

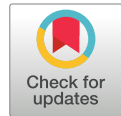


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Wearing the Shirt of Fire: Guardians Managing the Orphan Estate in the 16th Century Ottoman Empire



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Abstract

In Ottoman history, the task of protecting the orphaned minor's inheritance was not left to the relatives alone; it was instead an institutionalised practice monitored under the supervision of the sharia court. The guardian (*vasi*) was the person in this situation responsible for protecting the orphan's estate and providing for the orphan's maintenance until the orphan reached maturity. This institutional practice continued to exist for centuries in the Ottoman Empire. The richness of the Ottoman primary sources enables us to trace this practice in detail. This paper analyses the economic activities in which the guardians were involved whilst protecting the orphan estate. It uses sharia court registers (the *sharia sicills*) as the primary archival source. Different records regarding guardian activities were compiled for a century-long period in the 16th century. This study mainly employs records from İstanbul, the imperial capital, and other regions of the empire like Bursa, Konya, Trabzon, Cyprus, and Sarajevo. The first impression is that the credit relations have the most significant share in this compilation of economic activities. Other activities include selling estates and sustaining alimony to the orphans. As a general rule, orphans' money was extended as loans with rate of return to cover expenses and protect the money from diminishing. In cases of need, orphans' shares in real estate were sold with the permission of the sharia court. In most cases, when the orphan reaches maturity and settles accounts with the guardian, both sides appear to leave the court satisfied. Such records provide valuable insights into the Ottoman socio-economic history of the era. For instance, changes in alimony payments and fluctuations in the rate of return of credits throughout the 16th century are significant and will be evaluated in this paper. Along with these analyses, this paper will highlight the possible differences between İstanbul and other regions in the Ottoman Empire.

Keywords

Orphan estate · Ottoman history · credit

Jel Codes

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Wearing the Shirt of Fire: Guardians Managing the Orphan Estate in the 16th Century Ottoman Empire

*Orphan estate is a shirt of fire.*¹

It is commanded in Islam that when a child is orphaned, his/her share of the estate should be approached to protect and meet the needs of the orphan. This sensitivity gained a classical order with the development of the sharia court in Islamic history (McKibbin Metzger, 2023).

As an important part of Islamic history, this institutionalised application enjoyed a long lifetime in Ottoman history (from 14th century to the 20th century) as well. Fortunately, there are rich sources from which one can trace the practice of protecting orphan estates in the Ottoman Empire, which makes it unique in Islamic history. In this respect, protecting the orphans' estate (property and money) was not only left as a family matter but was also recorded and supervised by the *qādi*/sharia court. This application found its place in the Ottoman code of law (*kanunnāme*) by stating that the sharia court official (*qassām*) is to intervene in estate division if there was orphaned minor(s) left (Akgündüz, 1992a, pp. 394–395). In line with this code, sharia court records illustrate the whole process of protecting an orphan's estate, which starts with appointing a guardian and ends with the orphan reaching maturity and receiving his/her estate whilst settling accounts.

Moreover, a guardian (*vasi*)² is responsible for an orphan's estate (*yetim malı*, pl. *emval-i eytam*). Guardianship was of two types. In the first one, the person who left an inheritance appoints a guardian before their death. The second and more common one is the guardian appointed by the sharia court, i.e., the *qādi*. The responsibilities of these two groups of guardians regarding the orphan estate are the same. After accepting guardianship, they were responsible for the orphan's share of the estate. While the estate was being divided, according to Islamic law, the deceased's receivable and payable accounts were also settled. The accounts that were not settled during the division of the estate were followed up later by the guardian. In order to control the activities of these guardians, the *qādi* would sometimes appoint supervisors called *nāzırs*. In principle, most of the guardians' economic endeavours were registered since they had to get the approval of the *qādi*. The guardian's responsibility had two sharp ends: the first was to protect the orphan's property and money, and the second was to provide for the orphan's maintenance. Hence, the guardian is not expected to leave idle the orphan's estate, specifically his/her money. Guardians enter economic and financial endeavours with orphan money, such as lending or entering into commercial partnerships. On the other side, the *qādi* authorised the guardian to spend a sum, enabling the orphan to live without reducing his/her previous standard of living. This unsurprisingly meant the loss of orphan money. In cases of insufficient money, selling the property for these maintenance expenditures was also possible.

The guardians responsible for orphan estates were usually surviving parents or relatives, and in some cases, trustworthy people from the neighbourhood. In Islamic jurisprudence, caring for infants up to seven requires a special upbringing (Bardakoğlu, 1998), which was also considered in the appointment of guardians. When the orphan reached physical and mental maturity, the guardian would hand over his or

¹Original: Yetim malı ateşten gömlektir. (Şinasi, 1302, p. 488, nr. 3870)

²As a term, "*vasi*" is a person appointed by the court to people who do not have the capacity to perform due to limitations such as age and mental health, and is responsible for protecting their property. (Devellioğlu, 1980) (Pakalın, 1993)

her share of the estate to the orphan, and the court would approve this. If there were any disputes during this process, the sharia court would decide how to settle the matter.

The practice of protecting orphans' estates, described in the outline so far, remained a classical institution in the Ottoman Empire until its transformation in the late 19th century. In this period, in line with the centralist policies of the state during the *Tanzimat* (1839), the "*Emval-i Eytam Nezareti*" was established in 1851 (Çanlı, 2002; Özcan, 2006). In this study, I will focus on the sixteenth century Ottoman Empire to illustrate and analyse the above-mentioned institution, which gained its classical form in that era.

