

Women's Access to Property: A Comparative Study on Islamic and Kemalist Women in Turkey*

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Abstract This article uses a comparative approach to discuss women's access to property using evidence collected from field research conducted on two distinct communities of Istanbul: one secular and one Islamic. The two groups of women possess distinctly different views of the world and how it is organized. This is particularly the case concerning gender where secular women put forth a view rooted in the sameness of the genders where the Islamic women were clear in their commitment to the idea of difference. These attitudes toward the equality and difference of the genders structures the relations of these women to property and the process of inheritance.

INTRODUCTION

Despite a number of international agreements which recognize women's property rights, in nearly every country, men own more property than women.¹ Even when women do own property, they may not retain control over it and are often forced to obtain a male relative's permission to dispose of the property in any way. Given the enormous disadvantage women face with regard to property, there is now a substantial literature which explores the relationship between property ownership and women's empowerment. Much of the literature maps out a positive connection between women's property ownership and power.

In general terms, access to property provides women with more status.³ Those women in possession of property relate a greater sense of independence, and property ownership often provides a buffer against poverty.⁴ Women's access to property affords them increased opportunities, decision making power and enhances their over-all sense of well-being.⁵ In the family itself, Agarwal has also

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demonstrated that when women own property their bargaining power increases.⁶ Arguably, the most vital benefit that women appear to collect from ownership of property is the ability to resist inequality and domination.⁷ Several studies from South Asia show that women property owners were less likely to remain in abusive relationships than their propertyless sisters.⁸

While the connection between property and women's empowerment appears both clear and positive,⁹ it must be acknowledged that the majority of the literature is based on studies conducted in the global South.¹⁰ Moreover, these studies largely involve rural, agriculture oriented societies.¹¹ This raises the question of whether or not the same relations between gender and property can be found elsewhere. Our study which uses Turkey, more specifically Istanbul, as a case study adds another dimension to this literature.¹²

This article uses a comparative approach to discuss women's access to property using evidence collected from field research conducted in two different residential settings in Istanbul. The fieldwork consisted of in-depth interviews from women in two distinct communities: one secular and one Islamic.¹³ The two groups of women possess decidedly different views of the world and how it is organized. This is particularly the case concerning gender. The secular women put forth a view centred on the sameness of the genders where the Islamic women were clear in their commitment to the idea of inherent differences between men and women. These attitudes toward the equality and difference of the genders structures the relations of these women to property and the process of inheritance.

THE TURKISH CONTEXT

In Turkey, women are accorded equality under the law. The laws on both marriage and inheritance also offer equality and some degree of protection for women's property rights. Laws governing marriage and inheritance both prove particularly important here as they are the primary means through which women acquire property. Marital property regimes determine the ownership of any property acquired before or during marriage and any division of assets necessary in case of divorce.¹⁴ Inheritance is another prominent means through which women come to own property. In fact, women who own property are more likely than their male counterparts to have received it as a bequest from either their husbands or parents.¹⁵ Inheritance also proves particularly important given the role it plays in structuring current and future inequalities.¹⁶

Under current Turkish law for all couples married after 2002, the default property regime is one of partial community property. Unless the couple specifies otherwise, the partial community property

system mandates that all property purchased prior to marriage remains the property of the individual. At the same time, any property attained during the marriage is considered joint and to be divided equally upon separation. Any inheritance received by either spouse is categorized as individual property and does not require division in the case of divorce. This legal change represents a step forward for women's property claims given that prior to 2002, the default property regime was one of separation of property which left women largely propertyless after divorce.¹⁷

While equality in marital property is a more recent development in Turkey, women have possessed equal inheritance rights since 1926. There is strict gender neutrality in the law on inheritance.¹⁸ Despite nearly ninety years of gender equality in inheritance law, one might assume that there would be a sizeable number of women property holders. It appears that all too often that the tradition of leaving much more valuable land to men has triumphed.¹⁹ Even when women have inherited property, control is often ceded to men.²⁰ Today, the majority of property in Turkey is owned by men. Amnesty International places the figure at 92%.²¹ This figure demonstrates that despite a relatively equal legal environment, women in Turkey are still far too often excluded from property ownership.

