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On the Marital Regime in Damascus, 1480-1500 CE

by Boaz Shoshan (Ben Gurion University/Beersheva, Annemarie Schimmel Kolleg/Bonn)

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- "Mini-Dramas by the Water: On Water Disputes in Fifteenth-Century Damascus," in *Histories of the Middle East, Studies in Middle Eastern Society, Economy and Law in Honor of A. L. Udovitch*, ed. Roxani Eleni Margariti, Adam Sabra and Petra M. Sijpersteijn (Leiden, 2011), pp. 233-44.

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Abstract

This paper is part of a larger project that will attempt to reconstruct the socio-economic dimensions of Damascus at the end of the Mamluk period, and which is primarily based on Ibn Tawq's diary. The paper summarizes the author's earlier study of divorce in Damascus life and focuses on marriages and bonds with female slaves and concubines. It argues that while, generally speaking, Damascus men were monogamous, quite a number owned slaves and concubines who mothered children. The paper illustrates these general conclusions by references to pertinent examples that Ibn Tawq provides.

Introduction

Šihāb ad-Dīn Aḥmad b. Muḥammad Ibn Ṭawq (834-915/1430-1509) was born in the village Jarud in the Ghuta, the countryside surrounding Damascus. As an adult he resided just outside the Damascus walls and in 903/1498 he moved to the Ma'lūla village. He was employed as a professional witness (*šāhid*) or what one might, broadly speaking, describe as a notary, certifying all sorts of documents. In addition, he was for some time a Quran reader and was given a variety of tasks by his acquaintances from the scholarly elite. A scribe of a lower rank, his pride was being related by marriage (his second) to the daughter of Šayḥ al-Islām Muḥammad b. 'Abd Allāh Naḡm ad-Dīn (d. 876/1471) of the distinguished Ibn Qādī 'Aḡlūn family.¹ He was especially on amiable terms with Taqī d-Dīn, another Šayḥ al-Islām and member of the family, to whom he refers routinely as *sīdī aš-Šayḥ*. Ibn Ṭawq wrote a diary to which he gave the title *at-Ta'līq* and of which the only discovered parts cover the years 885/1480-906/1500.² As far as I am aware, though limited in its coverage of only twenty years, this is the best local history of any Islamic town we have at least till the eighteenth century CE. For reporting of certain issues Ibn Ṭawq was well placed and there are at least three or four areas as regards the history of late Mamluk Damascus on which he sheds light otherwise unavailable. Among the unique items in Ibn Ṭawq's diary are reports about more than 150 marriages, almost half of which are quite detailed, and 50 or so cases of divorce. This is, undoubtedly, the best set of data one can hope for on this subject for such a relatively short time-span anywhere prior to the Ottoman era. These reports, in addition to his unique information on female slaves and concubines, are the subject of this working paper and form part of a larger study of Damascus which will be primarily based on Ibn Ṭawq.

Divorce

I present an analysis of the divorce cases in a forthcoming article,³ hence here I shall only briefly refer to some of my findings in this regard. Of major significance is, by and large, the rarity of divorce (*ṭalāq*) cases. Also, there are a few cases in which the act of irrevocable repudiation by thrice repeating the *ṭalāq* statement was not completed and the husbands involved did not declare *ṭalāq* more than once. This is in line with Yossef 'argument, which is based on his study of as-Saḥāwī's material for the 15th century. However, what is significant about Ibn Ṭawq is that, unlike as-Saḥāwī's biographical dictionary, which is Rapoport's main source, and which is focused on the elite and bourgeoisie, he reports also about ordinary men and women.

Ibn Ṭawq's data largely support Rapoport's conclusion about the prevalence of consensual separation (*ḥul'*), in which wives gave up some, or all, of their financial rights in return. Unlike the case of *ṭalāq*, where the husband may not remarry his divorcee unless she marries another man, *ḥul'* allows for remarriage take place after a waiting period (*'idda*). It seems

¹ For a biography see as-Saḥāwī, *aḍ-Ḍaw'*, vol. 4 pt.8, 96-7; Haskafī, *Mut'at al-aḡhān*, I, 139 n. 3.

² For reviews see Conermann and Seidensticker, "Some Remarks;" Guo, "Al-Taliq."

³ The article is due to appear in the proceedings of the Ghent Colloquium on Mamluk Studies that took place in 2012.

that the increase in consensual divorce under the Mamluks anticipates a phenomenon that is documented in the early Ottoman Empire, Syria included.

However, as regards Rapoport's overall thesis as put in his book, the data in Ibn Ṭawq do not support it. As argued by Rapoport, compared to medieval Europe, the most distinctive feature of the marital regime in urban Islam is the ubiquity of divorce and that over long periods of time pre-modern Middle Eastern societies consistently had higher rates of divorce than they have today. Rapoport admits that "the evidence [for these conclusions] tends to be qualitative rather than quantitative," and that it pertains to Muslims in North Africa and al-Andalus, and to Copts and Jews in Cairo. Alternatively, it is based on as-Saḥāwī's entries for nearly five hundred 15th-century Cairene married women, at least one third of whom, namely, somewhat over 150, married more than once, and many married three times or more.

What were the reasons for the high divorce rate? Muslim women, Rapoport argues, were not as dependent on their husbands as Islamic marital law would suggest. Although divorce was a uniquely patriarchal privilege, it reflected the high degree of economic independence enjoyed by women. This was made possible by the expansion of the textile industry in the 13th century and the opportunities it offered to women. The changing economic situation increased the monetary value of marriage contracts and more cash was allocated to support women's needs. By the 15th century, Rapoport suggests, bridal gifts (*ṣadāq*) and other means of support increased the similarity between a marriage relationship and a business partnership.

Now, Rapoport's conclusions may be questioned on several grounds, yet we do not need to go into these in the present context. However, certainly as regards Damascus, it is impossible to maintain that divorce was pervasive. As already noted, Ibn Ṭawq has 50 divorce cases for a period of about twenty years and as I shall shortly explain, these 50 cases were far from terminated marriage.

The second related issue is of women's economic independence resulting from their increased participation in the textile industry. Rapoport's hypothesis, which is crucial to the major argument about divorce rates, is nowhere supported by concrete evidence. Here it would be indicative to point out that even in industrial societies such development took place only toward the end of the nineteenth century.⁴

Thirdly, the hypothesis about high divorce rates serves Rapoport for questioning the strength of patriarchy in traditional Islamic society. He urges historians to rethink the nature of gender relations in that society and, in particular, the economic and legal dimensions that these relations involved. For pervasive divorce destabilized the patriarchal order and challenged the belief in marriage as a social haven. However, Ibn Ṭawq's information about Damascus calls into question Rapoport's attempt, tempting as it may be, of reading modernity into traditional Islamic society. Our notary relates more than a dozen cases (more than one fourth of his data) in which a *ḥul'* agreement was followed by remarriage. In most cases it was the desire of the divorcees to return (*raddat*) to their divorcing husbands, occasionally for only a slight

⁴ One can refer, for example, to studies by Kathleen Canning, "Gender and the Politics of Class Formation: Rethinking German Labor History," *American Historical Review* 97 (1992), 736-69.

increase in the immediate and deferred marriage gift. While our source tells us nothing about the reasons or the emotions that lay behind reunion, it is likely that economic hardship and the need to recover the right to a deferred *ṣadāq* may have forced a divorcee to return. I should add that Nelly Hanna found that in 17th century Cairo at least 30 per cent of divorce cases resulted in remarriage.⁵ Although too small to draw a meaningful picture for a city inhabited at the time of his writing by an estimated 25,000- 30,000 people, whichever way we speculate on Ibn Ṭawq’s numbers, and even multiply them many times over, they can by no means support an argument about a rate of divorce that superseded modern rates. Divorce was a social phenomenon of certain measure but not in the proportion modernity has known. Thus, Ibn Ṭawq’s information on divorce, of great merit in itself, can hardly suggest that there was any real challenge to the well-established structure of patriarchy. I would argue that, if anything, that structure, despite some changes in the divorce process, retained its stability under the Mamluks.

