T.C.

MARMARA UNIVERSITY

GRADUATE SCHOOL OF SOCIAL SCIENCES

DEPARTMENT OF HISTORY

PUBLIC AND PRIVATE PROPERTY CLAIMS IN THE OTTOMAN EMPIRE: THE BEYTÜLMAL AND ITS INSTITUTIONALIZATION IN THE EARLY MODERN PERIOD

Ph. D. Dissertaion

Ayşegül ÇİMEN

İSTANBUL, 2023

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Ph. D. Dissertation

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Thesis Advisor: Prof. Engin D. AKARLI

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MARMARA ÜNİVERSİTESİ

SOSYAL BİLİMLER ENSTİTÜSÜ

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Tarih Anabilim Dalı Tarih (İngilizce) Bilim Dalı Doktora öğrencisi Ayşegül Çimen'in "Public and Private Property Claims in the Ottoman Empire: The Beytülmal and its Institutionalization in the Early Modern Period" adlı tez çalışması, Enstitümüz Yönetim Kurulunun ..... tarih ve .....sayılı kararıyla oluşturulan jüri tarafından oy birliği / oy çokluğu ile Doktora Tezi olarak kabul edilmiştir.

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ABSTRACT

Public And Private Property Claims in the Ottoman Empire: The Beytülmal and its Institutionalization in the Early Modern Period

This dissertation focuses on public and private claims related to heirless and unclaimed property in the Ottoman context circa 1450-1675. It scrutinizes different connotations and uses of the concept of *beytülmal* to shed light upon a secondary and narrower meaning of the concept as a treasury office authorized to manage claims and revenue related to escheats and abandoned, lost, or other unclaimed property. The dissertation surveys the grounds of public property claims based on the works of legal scholars in the pre-Ottoman and Ottoman periods. It examines the formation of distinctive Ottoman methods that aim at assessing, settling, and managing claims regarding heirless and unclaimed properties or goods in the name of "*beytülmal*." *Beytülmal* thus emerges as a revenue item and an office that sets responsibilities and procedures in time. Theoretically, the responsibility was to protect individual property rights and collect revenue to help needy subjects and provide other public services. Jurisprudential works (*fıkıh*), legal opinions (*fetva*s), and imperial regulations (*kânûn*) provide the basis of the *beytülmal's* complex organization.

*Beytülmalci*s (as escheators of sorts) were authorized government officials who pursued, safeguarded, and converted to revenue the unclaimed properties of absent and missing individuals (*gâib* and *mefkûd*), and deserted (*metrûk*) and heirless properties. These properties might range from a piece of fava bean to a well-adorned mansion. *Beytülmal* practices enabled the Ottoman government to meet specific legal

responsibilities regarding individual claims and acquire financial benefits to address particular public expenditures.

ÖZET

Osmanl İmparatorluğu'nda Kamu ve Özel Mülkiyet Hakları: Beytülmal ve Erken Modern Dönemde Kurumsallaşması

Bu tez, Osmanlı devleti bağlamında takriben/yaklaşık 1450-1675 arasında mahlul (sahipsiz ve vârissiz) mal ve eşyaya dair yapılan hak talepleri konusunu inceler. Beytülmal kavramının farklı kullanım ve çağrışımları üzerinde yoğunlaşarak, kavramın daha dar bir özelliğini, mahlul mal/eşya üzerinde hak sahibi olan hazine kalemi anlamını izah eder. İslam hukukunda kamunun mülkiyet iddialarının temel argümanlarını Osmanlı öncesi ve Osmanlı dönemi fıkıh eserleri üzerinden araştırdıktan sonra, Beytülmal'i merkeze alarak, mülkiyet iddiaları konusunda Osmanlı'da yöntemsel bir özgünlüğün olduğuna işaret eder. Teorik olarak, bu özgün anlamında beytülmal, belli mülkiyet iddialarında bireylerin haklarını korumak ve ihtiyaç sahibi kimselere maddi destek sağlamak için/adına kurulmuştur. Zamanla çok yönlü bir yapı kazanarak kurumsallaşan beytülmal kalemi, Osmanlı'da fıkıh kitapları, kanunlar ve fetvalar aracılığıyla düzenlenmiştir.

Beytülmalciler devlet tarafından yetkilendirilmiş görevlilerdir. Sahipsiz mal statüsünde olan kayıp ve kendisinden haber alınamayan kimselerin mallarını, terkedilmiş mal ve eşyaları ve varisi bulunmayan terekeleri teftiş eder, toplar ve kurum gözetiminde tutar. Beytülmalcinin peşine düştüğü bu mallar/eşyalar bir bakla tanesi de olabilir, çok iyi bakılmış bir konak da. Beytülmal uygulamaları ve kurumu, Osmanlı imparatorluğunda hukuki ve mali bazı fonksiyonların belirli bir noktaya kadar yerine getirilmesini mümkün kılmıştır.

Keywords: Beytülmalci, Unclaimed property, Inheritance, Heirless

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I dedicate my work in loving memory of my mother, H. Zehra.

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TRANSLITERATION AND USAGE

This study makes use of a good deal of terms in Arabic and Ottoman Turkish in order to shed light on the operation of a government institution. The transcription system adopted here is mainly based on Ottoman Turkish. However, when the context is purely Arabic, the Arabic transliteration system is followed based on the *Encyclopaedia of Islam* by Brill. For instance, while the first chapter uses *bayt al mal* as public treasury founded in the early Islamic period, the second and later chapters uses *beytülmal* as an Ottoman Turkish word meaning the Ottoman Beytülmal institution.

In most of the archival documents, the dates in lunar calendar are converted into Common era dates. If the document does not give information regarding to the months and days, then the years are given in approximate two years in the common era. For instance, 1692/93 is given for the lunar year 1104.

All the translations and transcriptions in the study are belong to me, if not stated otherwise.

CHAPTER 1

INTRODUCTION

In his travelogue, Evliyâ Çelebi narrates 'the good deeds of the people of Egypt' (*hüsniyyât-ı ahâlî-i Mısır*) and describes how Egyptian people are attentive to their fellow citizens who are in death-bed: "*Bir âdem Mısır'da hasta-hâl olsa cümle ahâlî-i mahalle hastanın hâl hâtırın her bâr hedâyâlar ile su'âl edüp vasiyet etdirirler. Merhûm olduğu dem beytü'l-mâl emînine haber edüp techîz [ü] tekfînin hâzır edüp*…"[1] Respecting the fellows' bedside manners towards the ill, Evliyâ praises informing the *beytülmal emini* upon one's death as a good deed—even before the burial procedures. Who is that *beytülmalci*? Is he needed to preach on mortality of humankind, or to bless the deceased? Or is he a must be there person on behalf of the public treasury, as his title evokes.

Starting with a death story is bit sorrowful, but this dissertation aims to examine the originality of that *beytülmalci* in the Ottoman context. More specifically, it endeavors to problematize the *beytülmalci*'s dealing with the properties that 'outlive' its owner and fall unclaimed in the Ottoman Empire. The time period of the study is roughly between the second half of the fifteenth to the last quarter of the seventeenth century. Unclaimed property might be translated as the property that has been abandoned or unclaimed by a rightful owner, and holders' attempts to locate the owner fail. Ownership by private individuals poses some problems of 'what to do with property that outlives its owner'[2], either as inheritance or

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[1] Evliyâ Çelebi b. Derviş Mehemmed Zıllî*, Evliyâ Çelebi Seyahatnâmesi* vol.X. ed. Seyit Ali Kahraman, Yücel Dağlı and Robert Dankoff, İstanbul: Yapı Kredi yay., 2007, p.277.

[2] Bruce G. Carruthers and Laura Ariovich "Sociology of Property Rights", *Annual Review of Sociology*, Vol. 30, 2004, pp. 23-46.

unclaimed. There are a few very common scenarios for one's falling apart from his/her property. The owner might have died without heirs, or only one of them was alive, or might have been absent (*gâib*) or missing (*mefkûd*) for a certain period and no one knows his or her whereabouts.

Being on the way to reach somewhere outside the homeland was in and of itself a difficult experience, setting aside the challenges of living during times with no modern means of transportation and communication. Along with difficulties in providing for one's basic needs like food, water, and shelter, there were plenty of unsettling troubles one could face while traveling in the early modern world: highwayman, back-breaking passages, deserts, high hills, predatory animals, and severe climate conditions—hot summers or harsh winters—constituting a physically hostile environment. Moreover, human beings were always vulnerable to diseases and death. The long wars, or campaigns, was one of the most encountered reasons for one's drifting away. People might have in their last gasp in a far-away region, unable to have time to let family members know their whereabouts. What would happen then to the rest of the family, properties, and the possessions of the persons who were absent, missing or who died in a far-away land?

In her impressive work, *The Return of Martin Guerre*, N. Zemon Davis realizes that the more she savored the creation of the film, the more her appetite for the details of the story was whetted, however paradoxically. This led her to raise new questions about the motivations of people in the sixteenth century: "whether they cared as much about truth as about the property?"[3] Beyond any doubt, property was a greater part of the 'historical reality' in the case of missing individuals as reflected in empirical sources. Despite their sorrow, there was a manifest contention among the potential claimers of these properties in almost

[3] Natalie Zemon Davis, *The Return of Martin Guerre*, Harvard University Press, 1983, p. viii.

every case. The *fetva* collections also include a section on missing persons titled *kitâbu'l-mefkûd*. *Beytülmal*, *emin*, *kadı*, property, heirship, debt, marriage, and divorce are the most frequent terms one can find in these legal opinions. Selma Zečević also notes the frequency of property-related questions and the deep interest of the relatives of missing individuals in the status of their property in her study on the *fetva* collection of the Bosnian jurist (*müfti*) Ahmed al-Mostâri (d. 1776).[4]

This dissertation attempts to grasp the wider and narrower definitions of concepts like property and *beytülmal* in their own settings. It examines the episodes where a piece of property was regarded as unclaimed and the related rules and regulations that guide the procedures to decide public and private claims on these properties including the ways of claiming, escheat, and restitution. It attempts to review each related concept within their semantic world so as to make sense of the property claims in their appropriate Ottoman context. This undertaking has to deal with the *beytülmal* which was an institution in charge of controlling unclaimed properties in the Ottoman empire. It had its conceptual and theoretical roots in the early Islamic period, going back to the years of Prophet Muhammed and the rightly guided caliphs.

In its wider sense, *beytülmal* (بيت المال) means the house of wealth or public treasury in Islamic political organizations. In theory *beytülmal* covers of public properties collected and accumulated by legal means such as booties obtained in military campaigns, taxes like *kharaj* and *jizya*, and unclaimed properties. This wealth was deemed as the common property of Muslims living in an Islamic polity. However, according to the law, only the *imam* (leader,

[4] Selma Zečević, "Missing Husbands, Waiting Wives, Bosnian Muftis: Fatwa Texts and the Interpretation of Gendered Presences and Absences in Late Ottoman Bosnia," *in* Amila Buturović İrvin Cemil Schick (ed.), *Women in the Ottoman Balkans: Gender, Culture and History,* London, I.B. Tauris, 2007, p. 343.

or ruler, of the Islamic community) had the discretion to administer and direct these properties for the sake of Muslims in theory, and all subjects in practice.

As an overarching postulate one can state that unclaimed property is one of the revenues of the public treasury, the *beytülmal*. Governments hold the right of escheat based on the Islamic law of inheritance and their legitimate right to raise revenue. From the early years of Islam, the treasury was regarded as the legal destination for unclaimed properties. However, the Shāfi'ī and Mālikī schools of law later elaborated on this right of heirship, particularly on the account that if and only if the ruler is just and the public treasury is properly administered by the guidance of moral principles. Considering mainly the redistributive power of the state, and the benefit of the Muslims in general, the schools favored and preferred the right of the *beytülmal* before the cognate relatives (*zawu'l-arhâm*).[5]

The Ottomans also used the concept of the *beytülmal* in the sense of public treasury along with such terms like *beylik*, *miri*, and *hazîne-i amire*. However, a broad range of primary sources indicate that from the early fifteenth century on, Ottomans used the concept of the *beytülmal* in the sense of a specific revenue and in the sense of an organization put in charge of property claims. On behalf of the public treasury, this organization controlled unclaimed properties in the center and the provinces enforcing the laws in keeping with certain administrative regulations and through the agency of the officials called *beytülmalci*, or *beytülmal emini*.

Nikola, an Ottoman subject in Istanbul, and his fava beans would be a quick and obvious example for the specific definition of the *beytülmal* in the sense of revenue from unclaimed property. After sowing fava beans in his garden, Nikola goes missing (*gaybet-i*

[5] N.J. Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, p.30.; Hamza Aktan, *Mukayeseli İslam ve Miras Hukuku,* İstanbul: Işık Akademi yay.2008, p. 224.; Abdüsselam Arı, *İslam Miras Hukuku*, İstanbul: Pınar yay., 2018, pp.67-68.

munkati'a[6]). His neighbor Veli b. Ali espies that the fava beans have grown enough to be collected. He, the neighbor, meets the case; he collects the beans and sells them for 200 akçes. However, somehow the *beytülmal emini*[7]is informed of what happened: Since it is not the neighbor's business to collect and sell the fava beans in any way, the neighbor is forced to pay the earnings to the *emin*.[8] In another case, Todora borrows 500 akçes from Zekeriya Kadıoğlu Yusuf. After a while, Zekeriya goes missing with *gaybet-i munkatı'a.* Informed of this situation, the *beytülmalci* applies to the court to summon Todora and asks Todora to pay the aforementioned debt in the presence of the *kadı.* In the court, Todora proves that he already paid back 200 akçes to Zekeriya and only 300 akçes remained on his charge that he also paid to the *mâl-ı gâibci*[9] before.[10]

The Ottomans paid considerable attention to controlling unclaimed properties in their realm as they saw a material government interest in this matter. The potential public properties of different types were claimed under a considerably well-organized system that prevailed in almost all corners of the empire and almost to its end. Being an integral part of the central and provincial administrations, the *beytülmal* played key roles in providing justice and defending the government's material interests.

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[6] A prolonged absence with utter silence. "Gaybet", *New Redhouse Turkish-English Dictionary*, Istanbul: Redhouse yay.1986, p.387.; The state of being missing with no any piece of information.

[7] The officer in charge of control of unclaimed properties.

[8] İstanbul Kadı Sicilleri, Üsküdar Mahkemesi, no.9, 837 (29 R 942/ 27 Oct.1535)

[9] Instead of *beytülmalci* or *beytülmal emini*, the clerk preferred *mâl-ı gâibci*. In literal sense it means the officer who is in charge of controling and claiming properties of the people who are absent. In this case, Todora explains that he paid back part of his debt and also gave the rest to that specific officer before.

[10] İstanbul Kadı Sicilleri, Üsküdar Mahkemesi no.9, 853. (29 R 942/ 27 Oct.1535), pp.340-341

1.1 The Scope and Delimitations

In the Ottoman context, unclaimed property calls into question a wide range of issues that are intrinsically, and very closely, related to legal, social, fiscal, and administrative aspects of daily life. The relative importance of these issues becomes more apparent if one takes into consideration the mundane realities of daily life whereby a piece of property brings together different agents of the empire.

In the first place, unclaimed property was an issue of inheritance laws (*'ilm al farâiz*) which the *kadı* 's court oversaw. Taking properties into government custody, dividing the shares among rightful claimants, and resolving the debt claims of third persons were all conducted by the *kadı*s under the guidance of the law.

Secondly, the thing(s) that makes an unclaimed property was multidimensional. For instance, the properties in question were dazzlingly broad ranged. They varied from being a piece of cushion to a thorough horse, from a copper vessel to a well-maintained house. The value of the property affected how it could be claimed. Moreover, these properties might fall within the category of the unclaimed from an affluent and wealthy subject, or from all alone destitute and penniless person. Consequently, normative texts formulated the categories of the unclaimed property (*beytülmal-i amme* and *beytülmal-i hassa*) according to the social standing of the person, i.e., the ex-owner and the value of the property. The texts made a clear distinction between the properties of people of *askeri* status and the properties of regular subjects', the *reaya*s. What could bring a *reaya* in the same category with an *askeri* was only the high value of the property. In addition, the Ottoman law of *beytülmal* laid down the boundaries for who would be a legal claimer and a holder of the property mainly based on two factors: the status of the land (whether it was *vakıf*, *tımar*, *serbest tımar* land etc.), and the status of the person, that is to say, whether the person belonged to a corporate group (like the *janissaries*, *bostancıs,* servitors *of matbah-ı amire* etc.). These ostensibly convoluted

preliminary specifications aimed to supervise property relations by harnessing the administrative and legal foundations of the empire.

Thirdly, unclaimed property was one of the revenues of the Ottoman Imperial Treasury for which an intermediary office was in charge of its management. As a governmental set-up, the *beytülmal* collected and accumulated this revenue through public claims on unclaimed property in the realm. Acting according to the directives issued to it, the office managed—directed and transferred—these revenues for a diverse range of purposes and settings. From this point of view, unclaimed property was an issue concerning the Ottoman fiscal system. It provided a revenue that was, to a certain extent, an unbudgeted one.[11]

Taking these rich aspects of the issue into consideration, this study chooses to focus on public and private claims on unclaimed properties in the Ottoman empire and the operation of an office to manage such claims. It examines the available sources to visualize the *beytülmal* as a legal and financial institution that consistently and coherently supervised claims on heirless, lost and similarly fallen away property in the Ottoman empire, particularly between the 1450s and 1670s. For practical reasons, the thesis emphasizes the regular public claims, the revenues of which materially ended up in the *miri* category.

Though the *beytülmal* prevailed in almost all corners of the empire and in almost all its lifespan, this period is of interest in three respects that should explain the scope of the subjects in the thesis: i) This period saw the constitution of the grounds for public and private

[11] It was 'unbudgeted' because the circumstances that generated this revenue were unpredictable. The death or missing of a person without an heir, or simply a lost and found property. This revenue could also be regarded as predictable to 'a certain extent', because the Ottomans relied on the *iltizam* method to administer unclaimed property. Thus the government farmed out the *beytülmal* revenue in advance in return for a fixed sum. The *mültezim* (the mukataa undertaker) could make a profit, or shoulder the loss under his *tahvil*.

property in the Ottoman empire. During this era, legal and intellectual works shed light on the theoretical rationale and historical connections of the *beytülmal* and its signification for the Ottomans—both for the lay and elite alike, and both in the sense of public treasury and revenue. The original precedents set the rudiments and helped to convey the definitions and the types of unclaimed property for later times. ii) The norms and regulations prepared roughly in this period set the rules and procedures for public and private property claims in an extensive way, particularly during the sixteenth century. The wording of the earlier regulations suggests that the fifteenth-century Ottoman provincial ruling cadres were not aware of the existence of any procedures, or even what should be done if a property falls unclaimed.[12] The general and provincial *kanunnâme*s and *fetva*s issued in different parts of the empire upon circumstances gave the *beytülmal* its character as an Ottoman legal institution. iii) In the 'long seventeenth century', the Ottoman empire ran through a period of crises and transformation that brought along new adjustments in military, administrative, and fiscal policies.[13] The wars with Venetians and the Habsburgs and its allies in the Western frontier, and with the Safavids in the East, social upheavals and flight of peasants, and the influx of silver, put the financial conditions into trouble. Particularly, the budgetary deficits and expenses engendered an increasing need for cash for the government in the last quarter

[12] Halil İnalcık and Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani II. Mehmed ve II. Bayezid Devirlerine Ait Yasaknâme ve Kanunnâmeler*, (Ankara: Türk Tarih Kurumu, 2000) pp.53, 68, 76 and others.

[13] Halil İnalcık, "Military and Fiscal Transformation in the Ottoman Empire", *Archivum Ottomanicum,* VI, 1980, pp. 311-313.; Yavuz Cezar, *Osmanlı Maliyesinde Bunalım ve Değişim Dönemi*, İstanbul: Alan yay., 1986, pp. 27-32.

of the seventeenth century.[14] So as to tackle these fiscal difficulties and problems of tax collection in villages, the *malikâne* system was introduced. Accordingly, *mukataa*s (revenue units) were contracted out to the highest bidders on a life-time basis—rather than for a fixed three-year term. Indeed, the *beytülmal mukataa*s are important given the focus of this study. However, since this study would not be a product of the economic history of the Ottoman empire, the changes in the system that led to *beytülmal mukataa*s and further developments in fiscal policies like new institutions and figures will be excluded.

Before giving a brief sketch of each chapter, I will explain some keywords used in this study, like the adjective 'unclaimed', and the terms '*beytülmal'* and 'property'. So as to be more inclusive, this study prefers to use the adjective 'unclaimed' as a general rubric to identify the following properties: heirless or semi-heirless inheritances, deserted or abandoned property (*bilâ varis*, *metruk*), the property of an absent (*mâl-i gâib*), the property of a missing individual (*mâl-i mefkûd*), stray cattle (*yava*), absconding slaves (*kaçgun*, *abd-i abik*, *kenizek*), found or treasure trove (*lukata*). There are also some occasions that led to the falling of the properties unclaimed; like properties remaining in a sunken ship, or properties found at the hands of bandits or thieves, and so on. What brings these properties together under the same category is the overarching claim of the government. Though they might not be literally unclaimed in practice, government agents considered them in that status as objects of public claims.

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[14] Ahmet Tabakoğlu, "XVII ve XVIII Yüzyıl Osmanlı Bütçeleri", *İstanbul Üniversitesi İktisat Fakültesi Mecmuası*, c.41 (1-4), 1985, pp. 399-404.; Erol Özvar, "Osmanlı Devleti'nin Bütçe Harcamaları (1509-1788)" in *Osmanlı Maliyesi: Kurumlar ve Bütçeler* I, (Haz.) Mehmet Genç, Erol Özvar., İstanbul: Osmanlı Bankası Arşiv ve Araştırma Merkezi, 2006, pp. 197-238.

In a similar vein, so as to be comprehensive in addressing things and sums of money at issue in the *beytülmal*, the word property is preferred instead of possessions, belongings, estate, patrimony, or inheritance. However, when the context strictly needs to use one of these words, I might opt for it for the sake of clarity.

Last but not least, different uses of the term beytülmal throughout the study could be confusing. It could be a baffling word when it comes to the Ottoman office and the officers. It will be used in the following senses: (a) Public treasury '*the beytülmal'*; (b) the title of a specific institution '*beytülmal emaneti'*; (c) a specific property (or revenue) generally described as unclaimed '*beytülmal'*, and (d) the title of an officer who claims these properties on behalf of the state (or a contract holder) *beytülmalci* or *beytülmal emini*. In this respect 'claiming the beytülmal' means claiming a property (or properties) in the cluster of unclaimed properties.

1.2 Sources

Presumably, the majority of Ottoman subjects might have heard either the term *beytülmal* or *beytülmalci* at least once in their lifetime, even though they never visited the courts. It was very likely that a piece of property fell unclaimed, or several people might have made claims on it. In the same vein, people of different ages, positions, ethnic and religious origins, and different income status might have been caught in a *beytülmal* issue. The range of the empirical sources reflects the variety of the people and properties involved in a *beytülmal* related issue. The archival documents on the subject are both very rich and variegated. Court records, *kanunnâme* texts, and *fetva* compilations similarly provide important information and insight. One might suggest three main groups of available sources for a more conceivable categorization of the subjects and benefit from them:

i. Theoretical and legal aspects: Early works of *fiqh* (jurisprudence) like *Kitāb al-Kharaj*, *Kitāb al-amwāl*, and *al-Ahkamu's-Sultaniya* are the main sources for understanding

the theory and the legal principles related to *beytülmal* in pre-Ottoman Islamic history. The works of Ottoman 'scholar-bureaucrats' like Dede Cöngî, Âşık Çelebi, and Nâimâ are also significant in understanding the Ottoman use of the *beytülmal*, and the ways of revenue collecting and spending. Similarly, the accounts of Defterdâr Sarı Mehmed Paşa, Hezârfen Hüseyin Efendi and Kâtip Çelebi, and other high-ranking officials touch upon the cases of *beytülmal* or offer advice about the better implementation of the law of *beytülmal*. Furthermore, normative texts, such as *kanunnâme*s, *fetva* compilations, and *ahidnâmes* are significant sources for mapping out the rules and regulations that concern public and private property claims in the early modern period. These normative texts are preserved in manuscript libraries like Süleymaniye Yazma Eser Kütüphanesi, Millet Kütüphanesi, Bibliothèque nationale de France in Paris, or in various archival registers.

ii. The cases and problems of implementation: The court records (*sicil*s) and registers like Mühimme, Ahkam, Atik Şikâyet defterleri constituted the richest sources of Ottoman legal history. I use these sources to understand how the Ottomans supervised unclaimed properties in practice in different parts of the empire. These empirical sources cast light on the ruling cadre's reaction to abuses, policies adopted to different claims, and how the laws related to beytülmal were upheld and remade. The inheritance (*muhallefât* and *tereke*) registers of people who died heirless are also helpful in figuring out such persons, the properties they left behind, the value of these properties, and their treatment as *beytülmal*. These registers are also useful for tracing the procedure observed in keeping unclaimed properties in custody and their selling, as well as the intermediary figures involved in the *beytülmal* operations. Finally, the *kassam*[15] registers are also important for examining the

[15] Dividers, or law officials, who fixed inheritance shares.

terekes returned to the *beytülmal*. While *Askerî Kassam*[16] registers include the *tereke* records of people of the *askerî* status, *Beledi Kassam*[17] registers include the records of the ordinary people.

iii. Unclaimed property as a component of the Ottoman fiscal system: If the *beytülmal* officers could establish their claims well, unclaimed property became a revenue of the state. There is a dazzling spectrum of sources related to *beytülmal* as a fiscal revenue. The records under the category of Maliyeden Müdevver (MAD.d) and Bâb-ı Defteri (D.) and the sub-categories of the former, including Başmuhasebe (D.BŞM.d[18]), Muhallefat Halifeliği (D.BŞM.MHF.d[19]), and Baş Mukataa Kalemi (D. BMK.d[20]), Bursa Mukataası (D.BRM.d[21]) are the main sources in this regard. They roughly cover the cases of *beytülmal*, the list of *terekes*, the registers of the *beytülmal mukataas*, contracts, the conditions of the bidders, individuals in charge of the office, the amount of revenue collected in a certain period, *beytülmal*'s share in certain specific cases, typical payments made while managing these revenues, the ways of collecting and spending the revenues and the amounts delivered to the imperial treasury. In addition, some archival categories (*fons*) like AE. (*Ali Emiri*), İE.

[16]These registers were kept between 1000/1591-1592 and 1342/1924 by the court of Kısmet-i Askeriye. There are 2142 *sicil*s in this catalog. Said Öztürk, "XVII. Yüzyıl Askeri Kassam Defterlerinin Sosyo-Ekonomik Tahlili", Ph.D Diss., Marmara Üniversitesi, 1993, pp.16-17.

[17] These registers were kept between 1066/1655 1303/1886 by the court of Mülga Beledi Kassamlığı. There are 155 *sicil*s in this catalog. Öztürk, "XVII. Yüzyıl Askeri Kassam Defterleri" pp.16-17.; Tahsin Özcan, "Muhallefât" *TDV İslam Ansiklopedisi*, vol.30, 2020, pp. 405-406.

[18] Başmuhasebe Kalemi Defterleri.

[19] Başmuhasebe-Muhallefat Halifeliği Kalemi Defterleri.

[20] Başmuhasebe Baş Mukataa Kalemi Defterleri.

[21] Başmuhasebe Bursa Mukataası Kalemi Defterleri.

(*İbnüemin*), C. (*Cevdet*) and some of their subcategories, TS.MA.e (*Topkapı Sarayı Müzesi Evrakı*), TS.MA.d (*Topkapı Sarayı Müzesi Defterleri*), KK.d.(*Kamil Kepeci*), HAT(*Hatt-ı Hümayun*), HR.(*Hariciye Nezâreti*), and YB (*Yabancı Arşivler*) also include *beytülmal*-related records that cover submissions (*arz*), written orders (*buyruldu*s), appointments (*tevcîhât*), official letters (*tezkire*s), inheritance records (*tereke*s), account registers (*muhasebe defters—müfredat* and *icmal*), correspondence between the center and the provinces on various issues.

Furthermore, archival records include *beytülmal*-entitled categories like that of D.BŞM.İSB (Başmuhasebe Kalemi-İstanbul Beytülmali Mukataası[22]) and D.BŞM.BLB (Başmuhasebe Kalemi-Belgrad Beytülmali[23]) under the general rubric of D. (*Bâb-ı Defteri*[24]). While the former is more of a collection of fiscal records including *tereke* registers, *mukataa* contracts, and detailed account registers (*muhasabe defterleri*), the latter covers almost entirely the correspondence between the *kadı* (or *nâib*) of Belgrad and the *beytülmal emini* there concerning the funerary expenses of the persons who died alone and pennilessly (*fakîr* and *garîb*).

1.3 Literature Review

One can place the study of property claims and the *beytülmal* under the broader field of Ottoman history, including the social, legal, and economic history of the Ottoman empire. By its nature, the subject could branch out into these subfields when analyzed under related research interests. Presumably because of this connection, many Ottomanists come across

[22] Chief Accounting Office-Beytülmal mukataası of Istanbul.

[23] Chief Accounting Office-Beytülmal of Belgrad.

[24] Record Books

the issue of *beytülmal* and the term *beytülmalci* in their surveys. Many of them make remarks about the *beytülmal* of briefly and from the perspective of their research interests. Nevertheless, the subject has not been dealt with independently in any of the sub-fields of Ottoman studies. As the late Mehmet Genç once said, it might be 'a bit cloudy a subject'[25] to be examined in its entirety. However, its significance lies at the intersection of law, economy, state, and culture, and of the various sub-fields of Ottoman history. It determined and was determined by everyday human experiences. As Akarlı puts it "the matrix of property relationships revolving around an object tended to become quite complex in an Ottoman context."[26]

There are some earlier works of Ottoman historians that should be noted first as they pointed to the significance and the meaning of beytülmal in the context of their studies. Barkan's work on Ottoman *kanunâmes* published in 1943[27] and his work on *tereke* registers of Edirne Askeri Kassamlığı published in 1966 worth attention in this sense. He explains the rules in the division of inheritances and the share of the *beytülmal* in relevant cases. He uses

[25] 'Bu biraz flu bir konu'

[26] After the word 'object' Akarlı puts 'immovable' in parenthesis as he mostly means immovable objects. However, though beytülmal also includes immovable properties such as houses or gardens, movable objects become objects of complex ownership claims in the Ottoman context. Engin D. Akarlı, "Gedik: A Bundle of Rights and obligations for Istanbul Artisans and Traders, 1750–1840" in *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, Alain Pottage, Martha Mundy (ed.), Cambridge University press, 2009, pp. 166-200.

[27] Ömer L. Barkan, (haz. Hüseyin Özdeğer) *XV. ve XVI. Asırlarda Osmanlı İmparatorluğu'nda Zirai Ekonominin Hukuki ve Mali Esasları*, c. I, *Kanunlar*, İstanbul: İ.Ü. yay., 2001. The facsimile print of this book was published in 1943.

the *askerî kassam*[28] registers, which include the cases related to *beytülmâl-i hassa* to examine the claims between contending parties over the properties of the heirless deceased persons.[29] Also, Uzunçarşılı's work on *Kapıkulu Ocakları* published in 1944 elaborately examines the *beytülmal* of janissaries, the revenues due to this specific corporate treasury. He sheds light upon the officers in charge of collecting, the place where the *beytülmal* properties were kept and protected, and their use for expenses of the janissaries.[30]

Lewis and Cohen underlined the significance of the *beytülmal* in their work on the towns of Palestine in the sixteenth century. Their work was published in 1978.[31]They discuss the types of revenue under this title, and their share among total revenues Their translation of the cluster of *beytülmal* revenues is a bit misleading. In the Ottoman *kanunnâme*s the *beytülmal* was generally used as an umbrella concept that covered unclaimed property of an heirless deceased person, property of absent and missing persons, and runaway slaves and stray cattle (*mâl-i gâib, mâl-i mefkûd, abd-i abîk, yava and kaçgun*). They translated as if *beytülmal* was independent of the cluster.[32] In a similar vein, they translated *mîrî* as the

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[28] The registers kept by dividers, or law officials, who fixed the inheritance shares of military and administrative officials in the Ottoman Empire.

[29] Ömer L. Barkan, "Edirne Askerî Kassam'ına Ait Tereke Defterleri 1545-1659" *Belgeler*, III/5, Ankara, 1966, pp. 21-23, 51, 62, 65, 156, 212 and others.

[30] İ. Hakkı Uzunçarşılı, *Osmanlı Devleti Teşkilâtından Kapukulu Ocakları-I*, Ankara: Türk Tarih Kurumu Yayınları, 1984, pp. 56, 214-215, 311-320 and others.

[31] Amnon Cohen and Bernard Lewis*, Population and Revenue in the Towns of Palestine in the Sixteenth Century*, New Jersey: Princeton University Press, 1978, pp. 73-74, 99.

[32]"Treasury revenues (*bayt al-mal)* and property of absent and missing persons and runaway slaves and stray cattle in the city of Nabulus and its districts (*nahiye*)" Cohen and Lewis, *Population and Revenue*, 1978 see especially pp. 113, 153, 142.

beytülmâl-i amme,[33] which, as far as we know, was not used in the meaning of public treasury in the Ottoman Empire—though it might be true for the pre-Ottoman period.

Bernard Lewis also authored the article "bayt al mal" in the *Encyclopedia of Islam* for the Ottoman period. He underlined the use of the *beytülmal* in the meaning of treasury in the early modern Ottoman context and examined *beytülmal* as a revenue unit, the general rules and regulations, and the procedures in property claiming. This article is a very informative piece written in English so far on the Ottoman beytülmal— despite its shortness. He mainly used *kanunnâme* texts as well as some secondary sources like Uzunçarşılı and Barkan's works. In addition, Coulson, Cahen, and Tourneau authored the other parts of the article "bayt al mal". While Coulson elaborated on the theory of *bayt al mal* (legal doctrine, jurisdiction, revenue sources of public treasury, expenditures, and the mechanism of redistribution), Cahen focused on the history of *beytülmal* in pre-Ottoman Islamic period in a wider context. Lastly, Tourneau touched upon the local *bayt al mal*(s) in the Muslim west during the Umayyad and Abbasid periods and later Islamic political organizations. [34]

Stanford J. Shaw's doctoral dissertation on Ottoman Egypt in 1958 is also worthy of attention. Shaw examines the financial and administrative organization of Egypt between 1517 and 1798.[35] He scrutinizes the revenues and expenditures of the Imperial Treasury of Egypt in detail and surveys each revenue item with due attention to its broader significance.

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[33] Cohen and Lewis, *Population and Revenue,* 1978, p. 163.

[34]N. J. Coulson, Cl. Cahen, B. Lewis, B. and R. le Tourneau. "Bayt al-Māl", in *The Encyclopaedia of Islam*, New Edition, vol.I, ed. H. A. R. Gibb *et al.* Leiden: E.J. Brill, 1986, pp.1141-1149.

[35]Stanford J. Shaw, The Financial and Administrative Organization and Development of Ottoman Egypt 1517-1798, Princeton University Press, 1962, pp. 172-173.

Under the title of "non-fixed miscellaneous[36] revenues of the imperial treasury of Egypt", he records the *beytülmal*, the methods of its collection, and the proceeds in 1517-1798. Shaw's observation that the *beytülmal* revenues were collected through four mukataas in Egypt is particularly salient.[37] This practice differed from that in the core lands of the empire where *beytülmal* revenues were considered under the categories of *amme* and *hassa*— as it is explained in detail later in this work.

The four mukata'a groups in Egypt were as follows:

- *Mukâta'a-i beytülmâl-i Hâssa*[38] was in charge of the property of Ottoman officials, or Ağas, who died while in debt to the Imperial Treasury. It was sometimes subdivided to include only the deceased Ağas (who were in debt) in Egypt, and called "*Mukâta'a-i Beytülmâl-i Ağayân*".
- *Mukâta'a-i beytülmâl-i Askerî* was in charge of the beytülmal of people of *askerî* status who were not in debt to the Imperial Treasury.
- *Mukâta'a-i beytülmâl-i Amme* was in charge of the *beytülmal* of people of *non-askerî* who were not in debt to the Imperial Treasury.

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[36] 'Miscellaneous revenues' is translated as *emvâl-i müteferrika.*

[37] Beytülmal operated in almost all the corners of the empire, including Arab lands and the Balkans. For instance, Kheirani identified a list of Turkish words in the beytülmal registers kept in Algeria prior to the nineteenth century. Leila Kheirani, "Turkish Words in the Ottoman Documents: Inheritances of Women as Example". *Vakanüvis* 1, 2016, pp.280-292.; see also Aktaş for beytülmal cases in Kırım *sicil*s. Sema Aktaş Sarı, "3a-3b Numaralı, 1648-1679 Tarihli Kırım *Kadı*asker Defterlerine Göre Kırım'da Sosyal ve Ekonomik Hayat", MA thesis, Sakarya Üniversitesi, 2016, pp. 142, 160 and 270.

[38] Shaw explains that as "Imperial Beytülmâl". In the case of beytülmal mukataas, this term need elaboration as it had different connotations in the fifteenth and sixteenth century. Stanford J. Shaw, *Ottoman Egypt*, p. 172.

- *Mukâta'a-i beytülmâl-i Râh-ı Hajj-ı Şerif* was in charge of the *beytülmal* of those (whether *askeri* or non-*askerî*), who died on the way to pilgrimage.

The fourth, *Râh-ı Hajj-ı Şerif*, could be a relevant categorization considering the geographical centrality of Egypt on pilgrimage roads[39], and the Ottomans rulers' repeated efforts to regulate the *beytülmal* issues on the way to pilgrimage.[40] The first category of the indebted *ağa*s (and officials) is a bit different than the general *beytülmal* organization in the rest of the empire. However, it calls to mind a special *kanunnâme* that was prepared roughly in the first half of the sixteenth century and was almost entirely devoted to the procedures to be followed in case of debt claims of third persons (whether *askerî* or *reaya*) over the unclaimed properties kept by *beytülmalci*s.[41]

A few additional studies need to be noted for providing initial clarity on the issue in a general sense. These studies differ from others in that their main focus is on *beytülmal* and *beytülmalci*s. Chronologically, the first study could be Aynur Dayıoğlu's bachelor thesis. She examines the *beytülmal* register of Galata kept in the year 955 (1548-49) and provides a transcription of the text.[42] The register lists the possessions and properties of twenty-three persons that were claimed by the *emin* of Galata as *beytülmal*. Except for four of them, these people were not rich as understood from their belongings in the lists. Dayıoğlu tries to shed

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[39] Münir Atalar, "Emîr-i Hacc" *TDV İslam Ansiklopedisi.* Vol.11, 1995, pp. 131-133.; Orhan Kılıç, "Osmanlı Devleti'nde Hac Emirliği Müessesesi: Mısır Örneği", *IRCICA*, *Proceedings of the International Conference on Egypt During the Ottoman Era,* 26-30 November 2007 Cairo, published in İstanbul 2010, pp. 137-180.

[40] Some of these cases will be examined in the fourth and fifith chapters.

[41] This "Beytülmâl-i Hassa Kanunnâmesi "will be dealt with in detail in chapter 3.

[42] Aynur Dayıoğlu, "Galata Beytülmal Muhallefat Müfredat Defterinin Tedkiki (Sene H. 955/1548)", Bachelor Thesis, İstanbul Üniversitesi, 1955.

light on religious and social life, and the material culture of the period through an analysis of the items mentioned in these lists.

"Bir Malî Gelir Kaynağı Olarak Vârissiz Ölenlerin Terekeleri ve Beytülmâl Mukataaları" is another monographic study. It is the most frequently referred piece on the subject and has been one of the most important secondary sources of this dissertation as well.[43] In this article, Bilgin and Bozkurt focus on the operation of the *beytülmal* mukataas in a general sense from the perspective of the Ottoman fiscal administration. It is also the only study that uses empirical sources relatively extensively, and it delves into the following issues: the legal regulations related to the *beytülmal*, the officers in charge of the office, the range and the rate of the costs to be covered during the *beytülmal* operations, and the exceptional cases where the *beytülmal* officers are prohibited to claim any property.[44]

M. Akif Erdoğru's paper—presented in CIEPO in 2000— is another significant study on the subject. Erdoğru examines the cases of property claims in Cyprus in the late fifteenth and early sixteenth centuries. Utilizing mainly the court records, he focuses on the *beytülmal-i amme* and *hassa officer*(s) and cases of claims and restitution in a local setting.[45] He tries to illustrate *beytülmalci*'s legal authority, for which *beytülmalci* appeared to have generally pushed the limits in claiming on behalf of the government, and his position in the face of

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[43] Fatih Bozkurt, Arif Bilgin, "Bir Malî Gelir Kaynağı Olarak Vârissiz Ölenlerin Terekeleri ve Beytülmâl Mukataaları" *Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 20, 2010:2, pp. 1-31.

[44] In the beytülmal cases, if a person establishes her/his claim on a property with strong evidence, s/he could get restituted that property—either in cash or in kind. This study will refer these types of situations restitution, or compensation.

[45] M. Akif Erdoğru, "Osmanlı Kıbrısı'nda Önemli Bir Görevli: Beytülmâl-i Hassa ve Âmme Emini", (presented in CIEPO 2000) Tuncer Baykara (Der.), *CIEPO XIV. Sempozyumu Bildirileri*, Ankara: TTK, 2004 pp. 149-161.

private claims. This piece of study is very helpful in figuring out the network of the local officers around the *beytülmal* and the mechanism that make the local agents of the empire accountable to each other. The last piece of study that deserves attention in this regard is Uğur Altuğ's "Osmanlı Devleti'nde Beytülmal." Altuğ gives a brief and descriptive account of the *beytülmal emâneti* in general in the Ottoman empire.[46]

Lacking a monographic work, I will suggest a field-specific discussion of the secondary sources which do not problematize unclaimed property, but deals with it to a certain extent: Works on theories of public and private property and the redistributive power of the state in a broader sense; works on social and legal history which mainly rely on court records (*sicil*s) and *tereke* registers etc.; and works on the economic history of the Ottoman Empire and Ottoman institutions that refer to the *beytülmal* mukataas, its administration and *beytülmal'*s contribution to total revenues in a specific period.

(i) Theories on public and private property, and property claims of the government

The literature on public property in general, public claims in particular, and claim on inheritance more particular have some explanations for the government's right to escheat. However, the majority of these works concentrate on immovable properties, especially lands.[47] The *beytülmal* claimed estates of various kinds, like movable or immovable

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[46] Uğur Altuğ, "Osmanlı Devleti'nde Beytülmal" in *60. Yılında İlim ve Fikir Adamı Prof. Dr. Kazım Yaşar Kopraman'a Armağan*, Ankara: Berikan, 2003, pp. 85-89.

[47] For instance, see John Brewer and Susan Staves (ed.), *Early Modern Conceptions of Property* (Routledge, New York, 1995).; Baber Johansen, *The Islamic Law on Land Tax and Rent,*

properties, houses, gardens, animals, slaves, and a dazzling number of things as possessions, but lands were largely out of the discussion. Here, I will try to illustrate in brief some of the theoretical discussions related to the properties, and public claims on the estates of private individuals.

One of the most common reasons for public claims is semi-heirless properties. When one of the conjoints dies, and if wife or husband is the only heir, the government claims a part of it. If the surviving partner is the wife, she takes 1/3 (*sülüs*) of the properties, if the husband is the survivor, he takes 2/4 of it. The rest goes to the treasury (*beytülmal*). This is based on the Islamic law of inheritance (*farâiz*).[48] According to the regulations, *beytülmalci* comes to the deceased's house before the burial procedures begin. He seals and starts to list everything that belonged to the deceased and that will be assigned an estimated price later.

This scene arouses interest about the grounds of public claims on estates. Why would one accept to sell her/his beloved's cushion (*minder*), velvet pillow (*kadife yastık*), or baklava tray (*baklava tepsisi*) to get only a partial return? The perspective of modern legal systems, and contemporary realities might cloud one's vision, to the extent that, one might regard public claims as irrelevant, particularly in cases of semi-heirless properties. This is mainly because the secular and modern legal paradigm of property ownership has expanded its realm

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London: Croom Helm, 1988. Farhat J. Ziadeh "Property Rights in The Middle East: From Traditional Law to Modern Codes", *Arab Law Quarterly*, Vol.8, No.1, 1993, pp. 3-12.; Nada Moumtaz, *God's Property: Islam, Charity, and the Modern State*, Oakland: University of California Press, 2021.; Huri İslamoğlu (ed.), *Constituting Modernity Private Property in the East and West*, London: I.B. Tauris & Co Ltd, 2004.

[48] See Hamza Aktan, *Mukayeseli İslam ve Miras Hukuku,* İstanbul: Işık Akademi yay.2008, p. 224.; Ali Himmet Berki, *İslam Hukukunda Ferâiz ve İntikâl*, Ankara: Diyanet İşleri Dairesi Başkanlığı, 1986, p. 46.; N.J Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press., 2008, pp.49-50.

to cover ever more complex instances of ownership and has conferred on owners an absolute right of exclusion.[49]

In his book on *Succession in Muslim Family*, Coulson discusses that the public treasury (*beytülmal*) could not claim a share from the estates of private individuals based on the law of inheritance. Qur'an does not mention public treasury (*beytülmal*) as an heir, or beneficiary; it could claim unattended, unclaimed, or intestate properties of private persons only by the right of escheat.[50] That is to say, as Bilmen also states, *beytülmal* regards them as 'unattended' (*sahipsiz*), or 'lost' (*zayi*) property, not the inheritance.[51] However, as Halil Cin records, when prisoners of war (*esir, kul*) died without any relatives (*asabe-i nesebiye*), the public treasury, hence the ruler, would be the legitimate heir based on socio-kinship. The manumission of *kul*s created a legally binding relationship (*asabe-i sebebiyye*, *welâ-i atâka*) between a master and a *kul*.[52] In the former case, the treasury claimed these properties in the

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[49] Engin D. Akarlı, "Gedik: A Bundle of Rights and obligations for Istanbul Artisans and Traders, 1750–1840" in *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, Alain Pottage, Martha Mundy (ed.), Cambridge University press, 2009, pp. 166-200.; Nada Moumtaz, God's Property *Islam, Charity, and the Modern State*, Oakland: University of California Press, 2021, p.5.

[50] This book was first published in 1971. N.J Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, p.50.

[51] "Beytülmalin bu gibi terikelere vaz'ıyed etmesi …veraset cihetiyle değildir. Belki bunların sahipsiz, zayi mal hükmünde bulunmasına müstenittir." Ömer N. Bilmen, *Hukukı İslâmiyye ve Istlâh-ı Fıkhiyye Kâmusu* v.5, İstanbul: Bilmen yay.,1985, pp.326. This is particularly based on Hanafî school of law; Shafi'i and Mâlikî schools accept beytülmal's heirship.

[52] Halil Cin, Ahmet Akgündüz, *Türk Hukuk Tarihi,* c.I Konya, 1989, pp.133-137. Şükrü Özen studied the case of Müzellef Ahmed Efendi whose estate caused a dispute between his father's ex-master and beytülmal. Şükrü Özen, "Bir Mirasın Gölgesinde Velâ Tartışması: Müzellef Ahmed Efendi'nin Tereke si ve Ganîzâde Mehmed Nâdirî'nin Şeyhülislâma Mektubu", *Osmanlı Araştırmaları/The Journal of Ottoman Studies*, XLI, 2013, pp.71-124.

category of *fay*, and thus, could escheat also the estates of non-Muslims. Coulson examines in detail the judicial inferences and standpoints of Muslims on the law of inheritance and elaborates on the doctrines of four schools of Islamic law, as well as the branches of the Shi'a. The most salient discussion, for my concern here, is favoring and disfavoring the heirship of the treasury, i.e. *beytülmal*. He describes the Maliki school as the most fervent champion of *beytülmal*'s heirship, without conditioning this heirship —as Shafi'i revised later— to "as long as the *beytülmal* is properly administered".[53]

Contrary to Coulson, David S. Powers, interestingly, did not problematize or mention the heirship of the treasury in his seminal work on inheritance.[54] He focuses mainly on the development of the law of inheritance and examines the accounts related to that in pre-Islamic and early Islamic periods— utilizing categorically Qur'anic verses and prophetic hadiths. However, his remarks on socio-historical development(s) of Islamic inheritance law are significant—he also articulated them in a later article published in 1993.[55]

Powers sheds light on how science on shares (*ilm al farâiz*) developed in the face of different socio-economic and socio-political circumstances and provided for the accommodation of property claims in Muslim society. In a similar vein, Coulson argues that along with the fixed Qur'anic shares, different modes of devolution of property, or its transmission from one generation to the next, like gifts, donations, family endowments

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[53] See also Martha Mundy, "The Family, Inheritance, and Islam: A Re-examination of the Sociology of Farâ'id Law" in *Islamic Law: Social and Historical Contexts*, Aziz el-Azmeh (ed.), London: Routledge, 1988, pp.1-123.

[54] David S. Powers, Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance, University of California Press, 1986.

[55] David S. Powers, "The Islamic Inheritance System: A Socio-Historical Approach" *Arab Law Quarterly*, Vol. 8, No. 1, 1993, pp. 13-29.

(*vakıf*s), and bequests made the law of inheritance more flexible. Comparable to Powers' study, Mundy also scrutinizes the sociological evolution of the legal doctrines in a comparative approach, both in time and space. Her study shows that the above-mentioned circumstances did not only influence the inheritance law for the family but also the state's institutional development in property claims.[56]

For instance, Schacht argues that limiting the bequests to one-third was prompted by the fiscal interest of the state,[57] thereby increasing the likelihood of escheat. According to Mundy, this was counterbalanced by the great freedom in the transfer of property *inter vivos*. However, she also argues that the domain of inheritance was fertile for the state, particularly "once the great thrust of conquest and booty production slowed". For the exaction of property, the state rested upon involvement in the movements of inheritance in the second and third centuries (AH). Taking into consideration these modes of property transmission, and the evolution of the legal doctrine, she convincingly states that, the sociology of inheritance "turns upon a contest not between male agnates and female heir, but between freedom of alienation to religious and social affiliates and the fixed rights of the state and kin." This contest pointed the state treasury (*beytülmal*) as a threat for which a mere bequest was not enough to avoid, but religious endowments (*vakıf*s)—"beyond the easy reach of the state." [58]

*Vakıf*s might be put into the center of this discussion; not because they became one of the chief methods of circumventing inheritance law, as Timur Kuran puts it, the wealth-sheltering function of *vakıf*s, but because it was assumed that *vakıf*s served the benefit of the

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[56] Martha Mundy, "The Family, Inheritance, and Islam", pp.1-123.

[57] Joseph Schacht, *The Origins of Muhammadan Jurisprudence*, Oxford: Clarendon Press, 1979, pp.201-202.

[58] Martha Mundy, "The Family, Inheritance, and Islam", pp.45-47.

public in general. Kuran argues that [in the least] the motives behind the foundation of endowments helped the Islamic world to develop a specific solution to a wide range of public goods issues.[59] This was more than fit with the main theoretical ground of the government's claim on estates of private individuals; providing for the well-being of the Islamic community. Thus, the line between public and private property could be clear (or *blurred*) when a public benefit was the main concern. Additionally, it also points out how ambiguous the category of property rights is. They might vary in economic character, social effects, and moral justification.[60]

In his endeavor for understanding the terms that governed *maslaha* (well-being), Akarlı lays emphasis on the term's practical meanings for the Ottomans, relying on Ottoman legal documents. The legal documents on movable and immovable, and revenue-bearing properties are key in understanding the ownership rights and the rationale of governmental claims on property. For that, Akarlı argues how modern capitalist reading of ownership rights is misleading, except for movable properties and personal dwellings.[61]

For instance, the Ottoman legal tradition accepted the exclusive rights of proprietorship to the extent that no one has singular or absolute rights over an immovable object. The ruler was regarded as the custodian of his community's resources and the

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[59] Timur Kuran, "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System", *Law & Society Review*, Vol. 35, No. 4, 2001, pp. 841-898.

[60] Jeremy Waldron, "What is Private Property?" *Oxford Journal of Legal Studies*, Vol. 5, No. 3, 1985, p. 318.