In Islamic law, the inheritance regime has two basic underpinnings: blood lines and marriage. Following blood lines, Islamic law prescribes that the children as well as the parents of the deceased are the legal inheritors. Islam also adheres to a system of forced shares where only a proportion of the inheritance can be willed freely reserving the remainder of the estate for legally recognized inheritors. Only one-third of the estate can be willed to persons that the legator identified while the remaining two-thirds of the inheritance is left to either children or blood relatives. The actual share that is received is determined based on the closeness of the blood relation to deceased. According to the Nisa verse of the *Quran* ("Verse on Women"), if the deceased has both a son and a daughter, the son shall receive twice the share of the daughter. This same disadvantage to women is clear at each stage of inheritance. This is no doubt in part due to the belief that women will be taken care of by male relatives and that when women and men come together their individual shares make a complete whole.

THE STUDY: ISLAMIC AND KEMALIST WOMEN IN TURKEY

The field research which investigated property acquisition practices of women took place in Florya and Nişantaşı districts of Istanbul during 2011 and 2012. In total 40 women were interviewed (please see Table 1 and 2); 20 from Florya district and 20 from Nişantaşı district.

Table 1: Respondents at Florya District of Istanbul

Name	Age	Education	Dower	Property Owner, Types of Property	Intervivos Transfer	Inheritance
Ayla	38	University	Yes	Yes, time share property	No	Not yet
Bahar	48	High School	Yes	Yes, 1 shop, 1 house, 1 summer house, 1 farm, 2 pieces of land	No	Yes, according to Civil law
Betül	53	Primary	Yes	Yes, 1 house	No	Not yet
Binnaz	50	Middle school	Yes	Yes, 2 houses	Yes	Through intervivos
Büşra	45	High school	Yes	Yes, 1 house	No	Not yet
Esmâ	44	Primary	Yes	No	No	No, relinquished rights to brother
Fatma	39	Master's	Yes	No	No	Not yet
Gül	44	University	Yes	Yes, 1 house, 1 summer house	No	Not yet
Hilal	45	High School	Yes	Yes, 2 houses, 1 piece of agricultural land	Yes	Through intervivos
İlkyay	42	Primary School	Learned about it after marriage, gave up her right to it	Yes, 1 house	No	Yes, according to Civil law

(Continues)

Table 1: (Continued)

Name	Age	Education	Dower	Property Owner, Types of Property	Intervivos Transfer	Inheritance
Kezban	35	University	Yes	Yes, 1 house	Yes	Through intervivos
Nagehan	48	High School	Yes	Yes, 1 house, 1 summer house, part owner of 3 other houses	Yes	Through intervivos
Nevin	47	High School	Yes	Yes, 1 house, 1 summer house	No	Not yet
Nilgün	48	University	Yes	Yes, 1 house	No	Yes, according to Civil law then relinquished her share to brother
Semiha	39	Primary	Yes	No	No	Not yet
Sevil	51	University	Yes, but did not receive when divorced	Yes, 3 houses, 2 shops, part ownership of summer house, part ownership of 3 pieces of land	Yes	Yes, according to Civil law
Sümeyye	42	High school	Yes	Yes, 1 house, part ownership of 1 house	Yes	Yes, through intervivos

(Continues)

Table 1: (Continued)

Name	Age	Education	Dower	Property Owner, Types of Property	Intervivos Transfer	Inheritance
Yıldız	43	University	Yes	Yes, 1 summer house, 1 shop, 4 pieces of land, part ownership of 1 house	No	Yes, according to Civil Law
Zehra	47	University	Yes	Yes, 1 house, 1 shop, 1 summer house	No	Not yet
Zeliha	56	Primary School	Yes, paid upon marriage	Yes, 3 houses, 1 shop, 1 piece of land, part ownership of summer house	Yes	Yes, both through intervivos and Civil law

Table 2: Respondents at Nişantaşı District of Istanbul

Name	Age	Education	Dower	Property Owner, Types of Property	Intervivos Transfer	Inheritance
Aliye	40	Master's Degree	No	Yes, 1 house, 1 summer house, 1 shop, 1 piece of land	Yes	Yes, through intervivos
Ash	43	University	Yes	No	Yes	Yes, through intervivos
Bilgün	61	Doctorate	Yes	Yes, 1 house, 2 summer houses, part ownership of 2 pieces of land	Yes	Yes, through intervivos
Eda	45	University	Yes	No	No	Refused inheritance from father because of debt
Esen	59	Master's Degree	No	Yes, 1 house	No	Yes, according to Civil law
Gaye	40	Master's Degree	No	Yes, 1 house	Yes	Yes, through intervivos
İlke	49	Doctorate	No	Yes, 3 houses	Yes	Yes, through intervivos
Merih	49	Doctorate	No	Yes, 1 house, part ownership of 1 house	No	Yes, according to Civil law
Nuran	53	University	Yes	Yes, 1 house	Yes	Yes, through intervivos
Nuray	90	High school	No	No	No	Yes, according to Civil law
Pelin	70	High school	Yes	Yes 2 houses, 1 summer house	Yes	

