

## Networks of Relationships of the City Notables in the Ottoman Sharia Court: “Muzakkis, Shuhûd al-hal and Muslihun”

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### Abstract

*In Ottoman urban life, the judge and the sharia court formed the center of social networks. In the functioning of the sharia court, testimony of the witnesses is the foundation of the judicial procedure. Aside of the witnesses of the incident, there is also a class referred to as the notables (eşraf), who are known by different names, consisting of the city's respected and upright Muslims known for the sharia court. These are the classes called just witnesses (adil şahitlar), validators (mużakkiler), witnesses of the incident (şühûdu'l-hal) and mediators (muslihun), who are included in the records during the trial process. This class, defined in the records as the peomin Figures of the city (vücut), the respected of the realm (muteberân-I memleket), and the arbiters of the town, constitutes the court's social periphery. The subject of the article is to trace the class seen in the records with their roles in the sharia trial processes, which are at the center of urban social life in the Ottoman/Islamic city. These are the civil mediators, those who take part in the investigation of the witnesses, and the respected part of the city who participate in the process by signing the verdict in the role of spectators in the court. Examining the status and relations of this social class, called the arbiters or notables in the Ottoman city from the perspective of the court environment, are important in terms of urban studies. The article investigates the identities of the mentioned class -mużakkiler, şühûdu'l-hal and muslihun-, their status in society, and their roles in the court and in the trial process. The sharia records were used as the main source in the study. In the context of the records scanned as primary sources, it was aimed to reveal the duties or roles of the mentioned social class in the court, their relations with the judge and the court, and their position and status in the urban social life of the city.*

**Keywords:** Ottoman History, Sharia Court, Testimony, Mużakkis, Shuhûdu'l-Hal, Muslihun, Notables.

### Introduction

The classical Ottoman administrative system consists of provinces (eyalets) and districts (sanjaks). The judicial unit where the qadis served is called a jurisdiction (kaza). In cities, there were two representatives of the sultan. The first was the beylerbeyi or sanjak bey, who was the military governor. The second was the judge (qadi), who was the sultan's judicial deputy and representative. The judge represented the judicial aspect of Ottoman law, which derived from sharia laws and customary law (örfi), and the military governor represented the administrative aspect. In the Ottoman administrative system, it was essential that these two powers did not interfere with each other and balanced each other. Until the Tanzimat practices, all cases related to justice and law in the Ottoman State were heard in a single court. In addition to their judicial duties, judges had very important administrative duties such as municipal services, supervised endowments (vakıf), guardianship and custody records, estate distribution, sales contracts, registration and announcement of decrees and other official documents sent from the center to the provinces, their implementation, and the release and control of taxes.

The aim of this study is to examine the social class that constitutes the inside and the surroundings of the court, including the witnesses who form the basis of the trial in the religious courts, the institution of witnessing, the muzakkis who purify the witnesses (Purification; purification and cleansing, cleansing from defects, purification of witnesses; the court's investigation into whether the witnesses in a case are fair or not. Mużakkî; the person who investigates the witnesses' circumstances and informs the judge that their testimony can be accepted. Şemseddin Sami, s1317, p.402), the şühûdu'l-hal, (Muslihun, sulh yapan arabulucu) and the people called muslihun who provide peace agreements outside the court. The questions that are sought to be answered in the study can be briefly listed as follows; Who are the people who constitute the mentioned class that constitute the surroundings of the court? Are these people who are somehow involved in the trial activities in the court and in the court environment a professional group assigned by qadı? Are they assisting the judges who use

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their legal knowledge in the functioning of the court and control the trial process or members of the council formed by women? Apart from the conditions stipulated by Islamic legal criteria for witnesses, who are those referred to as *udul-ı riġal-i müslimin* (just Muslim men), *Müzekkis* (those who purify), *muslihun* (peacemakers/mediators) and those included in the *şühûdu'l-hal* lists? In the article we investigate their official or social status and their relationship networks were sought.

In recent years, various studies have been conducted on these concepts, which have attracted the attention of both Ottoman historians and legal historians. Researchers have focused on the subject by analyzing the place of this class in legal history and Ottoman urban life. In this study, the aforementioned concepts have been examined in the context of Ottoman urban life.

In studies conducted on this subject, a part of this class, called the city *muteberânı* (the city's respected and fair Muslims) in the court periphery, has been highlighted, for example, the *Müzekkis* have not been emphasized much. In this article, the concepts of the *Müzekkis*, *muslihun* and *şühûdu'l-hal* have been examined collectively within the framework of social networks. Different views have been put forward about these people who constitute the court environment. The main factor that distinguishes this study from others is that it examines these people, whom we call the court periphery and who are included in the trial process by *qadı*, in the context of their social status and networks in the Ottoman city.