[61] Engin D. Akarlı, "Maslaha: From 'Common Good' to 'Raison d'état' in the Experience of Istanbul Artisans, 1730-1840." In *Hoca, 'Allame, Puits De Science: Essays in Honor of Kemal H. Karpat*, (ed.) K. Durukan, R.W. Zens and A.Z. Durukan, Istanbul: The Isis Press., 2010, p.70.; Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh*, Leiden: E.J. Brill., 1999, pp.190-191.

beytülmal (public treasury). This is also pointed out by Abu Yusuf (d.798) in his advice to the caliph: "Do not cause damage and destruction of those you are shepherding."[62] The ruler was in charge of properly administering this wealth; regulating inheritable use rights, fees, rents, and taxation on the lands, etc.[63] Thus, the 'owner' was a person "who might have certain entitlements, but also obligations and responsibilities which were subject to change in time through negotiations with similar persons as new 'owners'."[64] One can also take the confiscation practices in this respect —these practices included private property comprised of movables and immovables. Recent studies show that the confiscation of the properties of wealthy subjects and government functionaries was a quite common practice in the Ottoman Empire, particularly in the early nineteenth century.[65]

In the case of the *beytülmal emâneti*, the government claims and holds private properties—particularly of absent and missing individuals— at first as a trust (*emâneten*) in its literal sense. As Zečević also argues, the legal theory explains the government's

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[62] Abu Yusuf Ya'kûb b. Ibrahim, *Kitāb al-Kharaj*, Bulak, 1302, p.5

[63] Engin D. Akarlı, "The Ruler and Law Making" in *Law and Empire Ideas, Practices, Actors* (ed. Jeroen Duindam et al.) London-Boston: Brill, 2013, p.100.; Ariel Salzman, "An Ancien Régime Revisited: 'Privatization' and Political Economy in the Eighteenth-Century Ottoman Empire." *Politics & Society*, 21/4, 1993, p. 396.

[64] Engin D. Akarlı, "Gedik: A Bundle of Rights and obligations for Istanbul Artisans and Traders, 1750–1840" in *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, edited by Alain Pottage and Martha Mundy, Cambridge: Cambridge University press, 2009, p.168.

[65] Yasin Arslantaş, "Confiscation by the Ruler: A Study of the Ottoman Practice of Müsadere, 1700s- 1839," Ph.D Diss,, The London School of Economics and Political Science, 2017.; Azize Çakır, "Confiscation Practices, Politics of Accumulation and the Case of Mehmed Said Halet Efendi" (1761-1822), Ph. D Diss., Istanbul: Şehir University, 2020.; Mahmud Esad Kalıpçı, "Klasik Dönem Osmanlı Hukukunda Müsadere Kurumu," MA Thesis, İstanbul University, 2013.

involvement in this stage on the basis of the legal status of that *gâib* and *mefkûd*; 'young boy' (*sağir*) or 'madman' (*mecnûn*). Accordingly, the government should be involved to supervise this property in order to protect the right of an interdicted (*mahcur*) person.[66] However, the *kadı* could also charge one of the agnates of a missing individual as *kayyim* to safeguard the property in his/her absence.[67] In the second stage, if the properties really fell to the *beytülmal*, the government's trusteeship function gets also an abstract sense. The property became a trust that should be properly utilized for the well-being of the realm.

To a great extent, the literature argues that the governmental claims on private property were based on the redistributive power of the ruler and the state mechanism; but for the benefit of the Muslim community, and to provide for its interests. Although the properties in the cluster of *beytülmal* were private, the government's overarching claim manifested their public nature.

To summarize in sociological terms, private ownership could be absolute in the case of movable properties and personal dwellings, but theory regards the relationship between

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[66] Zečević misleadingly translates the noun phrase "amīn bayt al-māl" as "the head of the treasury". Selma Zečević, "Missing Husbands, Waiting Wives, Bosnian Muftis: Fatwa Texts and the Interpretation of Gendered Presences and Absences in Late Ottoman Bosnia," *in* Amila Buturović İrvin Cemil Schick (ed.), *Women in the Ottoman Balkans: Gender, Culture and History,* London, I.B. Tauris, 2007, pp. 342-343.

[67] Aykan examines a very complex case related to the property of a missing individual. There are several claimers on the private property of al-Hajj Âdem (the missing), that includes also the *kayyim* who is appointed by the *kadı* to safeguard the property of the missing. Through this convoluted case, Aykan tries to understand the role of the Islamic jurisprudence, particularly of fetvas, in the legal praxis in late eighteenth century Amid. Yavuz Aykan, "Property Between Life and Death: A Legal Debate over the property of a Missing Person (Gâib) in Eighteenth-Century Ottoman Amid", *Turcica*, 50, 2019, pp. 209-226.

humans and wealth to be triadic [or corporate] rather than dyadic.[68] Property is relational and a result of a complex social milieu, both in its productive potential[69] and in making the norms related to its ownership. Thus, inherently interdependent individuals owe obligations to each other to survive and thrive.

(ii) Social and legal history of the Ottoman Empire (Based on court records, *sicil*s, and *tereke* registers)

The works in this category do not deal with the *beytülmal* independently, but they shed light upon the social, economic, and cultural life of the Ottoman subjects—of ordinary or people *askerî* status), in specific eras and locations. Many of these studies use court records (*sicil*s) [70] or inheritance registers[71] (*tereke*, *muhallefât*) to understand society under the light

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[68] Bruce G. Carruthers and Laura Ariovich, "The Sociology of Property Rights" *Annual Review of Sociology,* Vol. 30, 2004, pp. 23-46.

[69] John Brewer and Susan Staves (ed.), *Early Modern Conceptions of Property,* p.3.

[70] For instance, Kenan Yıldız scrutinized the court records of Üsküdar kept between the years 1547 and 1573. Based on the legal categorization of the subjects (inheritance, debts, trade so on) of the judgments (*hüccet*s), he identified almost twenty cases related to beytülmal among the 15.000 *hüccet*s. Kenan Yıldız "Üsküdar'ın Sosyal ve İktisadi Hayatı Iile İlgili Üsküdar *Kadı* Sicillerindeki Kayıtların Tesbit ve Analizi (954-980 / 1547-1573)", MA thesis, Marmara Üniversitesi, 2005.

[71] Some of them are Hüseyin Özdeğer, *1463-1640 yılları Bursa Şehri Tereke Defterleri*, İstanbul: İstanbul Üniversitesi İktisat Fakültesi Yayınları, 1988.; M. Akif Terzi, "İstanbul 1131/1719 Tarihli Askerî Kassam Defteri" MA thesis, İstanbul Üniversitesi, 1995.; Gülser Oğuz, "Bir Osmanlı Kentinde Taşınır ve Taşınmaz Mal Varlığına Dayalı Servet Analizi: Edirne Örneği", Ph. D Diss. Ankara Üniversitesi, 2013.; Meral Kurt, "Kısmet-i Askerîye Mahkemesi 01 Numaralı Defteri (Transkripsiyon ve Değerlendirme)", MA thesis, Sakarya Üniversitesi, 2019.; Yakup Aydın "İstanbul Mülga Beledi Kassamlığı Sicilleri 1 Numaralı Defterin (1066-1072) Transkripsiyon ve Değerlendirmesi", MA thesis, Marmara Üniversitesi, 2021.

of the implementation of the law. Some of the issues in these studies are marriage, divorce, gender relations and commerce, and analysis of wealth and material culture, and the like. A few of them will be discussed here for they provide a sense of the agency of *beytülmal* and *beytülmalci* in the Ottoman legal system.

In his study on the Ottoman state, society, and law, Gerber states that *beytülmal* cases were frequently encountered in the seventeenth-century Bursa court records. He thinks that the government had a direct material interest in the *beytülmal*, hence, one might expect to see the influence of the government on the judicial process; but neither the discourse in the court nor its decisions could justify that comment. However, the frequency of the *beytülmal* cases leads one to think that the *beytülmalci* was 'overzealous' in taking the properties into custody despite the existence of heirs. The litigants were not hesitant to sue the *beytülmalci*, or *harc-ı hassa emini*[72], as they won their cases with strong evidence.[73]

Gerbers' findings for Bursa, on the issue of *beytülmal*'s involvement in inheritance cases, might be read together with Said Öztürk and Fatih Bozkurt's studies on *tereke* registers kept in İstanbul in the seventeenth, eighteenth and nineteenth centuries. Said Öztürk examines the first six Askerî Kassam registers kept between 1591 and 1669, and Bozkurt examines nineteen registers kept between the years 1785 and 1875.[74] Öztürk has a separate section for the *beytülmal* that is placed under title of institutions, but he deals with it in a very

[72] The agent for the privy purse office in Bursa.

[73] Haim Gerber, State, Society and Law in Islam: Ottoman Law in Comparative Perspective, Albany: SUNY press, 1994, pp. 45, 138-139.

[74] Fatih Bozkurt, "Tereke Defterleri ve Osmanlı Maddî Kültüründe Değişim (1785-1875 İstanbul Örneği)", Ph. D Diss., Sakarya Üniversitesi, 2011.

general sense.[75] His study shows that the number of slaves and *cariye*s were considerable among the items in the lists of inheritance records, making 241 (24.1%) of the cases out of 1000 *tereke* registers. The issue of slaves and *cariye*s was also one of the issues of contention between *beytülmalci* and slaves and third persons as owners—considering together with the law related to them.

One of the striking points in Bozkurt's and Öztürk's studies is the frequency of the cases related to potential "legatees" (beneficiaries) that had the capacity to circumvent the application of the law of inheritance.[76] These studies are helpful to understand the intricate net of these 'legatees' around the *beytülmal*, like bequests (*vasiyet*), gifts, grants or donations (*emânet*, *hibe*, *nefy-i mülk*), as well as debts due third persons. These settlements were based on contracts, or verbal statements of the will of people on their deathbeds and had the potential to reduce the share of the government or cut it totally.

Bozkurt's main focus is similar to Öztürk's. he also explores the material culture of Istanbul based on the *tereke* registers kept between 1785 and 1875. In regard to the *beytülmal*, Bozkurt's study includes cases of absent and missing individuals, the zealousness of the *emin*s in taking charge of the properties left behind, the taxes imposed on restitution payments, and inheritance issues. He uses the *tereke* registers of the period in a meticulous way to arrive at some remarks on the number and rate of the beytülmal cases. In fact, *beytülmal* was only one of the reasons why a *kassam* kept a register. The ratio of the cases of

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[75] Öztürk notes that Beytülmal-i hassa was not sold as mukataa. However, this was only a regulation dates back to the late late fifteenth, or early sixteenth century. As the empirical sources of the sixteenth and seventeenth centuries show, hassa beytülmal was also undertaken as mukataa. Said Öztürk, "XVII. Yüzyıl Askeri Kassam Defterlerinin Sosyo-Ekonomik Tahlili", Ph.D Diss., Marmara Üniversitesi, 1993, p.58.

[76] For a futher disccusion on this subject see David Powers, "The Islamic Inheritance System: A Socio-Historical Approach", *Arab Law Quarterly*, Vol. 8, No. 1, 1993, pp. 13-29.

orphans (*eytam*) is the highest in almost all the registers he examined. The ratio of the *beytülmal* related cases is 22.4% in one book of *Askerî Kassam* register (*sicil*) and 19% in another.[77] Bozkurt's findings seem compatible with Demircioğlu's study on a specific *Askerî Kassam* register of Istanbul. Demircioğlu records 76 out of 300 registers, 25,33% in that register involved *tereke*s returned to the *beytülmal*—because they belonged to people who died heirless or semi-heirless.[78]

Öztürk and Bozkurt's studies also prove that *tereke* registers are one of the most productive primary sources to the extent that they help us understand the points of contention between public and private claimers on disputed property. Usually, if the *tereke* included valuable properties, claimants (whether public or private) would try to influence the final decision. Murat Tuğluca's study based on registers of complaints (*şikayet defterleri*) from the years 1683 to 1699 points to and shows the importance of comparative examination of the available sources to find some of these influences.[79] Similar to Öztürk and Bozkurt, Tuğluca also shows how grants or donations (*hibe*) caused contention between different claimers as shown in *şikayet* registers.[80]

(iii) Economic history of Ottoman Empire, and Ottoman institutions

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[77] Bozkurt, "Tereke Defterleri", pp. 181-182.

[78] Sezgin Demircioğlu, "615 Numaralı İstanbul Askeri Kassam Defterinin Değerlendirmesi (H. 1205-1206 /M. 1790-1791)" MA thesis, İstanbul Üniversitesi, 1993, pp.XVI-XVII and others.

[79] Murat Tuğluca, "Osmanlı'da Devlet-Toplum İlişkilerinin Açık Alanı: Şikayet Mekanizması ve İşleyiş Biçimi (1683-1699)", Ph. D Diss., Hacettepe Üniversitesi, 2010.

[80] Tuğluca, "Osmanlı'da Şikayet Mekanizması", pp.135-136

The works under this category majorly focus on *mukataa* organizations, the account registers for specific time periods and locations, the campaign budgets (*sefer ruznamçesi*), or Ottoman institutions within which the *beytülmal* is also examined. These sources will be discussed based on the extent of their coverage of *beytülmal* related issues rather than in chronological order.

Mukataa became the engine of the *beytülmal* operations[81] from the fifteenth century onwards. Mehmet Genç's works on the economic history of the Ottoman Empire provide the key elements of tax-farming through *iltizam* and *mâlikânes.* He does not refer to *beytülmal* in particular. However, his inferences are helpful in considering the *beytülmal*'s handicap. He noted that the Ottoman central and provincial authorities maintained a good deal of economic functions in the classical age. These functions were supervised under particular principles and objectives established and restored peculiar to its respective circumstances. The tension between the government functionaries or tax-exempt ruling class (*askerî*) and the tax-paying subjects (*reaya*) was defused generally through a set of ideals that emanated from a certain socio-economic mentality. One might see Islam as the *sine qua non* of comprehending this mentality, but not a sufficient condition. So as to solve this 'puzzle', Genç proposed three principles that would help us understand Ottoman policies and

[81] Some of the examples that tackle with the mukataas in general, and mentions the beytülmal mukataas in particular are as follows: Figen Taşkın, "Osmanlı İmparatorluğu'nda Mültezim Kesimi ve İstanbul Mukataaları (1550-1605)", MA thesis, İstanbul Üniversitesi, 1992.; Fatma Şensoy, "Mukataalarda Muhasebe Kayıtları ve XVII. Yüzyıl Başında Bursa Mukataası Örneği, *Muhasebe ve Finans Tarihi Araştırmaları Dergisi* (7), 2014, pp. 200-247.; Doğan Yörük, "XVI. Yüzyılın Ortalarında İltizam Sisteminin Yaygınlığı: Lârende Kazası Örneği", *SUTAD*, 47, *Aralık* 2019, pp. 217-238.

concerns:[82] Provisionism entailed government interventionism in agricultural and commercial production for the sake of local consumers. Traditionalism cemented this intervention through a set of legal regulations prepared in advance or regulations flowed from a pattern generated by long-standing fiscal practices.[83] Having an essential interaction with these two principles, fiscalism aimed at holding the revenues of an upmost level to maximize them or to sustain them at the same level at the least. As such fiscalism, traditionalism, and provisionism interacted in different directions. Balancing them depending on the exigencies of the financial operations was the challenge the Ottomans faced.

While fiscalism drove government agents to increase the revenues for the imperial treasury, the other two principles necessitated protection and enhancement of the tax paying subjects, and the realm. Genç arrived at this theory after engaging a great number of empirical sources and related literature. The *beytülmal* also seems to fit in his model. Public claimers (*beytülmal emin*s) made their highest efforts to increase their mukataa revenues over a sorrowful event, although the primary role of the *beytülmal* office was to uphold the rights of private claimers and to protect their shares. The balance between revenue raising and distributing justice in keeping with the law was, in the first instance, mainly at the hands of the *beytülmalci*s. This dual role helps to understand the *beytülmal* both as a revenue unit and a legal issue, thereby harnessing the legal, financial and administrative means of the empire.

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[82] Mehmet Genç, *Osmanlı İmparatorluğu'nda Devlet ve Ekonomi*, İstanbul: Ötüken Neşr., 2009, pp. 55-69.

[83] For the 'long standing practices' Genç reminds that the governors almost always used the same statement in their rulings made between 16th and 18th centuries concerning to the economic matters: "kadimden olagelene aykırı iş yapılmaması". And the question "what is kadim?" was answered "kadim odur ki onun öncesini kimse hatırlamaz."

This arises a few further questions: what was the nature of the *beytülmal* office? What was the place of this institution in the greater Ottoman bureaucratic organization?

The answers need a broader survey of the government bureaus, and their vertical and hierarchical organization—both in the center and the provinces. Some works on the economic history of the Ottoman empire tackle this issue broadly. Ahmet Tabakoğlu's *"Osmanlı Mâli Tarihi,*[84] the two-volume *Kurumlar Bütçeler* edited by Özvar and Genç, and Çelik's specific study on Ottoman fiscal bureaus in the latter book[85] illustrate the place of these government bureaus including the *beytülmal* in the imperial organization.

For the *mukataa*s and their organization in the provinces, a few studies need to be mentioned. Linda Darling's *Revenue-Raising and Legitimacy*,[86] Arif Bilgin's *Bursa Hassa Harç Eminliği*, Baki Çakır's "Ottoman Mukataa System[87], and Pal Fodor's "Tax Farming in Hungary"[88] are useful works for figuring out the instruments in revenue collecting through mukataas. Darling translates the term *beytülmâl-i hâssa* as "the repository of estates of deceased members of the ruling class."[89] Considering it as repository may be misleading for

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[84] Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay., 2020

[85] Çelik, Gülfettin. "Osmanlı Devleti'nde Merkezi Hazine'nin Maliye Büroları" in *Osmanlı Maliyesi Kurumlar Bütçeler* vol.I, haz. Mehmet Genç and Erol Özvar, İstanbul: Osmanlı Bankası Arşiv ve Araştırma Merkezi, 2006, pp. 115-148.

[86] Linda T. Darling, Revenue Raising and Legitimacy: The Collection and Finance Administration in the Ottoman Empire 1560-1660, E.J. Brill, 1996.

[87] Baki Çakır, "XVI-XVIII. Yüzyıllarda Osmanlı Mukataa Sistemi'nin Yapısı ve İşleyişi", Ph.D Diss., Marmara University, 2003.

[88] Pal Fodor, "Some Notes on Ottoman Tax Farming System in Hungary", *Acta Orientalia Academiae Scientiarum Hungaricae,* 54/4, 2001, pp. 427-435.

[89] This will be examined in chapter four. Linda T. Darling, Revenue Raising and Legitimacy: The Collection and Finance Administration in the Ottoman Empire 1560-1660, E.J. Brill, 1996, p.196.

it undermines its significance in generating a social, legal, and financial order. Though a bit long, it could be translated as "the trustee of the estates of heirless deceased government officers, and ordinary people whose estates were valued above 10,000 akçes."

Fodor points out that the fundamental method of tax-farming was *iltizam* in Hungary in the second half of the sixteenth century. However, there was also recourse to the *emânet*[90]system for some occasions. Fodor suggests four reasons to explain this recourse. While the first three problems, namely the death of a tax-farmer, when there is no bidder or when a bidder performs poorly, might be regarded as technical, the fourth is not: In the case of the *beytülmal* mukataas, the government opted for the *emânet* system. Some empirical sources also indicate the government's desire to recourse to the *emânet* system in the case of *beytülmal* mukataas. Indeed, this wish might be related to the religious connotation of the *beytülmal* rather than a secular (*wordly*) one "…Sen ki beğlerbeğisin min ba'd beytülmal emânetin iltizâma virmeyub gayet mütedeyyin müslüman kimesneye emanet tarîki ile virub müslümanlara te'addi itdirmeyesin". Yet, the available information indicates that the *iltizam* system prevailed in the management of the *beytülmal* too, particularly in the core lands of the empire.

Arif Bilgin's meticulous work on *Bursa Hassa Harç Eminliği*[91] (The Bursa Privy Purse Office) focuses on the significance of this institution and its administration in the early seventeenth century. Bilgin records that *hassa harç eminliği* was in charge of the administration of the *beytülmal* (both *amme* and *hassa*) that it sold the *mukataa*s, claimed the revenues and directed the proceeds for the expenses of the imperial palace in Istanbul—

[90] The collection of certain revenues directly by designated officail, a trusted one.

[91] Arif Bilgin, Osmanlı Taşrasında Bir Maliye Kurumu: Bursa Hassa Harç Eminliği, İstanbul: Kitabevi, 2006.

particularly for the needs of the imperial kitchen (*matbah-ı âmire*). This study is very helpful for observing the weight of the *beytülmal* revenues among others in an Ottoman city. Bilgin also draws attention to the restitution payments that were hardly made by the *emin*s. Though some litigants (legal heirs in this case) proved their heirship, they were not always fully compensated. Some of these litigants appealed their cases in Istanbul. Particularly, if the value of the *beytülmal* of a person was temptingly high, the *emin*s were reluctantly agreed to restitution. Bilgin comments that this was not always because of the greed of the *beytülmalci*s. Correspondence between Istanbul and Bursa indicates that the fiscal exigencies of the empire led the *emin*s to conduct their task in this way.[92]

In his doctoral dissertation, Saim Ç. Kocakaplan indicates that *beytülmal-i amme* and *hassa mukataa*s of İstanbul and its dependencies (*tevâbiî*) were attached (*mülhak*) to İstanbul Gümrüğü Mukataası (The Tax Farm of the Customs of İstanbul and its dependencies). Working as a *nezâret* (ministry), Gümrük Mukataası was in charge of administering, collecting, and directing the *beytülmal* mukataas and revenues until 1776. Kocakaplan examines the accounts of the Gümrük mukataası, which also include information on the amounts and the rate of the *beytülmal* revenues.[93]

The other works that need to be discussed here mostly focus on Ottoman fiscal budgets. In the context of this study, they show the amounts of the *beytülmal* revenues and their relative weight in the total. In other words, they indicate the contribution of the *beytülmal* revenues to the imperial treasury in specific periods, locations, or occasions. However, this contribution does not represent the full picture, because not all *beytülmal*

[92] Bilgin, Bursa Hassa Harç Eminliği, p. 95.

[93] Saim Ç. Kocakaplan, "İstanbul Gümrüğü (1750-1800): Teşkilat ve Ticaret", Ph.D Diss.,Marmara University, 2014, pp. 39, 113, 231, 235.

revenues were sent to the imperial treasury. Some of these revenues were spent locally (*mahallinde sarf*)—where they were collected. Apart from the *beytülmal*'s own expenses, or other rightful claimers based on the land regime (like *vakıf*s or *serbest tımar*s), the revenues also covered some provincial expenses of the government.

***Beytülmal*s' fiscal contribution to the imperial treasury**

Examining the imperial budgets to decide the *beytülmal*'s precise share in revenues is out of the scope of this study. Nevertheless, in this regard, in providing an idea about the weight and value of *beytülmal* compared to other revenues some secondary sources are informative.[94] For example, Barkan's study of the Ottoman budgets for the years 1527-28 and 1567-68 indicates that the *beytülmal* was one of the main items in the imperial revenues (*vâridât*).

For instance, below are the revenues of the imperial treasury through imperial domains (*Padişah Hasları*) between 933 and 934.[95](Marc 1527- March 1528)

[94] Some examples of these studies could be found in; Halil Sahillioğlu, 1524-1525 Osmanlı Bütçesi, *İktisat Fakültesi Mecmuası*, (41, 1–4), 1985, pp. 415–449.; Yavuz Cezar*, Osmanlı Maliyesinde Bunalım ve Değişim Dönemi: XVIII.yy'dan Tanzimat'a Mali Tarih*. İstanbul: Alan Yayınları, 1986.; Kadir Arslanboğa, "1589-90 ile 1602-3 Malî Yıllarına Ait Osmanlı Devleti Bütçelerinin Oluşturulması ve İncelenmesi", Ph. D Diss., İstanbul Üniversitesi, 2012.; Baki Çakır, "Osmanlı İmpratorluğu'nun Bilinen En Eski Bütçesi (1495-1496) ve 1494-1495 Yılı İcmali", *Osmanlı Araştırmaları / The Journal of Ottoman Studies*, XLVII, 2016, pp.113-145.

[95] This table was prepared based on Barkan's study. The budget does not include the beytülmal revenues in *non-hass* lands. Besides, unclaimed property is not mentioned among the revenue figures sent from Damascus, Aleppo, Egypt and Diyarbekir. Ömer L. Barkan, "H. 933- 934 (M. 1527 -1528) Mali Yılına Ait Bir Bütçe Örneği" *İ.Ü. İktisat Fakültesi Mecmuası*, c.15, no.1-4, 1953, p. 269, see also p.281 for total revenues.

Table 1: Revenues of the Imperial Treasury (Imperial Domains in Rumelia in 933-934)

	Rumelia	% among the total revenues of Rumelia	% among the revenues of imperial domains (*Padişah hasları*) in Rumelia
Beytülmal	2,939,869	1.48	3.11
Mukataat	45,920,383	23.16	48.44
Cizye	42,291,364	21.34	44.62
Tax on Tezkeres and Berats	1,797, 625	0.90	1.89
Mevkûfat and Mabeyn	1,116,925	-	-
Müteferrik (others or miscellaneous revenues)	718,072	-	-
Total	**94.784.238**		

Table 2: Revenues of the Imperial Treasury (Imperial Domains in Anadolu, Zulkadiriye, Karaman, and Rum in 933-934)

	Anadolu, Zülkadiriye, Karaman and Rum	% of the revenue among the total revenues of those provinces	% of the revenue among the revenues of imperial lands (*Padişah* h*asları*) in those provinces
Beytülmal	44,.035	0.34	1.35
Mukataa	25,603,662	19.75	75.26
Cizye	3,764,941	2.90	11.06
Taz on tezkeres and berats	100,000	0.08	0.29
Mevkûfat and Mabeyn	811,383	-	-
Müteferrik (others or miscellaneous revenues)	3,291,308	-	-

Total	**34,018,288**		

As shown in the table 1 and table 2, while the rate of the *beytülmal* among the revenues of the imperial lands (*padişah hasları*) in Rumelia is 3.10%, it is only 1.31% in the other four provinces, namely Anadolu, Karaman, Zülkadiriye, and Rum. There are many possible explanations for this difference, such as high population rates, the rate of heirless deaths, the rate of absent and missing people and so on. In addition, war periods, plague and commercial and transit spaces, like markets and ports would increase the potential revenues of the *beytülmal*.

For instance, Shaw points out that the amount of *beytülmal* revenues in 1601 and 1648 was strikingly different—it was 5.434.213 (*para*s) in 1601 and 211.530 (*para*s) in 1648. He comments that the *beytülmal* proved 'more profitable' in years when famine, plague and military conflicts affected the military corps and Mamluk factions.[96]

Fiscal budgets also include sections that show the amounts of these compensations under the heading of expenses (*ihrâcât*). It is possible to follow the amount of *beytülmal* revenues (*mahsûlat*, *vâridât*) and expenditures (*ihracât*) in some of the sixteenth-century budgets published by Genç and Özvar.[97] For instance, a budget register dated from 914 (1509-1510) during the reign of Bayezid II shows that the *beytülmal* revenues collected from the provinces of Rumelia and Anatolia in total made up 6.26% of the total revenues. As

[96] Stanford J. Shaw, *Ottoman Egypt*, p. 173.

[97] Mehmet Genç ve Erol Özvar. *Osmanlı Maliyesi Kurumlar ve Bütçeler* II, İstanbul: Osmanlı Bankası Arşiv ve Araştırma Merkezi, 2006.

shown in the table below, while *beytülmal* revenue was 457,207 akçes in total, the expenses (restitution payments in this case) were almost 79% of it.[98]

Table 3- Beytülmal Revenues and Restitution Payments in Rumelia and Anatolia in 914

	From the Province of Rumelia	From the Province of Anatolia	Total
The amount of the beytülmal revenues (*Beytülmâl-i âmme ile mâl-i usubet*[99])	370,814	87,207	457,207
Total Revenue of the Treasury	59,496,968	13,440,977	72,937,945
% of the beytülmal revenues in the Treasury	6.23%	6.48%	6.26%

[98] This table is based on the figures provided in the budget register published by Genç and Özvar, *Kurumlar Bütçeler II*, pp.22-24.

[99] 'Asabe' (عصبه) means "the body of a deceased person's collateral relations to whom no definite portion of the inheritance is assigned by law and who become residuary legatees after the assigned portions have been paid over." 'Asaba', *New Redhouse Turkish-English Dictionary*, Istanbul: Redhouse yay. 1986, p.78. Although *usûbe* (عصوبه), the noun form, was not very common in the registers concerning to the issues in mukataas, it was used as if it denotes the method of tax-ollection. This term will be examined in chapter four in detail.

Restitution Payments in Total			362,727[100] (**79.33% of total revenues)**

Apart from the imperial or provincial budgets, Süleyman Polat analyzes *sefer ruznamçe defters* (the account registers for imperial campaigns), which include the *beytülmal* of military officials involved in a specific campaign. Their properties were recorded under the revenues of *beytülmâl-i cebeciyân* (armorers), *beytülmâl-i ordû-yu hümâyûn* (imperial camp), *beytülmâl-i sipâhiyân-ı Dergâh-ı Âli* (cavalry of Sultan's court), or under the rubric of *emvâli müteferrika* (miscellaneous properties).[101]

The present study benefits from all the works mentioned above and takes into consideration the useful information in the relevant revenue accounts, *tereke* registers, and property theories. However, it differs from them in the basic questions it raises, the original sources it relies on, and the arguments it makes. It does not aim to show the weight of a *beytülmal mukataası* in fiscal budgets or examine *tereke* registers one after another for *beytülmal* related cases. It might be eclectic in its methodology and approach, but it will bring theoretical, legal, intellectual, and empirical sources together so as to understand the legal

[100] This amount also included in-court established legal claims on the beytülmal that were taken in to the treasury in previous years as well as temporary possessions of the treasury. The budget register states this as follows "Be cihet-i edâ-i akçe-i mütenevvi'a ki piş-ezin an metrukât-ı ba'zı kessan be-ma'rifet-i beytü'l-malciyân zabt-kerde ve ba'zı akçe-i mevkufât ve gayruha ki be Hızâne-i Âmire vasıl-şude büd haliya vârisân-ı işân be-Dergâh-ı Âli âmedend ve vârisân-ı verâset-eş der piş-i kadıyân-ı asker isbât-kerde ve fermüde-şude ki bâz an Hızâne-i Âmire bedehend."

[101] Süleyman Polat, "Osmanlı Askerî-Malî Tarih Kaynaklarından Sefer Ruznamçe Defterleri ve Bütçelerinin Kaynak Değeri Üzerine İncelemeler (XVI. Yüzyıl Sonu ve XVII. Yüzyıl İlk Yarısı)", *Akademik Bakış*, Cilt 8, Sayı 15, 2014, pp. 241-267.

context of the property claims. It examines the institutional structure that was developed to manage these claims and their main functions.

1.4 Chapter Organization

This study is organized in six separate chapters including the introduction and the conclusion. The second chapter scrutinizes the history of the concept of *beytülmal* (lt. the house of wealth or treasure house), and its connotations from the early Islamic ages on. The chapter aims to understand the idea of the public treasury and the grounds of the claims of property made for its sake as based on Islamic legal tradition. In other words, it introduces the wider and narrower senses of the *beytülmal*. Thus, it delves into the mechanisms of revenue collection and the use of proceeds for the benefit of the Muslims. The chapter also refers to the development of the notions of public and private property and the institutional developments related to these notions. Due attention is paid to changes accompanied the proliferation of the government bureaus and the growing sophistication of the bureaucratic organization along with the expansion of Islamic lands and the revenues in Islamic polities.

Chapter two discusses these developments as related to *beytülmal*. Thus, it indicates how *dīwān*s served first as the branches of the *beytülmal* and shouldered relatively specialized tasks. For instance, during the Umayyad period, there were separate *dīwān*s for different revenue items like that of the derelicts (*bayt al-māl al-verese* and *dīwānu'l-mawāris*) and, confiscated properties (*dīwānu'l-mazālim*). The chapter will force its limits to understand the potential connections between the Ottoman *beytülmal* office and *beytülmal* in pre-Ottoman Islamic polities. This endeavor does not mean to see the continuities and ruptures in such an extended period. Rather, it first postulates that the Ottomans employed the *beytülmal* as an original method of property claiming and examine any conceptual or methodological links of it to pre-Ottoman Islamic polities. Last but not least, it also analyzes the evolution of legal norms with a specific reference to governments' heirship and escheat.

The third chapter presents two main surveys. The first survey aims to analyze the use of the concept of the *beytülmal* both in the sense of public treasury and in the sense of a specific revenue in the Ottoman empire in the early modern period. It tries to demonstrate the connotations of the concept of *beytülmal* for the Ottomans focusing mainly on the legal-intellectual works of the period. In this regard, Dede Cöngî's treatise (*risale*) titled *Risâlah Fi Amwâli Bayta'l-mal wa Aqsâmihâ wa Ahkâmihâ wa Masârifiha* is given special attention as it states the theory of the *beytülmal*, its divisions, revenues, and expenses in Islamic legal tradition. Along with Cöngî's treatise, different sources of the period will be cited in order to show how the sixteenth century witnessed the increasing use of the concept of the *beytülmal* (instead of *hazine*) compared to fifteenth-century records. Based on the registers of the period (like orders and decrees), the section touches upon how the imperial center tried to inspire provincial administrators to increase the *beytülmal* revenues and not to lose even a shadow of property to an invalid private claim.

The second part of chapter three deals with one of the main concerns of this dissertation as it discusses the laws that made *beytülmal emaneti* (trustee) a legal institution. The section surveys the normative texts that were prepared in the period roughly from the second half of the fifteenth century to the last quarter of the seventeenth century. These texts include general and provincial law codes (*kanunnâme*s), imperial decrees (*ferman*), legal opinions (*fetvâ*s), and other legal provisions registered in court records. While the general *kânunnâme*s help to figure out the main principles of property claims, like rules, regulations, and procedures to be followed by either public or private claimants, the provincial *kânunnâme*s and *fetvâ*s provide for a more analytical framework regarding the implementation of the regulations and directives. The provincial *kânunnâme*s are indispensable for making sense of the decisions regarding the recognition of the right to make claims on *beytülmal* in different localities. The complex military-administrative organization of the Ottoman land regime (covering *tımar*, *serbest tımar*, *hass*, *mîrî*, *vakıf*, and the like)

brought about multiple claimants on different revenue items on a given piece of land. Taking this into account, the *kânunnâme*s help to illustrate how the *beytülmal* accommodated the interests of different parties. Lastly, chapter three also deals with the *fetvâ*s based on some thematic issues like property of missing individuals, debt claims due third persons, and pre-emptive actions to avoid public claims.

The fourth chapter attempts to portray the *beytülmal* as an Ottoman legal and fiscal institution. In order to ground this argument grounded, the chapter questions the elements that make an institution and elaborates on the modus operandi of the *beytülmal*. The chapter then tries to locate this institution in the greater bureaucratic organization of the Ottoman state. Additionally, the chapter introduces the legal and fiscal institutions that closely collaborated with the *beytülmal* to enable it to function properly in the realm. A very brief chronology is also provided followed by an outline of the relevant institutional reorganizations in the nineteenth century.

The later part of chapter four describes the legal and practical grounds for different public claims, or the claims regarding the *amme* and *hassa beytülmal*s were based and pursued. In this respect, I suggest that there were *beytülmal*s, not a single beytülmal, and point to the autonomous and corporate *beytülmal*s—like those of the *yeniçeri*s*, bostancı*s*,* servitors in the imperial kitchen (*matbah-ı âmire*), and *vakıf.* Lastly, identify the officials like *kadı*, *emin* and *katip*, and try to show their relational significance in the actual *beytülmal* operations.

The fifth and last chapter of this study is devoted to a close examination of the functions of the *beytülmal*. In other words, this chapter asks what were the main contributions of the *beytülmal* in generating a legal, social, and economic order in the Ottoman realm? Here, based on the empirical data of the previous chapters, I point to four main functions of this institution, namely *Beytülmal* as a trustee for safekeeping and restitution, *beytülmal* as a collector of fiscal revenue, *beytülmal* as spender and director of a revenue, and *beytülmal* as

a reserve fund for charitable expenses. I analyze the cases related to each *beytülmal* category of functions and explain the settings in which Ottoman subjects could have benefited from the *beytülmal* in different respects. However, both the government and the subjects had to deal with the handicap that was caused by the *iltizam* system or the fiscalist tendency of the government officials caused. Despite this handicap, the *beytülmal* office facilitated the above-mentioned functions in a consistent way as shown in the documents. To conclude, the chapter will attempt to demonstrate how a piece of property could harness the legal and financial means of the government in providing for the benefit of the public and private figures, as well as the benefit of the realm.

CHAPTER 2

A SHORT HISTORY OF THE BEYTÜLMAL IN ISLAMIC HISTORY

2.1 Introduction

In his advice to caliph Harun al-Rashid, Abu Yusuf (d.798) says: "Do not cause damage and destruction of those you are shepherding".[102] He holds the ruler responsible for protecting the well-being of his subjects and what they possess as property or money. In a similar vein, being a piece of social wealth, any property in an Islamic polity is regarded as a trust from God, thus, subject to some set of ways of disposal. Either public or private, it entails responsibilities towards the Muslim community in theory.[103] On that account, chasing up the unclaimed properties of different types is as essential as supervising the regular flow of fiscal revenues in Islamic polities. The properties collected in public treasuries or at the hands of private persons become a question of the legal and financial system in Islamic history.

Being one of the central institutions of Islamic political organizations, the *beytülmal* has a very long history for considering its reflections on these systems. While the chronological beginning of the term goes back to the seventh century, the institution was

[102] Abu Yusuf Ya'kûb b. Ibrahim, *Kitāb al-Kharaj*, Bulak, 1302, p.5

[103] Cengiz Kallek, *Sosyal Servet: İslam' da Yönetim Piyasa İlişkisi*, İstanbul: Klasik, 2015, p. 161.

employed in the later empires and the Ottomans.[104] Along with the change in its significance, the term itself also had been used with suffixes and pre-modifiers like *beytülmal-ci, beytülmal-i amme, beytülmal-i hassa,* or *emin-i beytülmal* in the Ottoman Empire. Though the term has different connotations in particular circumstances, it means the properties (movable or immovable) and monies administered by state functionaries for the interest of the Muslim community like public treasury, and also a fund that is raised and charged for charitable concerns.

The history of the *beytülmal* in Islamic history in the scope of the present chapter is significant in some respects. Firstly, from the fifteenth century onwards, the Ottomans used the term beytülmal mainly in two meanings: The treasury and the revenue type. This part aims to shed a bit of light on the use of term, the idea of public treasury and its specific revenues in pre-Ottoman Islamic polities based on the theoretical foundation of the public treasury in the classical period of Islam (ca. 600-1250). Through this, the potential legal, social, and economic connections between the Ottoman *beytülmal* office, whose primary function is to check and control whether the properties of different kinds are unclaimed, and pre-Ottoman property claims and the treasury will be focused. Secondly, as a relatively well-documented phenomenon, the Ottoman legal scholars followed, adapted, adopted, commented and remade the Islamic law in their works for the operation of the state and society. The material that they pursued as legal doctrine was not only derived from the *fiqh* works originated prior to them, it was also the age-old customs and conventions of the

[104] The term is still in use in some countries like Pakistan and Malaysia. In both countries, the role of the institution is constrained to charitable funds. In the case of Pakistan, the mission of the autonomous body of Bait-ul-Mal under the government of Pakistan is stated as 'to provide social protection to the poor marginalized segments of the society". http://www.pbm.gov.pk/Act.pdf For Malaysia see https://www.maiwp.gov.my/i/index.php/en/53-perkhidmatan/baitulmal

communities in force the Ottomans acclimatized themselves as expanding their realm. Thereby, in making of their legal corpus for generating a social order among the society, trans-temporal agencies were also at work. This chapter aims to examine these legal and practical connections through the *beytülmal*. Particular attention will be paid on the fourth revenue of the *beytülmal*: heirless estates of the deceased persons and other unclaimed properties.

2.2 The Origin of the Beytülmal: Public Treasury in Islam

The term beytülmal has been used in the Islamicate world since the mid-seventh century, if not earlier. With its literal translation 'house of wealth' (*bayt- al-māl*) it connotes a physical being, a depositary, where the wealth of 'the people' is simply stored or retained for a later-potential allocation.[105] However, its capacity for raising, preserving, and disbursing wealth for the state and society signifies beyond a physical being in Islamic history.[106] It operated as the state treasury; developed and enhanced in due course harnessing the juxtaposition of legal, political, financial, social, and religious realms. As its function implies, the '*bayt- al-māl*' introduced the early-period Islamic differentiation of public and private property. It laid down the boundaries between them and the extent of each.

In his decision on the more comprehensive sharing of the booty, the second caliph 'Umar b. al-Khattāb (d.644) is said to have laid the foundation of the *beytülmal.*

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[105] "Bayt al-mal", *Al-Mavsu'ati'l-Fiqhiyye*, Vizaratu'l-Awqaf ve's-Suuni'l-İslamiyyah, v.8, 1986, pp.242-264.

[106] Abu'l-Hasan 'Ali ibn Muhammad al-Mawardi (d. 450 AH/1058), *Al-Ahkam as-Sultaniyyah*, (*The Laws of Islamic Governance*, tr. Asadullah Yate), London: Ta-ha Publishers, 1996, p.301.; Abu Ya'la Muhammad Ibn al-Husayn al-Farra, *Al-Ahkam as-Sultaniyyah,* (nşr. Muhammad al-Faqiyyi,) Egypt, 1938, pp.238-239.; Celal Yeniçeri, *İslamda Devlet Bütçesi*, İstanbul: Şamil yay., 1984, p.43.

Aiming to save the rights of the later '*umma* and serve for their benefit, he prescribed a new way of sharing the booty. When Bilāl b. Rabāh (d.641) and his companions asked 'Umar to divide the *fay'*[107] procured in Iraq and Syria (Sawad) among the men who conquered the lands, as they did before in the spoils of the army after conquering Khaybar, 'Umar refused to do so and said: "Allah has given a share in these lands to those who shall come after you. If I divide the lands among you, nothing will remain to successors, and if I do not divide it [among you], [at the end of the day] even a non-combatant shepherd[108] in Sanaa shall get its share from that *fay'*.[109]

This was a maneuver, a project, for Islamic community thanks to which they would reap the benefit of being a subject of this community. Different from private property,

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[107] There was a long debate on the inclusion of different revenues under the heading of *fay'*, but the common view is that *fay'* both means the properties obtained without fighting including the lands and also tax and other revenues procured from non-Muslims based on the verse in the Qur'an: Hashr, 59:6-10. *Fay'*, in its general sense, constituted a major source of revenue for the beytülmal. Mustafa Fayda, 'Fey' *TDV İslam Ansiklopedisi*, vol.22, 1995, pp. 511-513.; F. Løkkegaard, "Fay'" in *The Encyclopaedia of Islam,* New Edition, vol. II, ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, Leiden: E.J. Brill, 1991, pp.869-870.

[108] "Who he has blood on his face (*wa damuhu fi wajhihi*)." Abu Yusuf Ya'kûb b. Ibrahim, *Kitāb al-Kharaj*, Bulak, 1302, p.24.; *Kadı* Ebu Yusuf, *Kitabu'l-Haraj*, (terc. Ali Özek) İstanbul: Özek yayınları, p. 57.; The phrase was also translated 'without leading his face flushed', see Celal Yeniçeri, *İslamda Devlet Bütçesi*, İstanbul: Şamil Yayınevi, 1984, p.97.

[109] Abu Yusuf Ya'kûb b. Ibrahim, *Kitāb al-Kharaj*, Bulak, 1302, p.24; Quoting from Ibn Sallam's *al-Amvāl*, 'Abd al-Aziz Duri states that 'Umar also feared dispute among the Muslims over the land and said. 'If I divide it [*sawad*] you will come into conflict with one another over its waters. Abd al-Aziz Duri, *Early Islamic Institutions: Administration and Taxation from the Caliphate to the Umayyads and Abbasids*, New York: I.B. Tauris, 2011, p.90.

properties and monies fetched by the Muslims through wars, taxation and other means like alms etc. are devised to serve for the interest of the community as a whole.

However, though its scope was markedly extended, and its institutional framework was established during 'Umar's caliphate, with his practical measures the Prophet Muhammed introduced first the preliminary legal grounds and implementation. The embryonic notion of the wealth of the community existed in his time and was contributed by various benefactions. Under the guidance of the Qur'an and through the Battle of Badr he set the precedents for a theory of public property and state expenditure. According to that the fifth (*khums*) of the booty, *ghanīma,* was reserved for Allah, the Prophet, his near relatives, the beneficiaries like orphans (*yatāmā*), the needy (*masākīn*) and wayfarer (*ibn al-sabīl*).[110]

Ghanīma means booty, particularly movable, but also immovable. It played a significant role in financing the Islamic community at Medina. It is what is obtained at the possession of enemies during their encounter with them, like goods, weapons, and also mounts of an adversary killed in the battle.[111] However, the scope of this fifth is not limited to booty acquired in the conquests. The fifth of the precious stones and amber–like minerals obtained through deep-sea mining, and mines like gold, silver, iron and copper are reserved for the same purpose. The fifth in question shall be stored along with the alms. Despite the

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[110] Sura al-Anfal, 41: "Know that one-fifth of your battle gains belongs to God and the Messenger, to close relatives and orphans, to the needy and travellers, if you believe in God and the revelation We sent down to Our servant on the day of the decision, the day when the two forces met in battle. God has power over all things." *The Qur'an* (Oxford World's Classics) translated by M. A. S. Abdel Haleem, Oxford University Press, 2005, p.113.

[111] Mehmet Erkal, "Ganimet", *TDV İslam Ansiklopedisi,* Vol.13, 1996, pp.351-352.; F. Løkkegaard, "Ghanīma" *in The Encyclopaedia of Islam,* New Edition, vol. II, ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, Leiden: E.J. Brill, 1991, pp.1005-1006.

procedure for allotment, each revenue is different, and the objective for disbursing the fifth of the booty, *fay'*, and alms (*zakāt*) are pretty well the same.[112]

In addition to this, Abu Yusuf applies the procedure for the fifth to unclaimed properties found by individuals: "if someone[113] finds a treasure (*kenzen 'âdiyen*) full of gold or silver, or jewels or valuable clothes in a place where is no one's freehold (*fî ghayri mulki ahad*), s/he should deliver the fifth of it to the government, and the rest become the possession of who finds it. Properties of that kind are like booty: "…if a Muslim finds a mine (*rikāz*) in the abode of war (*dār al-harb*), and if he entered those lands without assurance (*emân*), what s/he found is the personal possession, no need to deliver the fifth, as he is not there for combating and the place he finds the treasury is not one's freehold…"[114]

According to Abu 'Ubayd b. Sallam (d.838), for the treasure troves the caliph 'Umar applied different rulings based on different rationales: (i) Deposited the treasure along with

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[112] The fifth of the booty in question shall be stored along with the alms and disbursed for the same purpose. The fifth of the precious stones and amber–like minerals obtained through deep-see mining, and mines like gold, silver, iron and copper are reserved for the same purpose. If the outcome is not enough to cover the expenses of the extraction, no need to reserve the fifth. However, this does not mean that the expenses of the extraction shall be covered. In any case, either the mines are less or much, the expenses are not covered. If the outcome is not enough to cover the expenses of the extraction, no need to reserve the fifth; but whether the mines are less or much, division of fifth is valid. Abu Yusuf, *Kitāb al-Kharaj*, pp.21-22.; al-Mawardi, *Al-Ahkām as-Sultāniyyah*, (tr. Asadullah Yate), London: Ta-ha Publishers, 1996, pp.186-188.

[113] Someone in this context is either Muslim or Dhimmi and a place applies to lands of Islam. Anyone waging against Muslims, or a non-dhimmi non-Muslim whose entrance to Muslim's lands is permitted, is required to return the whole of what he found in terms of property. Abu Yusuf, *Kitāb al-Kharaj*, p.22.

[114] If he finds the treasury in someone's freehold (in abode of war), the whole property shall be returned to the owner. Abu Yusuf, *Kitāb al-Kharaj*, p.22.

the wealth of Allah (meaning *bayt al-māl*), and did not give any piece to the person who found it. (ii) Applied the procedure of the fifth and gave the rest to the person who found it (iii) Gave the whole treasure to the person who found it without taking anything for the *bayt al-māl*. In each of these decisions, the imam's discretion, in compliance with the specific circumstances of each case, is striking. Particularly in the last, since he held that the finders of the treasure trove are more deserving than others, he gave the wealth entirely to the finders.[115]

Except for some limited aspects of public finance are man's obligation towards Allah, the law concerning the *bayt al-māl* is essentially within the interest of the administrative regulations of the political authority.[116] In this respect, as the head of the *bayt al-māl,* the *imam* is the person who is to delegate the *sāhib-i bayt al-māl*, and officials responsible for the institution, thus, he holds the discretionary right to allocate the revenues within the limits of the law.[117]

Moreover, people of the army, who in one way or another actively involved in the battle are entitled to the four in the five of the booty according to their service, rank,

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[115] Abū 'Ubayd al-Qāsim ibn Sallām, *The Book of Revenue (Kitāb al-amwāl)*, (tr. Imran Ahsan Kan Nyazee), Garnet Publishing, 2003., pp. 328-331.

[116] N.J. Coulson, *A History of Islamic Law*, Edinburgh University Press, 1964, p. 124.

[117] N. J. Coulson, Cl. Cahen, B. Lewis, B. and R. le tourneau, "Bayt al-Māl", in *The Encyclopaedia of Islam*, New Edition, vol.I, ed. H. A. R. Gibb *et al.* Leiden: E.J. Brill, 1986, pp.1141-1149.

precedence,[118] mounts they harness for wars, etc.[119] Since the military achievements of the Muslim fighters were key for the expansion of Islam, it is of the essence to reserve a substantial amount of wealth for the soldiers to get everything set for future fighting, as well as keep their enthusiasm up.

Apart from the movable booty, the conquered lands, their resources, mines, and agricultural yields were subject to fiscal reorganization depending on the way of subduing and the potential outcome of the lands. People of these lands were also subject to tax payment (*jizya*) based on the new circumstances, as well as the deep-rooted traditions.[120] In addition to making water, pasture, and fire (i.e. tinder) public property[121], based on the Islamic legal formulation, his community knew that they had their share in the properties and monies coming through conquests, taxation, etc.

Thus, the principal sources of the treasury were the proceeds named as a whole *fay'*, the taxes of *kharaj* and *jizya* that were mainly obtained from non-Muslims. The revenues like *zakāt*, *ushr*, the fifth of the *rikāz* and the unclaimed properties were obtained from Muslims.

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[118] Fred M. Donner, *Early Islamic Conquests*, Princeton University Press, 1981, p. 226, 231-232.; 'Abd al-Aziz Duri, *Early Islamic Institutions*, pp.162-166.

[119] Abu Yusuf, *Kitāb al-Kharaj*, p.18. Raising animals, particularly for the purpose of fighting is exhorted in the Qur'an. Sural al-Anfal, 60: "Prepare whatever forces you [believers] can muster, including warhorses, to frighten off God's enemies and yours, and warn others unknown to you but known to God. Whatever you give in God's cause will be repaid to you in full, and you will not be wronged." The Qur'an (Oxford World's Classics), Translated by M. A. S. Abdel Haleem, *Oxford University Press*, 2005, p.114.

[120] John Haldon, "The Resources of Late Antiquity" in Chase F. Robinson (ed.) *The New Cambridge History of Islam* Volume I, Cambridge University Press, 2010, pp.37-38; Abd al-Aziz Duri, *Early Islamic Institutions: Administration and Taxation from the Caliphate to the Umayyads and Abbasids,* I.B. Tauris, 2011, pp.83-87.

[121] Abd Al-Aziz Duri, *Early Islamic Institutions*, p.87

The subsidiary sources of income of the treasury are;

a. The property without a known owner, or the property found in the possession of captured brigands. The revenues of the sale of those properties belong to the beytülmal.

b. The property of apostates. Although there is a long debate among the Hanafī jurists about two claims, whether the treasury could claim the assets after apostasy, and could not claim any of them, the majority of jurists hold the claim that all the property of apostates belongs to the beytülmal.

c. Estates of deceased persons. Here the treasury favored Mālikī law; in the absence of heirs (defined in the Qur'an and male agnate relatives), the Treasury has assured at least two-thirds of the estate (bequests may not exceed one-third of the net estate). According to other schools of law, however, the presence of any heirs established in the Qur'an or blood-relatives will omit the Treasury, and in Hanafī law, failing of producing such heirs, testamentary disposition could claim the whole of the estate.[122]

2.2.1 A Comment on the Theory of Public Property in Islam

The juxtaposition of public and private property posed a serious threat for the urban societies of the Arabian Peninsula of the sixth century. As a major source of revenue, the sharing out of the proceeds was one of the central questions of Muslims at Medina for which the prophet made some adaptations. Straightforwardly, the implementation and the measures

[122] According to Mawardi the expenditure of public monies divided into two categories: 1. The Treasury's liability is absolute; services rendered to the state like the stipends of the armed forces, the salary of state officials and so on. 2. The Treasury's liability depends upon the funds existed plus the satisfaction in the previous category. In this category the expenditures are for purposes of public welfare and interest like construction of roads, water supplies, the repair of damage in kharaj lands. "Bayt al-Māl", *EI*[2].

he took seem like disbursing the wealth justly among the people of the Islamic community; protecting the rights of the weak, people of the book, and others, rather than pursuing the establishment of a clearly defined public treasury as an institution.

