuit of the trajectories of Ottoman prison reform from the early years of the Tanzimat until the fall of the Ottoman Empire. As a specific goal, this chapter particularly sheds light on the place of women inmates in prison reform, while it chronologically traces the Ottoman prison reform attempts through regulations, reports, foundations of new institutions and administrative efforts for penal transformation in the Ottoman Empire. Without a reappraisal of the prison reform mentality, the main goal and content of the regulations could not be well addressed. Therefore, "modernization" and "Europeanization" as the most dominant concepts of the discussion of prison reform were interpreted by scholars who study Ottoman prisons, their evaluations of international interventions in Ottoman prison reform through memorandums, reports and observation scripts of European officials were analyzed again. As the apparatuses of the interventionist politics of European states in terms of the modernization and civilization of Ottoman institutions according to European standards, they dealt with the Ottoman prison reform, in that the Ottomans also benefited from their regulations and suggestions. Nevertheless, the repeated and revised prison regulations demonstrated the ongoing and repetitive efforts to transform Ottoman jails into prisons and to set a standard prison, namely a "penitentiary" system, in all the imperial provinces. It also shows that Ottoman prisons retained their fundamental questions without any improvement. Consequently, the regulations,

⁶³¹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 57.

memorandums, and observation reports issued by Ottoman bureaucrats and international interventionists (French, German, and British), dramatically repeated that Ottoman prisons consisted of filthy, dilapidated, and miserable physical conditions that caused dire living conditions in which the inmates suffered.

This chapter eagerly seeks out the place of female inmates in the reform attempts, as the previous chapter revealed the presence of female offenders in the penal codifications and other legal developments. The place of feminine subjects in the reform scripts, their imprisonment problems in the Ottoman prisons, enhancement efforts for their imprisonment areas, and above all the particular articles for the feminine questions, such as pregnancy and motherhood in the prison regulations are particularly focused on. As the forthcoming chapters (case study) intensively concentrate on the imprisonment conditions of female inmates, they also emphasize the great gap between the practical implementations of regulative attempts and the genuine circumstances of women's prisons, which were widely affected by ongoing wars, political instabilities, budgetary questions, and above all, ostensible reform efforts of the Ottoman government.

Chapter 5: Case Study 1 Women in Prisons

5.1. Ad hoc Prisons for Female Inmates: Imam's Houses

Hafız Nail Efendi, Müezzin Mustafa, Havva Hanım and Emine Hatun... These were the owners and chief guardians of women's prison houses in the Ottoman provinces in the 19th and early 20th centuries. You read correctly... The most widespread and traditional women's imprisonment areas were imams' houses, which traditionally referred to leased female confinement places in the Ottoman Empire.⁶³²

This chapter examines the use of leased imprisonment areas and other ad hoc prison houses for female confinement. This practice derived from several causes and reasons which posed carceral questions for female prisoners, as this section concentrates.

As an oversimplified evaluation, the spatial areas for women's imprisonment were differentiated from male prisons in terms of the carceral culture, concept, and practices of confinement. As discussed in Chapter 2, the theoretical approaches to women's criminality and female delinquents were based on the fragility, vulnerability, and susceptibility of the female body and soul that affected their criminal tendencies, crime rates, and their criminal identifications.⁶³³ This penal approach also reinforced their negligence in the prison policies that were created only for male offenders.⁶³⁴ Briefly, the general tendency for identifying female criminals as exceptions regarding their fewer numbers and the doubt of their capability to commit crimes all affected the women's prison policies. Indeed, contrary to this approach, women offenders could commit crimes such as prostitution, larceny, and even serious offenses such as homicide, just as much as their male counterparts. Hence, they were visible in the prisons with their criminal agency. In addition, the shifted penal understanding based on the determination of imprisonment as the major punishment through the 1858 Penal Code also caused a rise in the numbers of female inmates in the 19th century.⁶³⁵ Therefore, the imprisonment system of the 19th century required separate imprisonment areas for female inmates who were detainees, convicts (awaiting trials or arrestees), and prisoners. As examined in Chapter 3, the 1880 Penal Codification emphasized the necessity for gendered spaces in

⁶³² Mehmet Zeki Pakalın, *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, Vols.1, 2, 3 (İstanbul: Milli Eğitim Basımevi, 1971, 60. İmam evi: Kadın hapishanesi yerinde kullanılır bir tâbirdir. Eskiden kadınlar için ayrı hapishane olmadığından hapsi lâzım gelen kadınlar imamın evine gönderilir, orada mahpus bulundurulurdu. Tâbirin meydana gelişî bundandır. "Women's prison is a term used aptly. In the past, since there was no separate prison for women, women who needed to be imprisoned in the imam's house where they were kept as prisoners."

⁶³³ See Chapter 2.

⁶³⁴ This apparently was related to cultural norms that confined women into the domestic places, in that crime-committing possibilities remained low regarding their limited relations outside world.

⁶³⁵ See Chapter 3, 1858 Penal Code.

Ottoman prisons and this became more visible on the agenda of the Hamidian government for the first time.⁶³⁶ Even though the question of the scarcity of separate women's prisons was repeated several times by the various Regulations during the late 19th century, the imprisonment of female inmates in leased prison houses was maintained nearly until the fall of the Empire in 1918.

In this regard, this section deals with the scarcity of women's imprisonment areas that mainly derived from displacing women offenders from the Ottoman prison policies due to the effects of their lower crime rate and the budgetary question of the Ottoman Empire. Hence, this section explores the compensation of scarce women's prisons by leasing method (*icârlanmış habshâneler*), their leasing processes, the imprisonment conditions of female inmates in these "ad hoc" prison houses, and above all the effects of leased prison houses on the imprisonment and supervision processes of female inmates. The previous chapter sheds light on prison regulations mostly aimed at building new prison constructions for both male and female inmates in that the limited imprisonment areas reinforced the question of the necessity for women's prisons in the imperial provinces during the late 19th and early 20th centuries. Here we initially touch on unfulfilled prison projects and the efforts of the Ottoman government to have separate carceral spaces for female inmates, through the examples from the Ottoman archives.

As repeated several times, the departure point for the idea of leasing imprisonment areas for women inmates derived from the lack of proper women's prisons and wards that was a fundamental part of the Ottoman prison questions. The Ottoman bureaucracy and foreign officials ventured to find a solution for the scarcity of prisons and penitentiaries with several projects to build "penitentiaries and prison complexes" in Ottoman provinces. However, budgetary questions prevented the establishment of penitentiaries to replace rudimentary, filthy, and dilapidated dungeons and jails. Although considerable numbers of regulations emphasized the necessity for modern prisons and penitentiaries, the vast majority of these projects remained on paper.⁶³⁷ Hence, here we initially draw a larger picture to understand the suffering of women prisoners in the woeful living conditions of proper prisons before we examine the leased women's prisons as the main compensation method for scarce women's prisons.

Women's imprisonment areas generally consisted of dilapidated, miserable, and dire dungeons without ventilation and heating systems, lacking hygiene, and other survival needs such as food, toilets, and bedding. Hence, these woeful living conditions engendered risks for the offenders' lives which could be prevented with renovations and reconstructions of the existing prisons with special enhancement concerns for the living standards. As Schull states,

⁶³⁶ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 123-125.

⁶³⁷ Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri." (MS Thesis, İstanbul Technical University, 2020), 121.

the British ambassador Stratford Canning also described these imprisonment areas as dungeons providing direful living standards or more precisely death holes, in his report of 1851.⁶³⁸ Schull also states, in addition, these descriptive ideas to Canning's report:

*Most prisoners had little access to fresh air, exercise, adequate food, or medical treatment. Prisons were makeshift structures usually located in local military compounds, fortresses, or government building annexes. Inmates primarily depended on family, friends, or religious endowments for their meager subsistence. All kinds of prisoners were incarcerated together: the accused with the convicted, the petty criminal with the felon, adults with children, and sometimes even men with women.*⁶³⁹

As Canning states, all prisoners were confined together in the same prison wards without any separation. In addition to the Tanzimat's famous prison reformer, Canning's prison descriptions, Tanin's⁶⁴⁰ journalist Ahmet Şerif Bey's direct observations also shared his direct observations on the woeful conditions of Ottoman prisons in 1907-09, as Section 6.1 broadly examines.⁶⁴¹ Ottoman prisons are mostly located in a dilapidated and tiny place in the basement of government offices. Prisoners suffered under very dark, narrow, and crowded imprisonment areas. Generally, there were no places to sit on the floor or even stand.⁶⁴² The scenes demonstrated the misery of prisoners in these filthy places. As the impressions revealed, living conditions in Ottoman prisons (whether male or female prisons) had remained poor since the 1850s, without any development, even up to the 1910s.

As touched on above, due to the fewer numbers of female offenders than their male counterparts, women's imprisonment areas later and limitedly entered the agenda of the Ottoman prison policy, which led to finding temporary solutions for the female prisoners in order to compensate for the lack of female imprisonment areas.⁶⁴³ During the early Tanzimat period, the Ottoman government hastily embarked on compensating for the lack of women's prisons by a more widespread leasing system throughout the imperial provinces. Most provinces did not have any women's prisons (*nisâ habshânesi*) and women inmates were

⁶³⁸ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 45.

⁶³⁹ Ibid., 45.

⁶⁴⁰ See Hüseyin Cahit Yalçın, *Edebî Hatıralar* (İstanbul: Akşam Kitaphanesi Neşriyatı, 1935), 179-184. Tanin is an Ottoman-Turkish newspaper founded by Hüseyin Cahit Yalçın and Tevfik Fikret during the first years of the CUP's government and it was published in 1908-1947.

⁶⁴¹ See Section 6.1 for more about health conditions and epidemics.

⁶⁴² Mehmet Çetin Börekçi, *Anadolu'da Tanin-Ahmet Şerif* (Ankara: Türk Tarihi Kurumu, 1999), 226-227. Note: The date of Tanin: 2 May 1910.

⁶⁴³ Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri." (MS Thesis, İstanbul Technical University, 2020), 119, 126-127. The Ottoman government used large commercial buildings, government offices, caves, and dungeons as imprisonment areas in the 19th century, not only for female inmates but also for male prisoners. See details on the usage of several commercial buildings as prisons in Edirne and Izmir, a cave also used as a male prison in Mardin sanjak, Midyat district.

confined in tiny and narrow areas located inside men's prisons (*ziükâr habshanesi*) as archival sources show.⁶⁴⁴ To compensate for this scarcity in Istanbul, the Ottoman government began to build a new women's prison (*nisâ habshânesi*) and an office for women guards (*nisâ kolcusu*) in the *Bâb-ı Zabtiyye* around Cağaloğlu by the cost of the 36,916 *guruş* in 1850.⁶⁴⁵ However, due to budgetary limits, the expenses of the women's prison construction project might be higher than 36,916 *guruş*. If the expenses exceed allowances, the state budget office (*hazine*) would not allow this building. Unfortunately, the Ottoman archives do not allow us to trace the trajectory and final stage of the planned prison houses in Istanbul. However, we can say that there is no information on separate female prison construction in Istanbul during the early years of the Tanzimat. Nevertheless, Tanzimat's bureaucracy aimed at creating proper women's prisons with architectural and financial plans (*keşifnâme*). Astonishingly, the first known proper women's prison was constructed in Yozgat (*vilâyeti*) province, namely the Yozgat Female Prison (*Nisâ Habshânesi*) in 1859. Local governors of the Yozgat provincial center had hastened to construct a proper house of detention for female inmates whose sentences were longer than a year (generally five or seven years according to the 1858 Penal Code).⁶⁴⁶ Leased prisons were a temporary solution for the long-term imprisonment of some convicted females in Yozgat. For this reason, a proper female prison had become a crucial necessity for the Yozgat provincial administration in the early years of Tanzimat.⁶⁴⁷

Alongside this example, unfulfilled prison projects for female inmates, ongoing plans, and their cancellations were very abundant due to allowance restrictions (*tahsîsat sıkıntısı*) during the late Ottoman period.⁶⁴⁸ For example, alongside architectural plans for the construction of a new prison to have more space for male and female prisoners in Niş province, due to budgetary questions, the government interrupted this prison project, and the women inmates were continued to be incarcerated in the local imam's house in Niş in 1848.⁶⁴⁹

This scarcity occasionally posed another question on Ottoman criminal world which based on impunity for the female offenders who were not properly punished (*Gönen ve Burhaniye kazâlarında nisâ habshânesi olmadığından suçluların mahkumiyetleri icrâsız*

⁶⁴⁴ Saadet Tekin, "Osmanlı'da Kadın ve Kadın Hapishaneleri," *A.Ü.D.T.C.F Journal*, Vol. 29 (2010): 91.

⁶⁴⁵ Ersin Kirca and Kevser Şeker, *Arşiv Belgelerine Göre Osmanlı'da Kadın* (İstanbul: Bion Matbaacılık, 2015), 325- 326.

⁶⁴⁶ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni* (1839-1908) (İstanbul: Kitabevi, 2012), 359

⁶⁴⁷ Ibid., 359.

⁶⁴⁸ BOA.ZB 706/2: 22 Rebi'ülahir 1313/ 12 October 1895. Dimetoka, Hayrabolu, Malkara, İskeçe, Kırcaali, Çorlu ve Kırkkilise'de inşa olunacak nisâ hapshânelerinin keşif defterleri.; BOA.DH.TMIK.S. 20/26: 20 Rebi'ülevvel 1316/ 8 August 1898: Çoğu yerde nisâ habshanesi bulunmadığından kanun geregi buralara hapshâne inşaatı başlaması.

⁶⁴⁹ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012). 94.

kalmakta), even during the Hamidian period.⁶⁵⁰ In this regard, after the 1878 Berlin Treaty, the Hamidian government encouraged new prison complex projects in Ottoman provinces, however, these prison buildings had no heating or ventilation systems due to the lack of funds.⁶⁵¹ Also, the Committee of Union and Progress with their effective renovation projects accelerated the prison transformations specifically after the consolidation of the second constitutional monarchy in the 1910s.⁶⁵² Demirkol points out that the Committee of Union and Progress decided to destroy dilapidated prison buildings instead of renovating them. In so doing, they could sell the lands of prisons to use the money for new prison constructions.⁶⁵³ Also, during and after the 1915 Armenian genocide, Armenians who had lived in İzmit were forced to abandon their properties, such as houses, barns, and stores. These abandoned (*metrûk*) buildings were transformed into prison buildings without any renovation or repair, as a quick way for creating more imprisonment areas as forthcoming pages provide several examples from other provinces.⁶⁵⁴ In any way possible, the CUP tried to solve the issue of prison buildings with its limited budget. For example, the male and female wards of the Tekirdağ (*Tekfurdağı*) prison building were to be renovated, cleaned up, and repaired on a limited budget, and the local government (*Edirne vilâyeti*) requested a budget report for the renovation expenditures (*keşifnâme*). It also agreed to change the place of the women's prison (*nisâ hâpîshânesi*) to prevent contact among male and female inmates in 1917.⁶⁵⁵ Much of the correspondence between the CUP government and provincial government officials concerned the renovation and repair of prison buildings. During the first decade of the 20th century, the Ottoman government received countless requests for new prison buildings or funds for renovations. At the same time, some archival examples demonstrate that the Ottoman government attempted several times to fix the prison question, with the renovations of the existing prison buildings which were also hampered due to limited allowances.⁶⁵⁶ These efforts could not be transformed into tangible practices, hence these circumstances reinforced the leasing of imams' houses for

⁶⁵⁰ BOA.DH. TMIK.S.33/11: 20 Şaban 1318/ 13 December 1900: "Gönen ve Burhaniye kazâlarında nisâ habshânesi olmadıgından suçluların mahkumiyetleri icrâsız kalmakta, ve hâpîshâne olarak kiralanan evlerin de bedelleri ödenmemekte olduğundan".

⁶⁵¹ Jülide Orat and Fadimana Çelik, "Diyarbakır Vilayeti Hâpîshaneleri", *Kafkas Üniversitesi, Sosyal Bilimler Enstitüsü*, Sayı 7, İlkbahar 2011, 78.

⁶⁵² Hatice Akin, "Osmanlı Devleti'nde Hâpîshane İslahatına Dair 1893 Tarihli Bir Nizamname Önerisi," *History Studies* Vol. 3/3, 2011, 26.

⁶⁵³ Kurtuluş Demirkol, "II. Meşrutiyet Döneminde İzmit Hâpîshanesi." (PhD diss., Sakarya Üniversitesi Sosyal Bilimler Enstitüsü, 2012), 89.

⁶⁵⁴ See details of practice of seizing Armenians' properties and the application of Emval-i Metruke Law (1922) as a tool for confiscation of Armenian properties. Nevzat Onaran, *Emval-i Metruke Olayı: Osmanlı'da ve Cumhuriyette Ermeni ve Rum Mallarının Türkleştirilmesi* (İstanbul: Belge Yayınları, 2010, 56-57); Taner Akçam and Ümit Kurt, *Kanunların Ruhu: Emval-i Metruke Kanunlarında Soykırımuñ Izini Sürmek* (İstanbul: İletişim Yayınları, 2012), 84-91.

⁶⁵⁵ BOA.DH.MB.HPS. 78/6: 22 Şevval 1335/11 August 1917.

⁶⁵⁶ BOA.ZB 706/2: 22 R 1313/12 October 1895.

female inmates. Another archival document from the Trabzon *vilâyeti*, Akçaabat *kazâsı*, demonstrates the insufficient and dreadful health conditions of district prison's wards (*gayri sihhî şartlara haîz olduğu*). Above all, the prison management of the Akçaabat *kazâ* prison requested a separate ward for female inmates along with other renovation requirements on 14 November 1913. Nevertheless, it was rejected by the CUP government once again.

Some archival documents show the urgent call for new prison constructions instead of renovations as a strategic footstep because the renovations were not enough to enhance the living conditions of prisoners. From Bursa Vilâyeti (*Hüdâvendigar eyâleti*), Orhaneli-Atranos (Yenice) *kazâsı* claims that the prison building had unhealthy living conditions (*Atranos (Yenice) kazâsı hapishânesinin dar ve sıhhat açısından kötü durumda olan binasının ıslahı*). In other words, the prison management complained about the unhygienic standards and reported that the physically small wards engendered health risks for the inmates in 1913.⁶⁵⁷ The crucial need from the prison administration of Yenice district prison need was urgent renovation and repair of the building. In the final stage, they changed their request which became a strong request for construction of a new building instead of renovation. Unfortunately, the correspondence does not provide information on the consequence of these petitions.

Whereas the question of dilapidated prisons was all led to the suffering of both female and male prisoners who had been exposed to the same physical and health conditions, the female prisoners had a crucial problem in the lack of separate prison wards and proper women's prisons which paved the way for mixed incarceration practices with together with male prisoners. Some archival cases exemplified the division of male prisons into two for creating more space for women prisoners. An illustration from Syria Vilâyeti, Aclun *Kazâsı* provides information on three women who had committed larceny (*sirkat*) and would be imprisoned on 12 February 1912 for a year in Aclun, Syria Vilâyeti. However, there was not a special ward in Aclun *zükûr hapishânesi* (male prison) or a separate prison house for the three female convicts. Aclun prison management requested extra funding to have a separate place for female inmates inside the men's prison.⁶⁵⁸ As a result of the correspondence between the Interior Ministry (*Dâhiliyye Nezâreti*) and the administration of Syria Vilâyeti, due to the lack of extra funding for a new female prison, they had to divide male wards into two to have a place for the women inmates. This engendered a probable close contact among women and men in Aclun District Prison.

⁶⁵⁷ BOA. DH. MB. HPS 5/12: 15 M 1332/ 14 December 1913: "Atranos (Yenice) Kazâsı hapishânesinin dar ve sıhhat açısından kötü durumda olan binasının ıslahı ve yeni bina ihdâsı için talepte bulunulması."

⁶⁵⁸ BOA.DH.MB.HPS. 01/26: 30 Kânûnisani 1327/12 February 1912.

Other correspondence on demands for new women's prisons came from three different sanjaks and sub-districts *Cebel-i Lübnan, Sisam* (Samos) Island, and *Trablusgarb* in 1912.⁶⁵⁹ The Ministry of Interior (*Dâhiliyye Nezâreti*) gathered the demands based on the requests for the construction of new women's prisons. The main office of the Interior Ministry rejected all the demands from the three provinces for the same reason: scarce allowance (*tahsisât sikintisi*). Archival sources demonstrate that even male prisons (*zükûr hapishânesi*) in the sub-district centers were dilapidated and had dreadful living conditions (*zükûr hapisânelerinin ekserisi harap vaziyette bulunduğundan*). Therefore, these direful conditions hampered the division of male wards into two for the female inmates (*nisâ mahbûsin*) in *Cebel-i Lübnan, Sisam* and *Trablusgarb* provinces (*mezkûr hapishânelerden nisâ üçün mahal tefrikine maddeten imk'an bulunmadığı mâruzdur*).⁶⁶⁰

On the other hand, the archival sources sometimes provide extraordinary examples that give more insight into the attached women's prisons to the male prisons by the leasing method. According to Yılmaz, Adana Provincial Central Prison had also a leased female prison attached to the main prison (*zükûr hapishânesi*) with 1,840 gurus annual rental fee in 1913.⁶⁶¹ They preferred the leasing method to create a separate female prison near the main prison building. After the French occupation in 1921, the French authorities leased another women's prison-house that was a bit far away from the male's prison with 150 liras monthly rent.⁶⁶² All in all, they maintained the leasing method for having a women's prison until the decline of the Empire instead of constructing new prison, even during the Independence War.

Women's lower crime committing of violent offenses, the shorter imprisonment lengths for their less serious offenses (*kabahat* and *cünha*), and above all the general financial hampers paved the way for the temporary solution for women's imprisonment. In addition to their lower serious crime rates and shorter imprisonment lengths, the domestic origins and delineations of women subjects also shaped the special punitive ways for them in other Middle Eastern prisons; unheeded and ignorant approaches remained in their punishment with incarceration. As Gorman states, according to an Arabian proverb, "Prison is for real men" (*al-sijn lil- ja'dan*).⁶⁶³ While this proverb reflected a rejection against women's confinement, it enshrined male criminality. Besides, women offenders also retained their existence in Egypt's

⁶⁵⁹ BOA.DH.MB.HPS. 85/45: 9 Ra 1330/ 27 February 1912

⁶⁶⁰ BOA.DH.MB.HPS. 85/45: 9 Ra 1330/ 27 February 1912: "ma'mafih kazâ ziükûr habishânelerinin ekserisi harab vaziyette olduğu cihetle mezkûr hapishânelerden nisâ üçün mahal tefrikine maddeten imk'an bulunmadığı mâruzdur."

⁶⁶¹ İbrahim Yılmaz, "Osmanlı Devleti Son Döneminde Adana Hapishanesi," *Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 211, No. 4 (2019): 1419.

⁶⁶² Yılmaz, 1420.

⁶⁶³ Anthony Gorman, "In Her Aunt's House: Women in Prison in the Middle East," *IAAS Newsletter*, Vol. 39, 2005, 7.

criminal world per se in the 19th century. As an interwoven part of this understanding, the Egyptian government still used leased imprisonment areas for females offenders, amid ongoing attempts at prison modernization in the late 19th century. According to Gorman: “Their emergence marks the beginning of a new development even if the continued use of the word ‘dar’ (house) makes clear the domestic lineage of the institution.”⁶⁶⁴ Gorman claims that the leasing method and confinement at their houses has a tight relation with the domestic lineage of women’s delinquencies in 19th century Egypt, as a component of penal denial perspective against women’s criminal acts. Gorman could be right in his ideas on the domestic lineage of women’s crimes and confinement areas which cannot be ignored. He also insists that these confinement areas were not built like prisons but consisted of generally abandoned and random places which were used as female prisons both in Khedival Egypt and in the Ottoman Empire.

According to Peters:

*Prisons were not specially constructed as prisons but established in ordinary houses that were bought or rented for the purpose; in wards such as those existing in the Cairo Citadel; in storehouses (ha’sil); and, in one instance, in a disused stable. They were often located on large guarded government compounds accommodating, apart from the prisons, administrative offices (diwan), and police guardrooms.*⁶⁶⁵



Figure 5. 1: Women’s Ward, Central Prison in Cairo, 1908. Photo by Arnold Wright.⁶⁶⁶

Peters emphasizes that the Egyptian women’s prisons overwhelmingly were not built for this purpose, but ordinary areas such as leased houses, abandoned constructions, or

⁶⁶⁴ Ibid.

⁶⁶⁵ Rudolph Peters, “Controlled Suffering: Mortality and Living Conditions in 19th-Century Egyptian Prisons,” *International Journal of Middle East Studies*, Vol. 36, No. 3 (Aug., 2004), 394.

⁶⁶⁶ Arnold Wright, *Twentieth Century Impression of Egypt: Its History, People, Commerce, Industries, and Resources* (London: Lloyd’s Greater Britain Publishing Company, Ltd., 1909), 412.

basements of governmental offices were rented or bought to incarcerate the female prisoners.⁶⁶⁷ Moreover, Peters provides some illustrations from the Egyptian archives on leased prison houses for female inmates.⁶⁶⁸ These archival examples surprisingly show that the Egyptian government also used the leasing method of incarcerating not only female inmates but also male prisoners, in case the numbers of male offenders were very low in small districts and villages.⁶⁶⁹ However, female offenders were mostly incarcerated in leased prison houses, generally more than their male counterparts for the reasons listed above. As Gorman claims, in the Egyptian example, the prison houses were leased from local prayer leaders (*imams*), local chiefs (*mukhtars*), and married government officers.⁶⁷⁰ The marriage status of the prison houses' owners remarkably demonstrates that they deliberately aimed at avoiding any potential hazards and risks for the prisoners such as sexual abuse and assault like Ottoman women's imprisonment concept, as following pages discuss.

On the one hand, for the illicit cases, the Holy Quran (*Shari'a* jurisprudence) meted out that women had to be confined in houses of detention and sometimes at their houses, whereas imprisonment as a punitive way was not frequently implied by *Shari'a* courts, as discussed in section 3.1.⁶⁷¹ Imprisonment in women's houses in Egypt was rarely applied, instead they implemented flogging for the illicit sex cases, specifically for fornication cases.⁶⁷² It seems that the earlier version of imams' houses derived from Islamic legal jurisprudence, and this had remained from the age of the Prophet Mohammad until the 20th century in the Ottoman Empire. As Chapter 3 touched on, imprisonment in houses of women offenders who had committed sexual crimes was a widespread confinement practice in the *Shari'a* courts, especially for the prostitutes in the Islamic world.⁶⁷³ This Egyptian practice also has most probably a tight link

⁶⁶⁷ Occasionally, these leased imprisonment areas were also used for male prisoners in Egypt. Rudolph Peters, "Controlled Suffering: Mortality and Living Conditions in 19th-Century Egyptian Prisons," *International Journal of Middle East Studies*, Vol. 36, No. 3 (Aug., 2004), 394.

⁶⁶⁸ Rudolph Peters, "Controlled Suffering: Mortality and Living Conditions in 19th-Century Egyptian Prisons," *International Journal of Middle East Studies*, Vol. 36, No. 3 (Aug., 2004), 403.

⁶⁶⁹ See more details on Egyptian prison constructions, reform attempts of the Egyptian government in the 19th and early 20th centuries. Norman Johnston, *Forms of Constraint: A History of Prison Architecture* (Urbana and Chicago: University of Illinois Press, 2000), 66. See more photos on Egyptian Central Reformatory and transformations of Egyptian reformatories in Cairo in 1909: Arnold Wright, *Twentieth Century Impression of Egypt: Its History, People, Commerce, Industries, and Resources* (London: Llyod's Greater Britain Publishing Company, Ltd., 1909), 411-413.

⁶⁷⁰ Anthony Gorman, "Regulation, Reform, Resistance in the Middle Eastern Prisons," in *Cultures of Confinement A History of the Prison in Africa, Asia, and Latin America*, edited by Ian Brown, Frank Dikötter, (NY: Cornell University Press, 2007), 106.

⁶⁷¹ See section 3.1.

⁶⁷² Irene Schneider, "Imprisonment in Pre-Classical and Classical Islamic Law," *Islamic Law and Society*, No. 2 (1995): 166.

⁶⁷³ See Chapter 3. Franz Rosenthal, *Man Versus Society in Medieval Islam*, edited by Dimitri Gutas, *E-Conversion - Proposal for a Cluster of Excellence* (Leiden/ Boston: Brill Publishing, 2018).

with the Shari'a confinement concept. Nevertheless, these jails could not be compared with "modern imprisonment areas.

After touching on the roots of leasing carceral places for Egyptian women offenders, this part seeks out the reasons, backgrounds, and roots of leased (*icârlanmış*) imprisonment areas, namely imams' houses in the Ottoman Empire. As background information, even in the 18th century, the widespread punishment methods for women offenders were banishment, imprisonment, and penal labor.⁶⁷⁴ According to Karaca, whereas the female prostitutes were incarcerated in the separate parts of *Baba Cafer Zindani* in Istanbul (dungeon) in the early 19th century before their exile (*nefy*) to other provinces began, female inmates who had committed various sorts of criminal offenses were confined to leased places (*imams' houses*) near the *Ağ Kapısı* quarter in Istanbul.⁶⁷⁵

The rising population of women inmates led to their being visible more than ever in the ad hoc imprisonment areas so that the numbers of leased women's prison houses increased directly proportionally, even in the 18th century. The authorities had targeted dissolving the question with sufficient prisons and separate prison wards or penitentiaries during the reign of Selim III.⁶⁷⁶ Prostitutes and other women offenders who had generally committed larceny were overwhelmingly incarcerated in leased prison houses before their exile to other provinces.⁶⁷⁷ Consequently, the female incarceration tradition (especially for prostitutes) in leased imprisonment areas dates back to the early 18th century in the Ottoman capital, as section 5.2 examines.⁶⁷⁸

According to Adak, "Female prisoners were kept in houses, mostly at imams', priests', and rabbis' houses, rented by the Ottoman government, and female guards were appointed to those houses in the 19th century."⁶⁷⁹ Incarcerating female inmates in domestic areas formed through leasing and seizing the abandoned (*metruk*) or free properties was a system across the imperial provinces as a traditional female incarceration method. The archival sources give us more insight into their background in terms of understanding their concepts in that the leased

⁶⁷⁴ See implementation of banishment as a punitive way: Fariba Zarinebaf. *Crime and Punishment in Istanbul 1700-1800* (London: University of California Press, 2010), 108-109.

⁶⁷⁵ Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahıse Hatunlara Uygulanan Cezalar: Hapis ve Sürgün," in *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005), 153-154.

⁶⁷⁶ Ibid., 154.

⁶⁷⁷ The prostitutes were mostly banished to Bursa before the Tanzimat. See Fariba Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (London: University of California Press, 2010), 108-109.

⁶⁷⁸ See 5.2.; Zarinebaf, 92. Zarinebaf exemplifies using imam's houses as spatial areas for female incarceration.

⁶⁷⁹ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, USA, 2015), 159.

women's prisons maintained themselves as the traditional, widespread, and peculiar spatial areas for women's incarceration in the 19th and early 20th centuries.⁶⁸⁰



Figure 5.2: Remaining part of Baba Cafer Zindani, namely Zindan Han, in Eminönü, June 2021.⁶⁸¹

During the beginning of the 20th century, leased prison houses ceaselessly continued as widespread traditional imprisonment areas for female inmates in Istanbul and other provincial areas across the Empire. Schull notes that women prisoners who had committed less serious crimes (*cünha* and *kabahat*) were generally incarcerated in the centers of the districts during the CUP government, while the offenders who committed serious crimes required longer imprisonment lengths.⁶⁸² The serious crime (*cinâyet*) committing females were incarcerated in the central prisons of the provincial centers for their longer sentences, from 1 up to 15 years, according to the 1858 Imperial Penal Code.⁶⁸³ Women who were imprisoned for more than one year had generally committed murder, violent theft, banditry, brutal assault and so on.⁶⁸⁴ Briefly, as chapter 4 discusses, the places for their incarceration explicitly depended on their criminal acts, in the case of serious offenses, entailing longer sentences which required proper

⁶⁸⁰ Gizem Sivri, "Osmanlı'da Kadın Mahkum Olmak: Kadınları Mahkum Etme ve Denetleme Pratikleri Üzerine Bir Değerlendirme, 1840-1919," *Toplumsal Tarih*, Vol. 283, July 2017, 89.

⁶⁸¹ The photo was taken by me in June 2021. Today, remaining part of dungeon is used as a Car Park in Eminönü.

⁶⁸² Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 123.

⁶⁸³ Ayşe Özdemir Kızılkan, 'Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkûmlar (1839-1922),' (PhD diss., Süleyman Demirel University, 2011), 69, 82, 90.

⁶⁸⁴ Schull, 123-124.

and regular imprisonment areas.⁶⁸⁵ On the other side, as a result of the 1858 Penal Codification, imprisonment became the main punitive manner which entailed the necessity for proper prisons for each crime type and each gender. The shifting punitive methods invoked the transformation of jails (*mahbes*) into prisons (*habshâne*) as a component of the global trend on penal understanding, while the proposed practice of separate wards for each type of criminal act began with the 1858 Penal Code.⁶⁸⁶ Therefore, while the Ottoman government coped with the budgetary questions, the scarce imprisonment areas for female inmates, both in separate wards inside male prisons (*zükür habshânesi*) and in leased women's prison houses, resulted in women offenders being exposed to incarceration in mixed wards with other offenders who had committed serious crimes, such as homicide (*cinâyet*) and less serious offenses (*kabahatliler and erbâb-ı cünha*).

However, the centers of districts did not have separated wards and proper prison buildings for the female inmates who committed less serious crimes, in that they rented out small areas inside governmental offices (*hükümet konağı*). More generally, the Ottoman government was entrusted to the local religious authorities as the owner of women's prisons (mostly Muslim, occasionally Jewish or Christian clergies in case the offenders were non-Muslim).⁶⁸⁷ Hence, these prison buildings were mostly leased from local prayer leaders (*imams*) and local chiefs (*muhtars*).⁶⁸⁸

In this regard, the questions on conceptual and spatial features came up to our minds, all based on the leasing process of these prison houses in the Ottoman Empire. Here this part's goal is to discover the leasing process of imams' houses and their punitive functions as well, along with the questions on the mysterious worlds of imprisonment in leased female prisons. These traditional prison houses engendered new problems for the supervision and control of female inmates, regarding its punitive functions, and the general order of prisons.

Archival documents illustrate that during the Tanzimat period 35 prostitutes were imprisoned in an *imamhâne* (imam's house), in Tophâne in 1841.⁶⁸⁹ During the month of Ramadan, they were not allowed to perform their works due to their immoral acts, although they had not been punished as offenders by the Shari'a courts or *Meclis-i Vâlâ*. After the Holy month of Ramadan, they would be allowed to work as prostitutes in the streets around Karaköy and Tophâne. This illustrates a different reason for the confinement of females who worked as

⁶⁸⁵ See Chapter 4.

⁶⁸⁶ See Chapter 3.

⁶⁸⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 123.

⁶⁸⁸ Gültekin Yıldız, *Mapusane: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 361.

⁶⁸⁹ C.ZB. 52/2557: 27 Ramazan 1257/ 12 November 1841.

prostitutes in the Tophâne district; these prostitutes were imprisoned in the imams' houses around their districts until the end of the holy month for the Islamic world, namely Ramadan, with a subsistence allowance (*i'âseleri verilerek*).⁶⁹⁰ The case exemplifies the use of imams' houses as non-standard confinement areas (*nizâmsız ve uygunsuz*) even for the prostitutes who posed danger for public, moral and religious order without prosecution. It shows that the imams' houses hosted not only female offenders but also prostitutes, in order to prevent their immoral acts in terms of avoiding temptation and committing sins during the fasting period.⁶⁹¹ This proved another practical function of imams' houses as a way of keeping prostitutes under control at least during the holy periods in the 19th century. However, it also doubled up the overpopulated and insufficient women's prisons question, especially for genuine offenders. Furthermore, female offenders (thieves, assaulters, brutal murderers, aiders, and so on) were confined with prostitutes in these leased prison houses without any separation. To prevent these close interactions between prostitutes and other criminals, a prison house was leased from a religious school, Hoca Pasha *Medresesi*, for women committing *kabahat* (misdemeanors) in Cağaloğlu in the 1850s.⁶⁹² Besides, some female offenders (especially misdemeanants) were sent to *Haseki* women's hospital for their short imprisonment in the 1850s.⁶⁹³ In doing so, the Ottoman government tried to compensate for the lack of imprisonment areas, they also aimed at preventing close contact among prostitutes and women committing misdemeanors.⁶⁹⁴ Another *imam evi* leasing comes from *Belgrad Muhâfizliği* during the early years of Tanzimat. Some of the poor women inmates urgently needed daily one loaf of bread (*iâşे*) and a candle for the nights, hence *Belgrad Muhâfizliği* sent 80 gurus (piasters) monthly for this imams' house and the female inmates' vital needs in 1852.⁶⁹⁵

On the other hand, these women's prison houses were leased not only for the arrested but also for convicted people. Specifically, for the convicted inmates, this disordered prison system accomplished its initial target, which was to incarcerate them all. On 21 October 1917 in Edirne Province, Gelibolu Sanjak, Eceabad *kazâsı*, one convicted and four arrested women (just for ten days) had to be incarcerated in a prison. However, in the town of Eceabad, the local officers could not provide a special area for the women inmates. As a temporary solution, they

⁶⁹⁰ Ibid.

⁶⁹¹ Schull, 92.

⁶⁹² Ersin Kırca and Kevser Şeker, *Arşiv Belgelerine Göre Osmanlı'da Kadın* (İstanbul: Bion Matbaacılık, 2015), 329- 332.

⁶⁹³ *Haseki Nisâ Hastahânesi* was originally built as a public hospital in 1847, however because of the insufficient carceral places for women, it began to be used as a women's jail after 1869. See: Gülgâz Balsoy, "Bir Kadın Hastanesi Olarak Haseki Hastanesi ve 19.yy. İstanbul'unda Bikes ve Bimesken Bir Kadın Olmak," *Toplumsal Tarih* Vol. 257, (2015), 80.

⁶⁹⁴ See Section 6.2. Prostitutes in Ottoman prisons.

⁶⁹⁵ BOA.C.DH. 119/5911: 21 Recep 1268/ 11 Mayıs 1852.

rented a prison house for 50 gurus (monthly).⁶⁹⁶ The case reveals that those convicted female criminals and those temporarily arrested were imprisoned in the same place. Hence, the problem became directly related to the prisoners who were convicted for 5-10 years, sometimes more than 10 years. Of course, in case the offenders punished with longer imprisonment lengths who had to be imprisoned in provincial prisons generally *Hapishâne-i Umûmi*, as the 1858 Penal Code meted out. However, they were still incarcerated in the imams' houses due to overpopulated provincial prisons and their limited capacities. Here we should ask how did local officers and prison owners stabilize, consolidate, and guarantee the longevity and stability of the leased prison houses? Did this ad hoc prison system provide real security, detention, and correction in line with the modern ideal of prison transformation for the inmates?

Undoubtedly, the prison owners mostly cancelled the rental agreements and released women prisoners before their punishment were completed. These cases illustrate that the female offenders could not serve their sentences due to the instability of leased imprisonment areas. The scarce allowance for prisons by the Empire prevented the permanent solution for female imprisonment in that the longevity of leased women's prisons was not consolidated by local governments. These financial limits hindering the continuity of these imprisonment areas directly affected women's punishment that was interrupted due to the frequent transportation, earlier releases and prison breaks of prisoners to the other imprisonment areas, as upcoming archival examples show.⁶⁹⁷

While these leased imprisonment areas compensated for the deficiency of women's prisons, this engendered several problems on the continuity of imprisonment of the inmates, regarding the viability of imams' houses which were interrupted due to deferred payment of rental fees. For example, in Menteşe Sanjak, Milas *Kazâsı*, they had no prison for females in the center of Milas.⁶⁹⁸ According to correspondence between *Dâhiliyye Nezâreti Celilesi* and *Aydın Vilâyeti*, the house of an imam was leased by the local authorities in 1896. However, the rental fees were not paid for a long time. Thus, the amount of rental debt rose, and it transformed into an accrued rental debt that had to be paid according to correspondence that was issued on 26 March 1896. Another deferred payment of rental fees comes from a Mersin imam's house. The Adana local government did not pay the rental fee on time. Thus, the accumulated debt became another crucial issue of women's imprisonment. In *Adana Vilâyeti*, *Mersin Sanjak*, on 5 April 1887, an imam, *müezzin* (local prayer leader), Mustafa, became an

⁶⁹⁶ BOA.DH.MB.HPS. 97/6: 5 Muharrem 1336/ 21 October 1917.

⁶⁹⁷ See Ali Rıza Gönüllü, "Osmanlı Devleti'nin Son Döneminde Isparta Hapishanesi (1867-1920)," *Selçuk Üniversitesi Tarih Araştırmaları Enstitüsü Tarih Araştırmaları Dergisi*, No. 29, Konya, 2011, 387. Gönüllü exemplifies several frequent prisoner transfers from Isparta district prison to other prisons due to insufficiency of prison buildings, and also to the leased prison houses close by the prisons that were mostly used as women's prisons.

⁶⁹⁸ BOA.DH.MKT 428/100: 11 Şevval 1313/ 26 March 1896.

imam house owner and inspector.⁶⁹⁹ The debt for the rent and additional salary for his guardian service had accumulated for two years based on lump-sum payments since 1885. All in all, these deferred rental payments and guardianship fees led to earlier releases of inmates who were not incarcerated anymore by the leased prison owners.

Some cases exemplify the indispensable transfers of female offenders due to scarce imprisonment areas and ephemeral imams' houses for female offenders. For example, from the Muslim community in Bozcaada (Tenedos island) the wife of Veli, Fatma, committed adultery with a non-Muslim man, Konstantin. While Konstantin was punished by *pranga* (fetters) for three years, Fatma was punished with two years of imprisonment. However, there was no women's prison in Bozcaada, thus she was exiled to her hometown, her family house in Ezine district, Kestanbolu village, on 27 January 1854 to serve her sentence.⁷⁰⁰

Additionally, it is not possible to specify those female offenders sent to provincial central prisons, while convicts or those awaiting trial were incarcerated in imams' houses. For instance, correspondence illustrates that Irini Hatun (a Greek Orthodox woman) committed homicide, and she was punished with 15 years imprisonment with penal labor in *Kerpe Cezîresi* (Karpathos island).⁷⁰¹ There was no proper women's prison for the long imprisonment, hence Irini Hatun was confined in an imam's house in the center of the island. The longevity of the imams' houses led to earlier release for women offenders who had committed serious violent acts. As a quick solution, *Kerpe Cezîresi*, the local government decided to transfer her to another convenient women's prison in the Cezayir-i Bahr-i Sefid province on 28 August 1867.⁷⁰² They immediately began to look for a free place in the centers of other islands. However, it is not possible to trace the trajectory of Irini Hatun's transfer.

On the one hand, fiscal questions and their dramatic influences on the prisons retained their negative impacts that hampered the longevity of the imams' houses in that the Ottoman budget could not cover the expense of rental fees for leased prisons. The rental payments were interrupted several times for many reasons that mostly dealt with various financial crises, depending on the context. This knock-on effect of insufficient funds for the Ottoman prisons was caused by a budget blockage, which hampered and troubled the longevity of leased prison houses as well in a similar vein with archival examples from Karpathos and Tenedos islands. An archival case illustrates that several women in the Şile district leased women's prison had to be transferred to a new imprisonment area on 19 September 1912, because the Ottoman

⁶⁹⁹ BOA.DH. MKT 1409/76: 10 Recep 1304 /5 April 1887.

⁷⁰⁰ BOA.DH.A.MKT.UM. 145/42: 27 R 1270/ 27 January 1854.

⁷⁰¹ BOA.MVL. 800/54: 27 R 1284, 28 August 1867.

⁷⁰² Ibid.

government could not pay their rental fee due to insufficient budget.⁷⁰³ The transfer of female prisoners posed several budgetary and security questions, in that according to the correspondence between *Adliye ve Mezâhip Nezâreti* and *Dâhilliye Nezâreti*, convenient imprisonment areas (*münâsip bir mahallin tedariki lützûmu*) became a crucial need for these women. Unfortunately, the correspondence does not provide detailed information on the numbers of female prisoners, however, it emphasizes unpaid and accumulated debts for the leased women's prison in Şile kazâsı (*icârlanmış*) which was forced to find a quick solution by leasing another women's prison (*yeni bir mahal icâri*) in Şile rather than transferring these women inmates to Istanbul's proper prisons which had been already coping with the question of the overpopulated prison as well.

Lastly, some cases indicate funding questions hindered the leasing of new prison houses for female imprisonment. In 1912, some towns of *Ma'murat'ül-aziz* (*Ma'murat'ül-aziz vilâyetine mülhak, Harput, Arabkir, Keban, Eğin, Pötürge and Malatya sancağından Hisnmansur, Kahta, Behisni, Akçadağ, Dersim sancağından Mazgird, and Çarsancak districts*) requested extra funding to lease new female prison houses. Unfortunately, the Ottoman government rejected these demands because of the limited allowance for the prisons.⁷⁰⁴ Hence, the question of female imprisonment (*nisâ hâpîshânesi sorunu*) rose day by day.

When *imams* and *muhtars* became the most common householders and guards of Ottoman women's prisons, the gender roles of prison owners caused vast numbers of problems for women inmates' security, particularly inside proper women's prisons, as the next section broadly examines. The Ottoman government did not insistently stipulate that the householders and guards had to be women in charge of the female inmates' control and security both in proper and leased women's prisons. The only selection criteria were based on the social and religious status of prison owners, who were overwhelmingly members of religious and local authorities in the provincial areas. The Ottoman local governors (mainly *valis*) determined the prison owners who were also charged with the inmates' daily needs and security. The local governors were mostly concerned with the public recognition of the prison owners who had to be reliable, trustworthy, and ascendant people in their milieu. In so doing, the local officials could perpetually keep these prison houses under their security, control, and authority with a tight and close relationship between prison owners. Thus, *imams*, *muhtars*, and local officials were the most frequent women prison owners and guards in terms of their reputable positions in their social environment. Gender roles did not have a strong influence on selection criteria for women's prison owners and inspectors. Rather the Ottoman officials considered those who had space for the imprisonment of female inmates in return for cheaper rental fees in small

⁷⁰³ BOA.DH.MB.HPS. 41/23: 7 L 1330, 19 September 1912.

⁷⁰⁴ BOA. DH. MB. HPS. 85/84: 8 C 1330/ 25 May 1912.

localities. Therefore, while they might be an imam, a local chief, or a local notable, either male or female, women prison owners, and guards are slightly visible in the Ottoman archives. Hence, imams' houses became a colloquial name for leased women's prison houses, although the owner could be a local chief and a Muslim or Christian religious leader, and occasionally wives or sisters of religious and local leaders. As Adak and Tekin note that female guards could be assigned to inspect female inmates in the leased prison houses.⁷⁰⁵ While abundant archival records acknowledge the statements of Tekin and Adak, the records demonstrate that *imams or muhtars*, as the owners of leased prison houses, were overwhelmingly charged with the control and supervision of the female inmates. However, their wives and sisters overwhelmingly supervised and controlled female inmates, as the forthcoming cases illustrate. Consequently, we must say that there was no explicit indicator showing the number, sex, ages, and status of leased prisons' owners and guards who were male or female. As Tekin illustrates, in Akhisar district of Manisa sanjak, due to scarcity in the incarceration places for female inmates, the local government leased the free house of Emine Hatun for a 50 guruş monthly rental fee. Moreover, she requested an additional 50 guruş in return for her control and supervision in that she became the main guard of the Akhisar women's prison.⁷⁰⁶ As an acknowledgment, Özdemir emphasizes that the women prisoners, female prison owners, and guards were called (*kolcu kadın*) like those who supervised women inmates both in the leased and proper prisons, as the upcoming section.⁷⁰⁷ Plentiful archival examples illustrate that the female guards (*kolcu kadın*) overwhelmingly were charged with the supervision and control at leased prison houses in return for rental and guardian fees in the 1830s in the Tavhane and Ağakapısı regions in Istanbul.⁷⁰⁸

As an example from the Ottoman archives, in Menteşe province (sanjak) in the Fethiye district, the owner of the leased prison-house, Havva Hanım, carried out guardian in her women's prison-house without additional salary to the rental fee on behalf of the owner of prison-house which was not stated in the document (*nisâ habshânesi gardiyanollığını fahriyyen yürüütен*). She sent a petition to the local governor to secure a guard's fee alongside the rent of the house. But, as might be expected, the Ottoman government rejected Havva Hanım's demand with these words: "tahsisât sıkıntısı nedeniyle maaşat itâ olunamayacağı...." (due to lack of allowance for prison expenditures), we cannot assign a guardian's salary for Havva

⁷⁰⁵ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 159; Saadet Tekin, "Osmanlı'da Kadın ve Kadın Hapishaneleri," *A.Ü.D.T.C.F Dergisi* 29, (2010): 91.

⁷⁰⁶ Ibid., 91.

⁷⁰⁷ Ersin Kırca and Şeker, Kevser, *Arşiv Belgelerine Göre Osmanlı'da Kadın* (İstanbul: Bion Matbaacılık, 2015). 134-35.

⁷⁰⁸ Ayşe Özdemir Kızılkan, "Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar (1839-1922)." (PhD diss., Süleyman Demirel Üniversitesi, Sosyal Bilimler Enstitüsü, 2011), 77.

Hanım.”⁷⁰⁹ While the Prison Administration paid rents for prison houses, they avoided paying additional salaries or fees by virtue of the fiscal crisis as a generic excuse of the Ottoman government.

As comprehensively discussed in the previous chapter, the CUP government and its “social engineering” understanding contributed to the institutional developments for the prison administration. However, the prison institutionalization and monopolization targets of the CUP government could not be completely fulfilled in respect to their aims to create a standard penal structure in the Ottoman Empire, especially for women’s imprisonment. During the early years of the Second Constitutional Period, the Petition Office of the Ottoman Ministry of Interior (*Dâhilliye Nezâreti, Mektûbî Kalemi*) sent an *îrade* (order) to the provincial governments in 1908 which declared that the use of leased prison houses for female inmates especially in districts (*kazâ*), should be encouraged to avoid more expenses.⁷¹⁰ After this *îrade*, according to correspondence between *Aydın Vilâyet-i Aliyyesi* and *Dâhilliye Nezâreti, Mektûbî Kalemi*, the Ottoman government proposed that female arrestees had to be confined to *imams’* and *muhtars’* houses until they were sent to the center of *liva* (sub-division) and provincial courts for their judgment process because the *nâhiye* (sub-districts) and *kazâ* (districts) did not have space for female offenders all the time.⁷¹¹ As a clear sign of the rising popularity of using *imams’* houses as the usual female prisons, in Kosova province, a new local women’s prison, Hâfiz Nail Efendi’s estate, was leased for female inmates in 1912.⁷¹² Two silver coins were designated as a rental fee for this imam house. Also, this amount included the guardianship fee of Hâfiz Nail Efendi according to correspondence which was issued on 3 September 1912.