Various studies have been conducted on the concepts examined in the article and different views have been put forward. Although there were different evaluations and definitions about *şühûdu'l-hal* at the beginning, in recent years, especially the studies of Hülya Taş (Hülya Taş, 2008, pp25.44) and Erünsal (İsmail E. Erünsal, December, 2018) have clarified the subject to a great extent. Mustafa Akdağ was one of those who first put forward a contrary view about *şühûdu'l-hal* (Mustafa Akdağ, 1979). In summary, Akdağ described the witnesses of the situation in the court known as *şühûdu'l-hal* as a panel of experts and a jury. Other researchers have partially repeated Akdağ's claim, which will be discussed in the following pages. For example, *şühûdu'l-hal* is shown as juries in the title of a book published on this subject (Nasi Aslan, 2018). Some legal historians have put forward views that *şühûdu'l-hal* are assistants of the judges (M. Akif Aydın, 2001, 84-85 & Ekrem Buğra Ekinci, 2012), p.376). Based on Ayntap sharia records, Canbakal, who has presented a city history study, (Hülya Canbakal, 2009, P.151) evaluates the *şühûdu'l-hal*, *muslihun* and others mentioned in the court periphery. From a social perspective within the framework of the network of relations of the city's notables. Ronald C. Jennings (Ronald C. Jennings. 1978, pp 133-172 & Ronald C. 1979, P.50) has made serious inquiries about *muslihun* and *şühûdu'l-hal* in his studies based on Kayseri sharia records. Haim Gerber (Haim Gerber, 1994, 8/pp 1-3) has focused on the subject of *şühûdu'l-hal* in his studies on Bursa sharia records and has made inquiries about the relations of this class with the court. In addition to *şühûdu'l-hal*, which constituted the environment of the Ottoman sharia court, different studies on *muslihun* by both Turkish local and foreign researchers are increasing. Işık Tamdoğan (Işık Tamdoğan, 2008, pp55-83) and Zeynep Dörtok Abacı (OTAM Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi, 20/20, Mart, 2006, p 20) focused on the subject of *muslihun*, Tamdoğan associated this class with *şühûdu'l-hal*, while Abacı examined the subject on the basis of the peace agreement. However, there is not much work on the obituaries that purify the witnesses in the investigation, which is the main evidence that forms the basis of the religious court. In our study, the obituaries were also examined and an attempt was made to ensure the integrity of the subject.

In this study, which focuses on the relationship networks of the city's notables in the court environment, an attempt has been made to find answers to questions through sharia records. In this context, the role of the so-called "*sahib-i sohenler*" (people of influence), "*noblemen*", "*vucuh*" and "*muteberân-ı memleket*", who were prominent as sources of social power in the Ottoman city, in the court and other judicial processes has been emphasized. Within the framework of the concepts of true witnessing, oath and peace, which are rooted in religion as well as concern social psychology, this window will also shed light on the social structure of the Ottoman city.

*Judge, Notables and Witnessing*

It can be said that the focal point of Ottoman social life and social relations was the activities and trial processes of the religious court under the leadership of the judge. Gerber's sentence " *the judge is interested in every aspect of urban life* " (Gerber, op.cit, p269 ) points to this relationship. All the relations of city life with the state and the people and between the people themselves take place in the court environment. In this network of relations, the greatest support of women are the people in the institution of witnessing. The witnesses of the parties to the case, other witnesses who confirm the identity of these witnesses (muarrif), the scribes who testify that the witnesses are fair and approve them, and those who sign the verdicts as şühûdu'l-hal took part in the operation of this institution. Apart from these, some of the city's notables, as *muslibun*, resolve the cases that could not be resolved in the court for a long time by means of a peace agreement and serve as a kind of alternative customary court.

As can be seen, the center of the network of relations in the Ottoman city is the judge and the judicial circle. The public area where this class -who are called the respected, notables, and influential people of the city- is most visible is the courtroom. Indeed, in the classical works written on the Islamic method of reasoning, judges are advised to first thoroughly explore the city and mingle with the people when they go to a country they are not familiar with and unfamiliar with, to get to know the scholars and the respected people of the city and to learn the customs of the region. The scholars, notables, and notables of the city will be the best helpers of the woman in determining whether the people who will testify are just or not. In his famous book, *minhacü't-talibin* , the hadith scholar and jurist Nevevi (d. 676/1277) gives interesting advice to judges who are newly appointed to a city. Nevevi's advice to the judge who has just arrived in the city is as follows; " *The imam (judge) should write down the people who will help him. Let him go to the city with two people who will testify with a book, and tell him about the situation of the town. And let him really benefit from them. Let the judge investigate the ulema and udûl (just witnesses, people who can testify and those who are authorized to write). Let him go down to the middle of the city on Monday( Mubyiddin Yabyâ b,1426, p560 )*. Imam Nevevi's advice to the judges is actually aimed at getting to know the actors of the country where the local customs that the woman who is new to the town and a stranger to this society is not familiar with are applied. The judge had to get to know the customs of the district where he worked as well as the people who are the implementers of this custom. Gerber; " *Custom law is unwritten law. This law attaches great importance to witnesses. In order to be able to verify the nature and details of the custom, it is necessary to obtain information about the prominent people of the society where the custom is valid* " (Gerber, op.cit, p279), he justifies the points pointed out by Nevevi from another perspective. Because this class, which was recommended to be recognized by the judge, would facilitate the work of the woman and perform tasks that she could not do alone, such as giving witness, informing the judge of those whose testimony was acceptable (tezkiye), mediating in cases that could not be resolved in court (sulah), investigating customary cases as the expert witnesses and giving opinions.

In the Ottoman State, judges were appointed from the center to the provinces and sanjaks governed by classical status. The average term of duty of the judges in a city they were unfamiliar with after a long journey lasted about twenty months (İsmail Hakkı Uzunçarşılı, 2014, p.10). The term of duty of the judges was reduced to one year in the later periods (Ekrem Akman, 2021, p 63). One reason for this was to prevent the judges of the district (judiciary) from getting to know the people very well and falling under the influence of the local notables and notables without being intimate with them. However, a woman who was appointed from Istanbul to a city she was unfamiliar with needed a lot of time to learn the customs of that place. Those who would provide the greatest support to the judge in this regard were the social classes in the city mentioned above.