Marriage

While the basic customs associated with the contraction of marriage in Islam are largely known,⁶ not so marriage as practiced in pre-modern Islamic societies. This is especially so as regards the population in general, about whose marriage life we know significantly less than about the social elite. Among the hundreds of notarial documents included in Ibn Ṭawq’s *Ta’līq*, there are reports about 150 marriage contracts (*‘aqd*), for 65 of which we have relatively rich information. What does it tell us?

First, and this should not come as a surprise, in cases where partners to the marriage can be identified as regards their social status, equality can be demonstrated. To give a few examples, the prominent Šāfi’ite Šayḥ al-Islām, Taqī d-Dīn Ibn Qāḍī ‘Aḡlūn, at the age of 62 married Šārah, the daughter of the *kārimī* merchant Šihāb ad-Dīn Ibn al-Muzalliq.⁷ This marriage took place following a long-time strained relationship between the Šayḥ al-Islām Ibn Qāḍī ‘Aḡlūn and his first wife, known as “the Egyptian,” in the course of which they separated and shortly afterwards reunited.⁸ In fact, about sixteen months after his marriage to Šārah, the former marriage was terminated once again.⁹ As to the Šayḥ’s second marriage, hardly two weeks elapsed after the contract when Ibn Qāḍī ‘Aḡlūn received a message defaming Šārah for immoral conduct (*ta’n*), as well as blaming the Šayḥ for being involved in the death of her former husband. But these insinuations came to a nil.¹⁰ In another case, the Šāfi’ite Qāḍī Bahā’ ad-Dīn, of the famous al-Ba’ūnī family (857 or 859 – 910/1453 or 1455 - 1504) married at about age 40 the daughter of *kabīr al-ḥarāfiš*, the leader of an enigmatic

⁵ Hanna, “Marriage,” 356.

⁶ See Heffening, “‘Urs.” For a discussion with specific reference to the Mamluk period, see Frenkel, “Mamluk Ulama.” On a special custom, the purpose of which was to demonstrate the bride’s virginity prior to marriage, see Ibn Ṭawq, *at-Ta’līq*, 638.

⁷ Ibn Ṭawq, *at-Ta’līq*, 1586, 1587, 1599. For Šārah, see 1345-6. She was a widow, for which see below. For “*kārimī*” see Labib, “*Kārimī*.”

⁸ Ibn Ṭawq, *at-Ta’līq*, 744, 833. Thus he spent a night with her sometime after his marriage to Šārah. See 1591.

⁹ *Ibid.*, 1729. For their reconciliation at some earlier point, see 1629; for its failure, see 1631, 1636, 1655. This wife, known as Umm ‘Abd ar-Raḥīm, died in Rabī‘ II 905. See 1762.

¹⁰ *Ibid.*, 1591.

social group in the city.¹¹ Muḥammad Raḍī d-Dīn b. al-Ġazzī (d. 935/1528-9), son of another Ṣayḥ al-Islām and a Ṣāfi'ite prolific scholar and a deputy Qāḍī, married at age 23 the daughter of the deceased Ṣayḥ al-Islām Zayn ad-Dīn Ḥaṭab b. 'Umar b. Mihna al-Ġazawī, who was his guardian after Muḥammad's father died when he was barely two years old.¹² Ḥasan b. al-Naḥḥās, apparently a wealthy man, married the daughter of Badr ad-Dīn Ḍafda', the son of the Qāḍī of Uḍru'āt.¹³

Of the 150 marriages, about a dozen are listed to widows.¹⁴ Here the status of the widow, having been married before to a Qāḍī, or being of a Qāḍī's family, could have helped to a new marriage. We also find about two dozen cases of marriage of first degree cousins or more distant relatives.¹⁵ There are about a dozen marriages explicitly stated to have been to divorcees.¹⁶ It is well known that when a man married a divorcee, it had to be ascertained that three periods of menstruations were complete, obviously to be sure that there was no pregnancy.¹⁷ On occasion, the newly-wed divorcee was allowed to reside in her home. If she had young children from her previous marriage, a *nafaqa* paid by the new husband could be demanded.¹⁸ Some men married manumitted slaves, a topic that will be taken up below. Perhaps one case to refer to here is, amazingly enough, the marriage of the Ṣayḥ al-Islām Ibn Qāḍī 'Aḡlūn, less than one year after marrying his second wife, to Zahra, this time rather an Ethiopian manumitted slave, whom he met in Beirut.¹⁹

The majority of marital relationships described by Ibn Ṭawq were monogamous. Such conclusion tallies with Rapoport's, which is based on a much smaller number of cases.²⁰ Incidentally, this also conforms to the results of research done for Ottoman Damascus of ca. 1700 CE, where polygamy was only about 10 per cent of the recorded marriages.²¹ Still, let us follow the marital history of some polygamous Damascene men in addition to the aforementioned Ibn Qāḍī 'Aḡlūn.

¹¹ Ibid., 1197. For "ḥarāfiš," see Brinner, "Ḥarfūsh."

¹² Ibn Ṭawq, *at-Ta'liq*, 27; Ibn Ṭulūn, *Mufākahat al-ḥillān*, I, 21. For Raḍī d-Dīn, see ibid., e.g., I, 116, 117. He has a Haskafi, *Mut'at al-adḥān*, II, 771-2.

¹³ Ibn Ṭawq, *at-Ta'liq*, 154. For Ḥasan see Ibn Ṭulūn, *Mufākahat al-ḥillān*, I, 169. For Badr ad-Dīn, see ibid., 21; Haskafi, *Mut'at al-adḥān*, II, 748 n. There are many further examples that Ibn Ṭawq provides. The son of 'Alā' ad-Dīn al-Buṣrawī, the Ṣāfi'ite deputy qāḍī, married a sister of the merchant Ibn al-Ma'ārikī. See Ibn Ṭawq, *at-Ta'liq*, 109-10. For al-Buṣrawī, see 53, 72. The Scholar Badr ad-Dīn b. al-Yāsūfi married the divorcee of the merchant Ibn Takrītī. See Ibn Ṭawq, *at-Ta'liq*, 114. For al-Yāsūfi, see Buṣrawī, 237. The Son of Muḥibb ad-Dīn Muḥammad, probably *kātib as-sirr*, married Aṣīl, granddaughter of the Uḍru'at qāḍī. See Ibn Ṭawq, *at-Ta'liq*, 287. For Muḥibb ad-Dīn see Buṣrawī, 173. And so on and so forth. One could painstakingly map out the marriage connections that Ibn Ṭawq provides.

¹⁴ Ibn Ṭawq, *at-Ta'liq*, 186, 503, 767, 1230, 1273, 1301, 1350, 1361 (or divorcee), 1545, 1591, 1678 (or divorcee), 1842. See also Ibn Ṭulūn, *Mufākahat al-ḥillān*, I, 3, 12, 16, 21, 25, 29.

¹⁵ Ibn Ṭawq, *at-Ta'liq*, 430, 536, 545, 612 (two cases), 666, 704, 730, 734, 851, 925, 929, 1057, 1376, 1436-7, 1488, 1511, 1532, 1580, 1605, 1713, 1793 (two cases), 1812, 1858, 1864, 1883.

¹⁶ Ibid., 114, 626, 1114, 1192, 1436, 1452, 1653, 1662, 1672, 1678 (or widow), 1728.

¹⁷ Ibid., 1452.

¹⁸ See examples in Ibn Ṭawq, *at-Ta'liq*, 1267, 1281, and further below.

¹⁹ Ibid., 1272, 1752 (two cases).

²⁰ For a somewhat impressionistic view, see Rapoport, "Women and Gender," 30-31.

²¹ Establet and Pascuel, *Familles*, 55-57.