(Continues)

Table 2: (Continued)

Name	Age	Education	Dower	Property Owner, Types of Property	Intervivos Transfer	Inheritance
Pervin	42	Doctorate	Yes, not collected	Yes, 3 houses, 1 shop 1 summer house, 1 piece of land	Yes	Yes, both through intervivos and according to Civil law
Saniye	70	Master's Degree	Yes	Yes, 3 houses, 1 summer house, 3 pieces of land, part ownership of 1 house	Yes	Yes, both through intervivos and according to Civil law
Sebla	64	Master's Degree	No	Yes, 1 house, 1 summerhouse, part ownership of 1 house	No	Yes, according to Civil law
Selin	80	High School	Yes	No	No	Yes, according to Civil law
Sevim	82	Master's Degree	Yes	Yes, 1 apartment building	No	Yes, relinquished right to her siblings
Sezen	66	Doctorate	No	Yes, 1 house	Yes	Yes, through intervivos
Vuslat	40	University	No	Yes, 3 houses, part ownership of 3 houses, 6 pieces of land	Yes	Yes, according to Civil law
Yonca	59	Master's Degree	Yes	Yes, 5 houses, multiple pieces of land	No	Yes, according to Civil law
Zülal	72	Middle school	Yes	Yes, 2 houses	No	Yes, according to Civil law

Primarily, the snowball sampling technique was employed when contacting respondents. Initial contacts were made via primary networks of the researchers - colleagues, friends, and relatives who later provided further respondents for subsequent interviews. Nişantaşı district was chosen because of its general inhabitant characteristics: upper class residents having more modern/western life style; likewise, Florya district was chosen for its upper class, conservative life style residents.

The longest interview lasted 75 minutes and the shortest one was 15 minutes; the average duration being 40 minutes. All of the interviews were conducted in Turkish by female researchers, face-to-face with the respondents, and were recorded with the permission of the respondents. The interviews were transcribed and analysed. The respondents were given pseudonyms to protect their identities and the excerpts were prepared. Cross tabulation of the grouped data was further implemented to identify differences and similarities both between and among the sample groups.

Despite being chosen for their differences the sample groups held some shared characteristics. One of the most important shared qualities was that of class. The women in the sample were chosen in part based on their relative class privilege. They needed to possess enough wealth at some point in their lives to have been in a position to inherit or to leave an inheritance. While there was a wide variation in terms of individual and family wealth among the women, all of the women met our initial criteria.

For both groups, the average age of the respondents was 52 at the time of the study; the oldest woman being 90 years of age and the youngest woman was 38 years old. Most of the respondents were born in Istanbul. Although a few of the women were born outside of Istanbul, all of them came from urban backgrounds. However, more of the women in the Nişantaşı group were born in Istanbul than their counterparts in the Florya group whose families had a history of migration to Istanbul from other urban centres around Turkey.

In terms of educational level of both groups, overall the respondents were well educated (5 had a doctorate degree, 8 had master's degree and 11 had university degree). The primary school graduates were in the minority within the sample. Five of the respondents were primary school graduates and another 2 were middle school graduates. In other words, a significant majority of women in the study had a high school diploma or above. In the Nişantaşı group, we found higher educational levels than the Florya group where primary school graduates were more common.

In terms of careers, most of the women had a profession; 22 out of the total 40 respondents were specialists that required skills obtained through university education or training such as doctor,

teacher, lawyer, artist, engineer, advisory and consultancy, editor and decorator. The remaining 18 were housewives who had never worked in the paid labour force, or those who left their jobs after marriage or giving birth to children. Among the Nişantaşı group, the number of housewives was significantly lower than Florya group. The Nişantaşı group of women was mainly comprised of those who worked in the paid labour force in their chosen profession.

One consequence of the higher number of working women among the Nişantaşı sample is the amount of women who qualified for retirement benefits. There were more retired women in the Nişantaşı group than in the Florya sample. Turkey has a public system whereby individuals can pay into the system and after a specified period of time retire and receive a monthly pension from the state. The only qualification necessary to enter this system is that one must demonstrate having been an employee, an agricultural worker or an artisan at some point in time. The system does not require continued work. As a result of this system, almost all respondents (38 out of 40) had in some way or another access to social security. Interestingly, a majority of the women in this study were covered by the social security system as "workers" despite not working. Either their husbands or another male relative registered the women as workers in their businesses and as such they were insured. In reality, these women have never participated in the paid labour force but, due to the payments provided by their relatives, they qualify for retirement while some have retired and are now receiving a monthly pension. Only two of the respondents, both from the Florya group, were never enrolled in the social security system.

