

A comparative study of the orphan funds in the Ottoman Empire and England

Mehmet Akif Berber (Marmara University / Cambridge) mab266@cam.ac.uk

Introduction

The Ottoman orphan funds: *"emval-i eytam"* and the English Court of Orphans are institutions that had the aim of protecting orphan money until they come of age. In summary: orphan money was entrusted to the guardians to safeguard and gain profit from them in different ways. These guardians were inspected by the authorities. This institution was quite popular in both states in the sixteenth century.

Method & Sources

The Ottoman orphan funds is an overlooked subject by historians. Thus, I will be using Ottoman archival documents in my study. The main body is the sharia court records.

For the English counterpart, there is a growing literature about the English Court of Orphans. Some of them include the publication of archival documents of cities like Bristol, Exeter and London. I will be using the data from these publications to make comparisons.

Percentage of Occurrence

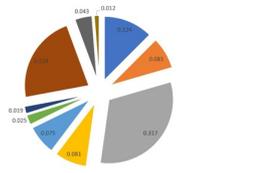
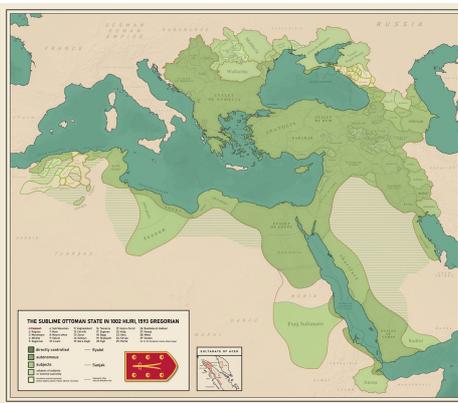


Chart: Records about orphan funds in the 16th century Ottoman sharia court records.



Ottoman Empire in 1593

VII. Proviso for Customs of London, &c. as to Orphans.

PROVIDED always, That this Statute doth not extend nor shalbe expounded to extend unto any Allowances or Paymentes for the finding of Orphanes according to the auncient Rates or Customes of the Citty of London or any other Citty where lyke Order is for the Custodie of Orphanes and theyr Goodes, as is in the said Citty of London.

Court of Orphans enjoying the privileged status in the Usury Statute of 1571

Preliminary Findings

Ottoman orphan funds is the continuation of an Islamic tradition where Ottomans practiced until its demise with some changes. English Court of Orphans which has roots in the Roman Law and feudality, instituted and spread in the 16th century, mostly vanished in the 17th century.

Court of Orphans is an administrative court, run by the mayor and his officials in the city centre whereas Ottoman orphan funds were operated under the local qadi (judge/notary). The former accepted the orphans of freemen while the Ottoman system had a wider beneficiary.

In both institutions, orphan money were used as credit. The rate of return for the 16th century is around 10%. Both institutions were privileged with regards to the usury ban, yet they also avoided the naming of usury. The English coined the "finding money" while the Ottomans used "legitimate profit" to define the rate of return on loans.

Mother/widow has the main role in both these institutions since they were the first candidate of guardianship.

Objectives

What can be said about the roots of these experiences? We are aware that wardship was a known phenomenon in most legal systems, yet Ottoman and English orphan funds cover more than basic ward-guardian relations. They had economic and legal jurisdiction. In both states, authorities were active in making use of orphan money.

Another question is how do these institutions reflect their era in different aspects? Since we are talking about the orphans that inherit money, it is only natural that this subject deals with social, religious, and of course legal matters.



Sharia court records include probate registers, appointment of guardians, verdicts about disputes etc. This is a page of a sharia court register; Üsküdar (Istanbul) late 16th century.

References

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