One Ibn al-Banyāsī, husband of Qāḍī Burhān ad-Dīn b. al-Mu‘tamid’s sister, later married the Qāḍī’s widow.²² The prominent Šāfi‘ite Kamāl ad-Dīn Ibn Ḥamza (*sīdī s-sayyid*, as Ibn Ṭawq refers to him throughout) had two wives who gave birth to daughters on the very same day.²³ Another case is of ‘Abd al-Qāḍīr, the son of Ismā‘īl and Ilf, the daughter of Ibn al-Ḥimšī (who features in my article on divorce), who occupied at some point the post of *Šayḥ aṣ-ṣaḡā* (Head of the Goldsmiths), for which he received a robe of honor (*ḥil‘a*) from the *nā‘ib al-qal‘a*. In 898/1492-3 he married Zayn al-‘Ābidīn, the daughter of his namesake ‘Abd al-Qāḍīr, who was allowed to reside in her home.²⁴ This provision, plus a note about a mature son she had only a couple of years after the marriage, indicate that this was not her first marriage. Three years later ‘Abd al-Qāḍīr divorced her by *ṭalāq*.²⁵ However, she complained to the Mālikī Qāḍī and demanded remarriage and the Qāḍī put pressure on ‘Abd al-Qāḍīr, which proved effective. The financial terms were now clearly to Zayn al-‘Ābidīn’s disadvantage: she was promised only 1 Ašrafī as compared to 19 plus an annual *kiswa* of 300 dirhams in her first marriage, and she forfeited another 500 dirhams.²⁶ Then, once again, they divorced, as we are informed that toward the end of 904/1499 ‘Abd al-Qāḍīr remarried her for the second time.²⁷ Yet now he had a second wife, the young daughter of one aš-Šarābī and granddaughter of the Qāḍī Raḍī d-Dīn al-Ġazzī (see on him above), although at some point at a court hearing there was some uncertainty about the propriety of this marriage.²⁸ In any case, we further learn that ‘Abd al-Qāḍīr had another wife named Bint Karuru (?) whom he married either as a third wife or following one of his divorce acts from Zayn al-‘Ābidīn. At some point he also divorced Bint Karuru while she was pregnant.²⁹

Muḥammad b. Muḥammad, known as Abū l-Yumn, the son of Muḥibb ad-Dīn Ibn Qāḍī ‘Aḡlūn and nephew of Taqī d-Dīn Ibn Qāḍī ‘Aḡlūn, and also a scholar in his own right, deserves a detailed account.³⁰ We first meet him marrying Suryay, his uncle’s (that is, Taqī ad-Dīn’s) white slave and the mother of his daughter, a few weeks after her manumission. Abū l-Yumn’s marriage gift to her was the nice sum of 25 Ašrafī. Less than two years after this marriage we learn of the death of Umm Sitiyatiya, Abū l-Yumn’s other wife.³¹ The widower did not wait too long, however, and two months later married Ḥadīḡa Sitt al-‘Ulamā’, the daughter of the wealthy Zayn ad-Dīn ‘Abd al-Laṭīf al-Lu‘lu‘ī.³² Also she died less than three years later, following birth complication that resulted in the death of the prematurely born son as well.³³ Ten days later, the property of the deceased wife (*tarikā*) was sold at their home in the presence of Abū l-Yumn, her mother and most of the merchants of

²² Ibn Ṭawq, *at-Ta‘līq*, 1546.

²³ *Ibid.*, 423.

²⁴ *Ibid.*, 1156.

²⁵ *Ibid.*, 1403.

²⁶ *Ibid.*, 1504. It is not clear how it was possible in this case, as *ṭalāq* was in effect.

²⁷ *Ibid.*, 1725.

²⁸ *Ibid.*, 1317.

²⁹ Ibn Ṭawq, *at-Ta‘līq*, 1673.

³⁰ He died in 935 H. See Ġazzī, *al-Kawātib*, II, 8; the age of his death given there as less than 40 is clearly erroneous.

³¹ Ibn Ṭawq, *at-Ta‘līq*, 638.

³² *Ibid.*, 659. He died in Šafar 891/February 1486 and was Šayḥ Sūq al-Kutub (Book Market), a wealthy man. See Haskafī, *Mut‘at al-aḡḡān*, I, 463-4.

³³ Ibn Ṭawq, *at-Ta‘līq*, 816.

the Barrānī and Ġawwānī (?) markets.³⁴ Some items were bought by two men whose names are specified; Ibn Ṭawq served as one of the witnesses.³⁵ About three years later Abū l-Yumn married the granddaughter of the former *nā'ib al-qal'a*, who was the daughter of Šihāb ad-Dīn of the prestigious al-Iḥnā'ī family of judges.³⁶ Three years later also she died in the severe plague of 897/1492, leaving behind two daughters.³⁷ At that time Abū l-Yumn owned a female slave who also died.³⁸ Not even four months elapsed before he married again, this time Šārah, the daughter of Šaraf ad-Dīn Maḥmud aš-Šaybānī (unidentified).³⁹ About five years later Abū l-Yumn had one more marriage, this time to his cousin Amīna, also known as Sitt al-'Ulamā', the daughter of his distinguished uncle Ibn Qāḍī 'Aḡlūn. She was married barely one year earlier to another cousin,⁴⁰ but apparently that marriage was terminated shortly afterwards. Also her second marriage, to Abū l-Yumn, did not last more than a couple of years, but produced a son.⁴¹ It appears that tension within the wide family was the reason for the divorce and it resulted in all sorts of insults. Abū l-Yumn divorced Amīna and, given the special circumstances, was not charged with any compensation (*ṭalāqan maḡānan bi-ḡayr 'iwad*).⁴² All in all, Abū l-Yumn appears as extremely active in marital affairs: we know of six wives he had and at least part of the time he was polygamous.

One of Abū l-Yumn's marriage contracts is the most detailed of its kind and is worthy of being quoted in full:

On the blessed Saturday, the 14 Šafar 894 [18 January 1489] a marriage contract (*'aqd*) is being signed between Abū l-Yumn and the virgin, of sexual puberty, who had not been engaged before, who is free of any legal constraints (*ḡāliya 'an al-mawānī 'aš-šar'iyya*), and who has no relative to represent her (*ḡāliya 'an wālī wa-'ašaba*), the daughter of Fāṭima and of [the deceased] Bardabek as-Sayfī Sudūn al-Muḡammadī, the *nā'ib al-qal'a*. Witnesses for the bride are Taqī d-Dīn Abū Bakr b. al-Ḥayāṭa and her great uncle Badr ad-Dīn [Ibn al-Ḥayāṭa] and his son. Witnesses for the groom are Šihāb ad-Dīn the Šāfi'ite... [other names are effaced]. The agreement takes place in the presence of the bride's mother at her residence at the "little market" (*suwayqa*) Sarrūḡa, near the site known as aš-Šaraf al-A'lā aš-Šāmī. Representative (*mutawallī*) for the bride is the chief Šāfi'ite Qāḍī Muḡyī d-Dīn al-Iḥnā'ī. Representation (*tawkīl*) for the groom is by his uncle Taqī d-Dīn Ibn Qāḍī 'Aḡlūn. The marriage gift (*ṣadāq*) is 60 Ašrafī, paid upon request (*ḡāl*), of which 40 are paid in advance (*muqaddam*). Badr ad-Dīn, the witness for the bride, and the bride herself, as well as the groom's mother, all testify that the bride received that sum from Badr ad-Dīn. In addition,

³⁴ Possibly the "inner" and "outer" markets? For a possible identification of the Barrānī with the Bīmāristān Market, see al-Buṣrawī, *Tārīḡ*, 90.

³⁵ Ibn Ṭawq, *at-Ta'līq*, 819-20.

³⁶ *Ibid.*, 821, 831, and see further below.

³⁷ *Ibid.*, 1122.

³⁸ *Ibid.*, 1119.

³⁹ *Ibid.*, 1142-3.

⁴⁰ *Ibid.*, 1436.

⁴¹ *Ibid.*, 1757.

⁴² *Ibid.*, 1532, 1909.