Witnessing in court is not limited to the witnesses of the case brought before the claimant to prove his claim. The real identities of the plaintiff, defendant and other parties who were not recognized by the judge or the clerks were also determined by the testimony (" *Maryyam bint-i Ömer, resident of the Şehâdiye Neighborhood of Medîna-i Mardin, with the descriptions of the Muslim names written in the annex of the minutes...* ", 214 Numaralı Mardin Şer'iyye Sicil Defteri(1308-1309), Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.6895, 3.) of those who knew them in court. The first witnessing process in the Sharia

court occurs in the identification process. Although they generally lived in a private area, some women in the Ottoman Empire formed commercial partnerships, engaged in movable and immovable transactions, and applied to the court in person or by proxy. Contrary to popular belief, at least in the Sharia records examined in this study, women sought their rights as plaintiffs or defendants and were frequently seen in court. In Ottoman courts and in the public sphere, women were the group with the greatest difficulty in identifying themselves. In the Sharia court, the testimony of someone who knew a woman was sought when identifying her. The describers (*muarriif*) introduced both the woman and her representative and testified to their identities. Women are introduced as “...after being recognized by the descriptions of *Hacı Hafızada Abdülğafur bin Muhammed Ağa and Derviş Çavuş bin Halil Ağa*, *Mezhibüre Ümmüban nam hatun...*” (445 Numaralı Siverek Şer’iyye Sicili (1306-1309), Osmanlı Arşivi, Meşihat Şer’iyye Sicil Defterleri, BOA. MŞH. ŞSC.d.7888, 81 ). Thus, as soon as the judge begins his trial, he starts his work with the help of witnesses who will testify to the identity of the parties or their representatives right at the beginning of the session.

#### *Local Environment of the Court, the Speakers of the City*

Nevevi's advice to judges is to get to know the people at the center of the social networks in the city. The court and its circle are at the center of the social visibility of this class. When we look at the duties of the judge and the religious court, it becomes better understood why the city's notables wanted to be in this circle. In the Ottoman Empire, in the orders and decrees sent from the center to the provinces, it was frequently requested from the city administrators and especially the judges to get help from the notables in the city in carrying out the order and to do what was necessary together with them (with their help). The recommendations of Imam Nevevi in a theoretical book of fiqh seem to have been put into practice in the Ottoman Empire. In an order sent to the judge of Diyarbakir, it was actually indicated with whose help the notables of the city and the woman would do the job. “... you who are the masters and the judges of the city and the people who have the say and the workers and the janissary commanders and the elders of the hearth and the religious enthusiasts...” (Diyarbakir Şer’iyye Sicilleri *Amid Mahkemesi 3698 Numaralı Sicil (1210-1217/1795-1802)* & *Ahmet Zeki İzgöer 2015, p.479*) Here, the people who have the say in the city are counted and it is recommended to the new administrator of the city that the affairs be solved through and with their help and that they be made partners in the work. For example, in the recommendation letter sent to the administrator appointed to Malatya; When you arrive in Malatya, in order to maintain order and restore public order, the relations of the city leaders with the provincial administrators are revealed in the statement “take into your staff those who are deemed necessary from the benefactors of the town”. When Mehmet Pasha, who was appointed to the post of governor of Diyarbakir and the superintendent of the Imperial Mines, was reminded of his duty, it was indicated which social class the people who would help him belonged to. (Amid Mahkemesi 3698 Numaralı Sicil, 479) These were; “the viceroy and mufti of the city... all the viceroys of the country and the notables of the province and the e'imme and the headman” (Amid Mahkemesi 3698 Numaralı Sicil, 479). This mass constituted the human pool within the social class that formed the court circle in the town to which the woman was newly appointed. This class also converted the privilege of being around the court into prestige in its own social circle. In this context, the most important indicator of being in the social status in the city was being visible around the court.

Wael B. Hallaq, while describing the Sharia court and its environment, counts the class that includes the muslihun, şühûd al-hal and the müzükki as members of the moral community that is based on the legal but social basis of the sharia in Islamic society. Drawing attention to the dialectic between morality and law, Hallaq defined the Sharia court and its environment as an arena of moral claims made by actors such as “(Wael B. Hallaq, 2019, p.196) *the plaintiffs, their witnesses, the court's own witnesses (şühûd al-hal) and experts, the audience present at the hearing (e.g. representatives of the community), and also the woman herself.*” The social class and status of the court audience and the witnesses present also increase the prestige of the woman and the court. The fact that the witnesses belong to a higher social class is also important for the prestige of the court and the woman. (Hallaq, İmkânsız Devlet, p.88).

#### *Investigation of the Credibility of Witnesses: Purifications and Explanations*

Witnesses are at the forefront of evidence that forms the basis of cases heard in Sharia courts. In court, the claimant must prove his case with witnesses, and those who reject the claim and make a new claim can only

prove the evidence of these claims (to the brain) with fair witnesses. In Islamic law, written documents can only be evidence with the witness of those who will testify to the document. (Mecelle, m.1684-1739) The conditions regarding how witnessing and written documents can be evidence are set forth in the Mecelle. The basic means of proof in the Islamic legal system and in Ottoman courts is witnessing. However, it is seen that written documents that are proven not to be fake or fabricated, certificates from the sultan, the books belonging to the state, and the deeds in the registers, which are the official documents of the courts, hujjat and decrees are also accepted as evidence (Osmanlı Arşivi (BOA), Bab-ı Asaî Divan-ı Hümayun Sicilleri/Mühimme Defterleri, [A.DVNSMHM.d.], No.3, Gömlek No.1426. Osmanlı Arşivi (BOA), Bab-ı Asaî Divan-ı Hümayun Sicilleri/Mühimme Defterleri, [A.DVNS.MHM.d.], No.34, Gömlek No.184).