At the time of the study, the majority of the women were married (28 out of 40 women). For most, it was their first marriage with the exception of two women from Nişantaşı who had remarried. Four of the total 40 women were widows, four had divorced, one was separated and three had never married. The Florya group of women illustrated a more marriage oriented profile as all of them were married and it was their first marriages. There were no single women in this group. The Nişantaşı group, on the other hand, contained instances of divorce, separation and those who chose to remain single. In the Florya sample, half of the women had arranged marriages where among those women who lived in Nişantaşı only one had an arranged marriage with the rest having chosen their own partners. Demonstrating a difference in class between the two sample groups, the husbands of those from Florya were mostly involved in trade (shop/store owners, retail business, export/import, etc.) whereas those living in Nişantaşı were involved in professional occupations such as engineering, law, medicine, etc. In the Florya sample there were two husbands employed as professionals while 12 were in trade

whereas the Nişantaşı sample represents an almost mirror opposite with 15 husbands employed as professionals and just two in trade.

Civil marriage performed by a state official is the only type of marriage recognized by the Turkish state. As such, all of the married women (37 out of 40 women) had official marriages registered at the requisite state/municipal agency. The Florya group women, however, also gave importance to religious ceremonies as well. All these women had had both a civil ceremony as well as an Islamic one performed in accordance with Muslim rules of marriage. However, Nişantaşı group women did not appear to attach much importance to any kind of religious ceremony. Only two women in this sample group had both a religious and civil marriage ceremony. Significantly, among the residences of Florya all married within their religious group (Islam) while several women from Nişantaşı, themselves Muslim, married non-Muslims.

In line with the importance of a religious ceremony among the Florya group, *mehir* was a common component of the religious marriage pact. *Mehir* is a payment made to the bride herself, and provides her with some economic means both within marriage and in case of divorce. It can be paid in a number of forms including cash, jewellery or gold. It is not always provided at the time of marriage but it must be paid upon divorce. Although the women disposed of their *mehir* in various ways, some not actually taking it at all, all of the women were promised a specific amount for *mehir* either by their prospective husbands or his family. For this group of women maintaining Islamic law and the traditions of the Hanefi/Sunni sect proved important. For the women of the Nişantaşı group, however, Islamic law, Islamic traditions or *mehir* was not a concern and with some of the women completing lacking in knowledge of this traditional right. This is in contrast to the high rate of legal literacy with respect to property rights and other women's rights possessed by these women. In both groups, the practice of dowry was common but more the norm among the Florya group than Nişantaşı group. While all of the respondents in the study were Muslims, the Nişantaşı group women were not strict observers of Islam and largely non-practicing whereas the Florya group can be characterized as strictly observant.

Family size proved distinctly different between the two sample groups. The women from Florya originated from larger families than the women from Nişantaşı. The same pattern repeated itself among the women themselves and the size of their own families. The women of the Nişantaşı group had fewer children than the women of Florya.

All of the women we interviewed regardless of sample group were property owners. All of the women owned at least one property in their own name. This property tended to be the primary family

residence. In addition, some of the women also owned farms, stores, apartment buildings, summer houses, etc. Rental income was also a common finding. Among the women who owned more than one house, many received income from their property. The real estate that these women owned were located mainly in Istanbul or the urban area where they were born, agricultural land ownership was rare.

The real estate that the women in the study women possessed was obtained either in marriage (i.e. bought together from the savings in the marriage or husbands' registering the property they purchased in their wives' names) or by inheritance from their families. The use of bank credits or the mortgage system for purchasing real estate was nearly non-existent. Due to the privileged class position of the women in the research, the capital necessary to obtain the real estate was already present within the family eliminating the requirement for bank loans. In the Nişantaşı group where more of the women held jobs, there were some women who reported purchasing property with their personal earnings.

The decisions related to property (renting, renovation, finance, obtaining credit, construction, and etc.) were made by the women themselves independently (more common among Nişantaşı group) or together with their husbands or other family members. In terms of administering their properties with regard to public offices such as notary publics, the municipality, tax office, property registration offices, etc., most of the women received help from third parties including lawyers, accountants or other family members. However, the preponderance of women who did handle these issues independently were in the Nişantaşı group.