500 dirhams of the Damascus currency were vouched annually for the bride's various expenses (*kiswa*), to which the bride was entitled by law. She agrees to that.⁴³

Anxiety concerning the possibility of a husband taking other wives or concubines would occasionally surface at the stage of concluding the marriage or at some other point. In some cases husbands were made to promise not to remarry a divorcee,⁴⁴ not to allow a concubine to reside in the neighborhood of a new bride⁴⁵ or not to leave the wife for more than a year without a legally accepted reason.⁴⁶ Failure to stand by it could provide sufficient ground for divorce.⁴⁷ Šihāb ad-Dīn ar-Raḡawi, at one point a waqf supervisor (*mutakallim*),⁴⁸ had a dispute (*waq'at bad'* [sic! spelling error apparently on Ibn Ṭawq's part] *umur*) with his wife 'Ā'īša bt. al-Ḥawrānī, who even left their home for two nights. He vowed (*ḥalafa bi-t-ṭalāq*) in the presence of Ibn Ṭawq that he did not take a concubine (*yatasarra 'alayhā bi-ḡāriya*), “neither white nor black”, during his recent journey to Cairo, furthermore, that he had never taken any other in the past, nor had sexual relations with any concubine except for that one residing at his home. Only then did Bint al-Ḥawrānī return home.⁴⁹ About two years later, towards the end of 889/1484, Ibn Ṭawq, in his capacity as a witness, was called by Šihāb ad-Dīn to certify that he owed only 130 Ašrafī as a deferred *ṣadāq*. The husband vowed that any wife he would take in addition would provide a ground for *ṭalāq*, and his wife could free herself of the marriage after one pronouncement (*ṭalqa*), only forfeiting as little as 1 Ašrafī.⁵⁰

Then there were women's rights that occasionally had to be declared. Šams ad-Dīn b. ad-Dāramīnī (unidentified) announced that his wife, a concubine whom Šihāb ad-Dīn al-Mustawfī (unidentified as well) had manumitted, was entitled to his share in a house that belonged to her former husband, and which he received through her daughter. At the same time, however, he made sure that both she and her daughter had no claims against him.⁵¹ 'Alā' ad-Dīn al-Ḥalabī (unidentified), who remarried Sitiyata (perhaps not to be confused with Abū l-Yumn's aforementioned wife) agreed that in case he beat her, or forced her to move out of Eastern 'Anaba,⁵² she would be entitled, upon forfeiting her deferred *ṣadāq*, to walk out of the marriage after only one *ṭalqa*.⁵³

As regards financial terms, it is noteworthy that although the dowry (trousseau) was a major factor determining the degree of economic independence of a wife,⁵⁴ and an upper-class groom in late 13th-century Damascus expected his bride to bring a dowry worth about 2,500

⁴³ Ibn Ṭawq, *at-Ta'liq*, 821.

⁴⁴ Ibid., 121, 1051, 1187-8, 1276-7, 1281, 1488, 1539.

⁴⁵ Ibid., 121.

⁴⁶ Ibid., 1653.

⁴⁷ For an interesting case see Powers, “Four Cases.”

⁴⁸ Ibn Ṭulūn, *Mufākahat al-ḥillān*, I, 8.

⁴⁹ Ibn Ṭawq, *at-Ta'liq*, 198. Rapoport, “Women and Gender,” 31, n. 148, erroneously cites this example in the context of polygamy.

⁵⁰ Ibn Ṭawq, *at-Ta'liq*, 402.

⁵¹ Ibid., 1023.

⁵² Possibly situated below the Samaritans' Quarter. See Ibn Ṭulūn, *Mufākahat al-ḥillān*, II, 122.

⁵³ Ibn Ṭawq, *at-Ta'liq*, 911-12. For only one *ṭalqa*, see also 1726.

⁵⁴ Rapoport, *Marriage*, 84-5. For trousseaus in the Mamluk period, see al-Wakīl, *aš-Šiwār*. Note that immediately afterwards, on the basis of four examples, Rapoport advances his argument that it was the wife who commonly initiated the divorce proceedings.

dinars,⁵⁵ only two dowries are mentioned by Ibn Ṭawq, one of which even lacks details.⁵⁶ One wonders why. As for the marriage gift promised by the groom, about 50 different quotations, ranging between 12 and 300 Ašrafī, with the majority being less than 100, are given by Ibn Ṭawq. Obviously, the lowest sums were quoted for marriages to manumitted concubines or to widows. In two exceptional cases, one of which is a marriage to a concubine, the quotations are not in Ašrafī terms but in silver currency.⁵⁷ As one may expect, the highest sums were vouched by grooms coming from families of either merchants or Qādīs. Part of the *šadāq*, varying from case to case, was designated as a due debt, “payable upon demand.”⁵⁸ For his marriage with Šārah, the daughter of Ibn Muzalliq the merchant (for whom see above), Taqī d-Dīn Ibn Qādī ‘Aḡlūn paid 200 Ašrafī, 150 of which immediately (she was entitled to **count** the coins).⁵⁹ Ibn Ṭawq’s son, upon his first marriage, vouched for 69, of which he paid 50. It so happened that his wife ‘Ā’iša died exactly two years later in the plague. About sixteen months following her death he married again and this time promised 60 Ašrafī, “paid upon demand,” of which he paid 40 at the time of concluding the contract. It appears that at the time of the marriage, Ḥadīḡa, his second wife, was a few months still away from reaching her puberty.⁶⁰ Incidentally, Ibn Ṭawq complains that at one point she had harsh words to say about her husband and in-laws and he criticized her behavior. She locked herself in her private space, refusing even to eat, then spent the night at the neighbors till her uncle had to come and work for a reconciliation.⁶¹ To linger some more on the marital life of the young couple and on the relationship of Ibn Ṭawq’s son with his parents, interesting is what our notary relates about his borrowing (!) from his wife one Ašrafī, giving it to his son. The reason for that was the son’s “oath of divorce,” pronounced in front of his mother, in case he did not return within three months a sum of money he owed her. Apparently, Ibn Ṭawq was worried that the lad would not be able to make it, and therefore took the loan. However, the Šayḡ al-Islām, Taqī ad-Dīn Ibn Qādī ‘Aḡlūn, relieved Ibn Ṭawq of his anxiety anyway, stating that the short period of three month was not actually binding in this case.⁶²

Ibn Ṭawq’s figures generally confirm Rapoport’s conclusion, based on a much smaller data base, that top government officials and other members of the elite promised *šadāq* in sums that rarely were more than several hundred dinars,⁶³ while middle-class grooms paid less.⁶⁴ However, the Damascus data differ from the average sums of marriage gifts that are quoted in the so-called Ḥaram documents, which range between 5 and 20 only.⁶⁵ This, if not accidental,

⁵⁵ Rapoport, *Marriage*, 112. See the exceptional to no less than fantastic case he cites from Ṭarsūsī.

⁵⁶ Ibn Ṭawq, *at-Ta’līq*, 439-40, 1474.

⁵⁷ *Ibid.*, 92, 1452. For a hypothesis that, in general, *šadāq* sums designated in dinars in practice were paid in silver, see Rapoport, *Marriage*, 54-5 and nn. See a specific case in *ibid.*, 1452.

⁵⁸ See also Rapoport, *Marriage*, 53 and reference to legal manuals; 56 and n. 33. For Ṭarsūsī’s discussion of it in the first half of the 14th century, see p. 57.

⁵⁹ *Ibid.*, 1589.

⁶⁰ Ibn Ṭawq, *at-Ta’līq*, 1415, 1604, 1736, 1855, 1856 (two cases), 1858.

⁶¹ *Ibid.*, 1907-8.

⁶² *Ibid.*, 1915.

⁶³ Rapoport, *Marriage*, 14, and eight cases for the latter in n. 15.

⁶⁴ In a Geniza marriage contract from the latter half of the 13th century, the groom's marriage gift is 50 dinars, and in a contract dated 1301 it is 30 dinars. See p. *ibid.*, 17. For Rapoport's argument about the tendency to inflate the sum for the sake of maintaining social prestige, see p. 54 and nn. 14-15.

⁶⁵ Rapoport, *Marriage*, 20.

could very well indicate, by and large, a better economic situation in late 15th-century Damascus than in 14th-century Jerusalem.