On the other hand, imams’ houses as spatial places for women’s imprisonment still retain mysteries deriving from unanswered questions and dark sides due to limited information on the leasing methods, supervision of inmates, keeping security, and incarceration processes. Beyond the financial issues of leasing imams’ houses, archival sources do not provide details on women’s incarceration, ways of control and supervision of female inmates, and the provision for their daily lives by the tenants. However, merely one archival document highlights the malpractices and abuses of muhtars’ houses that were most probably more than we find in the archives. Nevertheless, they do not provide details of the imprisonment conditions of female inmates, their crimes, or their living conditions in these imams’ houses

⁷⁰⁹ BOA. DH. MB. HPS 90/66: 30 Safer 1330/ 19 February 1912: “tahsisât sıkıntısı nedeniyle maâşat itâ olunamayacağı.”

⁷¹⁰ Ersin Kırca and Kevser Şeker, *Arşiv Belgelerine Göre Osmanlı’da Kadın* (İstanbul: Bion Matbaacılık, 2015), 333-334.

⁷¹¹ Ibid., 333-334.

⁷¹² BOA. DH. MB. HPS. M. 6/46: 21 Ramazan 1330/ 3 September 1912: “Brana Nisâ Hapishanesi ittihaz edilmek üzere Çarşı mahallesi İmamı Hafiz Nail Efendi’nin evinin kiralanması için...”

and this raised our scholarly questions and enhanced our curiosity on the issue of leasing prison houses.

As an example of frequent malpractices of prison employees, both in in muhtars' houses and proper prisons, an official correspondence comes from Beirut Province. On 6 December 1911, in Beirut *Vilâyeti*, there were no women's wards in Lazkiye Sanjak's central prison. Due to the smaller number of female prisoners, female offenders had to be imprisoned in (*liva*) central prisons or leased prison houses (specifically *muhtar*'s houses).⁷¹³ The archival document insists a high number of misconduct (*su-i istimâlât*) affected the incarceration process of female inmates who faced with several difficulties in *muhtar*'s houses (*hakkındaki i'lâmât-i ceza*'iyyenin infâzî lâzîm gelen kadınlar muhtarların hânesinde ve yahud merkez livaya celb olunarak liva hapishânesinde habse ve bu b'abda envâ-i müşkilât ve su-i istimalata tesâdîf edilmekte olduğundan).⁷¹⁴ Thus, the lieutenant governor of Lattakia (*Lazkiye Mutasarrıflığı*) proposed leasing two different women's prisons in the subdistricts' (*kazâ*) centers for 300 guruş (*piasters*) rental fees, and specifically in Cebe and Markab for 800 guruş rental fees as the ad hoc solution. Additionally, for the whole prison house, a women guard (*nîsâ kolcusu*) were assigned with a 140 guruş fee for all sub-districts of Beirut Province, specifically 150 guruş fee for Cebe and 200 guruş for Markab women's prisons.⁷¹⁵ These discrepant fee assignments were determined according to the number of female inmates. Probably, due to the high number of female prisoners, wages were higher in Cebe and Markab prison houses, as this dissertation examines in the following section.⁷¹⁶ Unfortunately, the archival document has not provided detailed information on the number of female inmates and the names of other sub-districts. Above all, this document significantly highlights the suffering of female offenders, although it does not provide the certain circumstances of their living conditions and vital questions (*envâ-i müşkilât ve su-i istimalat*).⁷¹⁷

On the other hand, the CUP government proclaimed a regulation in 1912 that proposed the existing male prisons had to involve the separate wards for female inmates, in case they had no according to archival documents.⁷¹⁸ At the same period, the CUP government collected data

⁷¹³ The document has not provided information on the certain numbers of female inmates.

⁷¹⁴ BOA.DH.MB.HPS. 85/45: 14 Zilhicce 1329/ 6 December 1911.

⁷¹⁵ BOA.DH.MB.HPS. 85/45: 14 Zilhicce 1329/ 6 December 1911. Beirut: "....Cebe ve Markab da nîsâya mahsus olmak üzere senevi sekiz yüz ve her birinde üç yüz guruş ücretle bir mahal isticâri ve Cebe de yüz elli ve Markab'da iki yüz ve her birinde yüz kırk guruş maaşla birer gardiyân kadın istihdamı lazımlı geleceği anlaşılmış olmağla icra-yı icabına müs'ade buyrulması babında emr-ü ferman hazret-i menl'ehül emrindir."

⁷¹⁶ See Section 5.2.

⁷¹⁷ BOA.DH.MB.HPS. 85/45: 14 Zilhicce 1329/ 6 December 1911. "...yahud merkez livaya celb olunarak liva hapishânesinde habse ve bu babda envâ-i müşkilât ve su-i istimâlâtâ tesâdîf edilmekte olduğundan.."

⁷¹⁸ BOA.DH.MB. HPS. 144-80: 29 Safer 1330/ 18 February 1912

from the provinces were urgently needed separate imprisonment areas for female inmates. According to an archival document, in 1913, several administrative organs of provincial districts sent petitions requesting separate prisons for female prisoners.⁷¹⁹ Thirteen districts in Syria Province required women's prisons for 12,516 female offenders, as the correspondence clearly states in 1913.

Besides, it is seen that a disordered imprisonment system enhanced the probabilities of mass jailbreaks and individual escapes from the prison houses both during the period of Hamidian and the CUP governments. For example; a case from *Kastamonu Vilâyeti, Bolu Sanjak, Hamidiye Kazâsı* claims that female prisoners attempted and achieved a prison break from a leased prison on 22 May 1902.⁷²⁰ Although we cannot reach details of this prison break case such as numbers of prisoners, names of prison owners and guards, etc., the problematic structure of imams' houses engendered questions based on keeping their security and control in addition to the longevity question of women's prisons due to financial limits.

As we touch on at the beginning of the section, seizing abandoned properties for the use of them as female prisons increased after the deportation of Armenian from their homelands. In 1915, Konya Penitentiary (Konya Hapishâne-i Umûmîsi) was fully overcrowded, and a new prison area was required specifically for the female inmates. As a temporary solution, the local officials decided to use former Armenian resident Ohannes Efendi's abandoned house.⁷²¹ It is impossible to have any grasp of who was the inspector of this abandoned prison house. Subsequently, several abandoned (*metrûk*) places could be transformed into women's prisons. This utilization directly dealt with seizing properties of exiled Armenian people during the genocide. Moreover, in later years, within the promulgation of the *Emvâl-i Metrûke* Law in 1922, it became a more widespread seizing method to get financial profit from Armenians' properties, even houses, fields, and stores and so on, during and after their deportation from their motherland in 1915.⁷²²

⁷¹⁹ BOA.DH.MB.HPS. 42/24: 23 Muharrem 1332/ 22 December 1913. The list of provincial districts that did not have separate female prisons in Syria Province.

⁷²⁰ BOA.DH.MKT. 509/24: 13 Safer 1320/ 22 May 1902: The document has not provided certain numbers of escaped female inmates in Hamidiye district. “.....Hamidiye Kazâsında nisâ hapishanesi bulunmadığından kadın suçlular bulundukları haneden firar etmektedirler....”

⁷²¹ BOA. DH. MB. HPS 49/24: 7 Recep 1334/ 10 May 1916: ‘Konya hapishanesinin ihtiyaçlara cevap verememesi sebebiyle, Konya Ermenileri’nden Ohannes’den metruk, Ohannes’ın evinin, nisâ hapishânesi ittihâz edilmesine müsaade edilmesi.’

⁷²² Taner Akçam and Ümit Kurt. *Kanunların Ruhu: Emval-i Metrûke Kanunlarında Soykırımin İzini Sürmek*, (İstanbul: İletişim Yayınları, 2012), 84-92. As Akçam and Kurt stated that Emval-i Metrûke law, 1922 paved the for utilizing Armenian properties as public and institutional buildings, however these abandoned buildings have already been used for public and institutional needs since 25 April 1915, namely after the first deportation of Armenian people as a part of planned Armenian genocide by the CUP.; See the mentality of the CUP on the planning of the Armenian genocide; Taner Akçam, *A Shameful Act: The Armenian Genocide and the Question of Turkish Responsibility* (New York: Holt Paperbacks, 2011).

All in all, neither proper prisons nor leased imprisonment areas could solve the question of women's prisons (*nisâ habshânesi sorunu*) during the late Ottoman Empire. Unfulfillment of architectural plans of female prisons led to using the abandoned (*metruk*) areas as female prisons and above all, it promoted the frequency of leasing imams' houses both in urban and rural areas of the Ottoman Empire. However, leased imprisonment (*icârlanmış habshâneler*) areas posed several questions which derived from unstandardized, disordered structures and allowance limits (*tahsisât sikintisi*) that all adversely affected the longevity of prisons regarding deferred rental fees. Deterrence of the imprisonment as a punitive way in these prison buildings lost its significance under these circumstances. In addition, the dark sides of their daily supervision and living standards of female inmates in these imprisonment areas due to limits of archival documents remained. In my opinion, these questions increased the probable risks of abuse cases by prison owners and guards in these ad hoc, disordered, and irregular imprisonment areas.

5.2. Guardianship in Female Prisons: *Nisâ Kolcusu* (Female Guards) or *Zükûr Kolcusu* (Male Guards)?

The physical form and spatial structure of the imprisonment areas were essential for the organization of security and control of the prisoners in the 19th century. In this regard, the modern imprisonment areas certainly required formed and structured spatial elements in order to keep the prisoners under control. In addition to architectural design for a convenient control mechanism, the second major control tool for prisons was the prison employees: jailers, guards, wardens, and prison chiefs, etc. as this section concentrates on. However, as the previous sections have already elucidated, the Ottoman women's prisons mainly consisted of ad hoc imprisonment areas, in addition to the proper women's prisons and small (separate) women's wards in the male prisons (*zükûr habshanesi*), therefore the supervision and control of female inmates occasionally illustrated different control ways and practices regarding the physical circumstances of the prisons. As a component of the global trend of keeping imprisoned people secure and under control, the guards and wardens became the main basis in the late Ottoman prisons. These control understandings of Ottoman prison policy required tighter tools and mechanisms within systematic concepts and rules through the authority of the guards and wardens. In this regard, this section analyses the responsibilities, duties, and work schedules that were systematically reconstructed by the Ottoman bureaucracy through proclaimed regulations during the age of prison reform. However, both in proper and leased imprisonment areas, the imams' houses owners and the guardians, and wardens of proper prisons frequently caused security questions for the female inmates, such as sexual and financial abuse, as well as

mass and individual prison breaks, due to malpractice, irresponsibility, misconduct, and abusive acts., etc. of prison cadres. In this sense, this section eagerly concentrates on the malpractice and abuse cases which occasionally derived from the irresponsibility, misconduct, and loose control of the Ottoman bureaucracy and above all the genders of the prison guards, in women's prisons. Lastly, this section sheds light on the frequent assignment of male guards to the female prisons as an ad hoc control practice with the analysis of the gap between regulations and their practices. However, first of all, this section examines the systematization attempts in respect of the guardians, not only their responsibilities, duties, and work schedules, but also the salaries of proper prison guards. Guardianship as a control notion underwent several reformative attempts which aspired to fulfill the standardization and systematization of prison security during the age of prison reform (not only in the Tanzimat period but also during the government of the CUP).

According to Kent Schull:

*Guards represent the front-line prison officials who interact with inmates and are subject to the supervision of the chief guard and warden. They oversee the day-to-day activities of the prison and prisoners including basic discipline, order, and cleanliness. ... They were responsible for supervising inmates during transfers, while on work details, caring for their hygiene, and receiving approved visitations.*⁷²³

As Schull underlines, the significance of the guards derived from their close interactions with the prisoners who were frequently face-to-face with the guards. The prison guards were charged with the cleaning of wards, the daily needs of the prisoners, and above all the security of the inmates, hence they were touching the lives of prisoners directly. Therefore, the standard, scheduled and systematized structure of their control methods and monitoring concepts became the major condition of maintaining the security, control, supervision, and cleanliness of the prisoners. In this regard, the Ottoman government proclaimed three different Regulations and one specific guardianship Regulation in 1876, 1880, and 1893 during the reign of Abdülhamid II.⁷²⁴ The Regulations hastily embarked on regularizing the concept of prisons' security, the methods of control and supervision, the selection criteria for prison officers, the duties and responsibilities of the prison guards and wardens, for both male and female prisons, and occasionally only for male prisoners, as the major constituent of Ottoman prison reform. The first Guardianship Ordinance (*Gardiyalar Talimatnâmesi*) was promulgated in 1876 by the

⁷²³ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 146-147.

⁷²⁴ The 1880 Prison Regulation is a general prison regulation that was promulgated during the reign of Abdülhamid II. However, this regulation remarkably involved special articles regarding guardianship and prison guards' duties, work schedules, and selection criteria for male and female guards.

Fatmagül Demirel, "Osmanlı Hapishanesi'nin Gardiyaları," *Hukuk ve Adalet Eleştirel Hukuk Dergisi*, Vol. 9 Cilt. 4, 2007, 258-259.

Hamidian government.⁷²⁵ According to the Ordinance, the prison guards were selected from men whose ages were between 25 and 50. These male guards were charged with the duties which were enacted with 13 articles in the 5 sections of the ordinance. They were responsible not only for the control and security of the prisoners but also for cleaning the prison wards, lighting candles, and providing bread for the prisoners. As seen explicitly in the articles, women guards' employment was not covered in the first guardianship Ordinance, so this paved the way for assigning the male guards to supervise the female prisons and wards as the inspector and provider of their vital needs, by the regulations.⁷²⁶ This ordinance aimed at creating standard guardians' duties and responsibilities for male guards. Nevertheless, women's control, surveillance and the monitoring of female prisoners were not embedded into the Ordinance. Remarkably, the 6th and 33rd articles of the 1880 Prison Regulation (*Hapishâneler Nizamnâmesi*) especially dealt with women's prisons, female guardianship, their assignment processes, and their duties in the proper women's prisons.⁷²⁷ Two articles of the regulation were directly related to women's prisons and the duties, work, and responsibilities for female guards within the special control mechanisms for women's prisoners. Article 6 states that Ottoman prisons (*habshâneler*), penitentiaries (*Hapishâne-i Umûmiler*), and jails (*tevkifhâneler*) had to include a proper women's prison or a separate female ward.⁷²⁸ The 6th article entailed a systematized control mechanism by female guards. For this reason, Article 33 proposed that the women guards (*nisâ kolcuları*) were obliged to perform the same duties and work as their male counterparts.⁷²⁹ Also, their assignments as female guards to women's prisons and wards became obligatory by this article that emphasized that no male guards and wardens could enter the women's prisons. In case extraordinary incidents occurred in the women's prisons, only the *sergardiyan* (the chief guard of the prison) could enter the female wards and prisons to contact

⁷²⁵ Chapter 4 briefly touches on the ordinance for the Ottoman prison cadre; however, this section focuses on the general structure of prison employee and their duties in the women's prisons. BOA.A.DVN.MKL 13/22: 1876 Gardiyalar Nizamnâmesi 28 Safer 1293/ 25 March 1876; BOA.A.DVN.MKL 13/28: 25 April 1876.

⁷²⁶ BOA.A.DVN.MKL 13/22: 1876 Gardiyalar Nizamnâmesi 28 Safer 1293/25 March 1876.

⁷²⁷ Fatmagül Demirel, "Osmanlı Hapishanesi'nin Gardiyaları," *Hukuk ve Adalet Eleştirel Hukuk Dergisi*, Vol. 9 Cilt. 4, 2007, 258-259; Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 124-25.

⁷²⁸ Article 6 – "Tevkifhâne ve hapishâne ve hapishâne-i umûmilerde nisâya mahsus ayrıca bir dâire bulunacaktır."; Gizem Sivri, "Osmanlı'da Kadın Mahkum Olmak: Kadınları Mahkum Etme ve Denetleme Pratikleri Üzerine Bir Değerlendirme, 1840-1919," *Toplumsal Tarih*, Vol. 283, July 2017, 86-87.; Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Seriüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 476.

⁷²⁹ Article 33— "Nisâdan gardiyalar zükür olan gardiyaların vezâifiyle mukelleftir. Nisâ hapishânesine hiçbir kimesne giremeyecek ve fakat fevka'lade bir hal zuhûrunda sergardiyan girebilecek ve lediyû'l-hace maiyetine lüzumu mikdarda gardiyalar alacak ve müdire malûmat verecektir."

the female prisoners.⁷³⁰ Moreover, female guards and wardens had to be sufficiently assigned to the women's prisons if the prison budget could cover their expenses.⁷³¹ The article also proposed that the female guards had to be commensurately appointed to the women's prisons to prevent supervision by male guards. Moreover, Article 33 aimed at guaranteeing the assignment of female guards to the women's prisons and wards. Although the government aimed at establishing systematized monitoring, supervision, and control mechanisms through female guards for female prisoners, this mostly remained on paper, as archival records demonstrate.

The last Ottoman Prison Regulation was promulgated in 1893 with the penal borrowing of the French prison regulations direct translation, as the last prison Regulation of the Hamidian period.⁷³² The 1893 Prison Regulation included more detailed insights on the uniforms, work schedules, duties, and control methods and attitudes of prison guards towards the inmates than its predecessors.⁷³³ However, surprisingly, this regulation did not involve any specific article about the women's guards, their control, and supervision.⁷³⁴ Nevertheless, control methods and the guardianship of female offenders were standardized as much as male guardianship by Article 33 of the 1880 Prison Regulations. As section 5.1 addresses, the leased prison houses for female inmates exemplified the very strange control and supervision ways without any standard, which raised sort of questions on their unsystematic concept for the women's prisons regulations.⁷³⁵

In this section, the supervision questions concerning female inmates are multi-dimensionally examined for proper prison buildings along with a little touch on leased imprisonment areas through archival sources. Albeit the prompt and repetitive efforts of the Ottoman government to implement the regulations that targeted enhancing monitoring and controlling standards for all inmates, both male and female, nevertheless, the prisoners were not controlled and supervised either in proper or leased prisons as the Regulations stipulated. Above all, without systematized, separate and proper imprisonment areas, such as separate

⁷³⁰Article 33. — “Nisâ hapishânesine hiçbir kimesne giremeyecek ve fakat fev-ka'lâde bir hâl zuhûrunda sergâdiyan girebilecek ve lediyü'l-hâce maliyetine lüzûmu mikdarda gardiyan alacak ve müdire mâlûmat verecektir.”

⁷³¹ Yıldız, 479-480.

⁷³² Hatice Akın, “Osmanlı Devleti'nde Hapishane İslahatına Dair 1893 Tarihli Bir Nizamname Önerisi,” *History Studies Volume 3/3 2011*, 27-28.

⁷³³ Akın, 28.

⁷³⁴ Akın analyzed the 1893 regulation's articles that contained detailed information and proposals on the guardianship and prisons' control.

⁷³⁵ See Section 5.1.

prisons and special wards for the female inmates, the appointment of women guards (*nisâ kolcusu/ kolcu kadın*)⁷³⁶ could not be carried out in practice.

The primary problematic issue was directly related to the gender roles of guards, which became the major obstacle for prisoners' security. Even though the 1880 Prison Regulation proposed more gendered space and gender-specific supervision concepts (the female inmates), the question of control by male guards and its potential hazards such as abuse, and malpractice were ceaselessly maintained. In this regard, the effects of the lower numbers of female inmates vis-à-vis male together with the financial difficulties of the Ottoman government reinforced the growing problem of women's supervision and control in the late Ottoman prisons.⁷³⁷ The side effects of fewer female inmates led to having cramped and *ad hoc* spatial confinement areas along with imams' houses, female wards inside male prisons, and tiny areas in the basements of provincial governmental offices (*hükümet konakları*) without regular supervision and control mechanism.⁷³⁸ Indeed, the lower number of female inmates saliently encouraged the appointment of male guards to female wards and prisons in the Ottoman provinces to save money from their monthly salary payment due to the insufficient budget of the Ottoman state. Beyond the spatial question of female confinement, the sex of guards and wardens and also the inequality of guards' salaries doubled up the question of supervision of female prisoners who were subjugated to sexual abuse, coercion, and torture, even financial abuse by malpractices of prison cadre which had been tried to prevent in Ottoman prisons.⁷³⁹

For example, according to the census of 30 August 1889 in Salonica Hapishâne-i Umûmî, Provincial Central Prison, the number of women prisoners was merely 11.⁷⁴⁰ In the year 1903, Fatma Binti Hüsnü was assigned as a women's guard (*nisâ kolcusu*) for the supervision and control of the women's ward of the Salonica prison in return for 130 guruş (piasters) salary.⁷⁴¹ In the following year, Ayşe Molla was appointed to the women's ward instead of Fatma Binti Hüsnü for the same salary.⁷⁴² The female guard appointment seemed to be carried out as proposed by the 1880 Prison Regulation. However, the payment for women's guardianship fee was overwhelmingly rejected by the Ottoman government due to budgetary questions, hence it

⁷³⁶ See Mehmet Zeki Pakalın, *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, Vol. 2 (İstanbul: Milli Eğitim Basımevi, 1971), 288.

⁷³⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 124.

⁷³⁸ See Chapter 4 and Section 5.1; Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 125.

⁷³⁹ See more info about abolition of torture in the late Ottoman prisons: Tuna Başbek, *Tanzimat and Penal Modernity: The Abolition of Torture in mid-Nineteenth Century* (İstanbul: Libra Books, 2017).

⁷⁴⁰ Emine Gümüşsoy, "Balkan Hapishanelerine Bir Örnek : Selanik Hapishanesi," *Near East Historical Review* 10/4 (2020): 403.

⁷⁴¹ Gümüşsoy, 407.

⁷⁴² Ibid., 408.

frequently led to the resignation of *nisâ kolcuları*. Another case comes from the northern part of the Ottoman Empire. As late as 1913, the women's wards of the Lazistan Sanjak's, prison, and the house of detention requested the appointment for a women guard for their female wards. However, the Ottoman government responded with the common excuse, budgetary limitations (*tahsîsat sıkıntısı*) did not allow hire female guards. In the final stage, Ottoman officials did not appoint women guards to the Lazistan prison complex due to allowance limitations.⁷⁴³ Consequently, the control of female inmate prisoners was disregarded once again and male guards were charged with the supervision of female prisoners.

Nevertheless, the request of women guards for the provincial women prisoners was maintained without a break as archival examples show. As this petition illustrates, the Niğde Sanjak Prison, women's ward urgently needed a female guard on 18 March 1893.⁷⁴⁴ In the following years, the CUP government continued to receive similar demands from provincial prisons; for instance; on 28 November 1912, Manastır Sanjağı, Kozana district women's prison requested a woman guard for the supervision of female prisoners.⁷⁴⁵

Here I want to shed light on the effects of the gender roles of the guards in both leased and proper prison houses through archival examples. As an archival case illustrates, the correspondence between the local government of the Edirne provincial administration and the *Dâhilliye Nezâreti- Mebâni-i Emîriyye Hapishâneler Müdüriyyeti* (the Prison Directorate) demonstrated the scarcity of female prison houses in that there were no female prisoners in the center of Eceabad *Kazâsı*, Edirne *Vilâyeti* in 1917.⁷⁴⁶ In this respect, the prison directorate proposed that a male guard from the Eceabad men's prison (*ziükür hapishânesi*) could be assigned as a guard of the female inmates in the leased prison in Eceabad because the center of Eceabad did not frequently host women inmates (*Eceabad'da devamlı sûrette nisâ mahkûmin bulunmadığından*). This archival example illustrates another reason for the irregular appointment of prison guards to leased jails (*tevkîfâne*) and women's prisons (*habshâne*) which did not confine female convicts all the time due to the low criminal rate among women. In this regard, regarding financial limits and fewer numbers of female inmates, the Ottoman prison administration did not prefer to hire full-time women's guards.

⁷⁴³ BOA. DH. MB. HPS. 43/4: 24 Zilhicce 1331/ 24 November 1913.

⁷⁴⁴ BOA.DH.MKT. 2/98: 29 Şaban 1310/ 18 March 1893: "Niğde sancağı nisâ habbshanesine kadın gardiyarı istihdamı."

⁷⁴⁵ BOA.DH.MB.HPS.M: 7/63:14 Zilhicce 1328/ 28 November 1912: "Manastır Vilâyeti Kozana Sancağı nisâ habshanesi için nisâ gardiyarı istihdamı."

⁷⁴⁶ BOA.DH.MB.HPS. 97/6: 5 Muharrem 1336/ 21 October 1917: Eceabad Kazâsı. "Eceabad'da devamlı surette kadın mahkum bulunmadığından nisâ hapishanesi olarak müstakil bir yer ittihazıyla tahsisat verilmesinin uygun olmadığı, kadın mahkum zuhur ederse zükür (erkek) hapishanesinden bir adam tahsis edilmesi."

The following correspondence shows that the Ottoman government was aware of the potential hazards and risks of male guard assignments for the supervision of women's prisons. However, the Ottoman government did not implement any measurements and restrictions on male assignments to women's prisons in practice, in order to avoid extra guardian expenses and additional assignment of salaries for female guards. As a significant proof of the awareness of the Ottoman government of male guards' assignments, there is correspondence between Kengiri (Çankırı) district prison and the Prison Directorate. Ahmet Hamdi worked as the head guard of female inmates (*nisâ gardiyani*).⁷⁴⁷ In the correspondence, the Ottoman officials rejected his demand for a raise in his salary regarding his double supervision for both women's and men's wards in 1916. As archival source shows, Ahmet Hamdi requested 200 piasters instead of 70 piasters monthly salary. At this point, the Ottoman officials noticed his assignment as a male guard for the control of female prisoners. The correspondence has not provided detailed information on the number of female inmates who were supervised by guard Ahmet Hamdi, however, the Ottoman government sent a questionnaire which criticized the assignment of the male guard to the women's wards regarding the 1880 Prison Regulation's 33rd Article. The archive does not provide the trajectories of the correspondence between the Prison Directorate (*Mebâni-i Emîriyye Hapishâneleri İdaresi*) and Çankırı (Kengiri) *Nisâ Hapishânesi* administration. Nevertheless, the assignment of male guards was an ongoing as widespread control practice, thus causing several security problems such as sexual abuse, violence, misconduct, etc., as upcoming archival documents show.

Another male guard assignment to the women's prison comes from Erzurum *Vilâyeti*, Kiskim *kazâsı* women's prison (*bir nefer gardiyani*). Mustafa was appointed as a women's prison guard to Kiskim district women's prison with 125 guruş monthly (*şehr-i*) salary which was transferred from Erzurum *Vilâyeti Aliyesi*'s budget without any critics or query on the appointment of male guards for women's supervision in 1905 unlike Ahmet Hamdi's assignment to Çankırı.⁷⁴⁸

In Aydın *Vilâyeti*, Menteşe Sanjak, Köyceğiz district correspondence between the Interior Ministry and Aydin *Mutasarrıflığı* (*lieutenant governor*) via the prison administration indicated ongoing male guard's appointment to the women's prison. The male prison guard (*zükür gardiyani*) was assigned as the female prison's guard with an increase in his wages in response to his male and female guardianship (double duties) in 1912.⁷⁴⁹ As requested for double guardianship duties, the Ottoman government appointed Ahmet Efendi as both male and female prison guard with a considerable salary (150 for male, 25 for female prison guardianship;

⁷⁴⁷ BOA.DH. MB.HPS 92/10: 20 Receb 1334/ 23 May 1916

⁷⁴⁸ BOA.DH.MKT. 844/87: 29 Zilkade 1322/ 4 February 1905.

⁷⁴⁹ BOA. DH. MB. HPS 41 /24: 12 L 1330 / 6 October 1912: Ahmet Efendi received 150 piasters for male guardianship and 25 piasters additional fee for the women's guardianship.

in total 175 piasters per Month). In fact, the financial bottleneck frequently catalyzed the regular and complete payments to the prison employees. Nevertheless, this salary payment can be evaluated as a great surprise for the CUP government amid the ongoing financial crisis.

Here this part presents a remarkable illustration from the Ottoman archives on the potential abuse of prison employees. According to an archival document, on 5 November 1913, when Mehmed Çavuş carried out his control as a guard in the women's ward in the Karesi (Balıkesir) prison, he forced the convicts to work as prostitutes for his economic benefit. Mehmed Çavuş allowed the women prisoners to go outside to pimp out women inmates several times (*Mahkûminden bağlı kadınları hübdef-i tahliyeleri hariç çıkardığı ve fuhûşata sevk ve tahrik ettiği iddiasıyla*). Shortly after these repetitive illegal acts, he was complained about by the Karesi provincial court (*Bidâyet mahkemesi*). Consequently, after the prosecution, Mehmed Çavuş was discharged and punished with 3-months of imprisonment. Additionally, he was fined 220.50 piasters (*taht-i mahkemeye alınıp mühlebi üzere livaca üç ay müddetle hapse mahkuûm edilmiş nisâ gardiyani Mehmed Çavuş*).⁷⁵⁰ As claimed in the archival source, women convicts were abused sexually and financially for the economic profit of a male guard, even if their criminal acts were based on sexual crimes, such as prostitution. This archival example should not be only one case illustrating the financial and sexual abuse of female inmates, in my opinion, these abuse cases were very widespread in the Ottoman female prisons. In other words, women inmates might be frequently exploited and abused sexually and financially by the male guards and wardens, even though the archival sources provide limited examples.

For example; as seen in Section 5.4, Gülazar Kadın's pregnancy is an extraordinary case in which she became pregnant during her imprisonment (third year of her imprisonment), although her husband died.⁷⁵¹ Of course, she might have a lover or a second husband; however, here we should ask how did they have sex in prison? The second probability bases on a rape case or willing sexual relations with male prisoners and prison employees. Unfortunately, it is not possible to predict what happened in Gülazar's ward. However, the rape potential was too high in these disordered and uncontrolled prisons by male prison employees and other male prisoners. That is why these criminals, marginal and expandable women prisoners who were available for sorts of financial, sexual abuses and attacks in the gaze of male prison cadre and other male prisoners regarding their status as female offenders.

⁷⁵⁰ BOA. DH. MB. HPS 89/23: 5 Zilhicce 1331/ 5 November 1913: “..... Mahkûminden bağlı kadınları hübdef- i tahliyeleri hariç çıkardığı ve fuhûşata sevk ve tahrik ettiği iddiasıyla taht-i mahkemeye alınıp mühlebi üzere livaca üç ay müddetle hapse mahkuûm edilmiş nisâ gardiyani Mehmed Çavuş’un istifâdan cerimesini eden mahkemesi.....”

BOA.BEO. 4228/317032: 27 Zilkade 1331/ 28 October 1913: “Mahbus kadınları fuhûşa sevk ve tahrik maddesinden muhakeme edilen Karesi nisâ hapishânesi gardiyani Mehmed Çavuş hakkında Şurâ-yı Devlet ilanı.”

⁷⁵¹ See Section 5.4. Motherhood and Pregnancy.

These sexual and financial abuse cases seem to have been very widespread in women's prisons, especially for prostitutes since earlier periods. As Yılmaz illustrates, Ayni, a prostitute, was imprisoned in İstanbul dungeons (the location is not certain, around Yedikule or Baba Cafer), where she was regularly forced to go out of the prison in the night time by the prison guards who pimped out the women for the oarsmen on the Bosphorus for their economic profit.⁷⁵² Most probably, Ayni was pleased to perform prostitution outside the prisons during her incarceration process with the illegal approval of the guards of Baba Cafer dungeon.

Meanwhile, the European and American women's imprisonment systems followed the same pattern on the sexual abuse cases that were very abundant in women's prisons. Similarly, abuse was mainly done by male guards and wardens in women's prisons. European prisons also struggled against the appointment of male guards to female prisons, regarding the potential risk for sexual abuse and pregnancy cases. Thus, the British penal authorities hastily ventured to prevent the appointment of male guards through the Jail Act of 1823. According to Matthews, in Britain, the Jail Act of 1823 declared that women inmates had to be supervised and controlled only by women guards and wardens.⁷⁵³

To go back to the Ottomans, here we touch on other financial abuse and malpractices carried out by male guards. The prison cadre could utilize women prisoners' labor by forcing them to serve the prison cadre. For example, in Kastamonu province, Tosya district, women's prison, where prison guard Ahmet Efendi forced two women prisoners, namely Fatma and Cemile, to work in his vineyard (*bağ*) for his financial profit in 1915.⁷⁵⁴ Thereafter, he was dismissed from his work, and instead of him, Hüseyin Beyzâde Ali Bey began to work as a women's guard in the Tosya District Women's Prison, on 12 June 1915.

Another example comes from *Dersaâdet, İshakpaşa Nisâ Tevkifhânesi*, alias Sultanahmet women's prisons, the male guards, who were charge in control and supervision of female prisoners, forced women to work regularly preparing food and tea for the prison's guards, in 1921.⁷⁵⁵

On the other side, in some provincial prisons and jails, although women wardens and jailers were assigned to control female prisons, guards could not prevent mass and individual jailbreaks of female inmates. In other words, malpractices and irresponsibility of prison cadres dramatically led to several collective or individual prison breaks from the time of Tanzimat up

⁷⁵² Fikret Yılmaz, "Fahişe, Subaşıya Karşı," *Toplumsal Tarih* Vol. 220, April 2012, 25.

⁷⁵³ Roger Matthews, *Doing Time: An Introduction to the Sociology of Imprisonment* (London: MacMillan Press, 2011), 15.

⁷⁵⁴ BOA.DH.MB.HPS. 74/27: 29 Recep 1333, 12 June 1915.

⁷⁵⁵ BOA.DH.MB.HPS. 99/26: 22 C 1339, 3 March 1921.

to the decline of the Empire.⁷⁵⁶ Without using any way to discipline and control the inmates by the prison cadre, they dramatically allowed individual and mass prison breaks that became the trend topic among the problems of the Ottoman prisons. Overpopulated prison wards also hindered the control and monitoring of the prisoners while irresponsibility and unprofessional working of prison cadres notoriously continued.

Another archival case exemplifies that a female inmate, Rukiye, attempted to break out of prison in the Kandıra district, women's prison (a leased women's prison) on 12 June 1913. Thereafter, the Interior Ministry officers decided to send all the women prisoners to the *liva* (provincial sub-division) prison instead of assigning a women guard to this leased prison house in that a new women's guard (*nisâ kolcusu*) undoubtedly would request a regular salary in return for her supervision and control.⁷⁵⁷ With this application, the Ottoman government could avoid guardianship salaries.

For example, in 1919, a malpractice case from Adana *Vilâyeti*, Urfa *Nisâ Hapishânesi* occurred. A female guard, Rabia Hanım, and a male guard, Sergardiyan Rüstem, caused the jailbreak of male and female inmates. They ignored the escape plan of both male and female prisoners.⁷⁵⁸ Their misconduct was realized by the Urfa prison management, and they were brought to court on 29 December 1919.⁷⁵⁹ It is not possible to follow the result of the prosecution, however, both Rabia Hanım and Sergardiyan Rüstem were most probably discharged and punished with fines and imprisonment. Their irresponsible acts and misconduct caused a mass jailbreak in Urfa in 1919.

For example, in another escape case from Haleb, the wife of Suleyman, Rukiye the prisoner, attempted to escape from prison on 1 April 1913 due to the insufficient control and surveillance of Haleb Prison. After this escape case, the prison management of Haleb women's prison requested a woman guard to be assigned to the female wards (*nisâ habshanesi*). However, the *Mebâni-i Emîriyye Hapishâneler İdaresi* (Directorate of Prisons) rejected the assignment of a female guard because of the lack of funds (*tahsîsat sikintisi*). The prison administration proposed sending all the female prisoners to the *liva* (the sub-division of a province) prison in order to keep them under control and security as a consequence of the

⁷⁵⁶ See Metin Coşgel, Boğaç Ergene, Haggay Etkes, Thomas J. Miceli, "Crime and Punishment in Ottoman Times: Corruption and Fines," *Journal of Interdisciplinary History*, XLIII:3, Winter, 2013, 353-376.

⁷⁵⁷ BOA.DH.MB.HPS. 74/27: 29 Recep 1333/12 June 1915.

⁷⁵⁸ Unfortunately, the numbers of female and male inmates of Urfa Prison have not been stated.

⁷⁵⁹ BOA. SD. 2252/31: 6 R 1338/ 29 December 1919.

correspondence (*Rukiye'nin hapishânededen firarına binaen, bir nisâ gardiyani tâyini isteği yerine, kadın mahkûmların liva hapishânesine gönderilmesi*).⁷⁶⁰

Another prison break case came from Besterice village, Salonica province. Two women inmates who were mother and daughter (Maria bint-i Delü and her daughter, Altun) attempted to break out of prison. In the final stage, they could achieve their goals on 14 July 1903.⁷⁶¹ However, after their escape, they became regretful, so they surrendered. After this, they were sent to their village (*kariye*), and the next step was taken by the lieutenant governor of Siroz (*Siroz Mutasarrıflığı*) in 1903. This case interestingly raised questions mark in my mind which asked why these women became regretful, even though they could achieve their jailbreak. Secondly, why they were sent to their villages after arresting. This remained its mystery due to the limits of the archival sources which provide neither crimes of these women nor their remaining sentences.

There is no doubt that the malpractices and irresponsibility of prison employees even male and female were very widespread in provincial prisons. For instance, Gümüşsoy notes that 8 prison guards out of 20 were discharged due to misconduct including corruption and embezzlement from Salonica Penitentiary in 1909 regarding their malpractices which led to several prison escapes and riots.⁷⁶² On the other hand, *Edirne Vilâyeti Çatalca Nisâ Hapishânesi* had a bribe-taking woman guard (*nisâ gardiyani*), Şerife Hanım, who was reported to the *Edirne Vilâyeti Celilesi*. Shortly after, she was sued in *Edirne Vilâyeti Bidâyet mahkemesi* in February 1922.⁷⁶³ According to claims, she was accused of embezzlement. She embezzled 200 piasters from a villager, Mehmed Efendi, from the Haraccı village. However, her trial was stopped later due to lack of proof, and the court decided to throw out her case due to lack of proof and they halted her trial (*men'i muhâkeme*). This was reported to the *Şurâ-yı Devlet* (Council of State), as archival documents show.⁷⁶⁴

After sketching a broader framework on the corruptive and irresponsibility of female guardians, this part deals with the frequent resignation of women's guards which became another significant reason for the inefficient supervision of female prisoners. The women guards and prison wardens had lower salaries than male guards. Hence, this led to the frequent resignation of female guards. Moreover, while the assignment of the women's guards was

⁷⁶⁰ BOA. DH. MB. HPS 87/59: 23 R 1331 /1 April 1913: “Kipti Süleyman’ın zevcesi Rukiye’nin hapishânededen firarına binaen, bir nisâ gardiyani tâyini isteği yerine, kadın mahkûmların liva hapishânesine gönderilmesinin uygun olacağı.”

⁷⁶¹ BOA.TFR.I.SL. 21/2036: 9 Receb 1331/ 14 July 1903.

⁷⁶² Emine Gümüşsoy, “Balkan Hapishanelerine Bir Örnek: Selanik Hapishanesi,” *Near East Historical Review*, 10/4. 2020, 410.

⁷⁶³ BOA.DH.MB.HPS. 135/60: 27 C 1340 / 25 February 1922: “Çatalca Hapishanesi nisâ Gardiyani Şerife Hanım hakkında verilen men'i muhâkeme kararının...”

⁷⁶⁴ BOA.ŞD. 1955/49. 27 C 1340/ 25 February 1922.

hindered by the government due to insufficient funding for the Ottoman prisons, deferred and irregular salary payments in addition to the lower salary of women's guardianship paved the way for walk-outs of the women's guards. Once again, the Ottoman government increased the assignment of male guards for the women prisoners in order to compensate for the lack of women guards by virtue of unpaid and lower salaries. The following illustrations demonstrate many resignation cases due to insufficient and irregular salary payments for the female guards.

According to an example from the Ottoman archives, in 1917, in Istanbul Hapishâne-i Umûmî women's ward, a woman guard, Gülsüm Necibe Hanım quitted her duties, and afterward, the prison management assigned another female guard, who was the night watchman Osman Ağa's wife, Rahime Hanım. The archival document does not provide more information and details about Gülsüm Necibe's cessation of employment.⁷⁶⁵ However, most probably, the payment of her salary was overdue, similarly to Zayel Kadın's (*nisâ kolcusu*) resignation case, as the further pages show.⁷⁶⁶

Although the Regulations and their articles emphasized that the assignment of guards to prisons had to be standardized, the salary payments of male and female guards were not standardized and systematized until the end of the Empire. According to Schull:

*....about each prison employee, but they also demonstrate that there were discrepancies in pay between prison employees in smaller administrative districts and provincial centers, between male and female personnel, and between employees who worked in penitentiaries (Hapishâne-i Umûmî), prisons (hapishâneler), and jails (tevkîfhâneler). It also appears that salaries had not yet been standardized.*⁷⁶⁷

As an acknowledgment of Schull's commentary on the nonstandard prison employees' salaries, the women's guards had the lower salary payments, regarding the lower number of female inmates, and the size and capacities of the women's jails and prisons, although they performed as same as their male counterparts. Unfortunately, the Regulations and other reform attempts did not support finding a radical solution for the standardization of salaries. Schull also states:

Female prison guards were generally paid at least a third less than their male counterparts. In the provinces, especially at the district level (kazâ), most male guards received

⁷⁶⁵ BOA. DH. EUM. VRK: 23/23: 25 R 1335 / 18 February 1917.

⁷⁶⁶ BOA. DH. MB. HPS 3/19: 4 Ra 1330/ 22 February 1912.

⁷⁶⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 148-149.

*a monthly salary in the region of 100 to 150 piasters (guruş), whereas female guards generally received in the region of 50 to 100 piasters per month.*⁷⁶⁸

In addition to Schull's statement salaries differed from region to region and prison to prison according to the capacities of prisons and numbers of female inmates. Here I shall examine the table which shows the numbers and salaries of women guards in some provinces. In this spirit, Table 5.1 illustrates the salaries of women guards depending on the size and capacity of women's prisons in 12 provincial districts which were sent to prisons as a part of questionnaires of the 1912 prison survey.⁷⁶⁹

Location:	Numbers of Women Guards:	Salary: Guruş (piasters)
Kütahya Sanjak		
Central Liva	1	138 piasters
Gördes Kazâsı	1	60 piasters
Karesi Sanjak (Bahkesir)		
Central Kazâ	1	150 piasters
Bandırma Kazâsı	1	57 piasters
İstanbul Vilâyeti (Province)		
Hapishâne-i Umûmî	2	200 piasters
Beyoğlu Tevkifhanesi (Jail)	1	200 piasters
Üsküdar Tevkifhanesi (Jail)	1	200 piasters
Aydın Vilâyeti (Province)		
Aydın	1	150 piasters
İzmir	1	150 piasters
Denizli	1	100 piasters
Manisa	1	150 piasters
Bergama Kazâsı	1	150 piasters
Tire Kazâsı	1	100 piasters
Karaburun Kazâsı	1	100 piasters
Bozdoğan Kazâsı	1	100 piasters
Çine Kazâsı	1	40 piasters
Söke Kazâsı	1	100 piasters

⁷⁶⁸ Schull, 149.

⁷⁶⁹ BOA. MB. HPS. 146/82: 9 Muharrem 1330/ 30 December 1911, Kütahya, Aydın, Teke ve İstanbul merkez ve kazâ habshânelerinde mevcut memur ve hizmetlilerin maaşatları ve senelik tahsisatları gösteren çizelge.

Nazilli Kazâsı	1	100 piasters
Sarayköy Kazâsı	1	60 piasters
Demirci Kazâsı	1	100 piasters
Akhisar Kazâsı	1	50 piasters
Kırkağaç Kazâsı	1	50 piasters

Table 5.1: This census provides brief information on the numbers of women guards and their salaries in twenty provincial and district prisons.⁷⁷⁰

As explicitly seen in the table, the Ottoman prison administration appointed a maximum of the one-woman guard in the district and provincial prisons, except for the Hapishâne-i Umûmî, Istanbul which had two female guards for women prisoners' guardancy. On the other hand, this table shows the differences among guards' salaries in the provincial and district prisons which hosted various numbers of women prisoners, thus the salaries of the guards differed from prison to prison, depending on the numbers of female inmates.⁷⁷¹

As seen on the table, the lower salaries of women guards led to the resignation of some female guards as clearly seen in the archival documents. In addition to unequal salary payments, women guards frequently could not get their regular salaries, furthermore deferred payments were also frequently applied to salaries. An example from Istanbul shows that Zayel Kadın, who was the women's guard in the Hapishâne-i Umûmî, Istanbul resigned in 1912 because her salary had not been paid for a long period (three months), although she requested her salary payments with several petitions and complaint letters.⁷⁷²

However, the Ottoman prison administration provisionally resolved the issue of women guardians by suggesting that male guards inspect the women inmates. The supervision and control of female inmates could be carried out without extra expense. There is no doubt that the Ottoman government compensated for the scarcity of women guards (due to poor salaries and deferred payments) by appointing male guards as guards of women's wards or prisons. The Ottoman bureaucrats' provisional solution considered neither the gender and femininity of women inmates nor the social and Islamic rules of Ottoman society.⁷⁷³ The only goal of the Ottoman government was avoiding extra expenditures (*masârif*).⁷⁷⁴ Briefly, the Ottoman

⁷⁷⁰ BOA. DH. MB.HPS. 146/82: 9 Muhamrem 1330/ 30 December 1911: This census belongs to 1911-1912 Prison Survey. "Kütahya, Aydin, Teke ve İstanbul merkez ve kazâ hapishanelerinde mevcud memur ve hizmetlilerin maaşları ile senelik tahsisatını gösterir defter."

⁷⁷¹ See Section 5.3. 1897 Abdülhamid II's prison survey shows the number of prisoners who were confined in Ottoman provincial prisons in the years 1896-1897.

⁷⁷² BOA. DH. MB. HPS. M 3/19: 15 Ra 1330/ 4 March 1912.

⁷⁷³ Gizem Sivri, "Hapiste Kadın Olmak: Osmanlı İmparatorluğu'nda Kadın Suçluluğu ve Kadınların Hapsedilmesi," *Feminist Tahayyül*, Vol. 1, Issue 1, February 2020, 21.

⁷⁷⁴ Ayşe Özdemir Kızılkan, "Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar, 1839-1922" (PhD diss., Süleyman Demirel University, Social Sciences Institute, 2011), 84.

bureaucracy deemed it convenient to appoint male employees to the women's prisons without any consideration for social and Islamic rules and norms.

Although the prison regulations emphasized the necessity of female guards being assigned to women's prisons, considering the genders of the prison owners and prison guards neither in leased nor proper women's prisons, this was completely neglected by the Ottoman government during both the Hamidian and CUP governments, specifically in the leased (*ad hoc*) prison houses, as the previous section focuses on.⁷⁷⁵

All in all, the Ottoman government attempted to systematize and standardize control ways and the establishment of a guardianship system, even if their ostensible efforts stayed only on paper, due to the disordered guardianship system, financial difficulties, and malpractice of prison guards and wardens. On the other hand, these disorganized and unsystematic control mechanisms through prison guards affected the women's guardianship system which suffered from budgetary insufficiency. In some prisons, women guards resigned because of their poor and deferred salaries. While the financial difficulties hampered the appointment of women guards, the Ottoman government aimed at compensating for the insufficient numbers of guards with male guards' assignment to the women's prisons. However, this effort inevitably posed great security and abuse questions in the women's prisons, thus the women inmates were inescapably exposed to sexual and financial abuse, being forced into prostitution, rape, and other sexual assaults in the prisons, even if the Ottoman archives provide limited examples. Consequently, unequal salary payments among male and female guards, the nonstandard Ottoman guardianship system, malpractices of prison guards endured in all the imperial provinces from the Tanzimat until the decline of the Empire in 1918.

5.3. Evaluation of Statistical Data on Female Offenders and Prisons

The main purpose of this section is to describe the types of crimes women offenders committed, the number of female inmates, their ages, occupations, marital statuses, and ethno-religious identities. In this sense, this section analyses prison surveys that were held by the Hamidian and the Committee Union and Progress governments that all sent the order to the provincial prisons to arrange questionnaires for collecting data on the numbers of inmates and, above all, the detailed information on the backgrounds and crimes of Ottoman inmates. Here we focus on the numbers and features of female inmates, which was represented in total numbers of Ottoman penitentiaries.

⁷⁷⁵ See Section 5.1.

In this context, let us start with the first prison census that was carried out by the Hamidian government.⁷⁷⁶ In 1886, Sultan Abdülhamid II ordered a census of the administration of Hapishâne-i Umûmî in order to have a grasp of the numbers and ages of the inmates who had been imprisoned in between 1886-1887 in the prison and jails of the imperial capital.⁷⁷⁷ This census was sent to four active prisons in Istanbul: Hapishâne-i Umûmî (Istanbul Penitentiary), *Bâb-i Zabtiyye Tevkîfhanesi*, Beyoğlu, and Üsküdar jails to collect data about the numbers of prisoners. This census could be evaluated as a predecessor of the prison censuses and surveys of the CUP (Committee of Union and Progress Party) who professionally organized more systematic and detailed queries, as the upcoming pages address.⁷⁷⁸ According to the survey, the total number of prisoners who were released or still imprisoned in 1886 was 1,042 in Hapishâne-i Umûmî, while the number of women prisoners was only 49 in Hapishâne-i Umûmî.⁷⁷⁹ The current prisoner numbers were 468, whereas the number of female inmates who were serving their imprisonment time was merely 16.⁷⁸⁰ The following prison was *Bâb-i Zabtiyye* Jail, which involved the most prisoner numbers in the 1886 census. The total number of prisoners who were released or imprisoned in the last year was 2,969, including male and female inmates. Currently, 32 females were confined in the *Bâb-i Zabtiyye* Jail. The total prisoner number consisted of 1,124, the current number of female inmates was merely two in 1886. The last survey's data had been collected from the Üsküdar jails, which contained a maximum of 204 male and female prisoners, although it did not incarcerate any female inmates in 1886.⁷⁸¹ On the date of 10 August 1886, the total prisoner number in the varied prisons and jails in Istanbul was 877, while the number of imprisoned and released inmates was 5,399 in a year in Istanbul.⁷⁸² As seen in this census, *Bâb-i Zabtiyye* jail surprisingly housed more prisoners than Hapishâne-i Umûmî, although it was built as a civilization and modernization

⁷⁷⁶ See Kemal H. Karpat, *Ottoman Population 1830-1914: Demographic and Social Characteristics* (Wisconsin: The University of Winconsin Press, 1985), 29-31. After the Berlin Congress that was held in 1878, the Ottoman borders completely changed. It caused very dynamic population mobility in the Empire. It urgently stipulated obligatory population censuses and demography commissions. See details of Hamidian censuses which were held in 1881-1882 (shortly after the political turbulence due to lost territories in the Balkans and Caucasus). This also was the most reliable and detailed population censuses which were collected from the whole administrative areas not only from provincial centers in the 19th century.

Karpat, 28-35.

⁷⁷⁷ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncılı, 2012), 315.

⁷⁷⁸ Ibid., 315.