However, the significance of his measures lies in the centralization of the proceeds for a theory of public property and state expenditure that could be explained in three respects;

i. Governing and administration: In pre-Islamic Bedouin tribal society plunder was a salient feature as a well-rooted customary rule. Having a strong tradition of *ghazw*, the Arabs were proud of being famous invincible raiders.[123] In the collective action of getting booty, the commander is vested in one four of the total spoils, as well as items that lured him and indivisible riches.[124] This tribal factor of raids on commercial caravans, rival tribes or settled (relatively defenseless) communities for collecting booty played an unmistakable role in the initial stage of Islamic history.[125] Extending and redirecting this practice of *ghazw* based on the Qur'an, the prophet suppressed the tradition by reducing the share to one-fifth and replacing the share of the commander with the share of Allah. The centralization of the proceeds restrained individual and disproportionate capturing and provided a share also for

[123] T.M. Johnstone, "Ghazw" in *The Encyclopaedia of Islam,* New Edition, vol.II ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs (Leiden: E.J. Brill, 1991), pp.1055-1056.

[124] Muhammad Hamidullah, *The Battlefields of the Prophet Muhammad* (4th ed.) New Delhi: Kitab Bhavan, 1992, pp.137-138.

[125] Jonathan Berkey, *The Formation of Islam*, Cambridge University Press, 2010, pp. 72-73.

non-combatant beneficiaries, as well as serving the community.[126] Thus, fiscal bureaucracy and professional fighters superseded the tribal confederacies in arms.[127]

ii. Maintaining a strong-standing army: One of the two cares of the leadership in Medina is to organize Arabs and to lead them on the campaigns so as to spread a more serious Islam.[128] The prophet and his community secured vehemence and immediate provisions at Nakhlah and subsequently at Badr.[129] In order to be in pursuit of political consolidation in Medina against Quraysh, the whole pagan Arab culture and the Meccan system, for controlling the main agricultural lands and the market centers in Hijaz, and further expansion to the north, these successes should be persevered. According to the account given in al-Waqidi's *al-Maghazi* the prophet undertook seventy-five expeditions in his life span,[130] and seven of them were in the first eighteen months after the *hijrah* (emigration in 622).[131]

The army *dīwān* and the establishment of the garrison towns (*amsār*) in Kufa, Basra, and Fustat, generated mainly during Umar's caliphate, also showed that the conquest was the

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[126] Marshall G.S. Hodgson, *The Venture of Islam: The Classical Age of Islam* v.1, University of Chicago Press, 1974, pp.173-174.

[127] Ira M. Lapidus, "State and Religion in Islamic Societies", *Past & Present*, no:51, 1996, pp.3-27.

[128] For a detailed discussion of the Arab conquests and the military success in the early Islamic period see. Fred M. Donner, *The Early Islamic Conquests*, Princeton University Press, 1981, pp.3-11.

[129] Fred M. Donner, *Muhammad and the Believers at the Origins of Islam*, London: The Belknap Press of Harvard University Press, 2010, pp.45-46.

[130] He reports that the prophet himself strived in twenty-seven of them. Ebu Abdullah Muhammad b. Omar al-Wakidi, *Kitab al-Maghazi*, Beirut: Dar al- 'Alemiyye, 1989, v.1, p.6.

[131] W. Montgomery Watt, *Muhammad at Medina*, Oxford: Clarendon Press, 1956, p.3

essential element of the Muslim state.[132] Keeping the conquering class with their fighting skills and effectiveness in terms of space and provision was conclusive in the *bayt al-māl* organization.

iii. Stabilizing the religio-political balance: In order to soften the hearts of a hostile group, to assure the heart of a new convert in Islam, and to reconcile the members of the community in Mecca and Medina, a share from the booty was provided for *Muallafatu'l-Qulūb*.[133] In compliance with the verse[134] and the discretion of the prophet, this practice of financial compassion enabled for the early phase of expansion of Islam a more reliable political environment.[135] The prophet used promises of material gain and granting gifts explicitly in order to bolster the allegiance of important individuals. In some cases, the leading of a raid was promised to a convert whose dedication was in need of reinforcement.[136]

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[132] Hodgson, *The Venture of Islam*,1, pp. 199,207-209.

[133] Cengiz Kallek, "Müellefe-i Kulûb" *TDV İslam Ansiklopedisi*, Vol. 31, 2006, pp.475-476.

[134] Sura Al Tawbah (9), 60: Alms are meant only for the poor, the needy, those who administer them, those whose hearts need winning over, to free slaves and help those in debt, for God's cause, and for travellers in need. This is ordained by God; God is all knowing and wise. The Qur'an (Oxford World's Classics), Translated by M. A. S. Abdel Haleem, *Oxford University Press*, 2005, p.121.

[135] Ed., "al-Muʾallafa Ḳulūbuhum" in *The Encyclopedia of Islam*, New Edition, vol. VII, ed. C.E. Bosworth, E. Van Donzel W.P. Heinrichs and CH. Pellat. Leiden-New York: E.J. Brill, 1993, p. 254.

[136] "Military successes by Muhammad's forces, especially major victories such as that at Hunayn, from which there was a great deal of booty, meant an increased ability to attract and hold individuals who took occasion to think about their position in this world, as well as in the next." For example, after he embraced Islam the prophet sent Amr b. al-As, a potent figure of Mecca, to lead the raid on Dhat al-Salasil, which heralded a lucrative gain. Fred M. Donner, *The Early Islamic Conquests*, Princeton University Press, 1981, 65, 77-78.

> Particularly after the Battle of Hunayn, he conferred ample shares of booty upon former opponents of Islam to the detriment of old supporters.[137] So as to secure a stable center among the contentious Bedouin tribes, and to attract more influential figures to the movement, like Abu Sufyan and his two sons, he saw that essential and won over the ablest politicians of the day.[138]

Considering the very first mention of property allocation in the Qur'an, the very first rationale for reserving monies and properties was to serve for the community; strengthen security, extend the realm of Islam, redistribution of the means for the people in need, and others. Some works in the secondary literature also approach this 'serving for the community' as a policy of donation for the people of disadvantaged that carry similar ends with *zakāt*.[139]

Besides, the formula for the fifth (*khums*), and fifth of the fifth, (*khums al khums*) were overwhelmingly for the purpose of financing people in need[140], which is seemingly a charitable giving. However, it is essential to bear in mind the context in which the proceeds were concentrated by the prophet under a new moral procedure for a growing and over-

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[137] Fred M. Donner, *Muhammad and the Believers at the Origins of Islam*, London: The Belknap Press of Harvard University Press, 2010, pp.49-50.

[138] al-Mawardi, *Al-Ahkam as-Sultaniyyah*, p.188.; Abu Ya'la al-Farra, *Ahkamu's-Sultaniye*, p.18.; Hugh Kennedy, *The Prophet and the Age of Caliphates*, 2nd ed. Harlow; UK: Pearson/Longman, 2004, pp.43-44.; W. Montgomery Watt, *Muhammad at Medina*, Oxford: Clarendon Press, 1956, pp.348-353,; For modern times Muhammad Hamidullah call this practice 'secret service" Muhammad Hamidullah "Budgeting and Taxation in the Time of the Holy Prophet", *The Journal of Pakistan Historical Society*, 3, 1955, pp.1-11.

[139] Menazir Ahsen, (Çev. Mehmet Erkal), "Beytü'l-mâl ve İslam Ekonomisindeki Rolü", *Atatürk Üniversitesi İlahiyat Fakültesi Dergis*i, Erzurum, 1986, s.6, p.219.; Hodgson, *The Venture of Islam* I, p.181.

[140] For further discussion on sharing of the fifth of fifth see. Abu Yusuf, *Kitāb al-Kharaj*, pp. 19-20; Abd al-Aziz Duri, *Early Islamic Institutions*, pp.82-83.

expanding structure. The Meccan period revenue collecting and disbursing was at the level of private undertaking as Muslims were, mainly, cognizant of their duties of two: praying and paying (*salat* and *zakat*).[141] Through different concepts, the verses in Mecca instructed Muslims to consider and support the living of the needy.[142] This might also be the norm in Medina for practical reasons, as the conditions were particularly poor for emigrants at the beginning.[143]

However, in Medina, a preliminary taxation policy and concern for the common were instituted through the Constitution of Medina. According to Wellhausens' publishing, the 3rd, 11th, and also 12th articles of the constitution states that different groups of people are assigned to handle some of their financial problems by pooling collectively. The individuals, Muslims or non-Muslims, were held responsible for paying their contribution to save their fellow residents who were overwhelmed by heavy financial burdens, to pay the blood money, and to release the prisoners of war.[144] Settling in Medina was the main clause to apply to individuals that ultimately make their contribution to public property.

Although the abstract notion of law was accepted as an overarching justice that regulate the affairs of all, the post-*Hijra* Islamic state formation (622-632) in Medina was

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[141] First mention of zakat before the emigration; Sura Anbiya 73: "We made all of them leaders, guiding others by Our command, and We inspired them to do good works, to keep up the prayer, and to give alms: they were Our true worshippers." The Qur'an (Oxford World's Classics), Translated by M. A. S. Abdel Haleem, *Oxford University Press*, 2005.

[142] For further discussion on the verses and the concepts see. Salih Tuğ, *İslam Vergi Hukukunun Ortaya Çıkışı*, Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, No.3, 1984, pp.24-30.

[143] Hodgson, *The Venture of Islam*, v.1, p.175.

[144] Salih Tuğ, *İslam Vergi Hukuku,* pp.42-43.

just fundamental. It was not rich and sweeping as it was in the period between 634 and 656.[145] However, the Muslims of the period and their order strictly observed the law and were obedient to the religio-political authority of Muhammad.[146] Thus, his discretion led way to the centralization and the notion of "public property" in Islam.

According to the sources of the formative period, the *bayt al-māl* (as a specific place where the common property was stored) was a room close to (or in) the masjid, or a room in (or next to) the prophet Muhammad's house.[147] The prophet and the caliphs were particularly attentive of delivering the properties in the quickest way to the eligible ones.[148] Additionally, the first caliph Abu Bakr is said to hold a separate room in his house for storing the properties to allocate. This room might also be the place where all revenues of *zakāt* and *sadaka* were kept, as the second caliph 'Umar monitored and estimated the amount of wealth there after

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[145] Hugh Kennedy, *The Prophet and the Age of Caliphates*, 2nd ed. Harlow, UK: Pearson/Longman, 2004, pp. 53, 56-66, 69-71.; Chase F. Robinson, "The Rise of Islam 600, 705" in *The New Cambridge History of Islam* ed.by Chase F. Robinson, Cambridge University Press, pp.195-200.; Hodgson, *The Venture of Islam*, 1, pp. 198-206

[146] For further discussion on the formative period see Fred M. Donner, "The Formation of the Islamic State", *Journal of the American Oriental Society*, Vol. 106, No. 2, 1986, pp. 283-296.

[147] Muhammad Hamidullah, *İslam Peygamberi*, 683, 882.; Abdülkerim Öner, "Hz. Peygamber Döneminde Beytülmal", *e-Şarkiyat İlmi Araştırmalar Dergisi*, Nisan 2019, cilt 11, sayı 1, (23), pp. 74-95.; Menazir Ahsen, (Çev. Mehmet Erkal), "Beytü'l-mâl ve İslam Ekonomisindeki Rolü", *Atatürk Üniversitesi İlahiyat Fakültesi Dergisi*, Erzurum, 1986, s.6, p.219.; According to Abu Yusuf 's account, once, the second caliph 'Umar ordered to place the booty procured in Persia to the Masjid, and charged two men to watch the properties till it is delivered to the eligible people. This was before putting the institution of *dīwān* into practice. Abu Yusuf, *Kitāb al-Kharaj,* p.47.; Salih Tuğ, *İslam Vergi Hukukunun Ortaya Çıkışı*, Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, No.3, 1984, pp.33-34.

[148] Abu Yusuf, *Kitāb al-Kharaj,* p.47; Mehmet Erkal, "Beytülmal", *TDV İslâm Ansiklopedisi,* Vol.6, 1992, pp. 90-94., Abdulkerim Öner, "Dört Halife Döneminde Beytülmal", Dicle Üniversitesi Sosyal Bilimler Enstitüsü, Ph. D thesis., 2018, pp.15, 38, 41.,

Abu Bakr's death. Besides, Bilāl[149] and 'Umar b. al-Khattāb were two of the *bayt al-māl* officers the prophet appointed during his lifetime.[150] Apart from Medina, the prophet and the caliphs sent agents to administer the revenues and their disposal in newly conquered lands across the peninsula. The spatial disbursing of wealth was also the norm in the formative period of Islam. The prophet appointed *'amil*s to collect and distribute the wealth for necessary outlays and eligible beneficiaries in the place where it is collected. In case there remained extra, the *'amil*s should return those amonunts to the center.[151]

2.3 Increasing Wealth and the Need for Bureaucratization: The Rashidun Era

During the first caliph Abu Bakr (d.634) the operation of the *bayt al-māl* did not change substantially. The room mentioned before in his house in the location of Sunh, after he emigrated to Medina, was used to store the revenues and was called the *bayt al-māl.*[152] While the sources do indicate the existence of the *bayt al-māl* in Medina after he moved into his home, i.e., the center of the caliphate, for the conquered nearby regions do not. After his death, the second caliph 'Umar used the Masjid to store the property as the prophet did. In the course of his early years, like Abū Bakr, 'Umar was also attentive to disbursing the properties directly without waiting.

However, towards the end of 630s the revenues in gold and silver were also added to the booty and *zakat*, and the amounts flowing into the center increased to a degree that was

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[149] Salih Tuğ, *İslam Vergi Hukuku*, p.103

[150] Muhammed Hamidullah, *İslam Peygamberi*, p.761, Salih Tuğ, *İslam Vergi Hukuku*, p.103.

[151] Ibn Sa'd, *Kitâbü't-Tabakâti'l-Kebîr*, v. 5, p. 277 quoted by Abdulkerim Öner, "Dört Halife Döneminde Beytülmal", 2018.; Salih Tuğ, *İslam Vergi Hukuku,* pp.105-109.

[152] Ibnu'l-Esir, *El-Kamil Fi'-t-Tarih* II, (çev. Beşir Eryarsoy), İstanbul: Bahar Yayınları, 1991, p.386

not seen before.[153] The expansion of Islam necessitated a more sophisticated and well-operated system to preside over the revenues and outlays. As a consequence of the new needs of the community and Muslims's encounter with the pre-existing fiscal institutions, both the space and theory of distribution of the wealth proceeded to another stage: the registrations of *dīwān*s were instituted, and the new buildings were constructed for diverse properties to keep them for the interest of Muslims during 'Umar's caliphate. Apart from the practical measures pursued in the formation of the state, the main reason for that was each sort of revenue had a peculiar law of disbursement.[154]

Compared to the high caliphal[155] period, circa between 692 and 945, the institutionalization of the Islamic state during 'Umar, 'Usman, and Ali could be identified as nascent.[156] Nevertheless, the rapid expansion of Islam engendered confronting with the ancient and established traditions of state and bureaucratic administrations of Fertile Crescent, Egypt, and Iran. This, to an extent, colored the bureaucratic formation of the Islamic state. To illustrate, the establishment of the *dīwān* by 'Umar was related to a long-

[153] According to Abu Yusuf's account it seems that, once, the caliph did not fully comprehend the magnitude of the proceeds yielded in one go as it too much, and asked three times to be sure how much exactly the amount was. Abu Yusuf, *Kitāb al-Kharaj*, p. 45.

[154] Abu Yusuf, *Kitāb al-Kharaj*, pp.80-81, Abu al-Ya'la Muhammad b. al-Husayn al-Farra (d.458), *al-Ahkamu's-Sultaniye*, ed. Muhammad Hamid al-Faqî, Beirut: Daru'l-Kutubu'l-'Ilmiyye, 2000 (1421 H), pp.244, 249.; Abu al-Hasan 'Ali b. Muhammed al-Maverdi (d.450), *al-Ahkamu's-Sultaniye*, ed. Ahmed Cad, Cairo: Daru'l-Hadis, 2006 (1427 H), pp. 307-308.

[155] Hodgson, The Venture of Islam I, p.96.

[156] For further discussion see Fred M. Donner, "The Formation of the Islamic State." *Journal of the American Oriental Society*, Vol.106:2 1986, pp. 283-296.

lasting systematization of Persians.[157] Accordingly, when abundant wealth came to the caliph, he considered systematizing their distribution. For ‘Umar, the pressing concern was the organization of the system of stipends (*‘atā’*). The fiscal regime and the collection of taxes in the conquered lands remained predominantly in the hands of the native populations. Keeping in mind orienting Muslims towards the struggle for the interest of Islam, he aimed to provide salaries (*rawātib*) and stipends (*‘atā’*) for fighters, and others, from the *bayt al-māl*. Thus, it was necessary to keep the registers for the names of the soldiers, and their families in garrison towns (*amsār*).[158] *Dīwān*s consisted of registers of the revenues, its accounts, ratios, and the names for assigning the proceeds in comply with the legal regulation and discretion of ’Umar, along with the rules set up before him.[159] Although the earlier sources put emphasis on ’Umar’s disapproval of hoarding money, his endeavor for centralization and financial systematization of the proceeds meant a transition to a more elaborate and well defined executive authority for the disposal of the caliph.

Before *dīwān*s, the fundamental law of *bayt al-māl* was operating for the community from the time of the prophet Muhammad. For instance, both the prophet Muhammad and the first caliph Abū Bakr were said to have registers of the names for different ends like

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[157] And the Byzantines. A.A. Duri *et al*. “Dīwān” in *The Encyclopaedia of Islam,* New Edition, vol.II ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel and W.P. Heinrichs, Leiden: E.J. Brill, 1991, pp.323-337. H.L. Gottschalk, G.S Colin, A.K.S Lambton, and A.S Bazmee Ansari, “

[158] Abd al-Aziz Duri, *Early Islamic Institutions*, pp.162-164

[159] Particularly, in the assigning of the *‘ata* (stipend) the first caliph Abu Bakr and the second caliph ‘Umar think differently. While ‘Umar took into consider the precedence, seniority and excellence, Abu Bakr’s understanding of equitable assigning was different. Abd al-Aziz Duri, *Early Islamic Institutions*, p. 164-165, 167,

delivering the share of the needy and the fighters.[160] What the second caliph 'Umar's instituting of *dīwān* brought forth to the *bayt al-māl* was systematization and bureaucratization. During his caliphate, the provincial treasuries were established for diverse revenues. Thus, the Rashidun era is remarkable as the governance of the financial affairs was separated from the civil administration throughout this period. For *kharaj*, *jizya* and '*ushr* affairs of the *bayt al-māl* of different cities, the caliphs appointed different names. For instance, while Abū Mūsā al-Ash'arī (d.662-63) was named as the governor of Basra, 'Abdullah b. Mas'ud (d.652-53) was appointed for *zakāt* and *kharaj* administration of the same province by the second caliph. Moreover, sometimes, based on the circumstances and the aptitude of a figure, the same person was named for a joint position.[161]

During the periods of the later caliphs, 'Usman (644-656) and Ali (656-661), the *bayt al-māl* organization in the center of the caliphate and the provincial treasuries were preserved. However, the aforementioned financial organizations underwent considerable modifications during the Umayyad and Abbasid eras. One remarkable change could be said in the elaboration of the system of *dīwān*, which ultimately altered the operation of the beytülmal as each *dīwān* constituted a part of the *bayt al-māl*. Through *dīwān*s, along with the fighters, each member of the community was regarded as eligible to get the allowance to the extent of the aggregate public property.[162]

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[160] Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp.90-93.

[161] For instance, 'Abdullah b. Mas'ud was entitled by the caliph to be in charge of the judiciary and beytülmal revenues in Kufa. Muhammad Hamidullah, *Vesaik*, p.356, no.327 quoted by Celal Yeniçeri, *İslamda Devlet Bütçesi*, pp.67-69.

[162] Abu Yusuf, *Kitāb al-Kharaj*, p. 42.

2.4 The Proliferation of the Financial Bureaus: Umayyad and Abbasid Periods

In the course of the Umayyad period the number of *dīwān*s increased as the needs of the state were growing in Damascus, the new capital. *Dīwān al-kharaj* of Damascus was regarded as the central *dīwān* and called *al-dīwān* (the *dīwān*), which was in charge of the assessment and levying land taxes. Since *dīwān*s did not only regulate the affairs of the public treasury; the organization branched out extensively and was in charge of diverse bodies of governance.[163] To exemplify, under Mu'āwiya, and in due course of Umayyads, different governmental bureaus functioned in the center and the provinces; *dīwān al-kharaj* (office in charge of all land taxes), *dīwān al-djund* (office in charge of registering the forcers, their ranks, pay or *iqta'*), *dīwān al-rasail* (correspondence), *dīwānu'l-khatam* (office of seal), *dīwān al-barīd* (the postal bureau), *dīwān al-nafaqāt* (monitoring all the expenditures), *dīwān al-sadaqa* (the bureau in charge of *zakāt* and *sadaqa* and their distribution),[164] *dīwān al-mustaghallāt* (office in charge of administering the use of state lands, buildings, and bazaars). These diverse reserves also led to a parallel development of the system of *dīwān*. For instance, while *dīwānu'l-'atā'* was in charge of distributing stipends to the community, including women and children, *dīwānu'l-jund* was in charge of providing only for the fighters, as they had a particular revenue from the booty. Government officers were considered eligible to get stipends from different *dīwān*s simultaneously as they functioned in several tasks.[165] The properties in kind like animals, provisions (*dāru'r-rizq*), derelicts (*bayt al-māl al-verese* and

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[163] Salih Tuğ, *İslam Vergi Hukukun Ortaya Çıkışı*, pp. 34, 104.; Abd al-Aziz Duri, *Early Islamic Institutions*, pp. 163-170.

[164] Abd al-Aziz Duri, *Early Islamic Institutions*, p. 169.

[165] Kindi, *al-Vulât ve'l-Kudât,* p.317 quoted in Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp.94-95.

dīwānu'l-mawāris), and confiscated properties (*dīwānu'l-mazālim*) were kept and issued in diverse bureaus.[166] Additionally, for different provinces of the Muslim lands and the tribes settled there, the governors kept distinct registers, which continued, until the end of the Umayyad period.[167] Similar *dīwāns* were established also in the provincial capitals like Kufa, Basra, and Fustat. The provincial registers were kept in local languages; Persian in Iraq and Persia, Greek in Syria, and Coptic and Greek in Egypt as these registers were majorly inherited from age-old practice. However, the caliph 'Abd al-Mālik (r.685-705) inaugurated the policy of Arabization that, to a great extent, was completed towards 750.

The Abbasids also instituted a number of *dīwān*s different from the Umayyads and operated them in the direction of the central bureaucracy through the office of *wazir*. These numerous *dīwān*s were, largely, derivative branches of the treasury, like *dīwān al-jahbadhah* (in charge of supervising and organizing money changes), *dīwān al-birr wa al-sadaqāt* (administration of the endowments-*awqāf*).[168] In some cases, the *dīwān*s were set up so as to function according to the needs of the time, thus temporary. For instance, for the domains and the properties left by the Umayyads, the Abbasids founded *dīwān al-musādarīn (dīwān al-mazālim)*, which in time turned into *dīwān al-diyā* (office in charge of caliphal domains). For escheating the properties of the heirless deceased persons, under caliph al-Mu'tamid (d.892) a special department, *dīwān al-mawāris* was established. Mez says "it was a splendid

[166] During the Abbasid era, different treasuries were also established. Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp. 85-89.

[167] Abd al-Aziz Duri, *et al*., "Dīwān" in *The Encyclopaedia of Islam,* New Edition, vol.II ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel and W.P. Heinrichs, Leiden: E.J. Brill, 1991, pp.323-337.

[168] Fuad Köprülü, W. Barthold, *İslam Medeniyet Tarihi*, Türk Tarih Kurumu, 1973, pp. 117-118; Duri, *Early Islamic Institutions*, pp.173, 175.

pond for greedy officials to fish in."[169] According to Ibn al-Athīr (d.1233), this *dīwān* was canceled as the caliph Mu'tamid ordered the provincial governors to deliver those types of properties to distant relatives.[170]

2.5 Later Developments and Division in Beytülmal: *'Āmma* and *Khāssa*

Throughout the Rashidun, the Umayyad, and the Abbasid eras, the quantities to be provided, conditions regarded to be eligible, and the norms for disbursement from the *bayt al-māl* underwent some modifications.[171] While the quantity was generally determined by the extent of the aggregate in public treasury, being eligible for the allowance rested with the discretion of the caliph based on a religio-legal reasoning. For instance, the caliphs Abū Bakr and 'Umar had different understandings of equality; while the first considered to subsidy each Muslim equally, the second preferred to apply the condition of precedence in submitting to and serving Islam.[172] Moreover, during the period of Umayyads and Abbasids, the caliphs made some changes to the amount of '*atā'* paid to the *mawāli*, (the non-Arab Muslims), and some regulations for working the system more efficiently. However, till the end of the Abbasid era, the *dīwān al-'atā'* and its operation has persevered to a great extent. Including

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[169] Basing his argument on Ibn al-Athir, Mez says the Buwayhids did not accept these estates to the treasury. Adam Mez, *The Renaissance of Islam in the Tenth Century*, (tr. Salahaddin Khuda Baksh and D. S. Margoliouth), Jubilee: Patna, 1937, pp.112-113.; Dīwān, *EI2.;* Fuad Köprülü, W. Barthold, *İslam Medeniyet Tarihi*, Ankara: Türk Tarih Kurumu, 1973, pp. 117-118.

[170] Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp. 117-118.

[171] Abd al-Aziz Duri, *Early Islamic Institutions*, pp.171-175, Salih Tuğ, *İslam Vergi Hukuku,* p.101.; Celal Yeniçeri, *İslam'da Devlet Bütçesi,* pp.100-108.

[172]Abd al-Aziz Duri, *Early Islamic Institutions*; p.165.; Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp.100-101.

suckling babies, members of the community were registered and esteemed in a certain category for the entitlement of salary.[173]

Accordingly, the bureaucratization of the institutions also led way to the sophistication of government expenditure. Financing the wars and the standing army, which was in full force at the beginning of the eighth century, paying stipends for the needy and other categories, building monumental structures (like the Dome of the Rock in Jerusalem, the Umayyad Mosque in Damascus, milestones on the main roads, way-stations (*mahatat*), postal service, ways for smooth passages) and minting coins, etc. indicate an elaborated system of centralized state expenditures.[174] Correspondingly, the central state organized and systematized also the revenues.

Apart from the non-fiscal *dīwāns*, like *dīwān al-khatem* and *dīwān al-rasāil*, the fiscal *dīwān*s were all the branches of the *bayt al-māl* that made it operate and run to a great extent. However, representing the state finance, the use of the term *bayt al-māl* was constrained in favor of the *dīwāns* as the latter functioned directly in fiscal matters and the officers were appointed by the *vizier*. Similar to the bureaus branched out in time, the *bayt al-māl* also turn into *dīwān bayt al-māl.* Having a special seal, it was in charge of the assessing incomes and expenses of the treasury and making up weekly, monthly, and annual financial statements under the control of *sahib al bayt al-mal*.[175] Rather than a fund to be allocated for the interest of the common, this *dīwān* seems like a supreme controller of the overall income and expenses of the state.

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[173] Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp. 102-103, 105-108.

[174] Fredd. M. Donner, "The Formation of the Islamic State", Abd al-Aziz Duri, *Early Islamic Institutions*, pp. 175-180.

[175] Fuad Köprülü, W. Barthold, *İslam Medeniyet Tarihi*, Türk Tarih Kurumu, 1973, p.118.; Abd al-Aziz, *Early Islamic Institutions*, p. 176.

Interestingly, after this point the sources do not suggest why and when exactly the distinct treasuries were instituted in the Islamic polities, like that of *bayt al-māl-i khāssa* and *bayt al-māl-i 'āmma*. Duri explains the emergence of the *bayt al-māl-i khassa* (the private treasury) as a distinct treasury from the *bayt al-māl* with the rise of Turkic control on the government and their financial misconduct towards the end of the ninth century. However, Yeniçeri states that we do not have enough evidence to claim a precise time or reason for its emergence. He rather connects these properties of the distinct treasury of the caliph to those of the right of Allah and the prophet derived through fifth (*khums*) in *fay'* and *ghanīma*.

While the prophet and the Rashidun were said that they did not appropriate any revenues for their own sake and always transferred the amount to the *bayt al-māl* after having supplied for the needy and the basic needs of their families, the Umayyads were said that they did appropriate. This phenomenon also led the *vizier* to be the supervisor of the state treasury, and the caliph to control of their own private treasury.[176] Some questions may help to understand the rationale for the division: How did this private treasury function? Of which matters it was in charge? And, what were the incomes of this treasury?

According to Fuad Köprülü, this was a completely independent treasury at the end of the third century AH, that is early tenth century. The caliph Mansur (d. 775) had a private treasury whose income was the judicial fines via *bayt al-māl mazālim* and confiscated properties through *bayt al-māl al-musādarīn*. *Bayt al-māl-i khāssa* was a continuation of this treasury of the caliph Mansur and gained prominence under the rule of the caliph al-Mu'tadid (d.902). Along with the bequests and income through punishment and confiscation, the caliph was entitled to obtain the revenues of the properties and the lands that pertained to him. This

[176] Abd al-Aziz Duri, *Early Islamic Institutions*, p. 175.; Celal Yeniçeri, *İslam'da Devlet Bütçesi*, pp.139-140.

private treasury was only exceptionally disbursed for the interest of the common. Besides, the bestowals ordered by the caliph for favor and benevolence were promptly paid from the *khāssa*.[177] Duri also holds that "the caliphs controlled this treasury and spent from it on whatever matters associated with them."[178] However, according to Yeniçeri, thinking these two treasuries as if they are exclusive and distinct from each other is misleading. There was property or cash flow between *khāssa* and *'āmma.* It was possible for the *vizier* to be in charge of the private treasury of the caliph, and the caliph had a broad dispositional authority over the general treasury, though he could not spend arbitrarily in theory.[179] Moreover, referring to the subsidies by the *bayt al-māl-i khāssa*, Adam Mez reminds how it was necessary to fund the *bayt al-māl-i 'āmma* from the *khāssa* in case of a thread of bankruptcy of the state finance.[180]

For the origin of the *bayt al-māl-i khāssa*, sources indicate the period of the Umayyads, but as a substantial example of the practice the Abbasid period is striking.[181] For instance, during the Abbasids (and the Fatimids) the landed estates of the caliphs and their families were called *diya'al-khāssa*. Besides, under the reign of Al-Mutawakkil *dīwān al-*

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[177] W. Barthold, M. Fuad Köprülü (İzah ve Düzeltmeler), *İslam Medeniyeti Tarihi*, Ankara: Türk Tarih Kurumu, 1973, p. 118-119.

[178] Abd al-Aziz Duri, *Early Islamic Institutions*, p.175

[179] Fred Lokkegaard, *Islamic Taxation in the Classical Period*, Lahor: Sind Sagar Academy, 1979, pp. 157-188.

[180] Adam Mez, *el-Hadara al-Islamiyye fi'l-qarn al-rabi al-hijri* (terc. M: Abd al-Hadi Ebu Raydah), V. I-II, Cairo, 1957, pp.209-210 quoted in Celal Yeniçeri *İslam'da Devlet Bütçesi,* p.140.

[181] Willem Floor, "Kassa" *Encyclopædia Iranica,* Vol. XVI, Fasc.1 pp.106-112. (consulted online) https://iranicaonline.org/articles/kassa.; Adam Mez, *The Renaissance of Islam in the Tenth Century*, (tr. Salahaddin Khuda Baksh and D. S. Margoliouth), Jubilee: Patna, 1937, pp.120-121.

nafaqāt al- khāssa was founded to administer the royal household expenses.[182] The proceeds of the crown lands were collected by the *bayt al-māl al- khāssa*, while other revenues collected from the state properties were taken for the general *bayt al- māl* —a separate system came forward under the Abbasids.[183]

Although in the later periods, the difference between them was abided by, the line between them became obscure because of the need for money, if not also for the avarice of the rulers. The notion of the *mulk* for the crown was later clarified and authenticated also by politicians, like Nizam al-Mulk (d.1092):

> "The domains and the peasants belong to the ruling power. The ruler should have a *khazīne-i kharaj* (a treasury of tax revenues) for common day-to-day expenses and payments, and *khazine-i asl* for capital deposits. The latter treasury only be tapped for unexpected circumstances, and money utilized for that should be regarded as loan to be put back."[184]

The more elaborated one could be said Nāsir-al-Din Tūsi's (d.1274). In his survey of the financial practice of the last days of Baghdad, he further distinguished between the ruler's revenues: those of the private assets of the crown (*khāssa*), and those ordained for the prosperity of the ruler (*māl-i masāleh-i pādisāhi*).[185] However, in their accounts of the 10th century Abbasids, and for later Ghaznavids, Mez, and Bosworth respectively, holds that the

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[182] M.A.J. Beg, "al-Khāṣṣa wa 'l-ʿĀmma", in *The Encyclopaedia of Islam*, New Edition, vol. IV, ed. E. Van Donzel, B. Lewis And Ch. Pellat and C. E. Bosworth, Leiden: E.J. Brill, 1997, pp. 1098-1100.

[183] Willem Floor, "Kassa" *Encyclopædia Iranica.*

[184] Nizam al-Mulk, *Siyasatnâma, The Book of Government or Rules for Kings*, trans. Hubert Darke, Yale University Press, 1960, pp.33, 246.

[185] M. Minovi and V. Minorsky, "Naṣīr al-Dīn Ṭūsī on Finance", *Bulletin of the School of Oriental and African Studies*, Vol. 10, No. 3, 1940, pp. 755-789

distinction between these treasuries was very little with regard to the ultimate disposal of the monies a ruler had.[186]

Under Samanids and Ghaznavids the division between *khāssa* and *'āmma* persevered.[187] Although the term *bayt al-māl* was seemingly used less in everyday bureaucratic language; depending on the context, different properties, movable and immovable, were classified under the terms like *khāssa*, *amlāk-e khāss*, *'āmma*, *mulk, sultāniya, dīwāniya, inju.* The Ghaznavids also administered state departments with *dīwān*s: *Dīwān-ı wazīr* (the premier financial department), *wakīl-i khass* (in charge of the personal estates of the Ghaznavid family), *dīwān-i ghazni* (in charge of the crown lands at Ghazna and local administrative office). The Ghaznavid public treasury had the following major revenues: (i) the crown lands and the private possession of the sultans (ii) escheat to the crown and confiscations (iii) Tribute and presents from dependent rulers and governors, (iv)war plunder, (v) *kharaj* and extraordinary levies. [188]

It is noteworthy that among the revenues of the private properties of the Ghaznavid ruler are paternal inheritance, personal savings, and confiscation in the royal family. The rationale backing this practice might be the sultan was the *ultimus haeres* to those whose

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[186] Adam Mez, *The Renaissance of Islam in the Tenth Century*, (tr. Salahaddin Khuda Baksh and D. S. Margoliouth), Jubilee: Patna, 1937, p.120; C. E. Bosworth, *The Ghaznavids Their Empire in Afghanistan and Eastern India 994-1040*, New Delhi: Munshiram Manoharlal Publishers, 1992, p.68.

[187] W. Barthold, Turkestan Down to the Mongol Invasion, 2nd ed. Oxford University Press, p.221.

[188] Clifford E. Bosworth, *The Gaznavids,* New Delhi: Munshiram Manaharlal Publishers, 1992, pp.67-69.

heirs could not be found, to those who were his personal slaves and eunuchs.[189] These casual items of revenue are called '*tayyarāt'* by Nasīr al-Dīn Tūsī (d.1274).[190] The properties gained through this way were often distributed by the ruler to the royal family, estates, and military slaves were given to the commanders. For instance, as Beyhaqi told, his master Abu Nasir Mishkan died in 1039, while he was in charge of *dīwān-i risālat*. His properties (personal slaves and herds of beasts) were reverted to the sultan, not to his children.[191]

Commenting on the late Samanids, Barthold argues that this was a practice extended in time. Towards the end of the Samanid rule, a law of inheritance was decreed. According to that, upon the death of the officials of the *dīwān*, a part of their property would pass to the crown. Later, in the district of Beyhaq, upon the death of each individual, a part of their property will pass to the crown if the sons do not survive them. In the final decree, it was extended even to the property of those who left sons, or direct heirs.[192] The grounds for this perplexing occasion might be related to the properties granted to the government officials as allowances till the end of their service in the office, not as an absolute interest.[193] Even so, it

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[189] Quoting from Beyhaqi's *Tarikh-i Mas'ud,* and Gardizi's *Zayn al-Akhbar*, Bosworth states that Mas'ud (d.1040) was very heedful in getting the treasure of his deposed brother Muhammad into his hands; and Muhammad's writing to his brother Mas'ud on this transferring makes the confiscation obviously legal. Clifford E. Bosworth, *The Gaznavids,* New Delhi: Munshiram Manaharlal Publishers, 1992, p.70

[190] M. Minovi and V. Minorsky, "Naṣīr al-Dīn Ṭūsī on Finance", *Bulletin of the School of Oriental and African Studies*, Vol. 10, No. 3, 1940, pp. 755-789

[191] Abu'l-Fażl Beyhaqi, *The History of Beyhaqi* (*The History of Sultan Mas'ud of Ghazna 1030-1041*) *v. II* (tr. Clifford E. Bosworth, rev. Mohsen Ashtiany), Boston-Cambridge: Harvard University Press, 2011, pp.290-291, for another episode see p.188.

[192]W. Barthold, *Turkestan Down to the Mongol Invasion*, London: Oxford University Press, 1928, p. 259.

[193] Clifford E. Bosworth, *The Gaznavids,* p.70.

is noteworthy to know how heedful were the officials in taking the properties; they compared two documents so as to verify the properties of the ruler. The first is the document the deceased master wrote before his death as inventory for the royal treasury of whatever he had possessed. The second is the actual properties found and listed after his death by the officials.[194]

2.6 Beytülmal as co-heir: Heirship and Escheat in Islamic Legal Schools

The works of *fiqh*, and particularly the works of Islamic law of inheritance, '*ilm al-farāiz*, extensively examine the conditions and the proportions of the inheritance to be allocated among the available heirs. Based on the Sharī'a, the *bayt al-māl* also claims the inheritance (or part of it) of a decedent in specific circumstances. For that reason, there are two topics of consequence and related to the *bayt al-māl*: The conditions that the inheritance devolve to the treasury, and the legal-theoretical grounds of *bayt al-māl* claiming.

According to four major legal schools, there are several heirs within the law for an intestate property, that is the owner of the property died without leaving a statement of will. The inheritance only be claimed legally, i.e., as a solvent estate, after the funerary expenses and debts are deducted. The clusters of heirs are organized based on their relation to the deceased person which are established through marriage (*nikāh*), blood relationship (*nasab*),

[194] Beyhaqi sadly thinks that how his master would be agitated if the *'amir* had asked him any of these properties in his life, but now, he simply left all of it. Abu'l-Fażl Beyhaqi, *The History of Beyhaqi v.II,* p.291.

and *wala'* (clientship[195]).[196] The schools agree upon the distribution of the fixed shares (*farāiz*[197]) to the Qur'anic heirs (*ashāb al-farāiz*[198]), and the distribution of the residual to male agnate relatives ('*asaba*). In case of the absence of those heirs, *zawu'l-arhām*[199](cognate relatives) become heirs. If none of these heirs survive, the property reverses to the *bayt al-māl*.[200] However, the early adherents of the Mālikī school accepted the *bayt al-māl* as the residuary heir and denied the heirship of *zawu'l-arhām* in that condition.[201] Parallel to this

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[195] Between the patron and the manumitted slave, J. Schacht and, A. Layish "Mīrāth" in *The Encyclopaedia of Islam,* New Edition, vol.VII, ed. C.E. Bosworth, E. Van Donzel W.P. Heinrichs and CH. Pellat., Leiden- New York: E.J. Brill, 1993, pp.105-113.; R. Brunschvig "ʿAbd" in *The Encyclopaedia of Islam, New Edition,* vol.I, ed. H. A. R. Gibb *et al.* Leiden: E.J. Brill, 1986*,* pp. 24-40.

[196] Ali Himmet Berkî, *İslam Hukukunda Ferâiz ve İntikal* (3.baskı), Ankara: Diyanet İşleri Başkanlığı Yay., 1986, p.29.

[197] The entitled shares in estates of the deceased person based on the Qur'an. Th.W. Juynboll, "Farāʾiḍ" in *The Encyclopaedia of Islam,* New Edition, vol.II ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, Leiden: E.J. Brill, 1991, p.783.

[198] "Those entitled to prescribed portions." N.J Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, p. 30.

[199] In literal sense it means 'the possessors of a uterine relationship'. If the first two cluster exist, *zawul'l-arhām* could not claim any property. N.J. Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, p.30.Hamza Aktan, *Mukayeseli İslam ve Miras Hukuku,* İstanbul: Işık Akademi yay.2008, p. 224.; Abdüsselam Arı, *İslam Miras Hukuku*, İstanbul: Pınar yay., 2018, pp.67-68.

[200] If the deceased husband does not have any children or any children of their son, the wife takes ¼ of her husband's inheritance. If any of their children (son or daughter), or the children of their son are living, the wife takes 1/8 of the inheritance. In case the wife deceased, the husband takes ¼ of his wife's inheritance in the first, and ½ in the second. In case of no surviving heirs the rest is claimed by the Treasury. Ali Himmet Berki, *İslam Hukukunda Ferâiz ve İntikâl*, Ankara: Diyanet İşleri Dairesi Başkanlığı, 1986, p. 46.

[201] Hamza Aktan, *Mukayeseli İslam ve Miras Hukuku*, İstanbul: Işık Akademi yay.2008, p. 224.

view, the Mālikī school also denied the following three cases of successions, which are clearly in favor of the *bayt al-māl*: (i) the proportionate share of the inheritance to the Qur'anic heirs in the absence of any agnate relatives[202] (ii) the share of *zawu'l-arhām* (cognate relatives) in the absence of the Qur'anic heirs or '*asaba* relatives (iii) disposing of the whole estate by will in case of no surviving relatives, on which the majority accepts that there should be no restriction like one-third of the estate.[203]

To elaborate the first, in the law of inheritance the doctrine of *radd* (the law of reversion) allows a proportioned share of the whole inheritance to the *ashāb al-farāiz* in the absence of any '*asaba* relatives. In this case, the inheritance is exhausted, and no residual is left. The early Shāfi'ī and Mālikī schools accept that after the Qur'anic heirs got their fixed shares in the first round of portioning, the rest should be taken by the Public Treasury.[204] Secondly, the Shāfi'īs and the Mālikī s modified their position on the heirship of cognate relatives depending on the moral circumstances of the public treasury. From the third century (AH) onwards, the later adherents of the school preferred the heirship of the *zawu'l-arhām* instead of *bayt al-māl* as the latter's condition was deemed in disorder.[205]

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[202] Hamza Aktan, *Mukayeseli İslam ve Miras Hukuku*, İstanbul: Işık Akademi yay.2008, p. 224.; N.J. Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, pp.49-50.

[203] "They were excluded by the ever-present Public Treasury", N.J. Coulson, *A History of Islamic Law*, Edinburgh University Press, 1964, p. 98.

[204] Coulson says the Mālikī s remained faithful to this view, i.e. no *radd.* They did not accept exhausting the inheritance for the Qur'anic heirs. N.J. Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, p.49.

[205] Muhammad Abû Zahra, *Aḥkâm al-Tarikât wa'l-Mawârîs*, Cairo: Dar al-Fikr al-'Arabî, 1963, pp.191-192.; Hamza Aktan, *Mukayeseli İslam ve Miras Hukuku*, İstanbul: Işık Akademi yay.

Strikingly, Joseph Schact reminds that in each case where the state treasury is regarded as an heir, the first thing to consider is whether the treasury is "administered according to law of the benefit of Muslims". If it is not, the *radd* and the share of the cognate relatives is applied respectively. In the absence of those, female line relatives are called upon to inherit. In the absence of those, any Muslim that fits to take possession of the inheritance for the general good of Muslims is considered an heir.[206]

The legal conditions discussed above might be regarded as reciprocal: while the inheritance's side meets the conditions to deliver the inheritance to the treasury to the extent that it pushes the limits in the Qur'an to come to that conclusion, the *bayt al-māl* side is expected to conduct properly and justifiably. The organization of the *bayt al-māl* should be based on the "constitutional precepts of the Sharī'a", and it should function justly in collecting the revenues and making expenditures.[207] In this regard, the proper administration of the *bayt al-māl* re-determines the property relations among the Muslim community, as well as its being of the heir. To be more specific, the legal schools put their endeavor to deduce the right of the *bayt al-māl* in the inheritance; especially the Mālikīs counted in the

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2008, p. 224.; N.J. Coulson, *Succession in the Muslim Family*, New York: Cambridge University Press, 2008, pp.49-50.; Abdüsselam Arı, *İslam Miras Hukuku,* İstanbul: Pınar yay., 2018, pp.182-183.; For further discussion on the issue of preference in inheritance, see Hamza Arslan "İslam Miras Hukukunda Terike Taksiminde Gözetilen Maslahatlar", MA Thesis, Fırat Üniversitesi, 2009 and Mehmet Seven, "İlkeler ve Hisseler Açısından İslam Miras Hukukunun Dayanakları", MA Thesis, Selçuk Üniversitesi, 2006, pp. 24, 27, 112 and others.

[206] J. Schacht and, A. Layish, "Mīrāth", in *The Encyclopaedia of Islam,* New Edition, vol.VII, ed. C.E. Bosworth, E. Van Donzel W.P. Heinrichs and CH. Pellat., Leiden- New York: E.J. Brill, 1993, pp.105-113.

[207] Abû Zahra, Aḥkâm al-Tarikât wa'l-Mawârîs, p.192; N.J. Coulson, Succession in the Muslim Family, p.50

bayt al-māl excluding the cognate relatives. The later modifications in the legal conclusions prove that rather than who is to claim the property, the scholars focused more on why is to claim and how to properly avail of the Muslim community with this peculiar revenue.

While the early scholars held the position that even if the cognate relatives are suffering from poverty, they might get only a share of the inheritance (in the absence of Qur'anic heirs and *'asaba*) so as to reserve the rest for the *bayt al-māl*, the later scholars preceded the share of cognate relatives, and non-relatives to the *bayt al-māl*. Benefitting the Muslims, or the community in general, was held as the fundamental principle in theory, when it comes to the *bayt al-māl*'s claim on the inheritance.

The Hanafī, Hanbalī, and the later Shāfi'ī schools based their take on the precedence of the *zawu'l-arhām* upon the Qur'anic verse: "In God's Scripture, blood-relatives have a stronger claim than other believers and emigrants…"[208] Accordingly, the blood relatives have a superior right of inheritance to that of other Muslims or the community represented by the *bayt al-māl*.

In respect to the theoretical grounds of the *bayt al-māl*'s claiming the schools also have different opinions. First and foremost, though the Qur'an extensively mentions the substantial heirs of inheritance in their names, the treasury is not mentioned. Based on this, the Hanafīs recognize the *bayt al-māl*'s claiming only by escheat. To be more specific, the estates and the properties in the inheritance were considered unclaimed, thus the ultimate legal entity, the treasury, act as the claimer. According to that the (unclaimed) inheritances of the non-Muslims, too, are included in this category.[209]

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[208] Sura al-Ahzab, 6, *The Qur'an* (Oxford World's Classics) translated by M. A. S. Abdel Haleem, Oxford University Press, 2005, p. 266.

[209] Abdüsselam Arı, *İslam Miras Hukuku*, Pınar: İstanbul, 2018, p. 71.; Hamza Aktan, "Miras" *TDV İslâm Ansiklopedisi*, Vol. 30, 2020, pp. 143-145.

However, the Mālikīs and early Shāfi'īs regard the *bayt al-māl* as a residuary heir whose degree precedes and excludes the *zawu'l-arhām*. Moreover, though this heirship is not based on a defined share, the Mālikīs confine the testamentary liberty of one who dies without any surviving relatives to one-third, as the treasury is the residuary heir. Unlike the Sunnî majority's view of escheat, this heirship right also denies the doctrine of *radd* discussed above.[210]

This ground of heirship right is modified when it comes to the inheritance of an apostate (*murtadd*). In that case, the Shāfi'ī school accept the *bayt al-māl*'s claim by escheat, as Muslims could not inherit the property of non-Muslims. Reflecting the experiential and down-to-earth jurisprudence in Islamic law, the inheritance of an apostate decedent is divided into two; before and after apostasy acquired properties. Based on that, his/her family may inherit the properties acquired before apostasy; the rest is claimed by the *bayt al-māl* as that inheritance of a *murtadd* is considered as *fay'*.[211]

Finding a reliable and befitting heir that take possession of the inheritance for the general good of Muslims is an endeavor compatible with the verses in the Qur'an.[212] However, this did not end the debate about the *bayt al-māl*'s claims on the inheritances, particularly when it comes to the share of the *zawu'l-arhām*, the proportionate shares, and bequests.

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[210] N. J. Coulson, *Succession in the Muslim Family*, p. 188.; Şakir Berki, "Türk Miras Hukukunun Esasları", *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, 1954, pp.174-221.

[211] Hamza Aktan, *İslam ve Miras Hukuku*, p.54.; N. J. Coulson, Succession in the Muslim Family, p. 188.

[212] Hamza Aktan, "Miras" *TDV İslâm Ansiklopedisi,* Vol. 30, 2020, pp. 143-145.

2.7 Conclusion

It is out of the scope of this study to cover the entire history of the *bayt al-māl*, especially when the differences between the disintegrated individual Muslim polities became further accentuated. For that reason, this part contents with a general survey of the institution, the use of the term *bayt al-māl*, and the other terms that have been used to denote the similar ends in the origin.

Following the traces of a single term or an institution calls a number of different concepts and institutions into question. Representing different bureaus in the functioning of the state, *dīwān* would be a focal example of this ramification in the classical period. *Dīwān*s manifested the formation of a bureaucratic and centralized Muslim state and the elaboration of the organization of public treasury, financial administration, and revenue collecting. Though the use of the term was limited in post-Umayyad polities in favor of *dīwān*, the *bayt al-māl* has been in the center of this elaboration.

However, a decisive and to a great extent, unchanged law of the beytülmal was persevered. Different proceeds of the treasury were saved in different reserves. The revenues and their expenditures may have changed, but the division between the private treasury (*Hazine-i Hassa*) and public property (*Hazine*, or *Hazine-i Amire*) was maintained in the Ottoman Empire to an extent. Moreover, the Ottomans divided the office for the collection of the unclaimed properties into two bodies: *beytülmal-i amme* and *beytülmal-i hassa*. Rather than who is to dispose the property, this was mainly based on the amount of the inheritance and the decedents' serving for the state.

Based on the law of inheritance, the Ottomans also claimed heirless and semi-heirless inheritances in the early modern period. The normative texts show that so as to organize the administration of the heirless properties, and deliver the estates in case of living heirs, the conditions, procedure and rules to be followed were stated both in the general and provincial

*kanunnâme*s from the fifteenth century onwards.[213] Unlike the pre-Ottoman legal debate, the records show that the officers and judges did not question the right of the distant relatives or *zawu'l-arhām*. The written and verbal statements, as contracts between private persons, and the statement of wills were accepted in the courts if they sufficiently proved. However, misconduct of the officers and the special circumstances that play between inheritance claiming and confiscation were also seen in this period.

Since the empirical sources of this part areblimited, it is difficult to make further connections between the Ottomans and pre-Ottoman Islamic polities regarding property claiming. Yet, based on the available sources, it might be concluded that the inheritances of the government functionaries, merchants, and wealthy subjects always attracted the treasury's (if not rulers') attention, for which a detective-like property search and torture were employed.[214] Having a particular organization in charge of claims,[215] the Ottomans also kept an eye open for the potential unclaimed properties irrespective of the amount.

[213] The beytüilmal in normative texts will be examined in Chapter 3.

[214] See Adam Mez, *The Renaissance of Islam,* pp. 114-118

[215] The beytülmal mukataas and the operation of the system will be examined in Chapter 5.