Now, Ibn Ṭawq tells us that the implementation of the financial terms specified in marriage contracts could on occasion be subject to dispute between couples. Thus, Ḥalīma bt. at-Turkumānī had financial claims against her husband al-Bustānī. Another woman, a widow from al-Mizza, claimed that her second husband failed to pay the sums due her orphaned son.⁶⁶ Muḥyī d-Dīn Yaḥya, the son of Šihāb ad-Dīn al-‘Anbarī, the educator of the sons of Taqī d-Dīn Ibn Qāḍī ‘Aḡlūn, and his wife, the daughter of the deputy Šāfi‘ite Qāḍī Šihāb ad-Dīn Aḥmad al-Ḥimšī, disputed about his payment of the *kiswa* for their first year of marriage.⁶⁷ In such cases, a representative (*sā’*) would speak for the wife and an agreement between the two would result in a *barā’a šar‘iyya*.⁶⁸ Exceptionally detailed is the case of the two representatives, ‘Imād ad-Dīn, the *ḥaṭīb* of the Saqīfa Mosque, and ‘Abd al-Bāsiṭ al-Bazrawī. As a result of negotiation and a compromise (*mušālaḥa*) they reached, ‘Imād ad-Dīn agreed to pay to his daughter-in law, who was ‘Abd al-Bāsiṭ’s sister, a sum of 800 (dirhams) as *ṣadāq*. According to the agreement, she was expected to receive 600, while the rest was deferred to four months later, in between paying a monthly payment of 30 (which would practically mean a deferment of seven months!) plus paying for *kiswa*. ‘Abd al-Bāsiṭ objected to that and demanded 45 per month, forfeiting the *kiswa* in return, which would fall on the wife’s own family.⁶⁹

Finally, I should like to point out that the “payable upon demand” clause, which appears in virtually all contracts as regards *ṣadāq*, is open to more than one interpretation as regards its socio-economic implication. It should come as little surprise that the notable scholar Ibn Qayyim al-Ġawziyya, who was dissatisfied with it, was surely pleased when claiming that the clause was not put into practice except when there was discord.⁷⁰ He had a clear interest in preserving the notion of harmony at all costs, especially as these usually fell on women’s shoulders. Perhaps to Ibn Qayyim’s chagrin, some wives did bring their husbands to court and even caused their imprisonment.⁷¹ At the other extreme, Rapoport, in the framework of his thesis about the weakening patriarchy, thinks that the clause undermined the notion of marriage as a harmonious and non-monetized relationship. My position is somewhere in between. One could persuasively make a case for the “payable upon demand” not as a symbol of disharmonious marriage but as an indication to an improvement in women’s initial situation in marriages. It enabled the bride and her family to back down on the *‘aqd* because of disagreement on the deferred *ṣadāq*⁷² or, alternatively, gain better conditions.⁷³

⁶⁶ Ibn Ṭawq, *at-Ta’līq*, 531, 1272-3. For Sitt Sa‘ādat, see 801-02.

⁶⁷ *Ibid.*, 213, 338. For al-‘Anbarī, see 25. For al-Ḥimšī, see Ibn Ṭulūn, *Mufākahat al-ḥillān*, e.g., I, 49.

⁶⁸ Ibn Ṭawq, *at-Ta’līq*, 801-2.

⁶⁹ Ibn Ṭawq, *at-Ta’līq*, 1239.

⁷⁰ Rapoport, *Marriage*, 57.

⁷¹ *Ibid.*, 57-8.

⁷² See, for example, Ibn Ṭawq, *at-Ta’līq*, 1303.

⁷³ Rapoport, *Marriage*, 58 for examples.

Female Slaves and Concubines

In a fine overview written some eight years ago about the sources and research available for the study of women and gender in Mamluk society, Rapoport brought half a dozen or so examples of 15th-century men, with one exception all Egyptian, some of whom of modest background, who kept concubines as a substitute for a wife, most likely an indication of their poor economic situation.⁷⁴ To these I would add an interesting case of Ḥalīl b. Šāhīn, the father of the historian ‘Abd al-Bāsiṭ, who had at least two concubines who bore him sons. In a collection of biographies he compiled, ‘Abd al-Bāsiṭ speaks of his foster brother Yūsuf, who was born to an *umm walad* named Surbay (Suryay?), who bore at least two sons to ‘Abd al-Bāsiṭ’s father and nursed at the same time both her son Yūsuf and the to-be-historian. ‘Abd al-Bāsiṭ notes that at the time of writing his book, that is, at the end of the 15th century, by which time, he tells us, she was close to 90, Surbay lived most of the time in his home. This was natural, a result of his and his mother’s affection for her, and her being like a mother to him. Another foster brother, nineteen years younger than the historian, was the son of another concubine, named Bulbul, of Turkish origin, who mothered a few sons.⁷⁵ Quite exceptional appears to me the following information that is to be found in a biography of Aḥmad b. Rāḡiḡ of the Rifā’iyya order in Cairo. His father, also a Sufī Šayḡ of a *zāwiya*, disappeared one day, leaving his wife, a manumitted slave, in the house of the Taḡrī Birdī family, pregnant, it is argued, without his knowledge. Be that as it may, under those circumstances Taḡrī Birdī’s wife tried to abort the fetus by unloading the woman’s belly with heavy staff and other measures. All this did not work and the son of the deserting Šayḡ saw the light of the day and was adopted by one of his father’s friends.⁷⁶

In the same review Rapoport also points out the decline of the number of white concubines and slave girls in military households and elsewhere in the 15th century, at least partly due to dwindling supply caused by wars with the Ottomans and high mortality rates resulting from recurrent epidemics. He refers to some indications, including price figures, albeit, in his own admission, inconclusive, of shortage of supply.⁷⁷ While the sparse data he has do not enable us to say something meaningful about the situation in general, it is by far Ibn Ṭawq who provides the most detailed information on female slaves and concubines in any Mamluk context. What is significant about his material is not only its relative abundance for a period of about twenty years – he mentions several dozens of slaves and concubines – but also that his information pertains to middle- and law-class men. It appears to me that his data, limited as they are, open up a somewhat

⁷⁴ In addition, Rapoport relates about Ġamāl ad-Dīn Abū l-Maḡāsin Yusūf b. ‘Abd al-Hādī, also known as Ibn al-Mibrad, the Ḥanbalite Damascene scholar (For his biography see editor’s introduction to *Sayr al-ḥaṭṭ ilā ‘ilm at-ṭalāq at-ṭalāq* (Beirut, 1997), 9-14, who, according to Rapoport, had a slave named Bulbul, with whom he lived ten years till her death in the plague of 883/1479 and from whom he had a boy and a girl. See Rapoport, “Women and Gender,” 13-16. However, nowhere in the source that Rapoport relies on, as well as in Šafwat ‘Abd al-Hādī, *al-Imam Yūsuf ‘Abd al-Hādī* (Damascus, 2007), 215-16, is Bulbul mentioned as slave. She rather was his wife.

⁷⁵ ‘Abd al-Bāsiṭ, *al-Maḡma*, I, 174.

⁷⁶ *Ibid*, I, 419-20.

⁷⁷ See note 19.

wider angle on the phenomenon of slaves and concubines and on their essential role in late Mamluk society.

Here one has to begin with clarifying terminology and draw attention to two different categories established by the *šarī'a* and to which Ibn Ṭawq adheres: a female slave (*ġāriya*) and a concubine (*surriyya*).⁷⁸ A *ġāriya* was purchased primarily for doing housework and a *surriya* was purchased mainly for sexual relationship and in many cases would bear children to her master. In practice, as we shall see, this legal distinction was not always practiced, and – if Ibn Ṭawq indeed used the two terms with precision – female slaves often bore children as well.