Literature Review

The number of studies dealing with protecting the estate left to orphans in the Ottoman Empire and their fate is relatively limited. Cafer Çiftçi's article titled "Bursa'da Eytam Keseleri" is one of the first of these few examples (Çiftçi, 2003). In this study, Çiftçi presents examples from the Bursa sharia court. Çiftçi's study is in the nature of an introduction and includes various examples from the 16th century to the 20th century. Fatih Bozkurt, who conducted a doctoral research on the probate registers, also published an article on orphans' estates (Bozkurt, 2011, 2012). In this study, Bozkurt analysed 18th-century probate records. He writes a special chapter on orphans and the management of orphan estates in these records and then discusses the process of registering and dividing the estate under the supervision of a guardian. Yahya Araz's book is another work that directly references the property left to orphans. Araz evaluated the relationship between orphans and guardians through some examples (Araz, 2013).

Aslı Deliktaş used Trabzon's sharia court records as a historical source and presented the general situations regarding guardian appointments in the registers for the seventeenth century. She prepared a list of guardian appointments and classified the content according to gender and proximity. Of the 103 guardians listed, 35 are the orphans' mothers, 39 are unrelated persons with unspecified ties, and the rest are relatives such as grandfather, brother, uncle, and grandmother. (Deliktaş, 2016; Muşmal & Gürbüz, 2018)

The issue of orphanhood and the protection of their inherited rights has naturally been studied in family history and women's and gender studies. Literature on this subject has developed, especially in English. (Cohen, 1984; Meriwether, 1996, pp. 219–235; Tucker, 1998; Yazbak, 2001; Alsabagh, 2018, p. 272)

Çiğdem Gürsoy has made an essential contribution to the literature on the protection and management of orphan estates in the Ottoman Empire (Gürsoy, 2020). In her article, Gürsoy scanned the documents containing the keywords orphan and guardian from the İstanbul sharia court *sicills* published by the Islamic Research Centre of the Religious Foundation of Turkey (ISAM) and conducted a discussion on the sustainability of orphan estates. Ayşe Şimşek's article is one of the recent studies on the protection of orphans' estate as well as (Şimşek, 2021).

Mehmet Çanlı (Çanlı, 2002) and Tahsin Özcan's (Özcan, 2006) studies analysed the *Emval-i Eytam Nezareti*, which was established in the second half of the nineteenth century and is the leading example of the literature on orphans and their funds in that era. There is a growing number of research and analyses regarding the *Emval-i Eytam Nezareti* and the funds administered by these institutions (Ünal, 2010; Şahin, 2017; Taşar, 2019; Çanlı, 2020; Kızıldağ, Kayahan & Görkaş, 2023). A most recent study is Mestyan and Nori's article that focuses on sub-Ottoman khedivate Egypt and the capital of orphans (in their words/terminology) in the second half of the nineteenth century. They named the institution "probate regime" (Mestyan & Nori, 2022) and traced changes in this institution through Ottoman rule to the Egyptian khedives.

In addition to those mentioned here, various studies on probate books/*tereke* (Barkan, 1966; Özdeğer, 1988; Öztürk, 1995) and sharia *sicills* also touch upon the orphan estate and guardian relations (Jennings, 1973, 1990; Cezar, 1998, pp. 15–32; İstekli, 2005; Yıldız, 2005).

In sum, the literature on orphan estates in the classical period of the Ottoman Empire is scarce. A few studies mentioned above limit themselves to a shorter period or a specific region. There is also a lack of economic analysis of guardian activities, especially in the earlier periods of the institution. In addition, there is a misconception that the protection of orphan estates was modernised by the *Emval-i Eytam Nezareti* in the later period of the Ottoman Empire. This article proposes that in the earlier period, the protection of orphan properties was institutionalised as well.

Sources and Method

To understand and analyse this institution in detail, various sources have been collected from different cities of the Ottoman Empire for a century-long period that covers the sixteenth-century Ottoman world. This will enhance our understanding of protecting orphan estates, especially orphan money, trace possible economic changes in the long term, and observe differences through regions, such as the centre and periphery.

Following the practices regarding protecting the properties of orphaned minors in the Ottoman Empire is possible thanks to multiple archival sources. The most important sources are the records kept in sharia courts, namely the *qādi sicills*. In the Ottoman Empire, if there was an orphaned minor left, the registration of the assets of deceased persons and inheritance and the division of shares according to fiqh was under the supervision of the state (Berber, 2023, pp. 69–71). Furthermore, the *qādīs* were the supervisors of this process. Therefore, such records were included in the sharia *sicills* kept by the *qādi*. When both the transcribed and unpublished registers are analysed, it is easy to see that many issues related to inheritance and orphans are dealt with within these sources. In summary, the sharia court records tell us about the appointment of guardians for orphans' estates, their activities such as the sales, and the loans and credits they distributed. It provides information about their relations; the accounts kept, the dismissals of guardians, and many other situations regarding the orphan estate.