CHAPTER 3

THE BEYTÜLMAL IN THE EARLY MODERN OTTOMAN NORMATIVE TEXTS

Beytü'l-mâl-i müslimîn-ki vedîat-i hâliqu'l 'âlemindür nâ-sezâlara virilmek özge ma'siyet ve nâ-mahallere revâ görülmek turfa musibet idügi de kemâ yenbağı bürûz u zuhur bulur. Bu bâbda asla tecâhül 'özr olmaz Ve vükelâ hâlinden tağaful Yevmü's-suâlde cevâb-i bâ-savâb olması sübût bulmaz.
(Nüshatü's-Selatin, Mustafa Âli)

İmdi; Beytü'l-mâl-i müslimîne sa'y ü ikdâm itmek sa'âdet-i dâreyn idüği mukarrerdür.[216]

3.1 Introduction

The term *beytülmal* as the public treasury was rendered in the normative texts, documents, and scholarly writings that originated in the Ottoman Empire. Considering it as a fiscal and moral entity, these sources generally reminded its meaning with a religious and political responsibility of the 'people' towards God and political authority—and hence towards fellow Muslims. Its existence rested on the proper organization and administration of the means of the empire: the tax-paying subjects, government and its functionaries, and any political and fiscal relation established between them.

The previous chapter dealt with the beytülmal in pre-Ottoman Islamic history focusing on its institutional development, and revenue raising through unclaimed property. It tried to illustrate the potential of conceptual and theoretical connections between the beytülmal (the treasury) in the pre-Ottoman period and the *beytülmal* institution in the Ottoman empire. Having this background, this chapter will focus on the theory of the *beytülmal*, the history of the concept, and legal regulations in its institutional development.

[216] A.DVNS.MHM.d. 7/ 2587.

The ground for the legal system in the Ottoman Empire was *shari'a* from which the knowledge of Islamic jurisprudence (*fiqh*) was developed.[217] The field of knowledge, *fiqh*, and the relevant works circulated, venerated, produced, and reproduced[218] in the Ottoman realm from the fourteenth century on[219] were the essential sources of developing *şer'i* rules applied in the courts of the empire. However, to provide all necessities of life for generating a sense of order, *kanun*, promulgated by the legislative authority of the ruler coexisted with the *şer'i* rules. The Ottomans maintained their order based on this coexistence of *kanun* and *sharia*.

The *beytülmal*, either in the sense of public treasury or revenue type (unclaimed properties[220]), was one of the subjects that lie at the center of this coexistence in the Ottoman legal system: The ruler's right to claim the unclaimed properties was recognized by Islamic

[217] Engin D. Akarlı, "The Ruler and Law Making" in *Law and Empire Ideas, Practices, Actors* (ed. Jeroen Duindam et al.) London-Boston: Brill, 2013, pp. 87-111

[218] Recep Cici, "Osmanlı Hukuk Düşüncesini Etkileyen Kaynaklar", Uludağ Üniversitesi İlahiyat Fakültesi, pp.215-146; Guy Burak, *The Second Formation of Islamic Law: The Hanafi School in the Early Modern Ottoman Empire*, Cambridge: Cambridge University Press, 2015, pp.130-135.

[219] Abdurrahman Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, Cambridge: Cambridge University Press, 2017, pp.28-45.

[220] For the second meaning of the beytülmal, there are a couple of suggestions like the estates without heirs, the inheritances without heirs, the legacies of deceased persons, unclaimed inheritance, etc. Since it covers other properties, like a found and picked up property, a stray animal, or any abandoned property, in this study the version 'unclaimed properties' is used. However, depending on the context others are also applied.

inheritance law.[221] Besides, the public treasury was governed by complex legal regulations issued by the legislative authority of the rulers.

Aiming to understand the making of law and the developments in normative texts relevant to *beytülmal*, this chapter will consider it as an Ottoman legal institution. The evolution of the legal doctrine for the *beytülmal* will be scrutinized based on the sources utilized roughly between 1450 and 1700. On that account, the general and provincial *kanunnâme*s, written by the initiative of the Ottoman imperial authority at the hands of scholar-bureaucrats,[222] and the *fetva*s of some Ottoman Şeyhülislams and provincial muftis will be examined. Through this scrutiny, the chapter aims to bring forward a rather broad view of doctrinal evolution considering *beytülmal*, and similarities and differences between the norms in different sources of law.

3.2 The Beytülmal as the Treasury

The term beytülmal was commonly used to denote the state treasury in Islamicate world since the 7th century. It indicated a structure where the properties and monies (booty, alms, *kharaj, jizya,* and tithe) were stored for maintaining the Muslim community. Particularly after 'Umar's (d.644) caliphate, it came to mean a more developed institution of

[221] Except for man and wife, the legal heirs of a deceased could claim all the inheritance. While a wife could claim the only ¼ of her husband's inheritance, a man could claim ½ of his wife's inheritance. In case there are not any existing heirs except man or wife, the rest is claimed by the state. Şakir Berki, "Türk Miras Hukukunun Esasları", *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, 11/3, 1954, pp.174-221. A. Himmet Berki, *İslâm Hukukunda Ferâiz ve İntikâl*, Ankara: Diyanet İşleri Başkanlığı Yay. 1985, p. 113. Also, see chapter 2.

[222] "As legal experts, they fulfilled judicial, scribal, financial, and military tasks for the Ottoman government." Abdurrahman Atçıl, *Scholars and Sultans*, pp. 5-6.

the state, organized and functioned to protect and reserve public properties pursuant to the rules in Islamic law. The Ottoman use of the term was similar to that theoretical sense.

3.2.1 The use of the Beytülmal in the Early Modern Texts

Beytülmal or *beytülmal-i müslimin* took place in a dazzling spectrum of the primary sources of the Ottoman Empire. Though the emphasis may differ from one source to another, the ultimate significance of the *beytülmal* was mostly associated with the monies and properties that the government had a claim over, i.e. the public properties. Both the ordinary subjects and the government functionaries have a religious and legal responsibility towards the *beytülmal*, including but not limited to tax-paying and tax-collecting.

For example, in *Kanunnâme-i Cedid*, which is different from a typical *nişancı*-authored *kanunnâme* in the sense that it includes *fetva*s given by the muftis on certain topics,[223] Ebussuud states: "The lands of the well-protected domains, known as *mîrî*, were *memleke/mulk*; reaya hold the usufruct rights of these lands by means of lending from *beytülmal-i müslimîn*."[224] The *fetva* exhibits the difference between a freehold property (*mülk*) and public property (*beytülmal-i müslimin*) with respect to the lands and properties on

[223] Halil İnalcık, "Kanunnâme" *TDV İslam Ansiklopedisi*, Vol.24, 2001, pp. 333-337.; Fatma Gül Karagöz, "The Evolutıon of Kânûnnâme Writing in the 16th and 17th Century-Ottoman Empire: A Comparison of Kânûn-i Osmânî of Bayezid II and Kânûnnâme-i Cedîd", Master's Thesis, Ankara: Bilkent University, 2010.

[224] "...Sâir memâlik-i mahrûsede arz-ı mîrî dimekle ma'rûf olan arazi memleket/mülk kabilinden olub rakabe-i arz beyti'l-mal-i müslimîn içün âriyet tarîkiyle reayanın tasarruflarında olub…" *Kanunnâme-i Cedid*. This fetva was issued by Ebussuud, upon the conquest of Hungary by Süleyman I in 1541. Ebussuud might have reformulated it so as to be included in the *kanunnâme* as a state regulation. Halil İnalcık, "Islamization of Ottoman Laws on Land and Land Tax", in *Essays in Ottoman History*, İstanbul: Eren Yay., 1998, pp.155-173.

it, like vineyards, orchards, trees, and fields. There are some other terms employed similar to the *beytülmal* for stating what could not be possessed (absolutely) by the subjects; *mamlaka*, *mîrî*, and *rakaba* (*Dominium Eminens,* the essence). Each of these terms designates that the properties in this category are all under the general rubric of the *beytülmal*, and their bare ownership (*raqaba*) is at the hands of the ruler by law for the benefit of Muslims.

That might be the reason for replacing the term *miri* with the *mamlaka*, meaning "the lands under the absolute authority of the imam" in some of Ebussuud's *fetva*s.[225] For instance, in the *kanunnâme* issued for Skopje and Salonika it is stated that some parts of this region are called as *arz-ı memkeket* (the state lands), which is neither *ushr* nor *haraciye*. To prevent difficulties and suffering in the process of sharing the inheritance, and setting down the taxes upon the new circumstances, the property right of those lands was retained for *beytülmal-i müslimin*.[226] This part is also written based on an Ebussuud issued *fetva* and lays emphasis on the property rights in these lands. Accordingly, the bare ownership and the

[225] Mes'ele: Arâzî-i memleketi sultan temlike kadir midir? El-cevab: Kadirdir. (824); Su'al: Arz-ı mîrî, arz-ı öşrî midir, yoksa harâcî midir? Ve tasarruf eden re'âyânın bey' eylemeleri ve rehin komaları ve miras değmesi ve şüf'a câri olması şer'an caiz midir? Cevab: Aslâ caiz olmaz. Ne öşrîdir ve ne haracıdır, ikisi dahi ashabının memlûküdür. Buna mutasarıf olanlar malik değillerdir. Memlekettir. Alınan eğerçi arzın haracıdır. Amma arzın rakabesi beytülmal için alıkonmuştur. Reayaya temlik olunmamıştır. (826). Ertuğrul Düzdağ, *Şeyhülislam Ebu'su'ud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, İstanbul: Enderun Kitabevi, 1972, p.167.

[226] "... Sahiblerine temlik olunduğu takdirce fevt olup verese-i kesîre mâbeynlerinde taksim olunup her birine bir cüz'i kıt'a degüb her birinin hissesine göre haraçları tevzî' ve ta'yin olunmakda kemâl-i su'ûbet ve işkâl olup belki 'âdeten muhal olmağın rakabe-i arazi beytülmal-i müslimin için alıkonulub reayaya ariyyet tarikiyle virilüb ziraat ve hiraset idüb bağ ve bahçe ve bostan idüb hasıl olandan harac-ı mukasemesin ve harac-ı muvazzafın virmek emr olunmuşdur". Barkan, Kanunlar I, pp. 298-299. See also p. 300 "... kendülere temlik olunmayub beytülmal-i müslimine ihraz olunduktan sonra..."

authority of these public properties are only in the hands of the *imam*, the ruler, for the interest of the common i.e. the *müslimin*.[227]

Taking over the property from the possession of individuals, in case the property is believed to be owned illegally, or reverting the property to the government in case no heir was found is called 'returning to the beytülmal' (*beytülmale raci* and '*ayid*). While the sixteenth-century registers utilized these types of phrases for the right of escheat of the government, in the *kanunnâme* of Mehmet II and Bayezid II, the term '*beglik'* (belonged to the state) was employed instead. Designating the type of the property, it is both used as an adjective (*beglik arazi*) and noun (*beglik ede*).[228] However, some of those might be said the fiscal penalties imposed particularly for illegal commercial transactions and generally resulted in partial confiscation (*müsadere*) of the property at issue.

Abdurrahman Abdi Paşa (d.1692), a late 17th century Ottoman scholar-bureaucrat and historian specifies the responsibility of the *defterdar* (the chief financial officer,

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[227] As a well documented phenomenon by the historians of the field, the Ottoman empire was composed of multi-ethnic and multi-religious socieites; and governed, in principle from the same imperial center. The public properties designated as 'beytülmali müslimin' were spent for the interest of all, non-muslims too. Thus, the phrases like 'the interest of the common' or 'beytülmali müslimin' is inclusive of all of their rights and shares in treasury in practice, if not also in theory.

[228] …ve her kim amilden ugurlayın anbar kurub susam satacak olursa, mezkûr kulum bula, elinden alub beglik ede ve kendünün gereği gibi hakkındnan gele…", "… arabalarun öküzlerin beglik edüb kendülerün hakkından geleler…". Halil İnalcık, Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani II. Mehmed ve II. Bayezid Devirlerine Ait Yasakname ve Kanunnâmeler*, Ankara: Türk Tarih Kurumu, 2000, pp.53, 68, 76 and others.; See also Marinos Sariyannis, "Ruler and State, State and Society in Ottoman Political Thought", *Turkish Historical Review,* 4, 2013, pp. 120-122.

Treasurer) in his *kanunnâme* as follows:[229] "…In particular, to preserve the central treasury from taking the right of the orphans, and to hold *beytülmal-i müslimin* off having ill-gotten gains is equal to respect the glory of faith and dynasty." ("*...Husûsâ emvâl-i yetâmâdan hazîne-i âmireyi sıyânet ve beytülmâl-i müslimîni mâl-i harâmdan himâye etmek heman 'ırz-ı dîn u devlete ri'ayet itmekdür*).[230] The author uses the term *beytülmal* with a religious connotation to remind of the officers the significance of its preservation. In this way, perfecting the realm of the *beytülmal* is regarded as a responsibility towards God. However, in the rest of the lines related to the finance officers, he does not use the term *beytülmal* and emphasized only the practical details.

The right of the *beytülmal-i müslimin* is referenced as an inescapable and paramount fisco-moral authority that both the state functionaries and the subjects should abide by. Omitting to distinguish the public properties from the private ones, and neglecting to secure the former's collecting is disregarding "the interest of the *müslimin"*, thus the order of faith and dynasty. [231]

The provincial administrators of different ranks were almost always warned to be attentive to the *beytülmal* in many ways: Acting in accordance with the benefit of *beytülmal* (*beytülmâl'e enfa' olanıla amel olunup*), not causing any harm and putting the ultimate effort

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[229] Tevkî''i Abdurrahman Paşa, Osmanlı Devleti'nde Teşrifat ve Törenler, haz. Sadık Müfit Bilge, İstanbul: Kitabevi, 2011, p. xıı.

[230] Abdurrahman Abdi Paşa Kanunnâmesi, *Milli Tetebbu'lar Mecmuası*, c.1, sy.3 (Temmuz-Ağustos 1331), pp. 516-517.

[231] In the kanunnâme of Malatya livası, (1559), "…it is the right of the *beytülmali müslimin* to collect at least three akçes per hundred vineyards post from those areas who previously paid only two akçes for the same." Ömer L. Barkan, (haz. Hüseyin Özdeğer) *XV. ve XVI. Asırlarda Osmanlı İmparatorluğu'nda Zirai Ekonominin Hukuki ve Mali Esasları*, c. I, *Kanunlar*, İstanbul, 1943, p. 117. (see also 115 in the same kanunnâme, Malatya Livası Kanunu, 1559)

for increasing the revenues of the *beytülmal* (*beytülmâl'e dahi zarar olmayup tevfîr ü teksîri bâbında mücidd olasız*). The administrators in charge were not only liable for the potential future raising of the public properties, but they should also audit the retroactive financial operations: "*Beytülmâl'e gadrolunmış mıdur ve hılâf-ı şer'-i kavîm te'addî olmakdan ihtiyât idüp muhtâc-ı arz olanı yazup bildüresiz*". For instance, the possible outcomes of performing to the benefit of the *beytülmal* are expressed as follows:

> "Beytülmâl-i Müslimîni hıfz ve himâyet ve mahlulat-ı kesire izhâr olunması hususatına sarf-ı nakdiye-i liyakat ve bezl ve sa'y ve gayret olunarak Beytülmâl-i Müslimîne enfa' olacak hâlâtın istihsâline dâmen-i dermeyân-ı gayret olunub itlâf ve izâ'ından vikâye olundukça beher sene mevâcibleriniz serî'u'l-husûl emvalden derdest ve ahziyle mesrûr olacağınızı bir hoşçca mulâhaza eyleyerek beher hal cümlenizi bi'l- ittifâk bu bâbda kemâl-i gayreti meyan-ı sadakate bend eyleyüb …"[232]

According to that if the administrators show their highest effort for achieving the above-mentioned goals, it is more likely that they are pleased to get their wages swiftly each year.

The Ottoman scholar-bureaucrats and state functionaries of different ranks employed the term *beytülmal* if they saw fit for the coherence of the text they are handling. In general, *beytülmal* was used as a moral reminding to those in charge of collecting and supervising public properties.[233] According to that, regardless of their rank, government functionaries should uphold the realm of the *beytülmal* in different ways and should not waste one single

[232] 2 Numaralı Mühimme-i Mektûme Defteri (H. 1208-1211/ M. 1793-1797) Transkripsiyon ve Değerlendirmesi (s. 1-30), Pub. Master's Thesis, Fırat Üniversitesi, Elazığ, 2016, p. 66.

[233] For instance, in the Hanya Kanunu, prepared in accordance with the harac sections of the fiqh books, the term used two times in the sense of the public property. Ömer L. Barkan, *Kanunlar I*, pp. 353-354.

gurush of the Muslims.[234] Furthermore, the laypersons were also held liable for being aware of the *beytülmal* revenues. Apart from being a proper taxpayers, they should be mindful of the properties that might, in one way or another, fall to the beytülmal.

3.2.2 The Beytülmal in Dede Cöngî's (d.1567) Treatise: *Risâlah Fi Amwâli Bayta'l-mal wa Aqsâmihâ wa Ahkâmihâ wa Masârifiha*

Dede Cöngî's (d.1567) nineteen folios treatise is written in Arabic and titled *Book on the Sources of Revenues and Expenses and the Rules and Divisions of the Public Treasury.* In the preamble of the book, the author begins with the praise of Allah that he has given his blessings for the use of booties (*ahalle'l-maghanim li–hazihi'l-ummah*): "Those who hold their claims on wealth are assigned their shares thanks to the Sultans and the caliphs as they are entitled to allocate the shares in justice." He then salutes the prophet Muhammad as the "first sharer of the alms, taxes, and the booties." After praising the family and the companions of the prophet and the caliphs, he presents the treatise as a gift to the caliph of the time, Prince Mustafa (d.1553), Süleyman I's son.

Dede Cöngî gives grounds for the idea of public property and the Sultans' authority to preside over it:

"In this clear religion of Islam and its law (*şer-i şerif*) the only authority who has disposal and custody right of the monies and properties in the *beytülmal* is the caliphs and the sultans; and this is established with the guidance of the prophets, the messengers, the great companions, the scholars, and the followers. This is not because the property belongs to them, it is perhaps because they are bestowed the sultanate and the imamate to preclude

[234] Abu Yusuf also said: "Do not cause damage and destruction of those you are shepherding". Abu Yusuf Ya'kûb b. Ibrahim, *Kitāb al-Kharaj*, Bulak, 1302, p.5.

corruption and disorder in this world as they are the agents and the caliphs of Allah, the eternal owner of sovereignty (*malik al-mulk*). Despite having a claim on the *beytülmal,* before the division of the caliph or the imam, no one can get (or claim) a share just because they capture it (*la yamlikune bi'l-istilā*). The Prophet was sending deputies to obtain the *beytülmal* revenues. After sharing it out to sections, they delivered the revenues to the beneficiaries."[235]

He then quoted a hadith narrated by Muadh ibn Jabal; "the prophet said for a person what is lawful (*jāiz*) and permissible (*halāl*) [to have/hold] is only with the approval of the head of the state. He then clarifies this justification with the *fiqh* books that were highly reputed also in the Ottoman Empire.[236]

The sultans and the caliphs hold the right of disposition and the guardianship of the *beytülmal*, which consists of four types of revenues. In theory, these revenues of the beytülmal were gathered in different sections and the expenses of these sections are also distinct from each other and disconnected.

Dede Cöngî summarized the four categories (*arba'a asnaf*) of the *beytülmal* as follows:

1. The alms, which is like *zakat as-sawâim* for which the caliph is in charge. All types of taxes on animals, *kaffarah* (atonement), and '*ushûr* (a custom duty on Muslim merchants)
2. *Kharaj* and *Jizya*. It is set either by amicable agreement (*bi's-sulh*) between two sides or is set as a poll tax levied based on the number of non-Muslims. The alms that the Christian tribe of Banu Taghlib is

[235] Dede Cöngi, Risâle fî Emvâli Beyti'l-mâl ve Aksâmihâ ve Ahkâmihâ ve Masârifihâ, Süleymaniye Ktp. Esad Efendi, no. 3560, 5a.

[236] Like Mukhtasar of Al-Tahawi, Nâsiruddin Tûsî, Semerkandî, Tatarhaniye and Bezzaziye.

paying, the gifts that the Najran Family is giving as *fay* and *ghanima* (booty), and the gifts sent to the sultans and the caliphs by *harbî*s (the inhabitants of *dār'al-harb*), and the tariffs taken from *dhimmi* and *musta'min*[237] (*protégé*) merchants.

3. The properties obtained through the fifth (*khums*) of booties (*ghanimah*), mineral sources (*al-maadin*), treasure (*al-kanz*), and treasure trove (*rikāz*). These are also known as *penç-yek* (fifth in Persian) or pençik in the Ottomans.
4. The properties obtained through the inheritance (*mukhallefāt*) of the heirless deceased persons that the state has the ultimate claimer; the properties obtained when one of the two, in a married couple, died without inheriting another person (the state has the claim on the rest of the inheritance after the surviving spouse got his/her share), and the troves (*al-luqata*).

This brief description of the beytülmal theory and the premises for the formation of a public treasury in an Islamic polity were based on the 'reliable fiqh books' venerated among the Ottoman scholars. Thus, in a nutshell, the *beytülmal* that Dede Cöngî explains in detail is the public treasury, *hazine*.

The sixteenth-century scholar and poet Aşık Çelebi adds (*zeyl*) his views and comments on the *beytülmal* in his translation of İbn Teymiyye's (d.1328) *es-Siyâsetü'ş-Şer'iyye*. He explains the significance of the proper administration of the *beytülmal* based

[237] Legally alien non-Muslims in Dâr al-Islam who enjoys protection by virtue of the contract of *amân* (quarter) given to them by Muslims. Muhammad Mushtaq Ahmad, "The Notions of Dār al-Ḥarb and Dār al-Islām in Islamic Jurisprudence with Special Reference to the Ḥanafī School" *Islamic Studies*, Vol.47, No.1, 2008, pp.5-37.

on providing for the government officers[238] Similar to Dede Cöngî, he explains the four categories of beytülmal revenues and the places of the expenses for each of them.

Apart from Dede Cöngî, Na'îmâ (d. 1716) also discusses the above-mentioned revenue categories of the *beytülmal* in his work *Tarîh-i Na'îmâ.* His mention shows up under the title of "Vefât-ı Kadıasker İmâm-zâde Mehmed Efendi." Here, Na'îmâ criticizes the deceased Mehmed Efendi, and his improper measures in administering the treasury, *hazine*.[239] According to that criticism, Mehmed Efendi cut the payments to sâdât,[240] *meşâyîh* (sheikhs), and *ulemâ* (*scholars*). Elaborating on the *beytülmal* revenues, Na'îmâ lays a particular emphasis on the rights of the *ulemâ* and *sulehâ* in the *beytülmal.*[241]

Apart from those scholarly works, in the worldly financial affairs of the government, the Ottomans used the term *hazîne* (*Hazine-i Amire* or *Hizane-i Amire*) more commonly in the meaning of public treasury from the fifteenth century on. Though

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[238] "…emînler ve vâlîler nasb olunup ve her maslahata münâsib mübâşirler nasb olunmak lâzım olup onlara dahi kifâf-ı ma'îşe lazım olup…" Ahmet Çelik, "Aşık Çelebi'nin 'Miracu'l-İyale ve Minhacu'l-Adale' Adlı Eserindeki Siyaset Düşüncesi", MA thesis, Marmara Üniversitesi, 2014.

[239] "Devlet-i Aliyye'den vücûh-ı mütenevvi'a ile hisse-mend olan ağniya ve meselenin aslını mülahaza etmeyen ba'zı kimesneler fukarâ-i ibadu'llâhın sedd-i ramakları yerine cihet ve mâişetleri olan birkaç mankırı çok görüp 'dilenci makülesi bir alay herif bu kadar vazife almanın münâsebeti nedir" deyü…" Mustafa Na'îmâ Efendi, *Tarîh-i Na'îmâ:Ravzatü'l Hüseyin fî Hulâsât-i Ahbâri'l-Hâfikayn*., (Haz.) Mehmet İpşirli, Ankara: TTK 2014, pp.1763.

[240] Officially recognized descendants of Prophet Muhammad. See Hülya Canbakal, "The Ottoman State and Descendants of the Prophet in Anatolia and the Balkans (c. 1500-1700)", *Journal of the Economic and Social History of the Orient*, Vol. 52, No. 3, 2009, pp. 542-578

[241] "Nazar-i insafla nazan olunsa bu dört nev' beytülmal içinde ulemânın ve sulehânın ve fukara ve ebnâ-i sebilin hisse-i şer'iyyeleri vardır…" *Tarîh-i Na'îmâ,* pp.1760-1763.

the documents do not clarify the exact date for the formation of two hazines; external or central treasury (*Birûn*) and internal treasury (*Enderûn*); the *Kanunnâme* of Mehmed II and the documents in the period of Bayezid II, and Süleyman I indicate that this core body of the government was effectively organized early in the fifteenth century.[242] In the later periods, supplementary *hazînes*, like reserve treasury under the supervision of Darphane,[243] and later on *İrad-ı Cedid hazinesi* was created.[244]

3.3 The Beytülmal as a Revenue Type in Normative Texts

The second meaning of the *beytülmal* in the Ottoman Empire is rather narrower but more specific. The beytülmal here corresponds to the fourth category of the revenues of the public treasury in classical *fiqh* books, as well as in Dede Cöngî's treatise discussed above.[245] However, the normative texts, documents, and cases related to the *beytülmal* institution manifest that for the Ottomans it was more than this fourth category of the revenues. The

[242] For different uses of the term see Cengiz Orhonlu, "Hazine" *TDV İslâm Ansiklopedisi*, vol.17, 1998, pp.130-133.; İsmail Hakkı Uzunçarşılı, "Osmanlı Devleti Maliyesinin Kuruluşu ve Osmanlı Devleti İç Hazinesi", *Belleten*, cilt XLII, sayı 165, 1978, pp. 67-93.

[243] Ömerül Faruk Bölükbaşı, *18.yy'ın İkinci Yarısında Darphane-i Amire*, İstanbul: Bilgi Üniversitesi yay., 2013, pp.138-141.

[244] Mehmet Genç, "Esham" *TDV İslâm Ansiklopedisi*, Vol.11, 1995, pp.376-380.

[245] Abu Yusuf, *Kitab al-Kharac*, pp.80-81, Abu al-Ya'la Muhammad b. al-Husayn al-Farra (d.458), *al-Ahkamu's-Sultaniye*, ed. Muhammad Hamid al-Faqî, Beirut: Daru'l-Kutubu'l-'Ilmiyye, 2000 (1421 H), pp.244, 249.; Abu al-Hasan 'Ali b. Muhammed al-Maverdi (d.450), *al-Ahkamu's-Sultaniye*, ed. Ahmed Cad, Cairo: Daru'l-Hadis, 2006 (1427 H), pp. 307-308.

term was used as the name of the properties in question,[246] an adjective,[247] and the name of the institution.[248]

The term stands for several revenues included by law to *beytülmal-i müslimin.* These are particularized in the documents as follows: The property of missing and absent persons (*mâl-i mefkûd* and *mâl-i* gâib), heirless, semi-heirless[249] or unclaimed inheritances (*muhallefat*, *tereke*, *metrûkât*), absconding slaves and stray cattle (*ʿabd-i abîk*, *kenizek*, *kaçkun*, *yava*), and troves (*lukata*). However, depending upon the circumstances, the *beytülmal* officers are also responsible to keep an eye on and collect some other properties too. A deserted land or building,[250] the properties in a caravan in case the carrier was killed,[251]

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[246] "…ve sürgünün beytülmalin zabt idenler nice emvâli bel-ü-ketm eyledükleri" (A.DVNSMHM.d.34/369); "…vaki' olan hukuk ve rüsumu ve beytülmali", A.DVNSMHM.d. 41/ 287.

[247] "…beytülmal varidatı" C. ML, 44/17904.; "beytülmal akçesi" A. DVNSMHM.d, 115/1513.

[248] "...beytülmal tarafından müdahale olunmamak" C.BH 237/11009.; "...terekesi beytülmale aid" DVN.ŞKT. 93/231.; "…beytülmal mukataasının sipahilerden Zülfikar ve Ahmed'e teslimi" TS.MA.e 191/ 9); "…akçesin bi't-tamam beytülmal eminine teslim" TS.MA. e. 892/21. Further examples will be discussed in the later chapters.

[249] With this I mean the properties that the beytülmal institution become a legal-ly heir where another legal heir is also eligible to take his/her share according to Islamic law of inheritance.

[250] MAD, 2775: 536/2405, 708/3165.; MAD, 19322: 9/22; The deserted houses of Mamluk administrators who fled Egypt during the Ottoman conquest were also defined as "*beytülmale raci'*". The governor in charge of fiscal matters and the *kadı* are ordered to survey and register these houses to enable fetching through rent or sale. "Ahvâl-i Hânehâ-i Çerâkise der Mısır" in the Kanunnâme of Egypt. Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri v.6*, Istanbul: Fey Vakfı Yay., 1993, pp. 138-139.

[251] The beytülmal emini is ordered to take control of the properties whose caravaneer was killed at night during their stay in a caravanserai in Yenipazar, Bosnia. MAD, 7534: 800/2434

the properties captured at the hands of robbers (*haramis*),[252] flocks of sheep in case the shepherd has died,[253] and the properties in a sunken or attacked ship,[254] or the blood money of an heirless deceased (killed) person[255] etc.

The Ottomans applied the *beytülmal* as a revenue type early fifteenth century.[256] Compared to its former meaning, the revenue type was multilayered. Being an officer of either *beytülmal-i hassa* or *amme*, the titles *emin-i beytülmal*, *beytülmalcı*, and *beytülmal ağası* are used. They were strictly ordered to operate with the participation of *kadı*s.

Based on this revenue type, the Ottomans generated a legal institution for providing social assistance for the subjects in need, and for protection of their rights in case they are

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[252] In Zihne district, the beytümalci was ordered to send a detailed information to the imperial center concerning the amount and the type of wealth they captured at the hands of robbers, as well as the type of the haramis (*…ne asıl kimesneler ellerinde altun zabtolunmuşdur*...) KK, 62: 857/1529.

[253] MAD.d. 7534: 60/157, 107/339 catched by Bilgin and Bozkurt, "Beytülmal Mukataaları", p. 6.

[254] A.DVNSMHM.d., 31/670.; A.DVNSMHM.d., 88/231.; see also Eyal Ginio, "Piracy and Redemption in the Agean Sea During the First Half of the Eighteenth Century" *Turcica 33*, 2001, pp. 135-147.; MAD.d. 3241, p.168 in Haim Gerber, *Economy and Society in an Ottoman City: Bursa, 1600-1700*, Jerusalem: The Hebrew University, 1988, p.107.

[255] M. Akif Erdoğru, "Osmanlı Kıbrısı'nda Önemli Bir Görevli: Beytülmâl-i Hassa ve Âmme Emini", (presented in CIEPO 2000) Tuncer Baykara (Der.), *CIEPO XIV. Sempozyumu Bildirileri*, Ankara: TTK, 2004 pp. 149-161.

[256] The uses of the terms like *beytülmalci* (TS.MA.e 638/6), *zabit-i beytülmal* (MŞH.ŞSC, 2458/vr.17a), and a decree that directly touches upon the norms of property claiming for the beytülmal revenues (MŞH.ŞSC.d, 2458/vr.76b) manifest that the history of the institution in the Ottoman Empire goes back to before 1460s.; see also Halil İnalcık, "Bursa Şer'iye Sicillerinde Fatih Sultan Mehmed'in Fermanları", *Belleten*, 1947, pp. 693-708, fermans 3, 8 and 11.; Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri I*, İstanbul: Fey Vakfı Yay., 1990, pp.575-576.

not capable of that for any reason; like being missing, or not being the age of maturity yet. However, the officers also focused much on the potential *beytülmal* returns for the imperial treasury. Besides, in some cases, the officers look out for their own benefit in collecting *beytülmal* revenues. Saying the least, if arrangements were not undersood well by the officers, there might be a clash of claims that causes grievances among the claiming parties.

Below, the beytülmal regulations in general and the provincial *kanunnâme*s issued between 1450 and 1674 will be examined. That is between the earliest general rules found, so far, in Mehmed II's decrees, and the date of the decree found at the end of many copies of the *Kanunnâme-i Cedid*.[257] The latter text is an important source to follow the changes and the alterations made to the earlier regulations as well as new ones in the late sixteenth and seventeenth centuries. This 'compilation' is preferred as it was widely used in the seventeenth century Ottoman courts.[258] The *fetva*s, *ferman*s, and *kanun*s included in this 'compilation' were issued by different legal scholars to solve the problems of the era.

3.3.1 The Law Code of Mehmed II

[257] Halil İnalcık, "Ḳānūnnāme" in *The Encyclopaedia of Islam*, New Edition, vol. IV, ed. E. Van Donzel, B. Lewis And Ch. Pellat and C. E. Bosworth, Leiden: E.J. Brill, 1997, pp. 562-567.

[258] Since this text included an extensive range of rules, and was used by the *kadı*s as a law code, it is to be regarded a kanunnâme. However, İnalcık rightly name it as a compilation too, as its organization, array and form of the rules were different, and might be said disarranged compared to earlier general kanunnâmes. İnalcık, "*Ḳānūnnāme*" in *The Encyclopaedia of Islam*.

The earliest *kanunnâme* text that dealt with the *beytülmal* regulations in a general sense dates back to Mehmed II's period as far as we know.[259] Along with the registers in Bursa *şer'iyye sicil*s that concern the specific cases regarding the *beytülmal* revenues, this text would have been a basis for the later substantive *beytülmal* regulations.

In this text, the Anatolian *kadı*s are addressed for being aware of the inheritance (*tereke*) that is without an heir (*veledeti gâib*). In case a *şer'i beytülmal* is found; it should be delivered to the *beytülmal* officers (*amil*s). They are the claimers in case the value of the inheritance worth less than 10,000 akçes (*on binden aşağısın amillerüme teslîm* eyleyesiz). If its values is more than that, then, the *amil*s should take it for the imperial treasury (*beglik içün zabt idesiz*). If the inheritance is a non-*şer'i beytülmal*,[260] the *kadı*s should prepare two registers that record and describe the inheritance in detail (*şerh* and *tafsil*). Both the *kadı* and *amil* will hold a copy so that in case the heir appears they claim based on this record (*ol tafsillerin mucebince tesâhub edeler*). The *amil*s and the *kadı*s are warned that they should not drive the individuals to make their claims to the imperial center (*kapumda talep olunmaya*). Morever, the *kadı*s are also warned for causing the beytülmal to be taken by their own men (*beytülmâli siz kendü âdemlerinüze bel' ettürmeyesiz...*).

Considering the cases in Bursa *şer'iyye sicil*s, it would not be wrong to claim that the *beytülmal* institution is operating in the core lands of the empire early in the fifteenth century.

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[259] "Sûretü'l-hükmi's-sultânî li-ecl-i beyti'l-mâl" (BOA. MŞH.ŞSC.d., 2458/vr.76b); Ahmed Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri v.1*, (İstanbul: FEY vakfı yay., 1990), p.575.; Halil İnalcık, "Bursa Şer'iyye Sicillerinde Fatih Sultan Mehmed'in Fermanları", *Belleten* c. XI, s.44, Ankara: TTK, 1947, pp. 693-708.

[260] With "şer'i beytülmal", the kanunnâme might refer to the theory of public reveneus in fiqh books in which the heirless properties are in the fourth category of revenues, i.e. regarded as a *şer'i* revenue. Thus, if the conditions do not meet to claim the properties, that would be non-şer'i beytülmal, thus subject to the follow the procedures.

Apart from the *amil*, the *sicil*s included the term *beytülmal* in the meaning of revenue,[261] and the *beytülmalci* or *zabit-i beytülmal*[262]in the meaning of the officer in charge.

The *Kanunnâme-i Âli Osman*, compiled in the period of Mehmed II, does not include *beytülmal* regulations. The debate related to the sources of this *kanunnâme* uses the statement '*bu kanunnâme atam ve dedem kanunudur, benim dahi kanunumdur*", as the base argument.[263] With that, the rulers made a reference to their father and grandfather as the earlier lawgivers as well as the appliers of that law code. Thus, Mehmed II compiled the disorganized rules known in the Ottoman realm before him. However, this *kanunnâme*: (i) was not inclusive of all the rules applied before Mehmed II, and (ii) was not exclusive of the rules he, not the fathers, legislate.[264] In this respect, altough this code left the *beytülmal* regulations unaddressed, the institution was in function according to registers in Bursa Şer'iyye *sicil*s.

The second *kanunnâme* attributed to Mehmed II was copied during the reign of Bayezid II, June 1488. The rules in this *kanunnâme* suggest that it was compiled by the

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[261] "…Beğ sancağı livâsını Şehâbeddin Paşa tasarrufunda olandan gayrı ve Sultanöyüğü ve Bilecik ve İznikmüd ve İnönü yavasın ve beytülmalın dutan Birincioğlu Mehmed…" (BOA, MŞH.ŞSC. d, 2458/vr.59a), 16 Mart 1479

[262] "…Metrûkâtından bir evini beytülmalciden dört bin altı yüz akçaya satun almış idüm." (BOA, MŞH.ŞSC. d, 2458/vr.237b) 6 Şubat 1480; "…ve padişah tarafından zâbit-i beytülmal olan Mevlânâ Muhyiddîn…" (BOA, MŞH.ŞSC. d., 2458/vr.17a), 1478.

[263] Abdülkadir Özcan, *Kânunnâme-i Âl-i Osman*, ed. Erol Özvar (İstanbul: Kitabevi, 2003) pp.XIX-XXI.

[264] For instance, in the field of criminal code the rules applied before the kanunnâme can be found, but in the Teşkilat Kanunnâmesi, there are many new rules decreed by the Sultan's own kanunnâme. Halil İnalcık; "Osmanlı Hukukuna Giriş Örfi-Sultani Hukuk ve Fatih'in Kanunları", *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi*, XIII, 1958, pp.116-117

initiative of Mehmed II after the conquest of Costantinople.[265] Based on İnalcık's classification of the *kanunnâme*s, this copy[266] might be said as a *yasaknâme-kânunnâme*.[267]

The text, *Kanunnâme-i Mihaliç Hükm-i Sureti* was particularly prepared to authorize an *amil* for a proper property claim, and to lay down the procedure for the *beytülmal* revenues. The land in question is designated as *Hass-ı Hümayun*, the private land of the Sultan in Bursa. Hamza, the holder of this private land requested a *hukm* for the right of disposition on the beytiülmal revenues in the region:

> "Şimdiki halde Mihaliç hasların dutan Hamza kapuma gelüb şöyle bildürdi ki, ol haslarda beytü'l-mal ve yuva ve kaçkun vaki' olur, amma elümde hükmüm olmadığı sebebden ne üzre tasarruf edeceğimi bilmezem deyü, eyle olsa eline işbu hükm-i hümayunı verdim."[268]

Though this *kanunnâme* is prepared for the beytülmal in the private lands of the Sultan, the procedure to be followed is practically consistent with the later *kanunnâme*s. Through this specific kanunnname, I will examine the scope of the properties in question, the rules, and the course of action for public and private property claims in the 15th century.

The property (*beytülmal, yava and kaçgun*) without heirs.

- *Amil* (officer in charge) should keep it by means of *kadı* (*şol meyyitun ki benum vilayetumde ve gayri vilayetlerde varisi olmaya anın gibi metrukatı kadıma'rifetiyle amil alub zabt ede*).
- If the heir is missing (*gâib*): Prepare two records in accord; one for the *kadı* and one for the *amil* (officer in charge).

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[265] Halil İnalcık, "Osmanlı Hukukuna Giriş: Örf-i Sultani Hukuk ve Fatih'in Kanunları" in *Osmanlı İmparatorluğu Toplum ve Ekonomi*, (İstanbul, Eren Yayınevi, 1996), pp.116-118.

[266] See f.n 25 in Halil İnalcık and Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani: II. Mehmed ve II. Bayezid Devirlerine Ait Yasakname ve Kanunnâmeler*, Ankara: Türk Tarih Kurumu, 2000, p.XV

[267] Halil İnalcık, "Osmanlı Hukukuna Giriş: Örf-i Sultani Hukuk ve Fatih'in Kanunları" *Osmanlı İmparatorluğu Toplum ve Ekonomi*, (İstanbul, Eren Yayınevi, 1996), pp.124.

[268] İnalcık and Ahnegger, *Kanunnâme-i Sultani*, pp.70-71, Akgündüz, *Kanunnameler* v.1, pp.615-616.

- Wait the property in custody for six months:

- In this six-month period, if anyone comes and prove its claim of being the heir, *kadı* gives the property in full to that (*kadı varise bî-küsûr teslim ede*)
- In this six-month period; if no one comes for claiming, *amil* sells the property by means of *kadı* (*kadıma'rifetiyle, bey' men yezid*)
    - The *amil* takes the pay and use it (*bahasın amil alub tasarruf ede*)
    - If the heir comes and able to prove it *şer'an* [after six-months], pursuant to the *kadı*'s record, *amil* gives the pay in full to this heir.
- If the property worth more then 10.000 akçes
    - The *kadı*s should keep it in safe for the ruler (*emânet-birle benüm için*).
    - For that *beytülmal*, if an heir comes up after three years and prove its claim, the *amil* in charge should pay it in full (*amilden bî-küsur ala, gelüb kapumdan taleb etmeye*).
- In case of a *kaçgun*, when *amil* found those slaves,
    - They should report that to the *kadı.*
    - The *kadı* assigns mainteanance (*nafaka) and* keep it in a safe place for three-month period.
- If the owner comes and claim its ownership *şer'an*; s/he should pay the slave's *nafaka* and *muştuluk*[269] to *amil* as per custom (*adet üzere*);
    - 30 akçes, for a day long way
    - 60 akçes, for two days long way
    - 90 akçes, for three days long way
    - 100 akçes, if more or a month-long way
  - If no one comes,
    - *Kadı* and *amil* sell the *kaçkun* in auction, the *amil* takes the pay and uses it.
  - If the owner comes after three-month and is able to prove it *şer'an*;
    - *Kadı* takes the payment from the *amil* and delivers it to the owner.
- If an *amil's* commission ends and the next *amil* comes into office, the former is still in charge of:
    - The inheritance that fell to the beytülmal but not heard during his period:
        - The former *amil* should be informed about the inheritance (not heard in his time)
    - This amil should also inform the *kadı*; they prepare a record for that and wait for only one-month[270] in custody.
    - If the heir comes and prove, the *amil* delivers it in full
    - If no one comes, the *amil* and the *kadı* sell that in an auction, and *amil* takes the pay and uses it.

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[269] A present (or money) given to a bringer of good news.

[270] Compared to six-months, this is a short time for waiting a private claim on property. This is propbaly because the amil and the *kadı* take into consider the longevity of the period before they heard about the inheritance.

        - If an heir comes and proves it *şer'an*, according to *kadı*'s record, the *amil* gives the pay to this heir in full.
- The inheritances whose period in custody is not completed.
    - The same procedure is applied.

This *kanunnâme* ends with warning the local officers (*sancakbeyi*, *kadı*, *subaşı*), and agents (*mahalle kethüdası* and *imam*) for keeping an eye on and not hiding the *beytülmal* revenues in their region ("…*bana müte'allık olan beytü'l-mali gizlemeyeler*). This text sheds light upon the earlier form, wording and scope of the legal doctrine for the *beytülmal*. The *kanunnâme*s, do not use the term *beytülmal* except these specific regulations concerning to the *beytülmal* institution. So as to mean '*beytülmal'* (either public treasury or revenue) and '*mîrî*', it majorly uses the term 'beğlik' (*beğlik idesiz*, *beğlige zabt idesiz*, *beğlik ta'yin olunan*, *beğlik tohum*, *beğlik anbar* etc.).[271]

In respect to a government organization, this might not be a surprise as Mehmed II's period had witnessed a sophisticated and extensive program in bureaucratic organization, that is from *beglik* to empire, and the use of the concepts was only keeping pace with that. However, wiht respect to the *beytülmal* institution, this might mean that it was quite extensively functioning in the Ottoman lands, perhaps even before Mehmed II as the use of the term was devoted only to the institution.

3.3.2 Regulations Under the Reign of Bayezid II

[271] "…Şimdi zabt olunmamak ile telef olunub ne sağire ve ne beğliğe raci' olandan nesne zahir olmaz olmuş…" Süret-i Kanunnâme-i İkizce Tabi'i Bursa Der Zamanı Muhyiddin Bin Hacı Hıdır Fermûde, Akgündüz, ı, p.609; "…ve her kimde kalb akça bulursa kadi ve subaşi katina ilede, anlar dahi teftiş edeler, kalibzanlugi şer'ile sabit olursa hükm edeler, kulum boğazından asup rızkını beglik ede." Nevabiri Ma'deni Gümüş Yasağı Hükmü Sureti, İnalcık, Ahnegger, p. 9.

The general *kanunnâme* attributed to Bayezid II, titled *Kitâb-ı Kavânîn-i Kânûn-i Osmâni,* was copied in 1501.[272] Although this *kanunnâme* is mainly based on the *Kanunnâme-i Osmani* of Mehmed II, more than its half was arranged first in his period. For instance, the issues in the first two *bab*s (chapter) of the Bayezid II's *kanunnâme* were only touched as subjects in Mehmed II's. Thus, Bayezid II's was the first in terms of the scope, arrangement, and codification (*tedvîn*) of the rules it includes and become a source for the typical Ottoman laws.[273]

Kavanin-i 'Örfiyye-i Osmani includes three babs, and seventeen *fasıl*s (sections). In the preamble of this *kanunnâme*, the content is summarized as follows; the first chapter is devoted to the *cinâyât*, i.e., the criminal law; the second chapter is devoted to taxes collected by *sipahi*, and the *beytülmal* (revenues), and the third chapter is devoted to the matters related to the *reâyâ* (*reâyâya muhtâss*).

The *beytülmal* regulations were introduced in the third *fasıl* ("*Bâcı ve Beytü'l-malı beyân eyler*") of the second *bâb* ("*sipahi ve beytü'l-mal, ve sipahiye reâyadan aid olan rüsûm beyânında*"). Only two of the twenty-four clauses are *beytülmal* regulations. The rest is devoted to the regulations about *bâc*. Additionally, the methodology of codification of this *kanunnâme* is mind-bending. For instance, under the title of third fasıl, three local-specific *kânûn*s were placed, these *are Kânûn-ı Kapan-ı Semendire*, *Kânûn-ı Âb-ı Morava*, and *Kânûn-ı Vilâyet-i Rudnik* respectively. The clauses concerning the *beytülmal* come under

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[272] Konya Koyunoğlu Library. For the attribution of this kanunnâme see Akgündüz, *Kanunnameler v.2*, p.34.; Fatma Gül Karagöz, "The Evolution of Kânûnnâme Writing in the 16th and 17th century-Ottoman Empire: A Comparison of Kânûn-i Osmânî of Bayezid II and Kânûnnâme-i Cedîd", MA Thesis, Ankara: Bilkent University, 2010, pp.18-21.

[273] Halil İnalcık, "Suleiman the Law-giver and the Ottoman Law" in *The Ottoman Empire, Conquest, Organization and Economy*, London: Vairorum Reprints, 1978, pp.126-127.

Kânûn-ı Vilâyet-i Rudnik. The locality was not emphasized in the clauses, they were overtly general. The place and the shortness of the *beytülmal* issue in this *kanunnâme* connotate that the copyist subjoined the clauses there as the taxes were not dealt with based on a general method or rule for taxation. Particularly, the local cases dealt with before the *beytülmal* imply that the casuistic method was applied that takes into consideration infinite numbers of causes and effects and different social groups.[274]

Neither in wording nor in scope, the *kanunnâme* of Mihaliç was not repeated. The clauses are concise and different; a new actor came in the scene, *vâsi*,[275] the waiting period was extended for *mefkûd* to a year, and a warning-like emphasis on the definitions of *gâib* and *mefkûd* was made.[276] The copiest titled the second *bâb* naming the *beytülmal*,[277] but the regulations in the cluster are predominantly related to *bâc*.

3.3.2.1 *Kanunnâme-i Beytülmal-i Hassa*

This *kanunnâme* is the first that touches upon specifically the *beytülmal-i hassa*, i.e., the division of the *beytülmal* revenues and their particular regulations. Although there are

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[274] Baber Johansen, "Casuistry: Between Legal Concept and Social Praxis", *Islamic Law and Society*, 1995, Vol. 2, No. 2 (1995), pp. 135-156.

[275] "…bir yerde beytü'l-mal vâki' olsa, vâki' olduğu gibi *kadı*defterine yazlub beytü'lmalciya teslim oluna. Eğer vârisi ma'lum olursa, def'i beytülmalciya verilmeye. Belki vâsî elinde altı ay mikdârı dura. Eğer vâris gelmez ise beyt'ül-malcıya teslim oluna. Sonra vâris gelürse beyt'ül-malcıdan ala. Ve eğer vâris hâric-i memleketde olub mekânı ma'lûm olmaz ise, o kişiye mefkûd derler. Bir yıl mikdârı vâsî elinde dura. Sonra beyt'ül-malcıya teslim ola."

[276] "Mâl-ı gâib ve mâl-ı mefkûd deyü beyt'ül-mal ile bile mukata`ya verilen tereke-i meyyit olandır. Her evinden çıkub sefer eden kişinin değildir yahud malını emânet koyub giden kişinin malı değildir." This emphasis was repeated commonly in later kanunames.

[277] "Sipahi ve beytü'l-mal ve sipahiye reâyadan `aid olan rüsûm beyânında"

five copies of this *kanunnâme*, none of them are dated.[278] Based on its wording and references to the regulations of Mehmed II, Akgündüz attributes this code to the reign of Bayezid II. However, the references in this *kanunnâme* do not remind the *beytülmal* regulations of Mehmed II.

This *kanunnâme* was designed particularly for three matters related to the *beytülmal-i hassa* (i) the *beytülmal* revenues from the heirless properties of the deceased government functionaries (*mansıbı ve ciheti olanlar*) (ii) any heirless properties which amount to ten and more than ten thousand akçes; (iii) the *beytülmal* cases that involve claims of debts in three levels (*da'vayı deyn*, pl. *duyûn*).

Though *vasî* (guardian), who is a third person between the owner and the public claimant, was not touched upon in the regulations of Mehmed II, this *kanunnâme* includes it. A *vasî* is either appointed (*vasî-i meyyit*) by the ex-owner or by the *kadı* (*kıbel-i şer'den nasb*) to keep the property in the custody of a person. His witnessing is necessary particularly for the cases of debts (*vasî muvâcehesinde vilâyet kadıları teştîş edüb*). The regulations of this *kanununnâme* are as follows,

1. Regardless of the amount of property, the beytülmal revenues from the government functionaries, and their relatives are not sold to the *amil*s, i.e., to a mukata'a holder (or worker)
2. The beytülmal of non-government functionaries worth more than ten thousand akçes are not sold to the *amil*s.
3. If there are claimants (*guremâ*) to the beytülmal, the local *kadı*s should properly solve the cases (only the claims between fifty akçes and three thousand akçes),

[278] Akgündüz, *Kanunnâmeler v.2*, p. 118

pay the debts from the inheritance, and inform the imperial center in detail. The rest of the property is sent to İstanbul.

4. If the claim of debt is between three thousand and ten thousand akçes, first the local governors and the *kadı*s (*vulât-ı vilâyet* and *kudât-ı memleket*) properly hear the case[279] before the *hükm, the kadıasker*s in the imperial center listen and check the cases to resolve (*kable'l-hükm nakl-i şehâdet*). If the claim of debt is ten or more than then thousand akçes, the local *kadı*s sent those cases to İstanbul with the witnesses of claimants to be resolved. However, this kanun was changed to cover all the claimants (regardless of the amount) and all witnesses. This resulted in the suffering and hurting of the Muslims. Then, the last changes were nulled (*bu bâbda sonradan ihdâs olunan kaziyyeleri ref' eyledim*).
5. Thus, as in the time of Mehmed II, the cases of *perakende* and *hurde* debts (*duyûns* between hundred and three thousand akçes) should be resolved, in their localities.
6. Claims between three thousand and ten thousand akçes are first heard in the locality, then, through *nakl-i şehadet*, the *kadıasker* in the imperial center resolves the case.[280]

[279] "Ber mûceb-i şer'i kavim şâhidlerin anda istimâ' tamam ta'dil ve tezkiye ettikten sonra"

[280] This rule also issued later in a fetva in the *Kanunnâme-i Cedid*: "Emr-i Sultânî vefât idüb malı beytü'l-mâle raci`olanın duyunu 3000'e vardıkda, cümlesinin istimâ`ı olunmayub âsitâneye havâle olunmağladır, nâs bundan gâfiller olmağın nâkıs olanı istimâ`iderler, gaflet olunmaya." Pir Mehmed.