⁷⁷⁹ Ibid., 316.

⁷⁸⁰ These reduced numbers clearly show the functions of mass and individual amnesties.

⁷⁸¹ Ibid., 316-317.

⁷⁸² Ibid., 317.

symbol in 1871.⁷⁸³ Specifically, the age variants of women inmates seemed to indicate some special situations and sexual crimes, such as prostitution. Thus, the ages and numbers of female inmates give us some insight into the features and characteristics of their criminal acts.

Another Hamidian statistic on the convicts includes sex and crime types in the central and district prisons in 23 Ottoman provinces (*Vilâyetlerdeki Hapishâne-i Umûmîler ve kazâ hapishâneleri*) in the year of 1897.⁷⁸⁴ According to the statistics, the number of women inmates was 2,842. They had committed *cünhâ and kabahat* (less serious offences and misdemeanors), while 44 female prisoners committed *cînâyet*, serious offences. In total, 3,886 women were imprisoned in 1897 in the Ottoman provinces.⁷⁸⁵ The censuses also provide several types of information on the crimes of prisoners, their ethno-religious identities, occupations, literacy, ages, and length of imprisonment for each crime type.⁷⁸⁶ Moreover, the statistics show the number of women's prisons in each province. In total, there were 75 women's prisons in the Ottoman provinces. Aydin had 11 women's prisons, while Hûdâvendigâr and Cebel-i Lübnan provinces had 10 women's prisons, according to the 1897 Annual Statistics of the Hamidian government.⁷⁸⁷ 12 of 23 provinces did not have women's prisons, while *Dersaâdet* had only 4 women prisons.⁷⁸⁸

During the Hamidian era, another census was held between 1898-1899. Krikor Zohrabyan's book shows that the female inmates represented very low numbers vis-à-vis their male counterparts (only in Istanbul), as seen in the table below.⁷⁸⁹

		The Number of Prisoners
Years	1898	1899

⁷⁸³ Ahmet Lütfî Efendi. *Vakanûvis Ahmet Lütfî Tarihi*, (Haz. Münih Aktepe), Cilt 12, (Ankara: Türk Tarih Kurumu Yayınları, 1989), 100.

⁷⁸⁴ Memâlik-i Mahrûsa-i Şâhâne'de cünha, kabahat ve cînâyetle lle mahkûm olanların cins ve miktarı: The names of provinces; Dersaadet, Edirne, Manastır, Selanik, Yanya, Kosova, Cezire-i Bahr-ı Sefid, Hûdâvendigâr, Aydin, Ankara, Kastamonu, Konya, Sivas, Erzurum, Trabzon, Van, Adana, Diyarbakır, Suriye, Cebel-i Lübnan, Suriye, Trablsugarp, Haleb, Bağdat.; *Osmanlı Devleti'nin İlk İstatistik Yılığı* 1897, Haz. Tevkif Gûran, Ankara: TC. Başbakanlık Devlet İstatistik Enstitüsü, 1997, 59.

⁷⁸⁵ *Osmanlı Devleti'nin İlk İstatistik Yılığı* 1897, Haz. Tevkif Gûran, Ankara: TC. Başbakanlık Devlet İstatistik Enstitüsü, 1997, 59.

⁷⁸⁶ *Osmanlı Devleti'nin İlk İstatistik Yılığı* 1897, 59-93.

⁷⁸⁷ Ibid., 90.

⁷⁸⁸ Ibid., 90.

⁷⁸⁹ Krikor Zohrabyan, *Hukuk-ı Ceza*, (İstanbul: Ahmet Saki Bey Matbaası, 1909), 15-16.

Male	11,122	12,649
Female	95	114

Table 5.2: The Number of prisoners in the years 1898-1899⁷⁹⁰

It is stated that the Committee on Union and Progress (CUP) government founded the first prison administration (*Hapishâneler İdâre-i Umûmiyesi*) in 1911. In the following months, for the first time, the prison directorate began to carry out a survey of prison populations including questions on the specific features and particularities of inmates, with professional questionnaires.⁷⁹¹ As a first action under the supervision of the Ottoman Prison Administration, they began to collect data on crimes committed, sentences served, marital and familial status, occupation, education level, age, and the ethno-religious identities of prisoners from every prison and detainees in the houses of detention from all the imperial provinces.⁷⁹² These surveys and censuses (*sûal varakalari*) went beyond the previous surveys, censuses and statistics of the Hamidian government with their detailed questionnaires that aimed at collecting information about the prisoners' backgrounds instead of getting the number of prisoners.⁷⁹³ These surveys incredibly provide more comprehensive, unique, and noteworthy data on the inmates' backgrounds for scholars.

As a considerable part of the first census and survey of the CUP government, they sent questionnaires that queried crime types, imprisonment lengths, marital and familial statuses, occupations, education levels, age, and the ethno-religious and national identity of each prisoner.⁷⁹⁴ Moreover, they aspired to collect data on prison expenditures, health conditions of prisons, number of deaths in prisons, rates of recidivism, and the situation of prison workshops. Because of the political upheavals in the parliament and the ongoing wars in the Balkans in 1912, the CUP government had a short break for collecting data from the prisons after 1912. Thus, the CUP consolidated the power and restarted collecting data by the questionaries' namely *sûal varakalari* from all imperial prisons again in 1913.⁷⁹⁵ Meanwhile, the re-

⁷⁹⁰ Ibid.

⁷⁹¹ Kurtuluş Demirkol, "II. Meşrutiyet Döneminde İzmit Hapishanesi", edited by Haluk Selvi, Bilal Çelik, Uluslararası Gazi Akçakoca ve Kocaeli Tarihi Sempozyumu Bildirileri (Kocaeli: Kocaeli Büyükşehir Belediyesi Kültür ve Sosyal işler Daire Başkanlığı Yayınevi, 2015), 989-990.

⁷⁹² Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 74-75.

⁷⁹³ *Osmanlı Devleti'nin İlk İstatistik Yılığı 1897*, Haz. Tevkif Güran, Ankara: TC. Başbakanlık Devlet İstatistik Enstitüsü, 1997, 59-93.

⁷⁹⁴ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 53.

⁷⁹⁵ Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015), 75.

consolidation of the CUP government's power engendered more durable and stronger prison construction projects that were hastily carried out.⁷⁹⁶

The prison surveys were repeated five times between 1911-1918.⁷⁹⁷ These surveys and censuses gave more insight not only on the physical situation and technical issues of the prison buildings but also numbers of the prison populations with details about the inmates, such as name, age, sex, ethno-religious identity, occupation, and literacy, as the upcoming pages show. By this appeal, they embarked on carrying out more comprehensive and frequent surveys and censuses throughout all Ottoman prisons. The results of censuses and the *sıral varakaları* provide more insight into the ideology and political targets of the CUP government through the question types, such as the questions on ethno-religious identities.⁷⁹⁸ In other words, the questions in the prison surveys reflected the ideology of the CUP government, which was based on the nationalistic and progressive political agenda, in that they queried the ethno-religious identities and crime types. At the same time, these surveys and censuses meticulously formed the projection and trajectories of prison reform during the CUP government.

According to Schull, “Categories of inquiry associated with prisoner included crimes committed, gender, date of incarceration, marital /familial status, recidivism, punishment, social class, occupation, ethnoreligious/national identity, age, literacy.”⁷⁹⁹ Furthermore, prison surveys were repeated five times in Ottoman provinces and rural areas: in 1911-1912, 1914, 1916-1917, and 1918-1919.⁸⁰⁰ The CUP government ambitiously intended to solve the Ottoman prison question that had been handed down since the 1840s.⁸⁰¹ The detailed information to be gathered from prison surveys overlapped with the social engineering mentality government. In dealing with congested Ottoman prisons, these surveys prove struggle the diligent reform aspirations of the CUP for the Ottoman prisons. In this regard, here this part concentrates on the question of women's prison and female prisoners. These remarkable inquiries provide detailed information

⁷⁹⁶ Oya Şenyurt, “20. Yüzyılın İlk Çeyreğinde Anadolu ve İstanbul'da Bazı Hapishane İİşaatları,” *Mimarlık Tasarım Kültürü Dergisi*, Vol. 9, 2003, 76.

⁷⁹⁷ Although I have found these surveys and censuses in the Ottoman archives, I give references of Kent Schull's detailed works and table formats instead the names of archival sources. BOA, DH.MB.HPS.M 3/36, 4/4, 4/20, 4/21, 5/1, 5/9, 6/27, and 12/70; BOA, DH.MB.HPS. 145/2, 145/56, 145/78, 146/69, and 146/70.

⁷⁹⁸ Kent Schull, “Identity in the Ottoman Prison Surveys of 1912 and 1914,” *International Journal of Middle East Studies*, Vol. 41, Issue 3, August 2009, 365 – 367.

⁷⁹⁹ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 67.

⁸⁰⁰ Kent Schull evaluated prison surveys in a statistical table in his book. Although, I found the similar prison surveys in the Ottoman archives, I have not translated or prepared such a table. Instead, my focus is on accused and convicted women who participated in these prison surveys. Thus, I intend to tease out the details of identities, sex, familial status, ages of female inmates.

⁸⁰¹ Zafer Atar, “20. Yüzyıl Başlarında İstanbul Hapishane-i Umumi'de Mahkûmların Üretim Faaliyetleri,” *SDU Faculty of Arts and Sciences, Journal of Social Sciences*, April 2014, No. 34, 20.

about the numbers of women prisoners, the crimes they committed, the ratio of female inmates to males, and their ages, social, and marital statuses, and literacy rates.

The first prison survey which was held in 1911-12 failed to draw a broader picture to see the situations of Ottoman prisoners, however, it provides the numbers of male and female prisoners in some Ottoman provinces. Even though some provinces and sub-districts shared limited information and occasionally they did not respond to the questionaries, the Ottoman Prison Administration, the numbers of inmates were reachable. According to the first prison survey of the CUP government, the total count of female inmates in provincial lands such as Baghdad, Beirut, Bitlis, Canik, Edirne, the Hijaz, Istanbul, Kastamonu, Ma‘mūretü'l-Azīz, Manastır, Mosul, and Yanya was 1,494. As it is explicitly seen in the census, the largest number of female inmates -362 belonged to the Edirne (Adrianople) prison complex. As given in a statistical table, the Istanbul Prison (Hapishâne-i Umûmî, Sultanahmet) followed Edirne prison with 272 women prisoners. The third was Manastır (the Balkan province) with 168 women prisoners while Mosul (Syria) hosted the least only twenty-six women inmates.⁸⁰² As Schull noted, the 1911-12 prison survey merely included the questions on the numbers of inmates, hence it was far from ushering detailed information. Nonetheless, remarkably twelve provincial prison populations were represented by the survey.

On the other hand, the 1914 prison survey sheds light on the populations of thirty-one provincial prisons, including information on gender and criminal status (accused or convicted). Regarding Schull's statistic table, the 1914 prison survey distinguished among inmates who had committed *cünha* or *kabahat* (less serious crimes), *cinâyet* (serious crimes), and those who were *mevkufin* (awaiting trial).⁸⁰³ The survey showed that the total number of *cünha* and committed by females was 553. *Cinâyet* committed by female inmates numbered 120, and the number of accused women awaiting trials was 303 as the 1914 census demonstrated. While the overall number of prisoners had fallen from 34,085 to 28,693, the number of female prisoners dramatically declined from 1,494 to 976 between 1912-1914. Most probably, this decline arose from ongoing battles in the Balkan region. The number of male prisoners was 27,717; the number of female prisoners (976) that undoubtedly is low. All in all, the total number of inmates was 28,693.⁸⁰⁴

Aydın had the most female inmates who had committed *cünha* or *kabahat* (*less serious crimes*), which numbered sixty-five. The province of Kastamonu followed Aydın with fifty-nine females who had committed *cünha* or *kabahat*. The third most crowded ward was Konya's

⁸⁰² Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 75.

⁸⁰³ Ibid., 76-77.

⁸⁰⁴ Ibid.

which hosted fifty-one females who had been convicted of *cünha* or *kabahat*. Meanwhile, there were no women inmates who had committed a serious crime in Konya. And astonishingly, the province of Bitlis, Basra. and Hijaz and the sanjaks of the Çatalca, Zor, Asir, and Urfa had no female prisoners who had committed less serious crimes.

The second category showed the number of serious criminals in the Ottoman provinces and sanjaks. As it is noted above, the total number of female inmates who had committed *cinâyet* (serious crimes) was only 120 in these prisons. Surprisingly, the province of Ankara had the highest number of female inmates who had committed *cinâyet*: twenty-one. Konya followed with fourteen, and Kastamonu and Aydın had twelve female prisoners; while Hijaz, Edirne, and Basra had no women prisoners who had committed serious crimes (*cinâyet*), nor did the sanjaks of Urfa, İzmit, Bolu, Canik, Çatalca, Asir, Kale-i Sultaniye, and Medina.

My final analysis of the 1914 prison survey concerns the number of females who had awaiting trials in other words they were the accused (*mevkûf*). There were 303 female criminal defendants altogether with thirty-three females awaiting trials in Ankara. Aydın followed with twenty-seven females, while Hûdâvendigar and Diyarbekir followed with twenty-four accused women each.⁸⁰⁵ All in all, Ankara had the highest total of female inmates at 110. The province of Aydın had 104 and Kastamonu had ninety-five female inmates according to a 1914 prison survey.

The third census was carried out in 1917. According to the 1916-1917 prison census, the total number of female prisoners dramatically increased from 976 to 1249.⁸⁰⁶ Interestingly, Aydın was hosting more than double the number of the female inmate (225) relatively to the previous prison inquiry. While 110 women prisoners were incarcerated in Ankara prisons according to the 1914 survey, this number had increased to 143 by 1917. Furthermore, the number of female inmates in the province of Kastamonu rose from 118 to 225. Whereas Konya had 90 female inmates according to the 1914 prison survey, only 84 women were incarcerated in its prisons in the 1917 survey.

Unfortunately, there is no separate information about females in the 1918-19 prison survey which merely indicated that the total number of prisoners (male and female) was 34,835. Prison statistics from 1919-20 demonstrated that there were 27,759 offenders in the Ottoman Empire, a decreased of roughly 7,000 inmates.⁸⁰⁷ However, prison officials from most of the *sanjaks* (independent administrative sub-divisions) and *vilâyets* (provinces) did not respond or

⁸⁰⁵ Schull, 76-77.

⁸⁰⁶ Schull, 78.

⁸⁰⁷ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 80-81.

provide a report in answer to the prison questionnaires of the Prison Administration. Thus, I underline that the researchers must consider that the number of prisoners is not based on certain or reliable information. Nevertheless, they shed light on the prison population of the Ottoman Empire and offer a chance to grasp the numbers of inmates in order to evaluate the population of Ottoman criminals, and for my purposes, female inmates in particular. All in all, as a general, and comprehensive evaluation, the 1911-12 prison survey demonstrated that female prisoners comprise 4.4 percent of the prison population (1,494 of 34,085).⁸⁰⁸

5.4. Motherhood and Pregnancy in the Women's Prisons

Paradise lies at the feet of the mother.⁸⁰⁹

This dissertation mainly concentrates on the meaning of being female in the prisons, the policies of women's imprisonment, the gap between gendered penal policies and their practical implementations that have been differentiated in women's prisons depending on gender roles, types of crime, femininity and reproductivity. In this regard, this section sketches a broader framework to understand the Ottoman penal policy towards pregnant women's and mothers' incarceration along with the criminalization of abortion during the late Ottoman Empire. This section aspires to answer these questions: How did the femininity of the prisoners affect their punishment and imprisonment processes? How did the Ottoman prison policy treat pregnant women and mothers in the late Ottoman era? How did women's bodies become political with the Ottoman penal code? This section underlines the effective consequences and special influences of the femaleness and reproductivity of the inmates, and the particular concerns of prisoners in case they were pregnant, breastfeeding, or mothers during their imprisonment processes. Along with the special provisions for pregnant and breastfeeding inmates, the practical implementation of specific imprisonment policies for women who were incarcerated with their children are also examined in this section. All in all, this part traces the trajectories of politicization of the women's bodies, motherhood and reproductivity functions and the effects of this perspective on the penal policies that resulted in lenient, tolerant, and gentle treatments through Ottoman penal codes and the prison regulations from the Tanzimat up to the decline of the Ottoman Empire.

There is no doubt the Ottoman government was meticulously concerned with the question of women prisoners whose problems specifically derived from their reproductivity, as a result of both a biopolitical approach to women's body and the social, traditional, and religious enshrinement of motherhood. Mothers were recognized as dignified female subjects

⁸⁰⁸ Schull, 104.

⁸⁰⁹ A Hadith by the Prophet Mohammad.

regarding their unlimited nurturing of their children, namely biologically and emotionally breastfeeding. What is the meaning of being a mother and nurturer for Islamic societies? According to Tucker, “A woman, both emotionally and physically, was thought to be equipped for reproduction and the care of small children; and the muftis recognized a mother's special bond with her children, a fullness of affection.”⁸¹⁰ As Tucker states, motherhood as a cultural and familial term was enshrined and dignified by Islamic society, while fatherhood has occupied a different place in social context over the centuries. This Quranic understanding shaped the social status of mothers, their parental roles, the sense of belonging to their children, their legal status as mothers and pregnant women in marriage and divorce cases, briefly in family law, and maternity in conjugal relations. This understanding was maintained in Ottoman society in that the punishment policies of the government placed mothers in distinct areas, different than those of other women prisoners. Not only the enshrinement of motherhood, but also demographic politics and new biopolitical understandings of the 19th century shaped the criminal and penal practices for the women inmates regarding their reproductive functions during the late Ottoman period.

We shall start with politicization of women's reproductivity and prevention of infant deaths, a remarkable development that indicated effects of biopolitics in the Ottoman state. The imperial code of 1858 proposed a new crime category: for persons causing abortion and selling adulterated drinks and poisons without surety (*İskat-ı Cenin ve Karışık Meşrûbat ve Kefilsiz Semmiyat, Füruht Edenlerin Mücâzât-i Müterettibeleri*), immediately following the article on the punishment of homicide (*katl maddesi*).⁸¹¹ This article stipulated hard labor and blood-money sentences for offenders who intentionally caused miscarriages (*iskat-ı cenin*) of pregnant women. Articles 192 and 193 codified that the women who miscarried by making use of herbs or giving consent to their use by anybody, should be punished with imprisonment from six months up to three years.⁸¹² If a medical doctor or pharmacist caused the miscarriage intentionally or unintentionally, he would be sentenced to provisional hard labor. The following articles in the same section (194, 195, 196) relate to causing death or hazardously jeopardizing

⁸¹⁰ Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (London: University of California Press, 1998), 113.

⁸¹¹ Abortion became a crime with the 1858 Penal Code, the previous codes (1840 and 1851) had no any article about iskat-ı cenin (abortion). According to Somel and Demirci, dominancy of Shari'a law on the preparation of 1840 and 1851 Penal Codes, the Ottoman lawmakers did not criminalize abortion. However, the 1810 French Penal code's shaped the content of 1858 Penal Code, which helped to place abortion into a criminal category. Tuba Demirci and Selçuk Akşin Somel, “Women's Bodies, Demography, and Public Health: Abortion Policy and the Perspectives in the Ottoman Empire of the Nineteenth Century,” *Journal of the History of Sexuality* 17, No. 3 (September 2008), 392; Akşin Somel, “Son Osmanlı Dönemin'de İskat-ı Cenin Meselesi,” *Kebikeç* 12, 2002, 70; Gülnar Baloğlu, “Osmanlı Toplumunda Kurtajın Yasaklanması: Bir Politik Alan Olarak Kadın Bedeni,” *Toplumsal Tarih* 223, (2012), 24.

⁸¹² *The Imperial Ottoman Penal Code 1858*, translated by J. Bucknill, and H. Utidjian (London: Oxford University Press, 1913), 145-146.

the health of individuals with mixed herbs. In case a pharmacist or a herbalist did so, he/she would be sentenced to imprisonment from one week up to two years.⁸¹³

This category of crime mainly referred to the prevention efforts for poison murder and abortion cases that were very widespread in rural milieus, as Ebru Aykut studied in her dissertation project.⁸¹⁴ As Aykut stresses, women offenders tried to set their own justice mechanism, which enabled them to get rid of unwilling marriages, rape, and domestic violence by the using herbs and poisons to kill their husbands, rapists, and so on.⁸¹⁵ Due to the limits of forensic medicine and investigation methods for poison murder cases, women preferred to use mixed herbs and other natural products to kill their husbands so as to marry someone else, occasionally lovers, fiancées, and so on, using this way in order to create their judicial mechanism as brave and cruel vigilantes in the 19th century, especially in rural areas of the Ottoman Empire.⁸¹⁶

However most importantly, these articles aimed at diminishing the deaths of babies and mothers due to intentional miscarriage or abortion (*iskat-i cenin*) by securing their reproductive function as a fundamental part of the demography politics of the late Ottoman Empire.⁸¹⁷ The code meted out a deterrent solution for the prevention of abortion with hard labor and blood money for women who used these herbs, imprisonment sentences of up to three years for the sellers of herbs.⁸¹⁸ Surely, this was a major step of the politicization of women's bodies with radical penal practices in order to maintain the demographic and population politics of the 19th century to maintain state power. According to Foucault:

I think, the third important point—this technology of power, this biopolitics, will introduce mechanisms with a certain number of functions that are very different from the functions of disciplinary mechanisms. The mechanisms introduced by biopolitics include forecasts, statistical estimates, and overall measures. And their purpose is not to modify any given phenomenon as such, or to modify a given individual insofar as he is an individual, but, essentially, to intervene at the level at which these general phenomena are determined, to

⁸¹³ Ahmet Gökçen, *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Müeyyidleri*, (İstanbul: 1989), 150-151.

⁸¹⁴ Ebru Aykut, "Alternative Claims on Justice and Law: Rural Arson and Posion Murder in the 19th Century Ottoman Empire." (PhD diss., Bogazici University, 2011).

⁸¹⁵ 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, No. 3 (2016): 124.

⁸¹⁶ Aykut, 116-118.

⁸¹⁷ Tuba Demirci and Selçuk Akşin Somel, "Women's Bodies, Demography, and Public Health: Abortion Policy and the Perspectives in the Ottoman Empire of the Nineteenth Century," *Journal of the History of Sexuality* 17, No. 3 (September 2008), 392, 418-419.

⁸¹⁸ Gülnar Balsoy, *The Politics of Reproduction in Ottoman Society, 1838-1900* (Vermont: Pickering&Cahatto, 2013), 60.

*intervene at the level of their generality. The mortality rate has to be modified or lowered; life expectancy has to be increased; the birth rate has to be stimulated.*⁸¹⁹

As Foucault notes, the major component of the technology of power was biopolitics, which targeted reducing of the mortality rate, enhancement of births and increase of life expectancy.⁸²⁰ The Ottoman penal policies were also shaped in light of this understanding, as seen in the articles of the 1858 Penal Code.

In this regard, in addition to these penal provisions, the professionalization and institutionalization of midwifery became another significant attempt for reducing the deaths of mothers and babies during the 19th century as an interwoven part of demographic politics by the politicization of women's bodies.⁸²¹ In 1842, the Tanzimat government established a special institution, namely a Midwifery School, to professionalize and medicalize births.⁸²² In this medical school, the midwives had to be educated and professionalized by medical training, and they had to get an official license to perform their occupation, with a special midwifery oath.⁸²³ However, the demarcation between licensed and unlicensed midwives had not been drawn, and the midwifery school did not function as Ottoman medical experts expected.⁸²⁴ Meanwhile, Khedival Egypt also established a midwifery school for prevention of deaths of mothers and babies in 1832 like the Ottoman Empire.⁸²⁵

According to Balsoy:

*The reluctance to punish women was a direct outcome of pronatalist goals that were dependent, in the first place, on women who were to bear the children needed to increase the population. Although the increased attention that the Ottoman government gave to abortion is a strong indication of the politicization of reproduction, it was not the women of reproductive age who were criminalized, but rather the doctors, pharmacists and especially the midwives. Of course, from the perspective of the Ottoman government punishing women by any means, imprisonment, banishment or forced labor, would evidently destroy, or at best decrease, their reproductive capacities, and the government needed female bodies to procreate the Ottoman population; hence, as a result, it shunned ruining the reproductive body by punishment.*⁸²⁶

⁸¹⁹ Michel Foucault, *Society Must be Defended' Lectures at the College De France: 1975-76*, translated by David Macey (New York: Picador Books, 1984), 246.

⁸²⁰ Michel Foucault, "Governmentality," in Power: Essential Works of Foucault 1954–1984, edited by J. D. Faubion (New York: The New Press, 2000), 201–22

⁸²¹ Balsoy, *The Politics of Reproduction in Ottoman Society, 1838-1900*, (Vermont: P&C, 2013), 27-51.

⁸²² Balsoy, 27, 35.

⁸²³ Balsoy, 24-25.

⁸²⁴ Gülnar Balsoy, *Kahraman Doktor İhtiyar Acuze'ye Karşı* (İstanbul: Can Yayıncılık, 2015), 63-99.

⁸²⁵ Khaled Fahmy, 'Women, Medicine and Power in Nineteenth-Century Egypt,' in L. Abou-Lughod (ed.), *Remaking Women: Feminism and Modernity in the Middle East* (Princeton, NJ: Princeton University Press, 1998), 41-46.

⁸²⁶ Gülnar Balsoy, *The Politics of Reproduction in Ottoman Society, 1838-1900* (Vermont: P&C, 2013), 60.

As Balsoy underlines, the implementation of Articles 192 and 193 could prevent the reproductivity of women, so they were not punished with imprisonment and hard labor as the penal code meted out. Thus, Ottoman archives rarely ever show the prosecution and imprisonment of women who committed *iskat-i cenin* (abortion) by using mixed herbs. Rather, the Ottoman courts punished the herbalists, pharmacists and other providers of mixed herbs and other natural products to harm somebody's health as a way of coping with abortion and poison murder cases.⁸²⁷ Succinctly, the Ottoman government never carried out the punishment of *iskat-i cenin* for female offenders who were intentionally left free regarding their potential fertility and reproductivity functions during their young ages. All in all, to keep the rise of population and protect the active fertility of young women, Articles 192 and 193 of the Code were not implemented practically, while Articles 194-196 punished the providers of poisons and herbal mixes in the Ottoman courts.

As Balsoy deeply studies in her works, the politicization of women's bodies regarding their reproductivity function became an essential in Ottoman medical and penal policies. In this regard, the policy also followed the same pattern based on lenient and tolerant women's punitive practices in case they were pregnant, breastfeeding and puerperant women, as discussed below.⁸²⁸

This part concentrates on the lenient and tolerant treatment of the 1858 Penal Code that involved special notes for the punishment of female inmates who were pregnant or physically improper to be incarcerated. According to the 43rd Article of the Code, in case women could prove their pregnancy during their imprisonment, they deserved tolerant, lenient, and positive discriminatory punitive ways. Article 43 referred to gender-specific punitive manners contrary to the gender equivalence of the code regarding punishment. The Code directly indicated that the female and male offenders were undoubtedly equal in the face of Ottoman law; however, in the carrying out of certain punishments, it became necessary to concern the peculiarities of their special conditions.⁸²⁹ As Bucknill and Utidjian's translation and commentary of Article 43 states, the peculiarities of the imprisonment conditions of female offenders referred to their pregnancy and regular physical weakness, also the fragility that mostly derived from susceptible origins of their bodies.⁸³⁰ As explicitly seen, the Code apparently offered lenient

⁸²⁷ Gülnar Balsoy, "Osmanlı Toplumunda Kürtajın Yasaklanması: Bir Politik Alan Olarak Kadın Bedeni," *Toplumsal Tarih* 223 (2012), 24.

⁸²⁸ Balsoy, 23.; Gülnar Balsoy, *The Politics of Reproduction in Ottoman Society, 1838-1900* (Vermont: P&C, 2013), 60-61.

⁸²⁹ *The Imperial Ottoman Penal Code 1858*, translated by J. Bucknill, and H. Utidjian (London: Oxford University Press, 1913), 31.

⁸³⁰ Ibid., 31. Article 43: "In legal punishments females do not differ from males but in the modes of carrying out punishments it becomes necessary to show regard to the peculiarity of their condition. The article means that no distinction were made between the punishments to which men and women may be sentenced except under the proviso. "Peculiarity of their conditions", "their" refers of course to

and tolerant treatments towards women offenders in terms of their particular bodily components and physically weaknesses vis-à-vis their male counterparts. In addition to Article 43, Article 18 of the 1858 Penal Code meted out delayed death penalties for women inmates in case they were pregnant during their prosecution process.⁸³¹ According to Article 18, when a woman sentenced to death states that she is pregnant, if it is proved to be true, her punishment is carried out after her delivery.⁸³² The Ottoman judicial cadre requested a medical report to prove pregnancy first, then pregnant offenders could be released until the birth, before their execution by hanging or bowstring. Although the death penalty was seldom carried out by the Ottoman judicial organs, this article shows the importance of childbirth for the late Ottoman demographic policy.⁸³³ This was another remarkable attempt to keep the guaranteed birth of babies as a component of maintaining demographic growth of the Ottoman Empire, even if the women had been sentenced to death regarding their serious offences. As an evaluation, pregnant inmates had been kept under the security of the penal codes that aimed at preventing the jeopardization of the health of pregnant inmates whose reproductivity had been guaranteed by these penal and legal scripts. In my opinion, these tolerant and lenient treatments towards the reproductivity of women can be explained by the 19th century's political attempts for female bodies' politicization more than the understanding of the enshrinement of motherhood and child (*sabî*) birth in Islamic societies. To sum up, this directly dealt with the demographic policies and the embodiment of the altered perspective against the women's body with the effects of the 19th century *Zeitgeist* among the empires, rather than motherhood concepts.⁸³⁴ In the same vein as the Ottoman Empire, the Khedival Egyptian government did not allow pregnant women to serve in the iron workshops near Cairo, Bulaq, and Alexandria as hard laborers in the second half of the 19th century under their penal reform.⁸³⁵ The Egyptian pregnant prisoners were utterly exempt from hard labor, such as hard work as the Ottoman law proposed in 1858.

According to Gorman:

females; “peculiarity” would be more literally translated “speciality” “ and refers certainly to pregnancy and regular bodily weaknesses of female inmates. Reshad states that at the punishment of hanging a woman no part of her person is exposed; and that a woman undergoing kyrek is not put into chains. A lengthy circural instruction dated 15 Safer, 1297 (28 January 1880), issued from the Ministry of Justice detailing the measures to be taken with female prisoners who are confined, whilst undergoing punishment is given by Nicolaides, Ott. Code, 2429.”

⁸³¹ *The Imperial Ottoman Penal Code 1858*, 16.

⁸³² Ibid.

⁸³³ *The Imperial Ottoman Penal Code 1858*, 4.; Kent F. Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 24; Ebru Aykut, “Judicial Reforms, Sharia Law, and the Death Penalty in the Late Ottoman Empire,” *Journal of the Ottoman and Turkish Studies Association* 4, No. 1 (2017): 10.

⁸³⁴ Sarah Fiander, “Pregnancy, Birth and Mothering behind Bars: A case Study of One's Woman's Journey through the Ontario Criminal Justice and Jail System.” (MA Thesis, Wilfrid Laurier University, 2014), 9-16.

⁸³⁵ Anthony Gorman, “In Her Aunt's House: Women in Prisons in the Middle East,” *IIAS Newsletter Journal* 39, No. 1, 178.

*In Egypt under British occupation, rights for female prisoners were enshrined in the prison regulations of 1884, which stipulated special consideration for pregnant women and those with young children, and that only female officers search women prisoners.*⁸³⁶

As seen in the quotation, women deserved a particular treatment due to their bodily weaknesses, pregnancy, and motherhood in the Egyptian prisons during the late 19th century.

Following the Tanzimat period, as Kent Schull claims, the Hamidian government remarkably addressed the gendered spaces and gender-specific supervision for women offenders by the 1880 Prison Regulation, as analyzed in the prison reform chapter.⁸³⁷ During the reign of Abdülhamid II, medical services, additional food, and health controls for pregnant women and mothers were emphasized by the various articles of the 1880 Prison Regulation.⁸³⁸

For example, pregnant women had to be regularly controlled by the prison doctors and the infirmary cadre of Hapishâne-i Umûmî (central prisons). They were kept under the supervision of the prison administration and the prison's medical cadre in order to reduce their health risks and other problems during their pregnancy through the special decree, namely, *Mahkûm Olan Nisâ Tâifesinin Husûsiyet Hallerine Ne Yolda Riâyet Olunmak Lazım Gelineceğine Dair 15 Safer Sene 1297 (28 January 1880) Tarihli Tezkire-i Aliye (Regulation on How to Proceed in the Special Situations of Convicted Women)*, which was attached to the 1880 Prison Regulation.⁸³⁹ The regulations emphasized the special situation of women inmates, which was primarily the pregnancy of prisoners. According to the regulation, pregnant inmates had to be sent to the *Haseki* Hospitals (to special hospital wards different from those of other patients in order to avoid any prison breaks) to give birth healthily and under the control of medical experts (*hâmîle olarak mevkûfen veya mahkûmen hapishânelerde bulunan kadınların vaz-ı haml zamanı takarrup eylediği halde tabibin raportusu üzerine mahalli hastahânenin nisâya mahsus olan dâiresine nakiş ve izâmi lazımlı geleceği gibi*).⁸⁴⁰ After being discharged from hospital, their missed imprisonment times had to be accounted for and compensated with re-

⁸³⁶ Ibid.

⁸³⁷ Kent F. Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 124.

⁸³⁸ BOA.A.DVN. MKL. 19/28: 26 Muâharrrem 1298/29 December 1880: Memâlik-i Mahûrsa dâhilindeki tevkîfâne ve hapishânelerin idare-i dâhiliyyelerine dair talimatnâme.

⁸³⁹ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 164.

⁸⁴⁰ Ibid., 164. “..... hamile olarak mevkûfen veya mahkûmen hapishânelerde bulunan kadınların vaz-ı haml zamanı takarrup eylediği halde tabibin raportusu üzerine mahalli hastahânenin nisâya mahsus olan dâiresine nakiş ve izâmi lazımlı geleceği gibi şayet hükmün akabi sudurunda avâz-ı haml edecek kadınların dâhi hapishânelerde tedavi ve muhafazları mümkün olamayacağı cihetle bunların suret ve vakti nakilleri için kezâlik tabibin reyine mürâcaatla haklarında muamele-i meşrûhanın icrâsı ve hastahânedede bulundurulmalarını istilzam eden ahval bertaraf olduğu tubben tâhhik edildikten sonra ikmâl-i cezâları zîmînâda yeniden hapishâneye iadeleri muvâfîk-ı maslahât olacağından.....”.

imprisonment of the inmates (*ahval bertaraf olduğu tubben tahhik edildikten sonra ikmâl-i cezâları zımnında yeniden hapishâneye iadeleri muvâfik-i maslâhat olacağından*).⁸⁴¹

In this regard, the Ministry of Interior proposed a regulation of procedures by which pregnant inmates' births would take place in Gureba hospitals (hospitals for poor people).⁸⁴² Women's health was overwhelmingly jeopardized by the risk of miscarriage during pregnancy due to the unhealthy living conditions in the Ottoman prisons, so that they were sent to hospitals' separate wings for their births.⁸⁴³ Returning to prison with one's baby began to be allowed. In doing so, mother inmates could bear their babies in the prisons. *Haseki Dâriüşşifa* (the house of the hospital for women) had been used as a prison and infirmary for female prisoners since 1847. Shortly after this practice, in 1856 *Haseki Dâriüşşifa* was transformed into a women's hospital (*Nisâ Hastânesi*). The *Haseki Nisâ* Hospital was used to provide health services for female inmates, poor women, and pregnant women offenders.⁸⁴⁴ In the meantime, the *Bezm-i Alem Valide Sultan Vakîf Gureba Hospital* began providing health services for pregnant and sick female inmates in Istanbul in 1847.⁸⁴⁵ Women's health was overwhelmingly jeopardized by the risk of miscarriage during pregnancy due to the unhealthy living conditions in the Ottoman prisons, so that they were sent to hospitals' separate wings for their births.⁸⁴⁶

The 1880 Prison Regulation Article 53 proposed food service as needed and convenient according to the doctors' advice for pregnant and breastfeeding mother inmates. This Article proposed that the convicted and accused inmates had to be nourished with vegetables or pulses cooked in suet or butter and also 130 dirham⁸⁴⁷ of soup daily (*kusur-ı mahkum olan mahbusine revgan-ı sade veya ic yağıyla pişirilmiş mevsimine göre kuru zahire veya taze sebze vattan ibaret olarak yevmiye yüz otuz dirhem çorba verilecek ve çorbanın havi olduğu yağ ve sebzenin mikdârı tabibin reyi üzerine başkaca tayin olunacaktır*).⁸⁴⁸ However, pregnant and breastfeeding inmates had to be nourished with food as advised by the prison doctors, who most probably recommended more portions along with richer nutrient foods for them (*Hamile*

⁸⁴¹ Ibid.,; Hasan Şen, "The Transformation of the Politics of Punishment and the Birth of Prison in the Ottoman Empire (1845-1910)." (MA thesis, Boğaziçi University, 2005), 131.

⁸⁴² Ayşe Özdemir Kızılkan, "Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar (1839-1922)." (PhD diss., Süleyman Demirel University, Graduate School of Social Sciences, 2011), 97-98.

⁸⁴³ See Section 5.4.

⁸⁴⁴ Nuran Yıldırım, *14. Yy. 'dan Cumhuriyete, Hastalıklar, Hastaneler, Kurumlar* (İstanbul: Tarih Vakfı Yurt Yayınları, 2014), 283-287.

⁸⁴⁵ Yıldırım, 285.

⁸⁴⁶ See Section 5.4.

⁸⁴⁷ A Dirham: 3.207 Gram

⁸⁴⁸ BOA.A.DVN. MKL. 19/28: Memâlik-i Mahsûsa dahilindeki tevkîfhâne ve hapishânelerin idare-i dâhiliyyelerine dâir talimatnâme. 29 December 1880/21 May 1880 Article 53- "Hamile olanlarla sütte çocuğu olan kadınlara tabibin reyi üzerine lüzûmu mikdar ziyâ verilecektir."

*olanlarla sütte çocuğu olan kadınlara tabibin reyi üzerine lüzumu mikdar ziya⁸⁴⁹ verilecektir).*⁸⁵⁰ In addition to this article, the *Zabıtiyye Nezâreti* (Ministry of Police) issued regular food service for pregnant and breastfeeding inmates by special decree (*tezkire*) on 6 August 1906.⁸⁵¹

In addition to transferring to hospitals, as a measure to alleviate health risks, pregnant and nursing mothers began to be nourished according to the supervision of doctors and their menus were prepared by the prison management.⁸⁵² But, not all Ottoman prisons took into consideration pregnancy or motherhood concerning the daily meal service in the 1880s, due to financial limits, the insufficient imprisonment areas and the misery of women's prisons.

As a positive example of the implementation of food service for pregnant and breastfeeding inmates, in the female ward of Kütahya district prison, non-pregnant women were nourished with seasonal vegetables, and a bit of meat with 130 *dirhams* of soup, while pregnant women or breastfeeding mothers were allowed more and richer food than other female inmates.⁸⁵³ These special measures directly concerned the support for population growth, reinforced by women's reproduction abilities and fertility. The Ministry of Interior left prison managements to their own devices in terms of the portioning of meals for pregnant women and breastfeeding mothers in 1908.⁸⁵⁴

On the other side, as analyzed in Section 6.4 on the politics of women's amnesties and release, if the pregnancy of women inmates could be proved by medical report (*doktor raportusu*), they could be granted individual amnesties and earlier release.⁸⁵⁵ The Ottoman archives provide two significant cases of individual amnesties which are based on the reproductivity functions of women.⁸⁵⁶ Initially, the first case narrated the story of a pregnant woman who committed homicide (*cinâyet*). In 1892, Gülazar Kadın murdered her husband and

⁸⁴⁹ BOA.A.DVN. MKL. 19/28: Article 53.

⁸⁵⁰ BOA.A.DVN. MKL. 19/28: “....Hamile olanlarla sütte çocuğu olan kadınlara tabibin reyi üzerine lüzumu mikdar ziya verilecektir.”

⁸⁵¹ ZB 23/24: 15 C 1324/6 August 1906.

⁸⁵² Saadet Tekin, “Osmanlı'da Kadın ve Kadın Hapishaneleri,” A.Ü.D.T.C.F Dergisi, C. 29, S. 47: 98.

⁸⁵³ Nurgül Bozkurt, “20. yy Başlarında Kütahya Hapishanesinin Genel Durumu,” *The Journal of International Social Research*, Vol. 5, Issue 21, 272.

⁸⁵⁴ DH. MKT. 1273/21: 29 Ca 1326/ 29 June 1908: “.... cerâim (kabahat) vakalarından dolayı nisâ tevkifhânesinde hapsedilen hamile kadınların doğum yapmak üzere Gureba hastanelerine gönderilmesi ve çocuklarıyla birlikte gelen kadın mahkumlara da kendileri nâmına yiyecek ifâ olunmakta olduğundan bunlar hakkında merkezce müttehiz usûl dâiresince muâmele itâsi lüzûmu.”

⁸⁵⁵ See Section 6.4.

⁸⁵⁶ Köksal claimed that individual amnesty requests had mostly been accepted by the Sultan specifically for the offenders who were punished with “banishment” during the early years of Tanzimat. See for details: Osman Köksal, “Osmanlı Hukukunda Bir Ceza Olarak Sürgün ve İki Osmanlı Sultanının Sürgünle İlgili Hatti - 1 Hümayunları,” *Ankara Üniversitesi Osmanlı Tarihi Uygulama ve Araştırma Merkezi Dergisi*, Vol. 19, 2006, 303-304.

for this *cinâyet* she was imprisoned for 15 years in *Manastır Nisâ Hapishânesi* on 17 October 1889. However, the prison management realized that she was 4 or 5 months pregnant on 5 February 1892, after three years of her imprisonment.⁸⁵⁷ The Manastır prison management had not encountered a pregnant inmate before, so they did not know how they should treat her or how to pursue pregnancy processes within their imprisonment processes (*beyânyyla tezkire...Nezaret-i müşârûn-ileyhaya ma'lûmât verilmiş olmağla bu bâbda usulen lâzım gelen icrası ve inbâsına iktiza-yı hâlin icrâ hâsîl olacak neticeye göre dahi tahkikat-i lâzime icrâsiyla*).⁸⁵⁸ In this regard, they tried to follow the applicable procedures, but the content of the correspondence between the Ministry of Interior and the management of the Manastır Prison is not available. Surprisingly, the outcome was an amnesty decision for the pregnant woman, and Gülazar Kadın was released on 5 June 1892. This case is very interesting, and a significant question came to our mind. How did Gülazar Kadın become pregnant during her imprisonment in Manastır Women’s Prison? Could she have sex with her second husband on a visiting day, even if she married someone again, or did she become pregnant by the sexual assault of prison cadre or other male prisoners? Unfortunately, although the Ottoman archives do not allow us to follow this case to answer these questions, it is not too difficult to say rape and sexual assault cases were very widespread in the women’s prisons, as discussed in Section 5.2 with the analysis of guardianship of female inmates by male prison guards.⁸⁵⁹ All in all, she was released due to her pregnancy.

In addition to the previous case, another amnesty came from Erzurum province. In Erzurum province, Pasinler district, Yakan Karyesi, Esma Kadın stole wheat in her village, and she was imprisoned for 3 months for the offence of larceny (*sirkat maddesi*) in 1900. However, she was pregnant when she was sentenced to 3 months imprisonment in Erzurum *Nisâ Habshanesi*. She delivered twins (*vaz'iyü'l-haml eden*) during her imprisonment, and immediately after her delivery she was released because of her motherhood (*aff-i aliye mazhar oldu*) by *Dâhiliyye Nezâreti* on 24 May 1900.⁸⁶⁰

The Ottoman government explicitly illustrated the lenient, supportive, and tolerant treatment of the pregnant, breastfeeding women and mothers. These women were exempt from

⁸⁵⁷ BOA.BEO 24/1766: 21 Safer 1307/ 17 October 1889: “Manastır nisâ habishânesinde mevkuf bulunan Ohri Kazâsına tâbi’ Labonişte karyeli Gülzar bint-i Mehmedin dört beş mâh mukaddem hamile olduğu Manastır vilâyeti habishâne müfettişliğinden iş’âr olunmasına ve keyfiyet câlib-i nazar-i dikkat bulunmasına mebnî bu bâbda verilen tahkikat ve mu’âmelât-i lâzime icrâsının Manastır vilâyet-i behiyyesine iş’âriyla.”

⁸⁵⁸ BOA.BEO 24/1766:9 Zilkade 1309/ 5 June 1892: “....mevkuf bulunan Ohri Kazâsına tâbi’ Labonişte karyeli Gülzar bint-i Mehmed bundan dört beş mâh mukaddem hamile olduğu belediye tabibleri tarafından verilen rapordan anlaşılmış olmağla....” 12 September 1892.

⁸⁵⁹ See Section 5.2.

⁸⁶⁰ BOA.BEO. 1491/111754: 24 Muharrem 1318/ 24 May 1900; BOA.İ.AZN. 38/10: 3 L 1318/ 24 January 1901.

corporal punishment, hard labor, and execution (even though this was not frequently implemented in practice), while they had access to additional food and rich nourishment during their pregnancies and breastfeeding periods.⁸⁶¹ The Ottoman government exemplifies its positive discrimination towards pregnant women and breastfeeding mothers through these tolerant and thoughtful concerns. Therefore, these women were kept under the control of prison doctors who regularly checked the health of the babies and mothers, in case a risk occurred or when they had been sent to hospital to give birth in the special wards for the pregnant prisoners. All of these Regulations first appeared during the Hamidian regime; however, the tolerant and positive discriminative treatments became more widespread and dominant during the reign of the CUP government. According to Schull:

*All three of these issues (gendered space, gendered supervision, and gendered provisioning) were not adequately addressed during the Hamidian era, but they became pressing issues during the Second Constitutional Period as the CUP assumed greater control and authority over crime and punishment.*⁸⁶²

As Schull states, although Abdülhamid II's government promulgated gender specific articles and gender-based regulations by the 1880 Prison Regulation, the CUP government constantly aimed at keeping all prisoners under control and surveillance, thus the institutional apparatuses of the CUP government, namely the prison administration, considered gendered spaces and gender specific imprisonment practices more than ever. Hence, the special consideration and concentration for pregnant women, breastfeeding mothers and women who were incarcerated with their children increased during the reign of the Hamidian government.

In this regard, the Prison Directorate (1912) paved the way for women and their children to stay in the women's prisons in 1914. According to the approved Regulation, women could be imprisoned with their children who were under the age of six.⁸⁶³ However, the children older than 6 had to be sent to *Dar’ülaceze* in order to prevent their criminalization in the prisons. According to Kent Schull:

*Authorities feared that children aged six and older would become maladjusted and more prone to life of crime through their extended exposure to prison life. In response to these fears, one proposed solution called for placing the mother and child in a special area in Istanbul Da’rülaceze (house of the poor people and orphanage) where they would be isolated from the institution’s general population.*⁸⁶⁴

⁸⁶¹ Gizem Sivri, “Hapiste Kadın Olmak: Osmanlı İmparatorluğu’nda Kadın Suçluluğu ve Kadınların Hapsedilmesi (1840-1919),” *Feminist Tahayyül*, Vol. 1, Issue 1, 23.

⁸⁶² Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh:Edinburgh University Press, 2014), 124.

⁸⁶³ Schull, 126-127.

⁸⁶⁴ Schull, 127.

As confirmation of Schull, Kızılkın also emphasizes the criminalization potential that jeopardized the pediatric development of the children who were incarcerated with their mothers.⁸⁶⁵ The same archival source indicated the specific concern and its application in women's prisons as a consequence of the CUP's particular approach to juvenile delinquents.⁸⁶⁶ This application was to be carried out by the *Ottoman Bidâyet Mahkemesi* (Ottoman Inferior Court) in that the children of female inmates could be adversely affected in prisons and jails during their mother's imprisonment, and the judicial authorities took the children of female inmates under special consideration.⁸⁶⁷ Furthermore, the Ottoman prison administration maintained their concern for the children of women prisoners. In this regard, the education of the children of female inmates in the *Karesi Liva Hapishânesi Nisâ Tevkifhânesi* (Women's House of Detention of Balkesir Prison) was carried out by the *Ma'arif Nezâreti* (Ministry of Education). Their special education program for inmates' children became a remarkable effort for these children, while World War I continued.⁸⁶⁸

The CUP government continued their data collecting efforts albeit the difficulties of ongoing wars and political turmoil. The censuses collected data from 12 provincial prisons, which show that 768 married and widowed female inmates had children in the provincial prisons, according to the 1912 census.⁸⁶⁹ As seen, the number of women inmates who had children represented a considerable number, hence special arrangements were inevitable for the female inmates who were incarcerated with children.⁸⁷⁰ In this regard, the 1914 Prison Regulation also touched upon the nourishment of the children of the female inmates, who received more nutrient and generous portions of food than other female inmates.⁸⁷¹ As an acknowledgment of these regulations, *Kastamonu Vilâyet Hapishânesi* (Provincial Prison) served additional food for pregnant and breastfeeding women inmates and female prisoners who were imprisoned with their children whose ages were under six.⁸⁷² As Bozkurt insists,

⁸⁶⁵ Ayşe Özdemir Kızılkın, "Osmanlı'da Kadın Hapishaneleri ve Kadın Mahkumlar (1839-1922)." (PhD diss., Süleyman Demirel University, Graduate School of Social Sciences, 2011), 79-80.

⁸⁶⁶ DH. MB. HPS. 160/82: 15 N 1336/ 20 July 1918. See the details of special consideration of the CUP government on the juvenile delinquents.; Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 166-91.

⁸⁶⁷ Ömer Şen, *Osmanlı'da Mahkum Olmak: Avrupalaşma Sürecinde Hapishaneler* (İstanbul: Kapı Yayıncılık, 2007), 158-59.

⁸⁶⁸ Özgür Yıldız, "Osmanlı Hapishaneleri Üzerine Bir Değerlendirme: Karesi Hapishanesi Örneği," *Gazi Akademik Bakış*, Issue 9, Vol. 17, 105.

⁸⁶⁹ See Section 5.3.

⁸⁷⁰ Gizem Sivri, "Hapiste Kadın Olmak: Osmanlı İmportorluğu'nda Kadın Suçluluğu ve Kadınların Hapsedilmesi (1840-1919)," *Feminist Tahayyül*, Vol. 1, Issue 1, 20.

⁸⁷¹ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 126-127.

⁸⁷² BOA.DH.HPS 61/20: 11 R 1332/ 5 June 1914: "Elyevm mer'i tâlimatta mahbusine sıcak yemek vermek bile masraf olub, bunun takbik edilmemesi zaruret-i ahvalden münba'ısdır. Lüzum görüldüğü takdirde hastaların tagaddiyesi gibi süt veren kadınlara da fazla mevâdd-ı gıda'İYE itâsi kabildir."