Most of the sharia court *sicills* used in this study are transcribed as theses and projects, making them easier to scan for relevant records. The Üsküdar sharia *sicill* nr. 98, and Sarajevo *sicill* nr. 2³ was read and used for the first time. Sharia *sicills* of İstanbul constitute the majority of the dataset. Along with İstanbul, *sicills* from Bursa (Yılmaz, 2002; Canlı, 2006; Yediyıldız, 2010; Habib, 2019), Konya (Yörük, 2013; Özpolat & Sak, 2018), Manisa (Çamlı, 1993; Uzun, 2002), Trabzon (Korkmaz, 2014; Turan, 2014; Gedikli, 2020), Mardin (Günay, 2002), Kayseri (Ertürk, 1994), Antep (Çam, 2008; Ünlü, 2017; Altundaş, 2017; Nohutlu, 2019; Ekin & Karagöz, 2023), Halep (Ajghif, 2013; Said, 2015; Alnhayer, 2017; Bathish, 2019), Avlonya (Yılmaz, 2021), Kıbrıs (Tamçelik & Kasapoğlu, 2021) and Göynük (Soydemir & Gündoğdu, 2015) were scanned and relevant records were compiled.

Üsküdar *sicill* nr. 98⁴ and Manisa *sicill* nr. 6 stands out with its high density of records on the transactions of guardians. The majority of the content of these two registers is related to guardians and orphan estates.

³Gazi Husrev-Begova Biblioteka, Sdz-2 (Sarajevo Sharia Sicill nr. 2.), 1564–1566.

⁴This *sicill* is devoted exclusively to orphan records and titled as "*sicill-i eytām*" (orphan sicill). State Archives of Türkiye (BOA), Üsküdar Sicills under the directory of İstanbul Sharia Sicills (İSTM.ŞSC.06.d) nr. 98, 1577–1601. Although another such record appears in the archival registry classifications for the Muğla registry numbered 188, an examination of the relevant registry reveals that this is not the case. See: (Akgündüz, 1988)

Especially Manisa Register nr. 6 contains the debts and receivables of the deceased and pledges made to fulfil the debt. It includes transactions such as the sale of property, and thus, it is almost as if it reveals the stages of probate registration (Uzun, 2002). Most *sicills* of İstanbul used in this study are from the "Kadı Sicilleri" project along with a few master's theses (Akman, Gedikli & Aydın, 2011; Akman, Gedikli, & Aydın, 2012; Akman et al., 2012; *Balat Mahkemesi 1 Numaralı Sicil* (H. 964-965/ M. 1557-1558), 2019; *Balat Mahkemesi - 2 Numaralı Sicil* (H. 970 - 971/M. 1563), 2011; *Beşiktaş Mahkemesi 2 Numaralı Sicil* (H. 966-968 / M. 1558-1561), 2019; *Tophane Mahkemesi 2 Numaralı Sicil* (H. 966-967 / M. 1558-1559), 2019; Aydın & Tak, 2008; Çakır & Yılmaz, 2011; Çamlı, 2020; Dağdaş, 2010; Erol & Kılıç, 2011; Güler, 2010; Gültekin, 2010; Günelan, 2010a, 2010b, 2010c, 2010d; Günelan et al., 2012; Karaca & Yılmaz, 2010; Kazan, 2010; Kurt, 2019; Yıldız, 2010; Yılmaz, Akman & Aydın, 2011). In addition to these fully scanned sharia *sicills*, the registers involving loans granted on orphan estates in the Sarajevo *sicill* nr. 2 were added to the dataset. Particular records from Ankara *sicill* nr. 1 and 2 (Ongan, 1958, 2014), from Jerusalem *sicill* nr. 67 from the PhD of Alsabagh (Alsabagh, 2018), Lârende from the first half of the 16th century (Aköz, 2006) and Edirne (Yiğit, 1993) have been used as well.

As a result of this scan, a dataset containing more than 3000 records related to the guardians of the orphan estate was compiled. In this way, a survey that can provide insight into orphans in a large part of the Ottoman territory in the 16th century has come to life. A general scan of the *sicills* reveals that the average intensity of court proceedings concerning orphans in Ottoman society was 5%. This rate proves that orphans have an unignorable place in the duties and the registers and the court. Of all these records, 1023 were directly related to the economic transactions of the guardians. These transactions included money lending, sale and leasing of orphan property, and sustainment of alimony of the orphans, which were the guardians' responsibility with the orphan estate.

Map 1

Weighed map of activities regarding orphan estates. (Made with Palladio web app)



As the map illustrates the intensity, İstanbul is the centre with the number of transactions (599 records). Other important regions that provide several transactions are Bursa (96 records), Trabzon (75 records), Antep

(68 records), and Konya (65 records). Cyprus (43 records) and Sarajevo (35 records) followed these cities with other regions.

A rough two-third of the İstanbul records are from Üsküdar *sicills* (380). A little less than a quarter is from Galata (137). Other regions, such as Beşiktaş, Balat and Eyüp, constitute a relatively small portion of the İstanbul dataset.