7. Claims of more than ten thousand should be sent to the imperial center with the claimant's witnesses.[281]
8. Whether the claimants are paid by the *beytülmal emin*s, or by the public treasury, *Hazine-i Âmire*, the amount should be handed over through *defterdârs* before the *paşa*s and *kadıasker*s in *Dîvân-ı Âli*.

This is a very interesting and important *kanunnâme* that sheds light on an unknown regulation of Mehmed II related to the *beytülmal-i hassa*. Almost the entire *kanunnâme* is devoted to how to deal with the debt claims of three different levels of the *beytülmal* of government functionaries. Besides, it also reveals the problems faced by the *kadı*s and the imperial center in handling the cases of third-party claimants in the early modern period. There are three significant points in this text:

i. The *kanunnâme* implies that the regulations, concerning the three levels of claimants on the beytülmal, were made during the reign of Mehmed II
ii. After applying this regulation for a while, the imperial center attempted to control and hear all these cases of debt claimants in person in Porte ("…*sonra bu kanun ri'ayet olunmayub bunların gibilerin terekesinden da'vay-ı deyn edenler, kalîlen kâne kesîran, cem'i şâhidleriyle Dergâh-ı Mu'allâya irsâl oluna, kudât-ı vilâyet istimâ' etmeye deyü emr olunub*…")
iii. This alternation was cancelled, and the regulations of Mehmed II was referenced again as the basis of the application of the law "…*Müslümanlar bundan ziyâde*

[281] A summary-like rule covering three levels of debt claims is given towards the end of the kanunnâme as "Kudât-ı memleket bu üslûb üzre âmil olub hurde deyn ve vesâyâ ki, üç binden ekall ola, anda ba'de's-sübût tenfiz eyleyüb arz edeler ve on binden ekall olanı ba'des-sübût kabl'et-tenfiz ve's-sarf arz edüb, on bin ve on binden ziyadesin istima' etmeyüb şahidleriyle müdde'ileri Dergâh-ı mu'allâma göndereler." Akgündüz, *Kanunnameler, v.2* p.121.

mutazarrır olub her husûsda şâhidleriyle kapuma gelmekde fevk 'al-hadd 'usr ve zaruret çeküb rencide oldukları… bu bâbda sonradan ihdâs olunan kaziyyeleri ref' eyledüm."

Since the sultan is bestowed authority to put these revenues to the benefit of his subjects, he is the ultimate legatee, or claimer, of all heirless properties of his subjects, and a direct heir to his servants'. This is because of Sultan's role as 'trustee of the community's resources',[282] and these resources are perpetual trust administered by the public treasury (*bayt al-mal*).[283] Thus, in cases of the *beytülmal*,[284] of government functionaries, the first right to claim the property goes to the Sultan. Captives, *yeniçeri*s,[285] servants in the private lands of the sultan, particularly the *ortakçı kul*s with their belongings and children are subject to the sultans' right to claim. Thus, he could assign these *kul*s, *cariye*s, their children, seeds, *çift*s, and belongings to a *vakıf* or *temlik*.[286] Expectedly, as a repercussion of this position, the

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[282]Ariel Salzmann, "An Ancien Régime Revisited: 'Privatization' and Political Economy in the Eighteenth-Century Ottoman Empire", *Politics & Society*, *21*(4), 1993, p. 396.

[283] Engin D. Akarlı, "The Ruler and Law Making" in *Law and Empire Ideas, Practices, Actors* (ed. Jeroen Duindam et al.) London-Boston: Brill, 2013, p. 100

[284] The term 'beytülmal' is used as a noun in the meaning of heirless properties like 'bir yerde beytü'l-mâl vâki' olsa'; 'ol beytü'l-mâli âmil zabt eder'.

[285] The beytülmal of the janissaries is later organized different than other groups. Rather than assigning or selling these revenues to other persons as a revenue of the public treasury, their beytülmal was kept in the military units. The regulations related to the janessary beytülmal stated in *Kavânîn-i Yeniçeriyân* and further scrunity will be handled in the fourt chapter.

[286] "Padişahımız hullidet hilâfetühu...'âtifet-i husrevâniden mezkûr köyi hudud ve sınuru ile ve içinde mütemekkin olan kulları ve cevârîsi ve evlâdı ve ebniyesi ve çiftleri ve tohumları ve esbâbları ve besâtîni ve küûm ve kâğıttane ütmek içün bina olunan ebniye ile ve önünde olan çayırdan on dönüm çayır ile ve mezkûr köyün yavası, kaçkunu ve beytülmâl ve mâl-ı gâib ve

addressee of the lawsuits concerning debt claims in the *beytülmal* was *Dergâh-ı Mu'allâ*, and the local courts.[287]

3.3.3 *Der Beyân-ı Kânûn-i Beytülmal ve Sâir Ahvâl* (The Declaration of the Law of Beytülmal and Other Circumstances) in Selim I's Kanunnâme

An earlier copy of the general *kanunnâme* of Selim I was found by Yaşar Yücel after they printed the first part of their book. Copied in Istanbul[288] in 1520, it sheds light on the precision of the earlier copies, as well as the 'law of beytülmal'. This copy was divided into unnumbered *fasıl*s, subheaded with the statement of topics (*Der Beyân*s).

Compared to the regulations dealt with above, this might be said the most general regulation in terms of its addressee. Though Mehmed II' *kanunnâme* of Mihaliç concerned with the private lands of the Sultan, the procedure for claiming the *beytülmal* revenues was not significantly different. However, this *kanunnâme* was neither devoted to a specific region,

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mâl-ıi mefkûdu ve cürm ve cinayeti ve sâyir müteveccihâtı ile bervechi serbest merhum Çenderci-zâde defterdâr Mehmed cÇelebiye temlik idüb envâ'ı vücûh-ı mülkiyet üzere mülkü mahzi ve hakkı sırfı olsun deyü Cemâziyelevvel sene erba' tis'în ve semâne mie ile müverrah mülknâme vermiş görüldü." (April 1489) quoted by Ömer L Barkan in "XV. ve XVI. Asırlarda Osmanlı İmparatorluğu'nda Toprak İşçiliğinin Organizasyonu Şekilleri, Kulluklar ve Ortakçı Kullar", *İstanbul Üniversitesi İktisat Fakültesi Mecmuası*, c.1. s.1, 1939, pp. 29-74.

[287] For a discussion on the weight of *nakl-i şehâdet* in the beytülmal cases see Abdurrahman Atçıl, "Procedure in the Ottoman Court and the Duties of *Kadı*s", MA thesis, Bilkent University, pp.69-73.

[288] This part is written only by Yaşar Yücel. Tough he published the transcription and the facsmile of this kanunnâme, he does not give further detail about the place or the library he found it. Yücel&Pulaha, *1. Selim Kanunnâmeleri (1512-1520) TTK*, 1995 pp. 140-146.

nor a part of the revenues, like Bayezid II's. Since the procedure in this code is similar to Mehmed II's code, only two different clauses will be examined.[289]

- The *amil*s should not allow claiming in the Sultan's door (*gelup kapumdan talep etmeye*).
- The *amil*s should appoint a deputy for themselves in each judicial-administrative unit, if the heir appears, no need to see the *amil* in person; proving heirship to the deputy's face is enough.

Taking into consideration the waiting period of the inheritance, the heirs might have some difficulties in waiting for the *amil*. The reason for that might be the safety of the properties in question, like the fear of spoilage (foods for consumption or sale), or the destitute heirs who are really in need of that inheritance, etc. However, ending the customary period (*müddet-i örfiyye*) also poses some problems for heirs. After six-month period, the property is sold in the market. If the heir comes, s/he could only claim the money, not the property.[290] Though this money is full (*bî-küsûr*) in theory, it is not in practice. If applied, the fees deducted from the inheritance are as follows: The fees for craft and coffin (*techîz* and *tekfîn*), the fees for division of the inheritance (*resm-i kısmet*), for carriage (*hammâliye*), selling (*dellâliye*), market police (*dîdebâniye*), and fees for bringer of good news

[289] In this kanunnâme text, abd-i âbık, kenizek (a young women slave), yava, kaçkun are dealt under the fasıl of "Der Beyân-ı Tımarha-i Serbest" instead of beytülmal section. Ömer Lütfi Barkan, *Kanunlar I,* p. 19; Akgündüz, *Kanunnameler v.3*, pp. 157-158.

[290] Mes'ele: Kaçkun kulun müddet-i 'örfiyyesi bittikten sonra hâkim izniyle olan bey' şer'an sahih olur mu?

El-Cevâb: Sâhibi zâhir olucak, yavacısından akçesin alur, kulı almağa kâdir olmaz. *Ma'ruzat*, Ebussuud. Akgündüz, *Kanunnâmeler*, v.4*,* p. 45.

(*müjdegâne*), etc.[291] So as to avoid those deductions, heirs need to prove their heirship (*isbât-ı verâset*) in six-month.[292] There were frequent complaints on the operation of *beytülmal* that some rules were ignored and the properties were taken too quickly without proper verification and due process. Referencing Selim I, in his *Âsafnâme*, Lütfi Paşa (d.1563) describes the situation and criticizes the inadequacy of the time given to the heirs to establish their claims;

> Vezîr-i a'zam Pâdiş'ahı meyl-i mâldan ve mâl takribi ile vebâlden hıfz eyleye. Ve beytü'l-mâl namına olan akçeyi Bab-ı Hümâyûn'da varisi gelince saklayalar. Merhum Sultan Selim Han zaman-ı şerîflerinde yedi yıla değin tavakkuf ederlerdi. Zira öyle emir etmiş idi. Ol zamane değin varis gelmez ise hazîneye zabt olunurdu. Zira emvâl-i halk bi-vechi dâhil-i mâl-ı padişah-ı olmak fenay-i devlete dâldir. Ve belki bütün hazine-i beytü'l-mâlin itlâf ve perîşân ve bî-bereket ve belki nizâm-ı devlete dahî muhtell ve 'ibâdu'llah devlete sokulmağa bâ'isdir. Zîrâ ekseri hakk-ı eytâm terettüb ider maldan hazer itmek vâcibdir.[293]

Based on this, what Lütfi Paşa refers to in Selim I's *beytülmal* enforcement would be the price after it is sold to third persons. The waiting for the price before inclusion into *Hazine-i Amire* was at most three years. However, the author's reference to waiting for seven years might be an exception, if not also a common practice.

3.3.4 Beytülmal and the Lawgiver

[291] Arif Bilgin and Fatih Bozkurt "Bir Mâli Gelir Kaynağı Olarak Vârissiz Ölenlerin Terekeleri ve Beytülmâl Mukataaları." *Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 20, 2010/ 2. pp. 1-31.

[292] Even in this six-months period, some of the expenses need to be covered by the inheritance.

[293] Mübühat S. Kütükoğlu, *Lütfî Paşa Âsafnâmesi: Yeni Bir Metin Tesisi Denemesi*, İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi, 1991, pp.10-11.

The general *kanunnâme*s attributed to Süleyman I is quite a lot.[294] The *kanunnâme* texts are more or less similar with respect to their content, but the organization and the form of the texts are different. Based on these features, two general *kanunnâme*s copied under the auspices of Süleyman I will be examined.[295] The first one is found in Millet Kütüphanesi, Ali Emîrî Efendi, Kavânîn, 74. This text was copied early in the 1520s,[296] probably, by *nişancı* Seydi Bey, one of Celâlzâde Mustafa Çelebi's master.[297] Although this copy mainly followed Selim I's *kanunnâme*s, it does not include a section devoted to *beytülmal*, or a regulation. The second *kanunnâme* is found in Topkapı Sarayı, Revan, 1935, ff.11-40. This was copied by Nişancı Celâlzâde Mustafa Çelebi as stated in a very similar copy in Süleymaniye Library, Reîsulküttab (Âşir Ef.), 1004. The date of the copy was probably between 1539-1541.[298] The greater part of this text follows the *kanunnâme* of Bayezid II copied in 1501. The *beytülmal* is addressed only in two clauses that were examined above in Bayezid II's *kanunnâme*.

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[294] Uriel Heyd, *Studies in Ottoman Criminal Law*, ed.V. L. Menage, Oxford: Clarenden Press, 1973, pp.36-37.

[295] Akgündüz, *Kanunnamaler* v.4, pp. 294, 361.; Mehmet Şakir Yılmaz, "Koca Nişanci of Kanuni: Celalzade Mustafa Çelebi, Bureaucracy and Kanun in The Reign of Süleyman The Magnificent (1520-1566)", Ph. D Diss., Ankara: Bilkent University, 2006, pp. 200-202.; Fatma Gül Karagöz, "Kânûnnâme-i Cedîd", MA thesis, Ankara: Bilkent University, 2010, pp.50-55.

[296] Enver Çakar, "Kanuni Sultan Süleyman Kanun-Nâmesine Göre 1522 Yılında Osmanlı İmparatorluğu'nun İdarî Taksimatı" *Fırat Üniversitesi Sosyal Bilimler Dergisi*, c.12, s.1, 2002, pp. 261-282.

[297] Mehmet Şakir Yılmaz, "Celalzade Mustafa Çelebi", Ph. D Diss., Ankara: Bilkent University, 2006, pp. 30, 45.; Akgündüz, *Kanunnameler v.4*, pp. 293-294.

[298] Uriel Heyd, *Studies in Old Ottoman Criminal Law*, p. 27

Although the general rules and the procedure remained more or less same, the provincial *kanunnâme*s issued under Süleyman I left its mark on the administration of property claims in many senses. Letting aside the specific and intra-institutional arrangements, the *beytülmal*s based on the status of land *per se* arouses interest during this period and will be examined in the provincial *kanunnâme*s section.

3.4 Regulations After the Classical Age: Late Sixteenth and Early Seventeenth Centuries

The general *kanunnâme*s promulgated in the second half of the 16th and the early 17th century, namely under the rules of Selim II, Murad III, Mehmed III, and Ahmed I, majorly followed the rules set during the reign of Süleyman I. However, based on the developments that took place at the turn of the century, like the Celâli revolts, and the weakening of the *tımar* regime, brought forth the early phase of the transformation of the system. The regulations, particularly the *sancak kanunnâme*s, dealt with the problems based on maintaining proper functioning of the subjects in the *mîrî* lands, without leaving the lands uncultivated, hence, a proper military service in the wars. Depending on these developments, the *beytülmal* regulations were also paid attention to and regulated in this period.

As part of his second appointment as *nişancı*, Celâlzâde Mustafa Çelebi served more than a year for Selim II.[299] Among almost a hundred copies of *kanunnâme*s attributed to Celâlzâde, Akgündüz identified three different versions issued during Selim II. The first is authored by Celâlzâde, and the other two copies were compiled later by following *nişancı*s

[299] İ. Hakkı Uzunçarşılı, "Onaltıncı Asır Ortalarında Yaşamış Olan İki Büyük Şahsiyet: Tosyalı Celâl- zâde Mustafa ve Salih Çelebiler". *Belleten*, Ankara: Türk Tarih Kurumu c. XXII s.87,1958, pp. 391-441.

as it includes their regulations too.[300] Some *beytülmal* regulations in this *kanunnâme*s are different from earlier. These regulations are found in the first[301] and the third[302] *kanunnâme*s attributed to Celâlzâde. The issues of beytülmal are as follows; (i) free *tımar*s (ii) materials found in an aground ship (iii) *kefere* beytülmali (a non-Muslim from *daru'l-harb*).

1. In free *tımar*s, *beytülmal*, *mâlı-ı gâib*, *mâl-ı mefkûd, kul* and *cariye* is all registered (*hâsıl kayd olunub*) for the owner of *tımar* and *zeamet*, but this does not mean that *yava* are also for them ("*kul ve cariye muştuluğı serbestlikden olmağla yava anun olmaz*")[303]

This general rule of *beytülmal* for the free *tımar*s is very common in the *kanunnâme*s. However, according to *kanunnâme* attributed to Murad III, based on the contract, the *zeamet* or *tımar* holder might be allowed to claim *yava*: "*ve şol zeamet ki ibare-i yava kayd olunmamıştır, sancak beği alur, ve kayd olunduysa sahib-i tımarındır*."[304] A more elaborate version of this rule is issued in Ahmed I's general *kanunnâme*[305] under the title of '*Der Beyan-ı Tımar*'. Here, in one peace of *tımar* land based on their contracts, the potential claimers are

[300] Akgündüz, *Kanunnameler* v.7, p. 221.

[301] Süleymaniye Kütüphanesi, Reisulküttab Mustafa Efendi, no:1004 vr. 1b-29b

[302] Süleymaniye Kütüphanes, Yazma Bağışlar, 1202.

[303] Akgündüz, *Kanunnameler* v.7, p. 243.

[304] Dealt under the title of "Der Beyan-ı Tımar-ı Serbest" in the general kanunnname of Murad III: "Suret-i Kanunnâme-i Sultani Der Zaman-ı Sultan Murad Han-ı Gazi"; Süleymaniye Kütüphanesi, Es'ad Efendi, No: 2362 published by Akgündüz, *Kanunnameler* v.8, pp.107-125.

[305] *Kavânîn-i Yeniçeriyân,* was also copied during Ahmed I's reign and includes extensive regulations concerning to beytülmal revenues of the yeniçeris.

as follows; *müsellem*[306], *piyade*[307], *yörügan*, *mübaşir-i vakıf*, *sancak beyi*. The contract of one claimer denies the other's claim in partial or full.

Rather than the procedure, the clauses here directly focus on who is first to claim any piece of the potential property in any piece of land like: "If captured, the peltries of a wildcat and tiger is for the provincial ruler".[308]

2. In the seas, if a ship runs aground or sinks, there are three claimants for the *esbab*[309] in the ship: the heir, *kapudan* (admiral), and *beytülmalci*. According to that;[310]

- If the heir comes and establish its claim; half of it for *kapudan*, and the rest is for the heir
- If no one claims, all goes to the *kapudan*

During his vizierate, İbrahim Paşa modified this rule: If the heir comes and establishses their claim, he could get the entire *esbab*, but if no one comes there are two obtions:

- If the kapudan was assigned these revenues already in his *berât* (letter of appointment), he can get the entire *esbab*
- If he was not, *beytülmalcı* collects.

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[306] A group of mounted (*yaya* origin) soldiers, exemted form tax-paying in return for their work in military or rear services. Feridun Emecen, "Yaya ve Müsellem" *TDV İslâm Ansiklopedisi*, Vol.43, 2013, pp. 354-356.

[307] Foot soldier (*yaya*).

[308] "Ve dahi bir yerde vaşak ve kaplan dutulsa, postu sancak beğinindir. Meğer ki yaya ve müsellem dutmış ola, anlarun kendülerinindir." Akgündüz, *Kanunnameler* v.9, p.517.

[309] The means for travel, and other materials.

[310] Akgündüz, *Kanunnameler* v.7, p. 245.

3.The last one is rather more specific and seemingly based on real situations related to the non-Muslims (*kefere*) of abode of war deceased in the domains.[311] In case a non-Muslim dies in the *Memâlik-i Mahruse*, his inheritance should be kept and registered by the *kadı*s. For any claim of the inheritance either by heirs or guardians (*veraset* or *vesayet*), the witnessing of the non-Muslims is permissible (*şer'an*). If no one claims, the *beytülmalcı* and others are strictly denied these inheritances. The *kadı*s should keep them and wait for the inheritance until a claimer's coming from the deceased's home country. If any claimer comes; with the letter and *kadı*'s register of the inheritance, the claim is presented to the Porte. After the order of inspection (*kapudan emr edüb teftiş olunub*) the following issues need to be proven;[312]

- The claimer should come from the deceased's hometown (*ol vefat eden kimesnenin velayetinde olub*)
- The claimer should hold an affirmed paper from his hometowns' officers (*anların beğlerinin kağıdı olup*)
- The paper should confirm the claimers' coming for this certain matter (*ol maslahat içun geldiği zahir olacak*)

The first two might be related to the Ottoman way of revenue assigning. Reserving the right of the actual heirs at first, the rules then guide the legal-*ly* claimers' shares. So as to provide a balanced share of revenue collection, the properties are disintegrated, or portioned, but the claimer actors are knitted together through this revenue. The clauses reflect the nature of the early modern Ottoman empire where the subjects, government functionaries, and the imperial center were tied up to each other within a legally regulated financial web.

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[311] It is dealt under the title of "Ahvâl-i reâyâ-i kefere".

[312] Akgündüz, *Kanunnameler* v.7, p. 356

However, the last one might be more related to the Ottoman politics of the non-Muslims in the abode of war. The clauses elaborately explain a particular set of conditions for a rightful claim, if not also a display of might and power and a just rule. This case might have been related to the amount of the properties in question or to a specific arrangement stated in *ahidname*s.

3.4.1 *Kanunnâme-i Cedid*: A New Role to Beytülmalci?

The rules in the copies of *Kanunnâme-i Cedid*[313] texts are majorly given in *fetva* form (*mesele* and *el-cevap*), issued by different Şeyhülislams.[314] Both the form and the wording of this *kanunnâme* text give the impression that the norms were checked and, if need, reformulated, for their compatibility to the *şer-i şerîf* ("*…Ebussuûd Efendi hazretlerinin asrında olan kanunnâme-i sultandır ki şer'-i şerife muvafakati mukarrer olub halen muteber olan kavanîn ve mesâildir"*).[315]

The greater part of the code[316] deals with the *beytülmal* in different contexts. The *fetva*s and the rules are majorly devoted to the vacant lands (*mahlûl çiftlik*s or other *mîrî*

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[313] Osmanlı Kânûnnâmeleri, *Milli Tetebbular Mecmuası*, 1331, c. 1/s.1, pp. 49-112.; M. Macit Kenanoğlu also mentions this kanunnâme as prepared in the reign of Süleyman I based on the introduction and the footnote given in *MTM*'s printed copy. "Osmanlı Kanunnâmeleri Neşriyâtı Üzerine Bir Tahlil", *TALİD* 3:5, 2005, pp. 152-153.

[314] Fatma Gül Karagöz examined the contributors to the *Kanunnâme-i Cedid* in her masters thesis. Fatma Gül Karagöz, "Kânûnnâme-i Cedîd", MA thesis, Ankara: Bilkent University, 2010, pp.166-177.

[315] Osmanlı Kanunnâmeleri", *Milli Tetebbular Mecmuası*, 1331, c. I, sy. 1, p. 49.

[316] For the *Kanunnâme-i Cedid* text Fatma Gül Karagöz's critical edition is taken into account. See her Appendix D in "Kânûnnâme-i Cedîd", Master's Thesis, Ankara: Bilkent University, 2010, pp.216-434.

revenue yielding units like *dalyan*s) and the transfer of the disposition rights to the heirs. Although this study focuses more on the properties rather than the usufruct rights of the lands, the circumstances of the tenants and the procedure applied in relevant cases are connected to the *beytülmal* institution.

The regulations examined in the *Kanunnâme-i Cedid* imply that rather than the rights of the private persons based on Islamic inheritance law, the lawmaker is concerned more with the right of escheat of the government and keeping the revenues in the stream. However, the rules in the cases of *gâib* and *mefkûd* shed light on the interest of the lawmaker in legal heirs and their proper claiming of the inheritance. For instance, in cases of absent and missing individuals who were tenants on the land[317], if *sahib-i arz* does not have any piece of information regarding their or heir's alive, the estate should wait three years. In a decree issued in Ahmed I's reign in 1603, three years was found too long to wait the lands free of cultivation (*boz ve hâli*), thus it was reduced to one year (*nâ bedîd olub bir sene sıhhati haberi gelmeyen kimesnelerin yerleri tapuya verilmek*…).

Two later regulations (1604 and 1613) of this code confirm that the one-year period was nullified, and three years were applied again.[318] Based on Akgündüz's copy, the general *kanunnâme* issued under Ahmed I made this rule more explicit. Written under the section of missing persons (*Fasl Fî Beyân-ı Arzı'l-Mefkûd*), the regulation allows *sipahi* to make a third person cultivate the land (*tasarruf etture*) till the return of the missing in three years. If he

[317] "Der beyan-ı kanun-ı ahval-i gâib ve mefkûd yani mutasarrıf olan nâ bedîd olsa ahkâm ve kânûnu nicedir (ve esir nicedir)". According to Karagöz's publishing of "Kanunnâme-i Cedid" Article, 201, p.308.

[318] It is also issued under "*Gâibin Hukuku*" in another kanunnâme attributed to Ahmed I and puplished by Yılmaz Kurt, "I. Ahmed (1603-17) Dönemine Ait bir Osmanlı Kânunnâmesi" *Belgeler*, Türk Tarih Kurumu, c.XXXI, s. 35, 2010, p.25.

returns, he could get the usufruct rights again, as he is the first to claim the *tapu*. In case he does not return, the *tımar* holder could give his right (*tapuya vermek*) to another person. However, as a room for mercy, the *tımar* holder is still advised to give the *tapu* to the missing person; it is better and rightful (*evlâ* ve *lâyıktır*), even if he returns after three years.[319]

This compilation is interesting regarding the responsibilities of the *beytülmal* emini. In general, transferring and giving the right of disposition of a *mîrî* land to a third person (*ahara vermek*) is the role of *sahib-i arz*, i.e. the *sipahi*. However, some clauses and *fetva*s of this *kanunnâme* imply that in case land is rated "*beytülmale raci'*, *beytülmal emini* is also at work and authorized to meet the case. Intrinsically, the logic of the institution does not deny this. However, neither the earlier legal regulations nor the registers in the archival sources, point to issuing a land tittle-deed (*tapulamak*) for *beytülmalci*: "*…Hatta hiç vâris kalmayub beytü'l-mâle kalsa beytü'l-mâl tarafından tapulanmaya fermân-ı âli sadır olmuşdur*." Moreover, in cases of vacant land, the authority of *sipahi* clashes with the *beytülmalci*'s.[320] There are further fetvas that substatiate this role of the officer under the section *Kânûn der beyân-ı emîn-i beytü'l-mal ve mevkufcu ve mabeyn mahsulüne müte'allik ahkâm ve kavânîn nicedir*.[321]

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[319] Ahmed Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri* v.9, (İstanbul: OSAV, 1996), pp.533-534.

[320] Nev-i ahar: Zeyd fevt olub terekesi beytül'l-male aid oldukda beytü'l-mal tarafından çiftliği tapulanmağa taleb ve rağbet olunurken sâhib-i arz dilediğine virmeğe kâdir olur mu? El-cevab: Bir kimesne fevt olub çiftliği beytü'l-male kalsa emlak bahasına noksan ve zarar gelmemek içün beytü'l-mal tarafından tapulanmağa emr-i 'ali vârid olmuşdur. Amma il virdiği virilmekle (tapuya) virilmekle virilüb sipâhiye özr olunmaz. Ketebehu el fakir (Pir Mehmed), Karagöz "The Evolution of Kanunnâme Writing" p.272.

[321] Karagöz "The Evolution of Kanunnâme Writing" pp.385, 388.

"Zeyd Sipâhi fevt olub tımarın emîn-i beytü'l-mâl ve emîn-i mevkûfat zabt iderken mahlûl olan yerleri tapuya virmeğe kādir olur mu?". El-cevab: Me'mûr ise olur. Ketebehu Ebussuud."

"Zeyd sipâhi tımarı toprağında mahlûl olan tarlaları tapu ile virmedin Zeyd fevt olub (hala Zeyd'in yerine) Amr ve sipâhi olub tarlaları tapu ile virmek murâd itdikde (emîn-i beytü'l-mâl) (ben tarlaları tapu ile viririn dimeğe kadir) /mâni olur mu? El-cevab: Bunun gibide tefvîzi me'mur ise olur. Ketebehu Mehmed Bahai."

"Zeyd-i zâ`im ze`âmeti karyerlerinden hâsıl olan `öşr mahsûlün re`âyâdan alub cem ve kabz itmedin fevt olmuş olsa `öşr-i mezbûru Zeyd'in veresesiyle emîn-i beytü'l-mâl hangisi zabt ve kabz eder? El-cevab: Emîn-i beytü'lmâl kabz eder. Ketebehu Yahya."

Based on these *fetva*s, in some cases, if not always, the *beytülmal* officer is authorized to *tefvîz,* i.e to transfer the right of using a property[322] such as a building, a vacant (*mahlûl*) land, or a dead land (*mevât*) to the third persons. As İnalcık states, "the *tımar* holder was called *sahib-i arz*, the lord of the land, and *sahib-i raiyyet*, the lord of the peasants in his *tımar*. This is because he had exclusive jurisdiction over the land and peasantry with full authority to implement the stipulations of the regulations concerning *mîrî* lands and reaya."[323] The powers between the subjects and the imperial center over the *miri* lands were turned over to *tımar* holders in return for professional military service. Though this *kanunnâme* acknowledges the *tımar* holders' right over the land, its inclusion of *beytülmalci*'s authority calls to mind the decline of the *tımar* system in the late sixteenth century.

To conclude, the general *kanunnâme*s might be divided into two types. The first type is promulgated by the lawgiver and his predecessors. In these *kanunnâme*s, the cluster of *beytülmal* revenues is mentioned in all and the content of the texts is more concerned with the heirship procedure for private claims. The same clauses might also imply, *per se*, the procedure for public claims, i.e. escheat.

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[322] Abdussamet Bakkaloğlu, "Tefvîz" *TDV İslâm Ansiklopedisi*, Vol.40, 2011, pp. 310-311.

[323] Halil İnalcık, "Tīmār", in *The Encyclopaedia of Islam,* New Edition, vol. X, ed. P.J. Bearman *et al.* Leiden: E.J. Brill, 2000, pp. 502-507.

As for the second type, the general *kanunnâme*s prepared between the lawgiver and *Kanunnâme-i Cedid*, the *beytülmal* regulations mainly focus on the rights of revenue collection. Referencing oftentimes to *kanun-ı kadim*, or *kanun-i Osmani* for the procedure, these clauses prescribe the shares on each potential *beytülmal* revenue among different claimants. The content of these texts classifies, commercializes, and assigns unclaimed properties for the landholders, or other military groups, as well as the *mukataa* holders.[324]

While the wording in the first group has an idealist approach that focuses on establishing rightful claimers and holders, the second has a more practical and revenue-oriented approach. On the procedure of private claims, the latter either repeats the earlier texts or does not mention it at all.

3.5 The Beytülmal in the Provincial Kanunnâmes

Halil İnalcık offers to scurtiny the Ottoman *kanunnâme*s under four main headings based on their form.[325] Among them, the regional *vilayet* or *sancak* (*liva*) *kanunnâme*s are the local codes prepared for regulating the administration, taxation, and land tenure regime in each significant province.[326] These local codes are placed at the beginning of detailed (*mufassal*) cadastral registers surveyed by the officers for each *sancak*. These are the provinces and sub-provinces where the *tımar* system is applied. Being official laws of the

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[324] "*Beyt'ül-mal ve mâl-ı gâib ve mâl-ı mefkûddan mukata'aya alan kimesneler şöyle i'lâm etmek gerekdir ki*…" The beytülmal mukataa was not referred in the general kanunnâmes before Celâlzâde's law code during Selim II. Akgündüz, *Kanunnameler* v.7*,* p.342.

[325] İnalcık, "Ḳānūnnāme" in *The Encyclopedia of Islam.*

[326] Engin D. Akarlı, "Islamic Law in the Ottoman Empire", *Oxford International Encyclopedia of Legal History v.4,* Oxford University Press, 2009, pp. 263-270

empire, *beylerbeyi'*s council and *kadı* courts had to conduct in accordance with these *kanunnâme*s.[327]

Many of the *sancak*s in question were newly conquered on which long-established rules and traditions prevailed. So as to ensure conformity and harmony between certain imperial rules and the Hanefî legal concepts, and established practice and relevant customs, the *sancak kanunnâme*s were prepared based on the legislative authority of the ruler within the Hanafi doctrine.[328] They majorly determine tax rates, the ways of tax collecting by *tımar* holders, rules for possessing, transference, and inheritance of the land under *tımar* system, exemptions, immunities, and the status of the military in the *sancak*s.[329]

Based on the legal status of the land, the *beytülmal* revenues also fell under different realms of authority in the *sancak*s. Its collection was determined by clauses related to the free *tımar*s, non-free *tımars*, *vakıf* lands, the military groups, and others depending upon their contracts. Below, some of these clauses will be examined thematically.

3.5.1 Defining Borders for Claiming Beytülmal: Kanunnâme of Silistra (1569)[330]

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[327] Halil İnalcık, "Suleyman The Lawgiver and Ottoman Law" in *The Ottoman Empire: Conquest, Organization and Economy,* London: Variorum Reprints, 1978, pp. 105-138.

[328] Engin D. Akarlı, "The Ruler and Law Making" in *Law and Empire Ideas, Practices, Actors* (ed. Jeroen Duindam et al.) London-Boston: Brill, 2013, pp. 87-111.

[329] İnalcık, "Suleyman the Lawgiver" p.112.

[330] Barkan noted this kanunnâme as prepared during the reign of Süleyman I. However, Akgündüz says this long version of the kanunnâme is copied under the reign of Selim II. This long version includes sections regulated under the reign of Selim I and Süleyman I. Barkan, *Kanunlar I*, p.270.; Akgündüz, *Kanunnameler* v.3, p.465 and *v.7*, p. 712.

The legal regulations set for the Rumelian Sancaks have bold characteristics of Byzantine and Slavic customary rules and institutions together with the features *Kânûn-i Osmanî*.[331] The administrative fields and the ethno-military divisions in Rumelia like *eşkünci*, *yamak*, *tatar* and *yörük* were subject to a distinct set of regulations based on their service and the land. Several articles of this *kanunnâme*s (*Kavanîn Huceste Âyin*) reflect the complex operational system for collecting *beytülmal* revenues in Rumelia. For example, the s*ubaşı*s, commanders of police, of the above-mentioned divisions were assigned to hold the absconding slaves and stray cattle (*kul*, *cariye, yava* and *kaçkun*) as part of their free *tımar*ship.[332] However, they (the s*ubaşı*s) were denied holding these 'properties' if they were found among the *hergele* of the village, which includes one or two *yörük*s.[333] These 'properties' are to be kept for the state (*mîrî içün*), *yörük*s should not give them to their *subaşı*s. However, if these properties were found among the *hergele* of their *yörük*,[334] then the *subaşı* could claim the property according to the rules stated in the *kanunnâme*s.[335]

One may ask two questions here: what does it mean to include one or two *yörük*s for a village? And what does *hergelesinde* mean in the case of *yava*, *kaçkun*, *kul* and *cariye*? The history of *yörük*s settled in Rumelia and their organization for serving in the military date back to the late fifteenth century. According to the registers covering the records of the *yörük*s in the region, they were organized as *ocak*s for military purposes, and each *ocak* includes 20,

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[331] İnalcık, "Ḳānūnnāme" in *The Encyclopedia of Islam.*

[332] Mücteba İlgürel, "Subaşı", *TDV İslam Ansiklopedisi*, Vol. 37, 2009, pp. 447-448.

[333] "Bir köyün içinde bir yörük veyahut iki yörük olsa ol köyün hergelesinde bulunan yava mirinindir."

[334] "Meğer yörüğün kendü hergelesinde bulına o vakit subaşılarınındır."

[335] Barkan, *Kanunlar I*, p.287.

25, or 30 soldiers (*nefer*) in Rumelia in the sixteenth century.[336] Thus, for a village including one or two *yörük*s might mean two *ocak*s. People living in these *ocak*s were engaged in animal breeding, which requires grazing and milking these animals in the skirts of their villages. Therefore, if the stray animals (*yava* and *kaçkun*) are found among the *hergele* (the livestock) of a village, which had one or two *yörüks*, the *subaşı*s are denied holding this property, they are for the state. However, if it is found in the *hergele* of a *yörük* that is among the livestock of *yörük*s' own, then the animal is the right of *subaşı*'s based on the regulations in the *kanunnâme*s. Since this article, 55, in Barkan's copy, ends with a reminder of the longevity of the period for holding both the animals and the slaves as properties in trust,[337] the same regulations, at least the borders, and conditions, might be applicable for slaves, *kul* and *cariye*.

The 60th article of the same *kanunnâme* also manifests the nature of revenue claiming between the ethno-military divisions in the region and the local officers. For example, *ispençe*, a tax on non-Muslim subjects[338] in the fifteenth and the sixteenth centuries was collected by the *Matrak Tatars*. This is a small group in military service in the greater group of *Cebelü Tatars* in Rumelia. The article states that *ispençe*s of non-military villagers (*haymâne*), like the day laborer (*irgad*), shepherd (*çoban*), and herdsman (*sığırtmaç*), were

[336] It is noteworthy to remind that not all the yörüks settled and lived in Rumelia were organized for military purposes. A considerable number of yörüks were not of military aspects. However, in cases of need these non-military yörüks, named haymâne, were called for serving in the military. For further see Harun Yeni, "Osmanlı Rumelisi'nde Yörük Teşkilatı, Kökeni ve Nitelikleri", *Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi* (*OTAM*), 42, 2017, pp. 187-205.; Harun Yeni, "The Yörüks of Ottoman Western Thrace in the Sixteenth Century", Ph. D diss., Ankara: Bilkent University, 2013.

[337] "...Kulın ve cariyenin müddeti üç ay ve devâbbın bir aydır." Barkan, *Kanunlar* I, p. 287.

[338] Halil İnalcık, "İspençe" *TDV İslam Ansiklopedisi*, Vol. 23, 2001, p.177

collected by the *Matrak Tatarı emin*s. These *ispençe*s, together with *cürm*, *cinayet*, *arusane* and the *beytülmal*, *mâl-i gâib*, *mâl-i mefkûd*, *yava*, and *kaçgun* were included into the fiscal units (*mukataa*) given to the *Matrak Tatarı emin*s. As the *kanunnâme* states, holding an exemption from the tax *avarız-ı divaniye*, the *Matrak Tatars* would pay some of their taxes and fees and give unclaimed properties to their *emin*s as the *emin*s are in charge of collecting these revenues for the state (*miri içün*).[339]

In respect to the borders, the ports (*iskele*) are also interesting for property claiming in the early modern period. A rule in this *kanunnâme* also establish a relation between a natural event and revenue collection for *mîrî*: "*Ve Tuna'ya tabi' adalarda ve Tuna taşub ne yere değin varursa ol yerde, yava ve kaçkun ve beytülmal vaki' olursa iskele eminleri zabt eyleye haricden kimesne dahl eylemeye*". Accordingly, the officer in charge of port (*iskele emini*) of Silistra should claim *yava*, *kaçkun*, and *beytülmal* in the lands of the islands based on the limit where Danube's flooding reaches.[340]

The clauses concerning the unclaimed properties prove the intricate relations between Ottoman population figures, their occupations, the use of land, taxes, and the rulers in the *tımar* system.[341] The regulations draw abstract and concrete borders for property claiming that aim to balance and compensate the interests of different social groups, as well as of the imperial treasury.[342]

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[339] Barkan, *Kanunlar* I, pp.280, 287-288.; Akgündüz, *Kanunnameler*, v.7*,* pp. 712.

[340] Barkans' publishing does not include this clause. Akgündüz, *Kanunnameler* v.7, pp.712,742-743.

[341] Linda T. Darling, *Revenue-Raising and Legitimacy: Tax Collection and Finance Administration in the Ottoman Empire 1560-1660*, Leiden: E.J. Brill, 1996, pp. 25-29

[342] Engin D. Akarlı, "The Ruler and Law Making", p. 89.

3.5.2 The Beytülmal between a *Vakıf* and *Tımar*: Kanun for *Yağcılar*

This *kanunnâme* was written for regulating the issues of a tax-paying social group in Edirne in 1581 (989). The city is the second capital of the empire and a key staging point for Ottoman expansion. Edirne was a significant location for both the government elites[343] and religious figures. The Ottoman rulers carried out public works and housing projects for the improvement and inflorescence of the city. Murad II's mosque and its surrounding *imaret* were built between 1436 and 1447 and was one of these public works that had served for a long time for the needy and the medrese.[344] In order to provide for the *imaret*, the tax payments of three groups of subjects in Edirne were reserved for Murad II's *vakıf*. One among these three subjects is Yağcılar (*revgan-ı sâde*), the oil producers. Forming up 240 households, they were approximately two thousand people (*nefer*) and were subject to pay some of their taxes to the *vakıf*.[345]

Based on Barkan's copy, the fifth article of the *kanunnâme* of Yağcılar states that the *beytülmal* revenues, *gâib*, *mefkûd, yava*, *kaçkun*, and the fines on crimes and transgressions (*cürm-ü cinayet*), and the payments of *bad'ı hava* were assigned for the *vakıf*.[346] The administrative taxes, *niyâbet rüsûmu*, includes the payments like fees, fines,

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[343] Yunus Uğur, "A Historical Interaction of the City with its Mahalles: Ottoman Edirne in the Late Seventeeth and Early Eighteenth Centuries", Ph. D Diss., Istanbul, Boğaziçi University, 2014, pp.64-68.

[344] M.Tayyib Gökbilgin, "Edirne" *TDV İslâm Ansiklopedisi*, Vol. 10, 1994, pp. 431-442.

[345] Bayram Ürekli, Doğan Yörük, "H. 1002/ M. 1594 Tarihli bir Vakıf Defterine Göre Edirne'deki Sultan II. Murâd Câmii ve İmâreti Evkâfı" *Selçuk Üniversitesi İlahiyat Fakültesi Dergisi*, 18: 2004, pp.17-39.

[346] Barkan, *Kanunlar I*, p. 245.

registration charges of the marriage act, and so on; and were collected by the judicial and security officers in exchange for their service as agents.

However, not only the *beytülmal* revenues of the oil producer subjects (*yağcı reaya*) were reserved for the *vakıf*, *niyâbet rüsûmu* and the *beytülmal* revenues of the other two groups of reaya were also held for the interest of the *vakıf* as it had been. As stated in a *vakıf* register dated 1594 (1002), an order sent from the imperial center to *müderris* Şuca'a, a professor of *Daru'l-Hadis* Medrese in Edirne declares that no survey was undertaken for the lands where the revenues belong to Murad II's *vakıf* in Edirne. Compared to the *Kanunnâme* of Yağcılar prepared in 1581, the register includes orders on the reorganization of the conditions, particularly the dispersed reaya and their *beytülmal* revenues because of the malpractice of the officers. The officers were forewarned that though the revenues were directed to the *vakıf*, officers like that of *umena*, '*ummal*, *mübâşîrîn-i emvâl* and other *ehl-i 'örf,* intervene and damage the *vakıf* revenues.[347]

Taxing the subjects in bureaucratic agrarian empires is a multifaceted engagement, especially when modern means are not available for watching over the subjects' occupations and renewing the old registers according to new circumstances. The Ottomans systematized and classified the taxation based on; the cultivated lands, households, animals possessed, occupation, and service for the state, along with many other conditions. The *kanunnâme*s, decreed for different sections of the empire accommodated the heterogeneous nature of the taxation.

The difference between a *sipahi*'s realm of taxation and a *vakıf* region might elaborate on the revenue collecting. In the previous Yağcılar kanunu (1581) and *vakıf* register (1594), the orders strictly lay down the rules for the *beytülmal* revenues: any intervention in

[347] Ürekli and Yörük, "Edirne'deki Sultan II. Murâd Câmii ve İmâreti Evkâfı."

these revenues of *vakıf* is prohibited.[348] Including *beytülmal-i hassa,* no one is entitled to claim on behalf of the imperial treasury, i.e., the *miri*. However, the *Kanunnâme* of Silistra also denies the *beytülmal* revenues to *sipahi*s along with some other taxes. Although the *sipahi*s are entitled to their estates as *dirlik* (livelihood, means),[349] they are not allowed to claim the *niyabet rüsûmu* and casual items, like that of *beytülmal* revenues.[350] Along with a practical difference between a *vakıf* and *sipahi*'s tax realms, the point here might be theoretical. In favor and the highest benefit of the *vakıf*, the fiscal and hereditary relations between the tax-paying subjects and the imperial center is suspended or ended in ideal *vakıf* theory. However, in the case of *tımarlı sipahi*, the center does not cut its heirship and ministrant relations with the subjects in favor of both, if not only the state. Contrary to the horizontal relations between a *vakıf* administration and the imperial center in terms of fiscal matters, the relations between a *sipahi* and the center are vertical.

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[348] "…evkâf-ı mezbûrenin beytü'l-mâl-ı hâssa ve 'âmme ve yava ve kaçgûn ve mâl-ı gâyib ve mefkûd ve cürm-i cinâyet ve bâd-ı hevâları kadîmü'l-eyyâmdan cânib-i vakfa zabt olunu gelmişken ümenâ ve 'ummâl ve mübâşirîn-i emvâl ve sâyir ehl-i 'örf tâyifesi dahl ve ta'arruz idüb ve defterlü ra'iyyetden dahî rüsûm taleb idüb rencîde eyledüklerinden gayri mâl-ı vakfın telef ve zâyi' olmasına…" from the tax order on determining the revenues designated for the *vakıf*. Bayram Yürekli, Doğan Yörük, "1594 Tarihli Vakıf Defteri".

[349] "Non-hereditary prebends to sustain a cavalry army and a military-administrative hierarchy in the core provinces of the Ottoman Empire." İnalcık, "Tımar" in *The Encyclopaedia of Islam.*

[350] "Ve bir Sipahiye hasıl bağlanan kışlanın ve değirmenin ve sâyenin ve bostanın içinde duran haymana kâfirin ispencesi kendunindir. Amma çakırcı ve şahinci ve atmacacı vesair doğancının resmi mücerredleri sipahiye hasıl bağlanmamışdır. Zira bunların resmi mücerredlerini ve resmi 'arusane ve cinayet ve cürüm ve resmi ganemlerini ve yava ve kaçkun ve beytülmal ve mâl-ı gâib ve mâl-ı mefkûdlarını ve sipahi toprağından hariç müstakil kovanlığı olanların öşri kovanlarını ve mürde-bahalarını emr-i şerifle deri devletten gelen kullar mîri için cem' iderler, bunlar defterde müstakil yazılmışlardır. Sipahiye heman öşür ve sâlâriye ve resmi çift virürler". Barkan, *Kanunlar I*, (p.280).

However, substantiating the accommodational nature of the Ottoman legal norms in the early modern period, the *kanunnâme*s of Pojega include a distinct clause. Since the beytülmal revenues in the region is considerably low (*ve liva-i mezburede beytülmal-ı avam ve mâl-ı gâib ve mâl-ı mefkûdı avâm ve kaçkun mahsulı şey'i kalil olmağın*), by means of an order issued in 987 (1579), they were entirely assigned to *tımar* holders (*mahsul-ı mezbûr erbab-ı timara kayd olunub*).[351]

Some *sancak kanunnâme*s puzzlingly draw close to *beytülmal* regulations but only pass by without addressing it directly. It is intriguing to ask what an addressee should infer from a *kanunnâme*s which is 'non-inclusive' of certain norms. For example, the *kanunnâme*s titled "*Rumeli'nun Mevkufatı ve Yavası ve Kaçkunu*", prepared in 1461, does not exclude *mâl-i gâib* and *mâl-i mefkûd* by statement but does not include either.[352] The *kanunnâme*s explains the grounds for claiming *yava* and *kaçkun*, and the procedure to be followed in each, without even using the word *beytülmal*.[353] Since the *beytülmal* revenues are generally given

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[351] In "Kanûn-ı Hukûk ve Rüsûm-ı Reaya-ı Livâ-i Pojega" under the section "Kanûn-ı İskele-Ösek" BOA TT.d. 672, p.18, The same clause is also written in the copy BOA TT.d.650 excluding the word *kalil.*

[352] Halil İnalcık and Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani: II. Mehmed ve II. Bayezid Devirlerine Ait Yasakname ve Kanunnâmeler*, Ankara: Türk Tarih Kurumu, 2000, pp. 26-28.; Akgündüz, *Kanunnameler* v.I, pp.392-393.

[353] "…Rumeli mevkufâtını ve yavasını ve kaçkunını ve Filibe hâslarının yavasını darende-i misâl-i şerif Edreneli Kassab Fide-oğlu, Hızra ve Filibeli Hacı Ahmed oğlu Mehemmed'e sene sekiz yüz altmış altısında Muharrem ayının on beşinci gününden üç yıla altı yüz seksen bin akçeye ve sekizbin yüz altmış akçe resm-i berâta mukata'aya verdüm ve buyurdum ki… Ve her yerdeki kaçkun esir dutulursa ol yerün *kadı*ları ma'rifetile görüb bunlara teslim edeler, bunlar dahi çağırdalar, eğer ıssı bulunub gelüb isbat ederse âdet üzre bir günlük yolda otuz ve iki günlük yolda altnuş ve üç günlük yolda doksan akçe ve bundan ziyade bir aylık yolda

to mukataa as a bunch, i.e. all in one fiscal unit, the reader would be tended to include the 'omitted' ones in mind. Moreover, if a revenue type is specifically denied to a claimer, it is generally stated. However, as the *kanunnâme*s show in some cases the revenues are disintegrated for different claimers, and "the courts co-ordinated, specified, and regulated the respective rights of various parties in an object along with their rights and responsibilities toward each other over that object."[354]

3.5.3 The Properties of the 'Rebels': The Kanunnâme of Egypt

Defining types for unclaimed properties depend on the nature of a property and the condition in which the property is regarded as "unclaimed". This adjective does not always suggest that the property is actually unclaimed. Rather, the property is claimed but the claim is void. The case in point might be said for the houses of the Mamluks after the conquest of Egypt in 1517: The deserted houses were damaged by some people: "*sipahdan ve gayrıdan ba'zı kimesne girüb taş ve ağacın yıkub yakub tahrib itmek üzere*". The *kanunnâme* orders

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dahi dutulursa heman yüz akçe muştuluğun alub esiri *kadı* ma'rifetiyle ıssına teslim edeler. Ve eğer ıssı bulunmazsa tamam üç ay saklayalar, üç aya değin gelecek olursa hoş ve illa *kadı* ma'rifetiyle bey'i men yezid edüb satub bahasın alalar ve *kadı* dahi sicillatında kaydede ki her ne vakt ıssı gelüb isbat ederse mezkur amillerden bahasın alalar. Ve koyun-erile Tatarum yuvası subaşılaru[nu]ndur, kaçkuna bunlar mutasarnf olalar ve akınlarda ve benim ordumda ne kadar kaçkun esir ve yuva davar bulunursa kadi ma'rifetile getürüb bunlara teslim edeler, bunlar dahi çağırdalar, eger ıss1 bulunursa âdet üzere muştulugin alub issina vereler, ve eger ıssı bulunmazsa müddet tamam olunca saklayalar, tamam oldukdan sonra satub bahasın alalar, fi'l-cümle kaçkun esirleri üç ay ve yuva davar bir ay saklayalar, andan sonra satalar."

[354] Engin D. Akarlı, "Gedik: A Bundle of Rights and obligations for Istanbul Artisans and Traders, 1750–1840" in *Law, Anthropology, and the Consıtution of the Social: Making Persons and Things*, Alain Pottage, Martha Mundy (ed.), Cambridge University press, 2009, pp. 166-200.

nazır-ı emval, the officer of finance in Egypt to find some man capable with a pen (*yarar ehl-i kalem*) for registering the deserted[355] houses of the Mamluk administrators (*ümera*) and missing people (*gayıpların*) as these houses belong the treasury (*beytülmale raci'dir*). If people settled in these houses and did not harm it, they might stay, but the *kadı* of the city (*kadı-i şehir*) should survey these houses so as to get monthly (*mah-be-mah*) rent payments based on their value (*ecr-i misline göre*). If the houses need repairing, the expenses are to be covered by the rent payments. The empty houses should also be surveyed and rented if asked for so. Besides, it is necessary to appoint a *hafız* for each of these houses so as to protect them (*mahfuz olalar*) from getting harmed. However, the *kanunnâme* also warns the local officers that in case someone claims on these houses, s/he should be brought before the *kadı*. The Mamluks were 'rebels', so, they were removed, or went missing during the conquest of Egypt. The houses were dispossessed by the imperial treasury (*hazine-i amireye zabtolunmuşdur*), thus the officers would ignore their claims of ownership (*itibar olmayub*) on these properties.