is possible primarily with the testimony of free and just Muslim men (*udul-ı abrâr-ı rikâli Muslimin*). *The judge asks the plaintiff for evidence to prove his claim. "... when an evidence in agreement with the claim is requested, Hayran Abdi b. Hasan and el-Hajj Davud b. Abdullah el-Cundî, from the udul-i muslimin and the sycamore, are present in the holy council and we are witnesses and we testify that..."* (İstanbul Kadî Sicilleri Üsküdar Mahkemesi 51 Numaralı Sicil (987-988 /1579-1580) & bazı. Rifat Günelan,2010, p.260 ) They testify to the plaintiff's claim in the form of. An investigation must be conducted to determine whether the witnesses brought by the plaintiff to the sharia council (court) as evidence for his case are qualified to testify and meet the conditions for testimony. This process is called tazkiye (*Purification is the process of "purifying and cleansing in the sense of righteousness, purifying and exonerating from impurities, verifying someone's circumstances from those who know him, revealing that he is one of the companions of good character, verifying the circumstances of the witnesses and proving that their testimony can be accepted."* Ş.Sami, Kamûs-ı Türki, p 402). In the registers, it is written " *the application of the aforementioned witnesses to the methodology of the mentioned witnesses secretly and publicly to tazkiye* " (214 Numaralı Mardin Şer'iyye Sicili (1308-1309),11 ) The sentence summarizes the tazkiye process. The witnesses are first secretly interrogated by the imam, headman or one of the respected people of the neighborhood where the person lives, with a letter in a sealed envelope, " *bâ varaka-i mestûre sîren* ", and then openly by the respected person of the same neighborhood, called the "muzekki". As a result of the tazkiye, they are informed that they are just and that their testimony is acceptable, and they begin to be heard (Mecelle madde: 1716-1719).

This institution of purification, which can be called the judicial, moral and social security investigation of witnesses, is entirely aimed at preventing false witnessing and ensuring that the oath taken by the witnesses is true. False witnessing means that justice is completely transformed into its opposite in all trial processes. In this respect, the oath process was also used together with the witnessing. Giorgio Agamben, in the formula he quoted from Cicero, points out the guarantee of the word with the sacred being by saying " *the oath is a guarantee in the support of religious sanctity and is an official promise given before God as the witness of the person, it is kept sacredly* " (Giorgio Agamben, 2020, p.35).

giving false witness or being known as a liar has extremely severe religious and social sanctions, it must be a great indicator of reputation and status for some respected people to be known as "muzakki" in the court environment. Because, muzakkis are the most respected people in the environment with their positions that determine social capital and reliability in the society. The existence of muzakkis facilitates the functioning of the court and acts as a means of social and judicial sanction against false witnessing. The acquittal-investigation of the people who will testify whether they meet the conditions of u'dul, that is, just witnessing, was carried out with the approval of the notables of the neighborhood they were a resident of or the professional group they belonged to. In the Ottoman city, the connection of this class (respected people who purified the witnesses) with the court seems to be a condition of being prominent in social life. Muzakkis are respected people who are the authority-source of the investigation of the acceptance of testimony and who are the leading notables of the society in the court environment and who assist the judge in an unofficial capacity.

that the Müzekkis were institutionalized under the name of *ashab al-mesail* in the second century of the Hijra and were among the official assistants of women (Wael B. Hallaq, 2005, pp.85-86-88.) (*avâm and ümema*). *It is known that the rules that witnessing was used primarily for evidence and proof, that written documents alone were insufficient to be evidence and that written documents should be supported by oral witnesses in order to be evidence, were now implemented in this period*. In order to confirm that the witnesses were fair and to eliminate false witnesses, the judges assigned people defined as *şuhud-ı udul* in this period (Erünsal, "Osmanlı Mahkemelerinde Şâhitler", 2).

Later, these officers would be referred to as Müzekki. However, at least in the accessible court records (Şer'iyye sicilleri) in the Ottoman Empire, it does not seem possible to reach a definite conclusion that the Müzekkis were officially assigned. There is no official duty or status of the Müzekkis who purified the witnesses in the Ottoman Empire. However, there is extensive information, especially in the court records, about which class of the muzakki belonged to, their identities, and how they were determined and appointed. In the court records, it is clear that the muzakki were selected from the imam, headman and respected people of the neighborhood where the witnesses lived. The identity of the muzakki is clearly given in the record below.

“...the witnesses, the Imam of the Grand Mosque Necmuddin and the headman Muhammed Effendi, and the witnesses Haji Hüseyin Ağa, known as the mukhtar, were secretly purified from the secret witnesses, and the chief clerk of the court, Şerif Effendi, and the bailiff Abdullah Effendi, and when they were publicly reported as just and acceptable witnesses, their testimonies were accepted as legitimate ...”(445 Numaralı Siverek Şer'iyye Sicili (1306-1309), p.86.)

In this record, the witnesses were first purged with a secret document by the imam of the neighborhood they lived in, the headman and the notables of the city called ehl-i vucuh, Hacı Hüseyin Ağa, and in the second stage, the court clerk and the bailiff publicly (“... It is confirmed by the registers of population, Hüseyin Efendi, from the shop of the Cami'i Kebir Neighborhood, and Abdulgaffur Efendi bin Sinan and Süleyman Efendi bin Tevkil and Abdulgaffur bin Hacı Yusuf, who are distinguished by their reporting of news according to the testament of the testimony, and who are of a just nature and who are of a distinguished word”. 444 Numaralı Siverek Şer'iyye Sicili(1288-1298), Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.7887, 152). It seems that the creation of a list of people who would conduct the two-stage (secret and open) investigation -who could be purged- in order to ensure that the witnesses at the center of the trial are fair and meet the conditions of testimony is possible with a long and meticulous knowledge of the environment and society. However, it can be said that these people were not official officials of the court, and that the woman determined their names when necessary and selected them for purged, as there were different purged in other cases from the same neighborhood. In fact, when we follow the proceedings of the Mardin Sharia Court in the 214th register, which records the proceedings in more detail than other registers, it is clearly seen that while the witnesses in the city were the imam, headman and respected people from the neighborhoods to which the witnesses belonged, those who belonged to a profession were chosen from the leading people of that profession ( *The witness investigation and purge of the two gendarmerie sergeants were done by their own seniors. “The aforementioned witness, Sergeant Abdalgani and the other Sergeant Abdalgani -bin Seyyid Abdulkadir- were first secretly purged in accordance with the established procedure, together with the gendarmerie captains Mehmet Ağa bin Yusuf Ağa and the lieutenants Abdi Efendi bin Esad Ağa, and each of them was declared a witness and accepted as a martyr... ”.* 215 Numaralı Mardin Şer'iyye Sicil(1318-1321), Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.6896, 123). Those who testified in the cases of non-Muslims living in the city and whose cases were heard in the Sharia Court were also purified by the spiritual leaders of their own communities and respected people from the same community. In one case, because the witnesses were members of the Armenian Catholic community of the Sublime State, their *purifications were* secretly carried out by the clergymen of the said community, namely, "Hösik son of Cebrail, Antaryas son of Betros, from the spiritual leadership of the Armenian Catholic Nation", and later, openly by the members of the community, namely, Anton son of Bolis, Mihayil son of Makdis Zabatriyan, who were not spiritual leaders of the same community, "from the spiritual leadership of the aforementioned nation of *the subjects of the Sublime State*"(214 Numaralı Mardin Şer'iyye Sicili(1308-1309), p.7) .