Ibn Ṭawq tells a great deal about both black and white female slaves. To begin with, he relates about a number of his own, some of them white. He had no concubines and we don't hear of any children he had other than from his wife.⁷⁹ The first of his slaves he mentions was white and named Šahdiya, whom he sold to the “dark-colored” educator (*faqih al-awlad*), posted at the Zayn ad-Dīn Ḥaṭṭāb Mosque.⁸⁰ Now, as Ibn Ṭawq relates, Šahdiya was reluctant to go with her new master and was screaming and crying to the point that Ibn Ṭawq's relative, who was present at the transaction, had to apply physical force and drag her. Apparently it did not help, for on the very same day the new master showed up with the woman, reporting that she refused eating and threatened to take her own life. He asked Ibn Ṭawq to annul the transaction and our notary agreed and had to return the money received.⁸¹ However, a couple of months later Ibn Ṭawq sold Šahdiya to a lady named Asmā', who actually intended her for her grandchild.⁸² This time the transaction appears to have been carried out with no further difficulties. Less than two years later occurred the death of Mubāraka, another of Ibn Ṭawq's slaves.⁸³ It appears that at that time Ibn Ṭawq had another (black) *ġāriya*, named Nawfara. Due to her faults (*min sār al-uyūb*) and his wife's demand (*bi-šarṭ al-mar'a*), he sold her two years later at the slave market (*fī r-raqīq*).⁸⁴ A day later he purchased a white slave who prior to that had been at the household of Abū Bakr Maṅḡak (unidentified).⁸⁵ A week later, in his absence, his wife purchased from Šādī Bek al-Ġalabānī, the chief of the music band (? *mihtār*), a slave named also Mubarāka.⁸⁶ Four months later Ibn Ṭawq reports of the purchase of Ġawhara, from one Ibn al-Qaṣṣār al-Maġribī (“son of the bleacher”).⁸⁷ This appears to be an unfortunate purchase, since less than a year later Ibn Ṭawq reveals that he hit his female slave – most likely referring to Ġawhara – with a stick, because of her “lack of manners”; he admits to have regretted it. However, a couple of days later, after

⁷⁸ For this distinction see Brunschvig, “Abd,” 24b and 28a respectively. See however, an exception in Ibn Ṭawq, *at-Ta'liq*, 198 where he uses the verb “*yatasarra*” for a *ġāriya*.

⁷⁹ See also Wollina, “Ego Document,” 355 and n. 106. Contrast it with his hesitation about it in his Ph. D. dissertation, 57. Actually, he refers to his wife as both *zawġa* and *umm awlad*. See Ibn Ṭawq, *at-Ta'liq*, 1032 and further references.

⁸⁰ Was it established by him? See on him Ibn Ṭawq, *at-Ta'liq*, 27, 173, 1350.

⁸¹ *Ibid.*, 96, 97.

⁸² *Ibid.*, 118.

⁸³ *Ibid.*, 277. He uses here exceptionally the term *mawlat*.

⁸⁴ *Ibid.*, 288. For being black, see 290.

⁸⁵ *Ibid.*, 288 (Unidentified).

⁸⁶ *Ibid.*, 290.

⁸⁷ *Ibid.*, 334.

employing her for about a year, Ibn Ṭawq put Ğawhara on sale (*li-l-ard*).⁸⁸ About a year later he sold a slave whose name he unspecified to Ğalāl ad-Dīn b. ‘Alā’ ad-Dīn al-Buṣrawī, the historian’s son. According to our notary, he did not hide from Ğalāl ad-Dīn her faults, among which was her lack of piety - “she did not say the prayers” – the mess she created, her bad manners and also some physical problems such as weak eyesight and being prone to easily catch a cold. Apparently all that did not affect her price of 1230 dirhams, which is quite similar to other figures we have.⁸⁹ Whether at that point Ibn Ṭawq still owned the aforementioned Šahdiya, who, as we recall, refused to leave his household, is unclear. In any case, a month after selling Mubarāka Ibn Ṭawq bought Ğazal, a black *ġāriya* from a silk merchant (*ḥarīrī*), perhaps originally of Ḥimṣ, who dwelt in the town section known as “black stone mortar” (*al-ġurn al-aswad*).⁹⁰ The merchant authorized the female dealer Huġayġa to conclude the transaction and receive the payment on his behalf.⁹¹ A couple of months later Ibn Ṭawq sold either this slave or perhaps another he had and he later mentions another white slave of his.⁹² Altogether the number of Ibn Ṭawq’s slaves was at least seven or eight.

In addition to his own household, Ibn Ṭawq has a great deal to report about Taqī d-Dīn Ibn Qāḍī ‘Aġlūn’s female slaves. Earlier I mentioned the Šayḥ’s marriage to a black slave in Beirut. In the course of the twenty years under discussion the Šayḥ owned no less than nine female slaves, three of whom bore him children.⁹³ About his concubines we shall hear below. His household appears to have had a few slaves and concubines at a given point in time. Other female slaves and their owners are reported by Ibn Ṭawq either in his capacity as witness (*šāhid*) to transactions concluded or through information that reached him. For example, the Šāfi’ite scholar Kamāl ad-Dīn Ibn Ḥamza purchased a breast-feeding *ġāriya* together with her suckling daughter, as the *šarī’a* requires.⁹⁴ Abū l-Yumn, whom we met earlier in connection with polygamy, owned a slave and got into troubles with one of his wives, the sister of the Qāḍī Naġm ad-Dīn, for accommodating the slave

⁸⁸ Ibid., 411.

⁸⁹ Ibid., 594. For figures, see below. Ğalāl ad-Dīn al-Buṣrawī married some years later the granddaughter of the *ḥaṭīb* of the Saqifa Mosque. See *ibid.*, 1185. Still later he married the daughter of the leading Šāfi’ite Kamāl ad-Dīn b. Ḥamza, but had to be separated from her because some obscenity ascribed to him. See Ibn Ṭulūn, *Mufākahat al-ḥillān*, I, 356, 358. He resided at the Tawriziyya (unidentified). See *ibid.*, 1485. He is later referred to as a qāḍī. See *ibid.*, 1516

⁹⁰ See also Ibn Ṭulūn, *Mufākahat al-ḥillān*, I, 68, without specified location.

⁹¹ Ibn Ṭawq, *at-Ta’līq*, 604.

⁹² Ibid., 619, 1511.

⁹³ One *ġāriya* died while suckling (*murḍi’a*). See *ibid.*, 196. Another named Suryay, who bore him a daughter, he eventually manumitted. See *ibid.*, 521, 538. Some years later we find her married to Ibn al-‘Aġlūniyya. See *Ibid.*, 1646. Also his Ethiopian Ğawhara bore him a daughter. See *Ibid.*, 838. Another female slave he owned died at age 60. See *ibid.*, 929. About a couple of years later also Sanīn (?), a black slave, died. See *ibid.*, 1240. Another Ethiopian he had about the same time was known as Ğalab. See *ibid.*, 896. She died in the terrible plague of 897 and a day later he lost his slave named Nawfara, as well as his granddaughter. See *ibid.*, 1119, 1120. Some months later he purchased the single, non-virgin (*ṭayib*) Ethiopian slave named Nūr aṣ-Šabāḥ from a merchant at the Dira’ Market. See *ibid.*, 1148. She died a couple of years later and was buried near Ğalab. See *ibid.*, 1251 (1219, a reference to the same?) In 902 H, when he was about 60 of age, an Ethiopian slave bore him a daughter. She died a year later of the plague and her daughter Maryam also died. At that time he also owned a white slave. See *ibid.*, 1479, 1578, 1646.

⁹⁴ For the law that a child below seven years cannot be separated from his mother when sold as slave, see Brunschvig, “‘Abd.”

at her residence.⁹⁵ All in all, Ibn Ṭawq reports about many dozens of female slave owners, both men and women, of both white and black female slaves.⁹⁶ About some he adds interesting notes. Thus, when one Ibn as-Saqāfī bought a slave, his wife, like in Ibn Ṭawq's own case, was involved by making her stipulation (*bi-ṣarṭ al-mar'a aš-šar'iyya*).⁹⁷ The old merchant Šihāb ad-Dīn Aḥmad al-Qunāsī owned a slave who was murdered with him and his wife by criminals.⁹⁸ Muḥibb ad-Dīn b. Šu'ayb had a slave with whom he "guggled" (*tabaqbaqa*) and she appointed him as her agent.⁹⁹ When one Ibn az-Zaytūnī bought a slave and sold her to a slave dealer from Ḥamāh, who was ill-reputed for supplying female slaves to brothels, he was fined for that by the *ḥāğib*, as was the original seller, who was actually innocent of any wrongdoing.¹⁰⁰