The *kanunnâme* strictly suggests that for fiscal matters, the imperial center is the only claimer, no intermediaries or privileges are recognized; the unclaimed or deserted properties are all *beytülmale raci*'. However, when it comes to local administration, and legal

[355] These houses were deserted either by Mamluks who fled their home during conquest, or by missing of their owners (*gaybet*). Barkan, *Kanunlar* I, p.385. For further discussion on transition to Ottoman legal rule in Egypt see A. Atçıl, "Memlükler'den Osmanlılar'a Geçişte Mısır'da Adlî Teşkilât ve Hukuk (922-931/1517-1525)" *İslam Araştırmaları Dergisi*, 38, 2017, pp. 89-121.

organization, a degree of autonomy and privileges are provided.[356] For example, while the wife of a missing individual (*mefkûd*) was not allowed to marry again till her husband's death is affirmed based on the Hanefî school of law in the core Ottoman lands,[357]such wives in Egypt might get legal permission under certain conditions from the Şafi'i and Hanbelî judges or deputies.[358]

To sum up, based on its objective and by its very nature, the law of *beytülmal* in provincial *kanunnâme*s manifests some realities: *Beytülmal* collections were generally estimated depending upon the provincial characteristics, like population figures, the land regime, geography, and the status of the social groups. Contrary to the norms in general *kanunnâme*s, they overwhelmingly focused on the government-appointed claiming parties in different lands and their shares in these revenues. Interestingly, the cluster of revenues might be separated or portioned to provide a balanced share of the revenue collection for the claiming parties. Moreover, the norms in general *kanunnâme*s are projected in provincial regulations, either only by name, or by attaching the entire text.[359]

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[356] In order to sustain the pre-existing administrative and legal tradition, the kanunnâme included certain pre-Ottoman regulations of Egypt referencing the name of the Sultan Qaytbay. Additionally, a degree of continuity was provided for different Islamic legal schools prevailed there. Jane Hathaway, *The Politics of Households in Ottoman Egypt*, Cambridge: Cambridge University Press, 2007, pp.9-11.

[357] "Gâib Olanların Zevceleri Hususu İçin Ahkâm", Akgündüz, *Kanunnameler* v.7, pp.368-369.

[358] Abdurrahman Atçıl, "Memlüklerden Osmanlı'ya Geçişte Mısır'da Adlî Teşkîlat ve Hukuk (922-931/1517-1525)", *İslâm Araştırmaları Dergisi*, 38 (2017): pp.89-121

[359] In some of the sancak kanunnâmes, the beytülmal regulations of the general kanunnâmes were entirely copied. For instance, in the kanunnâmes prepared for Niğbolu (1522) and Bosnia (1565) the chapter "*kanun-ı beytülmal*" in Selim I's general kanunnâme was almost entirely

3.6 The Beytülmal in Fetvas

Zeyd beytü'l-mala ait mal içün, "Mal-ı Padişahî'dir" dese şer'an ne lazım olur? El-cevap: İstiğfar lazım olur. (Ibn Kemal)

In the Islamic legal system, the judges were encouraged to consult with a *mufti* (a jurist) and take their *fetva* (legal opinion) before they issued a decision (*hukm*) on specific legal issues.[360] The parties in the lawsuit also request *fetva* in order to submit it the court for supporting their justifiability.[361] The *mufti*s prepared a *fetva* based upon the petitioner's expressions of the case and the 'cumulative knowledge' that the Islamic legal school in question developed up to his time.[362]

The number of preserved *fetva* collections also manifests the institution of *fetva* in the Ottoman legal system was significant. The 'high level'[363] Islamic scholars served as *şeyhülislam*s; one of their primary roles was giving *fetva*s on questions related to state affairs

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copied. (BOA MAD. 11/12, p.349); and Akgündüz, *Kanunnameler,* v.6*,* pp.435, 490.; In the kanunnâme of Kefe, however, the general regulations were given as reference: "*ve beytülmal ve mâl-ı gâib ve mâl-ı mefkûd ve yava ve kaçkun vâki olsa kânun üzere zabt olunur.*" Kanunnâme-i İskele-i Taman ve Gayrihi" Akgündüz, *Kanunnameler,* v.6, p. 586.; see also regulations for Remle, in v.8, p.241.

[360] Uriel Heyd, "Some Aspects of Ottoman Fetva", Bulletin of the School of Oriental and African Studies, University of London, 32:1, 1969, pp.35-56.

[361] J. R. Walsh, "Fatwā" in *The Encyclopaedia of Islam*, New Edition, vol.II, ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel and W.P. Heinrichs, Leiden: E.J. Brill, 1991, pp.866-867.; Hülya Canbakal, "Birkaç Fetva Bir Soru, Bir Hukuk Haritasına Doğru" in *Şinasi Tekin'in Anısına: Uygurlardan Osmanlıya*, Günay Kut, Fatma Büyükkarcı Yılmaz (ed.) İstanbul: Simurg, 2005, pp.258-270.

[362] Pehlül Düzenli, "Osmanlı Fetvasında 'Muteber Kaynak' ve 'Müfta Bih Mesele' Problemi", *TALİD*, 12:22, 2013, pp. 9-78.

[363] Atçıl, *Scholars and the Sultans*, p.41.

and the legal issues in the daily life of people.[364] During the reign of Murad II (1421-51), the right to issue *fetva*s was bestowed on exclusively the *şeyhülislam* as he was 'the chief source of the juristic authority'.[365] Both the *şeyhülislam*s and the provincial *mufti*s (*kenar müftileri*)[366] compiled their *fetvas* based on some arrangements. These collections were used in *medrese* education,[367] and in the courts as guidance for the *kadı*s in their judgments.[368]

The post of Ebussuud as *şeyhülislam* (1545-1575) brought significant changes: he introduced a division of labor and employed 'legally qualified clerks to classify the questions presented to the *mufti*, and to cast them for the *mufti* for adding the reply.'[369] The permanent staff in the office was carrying the burden of issuing *fetva*s.[370] This provided the office for perpetuating high legal standards and prestige, and increased the number of the *fetva* volumes.[371]

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[364] Richard Repp, *The Mufti of Istanbul: The Study in the Development of the Ottoman Learned Hierarchy*, London,1986, p. 211.

[365] Colin Imber, *Ebu'su'ud*, p.7

[366] Hezarfen Hüseyin Efendi, *Telhisü'l-Beyan Fi Kavanin-i Al-i Osman* haz. Sevim İlgürel), *TTK*, 1998, pp.197, 200

[367]Gülnihal Bozkurt, Coşkun Üçok, Ahmet Mumcu, *Türk Hukuk Tarihi*, Ankara: Turhan, 2012, pp.70-74. Pehlül Düzenli, "Osmanlı Fetvasında 'Muteber Kaynak' ve 'Müfta Bih Mesele' Problemi", *TALİD*, 12:22, 2013, pp. 9-78.

[368] Ali Yaycıoğlu, "Ottoman Fatwâ: an Essay on Legal Consultation (*iftâ*') in the Ottoman Empire", MA Thesis, Ankara:Bilkent University, 1997, see pp.103-132.;

[369] Colin Imber, *Ebu's-Su'ud,* in Islamic Legal Thought, (ed. By Oussama Arabi et.all), BRILL, 2013, pp. 403-404.

[370] Uriel Heyd, "Some Aspects of Ottoman Fetva", Bulletin of the School of Oriental and African Studies, University of London, 32:1, 1969, pp.35-56.

[371] Colin İmber, *Ebu's-su'ud Islamic Legal Tradition*, Stanford: Stanford University Press, 1997, p. 3-14.

In the sixteenth century, the *mufti*s began to participate in political decision-making and legislative processes. Two *mufti*s of Süleyman's reign, Kemalpaşazade (1526-1534) and Ebussuud (1545-1574) are said exhibited a great devotion to arranging and 'Islamizing' the land regime.[372] As discussed in this chapter, the *tımar*-related *beytülmal* regulations in the *Kanunnâme-i Cedid* were formalized in the *fetva* form. A *şer'i* right on inheritance was formulated in *fetva* form and based on a kanun. However, the legal norms before their endeavor were not in conflict with the şer'i rules. Rather, before their tenure, Ottoman kanun, might be said, was not formulated in a literal Islamic attire. Moreover, both the *fetva*-norms in the kanunnâmes and the nature of *Ma'ruzat*s show that the relation between a kanun and *fetva* is bilateral. Reconciled in the *fetva* form, it often referred to one another's validity, if not supremacy.

The raw form of *fetva* is not a mélange of *fetva* and *kanun* and may not help to solve some peculiar legal problems. Highlighting its compatibility with the *kanun* and honorable sharia (*şer-i şerif*), the *fetva*-norms of the sixteenth century aimed to solve intricate problems too. So as to make these *fetva*-norms applicable, they were incorporated in the *kanunnâme*s, and *Ma'ruzat* of Ebussuud was sanctioned by the sultan as legal norms prevailed in the realm.[373]

Fetva compilations were arranged based on the chapters (*kitâb*) for each subject. For unclaimed properties the chapter *Kitabu'l-Mefkûd* (chapter on missing persons) is dealt with

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[372] Colin Imber, *Ebu's-su'ud Islamic Legal Tradition*, Stanford: Stanford University Press, 1997, p.25, 120; Halil İnalcık, "Islamization of Ottoman Laws on Land and Land Tax", in *Essays in Ottoman History*, İstanbul: Eren Yay., 1998, pp.155-173.

[373] This attribution of *Ma'ruzat* was extended for some later fetvas too. Pehlül Düzenli, "Osmanlı Hukukçusu Şeyhülislâm Ebussuûd Efendi ve Fetvâları", Konya: Selçuk Üniversitesi, 2007, pp.49-52.

in this section.[374] The relevant *fetva*s will be scrutinized by the *mufti*s and *şeyhülislam* who served roughly between 1500 and 1700.

3.6.1. Propreity Rights in the cases of Missing Persons

The majority of fetva collections devote a chapter to missing persons that mainly focus on; the description of the missing (*na-biryer*, *hayatı ve mematı na-ma'lum, gaybet-i munkatı'a*), the lawsuits for heirship rights, public claiming, debts, and restitution of the property in case the real owner returns. As an integral part of the *beytülmal* institution, the *kadı* was always at the center of these *fetva*s along with the *vasi* (trustee), *kayyım* (tutelage), and the *beytülmalcı*.

In his *fetva* collection Ali Akkirmani (ö. 1620-21), an Ottoman provincial *mufti*, discussed in detail a case of *mefkûd* with 'supplementary'[375] questions:

When Zeyd is missing, beytülmalci sells his house to Amr. After a long time (*nice zaman*), Zeyd's sister, Zeyneb, comes. Can she claim the house? The answer: No. Since Zeyd's situation is unknown (*gâibin hali malum olmayınca*), his property would not be an inheritance. This is a very well-known issue in the chapter on missing persons.

In this case, if Zeyneb brings some men to testify about her brother's death, how could they do that: whether saying 'we heard Zeyd is dead' is enough, or they should say 'we

[374]Tough less in number, the chapters on *Kitabu'l-Abîk* (chapter on absconding slaves)*, Kaza* (the duties of the *kadı)*, *Da'va* (claims) and *Ferâyız* (inheritance) are inclusive of beytülmal relalted fetvas.

[375] Uriel Heyd, "Some Aspects of Ottoman Fetva", *Bulletin of the School of Oriental and African Studies*, University of London, 32:1, 1969, pp.35-56.

saw Zeyd is dead'? The answer: To testify based on a hearing is lawful in cases of death. However, saying 'I testify that so-and-so is dead' is not sufficient. Without expounding the hearing, it is void.

In that case, if Zeyd's death and Zeyneb's heirship are affirmed, and the price of the house is included in the treasury (*dahil-i hazine*), from whom Zeyneb takes the price? The *beytülmalci* or the treasury? The answer: The payment is returned from the *beytülmalci* in question.[376]

This fetva aims to shed light on conditons for the inheritance and the conditions for testifying in a death case, as well as the *beytülmal*. Based on the *kanunnâme*s the period to wait for the property is one year for the missing. After it is sold, the officer in charge waits for the price three years before the inclusion of the treasury. Here the period is only defined

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[376] "Zeyd gâib iken bir darını beytü'l-mâl emîni Amr'a bey' edip nice zaman geçip ba'dehu Zeynep gelip ben Zeyd-i gâibin li-üm hemşiresiyim meşru hakkını da'va-yı varisle kabza kadir olur mu? El- Cevab: Olmaz, gâibin hali malum olmayınca malı mevrus olmaz. Mesele Kitab-ı Mefkûdun meşhurâtındandır."

"Bu surette Zeynep Zeyd'in mevtini isbât için getirdiği şahitler mevtini işittik deyu şehâdetleri kifâyet edermi yoksa mevtini gördük deyu ta'yin lazım mıdır? El-Cevab: Mevtte sema' ile şehadet caizdir. Amma huzuru *kadı*da sema' ile şehadetini tefsir etmeyip fulan bin fulan müteveffa oldur şehâdet ederim demek kerekdir tefsir etseler makbule olmaz. ('ala's-sahih, min Şehadeti'l-Durer ve min Esveleti'l- Feteva en-Nesefi)

"Sureti mezburede Zeyd'in mevti sabit, Zeyneb'in verâseti sabit olacak, emîn dahi bey' ettiği darın akçesini dâhil-i hazine ettiği mukarrer olacak mezbure ol akçeyi emînden mi alır yoksa hazineden mi? El-Cevab: Dahil olduğu beytü'l-mâldan varise kaza olunur. *(min fasli fi Tasarrufi'l-Vasi, ve'l-Eb ve'l-Kadi fi'ş-Şirketi min Vesaya, Mecmu'ul-Fetava)* "Kitabu'l-Ibk ve'l-Mefkûd*" Fetevay-i Akkirmani,* Süleymaniye Kütüphanesi, Hafid Efendi, 98.

by *nice zaman*, and the heir is not even asking to get the house back, either she knows that she can't be based on the *kanun*, or she cares for only the price. In either case, the *beytülmalci* is working as a 'local treasury' in charge of restitution.[377]

Another selling case is commonly repeated in different copies of the Ebussud's fetva collections, including *Ma'rûzât*. Here, the missing person returns alive (*hayyen zuhur*), and he claims his own property: [378]

The case consulted as follows; Zeyd is missing, and no one knows his whereabouts. After his house was fairly sold to Amr, Zeyd returns alive. Can he take his house back from Amr? Or, the price from the *beytülmal emini*? "If there is not a fear of spoilage for the property, the *kadı*s are (were) not allowed to sell them, it is void if they do so. However, the *emin*s and the *kadı*s are authorized to sell in our times. Thus, if the transaction is fair (proper), it is better to do without interfering with it as the *kadı*s are unentitled to alternate. But, if there is excessive deceit (*gabn fahiş*) in the transaction, they nullify it."

Interestingly, Ebussuud's answer is both interpretive and convoluted. In a literal sense, he does not ssem to have focused on what is really asked in the question: what would

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[377] Beytülmal institution functioned as a local treasury for certain expenses, particularly in the provinces. The ways of spending the beytülmal revenues will be dealt in the fifth chapter.

[378] "Zeyd gâib olup hayatı ve mematı malum olmayup emin-i beytü'l-mal gâib Zeyd'in mülk darını marifet-i *kadı* ile misl-i kıymetine bey'eylese ba'dehu Zeyd hayyen zuhûr ettikde darını Amr'dan alabilir mi? Yoksa eminden semenini mi alır? El-cevab: mefkûdun malından fesâda kâbil olmayınca kudat bey'a kadir değillerdir, öyle olucak vâki olan akid nafiz ve lazım olmaz. Amma fî zamânina mutlaka bey'a kudat ve umenâ me'murlardır. Tamam değeri ile bey' olundu ise taarruz olunmasa olur. Zira kudat tağyire memur değillerdir. Fi'l-cümle gabn-i fahiş olacak fesh eylerler." 'Kitâbu'l-Mefkûd' Süleymaniye Kütüphanesi, İzmir 254 (the pages numbers are disarranged. Based on chapter numbers, 15).; Süleymaniye Kütüphanesi, İsmihan Sultan 241. (vr.120a-122a), *Ma'rûzât,* Pehlül Düzenli (Haz.), İstanbul: Klasik, 2013.

Zeyd take? The house or the price? However, by stating *kadı*'s legal authorities, he implies taking the price is preferable in case the transaction is fair.

A more *fiqh*-specific *fetva* is issued by Ibn Tabbah Derviş b. İbrahim (d.1597-98). As a provincial mufti, Ibn Tabbah bases his *fetva* on the reliable *fiqh* books of Hanefî legal scholars and their consensus.[379]

The question is 'whether the *kadı*s are entitled to sell the properties of the missing (and absent) persons in the following cases; there is fear of spoilage in the property, and there is not'. The answer is "the *kadı* sells in the first, but not in the second."

Following this short answer, supplementary conditions are also given to solve a future potential issue based on different factual circumstances; "in case one of his relatives needs to sell a property of the missing, which is '*akar,*[380] for the maintenance of the missing (*haceti'n-nafakatihi*)[381], there is not a consensus (*icma*') of the scholars on that. However, if the type of the property is movable (*menkûlen*), only the father of the missing could sell, not any others."[382]

Hayreddin Ramlî's (d.1671) *fetva* is rather different with respect to the otherwordly solution to a returning missing person. According to the *fetva*, there is a woman, who dies when her son is missing. The *beytülmal emini* takes all her properties and sells them before

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[379] The provincial muftis attach references to their fetvas based on order in the late sixteenth century. Urile Heyd, "Some Aspects of Ottoman Fetva", p.45.

[380] Immovable properties, like lands, buildings, shops. The things on the surface of the lands like buildings, vegetation and water are also regarded as *'akar*. Ömer N. Bilmen, *Hukukı İslâmiyye ve Istlâh-ı Fıkhiyye Kâmusu* v.6, İstanbul: Bilmen,1985, p.10

[381] Here the money is needed for the expenses of the missing, like the payment of rent, or his children in need of maintanance.

[382] *Ayn'ul-Mufti li Gayni'l-Müstefti*, Süleymaniye Kütüphanesi, H. Hüsnü Paşa, 521 (vr.128b-129a).

the missing's death is ruled (*kable'l-kaza bi-mevtihi*). The *beytülmal emini* also dies. Then, the missing son returns. What is the rule (*hukm*)? The answer confers all his rights; he can reject the transaction, he can get the house back, or the price. However, Ramlî ends the *fetva* advising him to shelve his claims until the judgment day[383] as Allah knows the best.[384]

3.6.2 Beytülmal as the Claimant and the Debtor

Any property or amount of money that is possibly labeled 'unclaimed' returns to the *beytülmal*. The public officers were prompt in claiming the returns under the guidance of different forms of rules.

A *fetva* from Ebussuud would exemplify this: Zeyd owes money to Amr. Before Zeyd paid his debt to him, Amr had deceased. If there is a possibility of an existing heir in a different city, based on *şer'* to whom Amr should pay the debt [to the heir or the beytülmal]? The answer is 'to beytülmal'.[385]

The answer seems like impeding the right of a possible heir in getting his/her rightful receiving of the payment. However, based on the theory, the *beytülmal* takes the debt for safekeeping. That is to say, the possibility of the heir's own claiming is preferred to the possibility of getting the debt to the heir.

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[383] وان تعذر تاخرت مطالبته الي يوم القيامة

[384] *El-Fetava'l -Hayriyye fi Nef'i-l Berriye*, Süleymaniye Kütüphanesi, Murad Molla, 1131 (vr. 101a-101b).

[385] "Zeyd deynini Amr'a vermedin Amr fevt olsa ahar vilayette varisi olmak ihtimali olsa şer'an Zeyd deynini kime vermek gerekdir. El-Cevab: Beytülmale vermek gerekdir." Süleymaniye Kütüphanesi, İzmir, 254, (book 15).

As discussed in the *kanunnâme* section, especially *Kanunnâme-i Beytülmal-i Hassa*, the adressee in the debt claims of an heirless deceased person is also the *beytülmal*.[386] The office either meets the case by paying the debt to the claimant or appointing a *vasi* (trustee) to oversee debts on the property.

3.6.3 Pre-emptive Grants and Avoiding Escheat: Cases of Muslims and non-Muslims

As discussed in the *kanunnâme* section, the *beytülmal* officers were also in charge of taking the heirless estates of the non-Muslim subjects. However, based on some regulations, these revenues might be collected among their own social group for their own benefit. The *fetva*s in Kemalpaşazade's (d.1536) collection also reveal the *beytülmal*'s approach to non-Muslims: "Bir Kâfir, hasta oldukta beytü'l-maldan kaçırıp rızkını bir kimseye hibe eylese, sahih olur mu? El-cevap: Olur." [387]

In the opinion of the Kemalpaşazade, if a non-Muslim is [seriously] ill and purposefully grants his/her inheritance to a third person to hinder *beytülmal*'s taking, it is lawful.

Though the circumstances are not identical, a pre-emptive kind of action is applied to the property of Muslims. Based on a verbal statement, two persons mutually agree to hold

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[386]See some cases in Kenan Yıldız, "Üsküdar'ın Sosyal ve İktisadi Hayatı ile İlgili Üsküdar *Kadı* Sicillerindeki Kayıtların Tesbit ve Analizi (954-980 / 1547-1573)", MA Thesis, Marmara University, 2005, pp. 13, 24, 28 and others.

[387] *Mecmûatü'l-Fetâvâ* Süleymaniye Atıf Efendi, 2835 and other copies are examined in Ahmet İnanır, *Şeyhülislam İbn Kemal'in Fetvaları Işığında Kanûni Devrinde Osmanlı'da Sosyal Hayat*, İstanbul: Osmanlı Araştırmaları Vakfı, 2011, pp.41-44, 189.

the property of one in case any of the two dies: "Zeyd şu kadar eşyasını hibe eder oldukda 'ben senden evvel fevt olursam eşya senin olsun, sen benden evvel fevt olursan eşya-i merkume yine benim olsun' deyu bu veçhile hibe ve teslim eylese hibe-i mezbure sahiha olur mu? Beyan buyurula. El-cevab: Olmaz. [388]

Yenişehirli Abdullah (d.1743), however, does not see such an agreement as lawful. In general, the *fetva*s of the Şeyhülislams do not state the grounds for the answers, except for some generic notes. Thus, why a non-Muslim's on-purpose anti-*beytülmal* action is found lawful and why two Muslims' mutual agreement is not, is confusing.

The *fetva*s are short and devoid of crucial details. The reader lacks context, the untold conditions and facts which conceal its meaning. With respect to the *beytülmal*, the *fetva*s suggest solutions based on the corpus of Islamic law and the *kanunnâme*s. The actors like *vasi*, *kayyım*, *kadı*, and *beytülmalcı* cooperated in the cases of property claims and restitution. Additionally, rather than *kanunnâme*s, the *fetva*s demonstrate that the proper functioning of the *beytülmal* institution was only possible by the intervention of the *kadı*.

3.7 Conclusion

The two *beytülmal*s, either the public treasury or the revenue type, were operating in Ottoman Empire based on the legal system and principles from the early fifteenth century on. While the first was in a close connection with the principle of fiscalism, the second functioned more for dispensing justice. with respect to the *kanunnâme* texts, the use of the term between 1450 and 1700 was different. Strikingly, the *beytülmal* as a revenue type was utilized in the *sicil*s, *kanunnâme*s, and orders during the reign of Mehmed II. Indicating its use before his

[388] Sinan Çuluk, Yılmaz Karaca (haz.) *Osmanlı Arşivinde Şeyhülislam Fetvaları*, Başbakanlık Devlet Arşivleri Genel Müdürlüğü: İstanbul, 2015, p. 100.

reign, the term was devoted only to the unclaimed properties and government right of escheat. The properties that belonged to the treasury were described as *beglik*. However, during the reign of Süleyman I witnessed excessive use of the term, particularly in general and provincial *kanunnâme*s. Additionally, the theoretical grounds of the *beytülmal* as public treasury were stated by Dede Cöngî's risale under his reign. Taking into consideration Âşık Çelebi's *zeyl* (addendum), one might say that the sixteenth century witnessed the increasing interest on the use of the concept of *beytülmal*, and its theory. According to Hüseyin Yılmaz, this was largely a result of the influence of Mamluk tradition of political writing that finds its way into the Ottoman political literature, particularly on the subjects *es-Siyâsetü'ş-Şer'iyye* and *beytülmal.*[389]

However, starting with Mehmed II, the general *kanunnâme*s stated the framework and the procedure for the *beytülmal* as a revenue, i.e., the escheat right of the state. As a legal or co-heir to unclaimed properties, the public authority claimed the *beytülmal* revenues based on some circumstances like the land regime, military status, geography, religious and ethnic groups etc. Specifically, Süleyman I's era might be said the most original and inventive one. The provincial *kanunnâme*s issued under his reign regulated the *beytülmal* in a more elaborative way in deference to local, social, administrative and military characteristics of the revenue. The modifications in the regulations majorly paid regard to a balanced allocation of the tax farm and *beytülmal* collection among the social groups.

Lastly, the normative texts demonstrate that the instiution managed two mains task: property claiming and restitution. It was the addressee in both cases as it aims to protect the

[389] Hüseyin Yılmaz, Caliphate Redefined: The Mystical Turn in Ottoman Political Thought, Princeton University Press, 2018, p. 7, 84.

right of each possible claimant. However, as revealed also in *fetva* section, neither task of the institution was achieved unless the cooperation of the actors was established in the field, particularly the *kadı*s.

CHAPTER 4

BETWEEN LEGAL AND FINANCIAL: BEYTÜLMAL AND INSTITUTIONALIZATION

4.1 Introduction

"1247 senesi evailinden [1]249 senesi Rebîulevveli evasıtına gelince bazı kesânın tereke bahalarından Beytülmal Nazırı ağa tarafından emâneten teslîm-i Hazîne-i Âmire olunup ber-mûceb-i ilm u haber varisleri tarafına red ve i'ta olunanlardır."[390]

The Ottomans paid considerable attention to supervising unclaimed properties in their realm. They formed the *beytülmal* office the primary function of which was to claim unclaimed properties on behalf of the government. Both in its classical meaning in Islamic history and narrower sense in the Ottoman Empire, the *beytülmal* aims to claim, protect, hold, and direct unclaimed properties for the benefit of the subjects of the political organization. The previous chapter focused on the law of *beytülmal* utilizing mainly the normative texts comprised of rules and legal regulations. They implied certain procedures according to which the office should have functioned.

Against this background, the current chapter aims at examining how the Ottomans institutionalize the property claims through *beytülmal*. It will scrutinize the foundation and organization of the office based on empirical sources and consider the following questions: What was the nature of this office? What were the grounds for dividing the *beytülmal* as *amme* and *hassa*? What were the methods used to determine the claims made on behalf of the public? Who were the official claimers and intermediary agents in the field?

[390] BOA: D. BŞM.d. 9939, p.2, 29 Ra 249 (16 Aug. 1833).

Additionally, the current chapter will consider if and why the *beytülmal* office can be considered a specifically Ottoman institution. Definitions of an institution and approaches to institutional history may vary based on one's field of specialization, research agenda, and intellectual concerns.[391] This section of the chapter will tackle the nature and the significance of the *beytülmal* office and how to approach it, regarding it as a legal and financial institution in view of its endurance from about the early fifteenth century to the final years of the empire,[392] and that it operated in the center and the provinces according to a set of rules and established practices that made it a significant part of the greater bureaucratic organization. It closely collaborated with the *kadı*'s court to serve the judicial purpose of delivering to the rightful claimants their due shares of an estate. In addition, the office collected a considerable amount of revenue that helped provision the local and imperial treasuries at different levels.

In sum, this chapter begins with an examination of the general characteristics of the Ottoman office of *beytülmal* in the pre-modern era, and then focuses on its organization and administration in overseeing unclaimed properties.

4.2 The Making of the Beytülmal as an Ottoman Institution

One can argue that a characteristic feature of political institutions or organizations is to uphold a general theoretical or idealistic framework and to adopt the basic tenets or principles of this framework to generate and maintain a societal order. In this sense, the Ottomans upheld Islam and its *shari'a*, which informed the rules and regulations that the Ottomans relied on to build and manage institutions in different parts of the empire. To a

[391] Arzu Güldöşüren "Türkiye'de Kurum Tarihçiliği Literatürü." *TALİD*, 19/37, 2021, pp. 395-466.

[392] There were changes and modifications in the functioning of the office during the 19th century, and will be discussed below.

great extent, the miscellaneous forms of human relations and diverse legal settings were maintained by virtue of the predictability that this framework and its principles provided for people.[393] William R. Scott's three-pronged definition of an institution should help us understand this feature of Ottoman rule: "Institutions comprise regulative, normative, and cultural-cognitive elements that, together with associated activities and resources, provide stability and meaning to social life."[394]

Alternatively, from the perspective of an economic historian, "institutions are humanly devised constraints that shape human interaction." It consists of both informal constraints embodied in sanctions, taboos, customs, traditions, and codes of conduct and formal rules like constitutions, laws, and property rights.[395] Reserving the accommodational practices of the pre-modern period and its nuanced implementations, it is safe to state that *beytülmal* was an Ottoman institution that operated in different parts of the empire informed by a theoretical framework of relatively well-articulated beliefs, rules, regulations, and customs. Apart from the material conditions that affected the *beytülmal* office, property

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[393] Engin D. Akarlı, "Maslaha from 'Common Good' to 'Raison D'etat' in the Experience of Istanbul Artisans, 1730-1840" in *Hoca 'Allame, Puits de Science: Essays in Honor of Kemal H. Karpat*, ed. Kaan Durukan, Robert W. Zens, Akile Zorlu-Durukan, İstanbul: ISIS Press, 2010, pp. 63-79.

[394] William R. Scott, *Institutions and Organizations: Ideas, Interests and Identities*, Los Angeles, CA: Sage Publications, 2014, pp. 55-71.; Gail Bossenga, "Institutions as a Mode of Historical Analysis" *Journal of the Western Society for French Histor*y, vol.44, 2016, pp. 9-19.

[395] Douglass C. North, *Institutions, Institutional Change and Economic Performance*. Cambridge, UK: Cambridge University Press, 1990, pp. 3-11 and 36-54. See also Şevket Pamuk, "Institutional Change and the Longevity of the Ottoman Empire, 1500-1800" *Journal of Interdisciplinary History*, Vol. 35, No. 2, 2004, pp. 225-247.; Şevket Pamuk "Economic History, Institutions, and Institutional Change", *International Journal of Middle East Studies*, Vol. 44, No. 3, 2012, pp. 532- 535.

relations, influenced by religious principles, custom, and worldly concerns, constituted the basis of the *beytülmal* as an institution. Its longevity and extensiveness at temporal and trans-imperial levels indicate that the Ottomans remained concerned with unclaimed properties as a legal matter and a revenue type.

However, it would be only approximate to take its institutional and operational portrait. The *beytülmal* was a complex and multilayered institution the elaboration of which is not straightforward. From the agents working for the office to the different ways of collection and spending, it had considerable accommodated procedures. First and foremost, the *beytülmal* had a widespread organization implementing various forms of practices depending on spatial and temporal circumstances, the status of the land, the status of the ex-owner and the value of the unclaimed property at hand, and the like. Furthermore, there were "*beytülmal*s" of different corporate groups that were subject to different sets of regulations such as the *beytülmal* of *vakıf*s, *yeniçeri*s (janissaries), *bostancı*s[396] (imperial guards). In addition, there were *beytülmal*s for some specific groups,[397] or specific imperial military campaigns (*sefer-i hümâyûn beytülmali*).[398] Along with these corporate beytülmals, there was

[396] C.ADL. 88/5302, 5 R 1172 (6 Dec. 1758).; "…Taifei mezburdan biri bila vâris-i maruf vefat eyledikde terekesi asitâne-i saadette yeniçeri beytülmalleri gibi bostancıbaşı tarafından beytülmalleri kabza memur olan kimesne kassam-ı askeri marifetiyle terekesini tahrir ve defter ve beytülmalci hıfzedip varisi zuhur eyledikde vech-i şer üzere bade isbatı'l-verase teslim olunup varisi ahar diyarda bulunan müteveffanın terekeleri bostancıbaşı nezaretiyle …" C.SM 38 /1940, 24 Z 1147 (17 Apr. 1735).

[397] "Mukataa'i Beytülmâl-i Gönüllüyân-ı yemîn ve yesâr." D.BRM.d. 24290, p.2, M 1088 (Mar. 1677).

[398] "İcmâl-i muhasebe-i varidât ve teslimatı beytülmal-i hassa-i sefer-i hümâyûn…" The payments made from this revenue was stated as "et-teslîmât be hizâne-i amire-i sefer-i hümâyun bi'd-defâat". MAD.d 5568, p.10." (1021/1612-163).; See also YB.04.d.15 for a list

also the possibility to make special contractual arrangements in advance to prevent the subjection of an estate to beytülmal regulations.[399]

Additionally, there were *mukataa*s (tax-collection units or tax-farms) devised to collect *beytülmal* revenues. *Mültezim*s (or contractors who served as *amil*s or intendants of revenue) managed the *beytülmal mukataa*s. Certain agents working in the field such as *emin*s (stewards) and *katib*s (clerks) assisted the *mültezim*s. These people came from different career lines. *Mültezim*s were mostly of a military-administrative (*seyfî*) status, bearing the titles of *sipahi* and *çavuş* in general. Ordinary people (*reaya*) such as tradesmen in a related line of activity, and non-Muslims (Christian and Jewish) could also become *mültezim*s.[400]

These variations attest to the diversity (and complexity) of the conditions within which the *beytülmal* operated. Still, the overarching claims of the government on unclaimed property provided coherence to the activities of the *beytülmal* office and kept it in the same line of government business.

4.2.1 Situating Beytülmal in the Ottoman Bureaucratic Organization

The functions of the *beytülmal* office made it a part of the greater governmental organization. At the local level, the fulfillment of the fundamental tasks expected of the *beytülmalci* depended on the *kadı*'s cooperation by virtue of the legal nature of these tasks. Thus, the *beytülmalci* had to work within the limits of the law—the legal principles and actual

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of inheritances of military officers who died in Cyprus and whose inheriance was recorded by beytülmal-i hassa officer.

[399] See for instance A.DVNSMHM.d 52/704, 16 S 992 (15 Feb. 1584).

[400] Mehmet Genç, "İltizam" *TDV İslâm Ansiklopedisi*, Vol. 22, 2000, pp. 154-158.; TS.MA.d 4183, p.6, 4183, p.7; TS.MA.d 2580/0020.; MAD.d.7160, p.8 and 18.

regulations governing *beytülmal*—and under the *kadı*'s de facto supervision in each case. At the imperial level, the *beytülmalci*s were accountable to the *defterdar* (finance director) in fiscal matters because they collected revenue based on public rights and claims regarding these revenues. The officers were accountable to and administered by two bureaus (*kalem*s) under the Defterdarlık (the equivalent of a finance ministry[401]) in Istanbul, namely the *Mukataa* and *Mevkûfat* bureaus:[402] The Bureau of Mukataas recorded and maintained the appointments of the officers in the field like *âmil*s*, emin*s, *katib*s and *nâzır*s as well as the details regarding the mukataa holders, revenues, and conditions.[403] The Bureau of Mevkufat was in charge of recording the income from the properties that were put in the custody of the Treasury temporarily, like escheated or unassigned *tımar* lands, and unclaimed properties.[404]

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[401] Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay., 2020, pp.244-246.

[402] For instance an account register included beytülmal and mevkûfât revenues in Mihaliç and its dependancies in 1650. D. BŞM.d 188, p.12, 8 Za 1060 (2 Nov. 1650).; See also D.BŞM.d. 25, p.2. 10 Ş 954 (25 Sep. 1547).

[403] For instance, the cluster of documents under the classification of Baş Mukataaa Kalemi (The Chief Bureau of Mukataas) includes correspondence on the mukataa contracts made between the imperial center and several sancaks including Belgrad, Vidin, Kırkkilise, Tavaslı, Gedüs, Şeb, Sofya, and Tuzla. The first document is a letter written by Seyyid Hasan, the *kadı* of Bergos. According to this document, the last emin who oversaw beytülmal-i hassa in the sancaks of Vize and Kırkkilise did his job excellently from the beginning to the end of his tenure. Thus, the *kadı* requests the reappointment of the same emin for the same mukataa. ("…tahvilinin bidayetinden nihayetine varunca efradımızdan bir ferd rencide ve remide olmayub mezburdan kemal-i mertebe razı ve şakirleriz, … Uslub-u sabık üzere giru mukataaatın mezkureye emin olmasın rica ederiz..." D.BMK. 2/1, 20 Ca 1001 (22 Feb 1593). The documents following this letter includes a list of the relevant mukataas, including beytülmal-i hassa ones, the amount of revenues, and other details based on the contracts.

[404] Ömer L. Barkan, "H. 974- 975 (M. 1567-1568) Malî Yılına ait bir Osmanlı Bütçesi" *İÜİFM:* C. 19, Sayı 1-4, (1957/58) 1960*,* p. 277-332.; Linda T. Darling, *Revenue* Raising *and*

The records show that three different *mevkufatçı*s worked under three different defterdars in the year 1567-68.[405]

In the sixteenth century, the fiscal bureaus were to a great extent developed and operating across the empire. The legal entity and institutional significance of the bureaus were not specified but references to the performance and duties of the officers in charge of these bureaus, like Ruznamçeci, Mukataacı, Mevkufatçı, and Teşrifatçı, give an idea. The same applies to the *beytülmalci*s. Along with the official correspondence that regards the office as such, the office was known by the addressees via the performance of the actual *beytülmalci*s in the field.

A document dating from Bayezid II's reign should illustrate the point: A group of local people complained that the *emin* unjustly took the property of an Acem who was killed in Kefe by an unbeliever: "… *Taman'da bir Acem kişisin kafir şehid eyledi …*" The Acem left six thousand tents (*çadır*) and several concubines (*cariye*) behind. Maneuvering the selling of the property of the deceased, a certain emin and the *beytülmalci* unlawfully kept the property in their own hands. Though the price in total might have exceeded 30,000 Kefevî akçes, somehow, they showed the value of the sale at least 20,000 akçes below this rate. They did so most probably to show the property as *beytülmal-i amme* (which is sold to mukataa

Legitimacy: The Collection and Finance Administration in the Ottoman Empire 1560-1660, E.J. Brill, 1996, p.65.; Oktay Özel, "Limits of the Almighty: Mehmed II's 'Land Reform' Revisited", *JESHO*, Vol. 42, No. 2, 1999, p. 226-246.

[405] The role of the mevkufatçı was defined as "Başdefterdarın eğer beytülmal ve yava ve tımar gayridir ki mevkuf olan mezburın kalemindedir, ancak anu yazar." Ömer L. Barkan, "H. 974-975 (M. 1567-1568) Malî Yılına ait bir Osmanlı Bütçesi" *İÜİFM:* C. 19, Sayı 1-4, (1957/58) 196o*,* p.277-332.; İsmail. H. Uzunçarşılı, *Osmanlı Devletin'nin Merkez ve Bahriye Teşkilatı*, Ankara: TTK, 2020 (4. Baskı), pp. 342, 344.

and might be used only locally) instead of *hassa* (which had to be reserved for the state, or sent to İstanbul, at that time).

This trickery was generally stated as "*hassayı ammeye tebdil etmek*" (changing the value fells to *beytülmal-i hassa*, which is more than 10.000 akçes, to the value of *beytülmal-i amme*, below 10.000):[406] "*Şöyle onatca satılsa otuz bin Kefevî akçe eylerdi, amma kendunun tama'ından ötüri bu yedi, ki akçesiyle çadırı beytülmalciye iki buçuğa sattı sonra dutub beytülmalciden üç bin çadırı kendu aldı*." The complainants defined the property as '*hü[da]vendigarın akçesi*' (the money due for the sovereign) or '*padişahımın malını yediler*' ("… gobbled what was due my padişah") as if it was not *mîrî.* Although the complainers also expressed ethical concerns about the *emin*s' behaviors in general asking '*bu nice eminlikdur*?', they directly blame Yahya, the *emin* in Kefe, not the office.[407]

Other documents as well indicate that the *beytülmalci*s and the *emin*s got greedy about usurping the share or claims of the Imperial Treasury. For instance, another petition complains that the *beytülmalci*s took hold of the eight thousand akçes left behind by a Russian merchant who died in Kefe and not a penny of this amount reached the sultan: "*Bir Rus*

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[406] Neither the normative texts nor the empirical sources mention that beytülmal-i hassa was sold as mukataa prior to the first quarter of the sixteenth century. The local figures were ordered to deliver only the beytülmal-i hassa revenues to the treasury. However, beytülmal-i amme was claimed by the emins who were authorized to sell or manage the property in comply with the current regulations. In this case, 30.000 akçes is more than fit for beytülmal-i hassa. Instead of keeping and delivering that amount in total for the treasury, the beytülmalci might have wanted to show this property as beytülmal-i amme, which is below 10.000, so as to benefit more. TS.MA. e 450/19, 07 S 918 (24 Apr. 1512)

[407] The late Kunt also discusses the pre-modern particularities of Ottoman institutions in his seminal article on the *vakıf*s. İ. Metin Kunt, "The Waqf as an Instrument of Public Policy: Notes on The Köprülü Family Endowments" in *Studies in Ottoman History in Honor of Professor V. L. Ménage* (ed. Colin Imber and Colin Heywood), Istanbul: The Isis Press, 1994, pp. 189-198.

bazirgânı Kefe'de fevt oldu, sekiz bin Osmanî akçe rızkı kaldı, beytülmalciler aldılar ... hü[dâ]vendigâra nesne olmadı…"[408] This might not be a surprise if one reflects upon the centrality of the sultan, *kadı* and kuls, rather than the state, court, and affiliation of the government functionaries.

However, the seventeenth-century names of the bureaus point to a relatively sophisticated institutional development in time. For instance, the bureau of the *Muhasebe-i Evvel* was named as Başmuhasebe (Chief Accounting Office) around the beginning of the seventeenth century.[409] In his careful study of the Ottoman fiscal bureaus under the Başmuhasebe, Gülfettin Çelik classifies the bureaus first regarding the revenues and expenses of the imperial treasury (*irâd* and *masraf*).

Under the chief account office, there were three main bureaus.

Defterdarlık (*Bâb-ı efterî*)[410]

1. Maliye Kalemi[411]
2. Tarihçi Kalemi[412]

[408] TS.MA.e 450/19, 07 S 918 (24 Apr. 1512]

[409] Gülfettin Çelik, "Osmanlı Devleti'nde Merkezi Hazine'nin Maliye Büroları" in *Osmanlı Maliyesi Kurumlar Bütçeler I*, p.115.

[410] The equivalent of finance ministry.

[411] The bureau in charge of recording the outgoing orders of the finance department. Linda T Darling, *Revenue* Raising *and Legitimacy: The Collection and Finance Administration in the Ottoman Empire 1560-1660*, E.J. Brill, 1996, p.18.

[412] An office in charge of dating the documents of the financial administration and organizing dues. Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay., 2020, p.249.; Baki Çakır, "XVI-XVIII. Yüzyıllarda Osmanlı Mukataa Sistemi'nin Yapısı ve İşleyişi", Ph. D Diss., Marmara University, 2003, p. 21.; Gülfettin Çelik, "Osmanlı Devleti'nde Merkezi Hazine'nin Maliye Büroları" in *Osmanlı Maliyesi Kurumlar Bütçeler I*, p.115.

3. Ruznamçe Kalemi[413]

The bureaus in charge of supervising specific revenues in the Imperial Treasury (*Hazîne-i Âmire*) in the 1640s are as follows;[414]

1. Kalem-i Muhasebe-i Evvel
2. Kalem-i Muhasebe-i Haremeynüş-şerifeyn
3. Kalem-i Mukataa-i Mensuh
4. Kalem-i Mukataa-i Haslar
5. Kalem-i Mukataa-i Avlonya
6. Kalem-i Mukataa-i Buruşa
7. Kalem-i Mukataa-i Kefe
8. Kalem-i Mukataa-i Evvel
9. Kalem-i Mukataa-i Maden
10. Kalem-i Mukataa-i Ağriboz
11. Kalem-i Mukataa-i Haremeynüş-şerifeyn
12. Kalem-i Mukataa-i İstanbul
13. Kalem-i Mukataa-i Ûlâ
14. Kalem-i Muhasebe-i Anadolu

(The bureaus later seen in the imperial budgets)

15. Ziyade-i Cizye Kalemi

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[413] The bureau of the registry that coordinates and the revenues and expenditures of the imperial treasury. Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay., 2020, p.249.;

[414] Gülfettin Çelik, "Osmanlı Devleti'nde Merkezi Hazine'nin Maliye Büroları" in *Osmanlı Maliyesi Kurumlar Bütçeler I*, pp.117-118.; Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay., 2020, pp.254-270.

16. Mukataa-i Ağnam (Ağnam-ı Celebkeşan) kalemleridir.
17. Muhasebe-i Cizye kalemi
18. Muhasebe-i Şıkk-ı Sâni (Piskopos Mukataası)

The last four bureaus in the later 1600s show that fiscal administration was organized based on the type of revenue groups rather than a spatial classification of the revenues which implies a more institutionalized fiscal administration. However, some of these bureaus had been subject to alterations in the last decades of the seventeenth century based on the developments in the technology of the communication, and geographic and political circumstances.

The lower-ranking bureaus under the *Muhasabe-i Evvel* were grouped based on their modus operandi, like *halifelik*s, *eminlik*s (trustees), *gümrük*s (customs), *hazine*s (local treasuries), *muhassıllık*s (tax collection), *mukataa*s (tax farms) and so on.

The *beytülmal* was not mentioned as an overarching body responsible for supervising unclaimed properties, or as a government function put under trustees (*eminlik*). Rather, as *İstanbul Beytülmal Mukataası* under the title of *Mukataa*s. Below is the list of these revenue-related administrations and the list of the mukataas under Başmuhasabe Kalemi.[415]

1. Halifelikler
2. Eminlikler
3. Baruthaneler
4. Gümrükler
5. Hazineler

[415] This list was based on Gülfettin Çelik's work on the Fiscal Bureaus in the Ottoman Empire. Only the mukataas section was expanded. Çelik, "Merkezi Hazine'nin Maliye Büroları", pp. 119-123. For the fiscal bureaus of revenue see also Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay., 2020, pp.254-270.

6. Muhassıllıklar
7. Mukataalar
    - Adana Mukataası
    - Ayntap Mukataası
    - Belgrad Mukataası
    - Erzurum Gümüşhanesi Mukataası
    - Ergani Mukataası
    - Hama Madeni Mukataası
    - İstanbul Beytülmal Mukataası
    - Kastamonu Küre-i Nühas Mukataası
    - Keban Mukataası
    - Sayda ve Beyrut Mukataası
    - Espiye Madeni Mukataası
8. Kalyonlar
9. Voyvodalıklar
10. Meliklikler
11. Others

Along with the İstanbul Beytülmali Mukataası, the following bureaus supervised the beytülmal revenues of different parts of the empire roughly between the second half of the sixteenth century and the first half of the seventeenth century.

Muhasebe-i Evvel Kalemi	İstanbul Beytülmali Mukataası, Yave, kaçgun, müjdegâne, and beytülmal of non-Muslims of Crete, Çorlu, Ereğli,

	Kocaeli, Tekirdağ, Bergos, Pınarhisarı, Saray and beytülmal of Ankara.
Haslar Kalemi	Beytülmal of Siroz
Mukataa-i Evvel Kalemi	Beytülmal of Vize and Kıkkilise, and the port of Silistre
Bursa ve Avlonya Mukataaları	Beytülmal of Siroz

Since the bureaus in this category oversaw collecting and recording revenues (*irâd*) for the imperial treasury, the dominant function that characterized them was highlighted at the expense of their legal responsibilities and features as fiscal institutions. Therefore, they are regarded more as a revenue, *beytülmal mukataası* or *mahsûl-i beytülmal*, of a specific place rather than a legal or financial institution as such.

However, considering the geographical diffusion and the variety of the functions of the office, neither Istanbul nor *mukataa* expresses the significance of it within the greater bureaucratic organization. Additionally, the extent of the *beytülmal* and its potential revenues could not be estimated through fiscal records alone. For instance, Barkan's study of the sixteenth-century budgets indicates that they exclude the revenue records of certain provinces entirely. The most likely explanation for this gap is that these revenues were spent locally to cover local expenses (*mahallinde sarf*).[416] Based on his findings, Barkan concludes that the sixteenth-century budgets do not allow the estimation of all revenue sources of the realm, their overall potential, geographical diffusion, or the relative significance of each revenue

[416] Or the revenue was recorded but the amount was strikingly less than a previous budget.

item.[417] Indeed, a considerable number of documents show that the *beytülmal* revenues were spent locally while also being sent to the imperial treasury.

As the earlier *kanunnâme*s texts and Bursa court records show, the procedures related to the establishment, management, and collection of public claims regarding the *beytülmal* and the system in which the office operated and the agents or contractors fulfilled their responsibilities were still in the making in the fifteenth century.[418] However, studies focusing on the *beytülmal*'s institutional significance and legal responsibilities may produce different results.

So far only Bilgin and Bozkurt attempted an independent study on the subject that focuses on the beytülmal mukataas.[419] They use the term beytülmal as an adjective to denote revenues collected through heirless or semi-heirless *muhallefat*s, if they did not overtly refer to the meaning of *beytülmal* as public treasury. This usage might be misleading because the concept was used for property that remained unclaimed not only for heirlessness but for

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[417] Ömer L. Barkan, "H. 974- 975 (M. 1567-1568) Malî Yılına Ait bir Osmanlı Bütçesi" *İÜİFM:* C. 19, Sayı 1-4, (1957/58) 196o, p.277-332.

[418] Halil İnalcık and Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani II. Mehmed ve II. Bayezid Devirlerine Ait Yasakname ve Kanunnâmeler*, (Ankara: Türk Tarih Kurumu, 2000), p.70-71.; "…Metrûkâtından bir evini beytülmalciden dört bin altı yüz akçaya satun almış idüm." (BOA, MŞH.ŞSC. d, 2458/vr.237b) 6 Şubat 1480; "…ve padişah tarafından zâbit-i beytülmal olan Mevlânâ Muhyiddîn…" (BOA, MŞH.ŞSC. d., 2458/vr.17a), 1478; "…Beğ sancağı livâsını Şehâbeddin Paşa tasarrufunda olandan gayrı ve Sultanöyüğü ve Bilecik ve İznikmüd ve İnönü yavasın ve beytülmalın dutan Birincioğlu Mehmed…" BOA, MŞH.ŞSC. d, 2458/vr.59a, 1479.

[419] Arif Bilgin and Fatih Bozkurt, "Bir Malî Gelir Kaynağı Olarak Vârissiz Ölenlerin Terekeleri ve Beytülmâl Mukataaları", *Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 20, 2010/2.

different reasons.[420] However, the beytülmal office was not only in charge of claiming heirless or semi-heirless *muhallefat*s. This study prefers the adjective 'unclaimed' so as to be more inclusive of the properties that the beytülmal had a claim over.

The concept applied also to the destiny of these properties for preservation,[421] and to the title of the offices,[422] and officials[423] in charge of the various procedures involved in the settlement of the potential and actual claims regarding such property. The body of officials to which the Ottoman sources refer as *emîn-i beytülmâl*, or *beytülmâlci*, and *beytülmâl katibi* were responsible for taking charge of properties defined as "unclaimed" or "heirless" (*bilâ vâris* or *vârissiz*) in general both in the imperial center and the provinces. The same sources also point to the legal procedures that the *kadı*s and the emins had to observe regarding the treatment of such property,[424] thereby signifying the legal dimension of their official

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[420] The majority of the beytülmal cases was related to properties left behind by people who died without an heir. See for example C. ADL. 6/357, C. ADL. 34/2022, İE. MHF. 1/17, AE. SSÜL.II 1/93 and ("Üsküdar'da Bostani taifesinden bila varis fevt ve terekesi beytülmal olan…") DVN.ŞKT 93/231.

[421] "Galata vesâir diyarda bilâ varis fevt olub İstanbul'da ve tersanede bulunan eşya ve muhallefatları ve nukûd her ne zuhur eder ki canib-i beytülmal'e aid olub…" MAD.d.2730, p. 188.;

[422] "…varis-i ma'rufu olmamakla cüz'i ve küllî metrûkâtlarına kadîmu'l-eyyâmdan hassa beytülmâl tarafından zabtolunup…" MAD.d.3427, p. 334.

[423] "Kaziyye, beytülmalcilerin mirinin padişahın malını yediklerini beyan eder." TS.MA.e 450 /19, (918/1512-13).