Kütahya district women's prison (*kazâ haphishânesi*) served 130 dirhems of soup in addition to the standard meal, which was cooked with plain butter or butter/meat/vegetables/pulses in Kütahya women's prisons. Moreover, the portions of the meals could be occasionally increased for the pregnant and breastfeeding inmates by a medical doctor's recommendation.⁸⁷³

Contrary to the positive examples of the implementation of regulations on women's and children nourishment, the German head inspector of the Ottoman prisons, Paul Pollitz, insisted that the women inmates and their children were suffering from hunger and famine due to irregular and insufficient food service in the provincial district prisons in the coastal Aegean provinces, according to his observations on the physical conditions and living standards of the Ottoman prisons in the year 1918.⁸⁷⁴ Succinctly, Pollitz ferreted out that female inmates were deprived of an efficient food service although the Hamidian and CUP governments had made special regulations and particular arrangements concerning food and health services, particularly for pregnant and breastfeeding prisoners.⁸⁷⁵

All in all, the Ottoman penal and criminal justice system took into special consideration the pregnancy and motherhood of the women inmates. Indeed, gender-specific imprisonment practices, gendered space in the prisons, special provisions, and arrangements for the pregnancy and breastfeeding of female inmates had stimulated all these gender-specific practices, such as tolerant, flexible, and lenient treatments. Not only penal codifications but also prison regulations paved the way for positive discriminatory treatments towards pregnant and breastfeeding prisoners who received some vital privileges, while the other female offenders were exposed to the limited concern of the Ottoman prison policies. Individual pardons and earlier releases, additional food and medical services, special care and an education program for the children of female inmates as well as the reprieve of death sentences in the case of pregnancy were proposed by the penal codes and regulations. Nevertheless, they were barely implemented in terms of the protection of children who were incarcerated with their mothers, sending women inmates to hospitals in order to reduce health risks during their pregnancy and birth in the prisons, and portioning more food for pregnant and breastfeeding inmates, due to the limited budget and ongoing misery in the Ottoman women's prisons, during the age of prison reform. However, all these regulations and articles demonstrate particular biopolitical and demographic patterns that refer to the positive discrimination towards female inmates just because of their reproductivity and motherhood as feminine specialties. The feminine and

⁸⁷³ Nurgül Bozkurt, "20. yy Başlarında Kütahya Hapishanesinin Genel Durumu," *The Journal of International Social Research* 5/21 (2012), 272.

⁸⁷⁴ Saadet Tekin, "Dr. Pollich Bey'in 1918 Tarihli Raporuna Göre Berlin ve Aydın Vilayeti Hapishanelerine Genel Bir Bakış," *OTAM* 24 (2010), 213-215.

⁸⁷⁵ Saadet Tekin, "Osmanlı'da Kadın ve Kadın Hapishaneleri," *Tarih Araştırmaları Dergisi*, Vol. 29, No. 47, 2010, 96.

motherly features of the women inmates paved the way for particular, unique penal applications that were based on tolerance, lenience, and gentleness through the regulation and code efforts of the Ottoman government from the Tanzimat period until the fall of the Empire in 1918.

Chapter 6: Case Study 2 Women in Prisons

6.1. Health Conditions and Epidemic Crises

This section examines health conditions of Ottoman women's prisons, insufficient food service for the inmates and the prevention efforts for the quick diffusion of epidemic disease among prisoners who were confined in overcrowded prisons in the late Ottoman period. Expecting good health conditions for inmates became a dream under the dreadful living conditions of the dilapidated imprisonment areas. Whereas male and female prisoners were incarcerated under the same conditions of prisons that were deprived of reasonable standards and living conditions, overpopulated prison wards posed high health risks, which increased the death potential of the inmates, mostly in male prisons.

Initially, we look at the prisons' conditions and the misery of the prisoners. As Stratford Canning described in his report in 1851, the Ottoman jails (before the age of the birth of modern prisons) did not provide healthy or sanitary living conditions for the inmates who were exposed to dreadful standards deriving from no ventilation, no heating, no bedding facilities, no food service, and no toilet and bath facilities in the dilapidated jails during the age of pre-prisons.⁸⁷⁶ Journalist Ahmet Şerif Bey's Anatolian excursion included several direct observations that apparently show the prisoners' misery in the Ottoman provincial areas where they were still suffering even in the 20th century. According to Journalist Ahmet Şerif Bey:

When you step into the state office, when you go beyond the wooden door, a miserable scene welcomes you. A filthy, disgusting smell is spread all over the place. Twenty to twenty-five miserable people. They are sitting, talking, playing in that garden which is supposedly reserved for them to get some fresh air. They are looking at me with dull eyes, begging for health, help and relief. The disturbing smell gets worse when you go beyond the wooden bars. The smell is so bad that I have to hold my nose. There is no fresh air and even the light is so weak. The dim light on the wall tries to illuminate those poor ones who were thrown into here as prisoners, in this miserable place where even the sunlight cannot penetrate. Since the sewage of the government office is right next to the prison, the smell here is even stronger. The ceiling is collapsed, there are cracks in the walls and the floorboard is broken. It is moldy all over because of dampness. I could not stay longer than an hour in this stinking place which is devoid of light and air. The gendarmerie sergeant recently appointed here sent the petition which reported this misery, to the ministry of interior time and again. But nothing changed.⁸⁷⁷

⁸⁷⁶ See Section 4.1.

⁸⁷⁷ Mehmet Çetin Börekçi, *Anadolu'da Tanın-Ahmet Şerif* (Ankara: Türk Tarihi Kurumu, 1999), 39-40. "Hükümet dairesine kapıdan adım atınca, tahta kapayı aştığınızda, sefil bir manzara sizi karşılıyor. Pis, ığrenç bir koku her tarafa yayılmış halde. Yüzlerinde kan kalmamış, perişan halde yirmi-yirmi beş insan.

Ahmed Şerif summarizes the situation of Konya Province, Şarkikaraağaç *kazâsı* (district) prison in which the poor and miserable prisoners suffered under unsanitary living conditions of the prison on 9 September 1909. The question of ceaseless renovation projects and their unfulfillment reinforced the vital problem of Ottoman inmates who adversely experienced terrible health conditions.

The Ottoman government received several complaint letters on the dire health conditions of prisons and petitions on requesting liveable sanitary standards and food service for them. During the Hamidian period, prisoners in the Isparta Prison sent a petition to the lieutenant governor of Isparta (*Isparta Mutasarîflîğî*) on their misery and dire living conditions that notes that they had no food and potable water, hygienic toilets, above all no bath facilities, which all deteriorated the health of the inmates.⁸⁷⁸ In this regard, in 1894, the prisoners urgently requested a new prison building in order to get out of the miserable circumstances of the existing dungeons. Gönüllü insists that a new penitentiary project had already been proposed by the lieutenant governor of Isparta province. Therefore, they accelerated the building process.⁸⁷⁹

Besides, in 1911, a journalist from Tanin newspaper, Ahmet Şerif Bey, shared another observation on Gümüşhane district centre's prisons, which depicted another dramatic scene on the misery of the prisoners. According to his notes, the prison consisted of four wards each hosting approximately 20 prisoners who endured humidity, very strong unpleasant smells (due to opened sewage), darkness and coldness. Also, he dramatically described the misery and desperation of the inmates whose faces looked like mummies. In light of these hellish scenes, he criticized the unlawful and undue judicial practices and prosecutions of their trials that caused aggravation for them.⁸⁸⁰

On the other hand, budgetary questions prevented the ongoing prison projects and the alleviation of health conditions of the inmates and the sanitary measures. Several correspondences and complaint letters emphasized that the prisons' living conditions were not convenient to apply health and hygiene rules (*hifz-i sihhâya uygun degil*). The Osmaniye district prison had also inconvenient health and sanitary rules, leading to several deaths and

Güya temiz hava almak için, ayrılan küçük bahçede oturuyorlar, konuşuyorlar, yatıyorlar. Feri kaçmış bakişlarla bana bakıyorlar; sağlık yardım ve imdat dileniyorlar. Tahta parmaklıklarla arasında koku artıyor ve burnunuzun direğini sizlatıyor. Koku o kadar kötü ki, elimle burnumu kapatmak zorunda kaldım. Hava yok, ışık ise kendini bile aydınlatamayacak kadar aciz. Duvardaki loş ışık, güneşin bile giremediği bu sefil yerde mahbus diye buraya atılan zavallıları aydınlatmaya çalışıyor. Hükümet konağının lağımı, hapishane bitişliğinde olduğu için koku burada daha keskin. Tavan çökmuş, duvarlar ayrılmış, ve döşeme tahtaları kırık. Rutbetten her yer küflenmiş. Bu ıiksiz, havasız ve pis kokulu yerde bir saatten fazla kalamadım. Bu hapishaneye yeni atanmış jandarma çavuşu, defalarca sefaleti bildiren dilekçeyi içişleri bakanlığına göndermiş, ancak değişen bir şey olmamış.”

⁸⁷⁸ The prisoners frequently were sent to the public baths (hamam) once a week for their personal hygiene.

⁸⁷⁹ Ali Rıza Gönüllü, “Osmanlı Devleti'nin Son Döneminde Isparta Hapishanesi (1867-1920),” *Selçuk University Journal of Studies in Turcology* 29 (2011), 360-61.

⁸⁸⁰ Mehmet Çetin Börekçi, *Anadolu'da Tanin-Ahmet Şerif* (Ankara: Türk Tarihi Kurumu, 1999), 322.

epidemic diseases according to correspondence between the Adana Provincial *Adliye Mîfettişliği* (Committee of Inspection of Justice) and the *Tesri-i Muâmelat ve İslahat Komisyonu* (the Commission for Expediting Initiatives and Reforms) on 9 October 1899.⁸⁸¹

Generally, prison buildings consisted of abandoned or tumbledown places that housed several prisoners who lived like sardines. Gümüşsoy claims that the Eskişehir prison had neither a window system nor panes on the windows, which engendered cold-air cycles inside the prisons.⁸⁸² For the repair of windows, the local prison administration requested 9,837 piasters (*guruş*). However, the Eskişehir female prison had a far worse situation in that they survived without glass, which paved the way for getting cold air and rain inside the prison.⁸⁸³ Generally, women inmates frequently suffered under the cold and humid conditions of prisons vis-à-vis their male counterparts in that female prisons overwhelmingly consisted of abandoned (*metruk*) or dilapidated leased houses and jails. However, luckily, the lower number of women inmates prevented the quick spread of disease among female inmates who did not suffer overcrowded prison buildings except for some special diseases, as the upcoming pages argue.

Since the 1850s, the Ottoman government rapidly ventured to expand the prison wards and corridors in order to have sanitary conditions and air ventilation to prevent the quick spread of disease among the prisoners, especially in male prisons.⁸⁸⁴ However, neither in the Tanzimat nor during the Hamidian period could they prevent the deaths of inmates due to the filthy conditions, inefficient food and unsanitary standards of the prisons. As Ahmet Cevdet Pasha claimed the offenders were confined to Istanbul's prisons in which insanitary conditions and overpopulation easily led to the deaths of inmates.⁸⁸⁵ Moreover, destitute prisoners' dead bodies (cadavers) were sent to the Ottoman Imperial Medical School (*Mekteb-i Tibbiyye-i Şâhâne*) for use in the training of medical students in 1855.⁸⁸⁶

In addition to dilapidated physical conditions of prisons, the insufficient food service enhanced the dire health standards of the prisoners.⁸⁸⁷ The inmates suffered from hunger and lack of drinking water due to irregularities of food service during their incarceration processes in the provincial prisons because of non-systematized and non-standard food systems, which

⁸⁸¹ BOA.DH.TMIK.S: 27/36: 3 C 1317/ 9 October 1899.

⁸⁸² Emine Gümüşsoy, "Osmanlı Devleti'nin Son Dönemlerinde Eskişehir Hapishanesi 1890-1920," *Journal of History School (JOHS)*, December 2014, Year 7, Issue 20, pp. 238.

⁸⁸³ Ibid., 220.

⁸⁸⁴ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 160-161.

⁸⁸⁵ Ahmet Cevdet Paşa, *Tezakir*, 1-2 (Ankara: Türk Tarih Kurumu Yayınevi, 1991), 31.

⁸⁸⁶ BOA., A.MKT.MHM. 81/46: 15 R 1272/25 December 1855.

⁸⁸⁷ Kerim Tiryaki, "Son Dönem Osmanlı Hapishanelerinin Sîhhi İslahî: Salgınlar ve Önleme Çabaları," *Journal of Atatürk and the History of Turkish Republic* Vol: 8 (2021/Winter), 429-458.

also threatened the deteriorating lives of the inmates.⁸⁸⁸ The Ottoman prisons did not have any standard or regular food service (*tâyinât* or *iaşe*), neither in Istanbul nor in provincial prisons up to the first decade of the 20th century. As touched upon in Chapter 4, though the 1880 Prison Regulation remarkably proposed new applications directed at regular food service, the question of hunger and misery among inmates continued until the demise of the Empire.⁸⁸⁹ In consequence of the regulations, the prison managements had to provide at least water and bread for each inmate.⁸⁹⁰ However, as the numbers of inmates increased year by year, the bread and water service became insufficient for the inmates from the early years of the Tanzimat.⁸⁹¹ Article 53 of the Regulation proposed regular food service. The inmates were completely left alone with regard to providing their nourishment by their relatives or with their own budgets.⁸⁹² Besides, several charitable and relief organizations supported the miserable, hungry, and poor inmates (*bi'çâre ve perişân mahkumlar*), especially during the Hamidian period.⁸⁹³ The other practice established in order to provide food for prisoners was the opening of prison grocery stores in provincial penitentiaries in Istanbul, Aydin, Edirne, and Salonica.⁸⁹⁴ However, these stores were not liked due to the high cost of products. Poor inmates could not buy food to feed themselves. This was not functioned for the nourishment of poor prisoners who already wretchedly suffered poverty and misery.⁸⁹⁵

⁸⁸⁸ BOA.BEO. 851/63813: 06 Ca 1314/ 13 October 1896; BOA.DH. EUM. MH. 19 L 1327/3 November 1909; BOA.DH.EUM.MH. 3/121; 4 L 1327/ 19 October 1909; BOA.DH.MB.HPS. 51/12: 9 Ra 1330/27 February 1912.

⁸⁸⁹ BOA.A.DVN.MKL 19/28: 26 M 1298/ 29 December 1880.

⁸⁹⁰ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)*, (İstanbul: Kitabevi, 2012, 116-117).

⁸⁹¹ Ibid., 117.

⁸⁹² 1880 Prison Regulation: 53. madde – “Mevkûfin ve mahbusine devlet tarafından i‘tâ olunacak mekûlât-ı yevmiyye üçer yüz dirhem olmak üzere birer çift nân-ı azizden ibâret olub yetişdikten yirmi dört saat sonra tevzi olunacaktır. Mevkûfin müstesna tutularak kusûr-ı mahkûm olan mahbûsine revgân-ı sade veya iç yağıyla pişirilmiş mevsimine göre kuru zahire veya taze sebze vattan ibâret olarak yevmiye yüz otuz dirhem çorba verilecek ve çorbanın havî olduğu yağ ve sebzenin mikdarı tabîbin reyi üzerine başkaca tâyin olunacaktır. Hamile olanlarla sütte çocuğu olan kadınlara tabîbin reyi üzerine lütûmu mikdar ziyâ verilecektir. Haftada bir kere çorba birine her mahbus için 60 dirhem et ile ona göre lazımlı olan sebze veya erzakdan yemek pişirilecek ve bunlar seviyyen taksim ve tevzî olunacaktır. Ve bu erzakin mikdarı her nefer için 60 dirhem et ile 40 dirhem kuru fasulye ve 20 dirhem pirinc ve Ramazan-ı şerife mahsus olmak üzere imsakîye olarak 50 dirhem pirinc ve 6 dirhem revgân-ı cerviş ve 4 dirhem tuz ve et tayıni verilmeyen günlerde 4 dirhem revgân-ı cerviş veiftâriye olarak lütûmu kadar zeytin dairesini tecâvüz etmeyecektir. Ve millet-i sâirenin perhiz günlerinde dâhî bu usûle riâyet olunacaktır.”

⁸⁹³ During the Hamidian period, philanthropic activities were very widespread due to Abdülhamid's social state understanding which aimed at legitimizing his despotic regime as we touched on before. To remind that; see Nadir Özbek, *Osmanlı İmparatorluğu'nda Sosyal Devlet (1876-1914)*, (İstanbul: İletişim Yayıncılık, 2002), 185; Nadir Özbek, “Philanthropic Activity, Ottoman Patriotism, and the Hamidian Regime, 1876-1909,” *International Journal of Middle East Studies* 37, No. 2005 (2005), 59-81.

⁸⁹⁴ BOA. DH. MB. HPS.136/25: 12 L 1340/ 8 June 1922; BOA. DH. MB. HPS. 71/9 10 N 1239/ 4 September 1911.

⁸⁹⁵ BOA.DH. MB. HPS. 71/9 10 N 1239/ 4 September 1911.

At the same time, *Zabıtiyye Teşkilâti* (Police Organization) sent a petition to the Ottoman government about the insufficient food service for the inmates in the Hapishâne-i Umûmî in 1871. It raised the starvation question among prisoners once again.⁸⁹⁶ As a result of correspondence between Bab-ı Ali and *Zabıtiyye Teşkilâti* (Ottoman Police Organization), they decided to increase the amount of food in weight as an ostensible solution in Hapishâne-i Umûmî. Nevertheless, the inmates of the prisons in the provincial areas were not as lucky as the prisoners of Istanbul in that they could not easily access regular and healthy food. They could only receive a maximum of two slices of bread and a bit of water, which was barely provided by local charitable organizations or by the relatives of the inmates.⁸⁹⁷ If the inmates obtained cooking facilities, they could cook their own daily meals in the prisons, as seen in Karesi *Liva* Prison in 1912 during the Second Constitutional period.⁸⁹⁸ Also, several *Adliye Mûfettişlikleri* sent complaint letters for the disordered food distribution and insufficient portions. For example; *Hüdâvendigar vilâyeti, Bolvadin Kazâ Hapishânesi* did not provide regular food service, they requested at least bread and clean water for the prisoners who suffered hunger due limited allowance (*tahsîsat sıkıntısı*) of the prisons on 25 May 1900.⁸⁹⁹

However, neither the 53rd Article of the 1880 Prison Regulation nor other special decrees and efforts on food service for the inmates could be implemented. As Schull claims: "Prison regulations also empowered several different commissions at different times to combat the issues of misappropriation of prisoner food, negligence regarding the purchase of food, and poor prisoner nutrition."⁹⁰⁰ He refers to the special commissions has established for control of treatments of prison cadre who corrupted food distribution in the prisons in the late 19th and early 20th century. In order to prevent abuses of bread distribution, the Hamidian government issued bread coupons (*nân-ı âziz pusulası*) given to prisoners to get daily bread and water, in 1896.⁹⁰¹ Hence, the Ottoman administration proclaimed a regulation in 1897 regarding the malpractice of prison employees in providing food to the inmates.⁹⁰² According to the

⁸⁹⁶ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Seriüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 368-369.

⁸⁹⁷ Ibid., 368.

⁸⁹⁸ Schull, 118.

⁸⁹⁹ DH.TMIK.S. 30/17: 25 Muharrem 1318/ 25 Mayıs 1900. "Bolvadin Hapishanesi'nde tutuklu şahıslara tayinat verilmediğinden.... "

⁹⁰⁰ Schull, 150.

⁹⁰¹ "...ay başlarında tâyin veren memur nezdindeki biletler alınır zâbita memûru tarafından ekmekçinin defteriyle bâdettatbki müavin-î müâmaileye gönderilerek anın nezdindeki koçanların dâhi tedkikiyle tasdik olunması..." BOA., DH. MKT. 2077/58: 1 C 1314/ 7 November 1896); "...bazı gardiyaların mahbûsinin ekmek ve sûret-i sâitre ile de münâsebetde bulundukları haber verildiğinden bu vechle vazîfelerini sû-i istimal edenlerin de kânûnen tedib edilmesi zîmnâda icab edenlere tefhîmat ve teblîgât-1 müessire ifâsî tamîmen tebliğ olunur...", BOA., DH.MB.HPS., 145/30: 25 R 1330 13 April 1912).

⁹⁰² BEO 851/63813: 4 Zilhicce 1314/ 06 May 1897: Nân-ı aziz tayinatına yapılan sû-i istimâlat (Dâhiliyye).

regulation, the Ottoman prison employees frequently committed malpractice (*sûi'stimal*) while delivering the prisoners' daily meals.⁹⁰³ Despite proclaimed regulations and other applications of the food distribution system (*nân-i âziz pusulası*), regular service was interrupted by the prison employees, thus the prisoners had to feed themselves by their own efforts.⁹⁰⁴

As a later example for ongoing *sûi'stimal* (misappropriation), a case comes from Istanbul. Amid the British occupation of Istanbul in 1918, they reported that the prison director Hüseyin Fuad stole food from the prison's depot to sell for his own profit.⁹⁰⁵ This inspection report was conducted by two British military officers and the Ottoman Director of Public Security. This draws a general picture on the contemporary conditions of Ottoman prisons. The report shows that the female prisoners suffered due to typhus, which diffused quickly among female prisoners along with inefficient food service. Thirty- two women prisoners had died over the previous 2.5 months.⁹⁰⁶ As Adak states, the Ottoman newspapers had several news items on the charity organizations and lottery campaigns to provide food, clothes, and cash money for the miserable prisoners who mostly passed away, even if the prisoners had no priorities in the agenda of philanthropic activities and charity organizations that were supported by the Hamidian government.⁹⁰⁷ Hunger among prisoners became the most vital question in the prisons where they were nourished with only bread, without additional food, such as basic nutrients: olives, cheese or soup (*katıksız*).⁹⁰⁸

As another solution, *müteahhits* (food servers) had also been responsible for the food service of the provincial prisons since the Hamidian period.⁹⁰⁹ This system was based on selecting a person who had to regularly service daily meals (two times) for prisoners in provincial prisons. Their expenditures had to be covered by the prison administrations. As Gönüllü insists, the son of Bayram, Vasilaki, provided food service for the prisoners of Isparta; however, his payment was not regularly transferred to him by the prison management. Hence, his petition for the deferred payment from Isparta prison was approved by the Ministry of

⁹⁰³ BOA., DH.MB.HPS: 145/30, 25 R 1330 / 13 April 1912: "...bazı gardiyanların mahbûşinin ekmek ve sûret-i sâire ile de münâsebetde bulundukları haber verildiğinden bu vechle vazîfelerini sû-i istimal edenlerin de kânûnen tedib edilmesi zımnında icab edenlere tefhîmat ve teblîgat-ı müessire ifâsi tâmîmen tebliğ olunur..."

⁹⁰⁴ Adak, 134-135.

⁹⁰⁵ Schull, 192.

⁹⁰⁶ Ibid.

⁹⁰⁷ Nadir Özbek, *Osmanlı İmparatorluğu'nda Sosyal Devlet. Siyaset, İktidar ve Meşruiyet 1876-1914* (İstanbul: İletişim Yayıncılığı, 2002), pp. 257 and 264; Ufuk Adak, "The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015). 136, 204.

⁹⁰⁸ BEO 285/21321: 13 N 1311/20 March 1894

⁹⁰⁹ BOA.DH.MB.HPS 55/72: 17 Ca 1332/ 13 April 1914: Trabzon Vilâyet Habshânesi müteahhitî Vasilaki'ye gönderilen havalenâme.

Interior, which ordered the total debt of prisons to be paid directly to Vasilaki on 13 April 1914.

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On the other hand, in the following years, the Ottoman prison directorate (founded in 1911) began to collect information to have a grasp of the relatives and supporters of the inmates who could bring food to the prisoners. In case prisoners had relatives to bring them food, the prison managements could avoid providing food and water in provincial prisons regarding the budgetary limits of the imperial prisons. However, they extremely suffered hunger and thirsty as states in the archival document in 1897.⁹¹¹

Journalist Ahmed Şerif Bey's direct observation shows the miserable circumstances of the inmates who suffered from hunger in the provincial prisons during his excursion in 1907-1909.⁹¹² According to his observations, hunger among prisoners could result in very interesting anomalies, the prisoners could go outside prison to get food. For example, the male prisoners of Ilgın district prison (*kâzâ hapishânesi*) in the province of Konya, urgently needed food and clean water; however, the prison management did not provide it in 1909.⁹¹³ Therefore, a prisoner, Mustafa, regularly went downtown with the permission of the gendarmerie to get bread and other stuff to bring to the prisons in order to prevent deaths of inmates.

Meanwhile, women inmates were considered more than their male counterparts in regard to nourishment. At the beginning of the Tanzimat, reports by the British Consulate saliently proposed a better food service for women inmates, in addition to their regulative proposals to transform Ottoman jails into prisons.⁹¹⁴ In addition, as a systematization attempt specifically for pregnant and breastfeeding women and mothers, prisoners should have received at least 30 dirhem soup and a meal with fresh vegetables, meat or dry legumes in Kütahya district women's prison in the late 19th century, as examined in Section 5.4.⁹¹⁵ On the other hand, the Prison Directorate⁹¹⁶ proposed that pregnant females, nursing mothers and women who were confined with their infants under the age of six could get more food than other

⁹¹⁰ Ali Rıza Gönüllü, "Osmanlı Devleti'nin Son Döneminde Isparta Hapishanesi (1867-1920)," *Selçuk University Journal of Studies in Turcology* 29 (2011), 384.

⁹¹¹ DH.MKT. 2076/37: 18 Şaban 1314/ 22 January 1897, "Şimdiye kadar gezilen vilâyat ve elviye merkezleriyle kâzâlар hapishanelerinin ekserisinde mahbûsin ve mevkûfinden bazıların kendilerine nân-ı aziz tayinâtı verilmemekde olduğundan şikayetle feryad ederek bazılarının açılıkdan bitâb kaldıkları dâhi görülmüş...".

⁹¹² Mehmet Çetin Börekçi, *Anadolu'da Tanin-Ahmet Şerif* (Ankara: Türk Tarihi Kurumu, 1999), 52-53.

⁹¹³ Ibid., 53, 27 September 1909.

⁹¹⁴ Yıldız, *Mapusane: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)*, 130.

See Section 5.4. Motherhood and pregnancy.

⁹¹⁵ See Section 5.4.; Nurgül Bozkurt, "20. yy Başlarında Kütahya Hapishanesinin Genel Durumu," *The Journal of International Social Research* 5/21 (2012), 272.

⁹¹⁶ As it was examined in Section 4.5. The first institutional prison directorate was established in 1911 by the CUP government. This institution was renamed the *Mebâni-i Emirriye Hapishaneler İdaresi* in 1912.

female counterparts if the prison doctors confirmed their pregnancy and breastfeeding processes, through the 1914 Prison Regulation.⁹¹⁷ In spite of these tolerant attitudes towards mother inmates regarding their reproductivity functions, which ensured their life safety during their imprisonment in the first decade of the 20th century, sick female prisoners (especially ones with infectious diseases) occasionally were left to die, according to the report of the British Consulate and the new prison Director Hüseyin Pasha's four days observation and inspection of the Istanbul prison complex in 1918.⁹¹⁸

As a last note on food distribution, here I shall touch on Egyptian prisons. According to Gorman, Egyptian prisons were also inadequate regarding food provision, thus the relatives of prisoners generally fed the women prisoners.⁹¹⁹ As Fahmy says, Egyptian prisons were also faced with the quick spread of disease among prisoners, hence safety and cleanliness through sanitary and hygiene apparatuses in the prisons were repetitively highlighted by their penal codes and prison regulations in the same vein as the Ottoman Empire.⁹²⁰ Nevertheless, insufficient nourishment and unsanitary conditions hampered the fulfilment of measurements and rules against the quick spread of disease among prisoners in the Egyptian prisons.

In this scene, the prisoners could not be nourished well, hence they became susceptible to diseases and other illnesses in the Ottoman prisons.⁹²¹ Unfortunately, prisoners were rapidly infected, which led to a great epidemic crisis in the 19th and at the beginning of the 20th centuries, due to the unbearable and woeful living conditions and insufficient food in the prisons.

Epidemic crises quickly spread in the Ottoman prisons due to insufficient hygiene and food for prisoners. During the last decade of 19th and the beginning of the 20th centuries, cholera and typhoid rapidly spread throughout all the Ottoman prisons.⁹²² These crises and the question of overpopulated prison buildings increased due to the misery of the Ottoman prisoners not only in the men's prisons but also in women's prisons. The report of the British forces dramatically emphasized a dreadful picture of the state of Istanbul's prisons during the occupation of Istanbul in 1918, including widespread disease, malnutrition, poor sanitation,

⁹¹⁷ See Section 5.4. Tolerant food service for pregnant and mother inmates are examined in the section 5.4.; Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 126.

⁹¹⁸ Schull, 192.

⁹¹⁹ Anhthony Gorman, "In Her Aunt's House: Women in Prison in the Middle East," *IIAS Newsletter* 39, No. 1, 178–84, <https://doi.org/10.2979/NWS.1999.11.1.178>.

⁹²⁰ Khaled Fahmy, "Medical Conditions in Egyptian Prisons in the Nineteenth Century," In *Marginal Voices in Literature and Society: Individual and Society in the Mediterranean Muslim World*, edited by Robin Ostle, (Strasbourg: European Science Foundation, 2000), 140-44.

⁹²¹ BEO. 285/21321: 12 R 1311/ 23 October 1893.

⁹²² Kerim Tiryaki, "Son Dönem Osmanlı Hapishanelerinin Sıhhi İslahı: Salgınlar ve Önleme Çabaları," *Journal of Atatürk and the History of Turkish Republic* Vol: 8 (2021/Winter), 434.

bribe-taking prison cadres, malpractice by prison employees, abuse of prisoners, and corruption.⁹²³

The Ottoman Empire underwent cholera epidemics in 1831, 1847, 1865 (the greatest), 1893-1895, 1912-1913⁹²⁴ and 1873-1877, typhoid (*tifo*) in 1913-1915; typhus (*lekeli humma*), scabies (*uyuz*) in 1918 and malaria (*sitma*).⁹²⁵ The most important factor in the diffusion of disease among the prisoners was the overpopulated prison wards that caused close interaction of prisoners at the beginning of the 19th century. During the Hamidian era, the Commission for Expediting Initiatives and Reforms (*Tesri-i Muamelât ve Islahât Komisyonu*) was founded to enhance hygiene and sanitary standards in the prisons and hospitals, in 1893. In doing this, the Hamidian government aimed at ameliorating and controlling the health standards of not only the prisons but also the hospitals' and other public institutions in order to improve living conditions and prevent the quick spread of diseases, especially cholera and syphilis, among prisoners and patients.⁹²⁶

In 1893, cholera spread throughout the imperial capital, Istanbul, causing mass deaths.⁹²⁷ Undoubtedly, cholera also affected prisons and hospital wards as dilapidated prison buildings, overpopulated wards and the unhealthy living conditions of jails doubled the speed of the spread of the disease. The number of deaths demonstrates the very dramatic situation in Istanbul, specifically in collective and public houses, such as *Dar’ülaceze* (poor houses), *Bimarhânes* (madhouses), hospitals and prisons.⁹²⁸ In the Toptaşı *Bimarhânesi* in Istanbul, many mentally and physically ill, poor, and destitute people dramatically died.⁹²⁹ In the following years, prisoners and patients were respectively transferred from the prisons into the hospitals and madhouses several times to maintain the cleanliness and hygiene of these

⁹²³ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 192.

⁹²⁴ See the numbers of cases and deaths in the Ottoman urban centers from the British medical journal: *The Lancet: The Cholera Epidemic*, Vol 178, 1911, 538-539.; *The Lancet: The Cholera Epidemic*, Vol 179, 1912, 610-611; *The Lancet: The Cholera Epidemic*, Vol 176, 1910, 1507-1509, 1789-91.; *The Lancet: The Cholera Epidemic*, Vol 177, 1911, 395-396.; *The Lancet: The Cholera Epidemic*, Vol 170, 1907, 1119-1121.

⁹²⁵ Nuran Yıldırım, *14. Yy.’dan Cumhuriyete Hastalıklar, Hastaneler Kurumlar* (İstanbul: Tarih Vakfı Yurt Yay., 2014).70-147, 162-196.; Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire” (PhD diss., University of Cincinnati, 2015) 143; Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)*.354; Nuran Yıldırım, “İstanbul’un Kolera ile Tanışması: 1831 Salgını,” *Toplumsal Tarih*, (April 2020), 62-66; Nuran Yıldırım, “1893’tे İstanbul’da Kolera Salgını İstatistikleri,” *Toplumsal Tarih*, 49 (Mayıs 1996), 51-54.

⁹²⁶ Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 49.

⁹²⁷ Nuran Yıldırım, “İstanbul’un Kolera ile Tanışması: 1831 Salgını,” *Toplumsal Tarih*, (April 2020), 62-66.

⁹²⁸ Nuran Yıldırım, “1893’tे İstanbul’da Kolera Salgını İstatistikleri,” *Toplumsal Tarih* 49 (Mayıs 1996), 52-53.

⁹²⁹ Yıldırım, “1893’tे İstanbul’da Kolera Salgını İstatistikleri,” 51-54.

institutions through mass sanitary and hygiene measures in order to avoid quick deaths of inmates.⁹³⁰

First of all, in the Sultanahmet Penitentiary, three soldiers who were in charge of the prison had the same symptoms and indications of an epidemic disease in August 1893.⁹³¹ However, the prison management of Hapishâne-i Umûmî of Istanbul did not know the diagnosis yet. Nonetheless, they suspected a disease that they feared would cause a quick spread to the whole prison. If the prison management made provisions for the disease, they could prevent the spreading of the disease in the prison wards. Afterwards, the prison administration attempted to diminish the prison population as a measurement step.⁹³² Early release with special pardons from the Ottoman Sultans, isolation of the ill in separate wards and barracks, and transferring them to the hospitals (if they had no medical facility) were three fundamental methods to decrease the number of inmates in the prisons.

However, in the Hapishâne-i Umûmî (Istanbul), cholera quickly spread to all the wards in 1893 as these measurements could not be implemented. As the following archival source indicates, on 3 March 1893, due to the epidemic crisis, 11 barracks had to be immediately built near the prison in order to isolate the healthy inmates from the prisoners who had cholera.⁹³³ In the same year, whereas in the Hapishâne-i Umûmî women's ward (included 4 rooms), which could confine up to 40 female inmates, however 95 female inmates were imprisoned in these four rooms. Mange (*uyuz*) rapidly spread among female inmates who were sent to public baths (*hamam*) by the prison doctors. However, they did not have clean clothes and underwear to keep clean themselves against the disease. The correspondence shows that to reduce female prison's population and isolate infected women, the management of Hapishâne-i Umûmî decided to rent a prison house for the confinement of female prisoners on 1 September 1893.⁹³⁴

In the same year, not only Istanbul but also other provincial prisons demanded new buildings or barracks to isolate infected prisoners. These requests are remarkably abundant in the Ottoman archives. Furthermore, while disease was spreading throughout all the imperial provinces (not only in prisons or collective areas, but also in districts and quarters), the prison administration urgently ventured to cope with the rapid spread of disease among prisoners. Thus, in 1892, the sick prisoners of Yozgad prison were transferred to convenient, secured and

⁹³⁰ Yıldız, *Mapusane: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)*, 443.

⁹³¹ BOA. İ.HUS. 15/134:14 Safer 1311/ 30 August 1893.

⁹³² BOA.İ.HUS. 16/01: 01 Ra 1311/12 September 1893

⁹³³ BOA. İ.ZB. 1/4 : 01 Ra 1311/ 12 September 1893.

⁹³⁴ BOA, İ.HUS. 16/11:19 Safer 1311/ 1 September 1893

isolated areas accompanied by a security force who had to stay in tents during the transfer process.⁹³⁵

While epidemics continued, at the beginning of the 20th century, several measurements and rules were proclaimed against the epidemics. For example, *Meclis-i Umûr-i Tibbiye-i Mülkiye ve Sıhhiye-i Umûmiye* promulgated cholera measurements in 1908.⁹³⁶ In addition to cholera, typhus began to spread all over the Ottoman Empire. In the following years, typhus became a crisis in the imperial prisons.⁹³⁷ While it became an epidemic spreading throughout the provincial prisons, İzmit, Eskişehir, Van, Konya and Konya Women's Jail (*Nisâ tevkifhânesi*) became the centers of typhus (*lekeli humma*), in 1915.⁹³⁸ An archival source demonstrates that in Kastamonu Vilâyeti, Bolu Sancağı, Gerede kazâsı, due to the typhus crisis, Gerede prison was completely abandoned and the prison administration requested a temporary prison barracks to isolate the infected inmates in 1905.⁹³⁹ The typhus crisis maintained its rapid diffusion among inmates in the other provincial prisons. An archival document shows that the prisoners of Izmit Penitentiary suffered with typhus, which overwhelmingly affected women more than men on 8 July 1915.⁹⁴⁰ We should note that typhus was mostly observed among women (approximately 70%), while male counterparts were less infected (26%).⁹⁴¹

The Head Inspector of Prisons, Dr. Paul Pollitz, who had been carrying out his duties since 1916, as Chapter 4 examined, reported his observations on Ottoman prisons.⁹⁴² His categories were based on the thematic and relative questions of prisons that respectively listed

⁹³⁵ BOA.DH.ŞFR. 166/75: 24 Şevval 1310/ 11 May 1893; BOA.Y.A.HUS 294/100: 18 L 1311/ 24 April 1894.

⁹³⁶ *Koleraya karşı talimat-ı Sıhhiye, Meclis-i Umûr-i Tibbiye-i Mülkiye ve Sıhhiye-i Umûmiye, Tanın Matbaası*, 1326 R/ October 1908.

⁹³⁷ Kerim Tiryaki, "Son Dönem Osmanlı Hapishanelerinin Sıhhi İslahı: Salgınlar ve Önleme Çabaları," *Journal of Atatürk and the History of Turkish Republic*, Vol: 8 (2021/Winter), 438

⁹³⁸ Kurtuluş Demirkol, "II. Meşrutiyet Döneminde İzmit Hapishanesi," in *Uluslararası Gazi Akçakoca ve Kocaeli Tarihi Sempozyumu Bildirileri*, edited by Haluk Selvi and Bilal Çelik, (Kocaeli: Kocaeli Büyükşehir Belediyesi Kültür ve Sosyal İşler Daire Başkanlığı Yayınevi, 2015), 994.

⁹³⁹ BOA.DH.MKT 924/55: 11 Zilhicce 1322/ 16 February 1905: Bolu Gerede'de tifo salgını nedeniyle boşaltılan hapishâne yerine hâne ittihâzi.; BOA.DH.MKT. 1059/9: Gerede Tifo salgını, hastaların tedavi masrafları ve vilâyetdeki kira bedeli. 7 Zilhicce 1324/ 22 January 1907.

⁹⁴⁰ BOA.DH. MB. HPS. 45/11: 25 Şaban 1333/ 8 July 1915.

⁹⁴¹ See the results showed that cholera disease has affected mostly females. See the numbers and rates: 2080 (33.1%) males, and 4202 (66.9%) females.; A. Fusheini, and S.K., Gyawu, "Prevalence of Typhoid and Paratyphoid Fever in the Hohoe Municipality of the Volta Region, Ghana: A Five-Year Retrospective Trend Analysis. *Annals of Global Health*," 86(1), 2020, 111.

⁹⁴² See Section 4.5.

overcrowded and filthy wards engendering the quick spreading of disease among the inmates.⁹⁴³

On the other hand, scabies was observed among both male and female prisoners in Kütahya prison in 1919. In this regard, the prisoners were sent to the local public baths (*hamam*) to disinfect themselves with hot water and soap; however, their transportation from the wards to the public baths enabled abusive attempts, such as prison breaks and escapes. Thus, the prison management built a public bath inside Kütahya prison as a measure against mass and individual prison breaks.⁹⁴⁴

As Schull briefly describes:

*The vast majority of prisons suffered from bad sanitary conditions caused by poor ventilation and lighting, an inadequate potable water supply, and a lack of running water. Most prisons had no washing facilities and toilets consisted of a hole dug in the earth for communal use. Regimens stipulating regular cleanings of prison facilities and hygienic measures for inmates were rarely implemented. As a result, outbreaks of cholera, typhoid fever, typhus, scabies, and other communicable diseases were rampant in the squalid and fetid conditions under which prisoners languished. These conditions resulted in numerous deaths each year. Issues related to poor health constituted a major source of concern and focus for the Prison Administration.*⁹⁴⁵

As the section on prostitute inmates touches on, syphilis became very widespread among the prostitutes who jeopardized the health of other female prisoners.⁹⁴⁶ Therefore, the prison administration applied isolation for the sick prisoners as a prevention measure. In Bolu Sanjak Central Prison, women's ward, the prison management applied isolation for a prostitute, namely Seher Kadın, in 1915. Another archival document shows that two prostitute inmates had previously been isolated from other prisoners as a result of *Bolu Vilâyet Meclisi* and *Heyeti Sıhhiye*'s cadre's unanimous decision. The Ministry of Justice reversed the isolation of Seher Kadın who had been placed in a separate room far away from the other prisoners. In case her health status became risky, the *Belediye* (Municipality of Bolu Sanjak) had to deal with her medical treatment, according to an archival case, issued on 19 March 1915.⁹⁴⁷

Unhealthy, unhygienic, unsanitary, and overpopulated living conditions in prisons led to the incredibly rapid diffusion of disease among inmates in the provincial prisons. As Schull

⁹⁴³ Saadet Tekin, Dr. Polliç Bey'in 1918 Tarihli Raporuna Göre Berlin ve Aydın Vilayeti Hapishanelerine Genel Bir Bakış," *OTAM* 24 (2010), 208.; Kent Schull, *Prisons in the Late Ottoman Empire, Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 59.

⁹⁴⁴ Nurgül Bozkurt, "20. yy Başlarında Kütahya Hapishanesinin Genel Durumu," *The Journal of International Social Research* 5/21 (2012), 269.

⁹⁴⁵ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity*, 120.

⁹⁴⁶ See Section 6.2.

⁹⁴⁷ BOA.DH.MB.HPS 96/40: 3 Ca 1333/ 19 March 1915.

notes, overpopulated and crowded imprisonment areas were undoubtedly leading to sickness, disease, and vermin infestations among prisoners from the Tanzimat until the beginning of Republican Turkey.⁹⁴⁸ The lower number of female inmates protected women's health in the prisons. In other words, it helped prevent women's deaths due to disease (if they had no relations and interactions with male inmates).⁹⁴⁹ Tekin also claims that the female wards of provincial prisons represented a lower number of female inmates, whereas their male counterparts were completely exposed to epidemic crises, such as scabies, cholera, and pox.⁹⁵⁰ This reinforced the risk that imperilled the health of male offenders. However, female inmates were infected by typhus and scabies more than their male counterparts regarding their biological features as medical reports show. Specifically, Hapishâne-i Umûmî of Istanbul was faced with mange (*uyuz*) and typhus (*lekeli humma*) cases among female inmates in 1914.⁹⁵¹

All in all, from the Tanzimat up to the decline of the Empire, the Ottoman prisons continued to cope with dilapidated prison construction, which posed several health questions and hazards for both women and men inmates. While the Ottoman government continued to pull down dilapidated prison buildings through the Regulations' articles on hygiene and sanitary rules and began new construction projects in the provincial areas, epidemic diseases, such as typhus, cholera and syphilis spread among the prisoners quickly. Women prisoners were luckier than their male counterparts in that their lower numbers hindered the spread of disease, whereas male prisoners dramatically suffered from the quick spread of diseases in their overcrowded wards. The Ottoman government took considerable measures to get strict hygiene and sanitary rules from the Tanzimat period until the decline of the Empire in order to prevent mass deaths of inmates due to epidemics, malnutrition, filthy living conditions, and the woeful physical standards of prisons. Nevertheless, the Ottoman government could not fulfil the Regulations well, hence the inevitable spread of disease among prisoners quickly increased. Consequently, the prompt spread of disease inescapably led to the deaths of prisoners in the late Ottoman period. Although, female prisoners suffered from the living conditions of unstandardized, leased and abandoned prison buildings, their lower numbers made females less affected by epidemics.

6.2. A Special Criminal Concept: Prostitutes in the Prisons

⁹⁴⁸ Kent Schull, 198.

⁹⁴⁹ Ömer Şen, 160.

⁹⁵⁰ Saadet Tekin, "Osmanlı'da Kadın ve Kadın Hapishaneleri," *A.Ü.D.T.C.F Dergisi* 29 (2010), 96.

⁹⁵¹ Ömer Şen, 160-161.

As a sinful profession, prostitution has been placed in different fields in a social context in Islamic societies.⁹⁵² It is a component of *zina* -part of a sinful crime in Islamic law. It is an umbrella category containing all sorts of sexual offences, such as adultery, fornication, prostitution, incest, sodomy, rape, and bestiality.⁹⁵³ As Zarinebaf insists, albeit the certain distinction among these offences and their punitive methods in Islamic law, it does not offer special punishment for prostitution.⁹⁵⁴ However, the daily punishment mechanism of Islamic social custom frequently practiced two main punitive ways: banishment and imprisonment, while Islamic law also enacted corporal punishment, namely stoning (*recm*) and flogging (*kirbaç*) for the *zina* category.⁹⁵⁵ This section examines the imprisonment process of prostitutes with their different criminal identities and status among other female offenders in the penal context of the Ottoman Empire, while scholars have mostly focused on the relationship between the Shari'a court system, Islamic jurisprudence, and punishment as a sinful activity.⁹⁵⁶

Initially, here we shed light on the shifted punitive method for this sinful profession from the 16th up to the 20th century. As Heyd states, prostitutes could be punished by public exhibition, which relied on sitting backwards on donkeys with a tangled cow's or sheep's bowel on her neck to demonstrate her sexual crime and her sinful act in order to draw a public lesson.⁹⁵⁷ From the early 16th century up to the beginning of the 20th century, Ottoman society condemned prostitutes to short term imprisonment or exiled them to other provinces, mostly to the Aegean islands (*Cezire-i Bahr-i Sefid*) and towns distant from their settlements.⁹⁵⁸

Moreover, in the 16th century, in case prostitutes got married, they had to leave their milieu

⁹⁵² Elyse Semerdjian, "Sinful Professions: Illegal Occupations in Ottoman Aleppo, Syria," *Hawwa* Vol. 1, Issue 1, 2003, 67.

⁹⁵³ Elyse Semerdjian, *Off the Straight Path: Illicit Sex, Community and Law in Ottoman Aleppo* (New York: Syracuse University Press), 2008, 18.

⁹⁵⁴ Fariba Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (California: University of California Press, 2010), 107-108.

⁹⁵⁵ Ibid., 106.; Abdülmecit Mutaf states that for the punishment of male and female subjects of illicit sex cases (especially in adultery and fornication cases), female offenders were overwhelmingly punished with occasionally harsh and tolerant punitive ways. In case a husband catches his wife while cheating with another man, he could kill them all for his honor. In this case, the Shari'a court mostly did not punish him, his punishment could be transformed into fine. Moreover, he emphasized the harshest punishment namely "*recm*", stoning was not frequently applied by Shari'a courts in the Ottoman Empire. See Abdülmecit Mutaf, "Osmanlı'da Cinsel Suçların Cezalandırılmasında Cinsiyet Ayrımı," *Toplumsal Tarih* Vol. 279, March 2017, 24-25.

⁹⁵⁶ James E. Baldwin, "Prostitution, Islamic Law and Ottoman Societies," *JESHO*, 55 (2012): 120. <https://doi.org/10.1163/156852012X628518>.

⁹⁵⁷ Uriel Heyd, *Studies in Old Ottoman Criminal Law*. Edited by V. L. Ménage. (Oxford: Clarendon Press, 1973), 300; Abdülmecit Mutaf, "Osmanlı'da Cinsel Suçların Cezalandırılmasında Cinsiyet Ayrımı," *Toplumsal Tarih* Vol. 279, March 2017, 27-28, 30. Corporal and public punishments were more widespread for female offenders than their male counterparts by Örfi (customary) law, in case they committed *zina* in the 14th and 15th centuries, despite the equal jurisdiction principle of Shari'a courts. The male offenders were mostly punished with exile and imprisonment, while women offenders were publicly executed to draw a public lesson.

⁹⁵⁸ Süha Oğuz Baytimur, "Osmanlı Devleti'nde Hapis ve Sürgün Cezaları (1791-1808)." (PhD diss., Fırat University, Sosyal Bilimler Enstitüsü, 2011), 104-105.

with their husbands in order to avoid their crime-committing potential and former immoral acts.⁹⁵⁹ In Shari'a law, immoral acts as a crime type in the category of crimes, *t'azir*, were overwhelmingly punished by "banishment," namely exile (occasionally in combination with other punitive ways, such as imprisonment, fetter, etc.).⁹⁶⁰ Banishment (*nefy*)⁹⁶¹ and short term imprisonment became widespread punitive methods that targeted removing prostitutes from their neighbourhoods in order to change their social environment and hamper their close contact with men.⁹⁶² On the other hand, as Çeribaş and Ünlü note, prostitutes were also punished with "*kalebendlik*," a mixture of banishment and incarceration in fortresses and towers on the islands.⁹⁶³ To get a standard punishment for prostitution during the 18th century, Islamic judges carried out banishment procedures, such as the determination of a particular exile location (penal colony) and a certain exile length of time.⁹⁶⁴ Nevertheless, as Tuğ claims, the court records (*kadi sjils*) provided various and discrepant punishments for prostitutes, such as banishment to the different provincial centers, i.e., Bursa, Ankara and Aleppo, flogging, beating, and imprisonment.⁹⁶⁵ According to Tuğ:

This also points to the fact that "discretionary punishment" opened up an opportunity for judicial authorities to establish sexual order in varying means and degrees. The severity of the punishment, especially against prostitution and procuring, also depended on the frequency of

⁹⁵⁹ Marinos Sariyannis, "Prostitution in Ottoman Istanbul, Late Sixteenth - Early Eighteenth Century," *Turcica* 40, No. 0 (2008): 42, <https://doi.org/10.2143/turc.40.0.2037134>.

⁹⁶⁰ Osman Köksal, "Osmanlı Hukukunda Bir Ceza Olarak Sürgün ve İki Osmanlı Sultanının Sürgünle İlgili Hattı-1 Hümayunları," *OTAM* 19 (2006), 293.

⁹⁶¹ Köksal claimed that "banishment" was embedded into the crime category of "*tazir*" in Shari'a law. It was a punitive way for crime types such as prostitution, banditry, etc. Also, "banishment" as a punishment was identified with various words such as "nefy," "nefy ve tağrib," "nefy ü iclâ," "nefy ü tağrib," "nefy ü te'bîd," "nefy ü ta'zîb," "nefy ü ırsâl," and "sarf u tâhvî"; See Köksal, 287-288.

⁹⁶² Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahişe Hatunlara Uygulanan Cezalar: Hapis ve Sürgün," in *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun (İstanbul: Kitabevi Yayınları, 2005), 158-159.