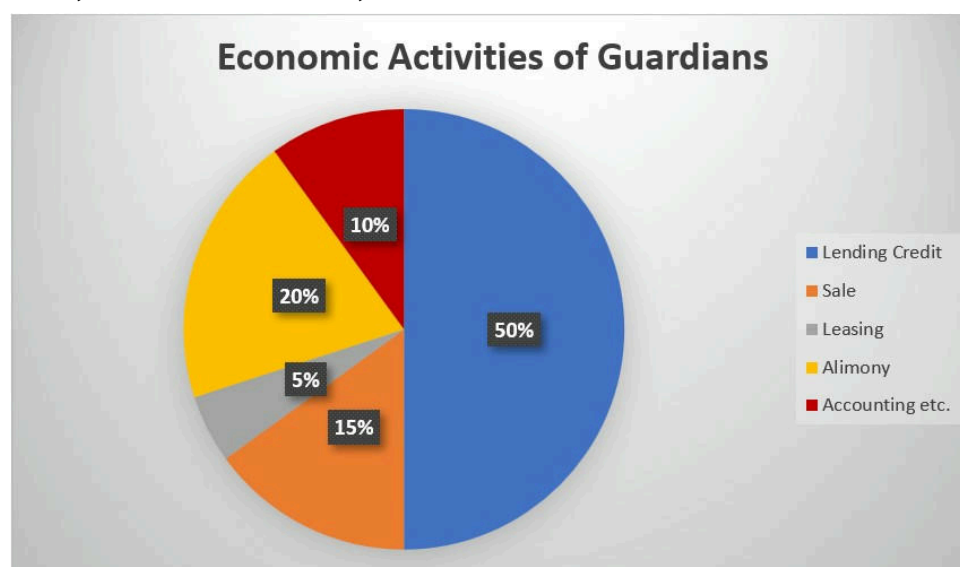
These records enable us to analyse the protection of orphan estates and the economic activities of guardians in different periods and regions of the 16th century Ottoman Empire. Since the abundance of the records is from the second half and especially the last quarter of the century, the analyses tend to be stronger in such periods.

Another point is that since the *qādi* court records are the primary source for this research, Muslim orphans constitute the majority of this study. With this in mind, the protection process of non-Muslim orphan estates, which were also recorded in the *sicills* are used in the analyses of this study.

According to the dataset, approximately half of the total economic transactions are related to money lending. Orphan money was lent as loans by the guardians in return for specific maturity. The ratio of various sales transactions made by the guardians to total economic transactions is 15%. Again, 10% of the guardians' economic transactions can be traced from their provided accounts. Leasing transactions account for 5%, while alimony transactions, which can be recorded under expenses, account for 20%.

Graph 1

Rate of Economic Transactions of the Guardian



Economic Transactions of the Guardian

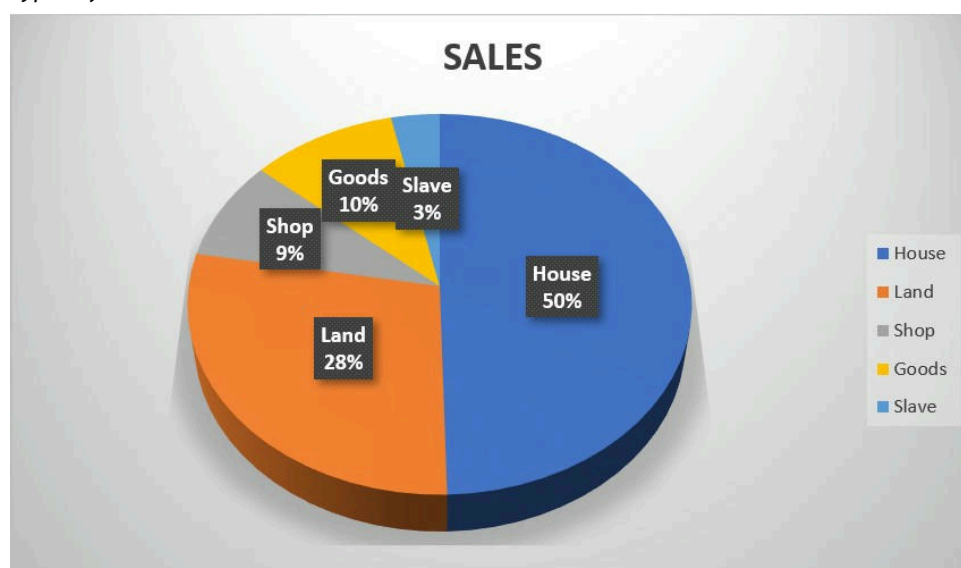
Sale and Leasing

Sale and leasing combined constitute a fifth of the total transactions of the guardian. As for leasing, it was rare for the guardian to enter new leases. Records are related to the fact that the guardians keep receiving payments from existing rent agreements and record this income. Furthermore, in one case, it was seen that the guardian increased the rent. This was done for the benefit of the orphans. Other than this, leasing was encountered in more than one type. These are classified as property rent and arable land rent. In addition

to these transactions, we came across provisions regarding taxable property or goods. There are insufficient data on leasing transactions to analyse by time or place. The rent of arable land, vineyards, gardens, etc., belonging to orphans was sometimes transferred to the guardian as part of the maintenance expenditure. Other rental income, especially shop rents, continued as a legacy of the deceased parent.

Second, sales are, by nature, considered a loss of the orphan's estate, so it is a transaction that the guardian cannot do without approval of the sharia court. In the sources examined, there are many rulings in which the sale was authorised. In most of these, the property sold is the house. One can also see the sale of various properties such as vineyards, orchards and goods. It is stated in the registers that almost all of the sales occurred for the orphan's expenses (alimony). In more general terms, these sales were permitted mostly because there was no other way to sustain the expenditures of the orphans. In some rare cases, they are sold so that keeping the house is not for the orphan's benefit. For example, if the property sold is a house, it is already unusable and ruined, and its sale would be beneficial. Another essential feature of the sales is that they are realised through auctions to the highest payer. In this way, the orphan's property is sold at the highest price.