[424] "…İstanbul'da Beyceğiz mahallesinde vefat eden Aişe nam Hatun'un beytülmale 'ayid ve raci' olan evini cümle tevabi'i ve levahiki ile otuz altı bin akçeye taraf-ı miriden iştira idub akçesin bi't-tamam beytülmal eminine teslim ve eline kassam tarafından hüccet-i şer'iyye alub…" TS.MA.e 892/21, 27 C 944 (1 Dec. 1537). The emin in charge of collecting unclaimed properties had to cooperate with the *kadı* for the proper management of the

responsibilities. This study choses to refer to the office as *beytülmal eminliği* or *emâneti*[425] considering the Ottoman use of the term to denote officials charged or contracted to conduct procedures regarding specific tasks within certain legal limitations. It can be translated as "the custodian, or trusteeship, of unclaimed properties."[426]

Beytülmal mukataas acquired additional significance when the *iltizam* system became one of the principal engines for collecting public claims in the first half of the seventeenth century. The emanet system was also prevalent in some places in which the *emin*s were paid a fixed salary. In Hungary for instance, the *beytülmal* revenue was collected mostly by means of *emanet* in the sixteenth century.[427] Bursa *Hassa Harç Emini* claimed and controlled the same revenues in Bursa and the districts in its periphery in the first quarter of the seventeenth century. Additionally, peculiar to Bursa, the *beytülmal* was not divided into

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beytülmal under his responsibility. For example, İE.MHF.1/18 indicates that the emin's attesting and the *kadı*'s *huccet* (evidentiary document) were keys for solving problems. The officials and their roles will be discussed below in detail.

[425] This title was also used in some of the documents as follows: "… İstanbul Gümrüğüne ilhak olunan beytülmal emânetinin…" HAT. 1399/ 56288 (29 Z 1205); "An tahvil-i ağa emin-i mukataa-i emânet-i beytülmal-i hassa…" İE.ML 72/6714 (1115); "Rıdvan Çavuş'a beytülmal emâneti tevcihi…" AE.SAMD.I. 2/162, 20 L 1014 (28 Feb. 1606).; "Donanma-yı Hümayun beytülmal emâneti hizmetinde olan Mustafa…", A. DVNSMHM. d. 4/879, 21 N 967 (15 Jun. 1560).

[426] See also Linda T. Darling, Revenue Raising and Legitimacy: The Collection and Finance Administration in the Ottoman Empire 1560-1660, E.J. Brill, 1996, p.196.

[427] Pál Fodor, "Some Notes on Ottoman Tax Farming in Hungary" *Acta Orientalia Academiae Scientiarum Hungaricae*, Vol. 54, No.4, 2001, p. 427-435.

amme and *hassa* categories,[428] and the same *emin* claimed both. Since an official appointed by the *Hassa Harç Emini* administered these mukataas, the collection of their yield was rarely auctioned or contracted out by means of *iltizam*.[429] Between 1598 and 1613, the administration of *beytülmal* was mostly at the hands of *emin*s.[430] The beytülmal of Bursa[431] yielded a considerable amount of revenue for the treasury. For instance, between the years 1603 and 1606, this amount was 1,770,000 akçes in total and ranked second in the ordering of revenues after the mukataa of *mizan-ı harir* (tax on silk trade).[432]

4.3 A Chronology of the Beytülmal

The social, economic, and military problems facing Ottoman rule, particularly in the late seventeenth century, affected the organization of government bureaus. The *beytülmal* office also underwent modifications basically within the *mukaataa* organization. One major

[428] For a basic translation of these words, one could suggest that *amme* is public and *hassa* is the imperial beytülmal revenues. However, in terms of claiming, beytülmal-i hassa emins could also claim the beytülmal of ordinary people, whose revenue is equal to or more than 10.000 akçes. Also, beytülmal-i hassa emins did not always send what they have collected as revenue to the imperial center. Directing the revenues was majorly depended upon the type of fiscal needs of the local and imperial treasuries.

[429] Arif Bilgin, Osmanlı Taşrasında bir Maliye Kurumu Bursa Hassa Harç Eminliği, Istanbul: Kitabevi, 2006, p. 91-95.

[430] Arif Bilgin, *Bursa Hassa Harç Eminliği*, p.199-205.

[431] It is important to note that the mukataa contracts generally specified the emins' jurisdiction. While Bursa might mean the central district of Bursa, the districts around it such as Gemlik, Kumla, İnegöl and Yenişehir should be included in the contract, if to be claimed by the same emin. Bilgin, *Bursa Hassa Harç Eminliği*, p. 92.

[432] Bilgin, *Bursa Hassa Harç Eminliği*, p. 63. This amount might be because the beytülmal mukataası covers both amme and hassa in Bursa in this period.

fiscal change could be said the introduction of *mâlikâne* system in 1695. In this system, the *mukataa*s (revenue units) were contracted for the life time of a highest bidder—rather than up to three years.[433] The *beytülmal* mukataas were also sold and undertaken in the *malikâne* system in the eighteenth century. For instance, the *amme* and *hassa* beytülmals of Bursa were sold into *malikâne* holders nine times between 1698 and 1721. Similarly, in Ankara, the *beytülmal*[434] mukataas were sold into *malikâne* system by 1716, the revenues of which were considerably high and assigned as private lands of the provincial ruler (*Mirliva Hassı*).[435]

The *beytülmal-i amme* and *hassa mukataa*s of İstanbul and its dependencies (*tevâbiî*) were attached (*mülhak*) to the İstanbul Gümrüğü Mukataası (The Tax Farm of the Customs of İstanbul and its dependencies), though the beytülmal did not yield revenue based on commercial activities. The Gümrük mukataası was working as a *nezaret* (ministry) since it oversaw the collection and management of the *beytülmal* revenues in an area extending from Istanbul to Edirne, in addition to its other responsibilities. The *emin* of the Gümrük Mukataası appointed a *beytülmalci* to claim the *beytülmal-i amme* revenues in significant

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[433] Mehmet Genç, "Osmanlı Maliyesinde Malikâne Sistemi", *Osmanlı İmparatorluğu'nda Devlet ve Ekonomi*, İstanbul: Ötüken Neşr., 2000, pp. 99- 147, 100.; Halil İnalcık, "Military and Fiscal Transformation in the Ottoman Empire 1600- 1700", *Archivum Ottomanicum*, VI, 1980, pp. 282-337.; Yavuz Cezar, *Osmanlı Maliyesinde Bunalım ve Değişim Dönemi*, İstanbul: Alan yay.,1986, pp. 32-34.

[434] "Mâl-ı gâib, mâl-ı mefkûd, yâve ve kaçgun, ispençe-i gebrân, dokuz kıt'a zemîn, bâc-ı hamr-ı nefs-i Ankara and some other taxes".

[435] Hakan Doğan, "Osmanlı Devleti'nde Divani Sistemden Malikâne Sistemine Geçiş Süreci ve Uygulamaları (1695-1730) –Ankara ve Bursa Örneği-" Ph. D Diss., Kırıkkale Üniversitesi, 2017, pp. 265, 272, 309-312, 420-22 and others.; Nilüfer Alkan, "18. Yüzyılda Osmanlı Taşra Yönetim Düzeninin Sosyo-Kültürel Yapıya Etkileri (Bursa Örneği)" Ph.D Diss., Uludağ Üniversitesi, 2010., pp. 88-89.

places like Silivri, Edirne, or İstanbul. [436] However, the management of the *beytülmal* mukataas were separated from the İstanbul Gümrük mukataası and put under the Treasury (*canib-i miri*) in 1776.[437]

Since the management of *beytülmal* mukataas was intrinsically related to judicial and fiscal administrations, developments that involved the latter affected the organization of the *beytülmal* mukataas as well. Particularly, the growing expansion and elaboration of the bureaucracy in the nineteenth century impacted the administration of unclaimed properties. Judiciary reforms likewise led to the reorganization of the *beytülmal* institution. For instance, *Muhallefât Halifeliği*, which oversaw the recording and holding of the patrimonies of government functionaries and the confiscated properties of the high-ranking servitors of the sultan, changed into *Beytülmal Müdürlüğü* in the Tanzimat period.[438]With the initiative of

[436] The inventories, burial procedures and the debts of heirlessly deceased persons were all dealt with and covered by the Istanbul Gümrüğü Mukataası on behalf of the government. Saim Çağrı Kocakaplan "İstanbul Gümrüğü (1750-1800): Teşkilat ve Ticaret", Ph.D Diss., Marmara University, 2014, p. 39.

[437] "Taht-ı iltizamımda olan İstanbul Gümrüğü mülhakatından olup bundan akdem gümrük-i mezbur umenası taraflarından zabt olunagelen beytülmal-i amme ve hassa mukataasının gümrük-i mezburdan ifrâz ve canib-i miriye zabt olundukta…" BOA C.ML. 320/13152, 29 10 1191 (30 Nov. 1777). According to this document, the government ordered the emins in charge of mukataas in Filibe, Gümülcine, İnöz, and Menteşe provinces to cover the 4,500 kuruşes of deficit of İstanbul Gümrüğü Mukataatı that would result from the beytülmal's separation from that nezâret. See also Arif Bilgin, Fatih Bozkurt, "Bir Malî Gelir Kaynağı Olarak Vârissiz Ölenlerin Terekeleri ve Beytülmâl Mukataaları," *Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 20, 2010/2, p. 5.

[438]Abdurrahman Vefik, *Tekâlif Kavâidi*, c.1 İstanbul, 1328, p. 203.

Ziya Paşa, the fiscal system was organized into five main bureaus which also brought the abolishment of the *Beytülmal Müdürlüğü* and some other offices[439] in 1908.[440]

Heirless or semi-heirless property was one of the most common types of unclaimed property for which the government supervision remained very close. The related courts and *kassam*s (dividers or law officials who fixed inheritance shares) oversaw the division of the *muhallefat* of the members of the *askerî* class. Three courts were formed for dealing with cases related to fixing the shares in muhallefats, namely the *Kısmet-i Askeriye Mahkemesi* (1000-1342/ 1591-1924), *Mülgâ Beledî Kassamlığı* (1066-1303/ 1655-1886), and *Beytülmal Kassamlığı* (1254-1327/1838-1909).[441] The main task of these courts was to register the properties claimed both by the heirs and the government rather than sequestering, safekeeping, and administering unclaimed property as it was the case under the *beytülmal* system before the Tanzimat era.

The *kassam*s were şer'i court officials who dealt specifically with the division of *muhallefat*s.[442] While the *askerî kassams*[443] divided and recorded the inheritance of the *askerî* class, the *beledî kassam*s oversaw dividing the inheritance of the *reaya*. The *askerî kassam*s

[439] Vergi and Aşar Müdürlüğü, and Muhâsebât-ı Atîka Müdürlüğü.

[440] Zafer Toprak, *Türkiye'de Milli İktisat 1908-1918*, İstanbul: Türkiye İş Bankası Kültür yay., 2019, p.341.

[441] Tahsin Özcan, "Muhallefât", *TDV İslam Ansiklopedisi*, vol.30, 2020, pp. 405-406.

[442] İ. Hakkı Uzunçarşılı, *Osmanlı Devleti'nin İlmiye Teşkilatı,* Ankara: Türk Tarih Kurumu Basımevi, 1988 p.121.

[443] Officials in charge of dividing the inheritance of government officers.

claimed *resm-i kısmet*[444] on behalf of the chief judges (*kazasker*s) in Istanbul rather than the local *kadı*s. Imperial decrees delineated the boundaries of the *askerî* status and distinguished public (*amme*) inheritances from imperial (*hassa*) ones to prevent the rise of any conflict between the local *kadı*s and the *kazaskers* regarding the division of estates.[445]

The *beledi* kassams divided and fixed inheritances upon the request of regular subjects, and on behalf of the provincial *kadı*s. These *kassam*s were not authorized to intervene in fixing the shares among the possible major (*kibâr*) claimers. This rule excludes the following cases; if the possible heirs to *muhallefat*s were not there and then (like *gâib* and *mefkûd*), or they were underage of rightfully claiming their shares (*sağîr*, *sağîre*), or not capable to do that for any reason (like *mecnûn*). Otherwise, the *kadı* could only perform this duty upon the request of the major claimers.[446] However, as a remarkable difference, the

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[444] A fixed tax demanded upon fixing the shares of the inheritance among lawful claimers. It was generally between 1.5% and 2% of the muhallefat which subject to the division. Ömer L. Barkan, "Edirne Askeri Kassam'ına Ait Tereke Defterleri 1545-1659," *Belgeler,* III/5 (Ankara, 1966), p. 5

[445] Ömer L. Barkan examines a kanunnâme sent by Feyzullah Efendi, (the kazasker of Rumelia) to *kadı*s of Rumelia in 1605 that aims to make clear the extent of *askerî* class. "Edirne Askeri Kassam'ına Ait Tereke Defterleri 1545-1659," *Belgeler,* III/5 (Ankara, 1966), p. 5; See also the definition of the askeri class and who were considered in that group in a similar decree sent to the *kadı*s of Anatolia in 1615 in Arif Bilgin, *Bursa Hassa Harç Eminliği*, p. 91 fn.158.

[446] "Min ba'd verese-i müteveffâ kibâr olub mâdem ki, anlar cânibinden kısmet taleb eylemeyeler ve müteveffânın metrûkâtın yazmayalar...Meğer ki, müteveffânın evladı sığâr ve eytâm olub yazılub kısmet olmamağla hukûk-ı eytâm zâyi' ve telef olmak lâzım gele, ol vakit varub kısmet eyleyüb emvâl-i eytâmı nakîr ve kıtmîr yazub defterler eyleyeler". 'Resm-i Kısmet Kanunnâmesi' in Ahmet Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri*, İstanbul,1992, v.5, p. 53-54.; Fatih Bozkurt, "Tereke Defterleri ve Osmanlı Demografi Araştırmaları", *Tarih Dergisi*, s. 54, 2011/2, pp. 91-120.; Barkan, "Edirne Askerî Kassamı", p.3; A.DVNSMHM.d. 62/580, 10 Receb 996 (5 Jun 1588).

*askerî kassam*s divided and recorded inheritances on behalf of the *kazasker*s.[447] This was part of the routine duties of the *kassam*s and compulsory in the case of the unclaimed properties of government functionaries of different levels. For example, the *kazasker*s of Anatolia and Rumelia claimed within their respective jurisdiction the unattended inheritances of those who belonged to the *askerî* class (and their family members).[448] *Imam*s, *müezzin*s, *müderris*es, and other performers of religious or judicial tasks on official rosters were included in this class. *Kassam*s were busy, particularly in Edirne, Bursa, and İstanbul, where many members of the askeri class lived. In distant provinces, where legal courts did not always have *kassam*s, the *kadı*s and *naib*s (deputy judges) divided the inheritance of the askerî class and collected the dues on divisions (*resm-i kısmet*) on behalf of the *kazasker*s to be collected later by intendants (*askerî kassam müfettişi*).[449]

Several regulations were promulgated for the proper conduct of *beytülmal* affairs and the division of inheritances in the nineteenth century. These regulations were concerned mainly with the recording of the properties in an estate, their safekeeping, fixing division dues, proper protection of orphans' properties, and preventing the possible abuses of the

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[447] Mehmet İpşirli, "Osmanlı Devleti'nde Kazaskerlik (XVII. Yüzyıla Kadar)" *Belleten* 61, 1997, pp.597-700, esp. 622-623, 673.

[448]For instance, Kısmet-i Askeriye Mahkemesi that recorded the muhallefat of the askeri class in İstanbul worked under the Rumeli Kazaskerliği. See, for example, İstanbul Kadı Sicilleri 64 Kısmet-i Askeriye Mahkemesi 59 Numaralı Sicil (H. 1143 / M. 1730-1731), İstanbul: Kültür AŞ, 2019.

[449] Said Öztürk, *Askeri Kassama Ait On Yedinci Asır İstanbul Tereke Defterleri*, İstanbul: OSAV (Osmanlı Araştırmaları Vakfı), 1995, p. 68., and Halil Sahillioğlu, "Askerî" *TDV İslam Ansiklopedisi,* Vol. 3, 1991, pp. 488-489.

officials in charge. The regulations also aimed at defining the role, authority, and limitations of each related judicial body including the *Evkaf*, *Kassam*, and *Kazasker* courts.[450]

The insufficient supervision of inheritance (*tereke*) recordings and the administration of the orphans' properties enticed the government to assign these tasks to specific offices after 1851. Accordingly, the k*azaskerlik*s of Rumelia and Anatolia would keep the inheritance records, and *Emval-i Eytam Nezareti* (Administration) would manage the properties of the orphans of the askerî class. The latter was incorporated into the Office of the Şeyhülislam in 1852.[451]

Compared to the relatively locally claimed and administered *beytülmal* revenues in the early modern period, the nineteenth century *beytülmal* regulations aimed at establishing a centralized system, eliminating intermediary figures, and streamlining and standardizing the practices that varied across the empire earlier. For instance, *beytülmal* that accrued from *vakıf* lands was collected on behalf of the administration of the relevant *vakıf* to meet expenses according to its deed. However, following the foundation of the *Evkaf-ı Hümâyun* Administration (*Nezâret*) in 1826, the management of the *beytülmal* revenues of dispersed *vakıf*s was put under this administration's authority in conjunction with the efforts to centralize revenue collection in general. The administration and collection of the *beytülmal* revenues of certain non-vakıf lands were also brought under the jurisdiction of the *Evkaf-ı*

[450] Said Öztürk, *Askeri Kassama Ait On Yedinci Asır İstanbul Tereke Defterleri*, İstanbul: OSAV (Osmanlı Araştırmaları Vakfı), 1995, p. 71-74.

[451] Bilgin Aydın, İlhami Yurdakul, *Şeyhülislamlık (Bab-ı Meşihat) Arşivi Defter Kataloğu*, İstanbul: Türkiye Diyanet Vakfı İslâm Araştırmaları Merkezi (İSAM), 2006, p. 291-295.

Hümayun Nezareti in 1839.[452] However, according to a document, dated six months later in the same year, the *beytülmal*'s management seems to have been put under the administration of the Treasury (*Hazine-i Amire*).[453]

Maliye Hazinesi Beytülmal Kassamlığı promulgated a regulation (*nizamname*) that consisted of thirty-six articles in 1883 to prevent improprieties in the administration of inheritances and unclaimed properties.[454] According to this regulation, the unclaimed properties of missing people (*gâib*s and *mefkûd*s) and any heirless property should be kept in trust for five years before delivering it to the Treasury as revenue. However, the *Kazaskerlik Muhallefat and Evkaf Mahkemeleri* were transferred to the Ministry of Justice (*Adliye Nezareti*) along with the other remaining şer'i courts and their branches in 1914.

The earlier practices that applied to the management of the *beytülmal* appear to have continued into the late nineteenth[455] and early twentieth century depending on circumstances

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[452] "…beytülmal varidatı Evkaf-ı Hümâyun hazinesine nakl ve tahsis buyurularak Beytülmal Kassamlığıyla Müdürlüğü ve Muhallefatı Mümeyyizliği ilgâ olunmuş ve Muhallefat Kaleminde beytülmalden başka kable'l-afv mazbut olan muhallefatlar ile Mansure Hazinesi varidatından olan emlak ve çiftlikat ve sairenin defatir ve evrakı dahi kalem-i mezburda mukayyed ve mahfuz bulunmuş idüğünden…" BOA HAT. 531/26183, 16 Za 1254 (31 Jan. 1839).; BOA HAT. 555/ 27458.; See also C.ML. 351/14423.

[453] MAD.d. 18870, p.4 21 M 1256 (25 Mar. 1840). These are the preliminary observations regarding the beytülmal in the nineteenth century. It needs a further research to understand the institutional reorganizations of the period regarding the beytülmal.

[454] "Maliye Hazinesi Beytülmal Kassamlığı vezayifiyle Beytülmale aid terekata dair memurin-i 'ilmiyyeden mürekkeb teşkil kılınan komisyondan kaleme alınıp şurâ-yı devletce tashih edilen talimat lâyihasının sûret-i musaddakasının…" BOA İ. ŞD 63/3673, 23 Ra 1300 (1 Feb. 1883).

[455] For instance, see an *emirnâme* (written order) that clearly explains the beytülmal procedure. A.MKT. 133/23, 5 B 1264 (7 Jul. 1848) and A.MKT. MHM 5/89, a beytülmal case in on the

notwithstanding the relatively standardized regulations of the nineteenth century. For instance, a document consisting of letters between Karachi and Istanbul shows that Emine Hatun from Diyarbakır died in India and left a certain amount of inheritance: some moveable property (*metrukat* and *mücevherat*) consisting of jewelry, furniture, utensils, and receivables. The correspondence between the Province of Diyarbekir, the Ministry of Foreign Affairs, and the Ottoman Consulate in India shows that some people around Emine misappropriated the said property. Since it was not certain whether she had heirs in Diyarbekir, the imperial center ordered first the investigation and settlement of this issue and then the claiming of the property for the beytülmal if no potential claimers existed in Diyarbekir. [456]

4.4 Ways of Claiming: Beytülmal-i Amme and Beytülmal-i Hassa

The Ottomans ran a bureaucratic, agrarian, and territorially expansive empire. They built a broad organization consisting of many administrative, religious, fiscal, military, and judicial officials early on. These government servants differed from ordinary subjects for

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way to hajj A.MKT. 215/81, 5 N 1865 (25 Jul. 1849), A.MKT. 207/82, 29 B 1265 (20 Jun. 1849).

[456] "…Malum-ı âli buyrulduğu üzere bu misullu memalik-i ecnebiyyede vefat eden teb'a-i saltanat-ı seniyyenin usul-ı müttehizesi vechile tanzim ve tesyir olunan vefatnameleri üzerine mahall-i vilayetlerinde varisleri olmadığı tahakkuk eyledikten sonra metrukatlarının canib-i beytülmale aid olacağına nazaran mahall-i vilayetinde veresesi olup olmadığı tahkik edilmek üzere evvel emirde müteveffiye-i mezburenin iktiza eden vefatnamesinin tanzim ve tesyiri ile beraber gerek verese zuhur etmesine ve gerek muhallefatın canib-i beytülmale aid olacağı anlaşılmasına…"BOA HR. HMŞ. İŞO 174/17, p.20 and others., 23 B 1307 (15 Mar. 1890). See also cases in İzmir in the late nineteenth century. Fatma Erbay, "H.1311–1314 (M.1893–1896) Tarihli (51 Numaralı) İzmir Kassam Sicilinin Transkripsiyonu", MA thesis, Adnan Menderes Üniversitesi, 2009.

being tax-exempt in general. Seemingly based on this legal distinction between the ordinary tax-paying subjects (*reaya*) and privileged Ottoman ruling class (*askerî*), the unclaimed properties were divided into public (*amme*) and private (*hassa*) categories. Accordingly, if the inheritance (*muhallefat*) was from a holder of government office or appointment (*sahib-i mansıb* ve *cihet*) then the intendant (*emin*) of *beytülmal-i hassa* oversaw the claiming and collection of the properties in that estate.[457] *Beytülmal-i amme emini* was responsible for the unclaimed or heirless estates of lesser value that falls to the beytülmal from regular subjects.

Linda Darling translates the term *beytülmâl-i hâssa* as "the repository of estates of deceased members of the ruling class".[458] Considering the beytülmal as a repository may be misleading for it undermines its significance in generating a social, legal, and financial order. The office was not just for storage or safekeeping. It had multiple functions. As a trusteeship, it administered the properties that came under its jurisdiction in various ways rather than just storing them. In a sense, it served the moral and material needs of the public and private claimants over the properties. Besides this, *beytülmâl-i hassa* managed also the *muhallefat*s of ordinary people the value of which was equal to or above 10,000 akçes. However, properties of ordinary people the value of which below 10.000 akçes fell under the responsibility of *beytülmal-i 'amme*. Consequently, "the trustee of the estates of heirless

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[457] "Eğer bir kimesne fevt olub zahirde varis-i ma'rufı kalmayub vaki olan muhallefâtı beytülmal içün zabt olunmak lazım geldikde… eğer müteveffa olan kimesne kapı kullarından ise veyahud ehl-i berat ise cüz'i ve külli vaki'olan muhallefatını hassa beytülmal eminine zabt etdürülür." Said Öztürk, *İstanbul Tereke Defterleri*, 1995, p.89, Bilgin and Bozkurt, "Beytülmal Mukataaları", 2010, Ahmet Akgündüz, *Kanunnameler*, v.1, p.181-182.; *I. Selim Kanunnâmeleri 1512-1520*, (Haz. Yaşar Yücel, Selami Pulaha), Ankara: *Türk Tarih Kurumu*, 1995, p. 189.

[458] Linda T. Darling, Revenue Raising and Legitimacy: The Collection and Finance Administration in the Ottoman Empire 1560-1660, E.J. Brill, 1996, p.196.

deceased government officers, and ordinary people whose estates were valued above 10,000 akçes" would be a more accurate translation of *beytülmal-i hassa*. Similarly, *beytülmal-i 'amme* might be translated as "the trustee of the estates of ordinary tax-paying subjects the value of whose inheritance below 10,000 akçes." To be more accurate;

- *Beytülmal-i 'amme* was in charge of the unclaimed property of ordinary people the value of which is below 10.000 akçes.
- *Beytülmâl-i hâssa* was in charge of the unclaimed property of ordinary people the value of which is equal to or above 10.000 akçes, and irrespective of the amount the unclaimed property of the ruling class.

The Ottoman government paid considerable attention to the estates of people of *askerî* status. The extent and definition of the *askerî* acquired a particular significance in the case of unclaimed property. In his seminal work on *askerî kassam* registers, Barkan delves into the meaning of *askerî* for the Ottomans and asks how this class that represents a privileged status came to include people fulfilling a great variety of tasks.[459] Performers of a broad range of military, administrative, judicial, and religious tasks (and their families) were considered to have an *askerî status*, judging by the treatment of their estates.[460] He founds it

[459] Ömer L. Barkan, "Edirne Askerî Kassam'ına Ait Tereke Defterleri 1545-1659" *Belgeler*, III/5, (Ankara, 1966), p. 4-8.

[460] The government tried to overcome the problems arising from the spreding of the askerî class with repeated decrees that set limits to inclusion in this class. Halil Sahillioğlu, "Askerî" *TDV İslam Ansiklopedisi,* Vol. 3, 1991, pp. 488-489.; However, Barkan argues that the details and the extensiveness of the definition of the *askerî* class might (also) have aimed to incrase the revenus for the kazaskers over *resm-i kısmet* as they were the men of weigt in the sultan's divan. Barkan, "Edirne Askeri Kassamı", p. 6. For a detailed examiniation of askerî title see also Said Öztürk, "XVII. Yüzyıl Askeri Kassam Defterlerinin Sosyo-Ekonomik Tahlili", Ph.D Diss., Marmara Üniversitesi, 1993, pp. 20-23.

saliently bizarre to include people who produced certain strategic crops (like *çeltikçi, tuzcu*), and materials or services (*madenci*, *derbendci*, *doğancı*, *yaya*, *müsellem* etc.) within the same class of the reciters of the Qur'an (*cüzhan*), and tellers of beads (*tesbih çeken*) on special occasions, and *seyyid*s. He argues that there is an obvious divergence between these groups on the basis of their contribution to the well-being of the empire. For instance, the farmers were exempted from paying certain taxes only after they put their highest effort and labor (*emek*) into production.[461] From a mere fiscal perspective, one might think that the government lost its crucial tax revenues (like *avarız* or *tekâlif-i örfiyye*) via these 'unnecessary' exemptions. However, one should also consider the social fabric, and the inevitableness of the policy of accommodation for an early modern empire where the modern means of tax collection, communication, and administration were not applicable. Additionally, considering *beytülmal-i hassa*, it could be a more practical and secure method to claim the *beytülmal* returns through such an extensive network of *askerî* class where each member of each corporate group was accountable to their fellows and leaders in many respects.

For instance, a hukm was sent to the *kadı* of İstanbul in 1031(1622) upon the grievances about the improper claiming of the *beytülmal-i hassa*, and the intervention of third persons to the *beytülmal*'s operation. For a more attentive division between the *hassa* and *amme* claims, the document defines the borders for the *askerî* class —while explicitly excluding the janissary corps from this class.

> "… malum olaki mahmiye-i istanbulda sakin olan ma'zul ve mansub beylerbeyleri ve sancakbeyleri ve müteferrika ve çaşnigir ve dergâh-ı muallâm çavuşları ve altı bölük halkı ve zuamâ ve erbâb-ı timar ve cebeci ve topçu ve top

[461] He found it odd to include the *zevâid-hors* (the beneficiaries of pious foundations) to askeri class along with the *seyyid*s, and describes them group as "eli beratlı hazır yiyici askerî sınıf". Barkan, "Edirne Askeri Kassamı", p. 9.

> arabacıları ve dergâh-ı muallâm kapucıları ve matbah-ı amire hademesi ve ehl-i hiref taifesi ve kuzât ve müderrisîn ve talebe taifesi ve hatip ve imam ve müezzin ve cüzhan ve mütevelli ve kâtip ve câbi ve sair ehl-i cihet ve doğancı ve çakırcı ve bi'l-cümle ehl-i berât olup yeniçeri ve acemi oğlan taifesinden mâ'ada bir kimesne vefat edip zahirde vâris-i ma'rufu olmayanların cüz-i ve külli metrukatları kadimu'l-eyyâmdan hâssa beytülmal tarafından zabt olunub mahsul-ı tahsil ve dahil-i hazine olagelmişken mahalle imamları, müezzinleri ve mahalle kethüdaları ve hancıları ve han-odabaşıları ve ehl-i sûkun kethüdaları yiğitbaşıları meyyit vaki oldukda min ba'ad hâssa beytülmal eminine haber etmeyub amme beytülmalcilerine mürâcaat etmekle vaki olan mahsul mabeynlerinde ekl ve bel' olunub mâl-i mîrîye külli hayf ve gadr olub zikrolunan taifenin mu'teklerinin ve zevcelerinin dahi cüz-i ve külli metrukatları hâssaya raci olmakla zikrolunan taifeden biri hâssa beytülmal eminine haber virmezden mukaddem kimesne dahl eylemeye…[462]

Along with the status of the ex-owner, what makes the difference between them was also the value of the *muhallefat* (inheritance). Anatolian *kadı*s were asked to be duly aware of *muhallefat* that involved heirs (*veledeti gâib*). In case a *şer'i beytülmal* [that is an estate that had a legitimate heir according to the Islamic legal principles] came before them; they should deliver it to the beytülmal officers (*amil*s[463]) Accordingly, if one finds a *muhallefat* with a value of fewer than 10,000 akçes, they should deliver it to the '*amil*s (pl. '*ummâl*, agent or tax farmer, mültezim): "*on binden aşağısın amillerüme teslîm eyleyesiz*." However,

[462] YB.04. 3/42 (1031 /1622).

[463] '*Âmil* was the officer who collects *zakat* (alms), *ghanima* (booty), *fay'* (taxation of conquered peoples), *jizyah* (poll-tax), and *kharja* during time of the prophet Muhammed. The term was also used to denote (any) government officer, but in general the pre-Ottoman Islamic history used it for the officer in charge of tax collecting. However, the Ottomans used this term for the *mültezim*s who undertake tax-collection of a certain unit (or a bunch of units) for a certain time period. Mehmet Erkal, "Amil" *TDK İslam Ansiklopedisi,* Vol.3, 1991, pp. 58-60.; Darling, *Revenue Raising Legitimacy*, p.130.; Mehmet Genç, Erol Özvar (haz.) *Osmanlı Maliyesi Kurumlar Bütçeler I*, p.17.; Çakır, "Osmanlı Mukataa Sistemi", pp. 35, 135-140.

they (the beytülmalcis) should take hold of the *muhallefat*s with a higher value on behalf of the state (*beglik içün zabt idesiz*).[464]

> "…Ve şehirlu taifesininden dahi kimesne fevt oldukda yalnız amme beytülmalinin eminine haber olunmayub hassa beytülmal eminine dahi haber olunub ma'rifet-i *kadı* ile meyyitin üzerine varılub müteveffanın metrukatı on binden ekal olur ise amme beytülmalcilerine zapt ettirilub eğer on binden ziyade olur ise hassa beytülmal emininie zapt ve ahz ve kabz ettiresun. Ve kefereden bir kimesne mürd oldukda varisi olmayanın metrukatının on binden ziyadesi hâssaya raci' iken hayli zaman kefere taifesinin dahi papazları ve mahalle kethüdaları asla hassa beytülmal eminine müracaat etmeyub kefere beytülmacilerine vaki olan mahsul mabeynlerinde ekl ve bel' olunduğu ilam olundukta vech-i meşruh üzere imamlar ve müezzinler ve mahalle kethüdalarına ve hancılara ve odabaşılara ve kefere papazlarına ve mahalle kethüdalarına müracaat eylemeyüb hassa beytülmal eminine haber vireler. Ve şehirluden bir kimesne fevt oldukta hassa beytülmal eminine ve amme beytülmal eminine ma'an haber verip on binden ziyade ise hassa beytülmal eminine zabt ve kabz ettirub hilaf-ı emr-i şerif kimesneye iş ettirmeyesin…"[465]

Based on the legal regulations and the documents that dated back to the second half of the fifteenth century, it is safe to state that the Ottomans considered the *beytülmal-i 'amme* as property that was under the custodianship of the state treasury and should return to it (*miriye raci* ve *aid*). They relied on *mukataa*s and the agency of tax farmers (*amil*s) to administer these estates and to collect the revenue that accrued therefrom. The *beytülmal-i amme* was also called "*hurde*" *beytülmali*[466] when referring to estates with a value of less

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[464] "Sûretü'l-hükmi's-sultânî li-ecl-i beyti'l-mâl" (BOA. MŞH.ŞSC.d., 2458/vr.76b); Ahmed Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri* v.1, (İstanbul: FEY vakfı yay., 1990), p.575.; Halil İnalcık, "Bursa Şer'iyye Sicillerinde Fatih Sultan Mehmed'in Fermanları", *Belleten* c. XI, s.44 (Ankara: TTK, 1947) p. 693-708.

[465] YB.04. 3/42 (1031 /1622).

[466] "…liva-i mezkure mevkufatı, hurde beytülmali ve hassası mukataaları eminleri gelub…" BOA MAD.d. 7435/653 (984).; Arif Bilgin, Fatih Bozkurt, "Beytülmal Mukataaları", 2010, p.3. BOA MAD, 2775: 313, 807; BOA KK, 67: 19.

than 10,000 akçes. In addition, *beytülmal-i 'amme* included "avam" *beytülmali*,[467] which denoted heirless properties left by ordinary people.

For the *beytülmal-i hâssa*, the earlier regulations do not indicate the title of officials who oversaw the properties. They state that the *beytülmal* of the holders of official positions and their relatives and other *beytülmals* with a value exceeding ten thousand akçes should not be sold to the *amil*s as *mukataa*s. Such officials as *emin*s, *beytülmalci*s, and *amil*s who oversaw the properties in the *hassa* category did not have the authority to sell and use them unless they were explicitly ordered to do so. *Hassa* in this context implied mainly the destination of the revenue.

For instance, the *Kanunnâme-i Beytülmal-i Hassa* which was promulgated in Bayezid II's reign (1481-1512) to regulate the management of *hassa beytülmal* and the debt claims related to it, did not assign this task to a specific office and indicated that this revenue was the Palace's share:

> "Memâlik-i Mahrûsemde mansıbı ve ciheti olanlardan ve anlarun müte'allıkinden fevt olub terekeleri beytülmal cihetiyle veya usubet sebebiyle kapuma müteveccih olsa, bunlarun gibilerin muhallefâtı kalil ve kesir her ne kadar olur ise âmile mukata'aya verilmiş değildir ve kapuma ciheti olmayanlardan dahi şunlar ki cümle terekeleri *kadı* defterinde on bin veya on binden ziyâde ola, medyun olsun olmasun ve terekelerin duyûn ihâta etsün etmesün anlarun dahi beyt'ül-malı amile satılmış değildir."[468]

Although the amils could be authorized to sell beytülmal-i amme (*kadı ma'rifetiyle metrukâtı bey'i men yezîd edub satalar*) they were [only] the overseers of the *beytülmal-i*

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[467] "… Selanik'de yevmi 5 akçe ile beytülmal-i avam katibi olan Halil'in kitabeti…" BOA AE. SSÜL.I 5/272, 29 Z 969 (30 Aug. 1562).; "Avam beytülmaline mültezim olan Manol veled-i Mesket…" BOA D A.DVNSMHM.d. 22/415, 12 R 981 (11 Aug. 1573).

[468] Paris, Turc 35 (48a-50a) Examined in detail in the 2nd chapter. For the date of this kanunnâme Akgündüz gives Bayezid II's period. Akgündüz, *Kanunnameler* v.2. p.118.

hassa acting on behalf of the sultan (o*n binden yukaru ne kadar beytü'l-mal vâki' olursa ol yerun kadıları emânet birle benum içun zabt edeler*).[469]

The heirship of the sovereign, his right of escheat,[470] was common in Islamic polities and applied to the Ottoman sultans as well. However, if the deceased was a government functionary, the sultan's heirship right became firmer on two broadly recognized grounds. First, the sultan was the leader of his subjects. In case a person of the *askerî* status died without an heir, his or her family was deemed the group with which he was affiliated before his death (*ocak*, *bölük*, *tekke*, *eminlik* etc.) was considered to have been his family. As the head of these governmental bodies, the sultan, was the ultimate legatee of their wealth, either partially or entirely.[471] The heirless properties of deceased people of an *askerî* status were, thus, reserved for either the private treasury of the ruler (*hazine-i enderun*), or for the imperial treasury *(hazine-i âmire)*.[472]

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[469] "Kanunnâme-i Mihaliç Hükm-i Sureti", Paris, Turc 39 (121a-125b)

[470] The reversion of the property to the state on the owner's dying without legal heirs

[471] The Janissaty Corps (Kapıkulu Ocakları) were among these governmental institutions. For instance, when the Governor of Aleppo died, it became apparent that he had not delivered to the Hazine-i Endrerun-ı Hümayun the beytülmal of the Janissaries he collected in his previous position as the Commamder of Janisssaries (*Ağa-i Yeniçeriyan*): "Sabıka Ağayı yeniçeriyan-ı dergâh-ı âli müteveffa Haleb valisi Mustafa Paşa'nın altmış beş senesi Şabanu'l-Muazzamının yirmi birinci gününde yeniçeri ağalığı tevcih ve altmış sekiz senesi Cemâziyelevveli üçüncü gününde rütbe-i vizaret ihsan-ı hümayun buyrulmağla yeniçeri beytülmali akçesi ve tuğ-ı hümayun caizesinden müteveffa-i mezburun tarafından hazine-i Enderun-ı hümayuna teslimi lazım gelen…" BOA TSMA.e 32-37, 29 Ramazan 1168 (9 Jul 1755).; See also İ. Hakkı Uzunçarşılı, "Osmanlı Devleti Maliyesinin Kuruluşu ve Osmanlı Devleti İç Hazinesi" *Belleten*, Ocak 1978, Cilt XLII, sayı.165, pp.67-93.

[472] İ. Hakkı Uzunçarşılı, "Osmanlı Devleti Maliyesinin Kuruluşu ve Osmanlı Devleti İç Hazinesi" *Belleten*, Ocak 1978, Cilt XLII, sayı165, pp.67-93.; Ahmet Tabakoğlu, *Osmanlı Mali Tarihi,*

Secondly, the wealth of the government functionaries, especially the higher-ranking ones, were considered not private but public property as they acquired that wealth because of the positions they held. In case they die heirless or semi-heirless, the *muhallefat* was appraised and used accordingly. Nevertheless, claiming the *beytülmal* of the government officers was a conventional legal function of the Ottoman government. Its justification was far different from the frequent confiscation practices in the later periods.[473]

Hassa literally means "private possession" and "distinction." In the Ottoman context, it implied the sovereign (sultan), an imperial status, and the elite cadres. *Beytülmal-i hassa* was a revenue related to the so-called "inner" (*enderun*) component of the central/imperial treasury. Called under various (but related) names (such as *hazine-i emiriyye, miriyye, 'âmire, padişahî, or devlet*), the imperial treasury evolved into a twofold organization in time. The so-called "external" (*birun*) treasury received the revenues designated for the imperial center and disbursed the expenses of the central state organization out of these funds. The "inner" treasury served as a reserve fund, helped meet the expenses of the Palace, and provided support for the public good as deemed appropriate by the sovereign.[474] However, from the

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İstanbul: Dergah Yay. 2020, p. 278-279.; Cengin Orhonlu, "Hazine" *TDV İslâm Ansiklopedisi*, vol.17, 1998, pp.130-133.; Tahsin Özcan, "Muhallefât", *TDV İslam Ansiklopedisi*, vol.30, 2020, pp. 405-406.

[473] This argument was expanded to include private gains of the officers, and, at the end, to the confiscation of the whole property rather than escheat despite the existence of the legal heirs. For further discussion see. F. Azize Çakır "Confiscation Practices, Politics of Wealth Accumulation, and the Case of Mehmed Said Halet Efendi (1761-1822)", Ph.D Diss., Istanbul Şehir University, 2020.; Yasin Arslantaş, "Confiscation by the ruler: A study of the Ottoman practice of Musadere, 1700s-1839" Ph.D Diss., University of London, 2017.

[474] İ. Hakkı Uzunçarşılı, "Osmanlı Devleti Maliyesinin Kuruluşu ve Osmanlı Devleti İç Hazinesi" *Belleten*, Ocak,1978, Cilt XLII- Sayı 165, p.67-93.; Halil İnalcık & Donald

late seventeenth century onwards the interaction and the traffic between them, particularly from *Hazîne-i Hassa* to the *Hazîne-i Âmire,* intensified and reached in an irreversible point. For the pressing needs of the empire, especially after 1683, the quantities borrowed from *Hazine-i Hassa* increased to a level that the reimbursements were hardly possible in prolonged years.[475]

One might find some parallels between the selling of *beytülmal-i hassa* mukataas and the blurring line between the two *hazine*s. However, *Hazine-i Enderûn* was not the destination of *beytülmal-i hassa* exclusively. Except for high-ranking officers, like the chief

Quataert*, Osmanlı İmparatorluğu'nun Ekonomik ve Sosyal Tarihi (1300- 1600),* (çev.) Halil Berktay, c.1, İstanbul: Eren Yay., 2000, p. 117.; Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah Yay. 2020, p. 278-279.; Tahsin Özcan, "Muhallefât", *TDV İslam Ansiklopedisi*, vol.30, 2020, pp. 405-406.; Cengin Orhonlu, "Hazine" *TDV İslâm Ansiklopedisi*, vol.17, 1998, pp.130-133

[475] Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah Yay. 2020, p. 278-279.; İ. Hakkı Uzunçarşılı, "Osmanlı Devleti Maliyesinin Kuruluşu ve Osmanlı Devleti İç Hazinesi" *Belleten*, Ocak 1978, Cilt XLII- Sayı 165, p.67-93.; Kadir Arslanboğa, *Osmanlı Devleti'nde Hazine Harcamaları 1649-1683*, Ankara: Çanakkale Onsekis Mart Üniversitesi yay.,2014, pp. 5-6.; Cengin Orhonlu, "Hazine" *TDV İslâm Ansiklopedisi*, vol.17, 1998, pp.130-133.

eunuch of the *harem*,[476] provincial governors,[477] high-ranking officials, military commanders[478] etc., it was not a regular destination for the *beytülmal*. In general, the *beytülmal* collected by the *hassa* officers were sent to the imperial treasury or spent in spot to meet a variety of expenses— ranging from salaries of public functionaries to funerary expenses of the needy. *Hazine-i Enderun* was also used as the place where the articles of

[476] "Defter oldur ki dârüssaâde ağalu[ğu]ndan ve saraylı hatunlarından ve ağalar 'uteka cariyelerinden bi-emrillâh-i teâla Mısır'da fevt olanların dârüssaâde ağalarından fermân-ı hümâyun-ı âlişan mucebince beytülmal ağası olan Sefer Ağa'nın marifetiyle metrukatların kabz olunup füruht edip akçelerin tahsil olunup fermân-ı hümâyun-ı âlişân mucebince müteveffâ-i mezburların … deynlerin edâ edip ve utekalarına bir hissesin verip iki hissesin rikâb-ı hümâyun irsâl olunan akçedir …" Another muhallefat was written as follows: "Dârüssaâde ağalarından Sünbül Ağa'nın utekalarından Bâd-ı Sabah hatun hâl-i hayatında utekalarına vasiyyet edip ba'dehû bi-emrillâhi teâlâ fevt olup beytülmal içun kalan metrukatından tahassul olunan akçedir, cem'an 29,727 paradır." TS.MA.e 685/17, 5 C 1083 (28 Sept. 1672).

[477] "Kandiye valisi Maktûl Ahmed Paşa'nın muhallefatı olmak üzere … mecmû'u 4,419 altun dergâh-ı âli kapucıbaşlarından Mustafa Ağa yediyle gelup teslîm-i hazîne-i enderûn olmuştur." This detailed daily account register (defter-i müfredat) also shows the type of revenues delivered to the Hazîne-i Enderûn. TS.MA.d 13- 24a, (1092/1681).

[478] For instance see the list of muhallefats of some government officers. With the order of the sultan these muhallefats were sold in auction (*mezad*): "Emr-i hümâyun üzere Enderûn-ı Hümâyun tarafından fürüht olunan muhallefat bahaları" Some of the titles in this list are as follows; Rusçuk Seraskeri, Defterdâr İsmet Alî Efendi, Hazine-i Hümayun Kethüdası, Abaza Mehmed Paşa, Abdurrahman Paşa, Adana Beylerbeyisi Karslızâde Hasan Paşa. There is also a collection of muhallefats stored in Enderun hazinesi which contains swords. The iron parts of these swords were removed so as to be sold in the auction: "Ba'zı muhallefattan müctemi' olup füruht olunan sökündü kılıç demirleri bahası 122.5 kuruş." TS.MA.e 401/16 (1187/1773).

value (like precious jewelry, furs, fabrics, and cloths, etc) were stored.[479] Nevertheless, it could be claimed that one of the most consistent revenues for *Hazine-i Enderun* was the *beytülmal* of yeniçeris.[480] In theory, the beytülmal of *yeniçeri*s was saliently a revenue for *beytülmal-i hassa*, but neither *emin* were allowed to claim their properties.[481] *Yeniçeri beytülmali* could be said one of the most autonomous corporate beytülmal in the Ottoman empire.

The archival records show that *beytülmal-i hassa emini* served in different lands of the empire and relied on the *mukataa* method to administer the beytülmal in the sixteenth

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[479] İ. Hakkı Uzunçarşılı, "Osmanlı Devleti Maliyesinin Kuruluşu ve Osmanlı Devleti İç Hazinesi" *Belleten*, Ocak,1978, Cilt XLII- Sayı 165, p.67-93.; Kadir Arslanboğa, *Osmanlı Devleti'nde Hazine Harcamaları 1649-1683*, Ankara: Çanakkale Onsekis Mart Üniversitesi yay.,2014, pp. 3-6.; Saliha Önen Sarıerikli & Gülser Yardım **"**Nevşehirli Damat İbrahim Paşa ve Damatlarının Enderûn Hazinesi'ne Aktarılan Mallarının Değerlendirmesi", *Karamanoğlu Mehmetbey Üniversitesi Edebiyat Fakülte*5(1), 2022, pp. 1-16.; Gülser Yardım, "17. Yüzyılın İkinci Yarısına Ait Bir Deftere Göre Muhallefattan Hazineye Aktarılan Eşyalar" *Mavi Atlas*, 9(1), 2021, pp. 147-170**.**

[480] After confirming the value of each beytülmal, 25 per thousand of it was reserved for yeniçeri ocağı, the rest was marked as *hazine* (treasury). See Ali Şenyurt, "Yeniçeri Ortaları Yardımlaşma Sandıkları" (Janissary Company Charity Funds), *KOSBED*, 33, 2017, pp. 155-170.; Tayfun Toroser (haz.), *Kavanin-i Yeniçeriyan* (Yeniçeri Kanunları). İstanbul: Türkiye İş Bankası Kültür yay., 2011, pp.49-50, 172-173, 187.; "… Ömer Paşa'dan matlub olan yeniçeri ocağı beytülmali akçesinden şimdiye dek tahsil olunup defterdâr efendi tarafından gelup hazîne-i enderûn-ı hümâyûna irâd kayd olunan 8500 kuruş." TS.MA.e 916/7, (1178 /1764).; "… yeniçeri beytülmali akçesi olmak üzere … beytülmalci el-Hâc İbrâhim Ağa ve el-Hâc Mehmed Efendi kulları yedlerinden yalnız yirmi bin kuruş enderûn-ı hümâyun hazinesine teslim olunduğu…" C.AS.842/35962, 15 S 1148 (7 Jul 1735).

[481] "…bi'l-cümle ehl-i berât olup yeniçeri ve acemi oğlan taifesinden mâ'ada bir kimesne vefat edip zahirde vâris-i ma'rufu olmayanların cüz-i ve külli metrukatları kadimu'l-eyyâmdan hâssa beytülmal tarafından zabt olunub mahsul-ı tahsil ve dahil-i hazine olaglemişken…" YB.04. 3/42 (1031 /1622).; TS.MA.e. 32/27 (1168/1755).

century. The *hassa emin*s were also authorized to auction off the right to manage and collect the *beytülmal* revenues.[482] For instance, a document from 1537 shows that *beytülmal-i hassa mukataası* was undertaken by an *emîn* and *sipahi*: "Muhasebe-i mahsulat-ı beytülmal-ı hassa ki der İstanbul vaki' şode an tahvil-i Pîrî Rüstem emin-i silah ve Nasuh Matrâkî an ebna-i sipahiyan katib fi'l-vaki' fi ğayet-i Ra sene 943.[483]

Another example from 1574 shows that people of *askerî* status could undertake a *beytülmal-i hassa* mukataa together with arrangements to collect other revenues:

> "Liva-i Mora sipahiyanından Mahmud kulların gelib…liva-i mezbure mukataatın…tahvili cedidini tevarih-i muhtelife ile üç yıl sekiz yük akçe ziyade ile mültezimine füruht idüb, bî-kusur haklaştırmak üzere kabul ve iltizam ederim şol şartla ki; sipahi oğlanları cemaatinden livayı mezbure mevkufatın ve hassa beytülmalin ber veçhi emânet zabt eyleyen Hasan'ın üç yıllık muhasabesi görülüp mevkufat mukataasını ber veçhi iltizam ve beytülmal-i hassayı ber vechi emânet olmak üzere zabt olunmağın…"[484]

The right to pursue *beytülmal-i amme* and *hassa* claims were generally undertaken by different *mültezim*s and contracted by different *emin*s and *katib*s. This practical division must have helped manage the task relatively efficiently. However, a considerable number of cases indicate that the same *emin* could oversee both types of *beytülmal*s and authorize the

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[482] BOA AE. SMMDIV 53/6:05 (1073/1662).

[483] BOA MAD.d. 23347, p.5 and other pages (Ra 943/ Sep.1536).; see also BOA MAD.d. 23349, p.2-3, 01 S 945 (29 Jun. 1538).

[484] BOA A. DVNSMHM d. 25/2005 (982). Another document also shows that a sipahi applied for a contract to oversee the beytülmal-i hassa revenues and the public fruit and flour weighing machines in Iznik: "Bi'l-fi'il Kocaeli Sancağı beyi Hasan Bey kulları arz gönderip İznikmid'de vaki kapan-ı meyve ve dakîk ve beytülmal-ı hassa mukataası Muhammed [b. Mustafa, ebna-i sipahiyan] nam kimesne uhdesinde üç yıla üç yük akçe iltizamda olup hala tahvili tamam olmamağın tahvil-i cedidi on bin akçe ziyade ve on bin akçe peşin vermek üzere Muhammed kullarına deruhhe olunup berat-ı alişan-ı sadaka buyrulmak babında inayet ricasına ilam eder. BOA AE. SAMD. I 7/624 (1018)

same *mültezim* to collect them.[485] The combination of different types of *beytülmal*s in the same *mukataa* contract may not appear surprising if one considers that mukataa contracts frequently included the right to manage and collect different revenues.[486]

At any rate, *mukataa* contracts in general stated in clear language that left little doubt about the types of revenue sources they covered and who had the right (and responsibility) to collect them. This was the case, particularly after the first quarter of the sixteenth century. For instance, a document from 1519 does not clearly specify the nature of the *beytülmal* revenues to which it refers. (The late fifteenth-century *kanunnâme*s were similarly vague regarding this matter.) İskender Bey, the Governor (*mîr liva*) of Malatya transfers *(tahvil*[487]) the right to collect certain revenues from the *hassa* lands allotted to him as prebend (for his stipend) to Mehmed Bey in the form of a *mukataa*. Mehmed Bey would collect "*mahsul-ı resm-i arus ve niyabet ve bâd-ı heva ve beytülmal ve mâl-ı gâib ve mâl-ı mefkûd, yuva ve kaçgun ve cürm-i cinayet"* in the township of Malatya and some of its villages.[488] The lack of distinction between *hassa* and *amme beytülmal*s in this document may have been related

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[485] "Toygun Mustafa Ağa emin-i beytülmal-i amme ve hassa der İstanbul an akçe-i emânet-i beytülmal …" BOA AE. SMST. II 54/5488.; BOA AE. SMST. II 129/14242.; BOA AE. SOSM. II. 1/22.