⁹⁶³ The Ottoman punishment system identified this with different conceptual names: respectively "*kalebentlik*," "*cezirebendlik*," "*prangabendlik*," and "*kulebendlik*." As explicitly seen, Ünlü and Çeribaş deal with the women who had committed crimes and been punished with *kalebendlik* and banishment to the countryside and Ottoman islands in 1800-1815, when many women committed crimes based on the disruption of the public peace, as seen in the Table. See the Table on page 538.; Mucize Ünlü and Volkan Çeribaş, "Kalebend Defterlerine Göre Osmanlı'da Kadın Mahkumlar (1800-1815)," *Journal of Ottoman Legacy Studies* 6, No. 16 (2019), 535-538.

⁹⁶⁴ Köksal states that the Ottoman Empire chose distant places as exile centers, Bozcaada (Tenedos), Midilli (Lesvos), Limni, Sakız (Chios), Girit (Crete), Rodos (Rhodes), and Kıbrıs (Cyprus) in addition to some citadels in the Black Sea region near Sinop and Trabzon. See Osman Köksal, "Osmanlı Hukukunda Bir Ceza Olarak Sürgün ve İki Osmanlı Sultanının Sürgünle İlgili Hattı-1 Hümayunları," *OTAM* 19 (2006), 288.

⁹⁶⁵ Başak Tuğ, *Politics of Honor in Anatolia: Sexual Violence and Socio-Legal Surveillance in the Eighteenth Century* (Leiden and Boston: Brill Publishing, 2017), 265-266.

*the crime, i.e., the extent of the concentration of prostitution and governmental policies on the vice trade.*⁹⁶⁶

As Tuğ clearly points out, discretionary punishment paved the way for varying means and degrees of sexual order, sexual offences' definitions, and, above all, particular punitive ways for sexual crimes in the Shari'a courts that all depended on the frequency of crime and state policy. In addition to Tuğ's statement, social reaction against prostitution had an important role on the judgment of prostitution, as discussed below.

Tolerant and approval social reactions have derived from the reasons of prostitution. Since the 16th century, women had suffered abandonment by their husbands, and this engendered economic difficulties for themselves and their children. In terms of maintaining a family, commercial activities in far places, and the hajj (pilgrimage to Mecca), meant that women could be abandoned by their husbands for long periods (more than a year), and sometimes the men could not return. As Araz examines, these women waited for their husbands without any economic support or any means of subsistence; therefore, they initially tried to divorce their lost husbands and get married to a new husband in order to feed themselves, in the 16th and 17th centuries.⁹⁶⁷ Unfortunately, their only one selection was to marry someone in order to survive in their milieu; therefore, they frequently found several illegal ways (using false witnesses) with the support of their relatives and neighbours to divorce their absent husbands.⁹⁶⁸ However, the Shari'a court did not provide an easy way of divorce for abandoned and destitute women who tried to survive without economic support in hunger and poverty. Hence, the financial and familial difficulties as the main reason of being a prostitute, also paved the way for tolerant and understandable public acceptance against this act. Zarinebaf points out that the rise in poverty and rural migration to urban centers encouraged an increase in sexual commerce (prostitution), and the vice trade outside the red-light districts, which were not controlled and taxed by the Ottoman state.⁹⁶⁹ The prostitutes who did work outside the red-light districts mostly consisted of single, widowed, or divorced women or slaves who sold their bodies in order to cope with economic struggles, poverty, and hunger. Above all, the number of Muslim female prostitutes increased as a dramatic consequence of ongoing wars in different periods of the Ottoman Empire. As Baldwin asserts, most of the Egyptian cases coordinated tolerant treatment towards prostitutes by means of legal and social practices during the 18th

⁹⁶⁶ Tuğ, 266.

⁹⁶⁷ Yahya Araz, "Kadınlar, Toplum ve Hukuk: 16. ve 17. Yüzyıl Osmanlı Toplumunda Eşleri Tarafından Terk Edilen Kadınlar," *Tarih ve Toplum: Yeni Yaklaşımlar* 6, No. 246, 65-67.

⁹⁶⁸ See for more details on the struggle of abandoned women in *kadi* courts: *Ibid.*, 69-70,75.

⁹⁶⁹ Fariba Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (California: University of California Press, 2011), 55-56.

century in Cairo.⁹⁷⁰ In the same vein, as Yılmaz states, most of the cases (Shari'a sijils) from Ottoman Istanbul illustrated the public acceptance and approval of prostitution by the neighbours in the prostitutes' milieus since the 16th century, unless conflicts between prostitutes and procurers occasionally occurred in public areas. In this regard, both local (neighbourhood) approval or collective complaints had important roles in the prosecutions of *zina* (sexual crime/sinful act) cases by prostitutes in the Shari'a courts in the 16th century.⁹⁷¹

Yılmaz illustrates a case based on the attack against prostitute Sultan Hatun by five men in her neighbourhood in the Edremit district. While the *kadi* investigated the details of her case, her statement as a prostitute gives remarkable insights about her social and legal status. She demanded fair judgment from the *kadi* with these words: "if I committed illicit sex, discretionally judge me" (*S. kişdim ise siyâsetim edin*).⁹⁷² The fact is that Sultan Hatun's defence emphasized the dominance and frequency of prostitution cases in her milieu and often discretionary judgment by the *kadis*, while her speech shows bravery and the marginal status of prostitutes. All in all, prostitution was the most frequent criminal act among Ottoman female offenders, which also proved the considerable public acceptance and condonation the Shari'a court records and Ottoman statistics show.⁹⁷³

The most frequent complaint about prostitutes was based on the sexual intercourse between Muslim women and non-Muslim men. Muslim prostitutes were not allowed to have sexual relations with non-Muslim men by Shari'a and customary law, although they carried out their acts as prostitutes, anyhow. Therefore, Ottoman society always kept an eye on Muslim prostitutes in their milieus with the cooperation of Ottoman security forces. If they had sexual relations with non-Muslim males, they could be banished or imprisoned by the Ottoman courts in the 18th century. While Ottoman social order and moral norms came up against the prostitutes in terms of their liminal, marginal, and dangerous positions vis-à-vis Ottoman moral, social, and religious norms, they apparently found potential immoral and criminal danger for the public order. Zarinebaf tells of...

a prostitute Ayşe in Istanbul who had also been implicated in the death of her client, a janissary officer. Her nickname, deli kız (crazy woman), underlines her reputation for violent conduct, her marginal status, and her moral impropriety that

⁹⁷⁰ James Baldwin, "Prostitution, Islamic Law and Ottoman Societies," *Journal of the Economic and Social History of the Orient* 55 (2012), 144-45.

⁹⁷¹ Fikret Yılmaz, "Fahişe, Subaşıya Karşı," *Toplumsal Tarih* Vol. 220, April 2012, 24.

⁹⁷² Ibid., 25.

⁹⁷³ *Osmanlı Devleti'nin İlk İstatistik Yıllığı 1897*, Haz. Tevkif Güran, (Ankara: TC. Başbakanlık Devlet İstatistik Enstitüsü, 1997), 60-61.

*drove her milieu to cooperate with the police in her arrest after she allegedly caused the death of her lover.*⁹⁷⁴

Thus, regarding her own criminal acts, Ayşe was banished to Bursa and began a new life as a penitent prostitute in a small neighbourhood on condition that she had to be controlled and inspected by her neighbours and/or local imams. Here these cases and archival records clearly show that local people viewed prostitutes as potential hazards for their families and as dangerous criminals regarding their immoral and violent acts, against the government's perspective that had accepted and guaranteed prostitution as a legal activity since the early 19th century, as exemplified in the imams' houses section by the implementation of incarceration prostitutes during the holy periods of Islam in leased imprisonment areas with other female offenders.⁹⁷⁵

However, some of the women who had no chance of survival, became prostitutes for economic reasons. This was a very widespread reason for women becoming prostitutes from the early Ottoman Empire up to WWI (until the collapse of the Empire), specifically during the Ottoman-Russian War 1877-78 and the 1911-12 Balkan Wars, when the number of prostitutes dramatically increased in urban centers, such as Istanbul, Izmir, Edirne, and Bursa.⁹⁷⁶ Moreover, in the late 19th and early 20th centuries, the mobility of the population from the countryside to the provincial centers and urban centers, such as Izmir, Edirne, Istanbul, and Bursa decreased due to the crisis of the rural economy and migrant movements as a result of wars in the Balkans and the Caucasus.⁹⁷⁷ These resulted in an extreme rise of the Ottoman population in urban centers, such as Istanbul, Izmir, Adana. During the reign of Abdülhamid II, poor, idle people and streetwalkers became a central security question in the imperial capital. According to Özbek: "The population of Istanbul, according to some reasonable estimates, increased from 356,653 in 1844 to 873,575 in 1885, and to 909,978 in 1914."⁹⁷⁸ These immigrants mostly included people who were suffering financial troubles, hunger, and unemployment, which saliently posed the question of a new population of "vagrants," "beggars," and "prostitutes" in the imperial capital. As a result of the Penal Codifications, the need for imprisonment areas dramatically increased proportionally to the rise of criminals in urban centers, particularly in Istanbul.

⁹⁷⁴ Fariba, Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (California: University of California Press, 2011), 86.

⁹⁷⁵ See Section 5.1.

⁹⁷⁶ Kemal H. Karpat, *Ottoman Population 1830-1914: Demographic and Social Characteristics* (Wisconsin: The University of Winconsin Press, 1985). 60-86.

⁹⁷⁷ Nadir Özbek, "'Beggars' and 'Vagrants' in Ottoman State Policy and Public Discourse, 1876-1914," *Middle Eastern Studies* 45, No. 5 (2009), 785.

⁹⁷⁸ Özbek, 785.

In that sense, with the Hamidian government's benevolent social policy, *Dar'iilaceze* was established in 1895. Amid the population growth with immigrants and refugees from the Balkans and Caucasus, and the consequences of the 1878 Berlin Treaty and the Balkan Wars, a columnist of Sabah newspaper underlined that young female beggars seemed to be more dangerous for society in terms of their immoral, illegal, and socially harmful acts. In other words, these women became prostitutes in order to survive in the imperial capital.⁹⁷⁹ Hence, the Hamidian government's accelerated merciful and benevolent treatments against streetwalkers and vagrants within the establishment of new madhouses, poorhouses, hospitals, also official brothels and so on to keep the sick, poor, mentally ill people and prostitutes under the control of the state.⁹⁸⁰

In the same vein with Ottoman Empire, like the Ottoman policies against vagrants, beggars and prostitutes, in 1880 the Egyptian Zabtiyye law declared that not only vagrants, idle people and prostitutes but also street performers, singers, dancers, monkey and bear trainers were not allowed in the streets under the new police law of 1880.⁹⁸¹ The Egyptian government found these people very hazardous for public security; aimlessly wandering in the streets was to be punished by imprisonment according to this law. Above all, as Kozma insists, the women vagrants were unfortunately outside families, which led to great danger for sexual intercourse with aliens (pre/extramarital sex).⁹⁸² On the other hand, these streetwalkers (overwhelmingly prostitutes) have been identified as disreputable and without familial bonds, which means they were completely open to illegal sexual intercourse with men, in terms of their loneliness and dereliction.⁹⁸³

Moreover, in Khedival Egypt, prostitutes represented a very high health risk for soldiers and their male counterparts, hence they were banned in Cairo in 1834 due to the rise of disease (syphilis). In the same vein as the Ottoman Empire, Egyptian 1880 Police Law, the state considered the individual prostitutes less hazardous than before, and then the state's interest shifted from the prostitutes to the brothels in regard to "security."⁹⁸⁴ As Fahmy underlines,

⁹⁷⁹ Özbek, 787.

⁹⁸⁰ Müge Özbek. "Single, Poor Women in Istanbul, 1850-1915: Prostitution, Sexuality, and Female Labor." (Ph.D. Diss., Boğaziçi University, 2017); Nadir Özbek, "'Beggars' and 'Vagrants' in Ottoman State Policy and Public Discourse (1876-1914)", *Middle Eastern Studies*, Vol. 45, No 5, September 2009, 783-801.

⁹⁸¹ Liat Kozma, "Wandering about as She Pleases: Prostitutes, Adolescent Girls, and Female Slaves in Cairo's Public Space, 1850-1882," *Hawwa* 10, No. 1-2 (2012), 19, <https://doi.org/10.1163/156920812X627722>.

⁹⁸² Kozma, 19-20.

⁹⁸³ Ibid.

⁹⁸⁴ Ibid., 24.

prostitutes contributed to other criminal acts, such as theft, fights, pimping, and gambling.⁹⁸⁵ The Egyptian 1880 Police Law referred to increasing the prostitutes' visibility and mobility in public space. Article 19 of the Law first defines the problem: many prostitutes walked the streets of Cairo in an unsatisfactory and uncivilized way, with mobility in public spaces..... repulsive to the public eye and transgressing public order."⁹⁸⁶ In addition, this law meted out imprisonment for the prostitutes who forced adolescent, respectable, virgin girls and women to become whores.⁹⁸⁷

Besides, in Egyptian prisons, the ratio of prostitutes to other women in their prisons represented one in three, whereas the Ottoman government did not keep track of the number of prostitute inmates, albeit the CUP government's attempt to have a grasp of the exact numbers of Ottoman prisoners.⁹⁸⁸ However, it is not too difficult to estimate their ratio was higher than other women's offences. Consequently, destitute women and prostitutes created great security questions in the urban centers in that vagrants, male criminals, and soldiers tended to have sexual relations with them. Both social norms and Islamic law forbade these acts, which led to a great question in public life. As stated above, imprisonment and banishment were the very widespread and frequent punitive manners for the crime of prostitution since the 16th century.

Meanwhile, especially after the British occupation in 1884, the Egyptian government treated better the privileged women offenders who generally were members of higher social classes, whereas the prostitutes were dramatically exposed to maltreatment by the prison employees regarding their dishonorable public status and sexual criminal acts.⁹⁸⁹

Let us continue with the 19th century penal changes and effects on the prostitutes' punishments. In the imperial capital, the application of short-term imprisonment continued for prostitutes who were incarcerated in the Baba C'afer Dungeon (*Zindani*) for their penitence and correction (*islah-i nefس*) in the 18th century.⁹⁹⁰ Hence, the Ottoman government yielded to the imprisonment of prostitutes (albeit short term confinement) instead of banishment during the reign of Selim III.⁹⁹¹ Even though exile had two distinct functions: punishment and being away from the neighbourhood, it was mainly aimed at getting rid of prostitutes. But the women could

⁹⁸⁵ Khaled Fahmy, "Prostitution in Nineteenth-Century Egypt," in *Outside in: On the Margins of the Modern Middle East* edited by Eugene Rogan, (London: I.B. Tauris, 2001), 80–88.

⁹⁸⁶ Liat Kozma, "Wandering about as She Pleases: Prostitutes, Adolescent Girls, and Female Slaves in Cairo's Public Space, 1850-1882," *Hawwa* 10, No. 1–2 (2012), 25.

⁹⁸⁷ Ibid., 27-28.

⁹⁸⁸ See Section 5.3.

⁹⁸⁹ Anthony Gorman, "In Her Aunt's House: Women in Prison in the Middle East," *IAAS Newsletter*, Vol 39, 2005, 7.

⁹⁹⁰ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayınları, 2012), 18-20.

⁹⁹¹ Yıldız, 21.

continue their illegal acts in penal colonies. So, it required a rooted and deterrent punitive way for this offense that would be imprisonment during the age of penal reform in the 19th century.

Some cases demonstrate that prostitutes could be punished by the death sentence, imprisonment and exile, as proof of discretionary punishments of Shari'a judges. As Öztürk claims, 10 women prostitutes were banished to Midilli (Lesvos) island and incarcerated in the island's fortress.⁹⁹² Also, five prostitutes were bowstringed as a deterrent public lesson for the other prostitutes who were confined in an imam's house in Ağakapı, and the dead bodies of two women were exhibited publicly in Kasımpaşa and Üsküdar in the 18th century.⁹⁹³ However, *kadis* (Islamic judges) preferred to apply short term imprisonment and banishment as a proof of their discretionary judgement, hence this shows further diverse treatment towards female prostitutes in the 18th century.⁹⁹⁴ Several types of discretionary punishment could be observed on the dusty shelves of history.

As seen on the imprisonment in imams' houses before their exile, where were they mostly incarcerated before their deportation? According to Zarinebaf:

.....in the Ottoman Empire there were no dispensaries, penitentiaries, or Magdalen hospitals to care for penitent prostitutes, as was the case in Paris and London. Ottoman princesses and well-to-do women occasionally set up private foundations for poor and penitent prostitutes, but no records exist for the facilities. Many prostitutes were kept in the Baba Câfer prison, which had a special ward for women. In August 1813 the state provided food amounting to 1562.5 kuruş for thirty-six prostitutes and their children who were kept in the Baba Câfer prison. On another occasion, sixty prostitutes in prison received clothing valued at 4,147.5 kuruş from the state.⁹⁹⁵

As clearly stated in the quotation, in Istanbul, Baba Cafer dungeons and Tavhane (poorhouse) were more generally used as prisons for prostitutes who were incarcerated with their children; furthermore, they could utilize food and clothes services with the considerable budget of the Ottoman state purse, while ad hoc imprisonment areas had not enough capacities for female offenders during the early 19th century. Imprisonment with children was also seen on the wards of other women offenders in the early 19th century; Ottoman prison policy allowed their stay in the prisons, an extraordinary imprisonment practice for mother inmates, as Section

⁹⁹² Sevcan Öztürk, "XIX. Yüzyıl Osmanlı Ceza Sisteminde Dönüşüm: Zindandan Hapishaneye Geçiş," (MA Thesis, Adnan Menderes University, 2014), 47.

⁹⁹³ Süha Oğuz Baytimur, "Osmanlı Devleti'nde Hapis ve Sürgün Cezaları (1791-1808)." (PhD diss., Fırat University, 2011), 108.

⁹⁹⁴ Başak Tuğ, *Politics of Honor in Anatolia: Sexual Violence and Socio-Legal Surveillance in the Eighteenth Century* (Leiden and Boston: Brill Publishing, 2017), 243.

⁹⁹⁵ Süha Oğuz Baytimur, "Osmanlı Devleti'nde Hapis ve Sürgün Cezaları (1791-1808)." (PhD diss., Fırat University, 2011), 110.

5.4 illustrates other examples of tolerant and lenient prison policy against mother inmates.⁹⁹⁶ However, I should note that despite deep research on Ottoman archives, I have never found another example that shows lenient punitive treatments against prostitutes who had children, while I found positively discriminative treatments for other mother inmates.

While prostitutes were generally banished to Mediterranean islands (like Cyprus or Rhodes) or to other Anatolian provinces, the incarceration to the prisons and jails became a dominant punitive method during the late 18th century.⁹⁹⁷ However, it is possible to see earlier examples of imprisonment of prostitutes. As Yılmaz insists, prostitutes had been imprisoned in Istanbul dungeon (namely Yedikule zindanı) since the 16th century.⁹⁹⁸ Moreover, the prison guards forced the prostitutes to break out of the prison at night and to whore outside the prison for the guardians' own economic profit, as these cases were frequently found in the archive.⁹⁹⁹

Hence, within the confinement prostitutes and other female offenders, the urgent need for the prison houses for females entered the agenda of the Ottoman Empire. It stimulated the necessity for rented women's prisons (*icârlanmış hapishâneleri*), specifically in the provincial areas. Nevertheless, prostitutes were overwhelmingly punished by banishment (exile) and *kalebendlik* or *manasturbendlik*, specifically for non-Muslim women who committed illicit sex. As Ünlü and Çeribaş broadly demonstrate, 18 women (five of them non-Muslim) were all banished to distant places, such as islands, monasteries and fortresses, even to the Arabian Peninsula between the years 1800-1815.¹⁰⁰⁰

After drawing a general framework to understand the social status, public acceptance and penal practices for Ottoman prostitutes in the earlier periods of the Ottoman Empire, this part reveals their place in the late Ottoman prison policy. This part discusses discriminative, stigmatized prison policy against prostitutes in the 19th century, particularly in the proper prison buildings. While their imprisonment at imams' houses, separate wards in men's prisons (*ziükür hapishânesi*), or discrete prisons, it is not too difficult guess that they were frequently exposed to discrimination and suffered under the maltreatment of prison managements, wardens, and guards because of the type of their crime: *fuhuşât* (prostitution), although the archives do not provide more examples. As acknowledged in the scholarly literature on prostitution in the Middle East, prostitutes had liminal positions that derived from the construction of their active agencies in social economic affairs, by selling their sexuality in Ottoman society. By this act,

⁹⁹⁶ See Section 5.4.

⁹⁹⁷ Fariba Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (California: University of California Press, 2011), 168.

⁹⁹⁸ Fikret Yılmaz, "Fahişe, Subaşıya Karşı," *Toplumsal Tarih*, Vol. 220, April 2012, 24.

⁹⁹⁹ Ibid., 25.

¹⁰⁰⁰ Ibid.

¹⁰⁰⁰ See Table II. Mucize Ünlü and Volkan Çeribaş, "Kalebend Defterlerine Göre Osmanlı'da Kadın Mahkûmlar (1800-1815)," *Osmanlı Mirası Araştırmaları Dergisi*, 6/16, 2019, 540-541.

they could earn their own money for their subsistence. Regarding their extraordinary and sinful acts, thus, their excluded and stigmatized positions negatively influenced the imprisonment processes and their living standards in Ottoman prisons. the social approaches against that prostitutes were ambivalent, that is why which contained occasionally discriminative and tolerant treatments regarding their marginal, immoral and combative characters in Ottoman society.¹⁰⁰¹ While other women prisoners who had committed murder (*cinâyet*), larceny (*sirkât*), and so on, coped with dreadful living conditions, malnutrition, and abuse in hovels, prostitutes suffered double difficulties due to negatively discriminative treatments during their imprisonment in terms of their sinful and immoral profession and disease carrying. To sum up: the prostitutes could not share the same ward and prison with other female offenders. How did the Ottoman prisons carry out these discriminative policies against prostitutes under the budgetary questions that hampered the establishment of separate imprisonment areas for each crime type and sex, while they were frequently incarcerated in the same wards and leased prisons with other offenders.

According to Şen:

*In the first place we have seen Tevkîfhaneler, second Kabahat, third Cünhâ and finally, a place for convicted murderers. It was divided into four sections for each case. Each of them included three rooms within its interior. The first room was a place for children, the second room was for murderers, and the third room was for women mainly convicted for prostitution cases.*¹⁰⁰²

Şen apparently points out that the prostitutes had to be incarcerated in separate wards in the women's prisons according to penal regulations. There is no doubt, the Ottoman penal mentality apparently discriminated prostitutes and other criminal women by this punitive practice. Though the question of scarce and limited imprisonment areas for female offenders continued, Ottoman prisons could not fulfil this separation, as they aspired. More importantly, a decree of the Ottoman Prison Administration (*Mebâni-i Emîriyye Hapishâneler Müdüriyeti*) in 1914 proposed that prostitutes be incarcerated in jails or women's prisons, and they had to be put on trial according to the Ottoman Penal Code 1858.¹⁰⁰³ This discriminative separation

¹⁰⁰¹ Ali Karaca, "XIX. Yüzyılda Osmanlı Devleti'nde Fahîse Hatunlara Uygulanan Cezalar: Hapis ve Sûrgün," In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali- Hilal Oytun Altun, İstanbul: Kitabevi, 2005, 152-153.

¹⁰⁰² Hasan Şen, "The Transformation of the Politics of Punishment and the Birth of Prison in the Ottoman Empire (1845-1910)." (MA Thesis, Boğaziçi University, 2005), 102.

¹⁰⁰³ *The Imperial Ottoman Penal Code: A Translation from the Turkish Text*, edited by John A. Strachney Bucknill-Haig Apisoghom S. Utidjian, (London: Oxford University Press, 1913), 156-57.; Article 202: "The person who dares to commit an abominable act publicly contrary to modesty and sense of shame is imprisoned for three months to one year and a fine from one Medijiah gold piece to ten Medijiah gold pieces is taken. This code was amended in 1860, the new version refers to both male and female offenders who committed abominable acts including sexual crimes who had to be imprisoned.

comes from the danger of syphilis (*frengi*), carried by prostitutes who infected the people they had sex with.¹⁰⁰⁴

However, this document does not reflect the practice of this separation. As Adak notes, “Both Schull and Yıldız state and exemplify that in some Ottoman prisons, prostitutes were seldom incarcerated separately from other female prisoners due to the lack of imprisonment areas.”¹⁰⁰⁵ As an affirmation of Adak’s statement, *Meclis-i Vâlâ* underlined that the collective imprisonment of all females, even prostitutes and other criminals, became definitely forbidden during the first years of the Tanzimat, nevertheless, this was not an applicable imprisonment practice.¹⁰⁰⁶

Yıldız also presents an example that shows prostitutes and other female offenders were incarcerated in the same prison wards in *Haseki Ticarethânesi* in Istanbul, owing to the lack of proper women’s prisons in Istanbul and the other provinces in the 1840s.¹⁰⁰⁷ Even though the Ottoman government aspired to avoid the incarceration of prostitutes and other inmates together in the same prisons or wards regarding moral reasons in the beginning of 19th century, all female offenders, both prostitutes and others, were mostly incarcerated together in Crete, Erzurum, and Baghdad in the 1850s.¹⁰⁰⁸

On the other hand, prostitutes could be faced with incarceration by reason of their immoral acts (*uygunsuz hareketleri*) without any court decision. In Kayseri Sanjak, nine prostitutes were imprisoned for their immoral acts without any court decision. Furthermore, their daily needs were covered by the municipality’s budget (*i’üşeleri verilerek*), which totally

This article was revised in 1911, which began to cover acts against public decency including public dancing of women, which had to be punished from one month up to one year imprisonment.” BOA. DH. İD. 65/46: 7 R 1332/ 5 March 1914: “Bolu Sancağı Mutasarrıflığı Tahrirat Kalemi: Tahliyeleri ifade edilen Müyesser ve Fatima'nın fuhuş yaptıkları, dolayısıyla frengi gibi bulaşıcı hastalıkların da gençlere bulaşmasında aracılık ettiğleri, hastahanelerde ara sıra kontrol ve tedavi edilmiş olsalar da muayyen bir süreye matuf olan tedavilerin kendilerini temize çıkarmayı taahhüt edemeyeceği, bu işlerin umumhanelerde yapılması gereği, bu gibi kadınların memur ve zabitlerden uzak mahallere sevkinin gençlerin bu hastalıklardan korunması için gerekli olduğu, dolayısıyla hükümet ve belediye kontrolü altında olmak kaydıyla bu kadınların Eyüp oğlu İsmail'in evinde ailesine ait bir odada bulundurulmaları kararlaştırılmıştı. Fatima'nın dilekçe sahibi Muhyiddin'in eşi olduğu, para karşılığı fuhuş yaptığı halen evli olduğu, gerek Fatima'nın, gerek Müyessere'nin kesinlikle başıboş bırakılmaması gereği, eyüp oğlu İsmail'in evinin sadece iki odasının kadın mahkumlar için uygun olduğu, diğer yandan bazı ailevi nedenlerle aile yanında barınmalarının uygun olamayacağı belirtilerek, bu gibi kadınlar için islahhaneler açılmasının zorunlu olduğu hakkında.”

¹⁰⁰⁴ Memleket Gazetesi, Vol 89, 9 May 1919. “Frengi Hastalığında Aid Birkaç Söz.” Ottoman newspaper still published medical information and measurements against syphilis even 1910s.

¹⁰⁰⁵ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire.”(PhD dis., University of Cincinnati, 2015), 160.

¹⁰⁰⁶ Gültekin Yıldız, *Mapusane: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi; 2012), 84.

¹⁰⁰⁷ Ibid.

¹⁰⁰⁸ Ibid., 84,123.

provided all the needs of the prisoners on 14 August 1903.¹⁰⁰⁹ These imprisonment practices engendered scarce imprisonment areas for female inmates who had done other criminal acts, and led to the financial question based on providing their regular daily needs. Therefore, the Ministry of Interior ordered the Ankara and Konya provincial administrations to investigate the current situations of these nine women. At the end of the correspondence between the Ministry and the provincial administrations, they discussed why the prostitutes' labor was not exploited as cheap labor in the prison workshops and factories outside the prisons. In doing so, they could be rehabilitated by working.¹⁰¹⁰ The incarceration of prostitutes without any prosecution or judicial decision became widespread for the prevention of immoral acts especially during the holy periods for Islam such as Ramadan and Friday prayers, as the imams' houses section elucidates.¹⁰¹¹

Moreover, the *Zabıtiyye Teşkilâti* (Police Force) correspondence shows that in Erzurum provincial prisons (including imams' houses and proper prisons), the prison tenants and managements were not allowed to incarcerate prostitutes in the prisons in 1881. Thus, they leased a special prison house near the *Hükümet Konağı* (government office) only for the prostitutes regarding their immoral behaviour.¹⁰¹²

Epidemic fear also became one of the most particular reasons for discriminatory treatment towards prostitute inmates. According to Zarinebaf:

In the late eighteenth century, the Ottoman state increasingly viewed prostitutes as agents of public disorder and transmitters of disease and sought to confine them. For example, in 1778 an imperial order commanded the kadi of Istanbul to arrest streetwalkers and prostitutes for causing the plague and committing immoral acts. It also ordered the authorities to arrest any local official or imam who attempted to collect taxes on prostitutes. This order may provide evidence that by the late eighteenth century, the prostitutes were paying some sort of taxes to the officials. Also, in 1841 the state ordered the rehabilitation of between thirty and thirty-five streetwalkers and homeless women who had been raped and had fallen into poverty....¹⁰¹³

Zarinebaf also acknowledges the fear of losing public order and the spreading of the epidemic disease (plague) among women prisoners began in the late 18th century.

¹⁰⁰⁹ BOA.DH.MKT. 790/04: 20 Ca 1321/ 14 August 1903.

¹⁰¹⁰ Ibid.

¹⁰¹¹ See Section 5.1.

¹⁰¹² BOA. Z.B. 12/39: 5 H 1298/ 5 May 1881: "Erzurum hapishanelerinde fahişelerin ilkametlerin izin verilmediği, nisâ için hükümet konağı civarında bir yerin hapishane olarak tahsis edilmekte olduğu".

BOA.Z.B 12/38: 2 H 1298/2 May 1881: "Adliye Müfettişi Mehmed Sırrı warned the prison administration in the local prisons about the imprisonment of prostitutes with other women inmates."

¹⁰¹³ Fariba Zarinebaf, *Crime and Punishment in Istanbul 1700-1800* (Berkeley and Los Angeles: University of California Press, 2010), 110.

As a consequence of syphilis (*frengi*) that rapidly spread across the Empire, Kastamonu and Erzurum became the centers of the fight against the *frengi* (pox) epidemic during the last decade of the 19th century.¹⁰¹⁴ The disease is sexually transmitted between males and females. The Hamidian government fought against the spreading of the disease with regulations on the prevention of the disease, and the enhancement of health standards in the Ottoman provinces, controlling particularly prostitutes. Therefore, in Kastamonu, the local government aimed at preventing the rapid spread of the disease by regularly controlling the prostitutes and artisans who had frequent close interactions.¹⁰¹⁵ Thus, the provincial municipality of Kastamonu began to keep them under strict surveillance through tight medical controls.

Another example illustrates fear of syphilis in Ottoman prisons. Shortly after the release of Müyessere and Fatma Hatun, they began to perform their profession, prostitution, while they still carried syphilis (*Müyessere ve Fatma'nın fuhuş yaptıkları, dolayısıyla frengi gibi bulaşıcı hastalıkların da gençlere bulaşmasında aracılık ettiler*). In order to prevent epidemic disease, they had been incarcerated in a separate leased prison house, Ismail Hakki's house. However, the rooms of Ismail's house had a limited capacity for the prostitutes.¹⁰¹⁶ On the other side, they could not be incarcerated inside of leased prison houses where there was an immoral risk for the families (*gerek Fatma'nın, gerek Müyessere'nin kesinlikle başıboş bırakılmaması gerektiği, Eyüp oğlu Ismail'in evinin sadece iki odasının kadın mahkumlar için uygun olduğu, diğer yandan bazı ailevi nedenlerle aile yanında barınmalarının uygun olamayacağı belirtilerek*). Therefore, this correspondence, was issued on 5 March 1914, emphasized that Ottoman prison administration had to establish houses of correction only for prostitutes who carried the syphilis virus (*bu gibi kadınlar için ıslahhaneler açılmasının zorunlu olduğu*).

Although the Ottoman prison administration literally implemented discriminative imprisonment practices against the prostitutes depending on the regulations' articles, it became impossible in practice due to the scarcity of women's prisons. On 5 April 1914, two accused prostitutes were incarcerated in Bolu's jail, and the prison administration ordered that they had to be incarcerated in different wards to be located far away from other female inmates. In other words, they could not share a ward or room with other women who had committed other offences such as larceny, and potential of quick spread of syphilis. Moreover, the municipal administration began to supervise the prostitutes' wards in Bolu particularly, according to the

¹⁰¹⁴ Rüya Kılıç, "Türkiye'de Frenginin Tarihi," *Kebikeç* 38 (2014), 292-93.

¹⁰¹⁵ Ebru Boyar, "'An Inconsequential Boil' or a 'Terrible Disease'? Social Perceptions of and State Responses to Syphilis in the Late Ottoman Empire," *Turkish Historical Review* 2, No. 2 (2011), 105.

¹⁰¹⁶ BOA. DH. İD. 65/46: 7 R 1332, 5 March 1914.

archival source.¹⁰¹⁷ In addition to the moral reasons for the separate imprisonment of prostitutes and other inmates, the prison managements targeted avoiding the spread of *frengi* (syphilis) among other female prisoners.¹⁰¹⁸ Although it was spread through sexual relations, closed interactions, unhygienic prison wards and limited medical knowledge for this disease led to strict separation for prostitutes.

According to Boyar:

They were to be given medical checks every 15 days and such check-ups were not to be restricted to the mouth alone, but the prostitutes, placed on a special chair, were to be given a full internal genital examination. Their names and the nature of their disease were to be registered at the hospital. Those prosecutes who had syphilis were to be kept in hospital and treated forcibly, and were not to be released until cured. Once discharged, they had to submit to medical check-ups every 15 days. If they did not do so, they were to be fined.¹⁰¹⁹

As Boyar explains, the prostitutes were kept under the rough control of medical institutions during the 19th century with the motivation of fear of the spreading of the disease.

In that period, the Haseki Women's Hospital was exposed to destructive attempts, hence these attempts caused the quick alteration of the construction. Balsoy notes that the Haseki Women's Hospital began to house prostitutes simultaneously with its unavoidable physical destruction.¹⁰²⁰ All in all, *Haseki Nisâ Hastahânesi* began to be called Haseki Women's Prison (*Haseki Tevkîfîhânesi*) in 1869. As a consequence of the rack and ruin conditions of the hospital, it could not serve as a hospital for the sick women anymore.¹⁰²¹ However, before its quick alterations, the Haseki Women's Hospital building included a separate ward only for the incarceration of prostitute inmates due to the epidemic danger of rapid spread among the other women inmates. Hence, governmental authorities aimed at isolating women who were mostly prostitutes in this women's hospitals.¹⁰²²

¹⁰¹⁷ BOA. MB. HPS. 96/40: 9 Ca 1332, 5 April 1914.

¹⁰¹⁸ Syphilis diffused quickly among females more than males. See Birlik Gazetesi Vol 17, 14 January 1923, Page, 6. "Mezkûr hastalık kadınlarla erkeklerden daha ziyâde tehlike 'arz ider. Çünkü 'alel ekser rahimden başlar ve serî'an tedâvi idil(mey)en vak'alarda tâ yumurtalıkla kadar sarar ve tahammülne imkân olmayacağı derecede şedid rac'lere(?) bâdî olarak marâzî hayatından bizâr idecek bir dereceye getirir. Bilhassa kadınlarla iş bu raddeye geldiği dakikadan i'tibâren artık çocuk doğuramazlar ve bir kadın için en büyük bir sa'adet olan tevlîd-i şerîfden ebedîyen mahrûm olurlar. İşte şu 'arz itdiğimiz a'râz ve ihtilâti tedkîk olunursa ma'a't teessûf pek ehemmiyetsiz zan olunan maraz-ı mezkûrun ne kadar tehlikeli ve ne bî-amân bir afet olduğu kolaylıkla anlaşılır. Diyebiliriz ki bilhassa kadınlarla maraz-ı mezkûr frengiden daha mühlik ve vahîm bir hastalıkdır."

¹⁰¹⁹ Ebru Boyar, "An Inconsequential Boil' or a 'Terrible Disease'? Social Perceptions of and State Responses to Syphilis in the Late Ottoman Empire," *Turkish Historical Review* 2, No. 2 (2011), 115.

¹⁰²⁰ Gülnâ Balsoy, Bir Kadın Hastanesi Olarak Haseki Hastanesi ve 19.yy. İstanbul'unda Bikes ve Bimesken Bir Kadın Olmak," *Toplumsal Tarih* Vol. 257 (2015), 81.

¹⁰²¹ Ibid.

¹⁰²² Müge Özbeş, "Single, Poor Women in Istanbul, 1850-1915: Prostitution, Sexuality, and Female Labor." (PhD diss., Boğaziçi University, 2017), 44- 57.

Meanwhile, in similar vein with the late Ottoman government, the Egyptian authorities also struggled against the disease of “syphilis” with their strict and rough measurements.

Moreover, Mohammad Ali’s government also banned sexual relations between soldiers of the national military and prostitutes to avoid undisciplined acts by military personnel and above all the very high hazard of the epidemic.¹⁰²³ Fahmy claims that the prostitutes were not allowed to enter the center of Cairo during the French occupation in the 19th century due to the high risk of epidemic spread.¹⁰²⁴

Despite the whole measurements and isolation attempts, the syphilis epidemic quickly spread to the Ottoman imperial brothels, particularly among prostitutes and their partners. For that reason, the Istanbul Municipality (6. *Daire-i Belediyye*) began to keep under medical and security control, prostitutes and their partners, who consisted not only of Ottoman men but also of the sailors of the Russian naval force who were anchored in Tophâne in 1895.¹⁰²⁵

In 1910, the CUP government hastily ventured to prevent prostitution among poor, miserable and homeless women, particularly in provincial centers, with some experimental attempts. For instance, they began to send prostitutes, streetwalkers and destitute women who damaged moral norms and public order (*mahalle ve sokaklarda fuhuş yaparak toplumsal terbiyeyi bozan kadınların*) to sewing workshops to produce army uniforms. In this way, the women inmates would not commit prostitution anymore due to financial hardship with their honorable lives. Hence, they supported the army with cheap labour (*askeri elbise dikim evlerinde işe yerleştirilmeleri ile geçimlerini sağlamaları onları namuslu bir yaşama kavuşturacağından*).¹⁰²⁶ During the government of the CUP, they generally forced prisoners to work in the prisons and jails in order to keep them under control and to help in their rehabilitation. In this regard, the archival documents indicate that penal labour became another main correction method for prostitutes who could remember their femininity and honorable lives while they could earn money to survive during the CUP government (*Mahalle ve sokaklarda fuhuş yaparak toplumsal terbiyeyi bozan kadınların askeri elbise dikim evlerinde işe yerleştirilmeleri ile geçimlerini sağlamaları onları namuslu bir yaşama kavuşturacağından, dikim evlerinde çalıştırılmaları*). In this regard, the CUP government sent them all to the military sewing workshops in 1908-1918.

¹⁰²³ Khaled Fahmy, “Prostitution in Egypt in the Nineteenth Century,” In *Outside in: On the Margins of the Modern Middle East*, edited by Eugene Rogan, (London: I.B. Tauris, 2002), 82-87.

¹⁰²⁴ Fahmy, 78-79.

¹⁰²⁵ Müge Özbek, “The Regulation of Prostitution in Beyoğlu (1875–1915),” *Middle Eastern Studies*, 46:4, 2010, 558.

¹⁰²⁶ BOA.DH.EUM. THR: 48/36: 25 Şaban 1328, 1 September 1910: “Mahalle ve sokaklarda fuhuş yaparak toplumsal terbiyeyi bozan kadınların askeri elbise dikim evlerinde işe yerleştirilmeleri ile geçimlerini sağlamaları onları namuslu bir yaşama kavuşturacağından, dikim evlerinde çalıştırılmaları konusunda İstanbul polis Müdüri muavininin 3 Ağustos 326 tarihli yazısı.”

All in all, this section has revealed the hidden story of prostitutes in the Ottoman penal world. Transformations in the punitive ways as a trend in penal changes in the 19th century affected the punishment of prostitutes in the Ottoman Empire. While in the earlier period of the Tanzimat, exile or banishment was the most widespread punishment for sexual crimes, the main punishment method for crimes against honor became imprisonment for most of crime categories including prostitution during the second half of the 19th century. The prison populations quickly increased after the proclamation of the 1858 Penal Code, which meted out imprisonment for most crime categories, including prostitution.¹⁰²⁷ Furthermore, with the migration wave from the lost territories, prostitution as an occupation among women migrants increased in the late 19th century, especially in Istanbul. Both *Meclis-i Vâlâ* and the Prison Directorate aimed at separating prostitutes and other women offenders regarding their immoral acts, out of line behavior and above all their epidemic disease carrier potential. Although the scarcity of women's imprisonment areas became a great question, the Ottoman government aimed at separating the prisoners and prostitutes who were generally incarcerated regarding their immoral acts without any legal prosecutions. Surely, this separation derived from both moral concerns and the rapid spread of syphilis (pox) among prostitutes. The special medical cadres and medical measurement against the epidemics began to control all the brothels, streetwalkers and their partners especially in madhouses, poorhouses, brothels, hospitals and prisons in order to prevent the quick spread of the disease. Most importantly, the prison employees could have sexual intercourse with prostitutes who were also pimped out by prison guards and wardens. This is also affected the quick spread of the epidemics in Ottoman society. Despite fewer archival illustrations, it is not difficult to guess that they were frequently exposed to sexual abuse, coercion, and rape in the prisons regarding their social statuses.¹⁰²⁸

6.3. Feminine Way of Correction: Penal Labor or Free Labor?

This section concentrates on the Ottoman experience of the penal labor and ways of correcting women with particular punitive methods. Undoubtedly, from Michel Foucault, one of the most precious philosophers and scholars of the 20th century, approaches to the punitive system became the theoretical premise and essential basis of carceral punitive mechanisms.¹⁰²⁹ In this regard, hard labour was fully applied in imprisonment as a main sentence during the age of prison reform. According to Foucault:

¹⁰²⁷ *The Imperial Ottoman Penal Code: A Translation from the Turkish Text*, eds. John A. Strachney Bucknill-Haig Apisoghom S. Utidjian, (London: Oxford University Press, 1913), 156-57.

¹⁰²⁸ See Sections 5.2 and 6.3. Guardians and penal labor sections discusses abusive behavior of prison cadre against the prostitutes.

¹⁰²⁹ Michel Foucault, *Discipline and Punish: Birth of Prison*, translated by Alan Sheridan, (New York: Vintage Books, 1995).; Michel Foucault, *İktidarın Gözü*, translated by İşık Ergüden, (Istanbul: Ayrıntı Yay, 2015), 25-26.

*The principle stated at the outset is the need for ‘exact relations between the nature of the offence and the nature of the punishment: physical pain should be inflicted on those who commit crimes of violence, hard labour on the idle, shame on those with degraded souls.*¹⁰³⁰

As Foucault notes, this primary method was based on having a tight relationship between the features of criminal act and its punishment. However, this was changed during the age of prison reform that had begun to punish all the criminals with imprisonment and corrective methods, such as penal labour and worship in order to correct and rehabilitate souls and bodies of prisoners. Penal labour functioned as rehabilitative, corrective device that also aimed at preventing idleness of prisoners. The industrial revolution and its urgent need for cheap and free laborers also accelerated in Europe. As a free labour center, prison workshops and factories became the most significant component of industrial production in Europe. In this regard, as Foucault notes, the prisoners had to be educated well to work in factories in the prison workshops, in doing so, the prisoners could work after their release to survive as former inmates.¹⁰³¹ They aimed at utilizing the free labor of prisoners with the professionalization of their skills to promote industrial productions. However, as Foucault says, the workers were up against penal labour implementation, which is why their labour became redundant.¹⁰³²

Under light of this brief information on the mentality of penal labour during the late 19th and early 20th centuries, this section explores the practices of penal labour, establishment of prison workshops, feminine ways of penal labour, incomes of prisoners, and the malpractices of prison cadres for seizing incomes of prisoners in the late Ottoman prisons. This section pursues the trajectories of reform attempts for the implementation of penal labour as a way of correction and the mentality towards penal labour from the Tanzimat until the decline of the Empire.

During the early years of the Tanzimat, almost all of the offenders were punished by penal servitude (*kiureka cezasi*) and confinement in fortresses (*kalebendlik*), in shipyards (*tersâne*), and in galleys (*kalyon*), apparently combined with imprisonment as a dominant punitive method.¹⁰³³ Before the proclamation of the first Penal Code in 1840, penal servitude and confinement to fortresses were also applied by the *kadi* (Islamic judge) in the Shari'a courts.¹⁰³⁴ However, the term “penal servitude” could be defined as working as hard laborers in various working areas, including in prison workshops, during the reigns of the Hamidian and

¹⁰³⁰ Michel Foucault, *Discipline and Punish: Birth of Prison*, 112.

¹⁰³¹ Michel Foucault, *İktidarın Gözü*, 25.

¹⁰³² Michel Foucault, *Discipline and Punish: Birth of Prison*, 270.

¹⁰³³ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 23, 30.

¹⁰³⁴ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 39-48.

CUP governments within the reform attempts on Ottoman penal practices.¹⁰³⁵ The most known hard labour centers of the Ottoman criminal justice system were Tersâne-i Âmire, located in today's Kasımpaşa, and in provincial areas (specifically all seaside's and regions) in Rumelia, Varna, Vidin, Rusçuk, and Niş fortresses and also in Selanik prison' workshops. The Mediterranean islands (*Cezire-i Bahr-i Sefid*), Antalya, Diyarbekir, Sinop, Rhodes, and the Magosa fortress on the island of Cyprus were declared as hard labor centers by *Meclis-i Vâlâ* during the Tanzimat period.¹⁰³⁶ Although incarceration and hard labor as a combination of punitive ways was still called *kürek* until the Hamidian period, it was no longer based on merely serving as hard laborers in the imperial navy, shipyards, fortresses, and strategic towers.¹⁰³⁷ In other words, hard labour changed with the effects of the 19th century's punishment trends into a way of purification, rehabilitation, and prevention of crime through a special concern on establishing prison workshops in the late Ottoman Empire. Egyptian prisons experienced the same shift. Peters insists that hard labour combined with imprisonment had begun in 1829 in Egypt, hence it stipulated the foundation of workshops and small factories near the Alexandria shipyard (*tersâne*) as hard labour centers.¹⁰³⁸

In doing so, “*ıslah-i nefs*” (correction) was created as a term with which to define disciplining prisoners somehow until they were corrected.¹⁰³⁹ As Schull notes, the 1858 Penal Codification concentrated on discipline and the rehabilitation of the prisoners as a project of “civilization” by the Ottoman bureaucracy.¹⁰⁴⁰ British ambassador Canning virtually contributed to this civilization project with his report that also underlined the significance of establishing penitentiaries where possible to rehabilitate the prisoners with their physical facilities and functions, including prison factories and workshops targeting the correction of prisoners by means of penal labour as a positivist form of penitentiary science.¹⁰⁴¹ According to Canning, idleness became an apparent hazard that prevented prisoners' rehabilitation and purification; at the same time, it unfortunately paved the way for a high risk of recidivism and

¹⁰³⁵ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)*, (İstanbul: Kitabevi, 2012), 30. See proposals for the implementation of penal labor (*kürek cezası*): Ahmet Gökçen *Tanzimat Dönemi Ceza Kânûnları ve Bu Kânûnlarındaki Ceza Müeyyidleri*, (İstanbul: 1989), 39, 44.

¹⁰³⁶ Ibid., 71.

¹⁰³⁷ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 24.

¹⁰³⁸ Rudolph Peters, “Egypt and the Age of Triumphant Prisons: Legal Punishment in 19th Century Egypt,” *Annales Islamologiques* 36 (2002), 259.

¹⁰³⁹ Yıldız, 18, 61, 91, 102, 184, 187, 435.

¹⁰⁴⁰ Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 46.

¹⁰⁴¹ BOA.MVL 246/49: 1 R 1268/ 24 January 1852; BOA.HR.TO. 215/58: 24 § 1267/ 24 June 1851; Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 133-34.

criminal potential after release.¹⁰⁴² In addition to serving as hard laborers, with scheduled and regular waking and sleeping times, he recommended the right of prayer for all prisoners whatever they believed in, for the sake of their purification and rehabilitation.¹⁰⁴³ In short, Canning completely took a position against idleness and its contribution for the criminal potential of the inmates. In light of these brief concepts, the Ottoman government aspired to set up a new penitentiary system including workshops and small factories that were established in the prisons.

The 1858 Penal Code involved two articles (20 and 21) that proposed prisoners could not work outside the prisons except for the temporary and permanent prisoners who were being punished by penal labour (*kürek*) who were generally incarcerated distant *kürek centers*.¹⁰⁴⁴

In 1865, the Ottoman government heralded a new Regulation that in Articles 20 and 25 proposed working principles and rules for the inmates in the small workshops in the wards until the expanded prison workshops opened.¹⁰⁴⁵ According to Articles 20-25, Ottoman prisoners had to work 6 hours in winter, 8 hours in summer seasons in the prison workshops. In case the prisons had no separate workshops, the wards would be used as the working place of prisoners. Each prisoner had to work. If they did not have a special productive skill, they had to learn a specific craft.¹⁰⁴⁶ The articles proposed that the incomes from prisoners' labor had to be allocated firstly for the expenditures of prisoners' vital needs to the state budget; secondly to the prisoners directly for their living expenses; lastly for the prisoners after their release.¹⁰⁴⁷ Undoubtedly, these proposals remained on paper due to the disordered, unsystematized and irregular prison policies that also led to frequent corruption and malpractice cases of the Ottoman cadre, as seen below.

As an outcome of these attempts, Hapishâne-i Umûmî (Sultanahmet Penitentiary) initiated workshops and small factories to avoid the idleness of inmates in 1871. Several prison factories were founded for the rapid productions of the inmates. The legal and penal expert Ahmet Lütfi claims, the Sultanahmet Penitentiary had comfortable and convenient living conditions for the inmates, and penal laborers (convicted) enjoyed these comfortable conditions, a fact that was criticized by Ahmet Lütfi.¹⁰⁴⁸ His criticism is valid for the first years

¹⁰⁴² Yıldız, 141.

¹⁰⁴³ Yıldız, 141-142.

¹⁰⁴⁴ See articles 20 and 21; Ahmet Akgündüz, "1274/1858 Tarihli Osmanlı Ceza Kanunnamesinin Hukuki Kaynakları, Tatbik Şekli ve Men-i İrtikab Kanunnamesi," *Belleten*, No. 199 (1987): 153-91.