In the context of the muzakkis, we have the opportunity to get to know the class introduced as the leading “reputable people” in the neighborhood-centered social life. For example, in the 10 tazkiye documents taken in the Mardin 214 numbered sharia register, extensive information is obtained about the imams, muhtars and non-Muslim spiritual leaders, neighborhood leaders, in short, the notables of the neighborhoods mentioned. The judges determine the respected and leading udul-ı rical-i muslimin of the neighborhood and the spiritual leaders and leaders of the non-Muslim communities and apply to them for tazkiye when needed. Among those mentioned in the list of city reputable (notables), the majority are those with the titles of seyyid, ağa, beg and efendi. The fact that some of the muzakkis also have their family nicknames at the end of their names also makes an important contribution to city history studies.

*List of Şühûd al-Hal*

In the Sharia records, there is a list under the verdicts called şühûd'l-hal. Their number varies from two or three to dozens of people. When we look at the research on these people whose names appear under the verdict given by the court, we see that there is confusion and conceptual confusion. Akdağ defined the people on the şühûd'l-hal list as " a committee of experts in lawsuits " and claimed that they gave " the trial a jury nature "( Akdağ, p. 404 ). This view was later repeated by some historians with similar expressions ( Taş, op.cit ). In the studies conducted in recent years by İsmail Erünsal and Hülya Taş, the origin of the concept and how it was applied in the Ottoman Empire were revealed in the light of sources and documents.

have confused the functions and duties of the concepts of şühûd'l-udul, udul and şühûd, which were included in the practices of Islamic jurists and judges in the 8th century, with şühûd'l-hal at the end of the rulings given in the Ottoman religious courts. Thus, tasks that have no basis in the concept and are difficult to prove and explain were assigned. According to Erünsal, in the early period (around the 8th century), the group called şühûd'l-udûl, udûl, şubûd were people appointed and tasked by the judges. This group, which the judges appointed from among the members of the ulema class who were recognized as just in their regions, performed duties such as writing and arranging documents in the court, arranging records in accordance with the law, certifying documents and witnessing the trial process of the court ( Erünsal, op.cit, p.3 ). These people were generally members of the ulema class and specialized in preparing documents . In Islamic law history ( Erünsal, op.cit, p.4 ), the duty of this class, which was assigned by the judge and was generally called şühûd'l-udul or simply udul, ended in the Ottoman period. In 1512, the şühûd'l-udul, who continued their duties as a profession in Egypt, were dismissed from their duties in the courts and their shops were closed ( Erünsal, op.cit, p.9). The group called şühûd'l-hal, whose names were written at the end of the judgments in the Ottoman sharia records, did not have an official status and duties, and were, again according to Erünsal's correct observation, " an incoherent group " ( Erünsal, op.cit, p.38). The şühûd'l-hal records and the names in the lists used as sources in this study confirm the claims of Erünsal and Taş.

Jennings, in his inferences from Kayseri Sharia court records, states that the şühûd'l-hal consists of those who have a personal interest in the case, those who are experts in the case, and those who come and follow the court with curiosity because it is open to everyone, whether they have a special interest in Sharia cases or not (Jennings, op.cit, p162). The names on the şühûd'l-hal list in the courts vary from case to case, the type of case, the neighborhood the person lives in, or the profession they are a member of. The fact that the şühûd'l-hal list is also different in number shows this. When we look at the şühûd'l-hal lists under the ten rulings selected from the Siverek Sharia court record numbered 445, it is seen that these people change in each case(445 Numaralı Siverek Şer'iyye Sicili(1306-1309), pp.211, 212). Some of those included in the şühûd'l-hal are clerks and bailiffs who are court officials. It can be understood from the different names in these lists that those who came to the court and witnessed the recording of the verdict were not a previously appointed and assigned class. However, when we pay attention to these people who have names or seals instead of signatures under the verdicts, it will be seen that a significant portion of them are city notables. In addition to these, it is seen that ordinary people without any title or title are also included in these lists.