DIFFERING WORLDVIEWS: ISLAMIC WORLDVIEW VS. SECULARIZED WESTERN WORLDVIEW

The two groups of women that we interviewed possessed distinctly different views of the world: one more Islamic, the other secular; one centred on a belief in the inherent differences between men and women, and the other with deeply held convictions about the sameness of the genders. While equality is often equated with sameness, not all of the women we spoke with used these terms interchangeably so we have chosen not to. In fact, the women in the Florya group were very clear in their ideas that men and women could be both different and equal, while the women from Nişantaşı were more inclined to view equality in terms of sameness. The Florya group was composed of self-identified Islamists who subscribed to a distinctly Islamic worldview. This outlook is based on a belief in the centrality of family and that the members of a family while having

different roles all contribute to the whole of the family. A central aspect of this belief system is the inherent difference between men and women, where men are defined as the providers and protectors of women. Women are expected to fulfil their roles primarily as wives and mothers. Despite the different roles prescribed for men and women, these women did not view this as a disadvantage or as evidence of injustice. Yıldız made this very clear:

"I am thinking, it seems that when women get less inheritance it is to their disadvantage but I do not think that this the case because women from the time that women are born their rights are protected by a guardian. Your father, brother, uncle must look after you, it's not a request." (Yıldız)

Hilal echoed this same sentiment when she stated, "A man is required to look after his wife and child. That is the reason men have more rights in Islam." Sümeyye further explained that, "the logic of giving women one-third and men two-thirds is that when a woman gets married, two-thirds will come from her husband and with her share there will be three-thirds." From the perspective of women in this community, people are complete when they are a part of a family rather than as individuals so one needs the completion of marriage and family both spiritually and materially.

In contrast, the worldview that informed the women residing in Nişantaşı was one of a deep commitment to strict gender equality in virtually all matters and a belief in the sameness of men and women. Aslı stated very emphatically that in her family, "there was no special treatment." Pervin articulates some of the stark differences in worldview between these two communities as follows:

"During marriage everything I bought was joint except jewellery and my car. Gifts from my family were in my name...From the time I was born we have been a property owning family. In our family there was no distinction between women and men. Both men and women should have an income. If women have an income then their area of independence is enlarged and women are not dependent on men." (Pervin)

Both the emphasis on strict equality and the idea that women should be independent of men represent a very different worldview from the women in the Florya sample who routinely emphasized the responsibility of men to provide for women.

The Nişantaşı district where these women resided is known for its support for Kemalist Republicanism. The modernization reforms adopted by the founding leader of Turkey, Mustafa Kemal Atatürk, his political party, the Republican People's Party, receive strong support from residents of the district. These reforms included among others: equal inheritance for women, secular education [viewed as of particular benefit to women], and the right for women to divorce. As a result of their advancing these changes, both the Republican People's Party and Atatürk are commonly touted as the ones who

secured legal equality for women in Turkey. Secular national holidays such as the Republic Day, the commemoration of Atatürk's death, the date of the first opening of the Turkish Grand National Assembly, the celebration of the victory in the Independence War, and the like are commemorated by the inhabitants on the streets of the district. Election results from Nişantaşı continue to show virtually unwavering support for the Republican People's Party and its strict adherence to secularism. These contrasting worldviews, in particular their divergence on gender, guided the women's relationship to property and the process of inheritance.

RELATIONSHIP TO PROPERTY

Virtually all of the women in the study were property owners and some of them possessed extensive wealth. The relationship to property between the two groups of women proved quite distinct. The women of Nişantaşı largely originated in wealthy families that had long held property and owning property seemed almost a given for them. Property ownership in adulthood represents an extension of the life they had always lived. The women residing in Florya, however, were much more reticent about their status as property owners. A number of the women in this group actively hid or obscured their ownership of property for fear of community disapproval. While there were those who did not hide their status, they did state repeatedly that they did not aspire to property holding, and they had not pursued this. Rather their husbands or fathers insisted on their ownership of some property largely for their protection against future economic insecurity highlighting the male role as the protector and women as the protected.

Aside from the way that others viewed them, it also appears that the women in the Florya group had difficulty viewing themselves as individual, economic actors. In relating her own story Esma explained that despite the fact that she is a property owner, she does not manage her own property. When asked about this she responded,

"Those things overwhelm me...dealings with official offices overwhelm me. They are foreign to me. I feel I will be in over my head and I won't be able to get out from under. When I was a girl my father took care of things and after I married my husband did. I have never taken care of these types of things, up until today I have never even paid a bill, they are on automatic pay or my husband paid them. We come to today and I have never even looked at these things so they overwhelm me, perhaps had I been shown when I was younger, it would be possible." (Esma)

Esma does not perceive herself as someone who can control and manage her own finances, including property. She importantly points out that financial literacy and know-how are taught and that

far too often families do not impart this kind of knowledge to women and girls with far reaching consequences.