¹⁰⁴⁵ Atar, Zafer, "20. Yüzyıl Başlarında İstanbul Hapishane-i Umumi'de Mahkûmların Üretim Faaliyetleri," *SDU Faculty of Arts and Sciences Journal of Social Sciences*, 34 (2014): 21.

¹⁰⁴⁶ Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri." (MS thesis, İstanbul Technical University, 2020), 115.

¹⁰⁴⁷ Sezin Dirihan, 115.

¹⁰⁴⁸ Serpil Bilbaşar, "Hapis Cezasının ÖrgütSEL ve Hukuksal Gelişimi," *Birikim Dergisi* 136, No. 1995 (2000): 44.; See comments of Ahmet Lütfi: "...bu misüllü mürcimlerin inkîzay-i müddet

of Hapishâne-i Umûmî that became dilapidated shortly after its foundation. The female inmates of Sultanahmet Penitentiary had to work in small workshops to produce socks and military uniforms. With the 1880 Prison Regulation, working became obligatory for the inmates. According to the Regulation (Articles 69 -72), the inmates had to learn an occupation, then they could earn money in return for their labour.¹⁰⁴⁹ Their income had to be given to them in order to cover their expenses in prison, on the one hand, or it had to be kept by the prison management to be given it to them later for their forthcoming expenses. In case the prisoners avoided working, they were deprived of break time (*teneffüs*) in the prisons as encouragement for working.¹⁰⁵⁰ Briefly, the 1880 Regulation meted out four relevant articles that offered regular working for the inmates.¹⁰⁵¹ In case the inmates rejected working, they had to be punished by nonstop confinement without a break from 24 hours up to one week. Moreover, if they repeated avoiding work, the duration of nonstop confinement would be increased by the prison administrative bodies.¹⁰⁵² In addition to this enforcement, in case the prisoners rejected working in the prison factories, the prisoners could not utilize food service (*tâyinat*) and the prison administrations did not allow buying food from the prison groceries.¹⁰⁵³ Succinctly, the regulations of Ottoman penal reform forced the inmates to work in the prison workshops with deterrent punishments somehow. By these regulations, the Ottoman government embarked on

mahkûmiyyetlerine kadar İstanbul'un vasatında, Sultan Ahmed civârı gibi ortalık yerde, her nevi kabâyi ve fezâyih ile mahkûm olan bir takım haşerâtın işsiz güçsüz hapis ve tevkîfinin muvâfîk-ı hâl ve maslahât olamayacağı ve vakti ile kürek cezâsiyle mahkûm olanların Tersâne Mahbesi'ne vazi'ları beyhûde bırakılmayıp, Tersane umûrunda istihdamları garazından ibâret olmasile, şîmdi bunların Hapishâne-i Umûmîde tevkifleri, kürek cezâsi nâmına tevâfuk edemeyeceğinden, ba'dema bunlara başka nâm verilmesi îcâb edeceği cümle-i havâtır-ı kasıra-i Fakîrânemdendir.”; Münir Aktepe, *Vak'anüvis Ahmet Lütfî Efendi Tarihi*, Vol. 12 (Ankara: Türk Tarih Kurumu Basımevi, 1989), 100.

¹⁰⁴⁹ BOA.A.DVN. MKL. 19/28: 26 M 1298/ 29 December 1880. Memâlik-i Mahrûsa dâhilindeki tevkîfhâne ve hapishânelerin idâre-i dâhiliyyelerine dâir talimatnâme. 4. Chapter: Mahbusînin çalıştırılması. Article 69- Her hapishânede mahbûsin-i mahkûminin hiç biri işsiz kalmayacak surette ameliyat tertib olunacaktır. Ameliyatın sûret-i tertib ve usûl-i hesabiyesi onyedinci ve onsekizinci maddelerde târif olunduğu üzere hapishâne müdirleri tarafından karâlaşdırılarak adliye müfettişlerine bildirilecektir. Article 70- Bilâ-gadr-ı makbûl çalışmaktan kaçmak isteyen mücîrim-i mahkûm yirmidört saatte bir haftaya kadar teneffüse çıkarılmaktan mahrûm bırakılacak ve tekrarı halinde cezâ-yı mezbûr tazif edilecektir. Article 71 - Her mahbûs hapishânede bulunduğu müddetçe çalışmağa mecbur olacaktır. Fakat mevkûf bulunan maznun-un-ileyhum ile habs cezâsiyla mahkûm olanlardan cânib-i miriyeden iâşesi olmayanlar çalışmak bahsinde muhtardırılar. Article 72- Mücîrim-i mahkûminin âmeliyatından hâsil olacak akçenin nîsfi mekûlât ve melbûsatlarma ve tarâf-ı devletten edilecek masârifâ karşılık olmak üzere tenzil edildikten sonra bakisi icâb ettikce kendilerine teslim olunmak üzere hapishâne deposunda hifz edilecektir. Ve bunun icin 18'nci madde mücîbince sûret-i mahsûsada defter tutulacaktır.

¹⁰⁵⁰ BOA.A.DVN. MKL. 19/28: 26 M 1298/ 29 December 1880, Article 70.

Emel Demir, “Osmanlı Devleti’nde Hapishane Reformu: Çanakkale Hapishanesi Örneği.” (MA thesis, Çanakkale Onsekiz Mart Üniversitesi, 2013), 54.

¹⁰⁵¹ Sezin Dirihan, “Geç Osmanlı Dönemi Hapishaneleri,” (MS Thesis, İstanbul Technical University 2020), 115.

¹⁰⁵² Nurgül Bozkurt, “20. yy Başlarında Kütahya Hapishanesinin Genel Durumu,” *The Journal of International Social Research* 5/21 (2012): 268.

¹⁰⁵³ Ibid., 268.

regular and reformatory attempts, specifically concerning hard labor and its practical application.

Here this part sheds light on the application of hard labour (*kürek*), which differed between the male and female offenders in the 1840s. Gökçen insists that the application of hard labour involved tolerant and flexible options for the female inmates who had to work in closed and isolated areas that had to be far away from the male prisoners, as the 1840 Penal Code stated with Article 23.¹⁰⁵⁴ In this regard, the working areas of the women inmates were surrounded by high walls to avoid close contact with the male prisoners and other workers. Besides, the fetters on their feet had to be taken off for them to work, in order to avoid any obstacle and hinder the work, as proof of the special concern about their vulnerability and physical weakness, which was also underlined by Article 43 of the 1858 Penal Code.¹⁰⁵⁵ The article proposed that in case women were sentenced to hard labor (*kürek cezasi*), they could not be in chains.¹⁰⁵⁶ We do not know how the Ottoman government implemented this on the punishment of female offenders in *kürek* centers; however, the women offenders were generally forced to work in *iplikhânes* (spinning factories), sewing, knitting workshops and other textile factories as penal labourer.¹⁰⁵⁷ As seen in the sources, they were not in chains during their work in that chaining their feet could hinder their productivity. Hence, it is possible to say that the Ottoman government aimed at enhancing their productivity by domestic and proper works regarding their physical abilities and limited muscle force with this implementation.

The Egyptian penal codes followed in the same vein as the Ottomans in the 19th century. According to Gorman, the Egyptian penal system also meted out articles to prevent the whipping, beating, and execution of pregnant offenders even though they had committed

¹⁰⁵⁴ Ahmet Gökçen, *Tanzimat Dönemi Cezâ Kânûnları ve Bu Kânûnlarındaki Cezâ Müeyyidleri*, (İstanbul: 1989), 40-41.

¹⁰⁵⁵ Ibid., 41. *The Imperial Ottoman Penal Code 1858*, translated by J. Bucknill, and H. Utidjian (London: Oxford University Press, 1913), 31. “Article 43: In legal punishments females do not differ from males but in the modes of carrying out punishment it becomes necessary to show regard to the peculiarity of their condition.

The article means that no distinction made between the punishments to which men and women may be sentenced except under the proviso. “Peculiarity of their conditions”, “their” refers, of course, to females; “peculiarity” would be more literally translated as “speciality” and refers certainly to pregnancy and regular bodily weaknesses of female inmates. Grand Vizier Mehmed Reshad states that at the punishment of hanging a woman, no part of her person is exposed; and that a woman undergoing *kyrek* is not put into chains.”

¹⁰⁵⁶ *The Imperial Ottoman Penal Code 1858*, 31: “Peculiarity of their conditions”, “their” refers of course to females; “peculiarity” would be more literally translated “speciality” and refers certainly to pregnancy and regular bodily weaknesses of female inmates. Reshad states that at the punishment of hanging a woman no part of her person is exposed; and that a woman undergoing *kyrek* is not put into chains.”

¹⁰⁵⁷ See section 6.3.

serious and violent crimes.¹⁰⁵⁸ As part of this practice, Egyptian women prisoners were forced to work at lighter jobs and chores vis-à-vis male prisoners. Women inmates frequently worked in places such as yarn workshops, sewing workshops, knit shops, sock workshops and textile workshops in the imprisonment areas and factories outside the prisons. The first textile workshops and yarn factories for the penal labor of women were opened near the city of Bulaq in Egypt in 1856.¹⁰⁵⁹ According to Gorman, "...they became the seamstresses of the prison administration, making clothes for prison guards and inmates. In Lazaret, women worked on sewing or making matchboxes. Such work was squarely within the traditional definition of women's activities."

In the same vein, Fahmy exemplifies a court decision: "The Court, after hearing both Khayr's and Zarifa's testimonies, found the latter guilty and sentenced her to three months imprisonment in the *Iplikhâne* (lit. a spinning workshop) in Bulaq to the northwest of Cairo, which functioned as a prison for women in 1878."¹⁰⁶⁰

Imprisoned prostitutes were also exposed to work as penal laborers in the fields of domestic work, such as sewing and tailoring, as a feminine way of correction to remind them of their innocent origins and to create a financial source for their subsistence. As archival documents show, the women inmates and prostitutes were forced to work as penal laborers in military sewing workshops in 1910 in Istanbul and Edirne Penitentiaries.¹⁰⁶¹ The government especially aimed at preventing the rising number of prostitutes who had to earn money by selling their bodies (*geçim sıkıntısı nedeniyle fuhuş yoluna sapan kadınlar*). Working as penal laborers, inmates who had been committed for prostitution became purified, corrected, and domesticized. Above all, they could have a job to survive, as the section on prostitution examines. British women prisoners were likewise assigned to workshops to carry out domestic work such as sewing, tailoring, and laundering, to remind them of their domesticity and femininity, in the 19th century, in the same vein with the Ottoman Empire. Moreover, before the 19th century, women (particularly prostitutes) were incarcerated in bridewells, where they worked as prostitutes as well.¹⁰⁶² That is why before the 19th century (amid the institutionalization and standardization of women's prisons in Britain as a result of the increased population of women offenders), women had been exploited overwhelmingly for

¹⁰⁵⁸ Anthony Gorman. "In Her Aunt's House: Women in Prison in the Middle East," *IIAS Newsletter* 39, No. 1 178–84.

¹⁰⁵⁹ Anthony Gorman, "Regulation, Reform, Resistance in the Middle Eastern Prisons," in *Cultures of Confinement: A History of the Prison in Africa, Asia, and Latin America*, edited by Ian Brown, Frank Dikötter (Ithaca, New York: Cornell University Press, 2007), 119.

¹⁰⁶⁰ Khaled, Fahmy, "The Police and the People in 19th Century Egypt," *Die Welt des Islams* 39/3 (1999): 343.

¹⁰⁶¹ BOA. DH. EUM. THR 48/36: 25 Şaban 1328 /1 September 1910.

¹⁰⁶² Roger Matthews, *Doing Time: An Introduction to the Sociology of Imprisonment* (London: MacMillan Press, 2011), 13-15.

textile production. The British and French prisons had begun to construct prison factories and workshops during the 1820s and 1830s. Male and female workshops for shoemaking, sewing, and yarn production were set up by the prison managements who aspired to utilize the free labor of the inmates.¹⁰⁶³ The essential purpose was to usufruct their labor under the guise of purification and rehabilitation of prisoners in textile workshop.¹⁰⁶⁴ Thus, women inmates worked in workshops to join in domestic productivities as charwomen, needlewomen, and laundry women in British prisons.

Şen also insists that women began working in textile workshops in Edirne prison, producing socks, flannels and skirts, at the beginning of the 20th century.¹⁰⁶⁵ In addition, weaving machines were bought with the support of prisoners and prison managements to carry on production in the Ottoman provincial penitentiaries.

Not only in Istanbul, but also in Izmir, several *iplikhânes* and *kağıthânes* (papermills) utilized the free labor of the offenders who had committed less serious offences and misdemeanors (*cünha* and *kabahat*) during the 19th century. An archival document shows that several prisoners were imprisoned as penal laborers in Izmir *İplikhânesi* on 3 November 1857. This correspondence between *İplikhâne* Müdürlüğü (management) and *Şehremâneti* shows that the prisoners who were released after their sentence ended in İzmir's spinning mill were not allowed to collect *kirpas'pâre* (rag picking) anymore after their release in order to prevent their unlawful financial profit.¹⁰⁶⁶ These examples apparently demonstrate that these *İplikhânes* were used both as factories and prisons in the early years of the Tanzimat; however, the Ottoman archives mostly illustrate the using of *iplikhânes* as factories.¹⁰⁶⁷ Yıldız claims that the offenders who had committed serious offences (*cinâyet* category in the Ottoman criminal justice system) were forced to serve in the spinning factories by the *Bâb-ı Zabtiyye* in the 1850s.¹⁰⁶⁸ On the other side, as Suciyan says, Armenian, Greek and Catholic children from the

¹⁰⁶³ William Hepwort Dixon was an English historian traveller who wrote about John Howard's contribution to British and European prisons with his innovative and modern penal perspectives.; William Hepwort Dixon, *John Howard and the Prison World of Europe*, (Webster Mass.: Frederick Carlton, 1852). 188-217.

¹⁰⁶⁴ Linda Moore and Phil Scraton, *The Incarceration of Women, Punishing Bodies, Breaking Spirits* (Basingstoke: Palgrave Macmillan Publishing, 2014), 4-5.

¹⁰⁶⁵ Ömer Şen, *Osmanlı'da Mahkum Olmak: Avrupalılışma Sürecinde Hapishaneler* (İstanbul: Kapi Yayıncılık, 2007), 60-61.

¹⁰⁶⁶ BOA.HR. MKT. 15 Ra 1274/ 3 November 1857.

¹⁰⁶⁷ Donald Quataert, "Manufacturing" In *An Economic and Social History*, edited by Halil Inalcık and Donald Quataert (Cambridge: Cambridge University Press, 1994), 900.

¹⁰⁶⁸ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 121.

eastern provinces systematically were sent to Haliç spinning mills as free laborers without salary, only in return for bread and clothes in the 1840s.¹⁰⁶⁹

A petition from *Mebâni-i Emîriyye Hapishâneler İdaresi* illustrates the use of *iplikhânes* as prisons into the 20th century. Prison Directory, which was sent to Istanbul *Vilâyeti Celilesi*, demonstrated that the offenders who were sent to Haliç and Eyüp *İpilikhâneleri* (spinning mills) urgently needed a gendarmerie guardian to keep the security and control of prisoners during their transportation to *İpilikhâne* hospital on 8 March 1919. This demand was rejected by the Gendarmerie Directorate (*Jandarma İdaresi*), in that the Prison Directorate requested help and support from the Istanbul Government Office. As seen clearly, these *iplikhânes* involved hospital facilities for both sick workers and prisoners' medical treatment near their factory complexes.¹⁰⁷⁰ These hospitals serviced workers who were working with daily and weekly allowances, and prisoners who were imprisoned as penal laborers without any salary, including male and female offenders.¹⁰⁷¹



Figure 6.1: Haliç Spinning Mill, *İpilikhâne*, 1851. BOA.Y.FTG/ John Shaw Smith Photo Archive¹⁰⁷²

¹⁰⁶⁹ Both Muslim and non-Muslim community members could be sent to *iplikhânes* (yarn factory) for their petty crimes. Suciyan also shared several cases from Armenian Patriarchate archives to show using *iplikhânes* as prisons in the early years of Tanzimat.; Talin Suciyan, "Ya Derdimize Derman, Ya Katlimize Ferman (Either save us from this misery or order our death): Tanzimat of the Provinces." (Habilitation, Ludwig Maximilians University Munich, 2019), 118-119, 121.

¹⁰⁷⁰ BOA.DH.MB.HPS. 162/88: 5 C 1337/ 8 March 1919.

¹⁰⁷¹ BOA.DH. İD. 996 /:78669: 18 Şevval 1303/ 30 July 1886.

¹⁰⁷² John Shaw Smith (1811-1873) is an Irish photographer and traveller. See Smith, John Shaw," Grove Online. 2003; <https://www.oxfordartonline.com/groveart/view/10.1093/gao/9781884446054.001.0001/oa-9781884446054-e-7000079324>.

This part discusses the position of penal labor among the punitive methods as a great debate, based on the exploitative tool, namely free labor, during the age of industry in the 19th century. Penologists mostly concentrated on hard labor's rehabilitative and transformative functions for the inmates, at the same time constituting the pursuit of free labor as a reflection of industrial-imperial ideology.¹⁰⁷³ Hence, the experience of the Ottoman prison workshops also reinforced the same target that adversely paved the way for the exploitation of the inmates. In particular the prison managements recognized the prisoners as free laborers. In this regard, complaints and petitions apparently demonstrate the question of economic abuse, labor exploitation and the aggrievements of the Ottoman prisoners by prison cadres. Their salaries were kept in a special prison fund, and after their release, prison managers had to give them their dues. However, some prison managers (*müdir*) and chief guards (*sergardiyân*) attempted to corrupt prisoners' fees, as seen in the pages below.

The prison managements had to spend all their money for the prisons and prisoners' vital needs. The petitions and requests demonstrate very ambivalent practices in the prisons. Zafer Atar points out that a financial report was requested from the Hapishâne-i Umûmî's administrative cadre on the productivity and income of prisoners in workshops; however, they did not provide the requested fiscal documents. Despite several warnings and requests from the Ministry of Finance, Istanbul prison managers did not keep track of incomes in their records. The Ministry of Finance required a report on the productivity (both capital money and expenditures) of the workshops at the Hapishâne-i Umûmî in order to investigate the requests of prisoners who complained that they worked as free laborers in the Istanbul Penitentiary.¹⁰⁷⁴ They ascertained an irregularity based on unregistered money by Prison Manager Efsaladdin Bey.¹⁰⁷⁵ At the end of story, the correspondence noted that these incomes were not recorded within the mutual decision of Efsaladdin Bey and the prison inspector. However, we still do not know why they decided upon these unregistered productions of prisoners. In my opinion, this seems a corruptive act, and they were very widespread among the prison cadre in the late Ottoman Empire. Despite cases of corruption, the Hapishâne-i Umûmî was the backbone of the prison workshops system, and penal labor models spread from there to the provincial prisons. Nevertheless, the prison cadres dramatically corrupted and exploited the prisoners' labor.

¹⁰⁷³ Henry Mayhew and John Binny, *The Criminal Prisons of London and Scenes of Prison Life* (London: Griffin, Bohn, Company, Stationers' Hall Court, 1862), 35-36, 88-89.; Patricia O'Brien, *The Promise of Punishment: Prisons in Nineteenth-Century France* (Princeton: Princeton University Press, 1982), 131-44.

¹⁰⁷⁴ Zafer Atar, "20. Yüzyıl Başlarında İstanbul Hapishane-i Umumi'de Mahkûmların Üretim Faaliyetleri," *SDU Faculty of Arts and Sciences Journal of Social Sciences*, April 2014, No: 34, 29-30.

¹⁰⁷⁵ Atar, 29-30.

In addition, prisons sought out ways of creating new financial sources for the prisons' expenses that covered daily meals, bedding and clothing, repairs and above all the rental fees for leased prisons. In reference to archival correspondence, in 1886, a workshop (*sanayihâne*) had to be built inside the central prison in Aydin *Vilâyeti*.¹⁰⁷⁶ However, due to financial difficulties, the local governor decided to organize a lottery (despite it being illegal) in order to finance the construction.¹⁰⁷⁷ As a result of the lottery, the prison management of Aydin Provincial Prison succeeded in getting a financial sum for the addition of a prison workshop for the rehabilitation of prisoners, which would dispel their idleness.

Another attempt at establishing a workplace to rehabilitate and correct prisoners came from Istanbul on 11 July 1899.¹⁰⁷⁸ *Hapishâne-i Umûmî* built separate barracks to found workshop factories for the production of shoes, wooden items, such as tables, chairs, and above all socks and underwear for the female prisoners. Despite attempts at establishing prison workshops in the Istanbul Penitentiary, cholera and typhus epidemics hit all the prison wards. The prison management pulled down the barrack factories to build a new prison hospital, namely a quarantine hospital, in 1899.



Figure 6.2: Photo by Ferid İbrahim, Istanbul *Hapishâne-i Umûmî*, Tailorshop (Terzihane)¹⁰⁷⁹

¹⁰⁷⁶ BOA.DH. MKT 1378/82: 18 Safer 1304/ 16 November 1886; BOA.DH.MKT. 1366/ 142: 22 Zilhicce 1303/ 21 September 1886.

¹⁰⁷⁷ See Nadir Özbek, "Philanthropic Activity, Ottoman Patriotism, and the Hamidian Regime, 1876-1909," *International Journal of Middle East Studies* 37, No. 2005 (2005): 64-66.

¹⁰⁷⁸ BOA.İ.ZB 2/16: 2 Ra 1317/ 11 July 1899.

¹⁰⁷⁹ Polis Mecmuası, 20 Şaban 1332/ Police Journal, 14 July 1914: Unfortunately, the Police Journal does not provide any visual material or information on women's penal laborers, their works, duties and fees.

After the foundation of the Prison Administration during the CUP government, prison workshops and factories were established in public areas located near the prisons and inside proper (*umumi*) penitentiaries in Istanbul, Aydin and Edirne, with the special efforts of prison officers and public officials in 1912, contrary to 1880 Prison Regulation's article that proposed that the prisoners could work only in workshops in the prisons.¹⁰⁸⁰ However, the prison administrations allowed prisoners to work outside the prisons, as the forthcoming cases show. Not only the central penitentiary, but also small proper prisons attempted to open new prison workshops, while they encouraged the rehabilitation of the inmates by means of penal labor as a tool of correction. In 1903, Kozan Sanjağı and Cebel-i Bereket (Osmaniye) Sanjağı demanded additional funding to buy equipment and tools for the foundation of prison workshops. Moreover, this archival document demonstrates another experience concerning the working of the inmates' rehabilitation.¹⁰⁸¹ The male inmates were forced to work on the renovation of their prison's buildings that had to be repaired due to their broken walls, destroyed roof and bricks, and damp floors. Peters points out that the Egyptian system created problems, such as a lack of isolation, even as penal laborers were rehabilitated by regular working and production.¹⁰⁸² While the prisoners worked together inside prison workshops or separate factories, the isolation and separation according to crime type were not applied by the Egyptian prison administrations. According to Gorman:

*Prison conditions were not aimed at isolating prisoners from society and prisoners were in close contact with the outside world. This was facilitated by two factors: inmates depended on their relatives for food, particularly in local prisons, those sentenced to penal labor would often work together with free laborers.*¹⁰⁸³

As Gorman insists, the Egyptian prisoners inevitably had close contact with the other free laborers; briefly, the practical implementation of penal labor hindered the isolation and rehabilitation purposes of this punitive method in Egyptian prisons. The Ottoman prisons were also faced with the same problems. Working in the factories outside the prisons with other workers posed several questions such as prison breaks, escapes, disordered hard labor implementation and frequent contact of prisoners with the outside world. However, this was not

Nevertheless, the women offenders worked as tailors, knitters and laundrywomen in the Ottoman penitentiaries, as other archival sources apparently demonstrate.

¹⁰⁸⁰ BOA.DH.MB.HPS 144/103: 4 R 1330/ 23 March 1912

¹⁰⁸⁰ BOA.DH.MB.HPS 144/103.

¹⁰⁸¹ BOA.DH.TMIK.S: 50/1232 Recep 1321/ 15 October 1903. Kozan ve Cebel-i Bereket sancığında hapishane tamiriyle sanayide çalıştırılacak mahbuslar için gerekli alet ve edevatın temini.

¹⁰⁸² Rudolph Peters, "Prisons and Marginalization in Nineteenth Century Egypt," In *Outside in: On the margins of the Modern Middle East* Edited by Eugene Rogan (London: I.B. Tauris, 2002), 41-43.

¹⁰⁸³ Peters, 41.

a great problem for the prison management that did not take care of the prisoners. Their major aim was utilizing free labor rather than rehabilitation and correction.

An archival source from Denizli Sanjak demonstrates another dimension and dark side of prisoners working. According to correspondence between Denizli Central prison administration and *Mebâni-i Emîriyye Hapishâneler İdaresi*, male prisoners (*zükûr mahkum*) were compelled to work not only on the construction and renovation of the prison, but also in municipal construction and prison factories (*imalâthâne*). Some of the male prisoners resisted the prison Denizli prison management, hence the solution of the Prison Directorate: withholding their daily bread (*tâyinat*), constraining them from earning their daily wages, and forcing them to buy food from the prison's grocery (*habshâne kantini*) with their own money, in 1913.¹⁰⁸⁴ All in all, the prisoners were compelled to work not only in the prison factories but also in other areas, such as the construction of municipal buildings outside the prisons. During the CUP government (1908-1918), the systematization and reformation attempts on prison modernization became more visible than ever.¹⁰⁸⁵ The establishment of prison workshops and prison factories was increased after the promulgation of the Second Constitution in 1908.¹⁰⁸⁶ The prison administration's intention was to wipe out idleness while exploiting the free labor of prisoners to avoid prison expenses and rental fees.

The CUP was more successful on the implementation of penal labor. *Hapishâne-i Umûmî* (Sultanahmet Penitentiary) underwent numerous changes and considerable transformation in order to build various prison workshops with which they aspired to present a productive reformatory model, and at the same time a genuine correction house, in the early 20th century. It included several workshops, such as woodwork shops, sewing shops, shoe shops, and beadwork ateliers.¹⁰⁸⁷ Furthermore, in 1912, *Hapishâne-i Umûmî* prisoners produced clothes for the destitute students of the *Nişantaşı Sultanisi* (Nişantaşı High School), 110 pairs of shoes for the students of *Dar’ülmuallimin* (Teacher's College), and tables, chairs and cabinets for the police stations (*Zabıtiye karakolu*) through tendering procedures.¹⁰⁸⁸ Not only the Ottoman military forces, but also other public institutions (schools, madhouses, poorhouses, orphanages, etc.) sent several orders to Istanbul Penitentiary in the 1910s.¹⁰⁸⁹ Moreover,

¹⁰⁸⁴ BOA.DH.MB.HPS. 50/14: 12 Şevval 1331/ 14 September 1913

¹⁰⁸⁵ Zafer Atar, "20. Yüzyıl Başlarında İstanbul Hapishane-i Umumi'de Mahkûmların Üretim Faaliyetleri," *SDU Faculty of Arts and Sciences Journal of Social Sciences* 34 (2014): 21.

¹⁰⁸⁶ Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri." (MS Thesis, Istanbul Technical University, 2020), 116.

¹⁰⁸⁷ Zafer, 22.

¹⁰⁸⁸ Atar., 25.

¹⁰⁸⁹ Dirihan, "Geç Osmanlı Dönemi Hapishaneleri." 116-117.

Hapishâne-i Umûmî saliently began to produce considerable supplies for the Ottoman Navy such as shoes, military uniforms, and wooden products.¹⁰⁹⁰

Shortly after the opening of the prison factories in provincial penitentiaries, the Directorate of Prisons remarked on their pleasure that was based on the fulfilment of two different functions of corrective ateliers: the discipline and correction of the inmates and getting a considerable budget for the prison's expenses. In this regard, they aimed at opening more prison workshops in the provincial prisons in 1911 to get income for the prison expenditures as a solution for scarce allowance.¹⁰⁹¹

Last but not least, the head prison inspector, Paul Pollitz, prepared a report in 1917 on the recommended rehabilitation for female inmates in provincial prisons. Pollitz proposed a penitentiary model, including a prison workshop, to wipe out the idleness of prisoners and to utilize their labor, after the inspection of provincial prisons in the Aegean province, such as Izmir, Aydın and the Istanbul central penitentiaries. According to his urgent recommendations, in order to cope with the idleness of women inmates, they had to be forced to darn clothes and socks, to sew, and knit various textile products and to launder for the entire women's prisons (*nisâ hapishâneleri*).¹⁰⁹² In addition to these obligatory duties and work, female inmates could launder the uniforms of the members of the local gendarmerie and police force in Aydın Vilâyeti in 1917, according to the suggestions of Dr. Pollitz.¹⁰⁹³ According to Gönen, Paul Pollitz devoted himself to establishing an institutional and systematized workshop system, especially in Aydın province, despite the limited budgetary facilities, to struggle against the idleness and recidivist tendency of the female inmates.¹⁰⁹⁴ In doing so, the government could get enough money to renovate and rebuild the prison buildings in the provincial areas. As noted above, the work and labor of the prisoners encouraged the rehabilitation of the inmates and their control and discipline in the prisons. Moreover, they could adapt to life outside prison after being released through these working and rehabilitating ways.¹⁰⁹⁵ In 1918, after the inspection by Paul Pollitz of Hapishâne-i Umûmî in Istanbul, a critical report on the filthy, dreadful, physical conditions of prison wards and the misery of the prisoners was prepared, as

¹⁰⁹⁰ Zafer Atar, "20. Yy. Başında Turgutlu Hapishanesinin Genel Durumu," 23.

¹⁰⁹¹ Sezin Dirihan, "Geç Osmanlı Dönemi Hapishaneleri," 116.

¹⁰⁹² Saadet Tekin, "Osmanlı'da Kadın ve Kadın Hapishaneleri," *A.Ü.D.T.C.F Dergisi*, Vol 29, Issue 47, 97.

¹⁰⁹³ Saadet Tekin, "Dr. Polliç Bey'in 1918 Tarihli Raporuna Göre Berlin ve Aydın Vilayeti Hapishanelerine Genel Bir Bakış," *OTAM* 24 (2010): 213-215.

¹⁰⁹⁴ Yasemin Gönen, "Osmanlı İmparatorluğu'nda Hapishaneleri İyileştirme Girişimi, 1917 Yılı," In *Hapishane Kitabı*, edited by Emine Gürsoy Naskali and Hilal Oytun Altun, (İstanbul: Kitabevi Yayınları, 2005). 177.

¹⁰⁹⁵ Saadet Tekin, "Osmanlı'da Kadın ve Kadın Hapishaneleri," 97.

Section 4.5 already touched on.¹⁰⁹⁶ As a solution, he suggested that the prison management should seize a quarter or half of the income from inmates' production as shoemakers, carpenters, and iron workers in order to create a budget to provide the daily needs of inmates and to renovate the *Dersaâdet* Penitentiary.¹⁰⁹⁷ However, the archival records show that the Ottoman penitentiaries did not have a structured prison workshop system. Even if they had, the corruption and malpractices of the prison cadre mostly hampered getting income for prison expenditures and prisoners' vital needs.

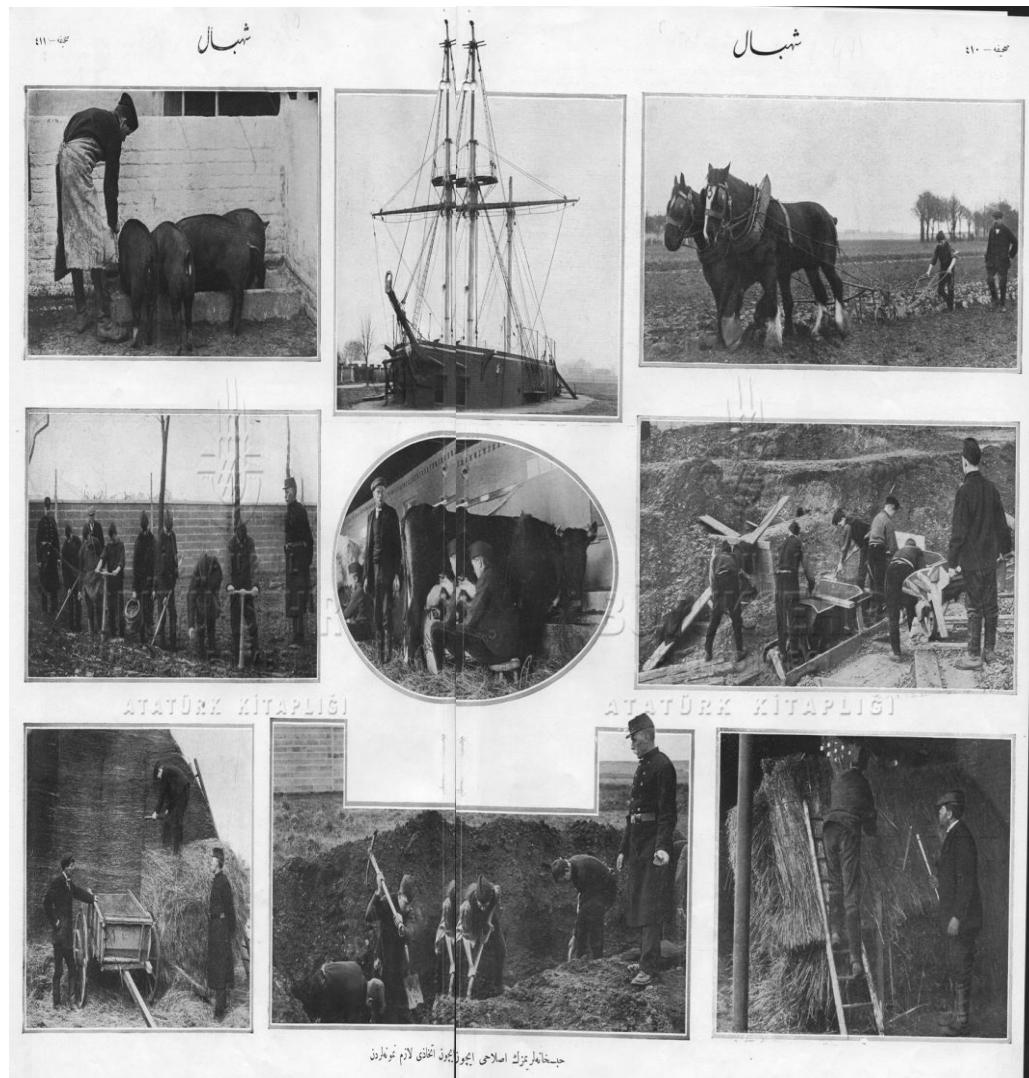


Figure 6.3: *Şehbâl Dergisi* 15 Teşrinisani 1327/ 28 November 1911: *Hapishânelerimizin İslahi için ittihâzi lazıム numûnelerden./ Necessary models for the reformation of our prisons.* Sahife/ Page: 410-411.¹⁰⁹⁸

¹⁰⁹⁶ See Section 4.5.

¹⁰⁹⁷ Emel Demir, 'Osmanlı Devleti'nde Hapishane Reformu: Çanakkale Hapishanesi Örneği.' (MA Thesis, Çanakkale Onsekiz Mart University, 2013), 74.

¹⁰⁹⁸ *Şehbâl* Magazine published these photographs from a European prison which had a scenes of the standard penal labor for the prisoners. The piece of *Şehbâl* magazine has not provided information on the

All in all, the Ottoman prisons established prison workshops and factories within the effects of the 1858 Penal Code and the 1865 and 1880 Prison Regulations. Women inmates were excluded from heavy work due to their physical weakness and limits of muscle power alongside the domestication goal of penal labor implementations. However, as the entire prison reform attempts were interrupted by budgetary questions, the prisons had several financial troubles establishing workshops inside penitentiaries. Therefore, the prisoners were forced to work in factories outside the prisons, which posed close interactions between workers and prisoners. Moreover, that paved the way for collective and individual prison break cases. In addition to these, prison cadres, managers and wardens corrupted the incomes of prisoners who quickly became free laborers. Briefly, an important question comes to mind: were both male and female prisoners free laborers or penal laborers in the eyes of Ottoman bureaucracy?

6.4. Amnesty and Pardon Policies

This section concentrates on the policies of mass and individual amnesties of the late Ottoman government; it pursues the main goals of these amnesties, their practical applications, causes and effects, and their general outcomes, specifically for female inmates, from the Tanzimat period up to the decline of the Empire. In this regard, this section examines not only the types of amnesty and pardons but also the pardons and mercy that were mostly requested by women inmates due to familial, motherly, and medical reasons.

This section discusses the general amnesty policies of the Ottoman Empire before the examination of individual pardons and amnesty, along with the analysis of the individual amnesty requests that illustrate several reasons, such as health problems, pregnancy, fatal illnesses, and epidemic crises for pardons with their influence on the determination mechanism of the prison administrations. mostly reinforced the mass amnesty by the Sultans' edicts or ordinances and individual pardons, with the influence of the prison managements' encouragement. It was overwhelmingly aimed at mostly reducing the prison populations to prevent rapid spread of disease among prisoners, causing mass deaths in Ottoman prisons. The female inmates merited various sorts of amnesty in that their motherhood and femininity including bodily weaknesses and motherly responsibilities paved the way for lenient, tolerant, and empathetic treatment towards them, as Section 5.4 examines, concerning the effects of the reproductivity of female inmates.¹⁰⁹⁹

place and name of prison and Atatürk Kitaplığı does not provided following part of the magazine due to Covid restrictions.

¹⁰⁹⁹ See Section 5.4.

The general reason for mass amnesty proclamations derived from the overpopulated prisons and the lack of imprisonment areas during the early years of the Tanzimat. However, as we will later see, this also caused terrible outcomes that encouraged the recidivism potential of former prisoners, who tended to commit offences once again due to the very frequent mass amnesties and easy access to individual pardons, especially during the reign of the Tanzimat and Hamidian periods.

The 1858 Imperial Penal Code overwhelmingly meted out imprisonment as the main punishment method for most of crime categories. This ensured the extreme increase of prison populations along with the increase of criminality rates resulting from the migrations and financial difficulties as consequences of the defeats of the Ottoman army.¹¹⁰⁰ In addition, the second effective influence of increasing prison population was extremely long prosecutions of the Nizâmiye courts, as discussed in the prison reform chapter, Section 3.7.¹¹⁰¹ These all led to frequent amnesty proclamations during the late Ottoman Empire. The underdeveloped jails and prisons could not tolerate the question of overpopulation of prisoners who were incarcerated without any division according to their crimes in the same wards as those detained and convicted prisoners in the jails and prisons during the age of pre-prisons and amid ongoing prison reform since 1840. Therefore, the Ottoman government systematically and regularly began to proclaim mass amnesties in order to reduce prison populations, specifically in the 1860s and 1870s, as an ostensible effort to solve the overpopulation question of prisons. Similar mass amnesty promulgations were observed in Egyptian prisons, particularly in the 1860s. As Peters lists, the Egyptian government intermittently heralded twelve general (mass) amnesties that involved all crimes, even murder, from 1828 up to 1868.¹¹⁰²

The combination of no crime and gender separation, dilapidated imprisonment areas, the hazardously high mortal risk due to the unhygienic living conditions, and the quick spread of epidemic disease among prisoners led to systematic, regular, and comprehensive general amnesty proclamations in the late Ottoman Empire. Although the Hapishâne-i Umûmî was established in 1871, it became an overcrowded prison with insufficient wards due to the high numbers of prisoners (including prisoners awaiting trial). In the same year, the administration of the Istanbul penitentiary transferred eight prisoners who had committed serious crimes (*cinâyet*) to a center of hard labor, the Akka fortress, in the province (*vilâyet*) of Beirut, in Akka

¹¹⁰⁰ Gültekin Yıldız, *Mâpusane: Osmanlı Hapishanelerinin Kuruluş Serüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 289.

¹¹⁰¹ See Section 3.7.

¹¹⁰² Rudolph Peters, “Egypt and the Age of Triumphant Prisons: Legal Punishment in 19th Century Egypt,” *Annales Islamologiques*, Vol. 36 (2002), 268.

Sanjak, in order to reduce the prison population.¹¹⁰³ Nevertheless, transferring prisoners to hard labor areas (*kürek merkezleri*) did not satisfy the expectations of decreasing the population of the Istanbul penitentiary. On the other side, in addition to amnesty proclamations, transferring prisoners to other prisons that had more capacities, was another solution of the Ottoman government during the Hamidian Era. Yıldız states that 80 inmates from 280 prisoners were transferred from *Karesi Liva Hapishânesi* (Balıkesir) to Istanbul with the approval of the Ministry of Interior (*Dâhiliyye Nezâreti*) in 1881 due to the high population of inmates and the insufficient prison wards in that region.¹¹⁰⁴ Not only *Karesi Liva Hapishânesi* but also many provincial prisons, in places such as Bitlis, Kosova, Aydin, Salonica, Diyarbekir, and Cezâyir-i Bahr-ı Sefid, had similar problems that were insufficient prison wards, scarce facilities, and cramped living areas in 1882.¹¹⁰⁵ *Tokat Kazâ Nisâ Hapishânesi* was also faced with an overpopulated women's prison question. They sent a petition to *Adliye ve Mezâhib Nezâreti* about the crowded wards of Tokat women's prisons (*habshânedede izdiham olduğundan*), and they recommended that transferred women prisoners had to be sent to other provincial prisons that had more spatial capacity, on 5 April 1893.¹¹⁰⁶

As a radical solution, the Ottoman government followed a new agenda, in other words, a mass amnesty for the prisoners of the Istanbul Penitentiary as part of the *ciilus* amnesty (*afv-i umûmi*), which was traditionally promulgated on the enthronement of the Ottoman Sultans.¹¹⁰⁷ The prisoners experienced *ciilus* amnesty (enthronement amnesty) for the first time in 1871 in *Dersâdet penitentiary*.¹¹⁰⁸ Not only for the enthronement of the Ottoman Sultans, but also for the anniversaries of their enthronements, religious feasts (Ramadan Eid and Sacrifice Feasts), the birthdays of Sultans¹¹⁰⁹, the Friday Divine Service Parade (*Cuma selamlığı*) and also the successful circumcisions (*siünnet*) of sons of Sultans (*şehzâde*) became the guises of proclamation of general amnesties that overwhelmingly involved inmates who had committed less serious offences, such as debtors.¹¹¹⁰ As a sign of the Sultan's mercifulness (*merhamet-i*

¹¹⁰³See Gültekin Yıldız, *Mâpusane: Osmanlı Hapishanelerinin Kuruluş Seriüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 289.

¹¹⁰⁴ Özgür Yıldız, "Osmanlı Hapishaneleri Üzerine Bir Değerlendirme : Karesi Hapishanesi Örneği," *Gazi Akademik Bakış*, Vol. 9, Issue 17, 2015, 98.

¹¹⁰⁵ Ibid., 98; *Salnâme-i Vilâyet-i Aydin*, 1300 (1883).

¹¹⁰⁶ BOA.DH.MKT.8/90: 18 Ramazan 1310/ 5 April 1893: Tokad *nîsâ* habshanesinde izdiham olduğundan başka mahallerden gelen kadınların geri gönderilmesi.

¹¹⁰⁷ Osman Köksal, "Osmanlı Hukukunda Bir Ceza Olarak Sürgün ve İki Osmanlı Sultanının Sürgünle İlgili Hattı-ı Hümayunları," *OTAM*, Vol. 19, 2006, 301-303; Gültekin Yıldız, *Mâpusane: Osmanlı Hapishanelerinin Kuruluş Seriüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 301.

¹¹⁰⁸ Ibid., 302-303.

¹¹⁰⁹ Fatmagül Demirel, "Osmanlı Padişahlarının Doğum Günü Kutlamalarına Bir Örnek," *İlmi Araştırmalar*, Vol. 11, 2011, 70.

¹¹¹⁰ Ufuk Adak, "The Politics of Punishment , Urbanization , and Izmir Prison in the Late Ottoman Empire." (PhD diss., University of Cincinnati, 2015),197.

seniyye) and display of power (*kudret*), these amnesties became the traditional way for the political consolidation of the Sultans' powers.¹¹¹¹ In addition to these occasions, the *sülüsân* amnesty (*afvi*) was comprised of the inmates who had already completed two-thirds (2/3) of their sentences, except offenders who committed serious offences (*cinâyet*).¹¹¹² *Sülüsân* amnesty and *cülaus* amnesty became the most known and widespread amnesty ways to diminish the prison population during the eras of Sultan Abdülaziz and Abdülhamid II.¹¹¹³ However, the frequency of mass amnesties was increased by the Hamidian government vis-à-vis Abdülaziz's amnesty and pardon receptions, by his annual enthronement celebrations, birthday celebrations, Friday prayers, and Ramadan and Sacrifice Eids.¹¹¹⁴ Şen notes that the intensive and often general amnesty proclamations became a way of showing the power, mercy, and benevolence of the Sultan, specifically during the Hamidian period, as a component of his governmental legitimization effort.¹¹¹⁵ The mass amnesty policy intentionally embedded itself into the middle of prison policies; hence, the prison censuses of Abdülhamid II aimed at having a grasp of prison populations, providing detailed information about where the number of prisoners was too high and how to reduce prison populations.¹¹¹⁶

Meanwhile, provincial prisons including *kazâ hapishâneleri* (*district prisons*) were also granted *sülüsân* amnesties for prisoners who were imprisoned as hard laborers, in order to decrease the number of prisoners.¹¹¹⁷ Not only serious offenders but also other delinquents who had committed less serious crimes, benefited from mass amnesties during the Eid of Ramadan or Kurban feasts and birthday celebrations of the Sultan.¹¹¹⁸ For instance, as Adak claims, “seventy-three prisoners were released from İzmir Prison on the occasion of the birthday of Abdülhamid II in 1898.”¹¹¹⁹ Yıldız insists that 146 prisoners who had completed two-thirds of

¹¹¹¹ Ibid., 197-198.

¹¹¹² Ibid., 198.

¹¹¹³ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908* (İstanbul: Kitabevi Yayıncılık, 2012), 306-307.

¹¹¹⁴ Yıldız, 198.

¹¹¹⁵ Ömer Şen, *Osmanlı'da Mahkum Olmak, Avrupalılaşma Sürecinde Hapishaneler* (İstanbul: Kapı Yayıncılık, 2007), 51.; See Hamidian legitimacy: Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire (1876-1909)* (New York: I.B. Tauris, 1999).; Nadir Özbek, “Philanthropic Activity, Ottoman Patriotism, and the Hamidian Regime, 1876-1909,” *International Journal of Middle East Studies* 37, No. 2005 (2005): 59-81.; Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni, 1839-1908*. (İstanbul: Kitabevi Yayıncılık, 2012), 306-307.

¹¹¹⁶ *Osmanlı Devleti'nin İlk İstatistik Yıllığı 1897*, Haz. Tevkif Güran, (Ankara: TC. Başbakanlık Devlet İstatistik Enstitüsü, 1997), 59-61.

¹¹¹⁷ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Serüveni 1839-1908*. (İstanbul: Kitabevi Yayıncılık, 2012), 307.

¹¹¹⁸Ibid.

¹¹¹⁹ Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire.” (PhD diss., University of Cincinnati, 2015), 197.

their sentences in Dersâdet Penitentiary with 1880 general amnesty.¹¹²⁰ While prisoners were being released from the Istanbul Penitentiary, they were each awarded one *Mecidiye* (Medjidije), and they had to say a salvo of “Long Live My Sultan” three times for the sake of the mercifulness and benevolence of Abdülhamid II.¹¹²¹ Hamidian government heralded three different mass amnesties in 1902, 1905, and 1906 in Salonica penitentiary (*Hapishâne-i Umûmî*). These very frequent mass amnesty promulgations functioned also against the prison riots that were very bloody in the first decade of 20th century.¹¹²² Unfortunately, the yearbooks and other statistics have not provided the number of female inmates who were pardoned by Sultan Abdülhamid; however, respectively 174/3010 in 1902, 395/5389 in 1905 and 208/ 4159 inmates in 1906 were released from Salonica Penitentiary.¹¹²³

During the government of the CUP, the proclamations of general amnesties maintained their dominance and frequency. The prison administration (*Hapishâneler İdaresi*) aimed at solving the overcrowded prison wards by means of the *sülişân* amnesties even during the government of the CUP. However, Schull claims that the conditions of release of the CUP government variously stipulated good behavior and the obedience of inmates to the prison rules and law in addition to the completion of two-thirds of their sentence, which covered the offenders who had committed less serious offences (*kabahat ve ciinha*), excluding *cinâyet* (serious offences such as homicide).¹¹²⁴ Furthermore, Yıldız gives an archival illustration that shows a pardon petition from Ibrahim, son of Ahmet, was accepted in that he behaved well during his imprisonment process in 1911 in *Karesi Liva* Prison.¹¹²⁵ This example remarkably demonstrates that behaving well, showing regret, and correcting themselves stimulated access to earlier release through individual pardon requests during the period of the CUP government. These frequent and intensive mass amnesty promulgations dramatically promoted recidivism; thus, the CUP government aimed at encouraging the decrease of criminal potential with good conduct.

¹¹²⁰ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Seriüveni (1839-1908)* (İstanbul: Kitabevi, 2012). 301.

¹¹²¹ BOA.Y.PRK.ZB.2/34: 28 L 1300/ 1 September 1883: This record consisted of 30 pages that involved the detention date, crime type, and name of released 146 prisoners from Hapishane-i Umumi by 1880 General Amnesty proclamation.

¹¹²² BOA.TFR.I.UM. 1/85: 22 Ramazan 1320/ 23 December 1902: This document shows the remaining times of imprisonment of the offenders in some provincial prisons.; Ömer Şen, *Osmanlı'da Mahkum Olmak, Avrupalılışma Sürecinde Hapishaneler* İstanbul: Kapı Yayıncılık, 2007, 139.; Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire.” (PhD diss., University of Cincinnati, 2015), 187-88.

¹¹²³ Selanik Vilâyet Salnâmesi, 1902, 1905, 1906.

¹¹²⁴ Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh: Edinburgh University Press, 2014), 115.

¹¹²⁵ Özgür Yıldız, “Osmanlı Hapishaneleri Üzerine Bir Değerlendirme: Karesi Hapishanesi Örneği,” *Gazi Akademik Bakış*, Vol. 9, Issue 17, 2015 98-99.