Graph 2
Types of Sales



It is not possible to standardise and compare the sale prices of properties as the values are listed over a period of a century and are in different regions. Nevertheless, it can be said that the highest sales prices are for houses. House sale records from different regions such as Halep, Galata, Kıbrıs, Bursa were taken into account. The cost of houses varies between 500 piasters (*akçe*) and 72,000 piasters, with an average of over 9000 piasters. Ship sales that can be traced from Galata are also over 20,000 piasters.

As mentioned, although it may be misleading to construct a standard index due to the variability in the structure and location of properties, the general upward trend of prices from 1521 to 1600 is evident. The registry sources that provide data on the peaks are generally records from the Galata *sicills*.⁵ Comparing these data with the İstanbul real estate market study, a similar price increase is detected (Çiftçi, 2017).

⁵The Galata sharia court has a peculiar situation in Ottoman legal history. They kept the probate records that exceeded a certain amount and by demography they contained naval merchants and high officials.

General prices increased throughout the sixteenth century, affecting the sales in this category as well (Pamuk, 2000).

There are hardly any instances of guardians purchasing property on behalf of orphans, for investment or against debt. Most these transactions occurred to generate income to cover expenses.

Credit

In the pool of data on the economic transactions of guardians, loans constitute half of the transactions. Thus, it is undeniable that money lending is an essential item in guardians' financial transactions. There is at least one example of a loan from orphan money in every region that was analysed. Along with the abundance of records, this makes it easier to assert analyses and observe trends in the Ottoman credit market.

There are several reasons to deduce that the loans granted by the guardians were not ordinary debt. The first is that most of these loans were given at a certain interest rate, and the second is that the capital was usually distributed in particular shares, such as 500 and 1000 piasters each.⁶

In addition to these reasons, as a higher principle, it was explained in fatwas that the money lent by guardians could not be given without expecting anything in return (*karz-ı hasen*). This is because the guardian must conduct the economic transactions in favour of the orphan (Berber, 2023, pp. 75–79).

In the classical Ottoman society, lending money and debt relations were set under specific rules. These rules can be summarised as follows: the debt must be witnessed and registered, a surety or pledge must be provided against the debt and (if there is) the return must be limited according to legal ceilings. It is observed that these conditions are respected when the guardians lend the orphans' money to the credit market.

There are a few cases where the loans cannot be repaid. When the borrower died, a guarantor was contacted, and the court recognised and registered that the debt had embezzled him. In addition, if the loans cannot be paid, situations such as default and an increase in the rate do not occur. This is because these debts have maturity that do not exceed one year, and compound interest is not possible.

The identity of the parties to whom guardians lent orphans' money is too broad to be divided into a few groups. From this point of view, the Ottoman credit market was active during this period.

Forms of Credit

The primary lending method is *mu'āmele-i şer'iyye*, an umbrella term for lending money with a return for a certain period. Another method of lending is *istiğlāl*. This commercial contract, referred to in fiqh as *bey' bil-istiğlāl*, appears 63 times. In short, *istiğlāl* is selling the house or other real estate and receiving cash yet continuing to live in the house and paying rent to the buyer, (Çizakça, n.d.). The rent price was the return on the total sale amount, the money lent. This nomenclature is not mentioned in some transactions that were estimated to be of the *istiğlāl* type. There are 21 records of this type, in which a house or property is sold and then leased back for a return of the sale amount, usually 10 %. However, the number of records in which it is stated in the record that it is *istiğlāl*, but the rate of return is not clear, is 5. Most properties sold and rented in *istiğlāl* contracts are houses. However, vineyards and other properties subject to *istiğlāl* can

⁶Yavuz Cezar claims that every debt record in the *sharia* court records should not be regarded as a loan. According to him, the maturity and rate of return make the debt a loan/credit (Cezar, 1998, p. 18). As per my findings, it is accurate to label the records as credit and loan. It is reasonable to recognise the lending of certain amounts as a loan as well. In addition to this condition, the guardian's lending with economic responsibility is sufficient to consider these loans as credit/loans.

be seen sporadically. In Trabzon and Antep, there is one record for each sale by *vefâ*. The sale by *vefâ*, or *bey' bi'l-vefâ*, is a sales contract that covers the sale of *istiğlâl*. It allows the debtor to recover his pledged property when he pays his debt after a certain maturity (Bayındır, 1992).

İstanbul is at the forefront in *istiğlâl* records. In most regions other than İstanbul, lending money using the *istiğlâl* method is not seen. In addition to the aforementioned records of sale in Trabzon and Antep, there are records in Konya that are assumed to be *istiğlâl*, as well as in Bursa and Avlonya. All of the aforementioned *istiğlâl* records appear after 1562. However, it is understood from the sharia court registers that *istiğlâl* was also seen in İstanbul before 1550, even if it was not called *istiğlâl*. Considering this information, it seems possible that *istiğlâl* was observed in centres where trade and credit were developed. However, this type is not observed in Halep as an exception to this situation. Situations such as the lack of money in the market to meet the demand for credit and the inability of creditors, i.e., those who demand a loan, to find a guarantor may also increase the number of *istiğlâl* records. For this reason, the absence of *istiğlâl* in a region does not indicate that the credit market is not developed there.

In 33% of the cases where loans were allocated and the rate of return was certain, the amount given was 1000 piasters. The frequency of 500 piasters is 23 %. The frequency of 2000 piasters was 10 % and that of 3000 piasters was 5 %. The overwhelming majority of the loan amounts are in multiples of 100 piasters. It is observed that in the last quarter of the century, there were no more transactions below 1000 piasters. It should be noted, however, that loans of the highest amounts were also granted at the beginning or the middle of the century.