In a further reflection of the worldview of these women, many of them do not speak of themselves when they discuss their own income and wealth. The money that they possess is not for them but for their children, other family members or to be used for religious obligations. It is almost as if they have no material desires for themselves. Hilal made this clear: "I have no savings; I spend it all on charity. I don't get a single cent from the rent for myself." Similarly, Fatma explained at length, the importance of money not for women themselves as individuals but for the performance of their religious duties:

"Of course it is a good thing for women to be property owners, because now I am a preacher maybe I am always speaking in that framework but...Islam has five requirements, I am always telling my community and if we remove the testimony of faith the ones remaining are prayer, fasting and even for this money is a condition because you will give the evening meal during the month of Ramadan, I don't know but all of these are done with money. You know about offering, in order to make offering money is a requirement, for example the pilgrimage to Mecca, I just returned, and this is an obligation that has a fixed cost. For this reason, in actuality, according to me two of four of the pillars of Islam are founded upon money." (Fatma)

Yıldız added, "If it's possible I am on the side of using all of my father's wealth for his charities. Instead of us benefitting from it [his wealth] I am for using it in the direction of his charities." Once again we see that these women primarily define themselves in the context of Islam and family rather than as individuals. What's more, in conformity with their class status, these women coming from upper or upper middle classes seem to be caring more about the social (i.e. charity activities) and cultural (i.e. education) activities, than the economic one.

On a larger scale, several women pointed to added difficulty of cultural tradition as an obstacle to women's property ownership. Esmâ stated, "We are like that, in the Black Sea region women are not given any importance. Fatma shared the same sentiment, "culturally, especially in the Black Sea area, I guess, women as property owners is not approved of." Kezban made clear that, "in Turkey even if women are given they do not have the right to use it as they wish." Even when women are property owners, they often do not actually control the property. These comments reflect several areas of contention; the *first* being between Islam in theory and culture in practice. Many of these women proudly related the extent to which Islam protects their rights as women, in particular, economic rights but, at the same time, they also point out that Islamic precepts and laws are often imperfectly applied. Moreover, some Islamic principles may also come into conflict with long-standing cultural traditions such as that of ensuring male ownership of property. The *second* point of

contestation is the all too common trope of the problem lies elsewhere. Despite ample evidence that women are denied access to property all over Turkey, many of the women in the Florya group characterized the problem as particular to the Black Sea. Several women from Nişantaşı also employed a similar line of thinking although it more often took the form of a division between rural and urban Turkey. Problems such as women's inequality belong to rural, read underdeveloped, areas of the country and are not to be found in Istanbul and certainly not in their neighbourhood of Nişantaşı.

What proved particularly interesting is that very few of the women in either group derived any sense of empowerment from their position as a property owner. For the women in the Florya group, this lack of empowerment appears to stem from the fact that although they own property they do not exercise control over it. This appears to be a result in part of their own choice or what some may feel as their inability to manage property as well as stemming from their social environment which is not very supportive of women property ownership. As Esma stated above although she owns property she does not manage it in any way. More importantly, she feels unable to do so, that she will be overrun by it all. Given this, it is difficult to imagine any sense of empowerment that would arise out of such a situation. Hilal was much more direct when she stated, "no, it does not make me feel more powerful." This was echoed by a number of women such as Büşra and Nilgün who are both property owners but at the same time are hiding this fact from their families and community fearing negative reactions. If they will not reveal their status as property owners, this would appear to undermine any empowerment they might derive from their position.

Interestingly, the Nişantaşı group was in full control of their property, and yet they too reported that they did not feel that their status as property owners brought them a sense of empowerment. These women reported that education and career proved more empowering and this may stem from the fact that they have always owned property. One of the women made a pointed distinction when she differentiated power from security. Esen said, "Let's not say power, but security, I have a place to live." Clearly she does not equate security with power and this was the case with a number of the women. Many related that their property ownership gave them a sense of security but few associated this with any kind of power. Rather they attributed their sense of empowerment to their upbringing, education and career. This may, in part, stem from the fact that the vast majority of these women grew up in material comfort if not with substantial wealth, therefore the advantages of such wealth seem invisible to them.