Briefly, the deterrence of imprisonment as the major punitive way lost its significance and influence on prisoners due to the frequent mass amnesty proclamations and easy access to individual amnesty rights in the late Ottoman period. For example, the former prisoners committed crimes, such as robbery, arson, and theft after the promulgation of 1908 mass amnesty by the CUP government.¹¹²⁶ In terms of reinforcement of recidivism and criminal potential among former inmates, protests against the mass amnesties and pardon policies became the agenda of the Empire in the first decade of the 20th century. According to Adak, only in Aydin Province, including the Izmir Provincial Central Penitentiary and other district prisons, nearly 6,000 prisoners were released after the declaration of the 1908 amnesty.¹¹²⁷ To prevent recidivism, the CUP government meted out double sentences for the recidivist former prisoners in 1908. That is why they expected a very high recidivism potential of the ex-inmates after the 1908 general amnesty.¹¹²⁸ Nevertheless, neither double sentences for former offenders nor other attempts for the prevention of crime committed by former prisoners after the mass amnesties could reduce the criminality rate of former inmates who engendered a great risk for the security of Ottoman society. Yet, the Ottoman government maintained the general amnesty functions, especially through *süfür* amnesties during the reign of Abdülhamid II and the CUP government.¹¹²⁹ On 28 August 1918, a *süfür* amnesty proclamation led to the release of 238 prisoners who had served two-thirds of their punishment, from the provincial prisons of *Antalya, Burdur, Isparta, Kula, Fethiye, Kasaba, Alaşehir, Saruhan, Kozan, Mersin, Nevşehir, Tarsus, Ezine, Bandırma, Balya, Karaisalı, Kale-i Sultaniye, Bayramiç, Karesi, Kastamonu, Tosya, İnebolu, Niğde, Elazığ, Aksaray and Bolu* liva and districts.¹¹³⁰

We should point out the years of 1893 and later, the Ottoman government made special provisions against the epidemic crisis. Especially against the cholera disease, the Ottoman government proclaimed several hygiene and sanitary measurements against cholera, as the epidemic section examines.¹¹³¹ Thus, amnesty declarations and frequent transfers of prisoners were aimed at preventing the quick spread of epidemics among the prisoners especially in proper prisons. In this regard, the government utilized general amnesties that would hinder the

¹¹²⁶ BOA. DH. MUİ. 2/29: 21 Ramazan 1327, 6 October 1909. This document contains a list of the crime types which was covered of this amnesty declarations by *Şura-yı Devlet* (Council of State); Ufuk Adak, “The Politics of Punishment, Urbanization, and Izmir Prison in the Late Ottoman Empire” (PhD diss., University of Cincinnati, 2015), 191.

¹¹²⁷ Adak, 198.

¹¹²⁸ Taner Aslan, “II. Meşrutiyet Dönemi Genel Af Uygulamaları,” *Gazi Akademik Bakış* 3, No. 5 (2009): 41–60, <https://doi.org/10.19060/gav.57605. 54-55>; Adak, 198.

¹¹²⁹ See *Süfür*; Yıldız, 298–362. *Süfür* was for the offenders who completed 2/3 of their sentences.

¹¹³⁰ Ali Rıza Gönüllü, “Osmanlı Devleti’nin Son Döneminde Isparta Hapishanesi (1867-1920),” *Selçuk University Journal of Studies in Turcology* 29 (2011), 382.

¹¹³¹ See Section 6.1.

very prompt spread of diseases and the high mortality rate among the prisoners, in that quarantine, isolation, and transfer did not function for the prevention of infecting other prisoners, as the Ottoman officials and medical experts expected.

Besides, the CUP government frequently proclaimed a general Empire-wide amnesty, particularly for political offenders, shortly after the promulgation of the second constitutional period in 1908. This spread general amnesty-covered imprisoned and exiled CUP supporters (*İttihatçılar*); however, it paved the way for complex release and amnesty practices also for prisoners who had committed political crimes, which did not cover only *İttihatçı* political offenders, but also opponents of the CUP's government.¹¹³² The fact is that the CUP government aimed at consolidating its power and authority against the politics of the despotic Hamidian government with its mercifulness and forgiveness, frequent amnesties and pardons, especially for political offenders who were convicted during the Hamidian periods.¹¹³³ After the reactions and strong demand for release from prisoners who had committed petty crimes, the CUP government expanded the range of the amnesty that began to cover inmates who had committed political crimes and inmates who had already served two-thirds of their punishment (*sülişan afvi*). All in all, both Hamidian and the CUP's general amnesty proclamations remained until the fall of the Empire.¹¹³⁴

After drawing a broad picture on the implementation of mass amnesty policies of the late Ottoman government, this part examines how the mass amnesty tradition also catalyzed individual pardon petitions, due to deadly illness, spreading disease, pregnancy, senility, other special arguments such as motherly and familial reasons, particularly for women inmates. Solely feminine reasons, such as motherhood and pregnancy, which all derive from the femininity of the inmates, paved the way for the individual amnesty facility for female inmates.¹¹³⁵ In fact, the lesser numbers of female prisoners engendered utilizing mostly individual pardons with specific excuses, except *sülişan afvi* (amnesty for the prisoners who had served two-thirds of their sentences), which covered all offenders who committed less serious crimes and misdemeanours. Now, this part examines the stories of women inmates who utilized individual pardons during the late Ottoman Empire.

¹¹³² Taner Aslan, "II. Meşrutiyet Dönemi Genel Af Uygulamaları," *Gazi Akademik Bakış* 3, No. 5 (2009): 43, <https://doi.org/10.19060/gav.57605>.

¹¹³³ Ibid., 55-56.

¹¹³⁴ Ibid., 54-55.

¹¹³⁵ Section 5.4. motherhood and pregnancy were the major reasons of females' pardon regarding their reproductivity in the Ottoman penal policies.

The Ottoman archives provide considerable documentation of individual amnesties and pardons that were given to female inmates.¹¹³⁶ Those suffering from special illnesses, and inmates disabled or crippled as a consequence of an accident, could claim their right to utilize individual amnesties, with their special excuses, through each prison management that sent their petitions to *Dâhiliyye Nezâreti* or *Adliye Nezâreti* depending on the institutional changes.¹¹³⁷ There is no doubt, both male and female inmates utilized individual amnesty rights. Female inmates mostly could claim the request for amnesty regarding their fatal sicknesses, elderliness and motherly responsibilities to bear their children, whereas male prisoners mostly used it to send collective pardon petitions to the Sultans regarding their higher numbers and mutual requests.

Let us look at the story of Karine Hatun in Istanbul. Senility and several sicknesses of Karine Hatun catalyzed her early release with a pardon, even though she had committed fraud (*dolandırıcılık*) and larceny (*sirkat*) with her son. They had illegally copied Ottoman banknotes (*ka'ime*). Her six children sent a petition to the *Meclis-i Vâlâ* about her older age and her health questions, which required urgent medical treatment, in 1864.¹¹³⁸ In this regard, Müşir Paşa also evaluated this request with the guidance of *Meclis-i Vâlâ* in that the Ottoman prisons hosted several old and sick female inmates who shared the same problems as Karine Hatun. The case does not show any result about the evaluation of her request. However, it is very remarkable that *Meclis-i Vâlâ* received several requests from women's prisons regarding elderliness and specific health questions during the Tanzimat period.

As a good example of approved individual pardon of a female inmate who was from *Karesi Nisâ Hapishânesi*, Ayşe (the wife of Mehmed Ali), committed homicide (*katl maddesi*) in her village (*Sındırı Kazâsı, Kömenîç Karyesi*). She was sentenced to hard labor (*kürek cezası*); however, because of her sickness, her hard labor was changed to imprisonment. Hence, she was imprisoned in *Karesi Women's Prison*.¹¹³⁹ According to an archival document in the

¹¹³⁶ As Köksal claimed that individual amnesty requests had mostly been accepted by the Sultan specifically for the offenders who were punished with “banishment” during the early years of Tanzimat. See Osman Köksal, “Osmanlı Hukukunda Bir Ceza Olarak Sürgün ve İki Osmanlı Sultanının Sürgünle İlgili Hattı - 1 Hümâyunları,” *OTAM*, Vol 19, 2006,303-304.

¹¹³⁷ Kurtuluş Demirkol, “II. Meşrutiyet Döneminde Edirne Vilayeti Hapishaneleri.” (PhD diss., Sakarya University, Institute for Social Sciences, 2012), 77.

¹¹³⁸ BOA.İ.DH. 350/75: 24 Recep 1280/ 4 January 1864.

¹¹³⁹ BOA.İ.AZN. 102/11: 14 Ca 1329/ 13 May 1911: “3 Nisan sene 327 târihli müşterek raporda mezbûre mübtelâ olduğu sillü'r-ri'e 'illetinden dolayı bir müddetdenberi taht-ı tedâvi olunmakda ise de ahvâl-i umûmiyye ve idâre-i hâzırasına nazaran 'illet-i mezâurenin mümteni'ü'l-ifâka (?) bulunduğu ifâde ve Karesi sancağı meclis idâresinin 4 Nisan sene 327 târih ve yüz doksan iki numerolu mazbatasında dahi mezbûrenin şâyân-ı afv-ı 'âlı olduğu izbâr kılınmışdır mahkûme-i mezbûrenin el-yevm taht-ı te'sirinde bulunduğu sillü'r-ri'e 'illetinin mümteni'ü'l-ifâka bulunduğu ve şâyân-ı afv-ı 'âlı olduğu anlaşılması mebnî iki sene sekiz aydan 'ibâret kalan bakîyye-i müddet-i cezâ'yyesinden dolayı mezbûre hakkında afv-ı 'âlı istihsâli menût-ı re'y-i sâmi-i sadâret-penâhîleri bulunmuş.”

catalogue of *Adliye ve Mezâhib İradeleri*, due to her terminal disease (tuberculosis) (*sillü'r-ri'e 'illetinin*), Ayşe Kadın's remaining sentence (2 years, 8 months), was granted an amnesty on 15 May 1911 (*mümteni'ü'l-ifâka bulunduğu ve şâyân-ı afv-ı 'âlî olduğu anlaşılmamasına mebnî iki sene sekiz aydan 'ibâret kalan bakiyye-i müddet-i cezâ'iyyesinden dolayı mezbûre hakkında afv-ı 'âlî istihsâli*).¹¹⁴⁰ At the end of the day, she was released (*afv-ı 'âlî istihsâli menût-ı re'y-i sâmi-i sadâret-penâhileri bulunmuş*). This case illustrates that the Ottoman judicial and penal officials were allowed to release even young prisoners who had committed homicide in cases of fatal illnesses, as seen in Ayşe's case. Even though the document had not specifically stated her age, her illness was specified as a terminal illness. In consequence, Ayşe Kadın was released and lived her remaining life freely with this individual pardon decision.

Also, the prison managements accepted amnesty cases that derived from the age and sicknesses of the inmates. For instance, *Konya İstinaf Mahkemesi* punished Şerife Tuti Hatun, who had committed homicide by battering a man to death.¹¹⁴¹ Hence, she was imprisoned for five years in Isparta district prison in 1904. However, her older age was noticed by the prison management shortly after her incarceration began. In this regard, the prison management of Isparta district women's prison paved the way for her release due to her age and health problems. Shortly after, a doctors' committee was gathered together to prepare a report on her health questions. According to the report, her age was approximately 65, both her eyes were blind (*amâ olmasından*), and she coped with tachycardia (*mâraz-i kalbi*) and rheumatism (*rih*). With this report, the prison administration applied for amnesty to the *Adliye ve Mezâhib Nezareti* (Ministry of Justice). It was quickly approved with a pardon (*afv-ı seniyyeye mahzar oldu*). All in all, Şerife Tuti was released by the Sultan's decree on 8 May 1904.

Another pardon due to sickness came from Malatya Sanjak Women's Prison, which hosted Emine Bin-ı Osman who had committed homicide; hence, she was punished with 15 years *kürek* (hard labor). During her imprisonment in the Malatya women's prison, she suffered from rheumatism (*rih*), which quickly spread through her whole body, so that she could not move anymore. Medical treatment and the care of the prison doctors could not help her

¹¹⁴⁰ BOA.BEO 3893/291960: 16 Ca 1329 /15 May 1911: "Katl maddesinden dolayı bidâyet tevkifi olan 20 Nisan sene 324 târihinden i'tibâren sûret-i kat'iyyede on beş sene müddetle kürek cezâsına mahkûm olub mahkûmiyyet-i vâkı'ası 'afv-ı 'umûmî kânûni mûcебince yedi büyük seneye tenzîlan Karesi nisâ habshânesinde mahbûs bulunan Sındırı kazâsının Kömenîç karyesi ahâlisinden Mehmed Ali kerimesi 'Âyişen mümteni'ü'l- ifâka bir 'illete dûçâr olduğu tebeyyün etmesine binâ'en iki sene sekiz aydan 'ibâret kalan bakiyye-i müddet-i cezâ'iyyesinden dolayı afv-ı 'âliye mazhariyeti husûsuna 27 Nisan sene 327 târihli ve 146 numerolu tezkîre-i semîhâneleri üzerine bilâ-istîzân irâde-i seniyye-i savb-ı pâdişâhî şeref müte'allik buyrularak o bâbdaki karâr-nâmenin sûret-i musaddakası leffen isrâ kılınmış olmağla infâ-yı muktezâsına himmet."

¹¹⁴¹ BOA.İ.AZN.115/23: 22 S 1322/ 8 May 1904.

recovery. In the final stage, she was released with the medical investigation report that advised her quick release on 10 April 1899.¹¹⁴²

Another special amnesty case came from Konya. Kezban Hatun committed murder (katl maddesi), then she was sentenced to hard labor for 15 years; however, her sentence was altered, and she was imprisoned for fifteen years.¹¹⁴³ On 1 September 1910, her remaining sentence (7 months 25 days)(*tenzil ederek bakıyye-i müddet-i cezaiyesini ikmâl yerine yedi ay yirmi beş gün kadar bir müddet kaldığı anlaşılan Kezban namındaki kadının*) was granted an amnesty due to her sickness, which was not stated (*gayr-ı kabil şifa bir maraz ile ma'lûl bulunduğu*). All in all, she was released from Konya Nisâ Hapishânesi (*bakıyye-i müddet-i cezaiyesinden afv-ı âliye mazhariyeti*).¹¹⁴⁴ This case did not give any insight about the sickness that caused her release; however, they emphasized her sickness was incurable (*gayr-ı kabil şifa bir maraz ile ma'lûl*). However, these cases are dramatically significant to trace explicitly that individual amnesty rights regarding special sicknesses were given to even murderer females.

Meanwhile, regarding high numbers of individual pardon petitions, the *Mebâni-i Emîriyye Hapishâneleri Müdüriyeti* set up a medical commission to control the health questions of the prisoners who demanded individual pardons from the *Emniyet-i Umûmiye* in order to approve individual pardon and amnesty requests in 1917.¹¹⁴⁵

Sometimes mother inmates could utilize the special pardon facilities. For example, Zeliha Hatun killed her husband, Hasan Ağa, in Konya *vilâyeti*. She was punished with 15 years *kürek* for her homicide; however, shortly after her incarceration in Konya *vilâyet* Prison, she demanded release due to her son's sickness. After investigation of the prison administration, they noticed that she had completed one-third of her imprisonment. That meant that she could utilize the *siilişân afvi* quickly to take care of her child. Then, her son Ramazan was checked by medical doctors in Konya *Gureba* Hospital, to be sure about his sickness, smallpox (*ciüderi*). According to correspondence, in case Ramazan's sickness was proved by the medical authorities, she could utilize the amnesty right with the approval of the Konya governor (*Vâlisi*) in 1852. Unfortunately, the archival documents do not provide the result of

¹¹⁴² BOA.İ.AZN. 33/28: 29 Z 1316/ 10 April 1889.

¹¹⁴³ BOA.İ.AZN. 97/3: 23 § 1328/ 15 August 1910: "Katl maddesinden 15 sene küreğe mahkûm olan Konya Nisâ Hapishânesi'nde mahpus Kezban Hatun'un afv-ı âliye mazhariyeti."

¹¹⁴⁴ BOA.BEO 3799/284869: 25 § 1328/ 1 September 1910: "Katl maddesinden dolayı on beş sene müddetle kürek cezasına mahkûmen nisâ habishanesinde mahbûs olan ve gayr-ı kabil şifa bir maraz ile ma'lûl bulunduğu ve afv-ı umumi kânûnu mûcebince mahkûmiyeti nısfına tenzil ederek bakıyye-i müddet-i cezaiyesini ikmâl yerine yedi ay yirmi beş gün kadar bir müddet kaldığı anlaşılan Kezban namındaki kadının bakıyye-i müddet-i cezaiyesinden afv-ı âliye mazhariyeti hususuna..."

¹¹⁴⁵ BOA.BEO. 4473/335458:20 Zilkade 1335/ 20 August 1917: The Organization of a special commission for controlling health reasons for pardon requests.

her application. But it is possible to say that mothers could utilize individual amnesty rights regarding their motherly responsibilities to look after their children.¹¹⁴⁶

On the other hand, male prisoners could utilize individual amnesty rights in case they would complete their sentences soon (*ikmâl-i müddet*), when their families suffered financial difficulties. The protector of families such as fathers, husbands, were imprisoned. In these cases, the families urgently needed a nurturer or a master to bring home bread regularly. In this regard, the Ottoman government was concerned with the specific situation of male inmates who had to earn money for the subsistence of their families. The government gave them the right to find a guarantor (*kefil*) when they were released early.¹¹⁴⁷ All in all, male inmates also could be released in the same way as their female counterparts, in terms of conjugal and familial responsibilities, which encouraged them to apply for pardons, in case they had nearly completed their sentences (*cezâ müddetinin dolmasına az kalması*) during the Tanzimat period.¹¹⁴⁸

The Ministry of Justice and the Ministry of Public Security received abundant individual amnesty petitions from provincial prisons with various reasons and pleas. These petitions sometimes could be organized with individual or collective amnesty demands that were integrated into the general amnesty promulgations. Gönüllü claims that an inmate, namely Manisalı Kamil, wrote a collective petition on behalf of all the prisoners of Isparta Prison.¹¹⁴⁹ The petition was sent to the Interior Ministry in 1918. Thereafter, the Ministry of Interior began to inquire into the pardon petition of Manisalı Kamil and the other prisoners who were listed on the petition in order to analyze their criminal status, to understand if it were convenient or not to release them on 8 December 1918.¹¹⁵⁰

Ottoman amnesty politics mainly functioned as a reducing mechanism for the prison populations in the different ages of the Empire until its fall in 1918. Overcrowded prisons, dilapidated prison buildings and woeful living conditions also encouraged the quick spread of epidemic diseases among prisoners and caused the deaths of prisoners. Specifically, the Hamidian and the CUP governments proclaimed widespread amnesties and other special pardons on the occasion the Sultans' birthdays, *cülaus* (enthronement), Friday prayers, etc. In

¹¹⁴⁶ BOA.A.MKT.MVL. 49/31: 19 Ca 1268/ 11 March 1852.

¹¹⁴⁷ Gültekin Yıldız, *Mapusâne: Osmanlı Hapishanelerinin Kuruluş Seriüveni (1839-1908)* (İstanbul: Kitabevi, 2012), 298. Yıldız insisted that the prisoners who had to complete 2/3 of their sentences to utilize amnesty during the last quarter of the Empire. During the early years of Tanzimat, the Ottoman government did not specify particular time remaining for the prisoners.

¹¹⁴⁸ Yıldız, 298-99.

¹¹⁴⁹ Ali Rıza Gönüllü, "Osmanlı Devleti'nin Son Döneminde Isparta Hapishanesi (1867-1920)," *Selçuk University Journal of Studies in Turcology* 29 (2011), 382.

¹¹⁵⁰ Gönüllü. 382.

addition to their general amnesty policies, the Ottoman government considered the particular situations of inmates regarding their gender roles, especially conjugal and familial responsibilities, motherly excuses along with older ages, health questions and diseases, which paved the way for easy release and merciful pardons through the frequent approval of individual pardon requests. All in all, these merciful and forgiving tendencies of the Ottoman government when they received individual pardon and amnesty requests, functioned as a tool of reducing populations of prisons more than concerning the special questions of the inmates, as an interwoven part of the Ottoman prison question that coped with the scarce imprisonment areas and dilapidated prison buildings leading to deaths of both male and female prisoners. Unless the Ottoman government had a sufficient budget and made diligent efforts to establish a well-ordered penitentiary system, the prison question could not be solved. It would not be wrong to say that the only systematic, standard and enduring application of Ottoman prison policy was the proclamation of general amnesties and the granting of pardons, individually and collectively, of the late Ottoman government.

Conclusion

Finding several archival examples on Ottoman women's criminal acts including serious and petty crimes inspired me to find out women's criminality and women's imprisonment in the late Ottoman Empire. Along with the women's criminality issue, the mysterious world of female prisoners stimulated me to concentrate on the prison policy for female offenders of the late Ottoman Empire. The scarcity of archival materials on women's imprisonment never hindered me from carrying out this work. Nevertheless, considerable numbers of archival documents helped me to draw a comprehensive framework within the thematic flows, such as imams' houses as leased imprisonment areas, control and guardianship in the women's prisons, health conditions and epidemic crises in women's prisons, discriminative treatment against prostitutes, tolerant penal approaches for pregnant inmates and mothers, and the penal labor implementations of Ottoman prison policies for female inmates. However, first of all, this study dealt with the question of women's criminal identity and the perception of women's criminal acts remarkably including serious offences such as murder, committed with their own will and intention, along with a special discussion on the existing women's history writing.

Depicting women as criminal figures, female perpetrators and actors who commit extremely violent crimes such as murder takes place as a very new page in Ottoman historiography. Therefore, it is essential to depict women as actors in the field of criminology and penology studies. Criminal women's stories became visible in Ottoman women's studies in the last decade which does not have abundant literature on women's criminality and women's imprisonment. On the other side, the general understanding of penal works does not perceive the susceptible and vulnerable psychological and biological components of women as capable and suitable for committing several types of crimes, and this understanding is also reflected in the practices of imprisoning women. Western penal theorists on women's criminality state that the dominant meaning of imprisoning women rejects women's prisons and the reality of women's delinquency. They also dramatically underline their rejections of women's criminal behaviors along with seeing them as "unreal" women. Feminist penologists draw attention to the fact that the androcentric understanding, which does not consider women's prisons as real prisons, does not see female prisoners as real female subjects.

As a result of this perspective, it is a fact that female prisoners have not shared an equal prison experience with male prisoners; they have been not confined in the same prison conditions in that they have not been punished by similar methods. Briefly, the feminist penologists criticize the fact that the prisons were built only for male prisoners, and these buildings were designed only for the confinement and correction processes of male prisoners.

Undoubtedly, the lower crime rate of women had an influential effect on this androcentric confinement culture and gendered penal theorization all over the world. Therefore, these penitentiaries, which are spatially designed with an androcentric understanding, are proof of the different spatial structures and incarceration methods which were developed for female prisoners. In other words, for female prisoners who were excluded from the existing prison system, in that incarceration and punishment methods specific to women were developed, and their vulnerabilities, physical weaknesses and susceptible characters were emphasized with special punishment practices. In fact, the approach that considers those involved in violent crimes as deviant or insane characters who were exposed to depersonalization. Moreover, punitive methods set domestic rehabilitation methods such as sewing, laundering, knitting, cleaning, etc. which were based on reminding these prisoners of their femininity and innocence regarding their physical weaknesses and feminine origins. Contrary to these repetitive discourses, women were capable of committing both serious and petty offenses such as domestic murder cases and larceny in addition to sexual crimes, namely prostitution. Although the female offenders represented fewer numbers vis-à-vis their male counterparts as seen in statistical information, the cases of female offenders constitute a considerable amount not only in archives all over the world but also in the Ottoman archives. In this regard, this dissertation initially took firm action to seek out women's criminal acts which apparently showed their capability and ability to commit crime with their will and intelligence, occasionally to defend themselves, or to intentionally kill somebody as a part of a professional murder plan. The interwoven issues including women's capability to commit crimes, their several sorts of criminal acts and above all their imprisonment processes all show that female offenders were also subject to Ottoman prison policy as the major component as much as their male counterparts, of Ottoman prison reform in the late Ottoman period.

In this regard, this study touches on the altered punitive understanding as a global trend in the 19th century, which engendered carrying out incarceration as the main punitive method instead of corporal punishment, with the establishment of prisons. These penal changes also affected the Ottoman Empire's reform agenda which also involved the aspiration for prison transformation during the 19th century.

At this point, it was necessary to emphasize the necessity of tracing the Ottoman prison policy, simultaneously following the penal scripts, institutional reform and modernization steps in the light of archival materials and evaluating the perspective of the 19th century Ottoman prison policy in the light of the regulations, observations and suggestion reports. As discussed in depth, this study sheds light on the Ottoman Empire's particular ways of imprisoning women, their temporary incarceration places (imams' houses), particular methods of controlling women, and special punitive practices for female inmates, who were subjected to these simply because

they were women. Ottoman prisons consisted of fortresses, dungeons, bagnios and dockyards at the beginning of the 19th century, which were irregular and ad hoc imprisonment areas without penal standards. The basements of government mansions (*hükümet konağı*) located in the provincial centers were used as jails and detention houses. The situation of the offenders under these woeful living conditions of Ottoman jails was also appalling in direct proportion to the physical conditions of the imprisonment areas. With the idea of prison modernization, prisons began to be planned architecturally and built according to modern penal standards. For this reason, the primary aim of the Ottoman administration was to provide the vital needs of the Ottoman prisoners who were incarcerated in dilapidated prison houses, in which the Ottoman bureaucracy aimed at preventing the deaths of prisoners for the sake of guaranteeing the security of the lives of Ottoman subjects with the *Gülhâne Hatt-ı Hümayûnu* (The Imperial Edict of Gülhane). That is why the Ottoman prisons' conditions, were far from hygienic and vital needs such as beds, laundry and food were not provided in these imprisonment areas which could not give modern corrective punishment and imprisonment facilities.

In this dissertation, the problems, penal and institutional reforms, and improvement attempts of the prisons which all attempted to transform the Ottoman prisons between 1839-1919 are examined, while it has a special concentration on the place of women's prisons and women inmates in these all-transformative steps in the light of archival documents. In the process I have discussed from the proclamation of the Tanzimat (1839) to the government of the Union and Progress (1918), the theoretical and practical aspects of the Ottoman Empire's approach to female delinquency through penal scripts, the gender roles of female convicts, the methods of incarcerating and punishing female offenders, and their particular imprisonment problems. The differences between the practices and the rhetoric of all regulations on the imprisonment processes of female convicts were apparent. In the picture that emerges, the process of reforming the prisons, which is considered as the "Ottoman prison question" in international politics, witnessed many institutional and legal initiatives in line with the reports and suggestions of European bureaucrats. These regulation attempts were often far from being reflected in practice, and through archive materials and repeated regulations, we see clearly that Ottoman prisons could not reach "modern" standards but maintained their woeful living conditions for the Ottoman inmates.

During the early years of the Tanzimat period, Sir Stratford Canning, who was working to observe and supervise the Ottoman Prisons, published a comprehensive report under the name of "Memorandum on the Improvement of *Prisons* in Turkey". The published report contains important observations and information about the contemporary situation of Ottoman prisons. According to the report, living conditions in prisons were "deplorable". Prison administrations used corporal punishment methods completely alien to modern punishment

practices and the laws enacted, and the prisoners, who lived a life deprived of all vital needs without any order, correction or control, were waiting for death by suffering. Canning referred to the Ottoman prisons as dungeons. The report, which includes Stratford Canning's observations, can be counted as the first intervention in Ottoman prisons from Europe. According to Canning's observations, it was also underlined that in Ottoman prisons, which lacked the practice of segregating prisoners according to their crimes and gender, the prisoners shared the same ward and prison buildings, regardless of gender and crime distinction. Canning, for the first time in his report, underlined the need for women's prisons and wards and made suggestions for women-only wards and prison complexes. Canning's report highlights a very important historiographical issue for gender debates. In the Ottoman society, where gender roles were sharply separated and male and female actors were kept far from each other, the imprisonment of criminals in the same places paved the way for new questions such as the rising criminal potential and sexual interactions among male and female offenders.

Following Canning's report, with the 1856 Reform Edict, corporal punishment was replaced by imprisonment. In 1858, the second international intervention came from the British officer Major Gordon. Major Gordon was appointed as the chief inspector of Ottoman prisons on this date. Subsequently, the Criminal Code of 1858, which divides crimes into three: *cinâyet* (serious crimes), *cünha* (lesser serious crimes) and *kabahat* (misdemeanor), as Chapter 3 addressed, and stipulates confining the criminals in different wards and sections within the prison, was proclaimed. In this penal code, the separation of men's and women's wards was also underlined, and it completely forbade the imprisonment of male and female prisoners together. As seen, after Canning's prison report, which included proposals for the construction of separate prisons and wards for female prisoners, the first official penal code to include female prisoners came with the 1858 Penal Code. The 1840, 1851 and 1858 Penal Codifications had special contributions for the ongoing prison reform regarding their altered punitive understanding and punishment methods. Especially the 1858 Penal Code had special articles (6, 18 and 43) on women's prisons and female prisoners. In this respect, sharing the same ward or prison buildings by male and female prisoners was outlawed by the 1858 Penal code. With this penal arrangement, the reform and regulation steps, which were the result of the efforts of the Ottoman Empire to keep the prisoners and prisons under control, and tried to prevent probable sexual harassment, abuse and assault cases, even though it remained on paper due to the insufficient budget of the Ottoman government.

With the 1858 Penal Code, the acceptance of incarceration as the main punishment method paved the way for a serious increase the number of prisoners and it caused overcrowded prison buildings in addition to scarce spatial imprisonment areas for the offenders. Hence, the population growth in prisons also triggered the need for the construction of new prison

buildings and penitentiary complexes, at least in the provincial centers. In 1871, the Ottoman government administration completed the construction of the first large prison complex (*Dersaâdet Hapishâne-i Umûmîsi*), which would be affiliated to the *Zabtiye Force* (Police Force), and it was opened with a magnificent ceremony as the embodiment of the Ottoman achievement in prison modernization. Sultanahmet Prison was designed as a structure that could provide all the vital needs of the prisoners with its facilities. Sultanahmet prison included facilities such as an infirmary, a place of worship, a laundry and a dining hall, in order for the prisoners to achieve a regular and healthy standard of living, separate wards for male and female inmates and guards who were employed to supervise both male and female prisoners. Sultanahmet Prison cost the Ottoman Empire a very high amount of 1000 piasters, however the first Ottoman penitentiary quickly became overcrowded due to the 1858 Penal Code's determination of imprisonment as the main punitive method; hence it quickly lost its quality of being a "modern" prison in terms of its facilities, spatial structure and control system.

In the period of Abdülhamid II, while the criteria for selecting the guards to be employed in prisons and job descriptions were highlighted with the "Prison Guards' Regulation" published in 1876, no information was given about female guards. Following this Regulation, in 1880 the regulation published by Abdülhamid (Regulation on the Internal Administration of the Detention Houses and Prisons in *Memâlik-i Mahrûsa-ı Şahane*), emphasized again that a separate ward was required for female prisoners. While underlining the necessity of appointing female guards to supervise female prisoners, Article 6 of the regulation also defined the job descriptions of the guards. Thus, the first institutional step towards the supervision of female prisoners was taken and the need for the supervision by female guards was underlined once again.

In this regulation, there is more than one article on female prisoners and their supervision. The most striking of them is the regulation emphasizing the need to provide extra food service for pregnant and breastfeeding female prisoners. With the regulation stating that the food costs of the convicted women should be subjected to a nutrition program under the control of prison doctors, these special nutrition programs had to be organized by the prison administrations. This practice was specifically for pregnant and nursing mothers as the embodied concern of Hamidian government for female inmates. Within the scope of the prison policies of the Abdülhamid period and 1858 Penal Codification's relevant articles, it is possible to find cases of pardoned convict women whose convictions were terminated due to pregnancy, and they were granted amnesty and release.

General amnesty proclamations started to be implemented with Abdülmecid in order to reduce prison populations. During the reign of Abdülhamid, the application of collective

amnesties was increased to cope with over crowds in the prisons, on the occasion of the Sultan's birthdays, holidays and Friday prayer greetings. As part of the effort to reduce the number of prisoners and the dramatic importance given to population policies, individual amnesty practices due to pregnancy are frequently encountered in the archive. On the other side, the Ottoman government released several male and female inmates regarding their sicknesses, elderliness and motherhood in that the women and their children sent amnesty petitions because their children were in trouble due to their mothers' imprisonment.

Even though these recommendations in the regulations, reports and legal regulations could not be completely implemented in the Ottoman prisons, which were problematic and needed to be converted, they set an example for the Ottoman bureaucracy's perception and understanding of female prisoners. The policies of the incarceration of women in the period of Abdülhamid, very different from the Tanzimat, recognized the existence of female prisoners and took steps to prevent problems that could be experienced due to the identities of "women" in the prisons.

With the promulgation of the Second Constitutional Period of 1908, the power of Abdülhamid II was replaced by the administration of the Committee of Union and Progress. The first action of the Union and Progress administration was to take great steps towards the monopolization and institutionalization of the prison administration. Accordingly, the first institutional and official prison administration was established in 1911 by the Committee of Union and Progress under the umbrella of the Ministry of Internal Affairs. The name of the institution was changed to *Mebâni-i Emîriyye Hapishâneleri İdaresi* a year later. After the institutional arrangement, a comprehensive Prisons Regulation was prepared in 1911, in which all the previous regulations were underlined along with expanded articles which were proclaimed with their revisions.

The Party of Union and Progress's government, which institutionalized the prison administration and gathered the administration into a single body, the leased imprisonment areas dominantly remained, which demonstrates unimplemented reform attempts since the early years of the Tanzimat period. Apart from the dungeons, fortresses and bastions, leased imprisonment houses were used for the incarceration of females. Despite all the renovation and regulation efforts for the prisons, it remained a feature of the main traditional women's prisons in the Ottoman Empire.

These ongoing women's incarceration places, called "imams' houses", are also called "muhtar's houses" which were rented by local chiefs or local prayer leaders. As we can follow from prison literature, there were several imams' houses around *Ağ Kapısı* and *Tavhane* in Istanbul in the 1850s. In this respect, it is possible to follow from the archival materials that the

tradition of the confinement of women into "imams' houses" was widely maintained in the Ottoman Empire, despite the reform and modernization attempts from the Tanzimat period up to decline of the Empire. The Ottoman archives do not provide information on women's confinement and details about the process of their control in imams' houses along with the living conditions of convicted women in these ad hoc confinement areas. This is why, apart from the rental process of imam houses, the names and professions of their owners and supervisors, it is not possible to reach information about the processes of prison houses and the trajectories of the women who were imprisoned in these ad hoc imprisonment areas. However, several archival documents provide information on the instability, unendurability and discontinuity of imams' houses as the female prisons, due to deficient and irregular rental payments to the prison owners. Moreover, these instable prison houses caused several mass and individual prison breaks from the ad hoc imprisonment areas.

As part of the positivist understanding and "social engineering" ideal of the Union and Progress Party, it was necessary to gather the prison management and supervision and control organs under one roof, to keep detailed reports and to obtain information about the physical conditions of the prisons. Having details about prisoners' identities, occupations, and marital status were standout attempt. With this understanding, the census and survey charts, which were repeated five times in total between 1911 and 1918, were applied to twelve large prison complexes in the provincial centers (*Baghdat, Beirut, Bitlis, Canik, Edirne, Hijaz, Istanbul, Kastamonu, Ma'mûretü'l-Azîz, Manastır, Mosul, and Janina*). The first comprehensive census and survey was carried out between 1911 and 1912. According to this census and survey, the number of female prisoners was only 1,494 out of a total of 34,085. Thus, the rate represented by women in the total number of prisoners in Ottoman prisons was 4.4 percent. For this reason, the low number of prisoners has had as much impact as gender roles on the confinement and control practices (such as imams' houses) that were specifically applied to female prisoners.

As part of this mentality, the constitutional government's interest in demography policies is another element that was to be embodied in prison reform. As we mentioned above, the Committee of Union and Progress, which expanded the scope of the 1880 Prisons Regulations issued during the reign of Abdühamid II by allowing the children of convicted women to stay in prison with their mothers, approved the penal revision in 1914. Accordingly, children under the age of six would be able to stay with their mothers in prisons during their mother's imprisonment. While the Union and Progress administration obtained data on the number of female prisoners, they continued to obtain information about the marital status, age and gender of the prisoners. In the light of this information, 768 married and widowed women in the 12 provincial prisons that could be surveyed had children with them. Considering the censuses and surveys, which show that almost half of the female prisoners had children, the

regulation of the Committee of Union and Progress in 1914 can be evaluated as a result of such a high number of women with children in prisons. In the regulation it published in 1914, the prison administration stated that, in addition to pregnant and lactating female prisoners, extra food service was offered to women convicts with children.

Despite this sensitive and caring institutional approach to female prisoners, the problem of supervising female prisoners still remained. Although it was especially emphasized in the Prison Regulation of 1880, the problem of the supervision of women's wards and prisons by male inmates was brought to the fore in the 20th century. As the archival cases show, women inmates were mainly inspected and supervised by male guards both in proper prisons and leased prison houses. The malpractices, corruptive and abusive tendencies of the unprofessional prison cadre including prison guards, wardens and chief managers also reinforced the prison question.

Along with disordered guardianship methods, the epidemic crises and non-standard hygiene rules jeopardized the health risk of women inmates both in proper and leased prison houses. However, it is possible to say that the lower numbers of female inmates reduced epidemics among female prisoners quickly, except syphilis (*frengi*) which rapidly spread among prostitute inmates. In this regard, the Ottoman government also took firm action to separate prostitutes and other female prisoners regarding the epidemic risks and also their immoral acts, as the archival documents show.

On the other hand, the "Ottoman Prison Question", which was exposed to international intervention after the proclamation of the Tanzimat, was evaluated during the 20th century by German prison inspector Paul Pollitz, due to the close political relations of the Union and Progress government and the German government in foreign policy. In 1916, with the funds and additional financial aid given by the German government, Düsseldorf-Derendorf prison chief inspector Paul Pollitz came to the prisons in the Aydın, İzmir, Muğla and İstanbul regions to conduct observations and inspections as head inspector. In his 1918 report, Pollitz mentions the inhumane conditions of the prisons and the deplorable condition of the prisoners, and frequently emphasizes the need for regulations and reforms. As of 1916, Pollitz was appointed as the chief inspector of the Ottoman Prisons (General Inspector of Ottoman Prisons and Jails) and continued his duties. Dr. Pollitz visited ten district prisons in the Aegean region and made observations about female prisoners in these prisons. In Dr. Pollitz's report dated 1918, he states that idle *nisâ* (female) and *zükür* (male) prisoners had to be forced to work, that it would be appropriate for female prisoners to work on jobs such as knitting socks and sewing. Also he notes that the food given to female prisoners who were imprisoned with their children was insufficient. However, we must say that the most important detail in Dr. Pollitz's proposals was

the utilization of the penal labor of prisoners to create new funds to provide for the prisoners' needs and renovate the prisons.

As of the beginning of the 20th century, it had not been able to solve the prison problem that had been going on for 80 years, and it had not been possible to put the convictions of female prisoners into a systematic standard. As far as we can follow from the Ottoman archives, in spite of the proposals of the regulations and the observations of the international interventions from Europe, the traditional imprisonment areas such as the imams' houses continued until the 20th century, while the administration and control of the proper provincial and district prisons was carried out by a unified institution, namely the Prisons Administration (*Mebânnî-i Emîriyye Hapishâneleri İdaresi*) after 1911. The employment of female guards continued as a practice that paved the way for problems such as harassment and abuse. Since the appropriation, renovation, and hygiene problems in the prisons still continued, the "prison reform" carried out by the Ottoman Empire between 1840 and 1919, even though it did not satisfy the expectations, helped to develop and diversify the control mechanisms.

This study, which tries to follow the general perception of women's criminality in Ottoman and world literature, and the general approach against women's imprisonment policies and their reflection in penal practice in Ottoman prisons which all based on recognition of women as inescapable subjects for committing crimes, ignorance against women's delinquency, even though they committed even violent and brutal the crimes. In this respect, the examples of the Ottoman prison policy and its particular approach to female delinquency are both considering the problems faced by female convicts, who represent a very low number when compared to male convicts, which are sometimes ignored and sometimes met with great interest. It is possible to observe the influence of these in reform attempts and their practical implementations.

In an Islamic society, with the influence of their quantitatively low populations, women were imprisoned in leased prisons with non-standard control supervision mechanisms, which were created by renting imams' houses; male prisoners could share the same ward as women, supervised by male guards, and exposed to harassment and abuse in the process. When it comes to demographic concerns and birth policies, the remaining sentences of female convicts were forgiven even those convicted of murder, and they were subject to special care and nutrition plans during their pregnancy in prisons – in line with the recommendations of the regulations. Indulgence was shown towards female convicts who could be imprisoned with their children. This was supported as a part of the demographic policy with the legal packages and regulatory proposals that were repeated from the reign of Abdülhamid II up to the Union and Progress Party's government. While all improvement initiatives designed and implemented for female

convicts are perceived as a reflection of the "Ottoman Prison Question", it should be underlined that the "gender" roles of female convicts and the understanding of the "reception of female delinquency" also had a considerable impact on these practices. It is possible to say that women's imprisonment shows very clear differences both theoretically and practically.

All in all, this dissertation remarkably underlines that female could also commit serious and petty crimes, which helped them to be part of Ottoman prison policy within the proclamation of the 1858 Penal Code, which meted out imprisonment as the main punitive method for the most crime categories. However, the lower numbers of female inmates engendered the limited involvement of female offenders in the Ottoman prison reform, except for mothers and pregnant inmates who were extremely considered within tolerant and lenient imprisonment practices, while prostitutes were exposed to discrimination and stigma regarding their immoral acts and being the source of syphilis epidemics. Nevertheless, the imprisonment of female offenders in the leased (ad hoc) imprisonment areas was continued despite ongoing prison reform; both proper and leased women's prisons coped with unhygienic, airless, and cold wards which all enhanced the health risks and deaths of prisoners. In spite of ongoing prison reforms to establish a standard penitentiary system in order to prevent deaths of prisoners, the implementation of penal codes and prison regulations did not satisfy expectations, due to insufficient budgets and the ostensible efforts of the Ottoman government for prison reform attempts all remained on paper.

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Appendices

The name of the archival catalogue	Name of Female Delinquent	Year and Location	Crime Type	Punishment
A.MKT.UM. 26/91	Ünzile	1850, Kastamonu Kazası	Adultery	6-Months Imprisonment in Kastamonu District Women's Prison
MVL. 800/54	İrini Hatun	1867, Kerpe Ceziresi	Murder	15-Years Imprisonment and Penal Labor
İ.AZN. 38/10	Esma	1900, Erzurum Vilâyeti, Pasinler Kazası, Yagan Kariyesi	Larceny	3-Months Imprisonment
DH.MKT. 1681/66:	8 Bulgarian Women: Resto binti Vice, Maro binti Mestre, Nedо binti İlko, Doke binti Pankola, Mayta binti Tarabko, Nedо binti Tarabko, Resto binti Estoyan and Petro binti Petko	1899, Selanik Vilâyeti, Tikves kazası	Aiding and Abetting to Bandits	10-Years Imprisonment+ 3 years Penal Labor
BOA. A.MKT.UM. 461/29: 29.08.1861	Aişe Hatun	1861, Sofia Sancağı, İzladı Kazası ¹⁸	Murder (Self-defense against rape)	Imprisonment (not a certain length) until the

				prosecution ends.
BOA.A.MKT.UM. 403/96: 6 May 1860.	Havva Kadın	1860, Trabzon Vilâyeti, Livane Kazâsı	Homicide	15-Years Imprisonment in Erzurum Provincial Women's Prison
BOA.A.MKT.MVL 104/75: 3 September 1859.	Altune Bint-i Bagos	1859, Ankara Vilâyeti, Kayseri Sanjağı, Hisarcık Çiftliği Kariyesi	Homicide /Blood Money	15-Years Imprisonment
BOA.A.MKT.MVL. 128/89	Esmer Hanım	1861, Van Vilâyeti, Adilcevaz Kazâsı	Homicide /10000 Dirhem Blood Money	15-Years Imprisonment at her district prison.
BOA.A.MKT.MVL. 44/20	Rukiye Kadın	1851, Edirne Vilâyeti, Sekban Kariyesi	Homicide	She was not punished due to her self-defence (nefs-i müdafaa) against sexual assault.

Kariye: Village

Kazâ: Subdistrict

Sanjak: District

Vilâyet: Province



BOA.FTG. 281: Tanzîm ve takdîm kılınan defterde muk’ayyid bulundukları üzerelerdir.

- From right to left: Manastır Province/ Manastır Sanjağı
 - Ziro bint-i Aspasi from Kırçova Kazâsı (district), Urlanca köyü (village)
 - Viyo bint-i Tanas from Florina Kazâsı
 - Katrina bint-i Papabze from Florina Kazâsı, Zeniç köyü
 - Kirko bint-i Hristo from Florina Kazâsı, Zeniç köyü
 - Maslina bint-i Jovan from Keskine Kazâsı, Zoğoriç köyü

Back side of photo: Manastır'dan fotoğrafçı Gorki Limando.

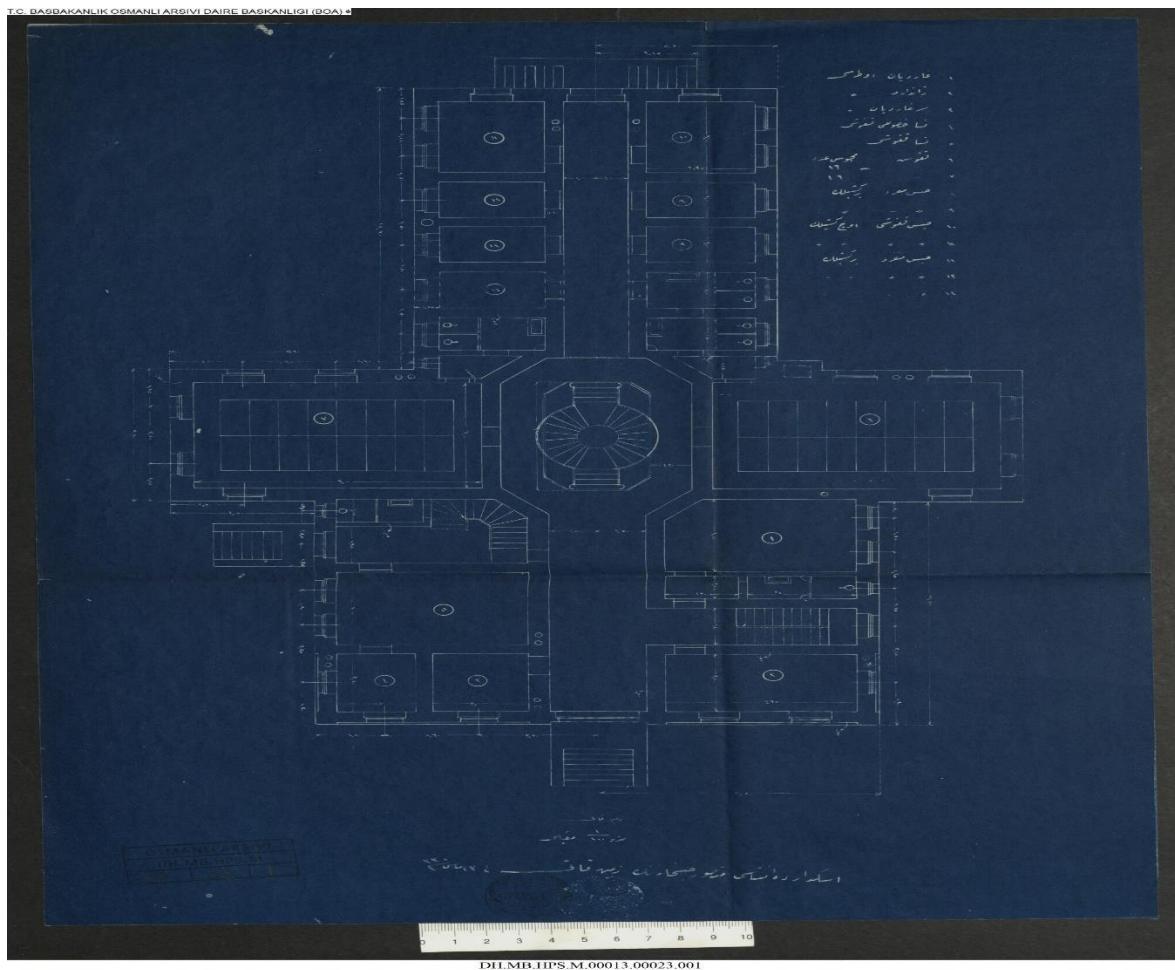
From Manastir, Photographer Gorki Limando, No date.

Photographer Gorki Limando took several pictures of male prisoner groups who were imprisoned in several districts in Manastır Vilâyeti (Province).



Üsküp şehrinden selam / Greetings from Skopje. No date. Government Office (*Hükümet Konağı*), Post office (*Postâne*), and Prison (*Hapishâne*) in Skopje.

Fahreddin Türkkan Paşa Photo Collection



BOA, DH. MB. HPS. M, 13/23: 1 B 1332/ 26 Mayıs 1914: Üsküdar'da Yapılması planlanan hapishâne planı.

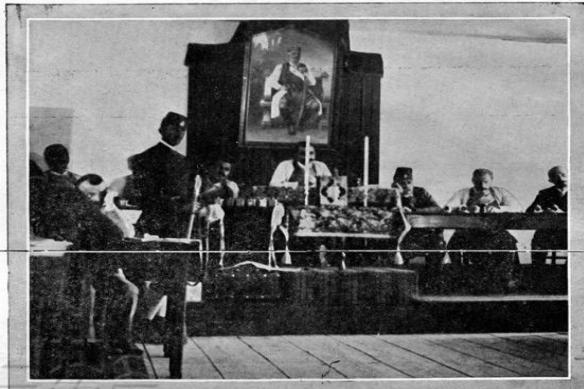
Bodrum Kat: İstihmam odası, imalathâne, hamam odası, mutfak, iki çamaşırhâne, yemek odası, nisa çamaşırhânesi, nisâ hamam odası, nisâ hamamı, memurîn yemekhânesi, kiler.

Giriş Kat: Ardiyat odası, jandarma odası, sergardiyan odası, nisâ hususi koğuşu, nisa koğuşu, 16 kişilik iki koğuş, beş adet hücre (haps-i münferid), 3 kişilik iki koğuş.

Üst Kat: Altı koğuş, iki imalathâne, hastahâne, tabip odası ve eczâhâne.

قره طاغ مناظر ندن

صیفیه ۵۵



- ۱ — چیلیوره چاک: عکس هیات رئاست محاکمه مونته نگرو این فسیل ذات امضا کرده عیین در مسند.
- ۲ — چیلیوره چاک: عکس نایاب موقوفه عکس همراهی هی.
- ۳ — چیلیوره چاک: عکس هیات رئاست محاکمه مونته نگرو این فسیل ذات امضا کرده عیین در مسند.
- ۴ — چیلیوره چاک: عکس هیات رئاست محاکمه مونته نگرو این فسیل ذات امضا کرده عیین در مسند.
- ۵ — چیلیوره چاک: عکس هیات رئاست محاکمه مونته نگرو این فسیل ذات امضا کرده عیین در مسند.