Table 1

Amount and frequency of loans

Amount	Frequency of Occurrence
500 Piasters	105 times
1000 Piasters	150 times
2.000 Piasters	48 times
3.000 Piasters	24 times
4.000 Piasters	12 times
5.000 Piasters	10 times
6.000 Piasters	9 times
10.000 Piasters	5 times

The lowest amount of money lent for a return is 200 piasters. The highest amount given at one time is 120,000 piasters. Although the majority of these are in official currency piasters, there are also examples in other monetary units, especially in the far provinces of the Empire. The rate of other currency records such as *şâhî*, *kuruş*, and *filori* is 10%.

It is possible to draw some conclusions by following the parties to the loans. It is estimated that the loan records of the orphans of high-ranking officials were realised in high amounts. It is conceivable that these loans were allocated to the *sarrafs*, who in turn utilised these funds in various ways (Bölükbaşı, 2014). Yet, in the records the term *sarraf* has not been found except once. For further analyses, the movements of the actors of the credit market should be followed and examined in detail.

It was mentioned above that the total number of records is higher for İstanbul. Considering this, I have summed up the total amount of loans after converting other currencies such as gold, etc., into piasters for

comparison. Of the total amount, the share of İstanbul is 61 %, while the other regions account for 39 %. As a result, the total volume of transactions in İstanbul is 1.5 times higher than that of all other regions combined. These data indicate that İstanbul's credit activity was higher than that in other regions. This can be regarded as a natural consequence of İstanbul's position as the capital and centre.

Loan Yield Rates/Rates of Return

The rate of return is uncertain in 144 of the 589 loan records. It should not be assumed that all of these were given without any return (Jennings, 1973). Although some records indicate that these amounts were given in return as *mu'amele* or *murabaha*⁷, there is no information on how much these return amounts were. There is also no record of the loan rates being changed. The majority of the maturity of the loans are for 1 year. However, periodisation, such as 3 and 6 months, was rarely observed. An annualised standard was used when calculating the loan rates of return. The amount with a total three-year return is divided by three, and the six-month return is multiplied by two and added to the calculations.

In different periods of the 16th century, a ceiling of 15% was set for rates of return in loan relations. It is known that in exceptional cases, especially for those dealing with courtiers, *sarraf* could use loans with a rate of return of up to 25% (Şahiner, 1995, pp. 44–47). Tracing from the *kanunnames*, the one from the reign of Selim I (1512-1520) set an upper limit of 10% (Akgündüz, 1991, p. 93), the *kanunname* of the reign of Süleyman I (1520-1566), presumably promulgated in 1523, set an upper limit of 10% (Akgündüz, 1992b, p. 303), and the general *kanunname* of the reign of Murad III (1574-1595) similarly set an upper limit of 10% (Akgündüz, 1994, p. 115). However, there are also examples where the limit was 15% or 20 %. For example, the upper limit was set at 20% in the İstanbul *ihtisâb* (municipal) *kanunname* dated 1502 of the Bayezid II period (1481-1512) (Akgündüz, 1990, s. 295. Again, the rate in the Edirne *ihtisâb* *kanunname* dated 1502 is 20% (Akgündüz, 1990, p. 393). In a *fatwa* from 1536, transactions with a return above 15% were not permitted (Düzdağ, 1972, p. 161; Özcan, 2003, pp. 59–60). From this point of view, it can be said that there was a definite limit of 20 % in the early 16th century, and this upper limit was reduced to 10-15 % after the 1520s. These limits are not the actual values but the ceiling to the rate of return. It is possible to claim that the orphans' money was lent at the upper limit (without exceeding the ceiling) for the best interests of the orphan.

I have compiled a table that includes the loans from orphans' money. They are averaged if there is more than one value for a year. Data for İstanbul and other cities were processed together. In general, the rates do not fall below 10 %. In a few transactions, rates are set at 15% and 20%. Apart from the high and low points, the rates generally hover around 11%. In individual examples, the highest loan return rate is 20%. These loans, with 20%, appeared more than once in Cyprus, Avlonya, and once in Sarajevo. For the sake of comparison, note that the rates of return of waqf loans in Tahsin Özcan's study of Üsküdar cash waqfs are similar to the general picture of our findings. According to the list of rates of return prepared by Özcan, the frequency of rates of return above 10% was higher in the first half of the 16th century, while rates above 10% were not observed from 1550 until 1566 (the end year of his study) (Özcan, 2003, p. 383).

If İstanbul and other regions were to be compared, it becomes evident that their average rates of return also differ. As illustrated in the table below, while the average rate of return in İstanbul hardly exceeds 10%, the average rate in the provinces is 14%.