Like Ibn Qāḍī 'Ağlūn's slaves and concubines, more than a dozen female slaves, half of them black, are reported to have mothered children to their masters.¹⁰¹ Others, like Muḥammad b. al-Ārif, manumitted their slaves at some point.¹⁰² When the slave of one Ibn al-Hamas was manumitted, it was Ibn Ṭawq who handed to her the certificate.¹⁰³

Then we have some interesting cases of escape or attempt at that. Ibn Ṭawq witnessed the purchase made by his relative, the lady Bint al-Ḥātūn, of Fā'ida, "the Egyptian" (black) yet "of obscure origin" (*al-mağhūla al-ğins*) *ğāriya*, previously owned by Šayḥ Abū l-Faḍl,¹⁰⁴ together with her daughter, apparently still young. Two years later Fā'ida ran away.¹⁰⁵ It appears that she returned to her former owner and the transaction was annulled, for Ibn Ṭawq witnessed for and wrote the original sale contract (*Mūsāwwada*) for a transaction carried out by three partners now purchasing Fā'ida: two were from the nearby villages Arzuna and Harasta,¹⁰⁶ and the third is identified as Ibrāhīm b. Mūsā "the translator" (*tarğumān*). They purchased Fā'ida in equal shares from Abū l-Faḍl.¹⁰⁷ Ironically, a short while later, two of Abū l-Faḍl's female slaves, one of whom had a child, ran away.¹⁰⁸ Surūr, owned by Ibn Qāḍī 'Ağlūn, was able to drill a hole in the wall of her residence at the so-called Western Dome (*al-qubba al-ğarbiyya*) and escape to the house of one of the Šayḥ's former female slaves who was now living with her husband. Ibn Ṭawq relates Surūr's praise, thus putting the blame on the Šayḥ al-Islām's wife, known as the Egyptian, to whom he was clearly averse. In any case, that husband betrayed Surūr and reported about her whereabouts for the negligible sum of 10 dirhams.

⁹⁵ Ibn Ṭawq, *at-Ta'liq*, 1709.

⁹⁶ For further slave owners see *ibid.*, 258, 292, 662, 799, 1119, 1121, 1124, 1125, 1127, 1128, 1134, 1237, 1363, 1454, 1500, 1501, 1503, 1504, 1505, 1512, 1516, 1530, 1538, 1557, 1595, 1607, 1608, 1621.

⁹⁷ *Ibid.*, 730.

⁹⁸ *Ibid.*, 450.

⁹⁹ *Ibid.*, 648.

¹⁰⁰ Ibn Ṭawq, *at-Ta'liq*, 1051.

¹⁰¹ *Ibid.*, 379, 498, 633, 868, 873, 1030, 1121, 1122, 1125, 1150, 1240, 1272, 1318, 1465, 1499, 1601.

¹⁰² *Ibid.*, 1004, 1030.

¹⁰³ *Ibid.*, 363.

¹⁰⁴ He probably was a notary who worked closely with Ibn Ṭawq. See, for example, *ibid.*, 245.

¹⁰⁵ *Ibid.*, 627.

¹⁰⁶ For these villages see Yāqūt, *Mu'ğam al-buldān*.

¹⁰⁷ *Ibid.*, 655.

¹⁰⁸ *Ibid.*, 654. Perhaps one of them was black and known as "the Ḥiğāzī," for whom see *ibid.*, 868. Possibly she is the black slave reported to have died in 903 H. See *ibid.*, 1582.

The failure did not deter her from another act of escape about four months later, this time to a different shelter.¹⁰⁹ Apparently also this escape did not bring an end to her employment problems, for we read that a third attempt occurred about a year and a half later, yet at this point it appears that Surūr had already been sold to one Muḥammad Ibn al-‘Aḡlūniyya “the architect” (*al-mi‘mār*), who appears to have had some contact with the Šayḡ al-Islām.¹¹⁰ So perhaps more than having problems with one specific household, Surūr was sort of a rebel slave who had difficulties accepting her unfortunate status? In one further case, the white concubines of the Qāḏī Ibn Muzalliq, the son of the leading *karīm* merchant,¹¹¹ escaped to the house of his neighbor, who happened to be a Christian clergy of the European community (*al-farangġ*). The house was searched and as a byproduct of discovering the escapees, also several thousand of gold coins were confiscated. This was used as a pretext to raid also the houses of other Europeans residing in the Ğubba, and these were sealed.¹¹²

Ibn Ṭawq provides a few interesting reports about the sexual harassment of and scandals related to female slaves and the reaction of the authorities to that. In one case Ismā‘īl, known as “the Ḥanafite,” raped a white female slave and she became pregnant. The case came before no other than the sultan in Cairo, who decided to castrate Ismā‘īl. Had this harsh decision to do with the fact that the rape took place in the month of Ramadan?¹¹³ In another case, a slave of Ibn Qāḏī ‘Aḡlūn, in her fourth month of pregnancy, was interrogated about the cause and blamed one Ibrāhīm al-Ḥawrānī for that. He later agreed to marry her, but it appears that there was no marriage. Another *ġāriya* accused both her neighbor and his male slave (*‘abd*) for her pregnancy. The issue came before the *ḥāġib al-ḥuġġāb* who arrested the latter (it is unclear for how long). Although in this case any sanction against his master is not reported, animosity was generated between the master and the accused neighbor.¹¹⁴ Another man caused twice the pregnancy of his daughter’s female slave but the pregnancies aborted. In the complications caused during the second, she died and the man was charged with the sum of 50 Ašrafī.¹¹⁵ When a young man and the female slave of a Šayḡ’s spouse were found somewhere in a mosque complex performing abomination (*makrūh*), the slave was punitively hit by a sword.¹¹⁶

The dozen price quotations provided by Ibn Ṭawq for the sale of female slaves are mostly around 1100 to 1200 dirhams, sometime referred to as “old currency” (*fiḏḏa ‘utuq*), that is, the dirhams before the reform that led eventually to the introduction of a new currency.¹¹⁷ In gold terms, given a rate of exchange of 1:52 for the Ašrafī (*dinār*) that

¹⁰⁹ Ibid., 419, 466.

¹¹⁰ Ibid., 662. For this contract see 916.

¹¹¹ For his father, see above and n. 6.

¹¹² Ibn Ṭawq, *at-Ta‘līq*, 1136.

¹¹³ Ibid., 667. For the connection of Ismā‘īl with Ibn al-Ḥisbānī, see also 974. For Zayn ad-Dīn al-Ḥisbānī as Ḥanafite qāḏī, see 1042.

¹¹⁴ Ibid., 454, 462, 466, 467. The involvement of the *ḥāġib* in these affairs confirms Robert Irwin’s argument about the growing involvement of *ḥāġibs* in the latter Mamluk period in judicial affairs, as expressed in his “Privatization.”

¹¹⁵ Ibid., 1789, 1794.

¹¹⁶ Ibid., 61. See also related cases in 650, 1051.

¹¹⁷ I intend to elaborate on it in a future study.

obtained in these transactions,¹¹⁸ the average price would be 21 to 23 Ašrafī, including a dealer's commission (*dallāl*) and the fee for the notaries rectifying the transaction.¹¹⁹ When not explicitly specified, prices seem to apply to black slaves, and hence we may conclude that the price for a white slave was higher. The prices are similar to what we find in the Ḥaram documents as the highest prices paid for black slaves at the end of the 14th century.¹²⁰ In other words, the price for black slaves has not undergone a dramatic change in the course of the 15th century when Jerusalem and Damascus are compared. However, Šahdiya, Ibn Ṭawq's aforementioned white slave, was priced at the significantly higher 2000 dirhams, about 38 in Ašrafī terms.¹²¹ It compares with the highest range of prices current at the same time in Egypt for white female slaves, which was 30 ducats, as reported by von Harf, and as in another quotation of almost 40 dinars, mentioned in a question put to a jurist.¹²² By comparison, a price quotation that Ibn Ṭawq provides for a black male slave is also 24 Ašrafī.¹²³

There were exceptional sales of female slaves. Thus the notary Muḥibb ad-Dīn Ibn ʿAbd al-Bāsiṭ, who was known for dealing with slaves (*bayyā ʿar-raqīq*), bought a black *ḡāriya* named Nawfara from one Naḡm ad-Dīn Muḥammad despite the fact that she was weak and suffered from stomach aches (*mabṭūna*). The relatively low price in this case, 450 dirhams, less than half the normal price, deferred to a month later, had probably to do with the woman's medical condition.¹²⁴

Payment was sometime made in a mixture of gold and silver currency, the latter being on occasion in both "old" (*ʿutuq*) and "new" (*ḡudud*) dirhams.¹²⁵ Oftentimes the "paid upon demand" (*ḥāl*)¹²⁶ involved down payment only, the rest to be paid later, sometime within a fixed period. The seller would be expected to guarantee that the slave was not pregnant, that she was in good physical condition and did not suffer from mental problems. We already saw that Ibn Ṭawq, when selling his *ḡāriya*, revealed, among other, her physical problems. When there were a few partners, they bore liability for each other to conclude the transaction.¹²⁷

¹¹⁸ See, for example, *Ibid.*, 96, 120, 604.