There were also those who came to the religious court, which was open to everyone within the framework of the rule of publicity, for different reasons. It is possible to see that many people followed the cases of relatives or people who held a certain position in society, either with curiosity or for the purpose of support. In a case heard in the Diyarbekir religious court in 1710, it is noticeable that all the notables of the city were present (Diyarbekir Şer'iyye Sicilleri Amid Mahkemesi 3754 Numaralı Sicil (1151-1154/1738-1741 & Ahmet Zeki İzgöerö 2015, p. 604 ). One party to the case was Fettahlı Mehmed Ağa, the voivode (emini) of the Siverek district of the Diyarbekir province. All the administrative and customary officials of the province came to the court to watch the case. Among these are the names of Amid mufti Üveys Efendi, Diyarbekir voivode Mustafa Ağa, seyyids Mütevelli Ahmed Efendi, Silahdar Ağa, Amid serdar (commander) İsmail Ağa, Kethûda place Hacı Mahmut Ağa, Emin-i çavuşan Abdullah Ağa, Hüseyin Ağa subject to the voivode,

Hasan Çelebi subject to the mufti and 13 more people with the titles of ağa and zadegan. These names were also included in the şühûd'ul-hal list under the verdict given later (Akman, op.cit, p247). As Jennings points out, it can be said that the fact that the court was open to the public and that some of the city's notables were present at the trial influenced the establishment of self-control over the court (Jennings, op.cit, p.163).

### *Muslihun: Peace Mediators*

In Ottoman/Islamic cities, apart from the cases that are officially heard in the presence of women, (‘For the conditions of the peace treaty, the parties to the peace treaty and the detailed rules on which issues peace can be made’. Mecelle md. 1531-1571) many cases are encountered that are resolved through peace/conciliation/mediation by mediators called muslihun according to the customs of the town. Some of these types of cases are cases that cannot be resolved for a long time despite being heard in the religious court. The second type of cases is the resolution of long-lasting arguments and disagreements between the parties without resorting to court and the parties agreeing to a peace agreement. These types of cases, which are briefly summarized in the records as “the muslimun, muslihun established the peace agreement by mediating between us”, probably lighten the burden of the judges considerably. In addition, mediators/muslihun bring both parties together at a point where they can conscientiously agree in disputes where the parties are unable to find witnesses but cannot accept them.

Peace cases have an important place as an alternative solution according to the customs of the town, outside of the religious courts. The judges repeated in the records, “ *es-sulhu seyyidü'l-abkam and senedü'l-hukkam* and *es-sulhu hayrun* (İstanbul Kadı Sicilleri Galata Mahkemesi 15 numaralı sicil (1981-1000 / 1573-1591) & haş. Rıfat Günelan, 2012, p. 157). (peace is the master of the rulings, the greatest and the document of the judges, peace is better) sentences show that the judges encouraged peace and were pleased with these agreements “The article of the Mecelle regarding the priority of peace is as follows: “In a dispute between relatives or where the parties are interested in peace, the judge advises and warns the parties once or twice to seek peace ...”. Mecelle md: 1826 ). It is wrong to see peace agreement as a solution outside the law. On the contrary, peace agreements are an alternative way that solves the problems in a civil and unofficial place outside the venue and official procedures of the court but within the framework of the rules of law. Because Islamic law has determined the rules of peace reached outside the court and allowed these agreements to be registered in the court. Messick points out that “customary mediation (peace) has gone beyond being an alternative for the court ” and has replaced (Brinkley Messick, 2016, p.271) the Sharia law and official judgment . While the plaintiffs face their cases in the presence of the judge and in the same assembly in the Sharia trial, in the peace transaction, the muslihun/mediators reconcile them in separate places without confronting them and *construct a contract of peace* . The case that is resolved and concluded outside the woman's place is then brought before the court to be registered. The purpose of this is to have the informal peace agreement recorded in the registry. The details of this peace agreement, which may have lasted for days, are omitted and included in the court records with certain sentence patterns and formulas. The peace agreement is recorded in the records with the following formula. “...when they established a peace agreement in their minds with the mediation of Muslims and harmonious people due to the fact that the fact that the disputes occurred in large numbers” , or “ the disputes and hostilities of the enemies had started to flow in our minds.” According to these sentence patterns, after a long conflict, hostility and hostility between the parties, mediators entered between the parties during the court process or before going to court and established the peace agreement. A significant number of cases, especially those in which one of the parties was unable to prove his claim, could not find witnesses and avoided taking an oath, were resolved through the intervention and mediation of the muslihun. Aida Othman points out in the introductions to the works of Edebü'l-kadi that the official trial before the judge generally began when there was no peace (Aida Othman, 2007, p.72). Accordingly, when peace could not be reached between the parties, they brought their cases before the judge . Abdülmecid Mutaf, on the other hand, claims that the peace council, and therefore the muslihun, was a committee invited by the judge, and that the woman made proposals to the parties to make peace (Abdülmecid Mutaf, 2004, p.132). Mutaf points out that some cases were recommended to be referred to the muslihun upon the guidance of the woman and that sometimes the peace council was closed by a friendly solution (sülh) reached between the plaintiff and the defendant after being invited by the judge. It is difficult to give a figure for what percentage of the cases were resolved through peace. However, the number of peace cases in some registry books can give an idea about this.

Mutaf indicates that twenty percent of the records in a religious registry were resolved through amicable means (Mutaf, op.cit, p.138). However, in the religious registry books we examined, at least in the recorded documents, figures below this number are encountered. In the Mardin religious registry numbered 215, nine out of 103 cases were resolved through amicable means. This corresponds to a rate of approximately nine percent (215 Numaralı Mardin Şer'iyye Sicili(1318-1321).

It is possible to say that some of the settlement agreements are not registered. The parties may not always register their agreements in court due to court fees or other reasons.

The names of Muslim peacemakers (mediators) referred to as Muslimun-muslihun, who were customary and civil mediators outside the court and the judge, and who were trusted by both parties and whose mediation they accepted, were not recorded in the records. There is no clear information in the records about the muslihun group, which was located around the Sharia court and worked as a customary alternative to the court or at least greatly reduced the workload of women. It can be said that they were the ulema, community and clan leaders, merchants, and elders of the noble family in the neighborhood, in short, people who were respected in the environment, who had the power of social sanction, and who were called fair Muslims. As stated before, one of the most important duties of women is to seek the opinion and support of those who know the customs of the town where they work. This concept, formulated as custom in the registers as town custom, was used for the customs of different social or professional groups such as merchant custom, tribe custom. Did this class of mediators who knew the customs of the town, who in addition to their expert witness service as experts in cases, reconciled the parties outside the court, and who could bring the result to court for the establishment of a peace agreement, have a certain place? Where did they meet with the parties? Did they have a customary power of sanction? Were these mediators, who had knowledge of sharia and law, an association or an organized group, since they brought the result of the peace to court and had it approved by the judge?