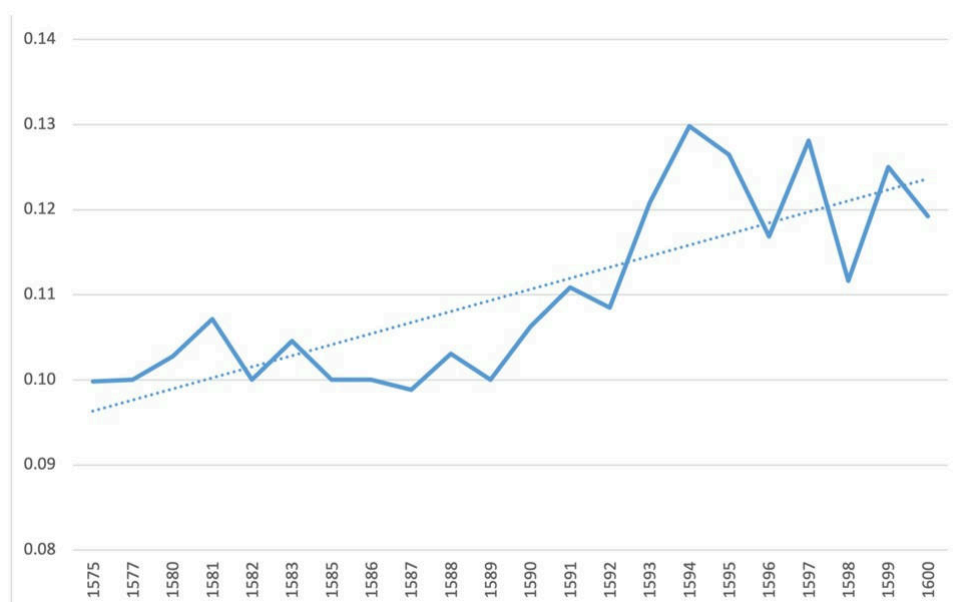
⁷*Mu'amele* is the shorter usage of *mu'amele-i şer'iyye* that was described above. *Murabaha* was the general term of the Ottomans that indicated the return of the loans. See: Berber, Interest or Usury.

Table 2*Centennial Average Rate of Return for İstanbul and Other Regions*

Average Rate of Return for İstanbul	Average Rate of Return for Other Regions
%10.23	%14.26

When orphan money was lent, was it given at a higher rate of return ‘for the good of the orphan’, or was it allocated at values within the regular credit market? From the sources I have analysed, the rates of return on orphans’ money and other forms of debt appear similar. For example, if the credit market had an average rate of 10% in a sharia *sicill*, orphan money was not allocated at 15%. In regions such as Avlonya and Trabzon, where the rates were high, normal debt relations were treated at the same rate. In Manisa, the guardian’s only loan transaction was at 10 %, while the general rate of other loans was 15%.

As for rates of return after 1575, the data is more concentrated, as shown in the graph below:

Figure 1*Loan Rate of Return after 1575*

It can be seen that the rate of 10% was maintained in the 15 years between 1575 and 1590. However, after 1590, the rate of increase exceeded 10% and never fell below 11%. These rates did not increase from 10% to 15% but rose to 12%. During this period, any increase in the upper limit by any fatwa, regulation or *kanunname* was not detected. Even if such a thing existed, this rate would likely have been 15%. A reason behind the increase could be the reaction of the credit market to certain risks. In addition, the turmoil of the coin revision and the significant adulteration that took place at the end of the century may also have affected the credit market (Pamuk, 1999, pp. 143–161), (Tabakoğlu, 2015, pp. 549–550). This increase seems to align with the general upward trend mentioned above.

To conclude this section, it can be indicated that this institution had a structure that increased the credit supply. Orphans’ money, like money waqfs, was allocated as loans. On the other hand, guardians could not demand loans for the needs of orphans, as this could be disadvantageous for the orphans. As a last resort, there were a few instances where loans were taken on behalf of the orphan, but these were not with returns, i.e. *mu‘āmele-i şer‘iyye*. In conclusion, introducing orphans’ money into the credit market expanded

the market and helped prevent unregistered usury. The rate of return increased after 1590 and continued to be above 10 per cent for a decade.

Alimony Expenses

Alimony (*nafaka*) is a word derived from the infinitive *infaq* (n-f-k), which means to spend to meet the needs of the orphan (Erbay, 2006). In his dictionary, Şemseddin Sami defines *vasi* as ‘the one who provides for the maintenance of orphans’ (Şemseddin Sami, 2019). The number of records containing alimony payments in our prepared dataset is 236. This large number allows us to track and analyse the amount of alimony throughout the 16th century.

In the alimony records, the total amount was stated if there was more than one orphan. There are also a few records in which the amount assigned to each orphan is stated separately. In the content of some alimony records, which are not many, it is observed that separate amounts are assigned to male and female orphans. The share of inheritance was considered here, or the age of the orphans may also have an effect.

In most cases, alimony was provided from the orphan’s money, yet the guardian paid for the orphan’s maintenance out of his/her pocket in eight registers. Again, the predetermined daily alimony amount was increased in four records by applying to the court. In two instances, the amount of alimony was reduced by appointing a guardian for a person who demanded less alimony, which meant that the amount of orphan money was reduced. In cases where the alimony was requested to be increased, the guardian had to present a valid excuse to the qādi court, and the qādi was not obliged to accept that excuse. However, in cases of decreasing alimony, if a relative of the orphan applies to the court and claims that he/she will provide the orphan with less alimony expense than the current amount or even without diminishing the orphan’s money, the court has to evaluate this offer.

Only court-ordered alimony amounts are used in the following assessments and graphs for more accurate analyses. Unrequited alimony was also excluded. The quantities of alimony awarded in the Galata registers dramatically increase the overall average. This may be related to the population structure of Galata and the high amount of estate cases. This high level is not surprising given the presence of non-Muslim merchants and *sarrafs* in the region and the fact that the Galata court was also the venue for the proceedings of high-ranking court officials.