Şehbâl Dergisi: Karadağ menâzırından / A view from Karadağ Montenegro: 17 Safer 1325/ 1 April 1907. (Sahife/Page 55)

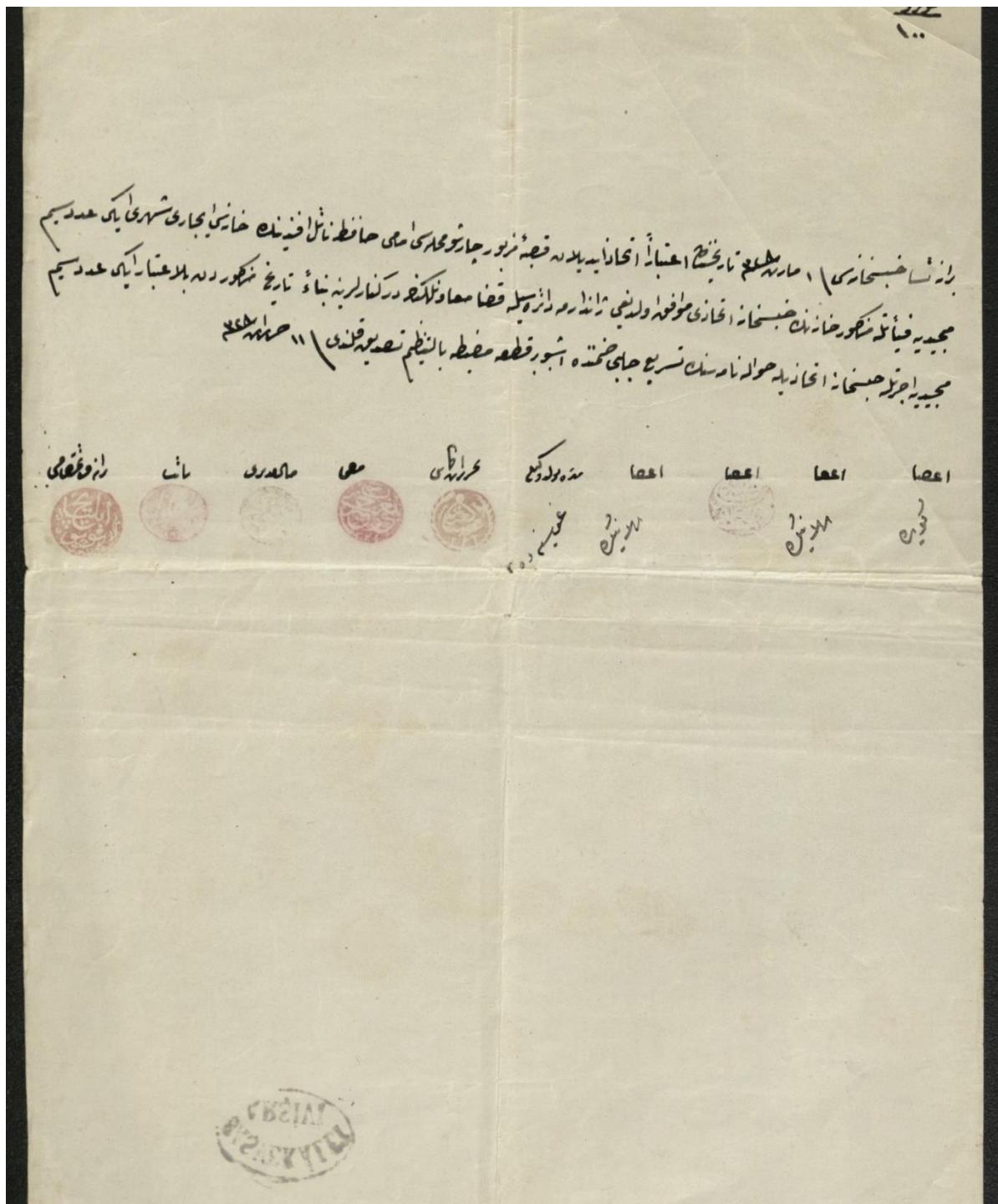
- 1: Çetine'de bir mahkeme/ Prison's court in Çetine.
- 2: Çetine'deki Mahkemenin mahkumun fotoğrafı/A prisoner portrait in Çetine.
- 3: Hapishânedeki bir gardiyan/ A guard's portrait in Çetine prison.
- 4: Hapishâne müdürü ve muavini/ The Prison manager and assistant manager of Çetine Prison.
- 5: Çetine Hapishânesinin girişi. / Çetine prison's main entrance.



**Mahkûm olan Nisâ tâ'ifesinin Husûsiyet Hallerine Ne Yolda Ri'âyet Olunmak Lâzîm
Geleceğine Dâir 15 Safer Sene 1297 Tarihli Tezkire-i Aliye**

Cerâim-i vâkiasından dolayı haklarında mehâkim-i nizâmiyeden hüküm lâhîk olan tâife-i nisâdan vaz-ı haml eylemesi takarrup edenler hakkında olunacak muameleye dair sarahât-ı kanûniye olmadığından bahs ile icâb-ı hal bazı mahallerden sual olunmaktadır. Ceza Kanûnnâme-i Hümâyûnunun 43. Maddesinde riayet olunması mestur (76) bulunduğuna nazaran hamile olarak mevkûfen veya mahkûmen hapishânelerde bulunan kadınların vaz-ı haml zamanı takarrup eylediği halde tabibin raportusu üzerine mahalli hastahânenin nisâya mahsus olan dâiresine nakil ve izâmî (77) lazîm geleceği gibi şayet hükmün akabi sudurunda avâz-ı haml edecek kadınların dâhi hapishânelerde tedavi ve muhafazları mümkün olamayacağı cihetle bunların sûret ve vakti nakilleri için kezâlik tabibin reyine mürâcaatla haklarında muamele-i meşrûhanın icrâsı ve hastahânedede bulundurulmalarını istilzam eden ahval bertaraf

olduğu tubben tahhik edildikten sonra ikmâl-i cezâları zîmnâda yeniden hapishâneye iadeleri muvâfîk-1 maslahât olacağından bîrminval-i muharrer muamele olunması husûsûnun tamamen vilâyet ve elviye-i mütâkille mûdde-i umûmi muavinliklerine ve hapshâne ve hastahâne müdürüyetinden ifade işbu tahrîrâtın nûsh-1 matbuâ-1 kafîyesi leffen (78) tarâf-1 şeriflerine firistâde (79) kılınmış olmağla nezdinde bulunduğunuz mahkeme-i istinâfa bizzat velev o kazâlar mehâkimi rüsesasına mûdde-i umûmi muavinleri vüsatatıyla tebliğî siyakında.



BOA.DH. MB.HPS 6/46:

Brana *Nisâ* Habshânesine, fi 1 Mart sene 1328 tarihinden itibaren ittihaz edilen kasaba-i mezbûr Çarşı mahallesi imamı Hafiz Nâil Efendi'nin hanesi icâr-ı şehri iki aded sim meciyiye fiyâtlâ mezkûr hânenin habshâne ittihâzı muva'fik olduğu jandarma dâ'iresiyle kazâ muâvinliğinin der-kenarlarına binâ'en tarih-i mezkûrdan bi'l-itibar iki aded sim Mecidiye ücretle habshâne ittihâziyla havâlenamesinin tesri'-î celbi zımnâda iş bu birk'atla mazbata bî' tanzim ve tasdik kılındı. Fî Haziran sene 328
İmzalar Selanik ve Gosine'deki üyelere ait

BOA.DH.MKT 1273/21: 29 C.e. sene 232 15 Temmuz sene 324

Zabıtiye Nezâret-i Celîlesine

Cerâ'im vâkı'alarından dolayı nisâ habshânesine celb ile habs ve tevkif edilen kadınların ba'zları hâmîle olmaları hasebiyle habshânedede vaz'-ı haml etmekde ve ba'zları da küçük ve kimsesiz çocukların alarak gelmekde olmasına ve bu çocukların analarından tefriki muvâfik maslahat olamadığına mebnî bu misillü çocuklara da ta'yinât verilüb verilemeyeceği merkez vilâyet habshânesi müdirliğinden istifâ olunduğundan bahisle olunacak mu'âmelenin inbâsı Kastamoni vilâyet-i 'aliyyesinden gelen 18 Haziran sene 324 târihli ve yüz yedi numerolu tahrîrâtda izbâr olunmuşdur. Tevkifhâne ve habshâneler nizâmnâmesinin elli üçüncü maddesinde hâmîle olanlar ile südde çocuğu olan kadınlara tabîbin re'yi üzerine lüzumu mikdâr ziyâde ta'yin verileceği musarrah ise de hasbe'l-icâb habs ve tevkif olunan kadınlardan küçük ve kimsesiz çocukların beraberlerinde getürenlere ta'yin verileceğine dâ'ir sarâhat olmadığından bu misüllüler hakkında nezâret-i celîlerlerince ne sûretle mu'âmele ifâ edilmekde olduğunun inbâ buyrulması lüzûmunun muhâsebe-i ifâdesiyle beyânına ibtidâr kılındı ol-bâbda.

Evrâkı muhâsebeye,

BOA.DH.MB.HPS 61/20:

Dahiliye Nezareti Celilesine,

Kastamonu Vilâyeti

Mektubi Kalemi

Aded 209

Devletlü Efendim Hazretleri,

20 Nisan sene 332 tarihli ve 134 numaralı arizaya zeyldir.

Nisâ habshanelerde bulunan nisvadan çocuklu bulunanlara verilen ta'yinata çocukla beraber validelerinin tagayyisine kifayet edememekde olduğundan mezkur çocuklardan dolayı validelerine nisf ta'yin daha i'ta ve iş bu masarifde habshaneler mu'inat ve müteferrik tahsisatından i'tası hususuna müsaade buyrulması istinat mahkemesinden verilen müzakkere üzerine meclis-i idare-i vilâyet ifadesiyle arz olunur. Ol babda emr-ü ferman hazret-i menlehü'1 emrindir. Fi Ramazan sene 334 ve fi 15 Mayıs sene 332

Kastamonu valisi

BOA.DH.MB.HPS 61/20:

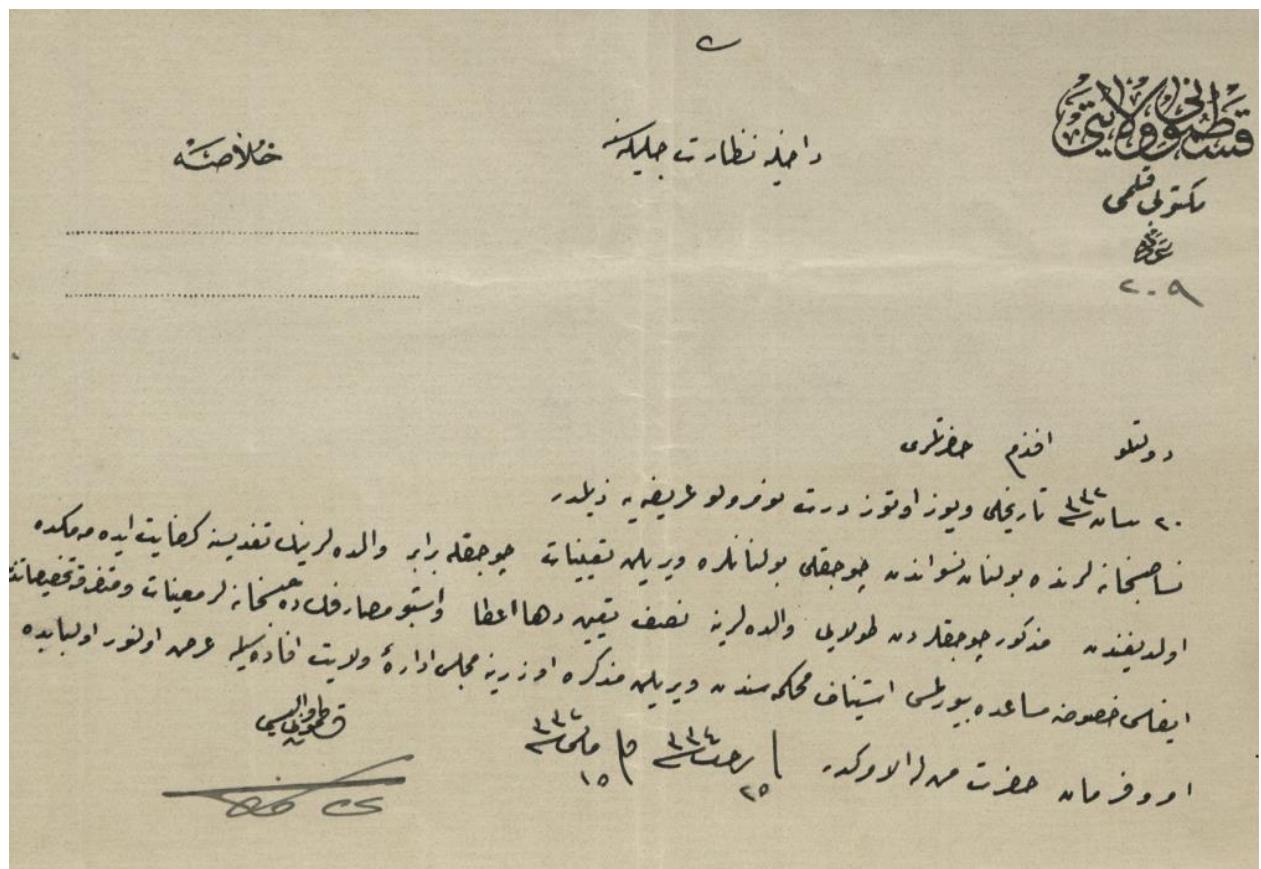
5 Haziran 332

Dahiliye Nezareti,

Mebani-i Emirriyye ve Habshaneler İdaresi Müdürlüğü,

Dahiliye Nazırı devletlü Talat Bey Efendi hazretleri tarafından Kastamonu valisi atufetli Akif Bey Efendi'ye telgrafıdır.

26 Mayıs sene 332 Elyevm mer'i talimatta mahbusine sıcak yemek vermek bile masraf olub, bunun takbik edilmemesi zaruret-i ahvalden münba'isidir. Lüzum görüldüğü takdirde hastaların tagaddiyesi gibi süt veren kadınlara da fazla mevadd-ı gıda'İYE it'ası kabildir.



BOA.BEO. 24/1766: Zevcini katletmesinden dolayı on beş sene müddetle Manasatır *nisâ* habshânesine mevkûf bulunan Ohri kazâsına tabii Labonişte karyeli (köylü) Gülazar Bint-i Mehmed'in hamile olduğu habshane müfettişliğinden bildirildiğinden ik'tizâ-i hâlin icrâsı ve neticesinin bildirilmesi.

اصدراها عذرای خوشی می
باشد عذرای خوشی

دوستورِ عصا

دو مسوبه و سویی و دلیل

100

A circular decorative element, possibly a seal or emblem, featuring intricate patterns and possibly some text or symbols, though the text is not clearly legible.

١٢٤

Adliye ve Mezâhibe Nezâreti

Umûr-ı Cezâ’iyye Müdâriyyeti

Aded

146

Huzûr-ı sâmi-i Cânib-i Sadâret-penâhîye

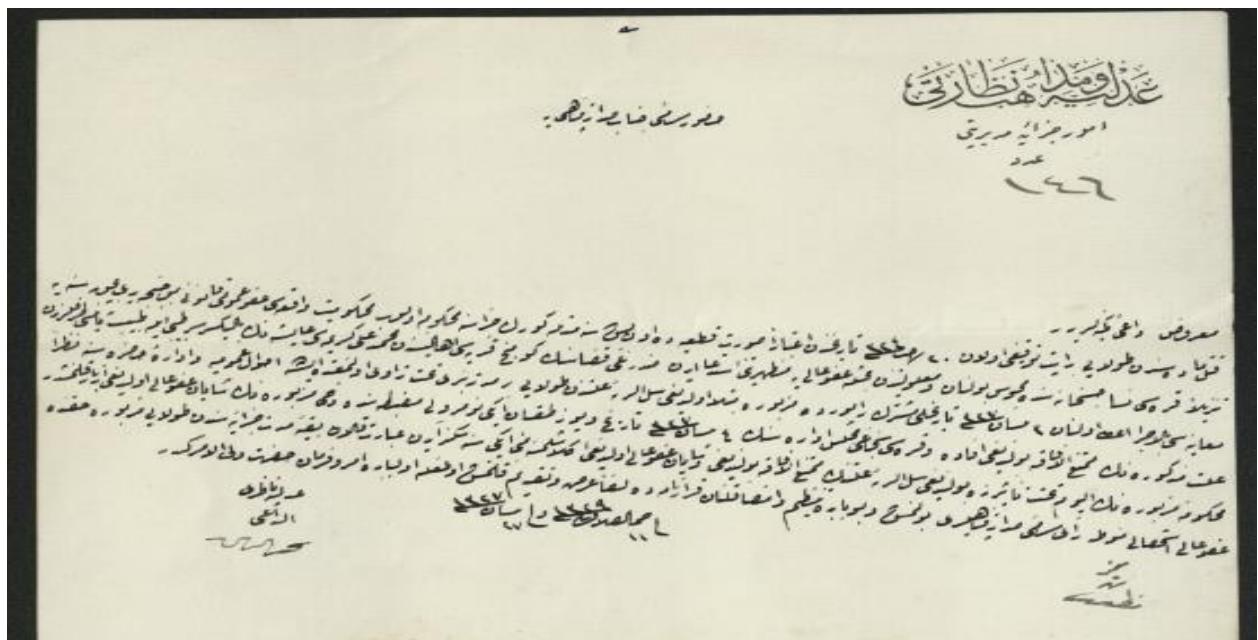
Ma’rûz-ı dâ’î-i kemîneleridir ki,

Katl maddesinden dolayı bidâyet-i tevkîfi olan 20 Receb sene 324 târihinden i’tibâren sûret-i kat’iyyede on beş sene müddetle kürek cezâsına mahkûm olub mahkûmiyyet-i vâkı’ası afv-1 umûmî kânûnu mûcebince yedi büyük seneye tenzilen Karesi nisâ habshânsinde mahbûs bulunan ve ma’lûliyyetden bahisle afv-1 ‘âliye mazhariyetini istid’â eden Sındırğı kazâsının Kömenîç karyesi ahalisinden Mehmed Ali kerimesi Âyişenin Balıkesir ser-tabibi ile tabib-i sâni taraflarından mu’âyenesi bi’l-âhîre i’tâ olunan 3 Nisan sene 327 târihli müşterek raporda mezbure mübtelâ olduğu sillü’r-ri’e ‘illetinden dolayı bir müddetden beri taht-ı tedâvi olunmakda ise de ahvâl-i umûmiyye ve idâre-i hâzırasına nazaran ‘illet-i mezkûrenin mümteni’ü’l-ifâka (?) bulunduğu ifâde ve Karesi sancağı meclis idâresinin 4 Nisan sene 327 târih ve yüz doksan iki numerolu mazbatasında dahi mezbûrenin şâyân-ı afv-1 ‘âlî olduğu izbâr kılılmışdır mahkûme-i mezbûrenin el-yevm taht-ı te’sirinde bulunduğu sillü’r-ri’e ‘illetinin mümteni’ü’l-ifâka bulunduğu ve şâyân-ı afv-1 ‘âlî olduğu anlaşılması mebnî iki sene sekiz aydan ‘ibâret kalan bakîyye-i müddet-i cezâ’iyyesinden dolayı mezbûre hakkında afv-1 ‘âlî istihsâli menût-ı re’y-i sâmi-i sadâret-penâhîleri bulunmuş ve bu bâbda tanzîm ve imzâ kılınan karar-nâmede leffen arz u takdîm kılılmış olmağla ol-bâbda emr ü fermân hazret-i veliyü’l-emrindir fi 11 C.e. sene 1329 ve fi 27 Nisan sene 1327

Adliye Nâziri

Ed-dâ’î

(imzası)

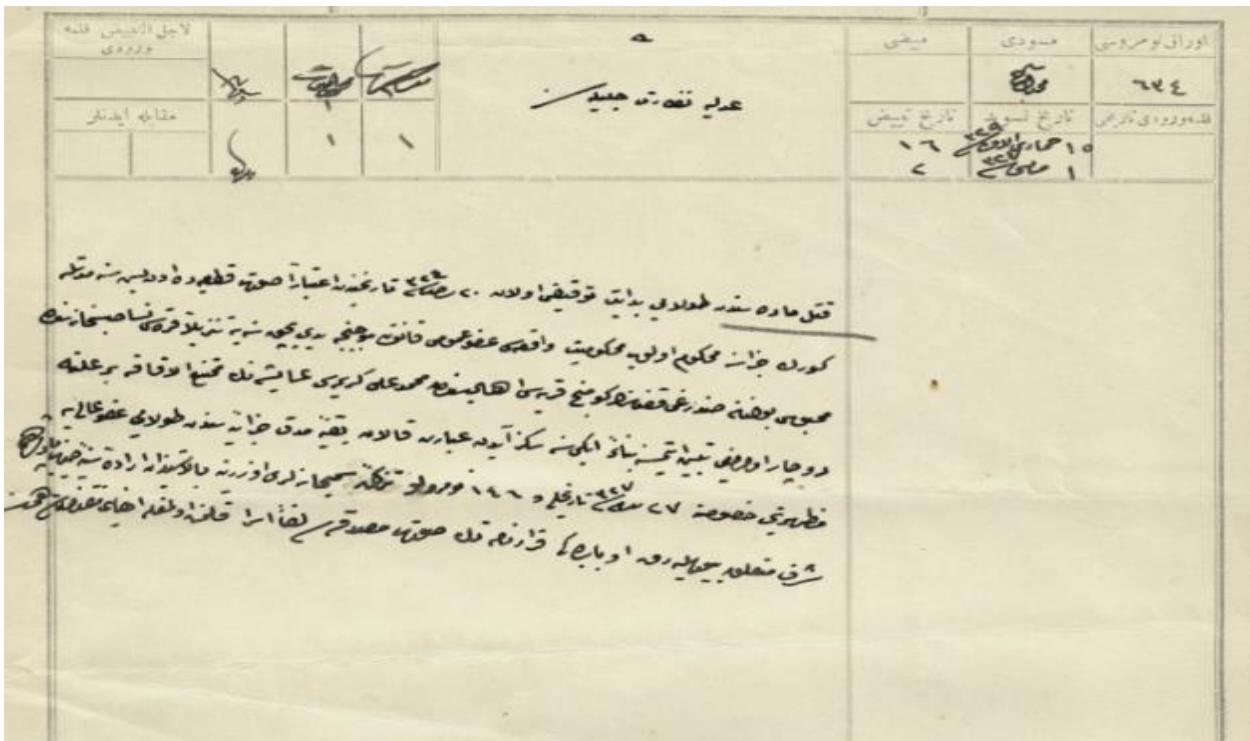


BOA.BEO. 3893/291960:

15 C.a. sene 329 1 Mayıs sene 327

Adliye Nezâret-i Celîlesine,

Katl maddesinden dolayı bidâyet tevkîfi olan 20 Nisan sene 324 târihindeden i'tibâren sûret-i kat'iyyede on beş sene müddetle kürek cezâsına mahkûm olub mahkûmiyyet-i vâkı'ası 'afv-1 'umûmî kânûnu mücebince yedi büyük seneye tenzîlan Karesi nîsâ habshânesinde mahbûs bulunan Sindirgi kazâsının Kömeniç karyesi ahâlisinden Mehmed Ali kerimesi 'Âyişe'nin mümteni'ü'l- ifâka (?) bir 'illete dûçâr olduğu tebeyyün etmesine binâ'en iki sene sekiz aydan 'ibâret kalan bakîyye-i müddet-i cezâ'iyyesinden dolayı afv-1 'âliye mazhariyeti husûsuna 27 Nisan ? sene 327 târihli ve 146 numerolu tezkîre-i semîhâneleri üzerine bilâ-istîzân irâde-i seniyye-i savb-1 pâdişâhî şeref müte'allik buyrularak o bâbdaki karâr-nâmenin sûret-i musaddakası leffen isrâ kılınmış olmağla infâ-yı muktezâsına himmet.



BOA.BEO. 3893/291960

15 C.a. sene 329 1 Mayıs sene 327

Adliye Nezâret-i Celîlesine

Katl maddesinden dolayı bidâyet tevkifi olan 20 Nisan sene 324 târihinden i'tibâren sûret-i kat'iyyede on beş sene müddetle kürek cezâsına mahkûm olub mahkûmiyyet-i vâkı'ası 'afv-1 'umûmî kânûnî mûcebinice yedi buçuk seneye tenzîlan Karesi nisâ habshânesinde mahbûs bulunan Sındırğı kazâsının Kömbec karyesi ahâlisinden Mehmed Ali kerimesi 'Âyişen mümteni'ü'l- ifâka (?) bir 'illete dûçâr olduğu tebeyyün etmesine binâ'en iki sene sekiz aydan 'ibâret kalan bakîyye-i müddet-i cezâ'iyyesinden dolayı afv-1 'âliye mazhariyeti husûsuna 27 Nisan ? sene 327 târihli ve 146 numerolu tezkîre-i semîhâneleri üzerine bilâ-istîzân irâde-i seniyye-i savb-1 pâdişâhî şeref müte'allik buyrularak o bâbdaki karâr-nâmenin sûret-i musaddakası leffen isrâ kılınmış olmağla infâ-yı muktezâsına himmet

BOA.DH.MKT. 1273/21: 001 002

29 C.e. sene 232 15 Temmuz sene 324

Zabıtiye Nezâret-i Celîlesine

Cerâ'im vâkı'alarından dolayı nisâ habshânesine celb ile habs ve tevkîf edilen kadınların ba'zıları hâmil olmaları hasebiyle habshânedede vaz'-ı haml etmekde ve ba'zıları da

küçük ve kimsesiz çocukların alarak gelmekde olmasına ve bu çocukların analarından tefriki muvâfîk maslahat olamadığına mebnî bu misillü çocuklara da ta'yinât verilüb verilemeyeceği merkez vilâyet habshânesi müdirliğinden istifsâr olunduğundan bahisle olunacak mu'âmelenin inbâsı Kastamoni vilâyet-i 'aliyyesinden gelen 18 Haziran sene 324 târihli ve yüz yedi numerolu tahrîrâtda izbâr olunmuşdur tevkîfîne ve habshâneler nizâmnâmesinin elli üçüncü maddesinde hâmil olanlar ile südde çocuğu olan kadınlara tabîbin re'yi üzerine lüzûmu mikdâr ziyâde ta'yin verileceği musarrah ise de hasbe'l-icâb habs ve tevkîf olunan kadınlardan küçük ve kimsesiz çocukların beraberlerinde getürenlere ta'yin verileceğine dâ'ir sarâhat olmadığından bu misüllüler hakkında nezâret-i celîlerlerince ne sûretle mu'âmele ifâ edilmekde olduğunun inbâ buyrulması lüzûmunun muhâsebe-i ifâdesiyle beyânına ibtidâr kılındı ol-bâbda

Evrâkî muhâsebeye

BOA.İ.AZN. 102/11

Adliye ve Mezâhibe Nezâreti

Umûr-ı Cezâ'iyye Müdâriyyeti

Aded

146

Huzûr-ı sâmi-i Cânib-i Sadâret-penâhîye

Ma'rûz-ı dâ'î-i kemîneleridir ki

Katl maddesinden dolayı bidâyet-i tevkîfi olan 20 Receb sene 324 târihinden i'tibâren sûret-i kat'iyyede on beş sene müddetle kürek cezâsına mahkûm olub mahkûmiyyet-i vâkı'ası afv-ı umûmî kânunu mûcebince yedi buçuk seneye tenzilen Karesi nisâ habshânsinde mahbûs bulunan ve ma'lûliyyetden bahisle afv-ı 'âliye mazhariyetini istid'â eden Sındırğı Kazâsının Kömenîç karyesi ahalisisinden Mehmed Ali kerimesi Âyişenin Balıkesir ser-tabibi ile tabib-i sâni taraflarından mu'âyenesi bi'l-âhire i'tâ olunan 3 Nisan sene 327 târihli müşterek raporda mezbure mübtelâ olduğu sillü'r-ri'e 'illetinden dolayı bir müddetden beru taht-ı tedâvi olunmakda ise de ahvâl-i umûmiyye ve idâre-i hâzırasına nazaran 'illet-i mezkûrenin mümteni'ü'l-ifâka (?) bulunduğu ifâde ve Karesi sancağı meclis idâresinin 4 Nisan sene 327 târih ve yüz doksan iki numerolu mazbatasında dahi mezbûrenin şâyân-ı afv-ı 'âlî olduğu izbâr kılınmışdır mahkûme-i mezbûrenin el-yevm taht-ı te'sirinde bulunduğu sillü'r-ri'e 'illetinin mümteni'ü'l-ifâka bulunduğu ve şâyân-ı afv-ı 'âlî olduğu anlaşılması mebnî iki sene sekiz

aydan ‘ibâret kalan bakıyye-i müddet-i cezâ’iyyesinden dolayı mezbûre hakkında afv-ı ‘âlî istihsâli menût-ı re’y-i sâmi-i sadâret-penâhîleri bulunmuş ve bu bâbda tanzîm ve imzâ kılınan karar-nâmede leffen arz u takdîm kılınmış olmağla ol-bâbda emr ü fermân hazret-i veliyü’l-emrindir fi 11 C.e. sene 1329 ve fi 27 Nisan sene 1327

Adliye Nâziri

Ed-dâ’î

(imzası)

BOA.ZB 12/39

Adliye Mûfettişliği Cânib-i Vâlâsına

Habshâneyi dünkü gün olan mu’âyene-i ‘aliyyeleriyle bu bâbda ba’zı irâde ve ihtârât-ı ‘âlîlerini ve îcâb-ı hâlin icrâsını mutazammın fi 31 Mayıs sene 98 târihlü tezkire-i hâl-i ledünnî maslahat-ı (...) nazar-ı dikkatle mütâla’ a kılınan bunun içün makam-ı ‘âlî –i velâyet-penâhîye yazılıb seviyy-i ‘aciziye havâle buyrulan diğer tezkire-i sâmileri makariyle ne yolda mu’âmele olunmak îcâb edecekinin bâ-tezkire ‘arz u istîzân kılınub meclis-i idâre-i vilâyetce der-dest tedkik olduğu ve sâir tebligat-ı sa’âdetlerinin tamamen icrâsıyla beraber işin ta’alluk eden mahallere bildirildiği gibi kaşelerin (?) ikamelerine vulât-ı sâbık zamanındanberü tahsîs olunan mahalin dahi habshâne mevkufiyetine tahsîsi edilerek îcâb-ı mîkdârının oralara iksâdı ve min ba’d oraya nisâ takımının vaz’ ve ikamesi tetemmu’ olduğunu (...) me’mûriyyet-i lâzimeye bildirilmiş olmasından bundan böyle ol-vechile harekete ibtidâr derkâr olub ancak takdîm olunan tezkire üzerine câniyye (?) ve hasbe’l-icâb hükûmetce celb ve tevkîf lâzım görünecekleri tahsisi buyrulacak mahale kadar vuku’bulur ise nereerde alakonulmaları iktizâ edecekinin şimdiden seviyy-i ‘aciziye izbârı vâbeste-i müsâ’ade-i ‘aliyyeleridir ol-bâbda emr ü fermân fi 3 Haziran sene 98

‘â’idiyyeti cihetle müdde’î umûmiliğine tevd’î olunur fi sene 3 Haziran sene 98

BOA.İ.AZN 32/24

Daire-i Sadâret

Amedi-i Daire-i Humâyun

2799

Atûfetlu

Efendim

Hazretleri

Mukaddem hakkında sâdir olan i'dam cezası küreğe bi't-tahvil yirmi seneden berü hâl-i mahbûsiyyette bulunduğuundan ve çocukları sefaletde kaldığından bahisle isti'tâfi hâvi Musul nisâ habishânesinde mahbûse Zeyneb bint-i Hasan imzasıyla vârid olan arzihâl üzerine keyfiyet adliye nezâret-i celilesinden lede'l-istifsâr mezbûre taammüden ihnâk maddesinden dolayı aleyhinde verilen i'dam cezası bâ-irâde-i seniyye-i hazret-i şehinşâhi mü'ebbed küreğe bi't-tahvil 2 Cum'ade'l-evvel 97 tarihinden berü taht-1 tevkifde olarak müddet-i mahbûsiyetinin yirmi seneye takarrüb etmesine nazaran sadaka-i ser-me'âl-i efser-i hazret-i hilâfet-penahi olmak ve hukuk-1 şahsiye da'vası bâki kalmak üzere mezbûrenin hukuk-1 umumiye cihetinden dolayı afv-1 âlîye mazhariyeti hakkında nezâret-i müşârûn-ileyhadan cevaben alınan tezkire arz u takdim kılınmağla ol-bâbda her ne vechile irâde-i seniye-i cenâb-1 hilâfet-penahi şeref-müte'allik buyurulur ise mantuk-1 celili infâz edileceği beyanıyla tezkire-i senâverî terkim olundu efendim

fi 20 Ramazan 316 fi 20 K.Sâni 314

Ma'rûz-1 çâker-i kemineleridir ki

Reside-i dest tanzim olub melfûfiyle manzûr-1 âlî buyrulan işbu tezkire-i sâmiye-i sadâret-penâhileri üzerine mücebince irâde-i seniye-i cenâb-1 hilâfet-penâhi şeref-müte'allik buyrulmuş olmağla ol-bâbda fi 27 Ramazan 316 fi 28 K.Sâni 314

Ser-Kâtib-i Hazret-i Şehriyâri

Tahsin

Adliye ve Mezâhib Nezareti

Umur-1 Cezaiye Müdiriyyeti

731

Huzur-1 Sâmi-i Hazret-i Sadâret-penâhiye

Ma'rûz-1 çâker-i kemineleridir ki

Mukaddema hakkında sâdir olan i'dam cezası küreğe bi't-tahvil yirmi seneden berü mahbus bulunduğuundan ve çocukları hâl-i sefaletde kaldığından bahisle müddet-i mahbusiyetinin ceza-yı kâfi 'addiyle tahliye-i sebili istid'âsını hâvi Musul *nisâ* habishânesinde

mahbûse Zeyneb bint-i Hasan imzasıyla vârid olan arzîhâlin leffiyle ve bu bâbda nezaret-i çâkerice olan ma'lûmâtın izbâri beyan-ı âlisıyla reside-i dest-i tanzim olan fi 5 Mart 314 tarihli tezkire-i sâmiye-i cenâb-ı sadâret-penâhileri üzerine sebk eden tebligata cevaben Musul vilâyeti merkez bidâyet mahkemesi müdde-i umumi mu'âvinliğinden vârid olan 3 T.Evvel (314) tarihli tahrirât ile melfûfu meclis idare mazbatası lede'l-tedkik Mustafa bin ('akambaşının?-ya da akka mübâşiri) kızı meryem'in üzerindeki eşyasına tam'an ve ta'ammüden ihnâk ve itlâfına cüret eyledikleri inde'l-mahkeme sâbit olan Esma bint-i Abdullah ve Zennube bint-i Hasan'ın i'damlarına dair bidâyete verilen i'lâmin mahkeme-i temyizce bi't-tasdik arz-ı atebe-i 'ulya kılınması üzerine mezbûrânın i'dama bedel küreğe vaz' edilmeleri hususuna irade-i merhamet-i ade-i hazret-i hilâfet-penâhi şeref-müte'allik buyrulduğu ve 2 C.Evvel 97 ve 30 Mart 96 tarihinde taht-ı tevkîfe alındığı gibi refikası Esma bint-i Abdullah'ın da üç sene evvel habishânesinde vefat ederek kendisinin yirmi seneyi mütecâviz bir müddetten berü mahbûse bulunduğu cihetle afv-ı âliye şâyân idügünün ifade olunduğu anlaşılmış ve her ne kadar mezbûrenin bir günâ 'alil ve emrâza mübtelâ olduğu dermeyan kılınmış ise de yirmi senedenberü mahbûse bulunmuş olmasına nazaran sadaka-i'afiyet-i cihan-ni'met-i hazret-i hilâfet-penâhi olmak ve hukuk-ı şahsiye-i da'va-yı bâki kalmak üzere hukuk-ı umumiye da'vasından dolayı hakkında afv-ı âli istihsâli menut-ı re'y-i sâmi-i cenâb-ı vekâlet-penâhileridir ol-bâbda emr ü ferman hazret-i men-lehü'l-emrindir fi 27 Şa'ban 316 ve fi 29 K.Evvel 314

Adliye Nâzırı

BOA.BEO. 24/1766

Huzur-ı Âli-i Cenâb-ı Sadâret-penâhiye Jurnalı

Manastır vilâyet-i celilesinin nisâ mahpushânesinde zevcinin katlinden dolayı on beş sene müddetle mahkum ve hükmü musaddik olub fi 21 Safer 307 tarihinden berü mevkuf bulunan Ohri Kazâsına tâbi' Labonişte karyeli Güzar bint-i Mehmed bundan dört beş mâh mukaddem hamile olduğu belediye tabible (kabile??) tarafından rapor dan anlaşılmış olmağla ol-bâbda ve her halde emr ü ferman hazret-i men-lehü'l-emrindir 23 K.Sâni 307

Manastır Vilâyeti

Mahpushane Mûfettişi

Halil

BOA.BEO. 3799/284869

25 Şa'ban 328

18 Ağustos 326

Adliye Nezaret-i Celilerine

Katl maddesinden dolayı on beş sene müddetle kürek cezasına mahkûmen *nisâ* habishanesinde mahbûs olan ve gayr-ı kabil şifa bir maraz ile ma'lûl bulunduğu ve afv-ı umumi kânûnu mûcебince mahkûmiyeti nîsfîna tenzil ederek bakîyye-i müddet-i cezaiyesini ikmâl yerine yedi ay irmi beş gün kadar bir müddet kaldığı anlaşılan Kezban namındaki kadının bakîyye-i müddet-i cezaiyesinden afv-ı âliye mazhariyeti hususuna 11 ağustos 326 tarihli ve 399 numerolu tezkire-samimâneleri üzerine bi'l-isti'zân irade-i seniye-i hilâfet-penâhiye şeref-mûte'allik buyrulmuş olmağla ifâ-yı muktezalarına himmet.

BOA.BEO. 1491/111754

10 Mayıs 316

Erzurum Vilâyetine Telgraf

Merkez vilâyet bidâyet mahkemesince üç mâh habse mahkûm bulunan ve habishânede vaz'iyü'l-haml eden Pasinler Kazâsının Yakak karyeli Esma kadının mazhar-ı afv-ı âli olarak adliye nezâretine tebligat icrâ kılındığından tahliye-i sebili

(belgenin arkası:) 24 Muharrem 318 irâde-i seniyesi mukayyidlerine verilmiştir

10 Mayıs 316

BOA.BEO. 24/1766

26 Zilka'de 309

9 Haziran 308

Adliye Nezâret-i Celilesine ve Manastır Vilâyet-i Behiyyesine

Zevcini katletmesinden dolayı on beş sene müddetle mahkûmen 21 Safer 307 tarihinden berü Manastır nisâ habishânesinde mevkuf bulunan Ohri Kazâsına tâbi' Labonişte karyeli Güzar bint-i Mehmedin dört beş mâh mukaddem hamile olduğu Manastır vilâyeti habishâne müfettişliğinden iş'âr olunmasına ve keyfiyet câlib-i nazar-i dikkat bulunmasına mebnî bu bâbda verilen tahkikat ve mu'âmelât-ı lâzîme icrâsının Manastır vilâyet-i behiyyesine

ış'âriyla nezaret-i celileye ma'lûmât i'tâsî ıslahât-ı adliye komisyonunda bâ-mazbata ifade olunmuş ve mücebince vilâyet-i müşârûn-ileyhaya icrâ-yı tebligat kılınmış olduğu beyanıyla tezkire...

Nezaret-i müşârûn-ileyhaya ma'lûmât verilmiş olmağla bu bâbda usulen lâzım gelen icrası ve inbâsına iktiza-yı hâlin icrâ hâsîl olacak neticeye göre dahi tâhkîkat-ı lâzîme icrasıyla nezaret-i celilesince olmağla....

İle hâsîl olacak neticeye göre iktiza-yı hâlin icra ve keyfiyetin iş'âr olunmasına....

Manastır vilâyeti habîshâne müfettişliğinden makam-ı sâmi-i sadâret-penâhilerine bi't-takdim ıslahât-ı adliye komisyonuna havale buyrulan tâhrîrâtda zevcinin katlinden dolayı on beş sene müddetle mahkûmen 21 Safer 307 tarihinden berü mevkuf bulunan Ohri Kazâsına tâbi' Labonişte karyeli Gûlzar bint-i Mehmedin dört beş mâh mukaddem hamile olduğu gösterilmiş keyfiyet câlib-i nazar-ı dikkat bulunmuş olmağla bu bâbda usulen tâhkîkat ve mu'âmelât-ı lâzîme icrâsının vilâyet-i müşârûn-ileyhaya emr ü iş'âriyle beraber adliye nezaret-i celilesine dahi ma'lûmât i'tâsî lûzumu tezekkûr kılınarak mezkûr tâhrîrât leffen takdim-i huzur-ı âli-i sadâret-penâhileri kılınmağla ol-bâbda emr ü ferman hazret-i men-lehü'l-emrindir fi 25 zilka'de 309 ve fi 9 Haziran 308

Komisyon ve Şûrâ-yı Komisyonı	Komisyon azâsından	Islahât-ı Adliye
Devlet azâsından Umumi	Senedât-ı Şer'iyye memuru	Reisi Baş Müdde-i
Mehmed Ferid bin Mustafa	Mehmed Es'ad bin Şerif	Lebib (?)

DH.MB.HPS. 161/46 30-33 varak.

Înâs tevkîfhânesi

Eski cinâyet mahkemesine cephesi önünde mâil bir vaz'îyyetde kavşî şeâklinde inşâ edilmiş üçüncü inâs tevkîfhânesi kîndir. Mezkûr tevkîfhâne bilâhare cinâyet mahkemesinin iki hîtânnâme mülâhîkdir. Înâs tevkîfhânesinde olan haklarında henüz tâhkîkat yapılab sâniyen ceza kânûnnâmesine tevfîkan taht-ı tevkîfe alınan sâlisan hukuk-ı medeniyyeye aid bir cürümden dolayı habislerine karar verilen kadınlar muhâfaza olunur. İki zükûr tevkîfhânesi (panopitik) tarz-ı mimârisinde inşâ edilmiş iki inâs tevkîfhânesinin her katında kalın ve sağlam dösemeler ve kemerli tavanlar bulunmaktadır. Zükûr tevkîfhânesinde ve tek mil müştemilâtında olduğu

gibi inâs tevkîfhânesinin zemin katı altında dahi bodrum vardır. Burada banyo tekneleri, bir tathirât dairesi, kadın çamaşırhanesi ve çamaşırların kurutulduğu mahal, cinnet-i müttehevire 'alâmeti gösteren kadınlara mahsûs bir hücre, tevkîfhânedede bir kabahat işlenmiş olanların ayrıca habsine mahsûs iki habs-i şedid odası (Chambre d'ârrets) ...muhafazasına mahsûs bir oda mevcuddur. Mahbûsînin bulundukları hücrelerin ve koğuşların pencereleri eski cinâyet mahkemesinin havlisine nâzırdır. Koğuşlar ve mubâssıralara mahsûs hücreler büyük dîvarlar ile tevkîfhâne arasında kâin 9 numerolu havli cihetindedir. Dört katlı olan inâs tevkîfhânesi (205) mahbûs ihtiva edebilir. Bunların (55) i münkadlar olarak hücrelerde (15) i de müctemi' bir halde koğuşlarda muhafaza olunabilir. Mezkûr tevkîfhânedede (32) yataklık bir hastahâne vardır. Bu yatakların (25) i koğuşlarda ve yedisi hücrelerde bulunmaktadır. Bundan mâ'adâ inâs tevkîfhânesinde hükkâma mahsûs bir oda, kalem odaları, bir mekteb ilh. vardır. Bir kişilik hücrelerin hamam istîmâsı (27) metrotûldür. Zükûr tevkîfhânesinde olduğu gibi bunlarda da musluklu bir lavabo, bir elektrik lambası ve bir talurika (alaturka) vardır. Mîkdârı sekize bliğ olan koğuşlardaki karyolalar yatak takımları ile mücehhezdir. Koğuşların yedisinde yirmi kişi için ve birinde on kişi için yer vardır. Mevkûfinin müctemi'an muhafaza olundukları koğuşlar dahi elektrik ziyâsı ile tenvîr olunmaktadır. Bu koğuşlardan her biri için ayrı abdesthâneleri vardır.

DH.MB.HPS. 90/66

13 Temmuz 330

Menteşe Mutasarrıflığı Cânib-i Âlîsine

30 Safer sene 330 tarihli 28657/181 numerolu tahrîrât-ı vâlâlarına cevâbdır ta'mîmen de tebliğ olunduğu üzere muvâzenenin ma'âşât tezyîdinde karşılık bulunmadığından Fethiye nîsâ habshânesi gardiyanlığı için talep edilen ma'âşın tahsîsine imkân yokdur ol-bâbda.

Fethiye nîsâ habshânesi Menteşe mutasarrıflığı

Gardiyanlığı için tahrîrât kalemi

ma'aş tahsisine dair umumî 28657

hususî 171

Dahiliye Nezâret-i Celilesine

Ma'rûz-ı çâkerleridir.

Fethiye zükûr habshânesi gardiyanının hükûmet civarındaki hanesinin bir odası üç yüz on beş senesinde nisâ habshânesi ittihâz olunarak gardiyanlığının ol vakitden beri zevcesi Havva Hanım tarafından fahriyen ifâ edilmekde olunduğundan ve ma'aş tahsisi için şimdiye kadar müte'addid def'alar vuku'bulan mürâca'atı is'âf edilmemiş bulunduğuundan bahisle mikdâr-ı münâsib ma'aşın tahsisi mezbûrenin talebi üzerine Fethiye kaymakamlığından izbâr ve lede'l-havâle muhâsebe livadan yazılan der-kenârda bunun için mevkuf tahsisât bulunmadığı ifade kılınmış olmayla ma'rûz gardiyanlığa münâsib mikdâr kâfi ma'aş tahsisi mütevakkîf-ı re'y-i sâmi-i nezâret-penâhîleridir ol- bâbda emr ü fermân hazret-i menlehü'l-emrindir fi 20 Şabanü'l-mu'azzam sene 332 ve fi 30 Haziran sene 330.

DH.MB.HPS.41/23

Hülâsa (1) Adliye Mezâhib Nezâreti

Umûr-ı cezâ'iyye müdiriyyeti

Aded 332

Dahiliye Nezâret-i Celilesine

Şile Kazâsında nisâ habshânesi olmak üzere cihet-i mülkiyece isti'câr edilmiş odanın îcâri fesh olunmasından dolayı nisâ için habshâne bulunmadığı cihetle mahkûmîn-i nisâ'iyyenin Üsküdar'a sevkine mecbûriyyet görüldüğü dersa'det istinâf müdde-i umûmîliğinden bâ-müzakkere bildirilmiş ise de mahkûmîn-i nisâ'iyyenin mahzan ikmâl-i cezâ'iyye etdirilmesi maksadıyla ahar mahalle nakileri muvâfîk-ı *kânûn* ve ma'dalet olamayacağından bu kabîl mahkûmîn-i nisâ'iyyenin mahallinde ikmâl-i müddet-i cezâ'iyye etmeleri için bir mahal-i mahsûsun tedâriki esbâbının buyrulması bâbında emr ü fermân hazret-i menlehü'l-emrindir. Fi 22 R sene 330 ve fi 22 Ağustos sene 328

Adliye nâzırı nâmına müsteşar

5 Eylül sene 328 336/39 evrak nr.

İstanbul Vilâyet-i Behiyyesine

Şile Kazâsında nisâ habshânesi olmak üzere cihet-i mülkiyece isti'câr edilen odanın îcâri fesh

olunmasından dolayı nisâ içün habshâne bulunmadığı cihetle mahkûmîn-i nisâ'iyenin Üsküdar'a sevklerine mecbûriyyet görüldüğü dersa'det istinâf müdde-i umûmîliğinden bâ-tezkere bildirilmiş ise de mahkûmîn-i nisâ'iyenin mahzan ikmâl-i cezâ'iyye etdirilmesi maksadıla ahar mahalle nakileri muvâfîk-ı *kânûn* ve ma'dalet olamayacağından bahisle bu kabîl mahkûmîn-i nisâ'yyenin mahallinde ikmâl-i müddet-i cezâ'iyye etmeleri içün bir mahal-i mahsûsun tedârîki esbâbına istikmâl lüzumunu adliye nezâret-i Celilelerinden bâ-tezkere iş'âr edilmiş olmağla mutezâsının îfâsı ve inbâsına himmet buyrulması bâbında.

DH.MKT 428/100

Adliye Mezâhib Nezâreti

Umûr-ı cezâ'iyye müdirriyeti

142

Dahiliye Nezâret-i Celilesine

Devletlû Efendim Hazretleri

Milas Kazâsı merkezinde nisâ habshânesi olmadığından mahalde imam evi ta'bîr olunan bir hanenin habshâne ittihâz edilerek mezkûr hanenin sahibi mevkufe ve mahbûselerden münâsib mikdâr hane ücreti ahz etmesiyle idâre-i maslahat olunmakda ise de bunun ahvâl ve Kânûna mugayyiriyetiyle beraber mahbûselerden ekserisi fakire olarak ta'yinâtı dahi hazine-i celileden verilmekde ve hîn-i tahliyelerinde ücret vermeğe muktedir olamadıkları cihetle hane sahibi ücret alamayub sizlanmakda idâgünden bahisle emsâline tevfîkan mezkûr hane sahibine münâsib bir mikdâr ma'aş tahsisîyle nisâ tevkîfhâne ve habshânesinin taht-ı intizâma alınması Aydın mahkeme-i istinâfiyyesi müdde-i umûmîliğinden vârid olan tahrîrâtda iş'âr olunmuş olmağla îfâ-yı muktezâsı bâbında emr ü fermân hazret-i menlehü'l-emrindir fi 13 Re sene 313 ve fi 22 Ağustos sene 311

Adliye Nazırı

26 R 3131 28 Ağustos 311

4 Ağustos 311 146/26

Aydın Vilâyet-i Celilesine

Milas Kazâsı merkezinde nisâ habshânesi olmadığından mahalde imam evi ta’bir olunan bir hanenin habshâne ittihâz edilerek mezkûr hanenin sahibi mevkufe ve mahbûselerden münâsib mikdâr hane ücreti ahz etmesiyle idâre-i maslahat olunmakda ise de bunun ahvâl ve kânûna mugayyiriyetiyle beraber mahbûselerden ekserisi fakire olarak ta’yinâtı dahi hazine-i celileden verilmekde ve hîn-i tahliyelerinde ücret verememeleri cihetiyile hane sahibi ücret alamayub sizlanmakda idigünden bahisle emsâline tevfikan mezkûr hane sahibine münâsib bir mikdâr ma’as tahsisiyile nisâ tevkîfhâne ve habshânesinin taht-ı intizâma alınması Aydın mahkeme-i istinâfiyesi müdde-i umûmîliği iş’ârîna atfen adliye nezâret-i celilesinden tevârûd eden 22 Ağustos 311 tarih ve yüz kırk iki numerolu tezkirede izbâr olmadığından bi’t-tahkik iktizâsının ifâsına himem-i ‘aliyye-i dâverîleri der-kâr buyrulmak bâbında.