Although some questions have not yet been answered, Messick notes in the example he gave in Yemen that the peacemaker mediators called muslihun do not bring the parties face to face in a place like in court, but instead make them agree to reach an agreement in separate places until they reach an agreement, and after the agreement is reached, they bring them together to sign the contract (Messick, op.cit, p.272). It is difficult to say anything at the moment about how and in which places this agreement is reached according to the customs of the towns. However, it is a known fact that these people who ensure the peace agreement are respected in the city, they customarily undertake some of the court's work, their words are listened to and many cases are resolved without being caught up in court processes (*"For an example of a case regarding how a case was resolved out of court through mediators called muslihun in a murder incident between two tribes and the subsequent registration of the peace concluded in court"*. Diyarbekir Şer'iyye Sicilleri Amid Mahkemesi 3715 Numaralı Sicil (1065/1655) & Ahmet Zeki İzgöer, op.cit,2013, p. 91). It is seen that this group, referred to as muslimun and muslihun, is a group that is closely related to the court environment and even constitutes a kind of customary alternative to the official court and provides great support to the judiciary. It is also suggested that the mediators are probably people from the same segment as the şühûd'ul-hal (Işık Tamdoğan,2008, 78 & Jennings, p.179)

## Conclusion

The activities and trial processes of the religious court under the leadership of the judge are at the center of Ottoman social life and social relations. The main evidence that forms the basis of the cases heard in the religious court is witness testimony and witnesses. These are; Muslim just men in the district, the respected people of the country, the influential people, the rich and dignified, in short, the secret owners of the city who can be described as notables and the people who can give the city its identity. The court and its surroundings are at the center of the social visibility of this class. Witnesses were first secretly investigated by people called "muzakki" and then openly, in order to prevent false witness. The existence of "muzakki" facilitated the functioning of the court and became a means of social and judicial sanction against false witness. At least in the accessible court records (sharia records) in the Ottoman Empire, there is no official duty or status of "muzakki". That these people were not official officials of the court can be said from the

existence of different “muzakki” in other cases from the same neighborhood, where the woman determined their names when necessary and selected them for the tazkiya process. This institution of purification, which can be called the judicial, moral and social security investigation of witnesses, is entirely aimed at preventing false testimony and ensuring that the oath taken by the witnesses is true.

In the Sharia registers, there is a list called şühûdu'l-hal under the decisions. It is possible to say that the group called şühûdu'l-hal, whose names are written at the end of the decisions in the Sharia registers, which are the court books, is a disjointed group consisting of those who somehow ended up in court, those who were there because of their closeness to the case, and those who were curious about the case as relatives of one of the parties, who witnessed the case and the written decision.

In Ottoman/Islamic cities, apart from the cases that were officially heard in the presence of the judge, many cases were resolved through peace through mediators called muslihun according to the custom of the town. In addition to the cases heard in court, those who knew the established custom of the town well resolved the burden of the judge largely outside the court with peace agreements. Peace cases have an important place as an alternative solution according to the custom of the town outside the religious court. It is seen that these people who provided the peace agreement were reputable in the city, they customarily undertook some of the court's work, their words were listened to and many cases were resolved without being stuck in the court processes. It is seen that this group, whose names are mentioned as muslimun and muslihun, was a group that was closely related to the court environment and even constituted a kind of customary alternative to the official court and provided great support to the judiciary. As a result; These three classes (muzekkiler, şühud'ul-hal and muslihun) who were the most supported by women in the trial processes in the Ottoman sharia courts and who formed the court circle were not official officials. They were notables and experts called vucuh-ı belde and muteberân-ı ahali who made their social status visible in the court circle in Ottoman social life, who had reputation and knew the customs of the land well, and who unofficially assisted the judge.

## References

- 214 Numaralı Mardin Şer'iyye Sicili, Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.6895. <https://katalog.devletarsivleri.gov.tr>
- 215 Numaralı Mardin Şer'iyye Sicili, Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.6896. <https://katalog.devletarsivleri.gov.tr>
- 444 Numaralı Siverek Şer'iyye Sicili, Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.7887. <https://katalog.devletarsivleri.gov.tr>
- 445 Numaralı Siverek Şer'iyye Sicili, Osmanlı Arşivi, Meşihat Şer'iyye Sicil Defterleri, BOA.MŞH.ŞSC.d.7888. <https://katalog.devletarsivleri.gov.tr>
- BOA, Osmanlı Arşivi. Bab-ı Asafı Divan-ı Hümayun Sicilleri/Mühimme Defterleri, (A.DVNSMHM.d. No.3, Gömlek No.1426)
- BOA, Osmanlı Arşivi. Bab-ı Asafı Divan-ı Hümayun Sicilleri/Mühimme Defterleri, (A.DVNS.MHM.d. No.34, Gömlek No.184. <https://katalog.devletarsivleri.gov.tr>
- BOA, Osmanlı Arşivi. Sadaret Meclis-i Vala Evrakı (A.MKT.MVL) No. 4, Gömlek No. 2. <https://katalog.devletarsivleri.gov.tr>
- Diyarbakır Şer'yye Sicilleri Amid Mahkemesi 3698 Numaralı Sicil (1210-1217/1795-1802).
- Diyarbakır Şer'yye Sicilleri Amid Mahkemesi 3715 Numaralı Sicil (1065/1655).
- Diyarbakır Şer'yye Sicilleri Amid Mahkemesi 3754 Numaralı Sicil (1151-1154/1738-1741).
- İstanbul Kadı Sicilleri Galata Mahkemesi 15 Numaralı Sicil (981-1000/1573-1591).
- İstanbul Kadı Sicilleri Üsküdar Mahkemesi 51 Numaralı Sicil (987-988/1579-1580).