ALLOCATION OF PROPERTY THROUGH INHERITANCE: INHERITANCE BY LAW AND INTERVIVOS TRANSFERS

While the process of inheritance proved dramatically different between these two groups there was one similarity. Both groups made extensive use of intervivos transfers or transfers among the living. In many respects, intervivos transfers serve as a *de facto* kind of inheritance, while, at the same time, allowing citizens to avoid the inheritance law. One of the main reasons the Florya group employed intervivos transfers were to avoid the strict gender equality prescribed by the Civil Law. The majority of women in this group inherited according to Islamic law which provides one-third for women and two-thirds for any male inheritor. For the most part, these women subscribed to such a practice because they viewed it as part of what it means to be a practicing Muslim. Yıldız reported that she wanted to apply the Islamic law of inheritance “because I believe that in the Koran no lines are without meaning and I try to apply this.” Similarly, Nilgün added, “According to the expectation of my religion, inheritance should be dispersed according to Islam. For me, everything is made clear by the Quran, my lifestyle is clear. I want to receive and leave what I have according to Islam.”

Although Islamic law on inheritance prescribes a smaller portion for women than for men, these women did not see any injustice in the practice of giving different shares of inheritance based on gender. In part, this is due to their belief that men’s responsibilities as providers for women accords them a greater share. This is based on a complementary belief that wealth and property should be distributed according to need rather than a strict formula of sameness. Betül stated, “In fact, the Prophet gave a lot of value [to women]. I know it is one to women and two to men, but the reason is for example the daughter-in-law is not required to look after an old mother or father but the son must look after them.” Fatma added:

“In Islam this responsibility is given to men, it is not given to women. Men must look after the household. I mean he must provide for the children. Clothing, shelter, etc. and these rights are not given to women. Women do not have this responsibility. When a woman marries her husband carries this responsibility and if she does not have a husband then her father. If there is not husband then the government assumes the responsibility. I mean in no manner does Islam give this responsibility to women. When you look at Islam this way and you take it and place it in the now, women work and men work, it might look unjust. But if you think within the system women are given no responsibility and men are given responsibility.” (Fatma)

Likewise, for Sümeyye and her family both Islamic law and consent proved important:

“No, for us equality won’t work. According to religion, it is one-third to a girl. I have two brothers and how it was done I don’t know. Since everyone was alive we could divide

everything according to religion and with everyone's consent, siblings', mother's, and father's and without any problem. Because mostly the one who needs more where the difference is. For us it was that way, my father got a lawyer and called us, and asked what do you all think, everyone was willing." (Sümeyye)

Sümeyye points to the importance of need over strict equality in the distribution of resources. Of equal interest is her emphasis on consent especially given that she does not know how the distribution was achieved. It does raise the question of the validity of consent when one does not know exactly what is being agreed to.

For those women who did inherit vis-a-vis the inheritance law, many gave back part or all of their shares in order to conform to Islamic law. The commitment to Islamic law and use of gifts among the living to achieve such a distribution also demonstrates the existence of legal pluralism in Turkey. Although the Civil law and its provision of equality are in force, this community abides by another set of laws and has found a means to apply them thus circumventing the Civil law. It points to the continued existence of Islamic law in competition and tandem with other official secular laws in effect in Turkey.²²

For the Nişantaşı group, there was an almost strict adherence to the principle of equality when it came to dividing family wealth. Despite the fact that the Civil Law provides the equality that they seek, most of the families made use of *intervivos* transfers rather than the inheritance law. This appears to be a way to keep the parents and elders of the family involved and in control of the distribution of their wealth. Nuran related her family's experience as follows:

"The division was done while still living. Whatever the law was that is what was done, when what my dad inherited everything was done by the law. But nothing was decided beforehand. Whatever the law is that is how it was done. Things were sold and my uncle and father split them. No one objected, nothing like that." (Nuran)

Pelin had a similar story, "Everything was automatic, two siblings agreed. Yes, we were happy." Although equality is the principle that underlies the division of family wealth in this group, this did not mean that each inheritor received the exact same amount. Rather, the goal was an equal balance over the lifetime of any inheritor. If one sibling was educated abroad or received assistance in starting a business then they would receive less after when the remaining wealth was distributed. Both Nuran and Selin spoke at length about this:

"In my opinion, it should be equal. Now I am thinking, if someone has more need than that is up to the individual. I am thinking that maybe the other sibling can pass on their right and give it to the sibling in need but in the end it needs to be equal. This is a matter of conscience...Everything should be equal. Besides if it is a proper family then siblings will handle it amongst themselves. Instead of blaming the parent in the name of equality it is better to leave it to the siblings." (Nuran)