¹¹⁹ Prices are as follows: 2000 (white)- Ibn Ṭawq, *at-Taʿlīq*, 118; 1482- *ibid.*, 120; 1120 (black)- *ibid.*, 288; 1130 – *ibid.*, 290; 1070 – *ibid.*, 308-9; 1160- *ibid.*, 334; 16 Ašrafī in cash upon demand (*hal*) – *ibid.*, 411; 1230 – *ibid.*, 594; 1300 (black)- *ibid.*, 604; 22 Ašrafī (=1144 dirham) (black)- *ibid.*, 655; 1170- *ibid.*, 730; 42 Ašrafī (=2310 dirham) paid by Ibn Qāḍī ʿAḡlūn for a black slave- *ibid.*, 1148.

¹²⁰ Rapoport, "Women and Gender," 14 and n. 57, relying on Donald Little.

¹²¹ Ibn Ṭawq, *at-Taʿlīq*, 96, 97.

¹²² Rapoport, "Women and Gender," 15. For the ducat and the Ašrafī comparable value, see Bacharach, "Dinar," esp. 89-90.

¹²³ Ibn Ṭawq, *at-Taʿlīq*, 1758.

¹²⁴ *Ibid.*, 926.

¹²⁵ *Ibid.*, 96, 604, 655, 1148.

¹²⁶ *Ibid.*, 411, 594, 730.

¹²⁷ *Ibid.*, 96, 97, 655, 730.

Ibn Ṭawq reports of few dozen concubines, both white and black, most of whom mothered children to their masters, thus becoming *umm walad*¹²⁸ (for bearing a son), *umm sitt* (a girl) or else *umm awlad* (boys and girls or to boys only). Especially moving is a report on Qādī Muḥibb ad-Dīn, possibly of the famous Banū Farfūr, who mourned the death of his concubine and buried her beside the grave of his parents.¹²⁹ About a year later he also lost his suckling toddler (*radī*) that perhaps the deceased concubine bore him.¹³⁰ It appears that later he took another concubine, named ‘Ayn al-Ḥayāt, who bore him a son named Tāğ ad-Dīn. Eventually he manumitted her and she was married and gave birth to a daughter. Sadly, the daughter died aged two months and her mother also died a few years later, most likely plague stricken.¹³¹ Another Muḥibb ad-Dīn, known also as Kalibhar, had a concubine who gave birth to a daughter shortly after his death.¹³² One should note that in some cases concubines were of a very young age and therefore of questionable puberty. Thus, Ibrāhīm an-Nāğī purchased an eleven-year old white concubine.¹³³ If one is surprised at her age, one can be reminded that as-Saḥāwī married an eleven-year old girl and that al-Maqrīzī’s mother first married when she was twelve.¹³⁴

A manumitted concubine, especially one who had served a prominent person, could on occasion attract a good match. This was the case of Ibn Qādī ‘Ağlūn’s manumitted concubines. Mubarāka, who was of Christian origin or perhaps Anatolian (*rūmiyya*), and mother of his son Muḥammad, got married to Abū Bakr Muḥammad b. ‘Abd Allāh al-Fāmī, the *mu’addin*, and authorized the deputy Šāfi‘ite Qādī, Muḥyī ad-Dīn al-Iḥnā‘ī, to represent her. The marriage gift she received was 300 silver coins, 100 of which were paid immediately, a sum equaling about 6 Ašrafī and thus, as shown earlier, significantly lower than the usual *šadāq* paid by middle-class men to free-born brides. Mubarāka, now as legal wife, bore al-Fāmī a son yet, about two years later, appears to have been already married to another man named Abū Daqn.¹³⁵ Suryay, another of the Šayḥ al-Islām’s manumitted concubines, was married, as already mentioned, to Abū l-Yumn, the Šayḥ’s nephew, from whom she received a nice marriage gift of 25 Ašrafī, which comes close to the sums paid when a free-born woman was the bride.¹³⁶ Was the high sum the result of the marriage taking place within the extended family? Almost twelve years later we find another of the Šayḥ’s manumitted concubines, also named Suryay, entering marriage with one Muḥammad b. al-‘Ağlūniyya as-Saḥrawī, this time for the considerably lesser 5 Ašrafī.¹³⁷ The Ethiopian Ğawhara, who bore the Šayḥ al-Islām a daughter named Āsyā, was upon her manumission married to Šayḥ Muḥammad al-Buṣrawī (while still having

¹²⁸ See Brunschvig, “‘Abd,” 28a.

¹²⁹ Ibn Ṭawq, *at-Ta’līq*, 82. See on him 780.

¹³⁰ *Ibid.*, 175.

¹³¹ *Ibid.*, 873, 889, 1501.

¹³² *Ibid.*, 635. For further cases, see 45, 245, 492, 735, 768, 779, 842, 845, 846, 1006, 1030, 1125, 1127, 1131, 1384, 1396, 1500, 1510, 1878. For concubines, see 106, 1120, 1123, 1504, 1557.

¹³³ *Ibid.*, 175: *li-t-tasarrī*.

¹³⁴ Rapoport, *Marriage*, 39.

¹³⁵ Ibn Ṭawq, *at-Ta’līq*, 192, 417.

¹³⁶ *Ibid.*, 549, 550.

¹³⁷ *Ibid.*, 1464.

the daughter suckling) for a marriage gift of 700 dirhams, equaling about 13 Ašrafī, 135 dirham of which, less than a fifth, she received at the time of the marriage.¹³⁸

Can we draw some general conclusion from Ibn Ṭawq's data? I think we can despite the small sample, provided that, as with divorce and marriage cases, we keep these within limits. For Ibn Ṭawq provides for a twenty year period details about several dozens of female slaves and concubines. We have to bear in mind that our notary's acquaintance was after all limited to his own affairs, those people he knew, and those who asked him to serve as a witness to their transactions. Yet there were in Damascus of his time plenty of other notaries, to some of whom he occasionally refers. They, most likely, participated in the sale of slaves and concubines and related issues, but unfortunately we don't have their records. On this assumption I propose that slaves and concubines were part of the Damascus scene and its social fabric, surely not only in the twenty years about which Ibn Ṭawq reports. In middle- and lower class families or the homes of single men, one could find female slaves and concubines, sometime more than one at the same time, in addition to legal wives. Given the socio-economic status of some of the owners, we may assume that their concubines were in addition, not as substitute, to legal wives.¹³⁹ Whether this was in large numbers, or in numbers that remained stable compared to earlier times or, as Rapoport suggests, albeit with much fewer data at his hands, in declining ones, is impossible to say. One can only regret that no one similar to Ibn Ṭawq left any records and surely marvel at his importance as a unique source.

¹³⁸ Ibn Ṭawq, *at-Ta'liq*, 1036-7. For her manumission, see 1030. For further cases, see 59, 406, 429, 804, 858, 863, 943, 964, 1023, 1039, 1049, 1195, 1206, 1240, 1254, 1315, 1360, 1412, 1422, 1683.

¹³⁹ Contrast with Rapoport, "Women and Gender," 15. Thus qāḍī Burhān ad-Dīn had children from his legal wife and in addition kept at least two concubines. See 1006, 1131.

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