## References:

- Abacı, Zeynep Dörtok. (2006). “Bir Sorun Çözme Yöntemi Olarak Sulh: 18. Yüzyıl Bursa Kadı Sicillerinden Örnekler ve Düşündürdükleri”. OTAM Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi 20/20, 105-115. [https://doi.org/10.1501/OTAM\\_0000000535](https://doi.org/10.1501/OTAM_0000000535).
- Agamben, Giorgio.(2020). Yeminin Arkeolojisi Dilin Kutsal Yemini. çev. Önder Özden. Ankara: Nika Yayınevi.
- Ahmed Cevdet Paşa.(1983). Açıklamalı Mecelle: Mecelle-i Ahkâm-ı Adliye, haz. Ali Himmet Berki. İstanbul: Hikmet Yayınları.
- Ahmet Zeki İzgöer. (2015). Diyarbakır: Dicle Üniversitesi İlahiyat Fakültesi Yayınları.
- Ahmet Zeki İzgöer. (2015). Diyarbakır: Dicle Üniversitesi İlahiyat Fakültesi Yayınları.

- Ahmet Zeki İzgöer.(2013). Diyarbakır: Dicle Üniversitesi İlahiyat Fakültesi Yayınları.
- Akdağ, Mustafa. (1979). Türkiye'nin İktisadi ve İctimai Tarihi. Ankara: Tekin Yayınevi.
- Akman, Ekrem.(2021) Siverek, Şehir Mekân ve İnsan. Konya: Çizgi Kitabevi.
- Aslan, Nasi. ( 2018). İslâm ” Yargılama □Hukukunda “Şühûdü'l-hal” □Jüri □Osmanlı Devri uygulaması. Adana: Karahan Kitabevi.
- Aydın, M. Akif. (2001). Türk Hukuk Tarihi. İstanbul: Beta Basım.
- Canbakal, Hülya. 17. Yüzyılda Ayntâb, Osmanlı Kentinde Toplum ve Sosyal Hayat. çev. Zeynep Yelçe. İstanbul: İletişim Yayınları, 2009.
- Ekinci, E. Buğra. ( 2012). Osmanlı Hukuku. İstanbul: Arı Sanay Yayınları.
- Erünsal, İsmail. “Osmanlı Mahkemelerinde Şâhitler: Şühûdü'l-'udûlden Şühûdü'l-hâle Geçiş”. Osmanlı Araştırmaları 53/53 (Aralık2018), 1-49. <https://doi.org/10.18589/oa.631958>.
- Gerber, Haim. (1994). “Osmanlı Hukukunda Şeriat, Kanun ve Örf. 17. Yüzyıl Bursa'sı Mahkeme Kayıtları”. çev. Mehmet Akman. Hukuk Araştırmaları Dergisi 8/1-3, 265-291.
- Hallaq, Weal B. (2005). The Origins And Evolution of Islamic Law. Cambridge: Cambridge University Press.
- Hallaq, Weal, B. (2019 ). İmkânsız Devlet. çev. Cemil Üzen. İstanbul: Babil Kitap.
- haz. Rifat. ( 2012). Günalan-Talip Mert. İstanbul: İSAM Yayınları,. <https://www.kadiscilleri.org/index.php>
- haz. Rifat. (2010). Günalan. İstanbul: İSAM Yayınları,. <https://www.kadiscilleri.org/index.php>
- Jennings, Ronald C. (1978). “Kadi, Court, And Legal Procedure In 17th c. Ottoman Kayseri”. Studia Islamica 48, 133-172.
- Jennings, Ronald C. (1979) “Limitations of the Judicial Powers of the Kadi in 17th c. Ottoman Kayseri”. Studia Islamica 50, 151-184.
- Leslie, P.I.E.R.C.E.( 2005). Ahlak Oyunları, 1540-1541 Osmanlı'da Ayntap Mahkemesi ve Toplumsal Cinsiyet. çev. Ülkün Tansel. İstanbul: Tarih Vakfı Yurt Yayınları.
- Messick, Brinkley. (2016). Yazı Devleti, Müslüman Bir Toplumda Metinsel Tahakküm ve Tarih. çev. M. Fatih Karakaya, Emir Karakaya. İstanbul: Açılım Kitap.
- Mutaf, Abdülmecid.(2004). “Amicable Settlement in Ottoman Law: Sulh System”. Turcica 36 , 125-140.
- Nevevi, (1426H). Muhyiddin Yahyâ. Minhacü't-talibin. Beyrut: Dar'ul-minhac.
- Othman, Aida. (2007) “And Amicable Settlement Is Best: Sulh and Dispute Resolution in Islamic Law”. Arab Law Quarterly 21, 64-90.
- Sami, Şemseddin. Kamus-ı Türki. Dersaadet: İkdâm Matbaası, 1317.
- Tamdoğan, Işık. (2008), “Sulh and the 18th Century Ottoman Courts of Üsküdar and Adana”. Islamic Law and Society 15/1, 55-83.
- Taş, Hülya. (2008),“Osmanlı Kadı Mahkemesindeki “Şühûdü'l-Hâl” Nasıl Değerlendirilebilir?”. Bilig 44 , 25-44.
- Uzunçarşılı, (2014). İ.Hakkı. Osmanlı Devletinin İlmiye Teşkilatı. İstanbul: Türk Tarih Kurumu.