Even if the Galata records are excluded, the amount of alimony has increased, especially after 1590. Table below shows the averages of the annual alimony amounts according to the registry items:

Table 3

General Alimony Determination Averages per annum

Overall Average	1468 Piasters
İstanbul	1977 Piasters
Other Regions	866 Piasters

The average for İstanbul is much higher than the average for other regions. The general average value of 1468 piasters slightly exceeded the value of four piasters per day. The İstanbul average is slightly 5.5 piasters per day. The general average of all regions outside İstanbul is marginally less than 2.5 piasters daily. Let us evaluate the average of the individual centres that can form a series.

Table 4*Averages of Alimony Expenses in Some Centres (Annual)*

Galata	2116 Piasters
Üsküdar	660 Piasters
Antep	1080 Piasters
Bursa	1260 Piasters
Cyprus	1569 Piasters

As mentioned, Galata stands out as being higher than the others. The average for Galata is a little higher than six piasters daily. Üsküdar data is highly representative throughout the century. Its average is lower than the general average for regions outside İstanbul, amounting to 1.83 piasters daily. Antep, which provides data for the 1530s and 1590s, averages three piasters daily. The average for the city of Bursa is 3.5 piasters per day, and the average for the Cyprus registry at the end of the century is 4.35 piasters per day. In addition, the averages of Manisa and Trabzon, which provide data from the mid-16th century, are close to each other and amount to 400 piasters per year (slightly more than one piaster per day). The average of Avlonya is two piasters per day.

As mentioned, most of the *sicill* records related to alimony are those in which the court authorises the guardian to spend and sets a limit on that expenditure. Furthermore, in many records, the guardian requested permission to sell property or other real estate from the estate for maintenance and other expenses. Undoubtedly, these expenditures and sales directly diminish the orphan's estate. Here again, the answer to the question of the sensitivity with which the amount required for the well-being and survival of the orphan is determined is the amount of the inheritance left to the orphan and the amount needed to maintain the standard of living.

Did the guardians receive payment from the amounts of maintenance determined for the orphans? Although it is not recommended in Islamic law that the guardian should receive a fee for his labour in protecting the orphan's estate, this is not entirely prohibited. On the other hand, there is no evidence of the guardian receiving payment in the records. The main priority in Islam was that the orphan's estate should not be diminished. Nevertheless, guardians may have benefited from the amount of maintenance assigned to the orphan. Yet, in guardian misconduct cases, such a mention was never encountered.

Conclusion

Studying Ottoman history enables us to illustrate an institution that has existed throughout Islamic history but was not known in detail regarding its application and procedures. In addition, although studies on maintaining and protecting orphan estates are increasing, it is with this study that we can observe the experience from both horizontal and vertical aspects. By scanning the sharia *sicills* from different regions of the Ottoman Empire throughout the 16th century, I have examined various aspects of the guardians' activities related to orphan estates. From singular records such as alimony appointment registers, debt agreements/register, accountings provided by the guardian, leasing agreements, sale registers, etc., a dataset containing guardian activities with orphan money was compiled. In this way, protecting and maintaining orphan properties/money will further be understood and observed. These relevant records provide sufficient data to analyse the economic transaction of the guardian with orphan money.

The analysis reveals that credit relationships dominate the economic activities of guardians. Orphans' capital was frequently lent to support their maintenance. In cases of financial necessity, the orphans' inher-



itance shares in real estate were sold with the qādi approval. In many instances, once the orphan reached maturity, accounts with the guardian were settled, with both parties often leaving the court satisfied.

The majority of these were loans granted through *mu'āmele-i şer'iyye*. This can be interpreted as an attempt to increase the orphan's money through these risk-free methods in the 16th century, as the Ottoman credit market expanded. In addition, lending utilising the sale of *istiğlāl* is also increasingly encountered in the last quarter of the century. In the period and sources analysed, the number of records in which the guardian entered into a partnership relationship with the orphan's capital was almost non-existent. In partnership and maritime trade, which was the more common form of partnership in the Ottoman Empire, there was a risk of losing the orphan's money. To eliminate these risks, it is seen that the guardians did not enter into a partnership but resorted to the lending method.

By extending a loan from the orphan's estate, the guardian could increase the orphan's capital and, if necessary, cover the maintenance and other expenses for the orphan from the return of those loans. Thus, the orphan's estate (money) was not reduced. Throughout the 16th century, one of the essential points that can be said about orphans' capital utilised in the credit market is that their rates of return remained similar for a long time throughout the century. The increase observed towards the end of the century can be considered a risk-reducing move in the money market, clouded by the massive devaluation and coin revisions.

As for centre and periphery analyses, it is documented that the rate of return on loans in the capital İstanbul is lower than other regions by four percent. This might indicate that credit risk is lower in the centre than other cities. Another reason might be the abundance of money lending institutions and the relatively higher credit supply in İstanbul. In all regions, alimony expenses increased by the end of the century. However, if we pursue comparing, alimony payment differs from İstanbul than other regions as well. İstanbul is by far higher in alimony payments to orphans, yet if Galata data is excluded from İstanbul dataset, they became closer. The average of Üsküdar is even lower than that of some cities like Bursa and Antep.

All in all, protecting orphan estates was an important institution in Ottoman history for centuries, illustrating the relationship between religion and the economy. The history of such institutions provides insights into the socio-economic history of the Ottoman Empire along with legal and family history. Future researchers of the subject shall find important aspects of Islamic history and Islamic economics that were experienced for a long period in history.



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