“For certain the form should be equality. The other sort would be discrimination between children. I should leave my children equal. There should be no visible difference between them. If I had more than one child, I would leave an equal inheritance. Even if one was poor and one was rich I would still bequeath equally. But this is possible: if my rich child learned any manners from me after I left him or her that inheritance, then of their will they would give it to their needy sibling. But as a mother I would not discriminate. After I give the inheritance, it is something between siblings. Any child who learned manners from me would give what they have to a needy sibling. In my circle, the people are civilized and cultured. According to the people around me equality is necessary. Even between husband and wife, equality is necessary.” (Selin)

The sentiments of these two women represent the deep commitment to equality that runs through this community of women. Virtually above all else and in nearly all circumstances, equality was the principle that guided them. At the same time, these two also tried to strike a balance between need and equality. Somewhat conveniently, they themselves choose equality and left any need based distribution to their children. Moreover, their comments reflect their own intentions to continue to use equality as a principle for the distribution of their own wealth.

A prime motivation for the use of *intervivos* transfers - that is allocating and registering the property among the children before the death of the parent- is the expense of inheritance tax in comparison to sales tax. Before their deaths, some of the respondents' parents made transfers of wealth and/or property to avoid the inheritance tax. In other words, some parents made a calculation regarding the tax costs of the property that they wanted to give to their children and when selling or giving the property to their children while there were still alive proved cheaper tax wise, they employed *intervivos* transfers. Two of the respondents explain the reason for *intervivos* transfers as follow:

“When I was with my father's house, there were real estate titles that he made in my sister and my names. In addition, my mother also entitled all her property to our names - co-registered on my mother's, my sister's and my names. My mother is alive but she wanted it like that. Because of not paying unnecessary tax to the state. For instance, if she dies, you pay lots of money to the state to have the property inherited, nearly to the amount of a house itself.” (Nagehan)

“My father thought it was appropriate like that. Because there were things like taxes for inheritance and etc. Before he died, my father allocated all his property before I got married. My father arranged all these issues. Everybody was satisfied. Nobody objected.” (Hilal)

CONCLUSIONS

This study was undertaken in an attempt to understand the actual practice of inheritance among women in two distinct communities in Istanbul. The 1926 adoption of a secular Civil law code provided equal rights of inheritance regardless of gender. Despite this advancement, men still own the majority of property in Turkey.²³ This led us to a series of questions regarding the practice of inheritance in Turkey. What is the practice of inheritance? Who inherits? Who inherits what? Is there a gender difference in inheritance? To this end, we interviewed 40 women from two distinct communities residing in two different regions of Istanbul to explore these questions as well as any differences that might exist between women who inhabit different communities. What we discovered was two distinct approaches to the practice of inheritance that were motivated largely by the belief structure in each community. The residents of Florya, all self-identified Islamic women, largely favoured inheritance that is guided by Islamic law and therefore favours men over women. The women living in Nişantaşı, on the other hand, were committed to an equal distribution of their families' wealth regardless of gender.

The two communities of women proved largely distinct in their beliefs and worldviews, and this translated into distinct practices of inheritance. The Florya group, for the most part, followed Islamic law while the Nişantaşı group was guided by the principle of equality. Most startling amongst both groups was the extensive use of *intervivos* transfers and the circumvention of the Civil law. There is wide debate on the issue of *intervivos* transfers but it would appear that in both Europe and the United States, they account for an important amount of wealth transfer.²⁴ Increases in *intervivos* transfers are also sensitive to changes in tax policy which was reflected in our research as many families sought to sidestep the inheritance tax through transferring wealth and property prior to death.²⁵ Specifically, amongst the women of Florya, gift transfers were common in order to adhere to Islamic law despite its lack of official status. The existence of legal pluralism and the bypassing of official law through transfers among the living have large implications for the Turkish state's continued attempts to implement a unified system of official law.²⁶ Moreover, the continued existence of legal pluralism in Turkey and the tendency for unofficial law undermine women's rights may bring create difficulties for Turkey on the plane of international law. Turkey is a signatory to both the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women which guarantees women's right to be free from discrimination in general

and also specifically protects women's right to land in various ways.²⁷

The other interesting result, which runs counter to the literature, is the lack of power and/or empowerment that any of these women felt as a result of their status as property owners. Much of the literature makes a direct link between property ownership for women and empowerment and there have been many initiatives over the past decade, which seek to empower women and improve their position in societies through property rights. To some extent our study questions this link and points to the need for further exploration particularly among already financially well-off women.

NOTES

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