[486] Arif Bilgin, *Bursa Hassa Harç Eminliği*, İstanbul: Kitabevi, 2006, p. 90-95; Hülya Taş, *XVII. Yüzyılda Ankara*, Ankara: Türk Tarih Kurumu., 2006, p.58; MŞS, 98: 26-27; MŞS, 112: 201/1. M. Akif Erdoğru, (2004), "Osmanlı Kıbrısı"nda Önemli Bir Görevli: Beytülmâl-ı Hassa ve Âmme Emini", *CIEPO XIV. Sempozyumu Bildirileri, 18-22 Eylül 2000 Çeşme*, Ankara: Türk Tarih Kurumu, p. 149-160.

[487] The assignment, or transfer of the rights of tax collection to an undertaker for a certain time period (1 to 3 years). Mehmed Genç, *Osmanlı İmpraratorluğu'nda Devlet ve Ekonomi*, İstanbul: Ötüken, 2000, p. 103.

[488] "Hasha-i İskender Bey mîr-liva-i Malatya an tahvil-i Mehmed Bey b. Yahya Paşa" BOA. MAD.d. 15450/1, 20 R 925 (21 Apr. 1519).

to the status of the land. Since the land assigned to Governor İskender Bey was *hassa*, there was no need for further specification of the anticipated *beytülmal* revenues as *hassa* and *amme*. Mehmet Bey was authorized to claim any unclaimed property in the specified area on behalf of the governor (*mirliva)*.

The evidence at hand indicates that the Ottomans paid closer attention to the collection of *beytülmal* revenues along with changing conditions and growing commercialization of the economy later in the sixteenth century and thereafter.

*Emin*s undertook the nitty-gritty task of administering the unclaimed properties. Working in the field actively, both the *hassa* and *amme* emins were integral parts of the *beytülmal* office. Their cooperation was also necessary in some cases, particularly if the line between the *hassa* and *amme* was not crystal clear for the sides involved. There are a considerable number of cases in which the two *emin*s accuse each other of interfering in their spheres. According to a decree dating from 1579, for instance, the holder of *beytülmal-i hassa* mukataas in the provinces of Hamid, Teke, and Alaiye complained that the *kadı*s and *beytülmal-i amme emin*s in these provinces prevented the *hassa emin*s from pursuing their legitimate claims and hence harmed the *beytülmal-i hassa* revenues. When an estate fell into the *beytülmal-i hassa* category on the ground that no known heirs made claims regarding it in the designated period,[489] some people came from other *sancak*s and *kadılık*s with claims of heirship. The *amme emin*s encouraged the provincial *kadı*s to hear these cases without paying attention to the due process and to assign the estates in question to those outsiders who claimed heirship. By doing so they undermined the *beytülmal-i hassa* revenues. This decree was addressed to the *kadı*s who were accused of hearing cases without the attendance of *beytülmal-i hassa nâzırs* and *emin*s. It warned the *kadı*s that they would be held responsible

[489] Not defined in the document.

for the compensation of the consequent revenue losses if they were involved in such fraudulent stratagems (*hile u hud'a*).

> "Hükm-i şerifim vardukda siz ki toprak kadılarısız bu hususa her biriniz gereği gibi mukayyed olub her kanginiz ki taht-ı kazasında hassa beytülmali vaki olub zahirde vâris-i ma'rufu olmaya, hassa beytülmali nâzırı hazır değil iken amme beytülmal eminleri muvacehesinde dinlemeyub hassa beytülmal nâzırına haber verub ikisinin muvacehesinde şer'le göresiz…Şöyle ki mezkurân nâzırlar hazır değil iken amme beytülmalci muvacehesinde veraset da'vası istima' eyleyub hile u hud'a ile hassa beytülmale gadr eylediğiniz zahir ola, ol takdirde vaki olan zarar sizden tazmin ettirilir bilmiş olasız."

This informative document indicates how the law was elaborated on and promulgated through correspondence between the center and the provinces. It states the relevant rules:

> "Şöyle ki müteveffanın muhallefatı on binden ekall olub, dergâh-ı muallam olmayub hassa beytülmale alakası olmayanları amme beytülmal mültezimlerine zabt ettiresiz. Mal-ı beytülmalden kimesneye bir akçe ve bir habbe bel' ve ketm ettirmeyesiz."

The *kadı*s and the amme *emin*s were warned that the cash value of the estate would not matter if the deceased was a government officer. That is to say, the status of the deceased sufficed for a *hassa emini*'s involvement to uphold the claims of the Imperial Treasury on an estate:

> "…Ve elviye-i mezbûrede sancakbeyi ve zuamâ ve erbâb-ı tımar ve kapum kulları ve bi'l-cümle berât-ı hümâyun ile dirliğe ve cihete mutasarrıf olanlar fevt olub varis-i ma'rûfı kalmadıkda cüz'i ve küllî vaki olan muhallefâtlarına hilâf-ı kanûn amme beytülmal nâzırları ve eminleri faslettirilmeyip kanun üzere beytülmal-i hassa eminlerine zabt ettirub hassa beytülmale zarar ve gadr olmaktan hazer idub ve muhtacı arz olan kaziyyeleri yazub kapuma arz idesiz."[490]

[490] A. DVNSMHM d. 41/349, 21 N 987 (11 Nov. 1579).

Similar procedures and guidelines are applied also to *beytülmal-i amme* properties. For instance, a decree warned the *kadı*s in the province (sancak) of Kastamonu to refrain from hearing cases related to *miri* (revenues) in the absence of *emin*s and *nâzır*s (inspectors). This disregard for due procedure would hurt the revenues of the Treasury and harm the interests of *mültezim*s (tax farmers):

> "…zikrolunan toprak kadılarına tenbih ü te'kid eyleyesin ki malıma müteallik husus vaki' oldukda dersaadetimden emr-i şerif veyahut müfettiş ve nâzır caniblerinden mürâsele vasıl olmadın ve emin ve ademisi anda hazır değil iken fuzuli kenduleri istima' etmeyeler ve ettirmeyub mâl-ı miriye gadr, mültezimin iltizamına zarar müterettib olmaktan hazer idesiz…"[491]

It was İshak's complaint that prompted this decree. İshaq was an intendant representing the Treasury who held his post by way of *iltizam* (*emin ber veçh-i iltizam*). His iltizam involved the right to collect several revenues, including *beytülmal*, *mâl-ı gâib*, *mâl-ı mefkûd*, *yave*, *kaçgun*, *resm-i bennak* and *bâd-i heva* along with a few others. İshak underlined that the *kadis*' rush to settle cases without due attention to established procedures undermined the interests of the Treasury and its agents.

The Ottomans divided the *beytülmal* revenues into *amme* and *hassa* categories on theoretical and practical grounds. Their approach to the management of these revenues appears to have been influenced by the intention to maximize the yield along with the conditions that prevailed on the ground in different locations (and times). Separate *mültezim*s, *emin*s, and *katip*s were deemed necessary to run a *mukataa*, whether *amme* or *hassa*, in some cases. However, this division was not even considered in many other cases.

For instance, the record keeper (*katib*) for *beytülmal-i hassa* of Selanik asks the imperial center to combine the tasks of the *beytülmal-i amme* clerk with his (those of the *beytülmal-i hassa* clerk) so that the government could save on the five *akçe*s of daily wages

[491] A. DVNSMHM d. 41/543, 23 L 987 (13 Dec. 1579).

paid to the former. Offering five akçes saving for the treasury in case his position is expanded, he also reminds the central government that the combination of the two positions would be appropriate because only one emin oversaw the revenues within their jurisdiction:

> "Selanik'te yevmi 5 akçe ile beytülmal-i avam kâtibi olan Halil'in kitabeti bende kullarına ilhak olunursa yevmi beş akçe hazineye kalur deyu emelidir. Ve resm-i iki kalemin emini bir olub kâtibi dahi bir olmak münasiptir deyu rica eder."[492]

The beytülmal collected in *vakıf* lands was also administered in different ways. According to legal regulations, the agents of the related *vakıf* were entitled to claim all *beytülmal*s in *vakıf* lands:

> "Kanun-ı Padişahî bi-emri Sultani budur ki evkâf-ı selâtin ve evkâf-ı ümerâ serbest olub beytülmaline ve yavesine kimesne dahl etmeye deyu ellerinde selâtîn-i maziyeden hükümleri ve Padişahımızdan mukarrernameleri vardır".[493]

Both types of unclaimed properties, whether *amme* or *hassa*, were reserved for the *vakıf*.[494] *Vakıf* administration(s) could collect and supervise the *beytülmal mukataa*s either together or seperately. For instance, a mültezim was in charge of claiming *beytülmal-i hassa* and *amme* on behalf of the *vakıf* of Şehzade Mustafa-i Atik in Bursa. The *mültezim* sent a petitition to the porte to complaint about some local figures who interfered his collection of

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[492] AE. SSÜL.I 5/272, 29 Z 969 (30 Aug. 1562)

[493] Biga Livası Kanunu (922/1517) in Ömer L. Barkan, *Kanunlar I*, pp. 19-2., See also Ö. Lütfi Barkan, "Osmanlı İmparatorluğu'nda bir Kolonizasyon Metodu Olarak Vakıflar ve Temlikler I: İstilâ Devirlerinin Kolonizatör Türk Dervişleri ve Zâviyeler." *Vakıflar Dergisi*, 2/ 1942, p.359 (pp.279-386.)

[494] Timur Kuran (ed.), *Mahkeme Kayıtları ışığında 17. Yüzyıl İstanbul'unda Sosyo-Ekonomik Yaşam Vol.1* (Social and Economic Life in Seventeenth-Century Istanbul: Glimpses from Court Records), İstanbul: Türkiye İş Bankası yay., 2010, pp. 681-682.

the beytülmal, in the villages of the districts of Mihaliç and Kirmasti, and asked for a decree to prevent them:

> "…Mihaliç eminleri ve Kirmasti eminleri ve Bursa mütesellimi ve Kütahya mütesellimi ve sair ehl-i örf taifesi hilaf-ı şer ve hilâf-ı emr u defter reaya fukarasını rencide etmeleriyle min ba'd dahl u taarruz olunmayub ve beytülmal-i amme ve hassa dahi taraf-ı vakftan zabt olunub minvâl-i meşrûh üzere bir ferd dahl ve ta'arruz eylememek babında mültezim tarafıdan fermân-ı şerif ihsan buyrulmak babında arzuhal…"[495]

However, a ledger that includes the accounts of the *vakıf* of Eyüb el-Ensârî, Sultan Bayezid, Mehmed Paşa, and Gazanfer Ağa refers to *beytülmal* revenues as "beytülmal-i reayâ-yı evkaf-ı mezbur." The term *reaya* in this context implies people who lived or worked on *vakıf* lands.[496] Another source also mentions *beytülmal* as revenue along with other income like *cürm-ü cinayet* and *bâd-ı heva* without making a distinction between *amme* and *hassa*.[497]

The evident market demand for *beytülmal mukataa*s and various petitions related to the issue indicates that the *amme* and *hassa* revenues were sold either as separate *mukataa*s to different *mültezim*s or in a bundle with other mukataas to a certain *mültezim*. Official documents indicate that there had *emerged* a market for the sale and purchase of the rights to manage the unclaimed properties of civilians (*beytülmal-i amme mukataa*s) already in the fifteenth century. Similar commercialization of the unclaimed property of the *askerî*s (*beytülmal-i hassa mukataa*s) took longer. The government, however, paid considerable

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[495] AE. SAMD.II 5/414.

[496] This account book includes the revenues and the expenditures of *vakıf*s and mentions only the beytülmal of reaya. It provides a list of names and the cash value of the muhallefat of each name. Neither the account book nor its title (heading) refers to beytülmal-i hassa revenues. TS. MA.d. 1359, 2b, 29 Z 1081 (9 May 1671)

[497] TS. MA. d. 2583, 29 Ş 1031 (9 July 1622).; See also TS. MA.d. 1631, 1b, (1009/1600)

attention to surveying and collecting the unclaimed property of the *askeri*s (*beytülmal-i hassa*) all along.

4.5 Public Claimers and Their Agents

Several agents were involved in the process of managing unclaimed properties. These agents basically claimed, recorded, preserved, and sold the possessions in question ultimately putting them back into circulation as goods and commodities across the empire. Also, they earned an income for themselves and for the offices or institutions they represented in the process. Since the contents of unclaimed properties might vary greatly, from a piece of fava bean to an adorned mansion, the tasks that their management required and the agents needed to fulfill those tasks varied accordingly. Along with the nature and conditions of the properties, the social and professional affiliations of their previous possessor and temporal (historical) and spatial conditions also mattered in claiming *beytülmal*.

As discussed above, the *beytülmal* officers were accountable to the *defterdar*, the head of the fiscal organization. The authority and responsibility of the agents working on the ground showed significant variations. The next section will review the role of these agents beginning with those involved in the handling of *beytülmal*s that "concerned" the Imperial Treasury directly and "claimed" by it (*mîrîye raci*, *cânib-i mîrîye ait*).

4.5.1 *Kadı*

Rating the Ottoman *kadı* as the most central figure of the *beytülmal* operations would not be an overstatement. The *kadı* played an integral part in these operations as an auditor of fiscal transactions and representative of the law. His chief roles could be examined under two titles:

(i) Inspection of fiscal transactions related to the *beytülmal*: As Koçi Bey describes, the *kadı*s were auditors of fiscal transactions within their jurisdiction.[498] *Mültezim*s managed the *beytülmal mukataa*s with the active intermediation of the *kadı*s as auditors and the director of properties (*nâzır-ı emvâl*). In general, prospective *mültezim*s submitted their offers to undertake a *mukataa* to the *nâzır* in charge if the mukataa was governed by a *nezâret*. If not, the *mültezim*s made their offers to the provincial *defterdar* (finance director) if there was one. If not, they applied to the chief *defterdarlık* in the imperial center through the *mukataa* inspector (*mukataa müfettişi*). *Mukataa* inspectors were mostly people knowledgeable of the law. Thus, the incumbent *kadı* of the district, a retired *kadı*, or an instructor (*müderris*) of law in the district would shoulder the task.[499] Approval of the *mültezim*, formulating the terms defining the *mukataa* contract and verifying the credentials of the required guarantor (*kefil*) were all done under the supervision of the inspector *kadı*s.[500] The *kadı*s resolved the problems that emerged in practice between the *mültezim*s and the agents such as *emin* and *amil*

[498] *Koçi Bey Risalesi*, sad. Zuhuri Danışman, Ankara: MEB, 1972, p. 67.

[499] DVNSMHM.d. 41/161, 3 N 987 (24 Oct. 1579).; MAD 4689, p.2, (1009/1600). The conditions in this document also show the differences between the emanet and iltizam systems. Baki Çakır, "XVI-XVIII. Yüzyillarda Osmanlı Mukataa Sistemi'nin Yapısı ve İşleyişi", Ph. D Diss., Marmara University, 2003, p.151.

[500] "Vidin beyine ve *kadı*sına hüküm ki, Belgrad *kadı*sı müfettişi Mevlâna Muslihiddin mektub gönderub sancaklarında vaki olan mukataat-ı mülteziminin tahtı iltizamında olan mukataattan Ösek ve Karlofça ve Semendire iskeleleri ve İsakçı ve Sekrofçe ve Çob memlehası ve mevkufatı ve beytülmal-i hassa ve mabeyn-i kıla'-i livâ-i Bosna ve Klis ve Zaçesne ve Cezire-i Sirem ve Pojega mukataaların…" A. DVNSMHM. d. 26/777, 29 C 982 (16 Oct. 1574).; "Mukataat müfettişi Kastamonu *kadı*sı Mevlâna Vildan'a ve Kastamonu sancağı *kadı*larına hüküm yazıla ki…" A. DVNSMHM. d. 41/543, 23 Ş 987 (15 Oct. 1579).

regarding the *mukataa*s.[501] Additionally, the *kadı*s were responsible for controlling the proper keeping of the records of the *mukataa* revenues and related payments to the *beytülmal*.[502]

(ii) Upholding the Law and Validation of Property Claims

The *kadı*s represented the law and acted according to a certain set of legal procedures. They were in a position to sanction the government's claims to unclaimed properties. They were responsible for checking and verifying the claims that others could make regarding the property that was expected to accrue to the *beytülmal*. The kadis were duty-bound to protect the interests of rightful claimants. Accordingly, both the public claimants and private individuals could get their claims officially verified, confirmed, and hence legally recognized only by the agency of the *kadı*. Additionally, the *kadı* alone could verify and affirm the debt claims of third parties over unclaimed properties hence providing legality for beytülmal operations.

For instance, according to a court certificate (*hüccet*) issued by Hasan, the *Kadı* of Kandiye, in 1670, Halil Bey had a debt claim over the inheritance of Ali Bey who had died without heirs.[503] Ahmed Ağa, the *beytülmal emini*, had already acquired the property for the *miri* and rejected Halil Bey's debt claim (…*gıbbe's-sual mezbur Ahmed Ağa müdde-i mezburun müteveffa-yı mezbur zimmetinde hakkı olduğunu inkar etmeğin*…). The *kadı* asked Halil Bey to provide clear evidence (*mübeyyine beyyine*) to support his claim. Upon two

[501] İ.E. ML. 1/78, 26 Z 981(18 Apr. 1574).; Çakır, "Osmanlı Mukataa Sistemi", pp.7, 118, 148.

[502] The estates of the deceased person claimed by the beytülmal were recorded under the title of "an mahsûl-i beytülmâl-i amme." Each entry started with the phrase "an muhallefat-ı…" See MAD.d. 102/ 19b-20a, 10 B 966 (18 Apr. 1559).; . For an inspector (*müfettiş*) approved summation of accounts (*İcmal Defteri*), see MAD.d 4421/s.40-41, 17 M 1022 (9 Mar. 1613).

[503] AE. SMMD. IV 41/4733, 29 R 1081 (15 Sept. 1670)

person's testimony in favor of Halil in the court, the *kadı* affirmed Halil's claim of 182 *semen*[504] from the deceased Ali's inheritance.

Acting according to recognized legal guidelines and procedures, the *kadı* courts helped maintain a sense of lawfulness. The central role that they played in the verification and recognition of private claims appears to have been especially significant in legitimizing the government's property claims. The documents at hand show how the judicial process worked. The *kadı*s' concern with hearing, checking, and validating justifiable claims contrasted with the pertinacity with which some of the beytülmal officers tended to pursue public property claims.

The *kadı*'s court was the place of appeal against unjust escheats undertaken by the *beytülmal* officers. A decree (*ferman*) that Sultan Mehmed III sent to Esad Efendi (d.1625), the *Kadı* of İstanbul (and a former *kazasker*) in 1599 illustrates the point. A petition by Yusuf initiated the process that led to this decree. Yusuf complained about the *beytülmalci*s as they unjustly took away his house which he had inherited from his late wife Ümmühan Hatun and which Ümmühan Hatun had inherited from her late father: "…*mezbure Ümmühan hatunun babasınıdan irs-i şer'le intikal eylemiş mülk evini mezbur Ümmühan hatun vefat etmiştir deyu beytülmal eminleri kabz edip ziyân-ı hayf eylemişlerdir*". He, Yusuf, asks the Sultan a just hearing of the case that no one can intervene: "*şer'le zabt ve tasarruf ettirilub ahardan*

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[504] Rather than a currency unit, *semen* literally means the price or the value of a thing. In this case, it is used in the meaning of the price (*bedel*) of the money in circulation (*tedavül*). Considering the date of the case in question, it could be both kuruş and akçe. However, considering the value, it would be akçe (180 kuruş amounted to 21,600 akçes, 180 akçes amounted to 1.5 kuruş). See Şevket Pamuk, *A Monetary History of the Ottoman Empire*, Cambridge University Press., 2000, pp. 159-162.; Beşir Gözübenli, "Semen" *TDV İslâm Ansiklopedisi,* Vol.36, 2009, pp. 465-467.; Şevket Pamuk, "Kuruş" *TDV İslam Ansiklopedisi,* Vol. 26, 2002, pp. 458-459.; Halil Sahillioğlu, "Akçe" *TDV İslâm Ansiklopedisi,* Vol. 2, 1989, pp. 24-227.

kimesne dahl ettirilmemek babında inayet rica ederim." The Sultan decreed that no one should interfere with Yusuf's property during his lifetime (*hayatta oldukça mülküne kimesne dahl eylememek emr idüb buyurdum ki*) and that the *kadı* should settle this matter justly in the presence of the *beytülmal emin*s (*beytülmal eminleri muvacehesinde hak üzere tayin eyleyub göresiz*).[505]

His role was also significant in the cases related to trans-imperial agents. They were supposed to act on behalf of the government in delivering the properties of foreign people in faraway territories. In case a foreign merchant, traveler, or envoy died (or went missing) in Ottoman territories, and in case s/he was going around peacefully, the *kadı*s should facilitate sending their properties to their homeland.[506] For instance, when the *beytülmalci* attempted to take the property of an Armenian merchant who died in Tokat, the *kadı* was ordered to settle the dispute on the basis of a decree. According to this, in such cases, the *beytülmalci*s should wait until the *kadı*'s approval of property claiming (*madem ki varisi vech-i şer' üzere imtiyaz eylemedikçe*). The *kadı* should confirm first whether the deceased had fellow merchants (*taife*) to send the property to the deceased's potential heirs in his homeland, Iran:

> "…Tokat'ta helak olan (…) David nam Ermeni'nin … metrukatını beytülmal içün kabz etmek murad eyledikde Acem taifesinden bila varis helak olanların metrukatı yine taife-i mezbura teslim olunup Acem diyarında olan varislerine irsal ederiz, bizim yedimizde hatt-ı şerifimiz vardur deyu teslimden imtina etmeleriyle…"[507]

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[505] TS. MA. e 717/24, 14 L 1007 (10 May 1599).

[506] Serap Yılmaz, "İranlı Ermeni Bir Tüccarın Terekesi ve Ticari Etkinliği Üzerine Düşünceler", *Tarih İncelemeleri Dergisi*, VII, 1992, pp. 191-215.

[507] AE. SMST. II. 38/3740, 9 Za 1108 (30 May. 1697).; See also DVNSMHM.d 102/677, 10 B 1103 (26 Mar. 1692).

4.5.2 Emin

The second central figure in the implementation of the government's claims over unclaimed properties was the *emin*. *Emin*s worked in close contact with the *kadı*s. *"Emin*" literally means faithful, reliable, and trustworthy (*mutemet*). The Ottomans used the word as a title for holders of certain administrative positions that were called *emanet* and entrusted with the task of receiving or paying out government money. *Emin*s carried out many essential tasks to maintain public services. For instance, *Harc-ı Hassa Emini* was concerned with palace finances and supplies and the maintenance of the palaces and other royal and governmental buildings in the city. Other important *emin*s were the supervisors or commissioners of the Kitchen (*Matbah Emini*), the Mint (*Darphane Emini*), the Powder Mill (*Baruthane Emini*), and the Dockyards (*Tersane Emini*).[508] There were also *emin*s in charge of various mines, custom houses, and revenues. An *emin* had to have a certain degree of experience and knowledge, a sense of responsibility, and a reputation for being unsusceptible to corruption and abuse. Along with conducting certain tasks in person, the very duty of *emin* was to superintend (*nâzır*) the related services and revenue collection.

In principle, the *emin*s were salaried government commissioners as opposed to being tax farmers, grantees, or lessees. They represented the government in its dealings with other parties. In the case of *mukataa*s, the *emin*s oversaw the proper collection of the revenues and supervised the expenses of the related agent. Since the *emin*s did not have a personal financial

[508] İ. Hakkı Uzunçarşılı, *Osmanlı Devlet'nini Saray Teşkilatı*, Ankara: TTK, 1984, p.375-381.; Halil Sahillioğlu, "Emin", *TDV İslâm Ansiklopedisi,* Vol. 11, 1995, pp. 111-112.; Bilgin, *Bursa Harc-ı Hassa Eminliği*, p.20.; Bernard Lewis, "Emīn", in *The Encyclopaedia of Islam,* New Edition, vol.II, ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, Leiden: E.J. Brill, 1991, pp.695-696.

interest in mukataas, they handed over the revenues in full to the treasury.[509] The imperial center used the mukataa revenues to meet different expenses in the center and the provinces through the agency of the *emin*s and inspectors. This empire-wide reliance on *emin*s was one of the main features of the Ottoman fiscal system and helped maintain fiscal stability and the balance between the center and the provinces.[510]

As overseers of *beytülmal mukataa*s, *emin*s checked any potential abuses of the collector (*mültezim*), prevented any needless expenses that undermined revenues, and reviewed the accounts to check the recording of the clerks (*katip*s).[511] For example, the cerement and burial (*techiz* and *tekfin*) cost of the deceased was one of the main expenses met out of the *beytülmal* revenue. Particularly, when a needy person died, these expenses were paid directly out of the revenues of the relevant *beytülmal mukataa*.[512] A considerable number of documents indicate that *emin*s were sent notes (*tezkire*) specifically to remind

[509] Halil Sahillioğlu, "Emin", *TDV İslâm Ansiklopedisi, Vol. 11, 1995, pp. 111-112.*; Baki Çakır, "Osmanlı Mukataa Sistemi", p.135-140.; Lewis, "Emīn" in *The Encyclopaedia of Islam.*

[510] Having extensive powers in supervising monetary affairs of the empire in different bureaus and mukataas and the right of deposition in royal domains, the emins made a crucial segment of the Ottoman fiscal administration. See Arif Bilgin, Bursa Hassa Harç Eminliği, p. 20-21.

[511] "Emine hükmümce vacibdir ki halkun gümüşü darabhaneye gelindüği vakit gümüş katında sahib-i ayarla terazi yanında otura, teraziyi onat gözedüb vezni rast etdüre ve amil kendi ve yahud emini bile ola gümüş tamam tartılub alındıktan gümüş sızılduğu yere vara, gecesi gözleye, uğrulatacak yer ve hem kalb nesne katılacak yer oldur, yegrek kim ihtiyat ede ki nesne uğrulanmayub ve yaramaz nesne katılmaya. Halil İnalcık and Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani II. Mehmed ve II. Bayezid Devirlerine Ait Yasaknâme ve Kanunnâmeler*, (Ankara: Türk Tarih Kurumu, 2000), p.18.

[512] D. BŞM 7677/53, 20 C 1121 (27 Aug. 1709).; İE. DH 2/137, 09 R 1092 (28 Apr. 1681).

them or to request them to cover the burial costs of the needy and to itemize these expenditures in their records.[513]

*Emin*s, along with the *kadı*s, protected the *beytülmal* mukataas against any intervention of third persons or local authorities.[514] The *mültezim*s were also required to work closely with the *emin* or agent in charge of the revenue source. The fifteenth-century regulations and orders kept in the court registers underline that the *amil*s (*mültezims*) should do their work with the knowledge of and in cooperation with the *emin*s.[515] These *emin*s generally served according to the e*manet* (or *eminlik*) system, whereby the *emin*s received their payments from the proceeds of the related *mukataa*.[516] These payments of the *mültezim*s were later entered into their accounts (*mahsub*).

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[513]The documents in the cluster of D.BŞM.BLB (Başmuhasabe Kalemi Belgrad Beytülmali) include such reminders sent from Istanbul to the Emin of the Beytülmal in Belgrade: "Belgrad'da Beytülmal emini olan Yusuf Ağa el-Mükerrem, Ba'de's-selam inha olunur ki Ebu Bekir Efendi mahallesinde fevt olan Mehmed nam fakirin teçhiz ve tekfinine kifayet eder malı olmamağla beytülmalden dahi defn olunmak içün mürasele iltimas olunmamağın tahrirat kılınmıştır. Lede'l-vusul gerektir ki fakîr-i mezburu beytülmalden defn idesiz. D.BŞM.BLB d.1/4, 15 Ca 1097 (9 Apr. 1686).

[514] "…beğlerbeği ve sancak beği subaşılarına ve zuamâ ve erbâb-ı tımâr ve evkâf ve emlâk zabıtları ve gayrilere tenbîh ve tekîd idesiz ki min-ba'd havâss-ı hümâyûnum reâyâsının vâki olan hukuk u rüsûm ve cürm-i cinâyet ve beytülmâl ve sâyir bâd-ı hevâsına dahl itmeyeler….Meğer bunlardan birinün cürm-i galîzi sâdır ve hükm-i kâdî lâhık sebt-i sicill olup salb ü siyâsete veya kat-ı uzva müstehak olduklarında salb ü siyâsete me'mûr oldukda emînleri marifetiyle yerinde icrâ itdürüp… DVNSMHM.d. 41/287, 14 N 987 (4 Nov. 1579).; DVNSMHM.d. 41/242, 5 N 987 (26 Oct. 1579).

[515] Linda Darling, *Revenue Raising Legitimacy*, pp. 129-130.

[516] Baki Çakır, "Osmanlı Mukataa Sistemi", p. 136.

Potential tax farmers (*mültezims*) could abstain from undertaking mukataas as *iltizams* because of unpromising returns.[517] In these cases, the bureau in charge of the *mukataa* in question could appoint *emin*s to collect the due taxes and other expected revenue by means of *emanet*. The *emin*s did not take a risk in this type of undertaking (*ber vech-i emanet*). They were paid according to the number of days they worked (*kıst al-yevm*) managing the *mukataa* like a government official. An *emin* put in charge of a mukataa could bid for converting (*tahvil*) the mukataa unit under his responsibility to an iltizam. This mélange of two means was called "*emânet ber vech-i iltizâm*" and turned the *emin* to an *emîn ber-vech-i iltizâm*[518] or *emîn u mültezim*.[519] The same combination ensued also in case a *mültezim* successfully put himself in for the eminship of his *mukataa*. In these mixed types of *beytülmal mukataa*s, the *mültezim-emin* oversaw inspecting and claiming of the properties at issue. He could collect his payment for *eminlik* (*emânet ulûfesi*) from the revenues of the *mukataa*, depending on the contract signed for its conversion (*tahvil*).

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[517] Arif Bilgin, *Bursa Hassa Harç Emini*, pp. 69-71, and 84.; Linda Darling, *Revenue Raising Legitimacy*, p.128.

[518]"…Kastamonu mevkufatına ve cendere-i Kastamonu ve mîzân-ı harir ve cendere-i İlisu ve beytülmal ve mâl-ı gâib ve mâl-ı mefkûd ve yave ve kaçgun ve resm-i bennak ve bad-i heva ve tevabi'i mukataasına sene 985 Recebinin yigirmi ikisinden üç yıla ber vech-i iltizam emin olan İshak…" A.DVNSMHM.d.41/543, 23 L 987 (13 Dec. 1579).; Halil Sahillioğlu, "Emin", *TDV İslâm Ansiklopedisi,* Vol. 11, 1995, pp. 111-112.; Linda Darling, *Revenue Rasing Legitimacy*, pp. 127-128.

[519]Emin-mültezim or mültezim-emin was aslo used. "… Kaza-i mezbura tabi Gerne ve Dimyana haslarıa bi'l-fiil mültezim emini olan Mehmed Südde-i Saadetime gelüp havâss-ı mezbure içinde vaki olan yave ve beytülmel ve mâl-ı gâib ve mâl-ı mefkûd iltizamıma dahil olup…" DVNSMHM.d. 41/ 242, 5 N 987 (26 Oct. 1579).; D. BŞM.MHF 1/23, 11 L 1006 (17 May 1598).

In undertaking mukataas by way of *iltizam*, the *mültezim*s could offer some people as *emin* and *katib* for employing in their *mukataa*s.[520] These pieces of informations were defined in the *mukataa* contracts which were affirmed by a *müfettiş*. *Mültezim*s could also apply to remove an *emin* or *katip* from the office and offer to recruit another person. For instance, Ömer Ağa and İdris Çavuş were undertaking the *beytülmal* mukataas in Edirne in 1616 by way of *iltizam*. During their *tahvil*, they decided to remove *katib* Mehmed Arslan and, instead of him, they wanted to take another Mehmed (Abdullah) for the office. As they marked in their petition, this is possible based on their contracts given the reason that *katip* is incapable for the office (*hizmet-i kitabete kadir olmamağın*) and he is in his own will (*kendu hevâsında olmağın*).[521]

The 'imperial' emins,[522] appointed by the imperial center, watched over the revenues and expenses of the mukataas on behalf of the *müfettiş* or *nazır*. The *mültezim*s could also employ others, called *amil emini* (*emin* of the tax collector), for assistance needed to manage a *mukataa*.[523] Thus, the *mültezim* of a *beytülmal* mukataası might have two *emin*s to fulfill two complementary objectives. The first objective would be assistance in matters that concerned the interests of the government, such as maintaining the *mukataa* properly and

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[520] Çakır, "Osmanlı Mukataa Sistemi", p.42.

[521] AE. SAMD. I 8/746, 17 L 1025 (28 Oct. 1616).

[522] Linda Darling, *Revenue Raising Legitimacy*, pp. 32-33.

[523] Halil İnalcık and Robert Ahnegger, *Kanunnâme-i Sultani Ber Muceb-i Örf-i Osmani II. Mehmed ve II. Bayezid Devirlerine Ait Yasaknâme ve Kanunnâmeler*, (Ankara: Türk Tarih Kurumu, 2000), p.18-19. As the kanuname suggest, two emins were ordered to work in cooperation.; Also, in cases of miscounduct, the emins and the mültezims' agents were warned for their unjust claiming of beytülmal: "umenâ ve mültezimin sair iş erleri… reâyadan mürd olanların varis-i marûfları var iken cümle muhâllefatın alub mabeynlerinde tevzî eylediklerin…" DVNSMHM.d. 23/80, 27 R 981 (26 Aug. 1573).; Baki Çakır, "Osmanlı Mukataa Sistemi", pp. 137, 155.

collecting the revenues in due cooperation with the *katib* and the *kadı*. The second objective would concern the interests of the *mültezim* (*amil*) on the ground as a commissioner.[524] Both of these *emin*s would also make the necessary payments such as the costs of transfer and delivery (*ihracat* and *teslimat*) out of the revenues of the *mukataa*.[525] The *emin* was the main agent of *beytülmal* operations on the ground. He oversaw the selling of the unclaimed properties deemed as *beytülmal* to provide for their reuse and re-circulation across the empire.[526] Baki Çakır mentions that a person called *mutemed* (relied on, trustworthy*)* was also appointed in the *beytülmal* mukataas.[527]

People of a certain locality might also name an *emin* (and a *katib*) to fulfill a specific task while working along with the 'imperial emin' appointed by government authorities. These 'semi-imperial' emins also made claims regarding *beytülmal* properties on behalf of the local people and the government. For instance, correspondence between the representatives of Tuna Province and the imperial center in 1827 indicates that the former requested the confirmation of a certain *emin* they chose and nominated among themselves to facilitate the pilgrimage of people from their province. This *emin* would have access to *beytülmal* revenues to do his job. [528] Further research is needed to check the extent to which the central government accommodated such provincial requests whether by allowing the

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[524] "Ayak amili" (errands agent) was another term used for the commissioner hired by the mültezim. DVNSMHM.d. 41/635, 29 L 987 (19 Dec. 1579)

[525] D. BRM. D. 24258, p.2-3 (1002/1593-94)

[526] "…mahmiye-i İstanbul'da Beyceğiz mahallesinde vefat eden Aişe nam Hatun'un beytülmale ayid ve raci' olan evini cümle tevabii ve levahiki ile otuz altı bin akçeye tarafı miriden iştira idub akçesin bi't-tamam beytülmal eminine teslim ve eline kassam tarafından hüccet-i şer'iyye alup…" TS.MA. e. 892/21 (27 06 944); TS.MA.e 1238/64 (29 S 987 /27 April 1579)

[527] Baki Çakır, "Osmanlı Mukataa Sistemi", p.177 see f.n. 928.

[528] C. ML. 406/16633, 17 B 1242 (14 Feb. 1827).

designation of a special *emin* or adding the requested task to those of the imperial *emin* already assigned to the area. Though the document did not mention why the regular *beytülmal emini* did not work also for Danubian pilgrims on the way to hacc, the accommodational policy of the imperial center towards the demands of the local people in the ninteenth century was worthy of attention.

By definition of his charge, an *emin* played a central role in court cases related to the *beytülmal mukataa*s for which he worked. His presence, expertise, and testimony were essential for solving the wide range of issues that came up in these court hearings.[529]Particularly, cases of re-claims and problems related to the debts of the deceased called for the presence and cooperation of the *emin*s in the court.[530] For instance, Davud Çelebi, a *katib* in the imperial divan, died without a known heir except for his wife. Mahmud Ağa, the *emin* of the *beytülmal-i hassa* in İstanbul kept all his *muhallefat* presuming it *beytülmal*. Müşerref and Cemile separately sued that in the *zimmet* (debt or arrear) of Davud

[529] "Müfettiş ve emin ma'rifeti olmadın miri hususları min ba'ad toprak *kadı*ları istima' itmemesi içün emr-i şerif ricasın i'lam eylemiş …emin ve ademisi anda hazır değil iken fuzûlî kendüleri istima etmeyeler ve ettirmeyub mal-ı miriye gadr [ve] mültezimin iltizamına zarar müterettib olmaktan hazer idesiz…" A.DVNSMHM.d. 41/543, 23 Ş 987 (15 Oct. 1579).; "...Medine-i Kandiye kazasına tabi Pedye nahyesinde Askalay nam karye ahalisinden Ca'fer Çelebi b. Halil Bey karye-i mezburede bila varis vefat eden Alî Bey'in terekesinden vaz'-ı yed olan beytülmal emini Ahmed Ağa mahzarında dava ve takrir-i kelam edip mezbur Alî Bey'in hayatında…" AE SMMD.IV 41/4733, (16 Aug.1670).; A.DVNSMHM.d. 41/349, 21 N 982 (4 Jan. 1575).; A.DVNSMHM.d. 41/ 287, 14 N 987 (4 Nov. 1579).

[530] "…mahmiye-i merkume de beytülmal-i hassa emini olan fahrü'l-Akran Mahmûd Ağa b. Mehmed mahzarında ikrâr-ı tam ve takrir-i kelâm edip müteveffa-yı mezburun mahmiye-i merkumeden koyun emini mahallesinde vaki lede'l-ciran malumu'l-hudud mülk-i menzili ve sair ism-i mâl-ı ıtlak olunur cümle muhallefatı emini merkum yediyle sûk-ı sultanide füruht olundukda…" İE.MHF 1/18, 6 B1038 (1 Mar. 1629).; TS.MA. e. 1239/59, 12 R 1059 (25 Apr. 1649).

Çelebi each had their share of *mihr-i müeccel*[531](…*Üç bin fizzî Osmanî râyicu'l-vakt akçe mihr-i müeccel*). Both wives explained their case in court in the presence of the *emin* Mahmud Ağa. The wording in these documents manifests that the *emin*'s presence was also significant for preventing any future false claims and re-claims on the *beytülmal* in question.[532]

Keeping track of *beytülmal* properties within his mukataa was one of the main responsibilities of a *beytülmal emini*. He was expected to keep an open eye on the emergence of unclaimed properties and establish the actual condition of these properties, including their form, type, and value. People living in the same neighborhood were also held responsible for keeping the *emin*s posted about unclaimed properties.[533] The *emin*s were allowed to make a certain amount of payment to informers to encourage their cooperation. Called *müjdegâne*, this payment was generally around between 2.38% and 8.46% of the total value of the

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[531] The deferred, or second, payment in the marriage act in Islamic law. It is a promise to pay a sum of money to wife. See Cem Behar "Neighborhood Nuptials: Islamic Personal Law and Local Customs: Marriage Records in a Mahalle of Traditional Istanbul (1864-1907)", *International Journal of Middle East Studies*, Vol. 36, No. 4, 2004, pp. 537- 559.

[532] After got paid their rights, each wifes repeated that they had no any receievables anymore: "ba'de subûti'şer'i bi't-tamâm ahz ve kabz eyledim, min ba'ad mihr-i müeccelimden muhallefât-ı müteveffâ-yı merkumda bir akçe ve bir habbe hakkım kalmadı." İE.MHF. 1/15, 29 Ş 1038 (23 Apr. 1629).

[533] For instance, locals were encouraged to cooperate with the beytülmalci upon their complaints about long waits for the burial of the deceased : "…Gerekdir ki, min ba'd eğer müslümanlarun ve eğer nasârânın ve eğer yahûdânın meyyitleri vâki' oldukda meyyit canibinden fil-hâl bir kimesne varub beytülmalcıya haber eyleye ve beytülmalcı dahi derhal te'hir etmeyüb meyyitin üzerine varub beytülmale raci' esbabı var ise zabt edüb ve yoğ ise fil-hal defne icâzet verüb heman ol gün meyyiti hakkına koyalar…" Akgündüz, *Kanunnameler*, v.6, II, p.130-131.; Bilgin and Bozkurt, "Beytülmal Mukataaları", p.8.; İstanbul Kadı Sicilleri 64 Kısmet-i Askeriye Mahkemesi 59 Numaralı Sicil (H. 1143 / M. 1730-1731), İstanbul: Kültür AŞ, 2019, pp. 300,301, 450, and 451.

inheritance.[534] Court registers make this point clear although they do not give information about the names or occupations of the informers.[535]

4.5.3 Katip

Katip means clerk, the person who is responsible for a "faultless production and careful recording of the imperial documents."[536] *Katip*s were an inseperable part of the Ottoman legal and financial institutions in every aspect. The record(s) kept by *katip*s was the most critical instrument for the proper functioning of the Ottoman bureaucratic organization at different levels. As for the *beytülmal* institution, at the very least, the significance of the *katip*, and what he recorded, could be said twofold; one is for the government the other is for individuals.

As examined above, the *beytülmal* was closely wired into the Ottoman fiscal and legal institutions. Being a *mukataa* revenue, any fiscal transaction in and around *beytülmal* revenue was kept by the *katip*s for the statement of incomes and expenditures at the end of each *mukataa* period. These fiscal registers helped maintain the circulation of goods and money across the empire, thus, *katip*s provided a more planned and effective way for the

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[534] Along with other payments, the rate of *müjdegane* to total inheritance is changing between 2.38% and 8.46%. Bilgin and Bozkurt, "Beytülmal Mukataaları", pp.8, 9, 23, 31.; In his study of urban history in the light of Mudanya sicils (1645-1800), Yunus Uğur also found the rates of the expenses for the government claimed inheritances as follows, resm-i kısmet: 8.33%, müjdegane: 2.08%, katibiyye, 4.17%, teçhiz ve tekfin: 20,83%, and hüddamiye, 4.17%. See Yunus Uğur, "The Ottoman Court Records and Making of Urban History with Special Rereference to Mudanya Sicils (1645-1800)", MA Thesis, Boğaziçi University, 2001, p. 88.

[535] Bilgin and Bozkurt, "Beytülmal Mukataaları," pp. 8, 23-28.

[536] Christine Woodhead, "From Scribe to Litterateur: The Career of a Sixteenth-Century Ottoman Kâtip", *Bulletin (British Society for Middle Eastern Studies)*, Vol. 9, No. 1, 1982, pp. 55-74.

redistribution of sources. This weight of *katip*s could be generalized to include all *mukataa*s, not only the *beytülmal*.

However, what makes the *katip*s noteworthy for the beytülmal was their records unique to each specific case. Accompanied with the *beytülmalci*s (*emin*s), *katip*s were present at the place where properties are deemed as *beytülmal*. They kept the actual *beytülmal* records and supervise its copying with the physical conditions of properties, from tiny pieces to an adorned house, from cushions, pants, and copper vessels to a good deal of gold or mounts. *Katip*s should seal the properties that fell to the *beytülmal* before the burial of heirless deceased persons. They (*emin* and *katip*) should be prompt at keeping and registering the *beytülmal* so as to prevent any *illegal* appropriation by third parties.[537] First and foremost, these records helped secure the *beytülmal* as it was once registered by public officers. It was vital for any possible future claims, either public or private, as *katip*s recorded the *beytülmal*(s) without knowing certainly whether all the properties would return to the *mîrî*. Secondly, the notary function of *katip*s made claims possible even for a very late appeared heir, or petitioner.

Ideally, *katip*s were appointed to *beytülmal mukataa*s at the beginning of *tahvil*s,[538] but in *tahvil* removings and appointments were also possible based on the conditions. For instance, the *mültezim* and *emin* in the *beytülmal mukataası* of Edirne petitioned that the *katip*, appointed at the beginning of the *tahvil*, was incapable and on his own will, and need

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[537] Arif Bilgin and Fatih Bozkurt, "Bir Malî Gelir Kaynağı Olarak Vârissiz Ölenlerin Terekeleri ve Beytülmâl Mukataaları", *Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 20, 2010/2.

[538] The assignment, or transfer of the rights of tax collection to an undertaker for a certain time period (in general 1 to 3 years). Mehmed Genç, *Osmanlı İmpraratorluğu'nda Devlet ve Ekonomi*, İstanbul: Ötüken, 2000, p. 103.

to be removed from the office.[539] Mültezims could suggest katips to their mukataas showing them also as *kefil*s (guarantors).[540] Or, some people could also petition to be appointed for the office of *kitâbet* (recording) of the *beytülmal* mukataas.[541] Being a *mukataa* employee, *emin*'s salary was paid from *mukataa* revenues which later entered into the *mültezims*'s account (*mahsûb*).[542]

The archival registers mostly name the *katip*s in conjunction with the *emin*s, the central figure of the *beytülmal* institution.[543] His witnessing each case and accompanying

[539] AE. SAMD. I 8/746, 17 L 1025 (28 Oct. 1616).

[540] For instance, the mültezim who undertook the bunch of mukataas (beytülmal-i amme, mâlı gâib and mefkûd, yave, kaçgun, and cizye-i gebran) in Edirne and its dependincies (*tevâbii*) offering 820,000 akçes. He conditioned that his guarantors Hacı Muhammed b. Hızır and Hacı Muhammed Karagöz will be katips in his mukataas: "… debbağ Hacı Halil mahallesinden Hacı Muhammed bin Hızır yevmi 20 akçe ulufe-i kadimesiyle beytülmali amme ve yave haracı mukataalarına katip olmak şartıyla 40.000 akçeye kefil olub ve Kahtaluoğlu mahallesinden Hacı Muhammed Karagöz yevmi 5 akçe ulufe-i kadimesiyle nahiyeye katib olmak şartıyla 30.000 akçeye kefil olub…" İ.E. ML. 1/78, 26 Z 981 (18 Apr. 1574).

[541] AE. SSÜL.I 5/272, 29 Z 969 (30 Aug. 1562).

[542] In the eighteenth century, while emin and nazır got paid 6.5 % of the total muhallefat, katips got 4% of it. Bilgin & Bozkurt, "Beytülmal Mukataaları", p.6; Zafer Karademir, "Osmanlı İltizam Sözleşmelerine Yansıyan Yönleriyle Yahudi Girişimciler (1560-1630)" *Osmanlı Araştırmaları / The Journal of Ottoman Studies*, L (2017), pp. 73-116. See also Çakır, "Osmanlı Mukataa Sistemi", p.41.

[543] "…bi'l-fiil beytülmal emini olan kıdvetül'l-emâsil Ahmed Bey ve kâtibi olan Mehmed Çelebi muvacehesinde takrir-i kelam ve sevk-i merâm edip …tezkere muktezasınca şer'le sabit olan zikrolunan meblağı emin elinden katibi ma'rifetiyle bi't-tamam alub kabz ve teslim ettirub…" AE. SSÜL. I. 5/307, 21 Ş 956 (14 Sep. 1549); see also Çakır, "Osmanlı Mukataa Sistemi", pp. 139-140.

emin made both the public and private claims sounder in the face of unlawful claims.[544] As some registers manifested, they agreed with each other about the verification of claims. However, in some cases, this sentence could be concluded with "as far as their interests were not conflicting."

Though it was a case of rare, *katip*s were also acting in the foreground and involved in tricky episodes. For instance, a case in Eygpt shows that the *beytülmal katibi* Derviş was held responsible on the account that the *beytülmalci* Abdi died immediately after having dinner in his house. The imperial center ordered a further investigation about the *katip*:

> "Sipahi oğlanlarından Abdi mahrûse-i Mısır'da beytülmal emaneti hizmetinde iken katibi olan Derviş nam kimesne mezburu ziyafet tarikiyle evine alup, gidup, bazı nesne yedirub henüz anda iken za'if ve lâ-ya'kil olup ol hal ile getürüldükten sonra bilâ te'hir vefat itdüği ilâm olunmağın… bu babda bizzat mukayyed olup mezkura ne makule nesne yedirmiştir? Sebep nedir? Mezkur Derviş ne hallu kimesnedir, hakkında ne vechle şehadet iderler?"[545]

Again, in Egypt, *beytülmal katibi* İbrahim recorded that Hablas, who owed to *miri* and was the şeyh of Buhayra, died. Upon his statement, he was summoned to Mısır Divânı (council in Egypt) and was asked again, and repeated his previous words that Hablas died. Doubting this, the council sent some men to Hablas's house and found him alive. *Katip* was punished with penal servitude.

> "Buhayra şeyhi olan Hablas'ın miriye olan deyni içün Abdülkerim marifeti ile mevcudâtı zabt olundukda Mısır müteferrikalarından olup beytülmal katibi olan İbrahim mezbur Hablas … adlı bir Arap kulun fevt olmuştur deyu deftere kayd ettirüp sonra divân-ı Mısır'da suâl olundukta yine fevt olmuştur deyu cevab virdükten sonra evine âdem gönderilüp mezbûr Arap hayatta olmağla…kizb ve hıyaneti zâhir olmağın … Mısır kal'ası burcunda habs olunduğun … alâkası kat' olunup… gemilerde küreğe konulmak emr idüp…"[546]

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[544] It provided a double-confirmed claims on the properties in question. See for instance KK.d. 2434, p.30., 29 Za 955 (19 Dec. 1549)

[545] DVNSMHM.d. 66/359 and 66/61, 16 B 998 (22 Feb. 1590).

[546] A. DVNSMHM.d. 33/212, 20 N 985 (1 Dec. 1577).

It does not seem possible to understand what was the actual motivation of the *katip* at purposefully showing an alive person as dead, but it is clear that *katip*s were not only the clerks that records what found as *beytülmal* item by item. The strength of his position comes from his actual involvement in the field for each case and having a better grasp of the persons and things subject to the *beytülmal*, and the accounts of the *mukataa* in question.

4.6 Conclusion

In the last two chapters, the theoretical whys and whereofs of the beytülmal, and the norms and regulations related to it were examined respectively. Having this background, the current chapter attempted to visualize the beytülmal with its relation to the wider Ottoman bureaucracy, its central and provincial organization, and its agents. It aimed to understand the features that made the *beytülmal* a legal and financial institution in the Ottoman Empire in the early modern period and pushed its limits for bringing out an overarching government body in charge of the administration of unclaimed properties.

Differing from the modern perspective (of the institutions), what makes the institutions in the early modern era was not the buildings, or a fully-fledged and vertically organized bureaus that bound to the central authority in a direct and definitive way. The chapter took on that institutions are the social structures and organizations that guide and govern human interactions through ideals, principles, norms, and regulations. It grounded *beytülmal* in this wider scheme of the institutions on the account that the Ottomans, both the subjects and the ruling elites, benefited from it to make sense of their world in their expectations and obligations.

The *mukataa* system was the most concrete and paramount engine of the *beytülmal* in bringing out it as an overarching body that prevailed in almost all the corners of the empire. It provided the commercialization of the unclaimed property as revenue to be collected. Along with the norms and regulations, the *mukataa*s helped the government to reach,

spatially and temporarily, the subjects of the empire (either *askerî* or *reaya*), both in property claims and in the redistribution of the sources.

Moreover, from the late fifteenth century on, the division between *amme* and *hassa beytülmal*s were already in force according to different empirical sources. However, the commercialization of *beytülmal-i hassa* came a bit late, around the first quarter of the sixteenth century. Based on that, *beytülmal-i hassa* was designed to claim the *beytülmal* of the people of *askerî* origin and their families regardless of the value of the properties. Apart from being a mere practical or economical purpose, *amme* and *hassa beytülmal*s (letting aside the other corporate ones), might have provided a more secure network in which the members were accountable to each other for claiming property.

The government's all-embracing property claim became known, and eminded people through the *beytülmal* institution, in other words, by the agents serving in different lands of the empire. Being at the center of the governmental organizations, the *kadı*, *emin* and *katip* served the *beytülmal*, and kept it a relatively consistent and coherent institution for ages.

CHAPTER 5

CONTROLLING PROPERTY FOR THE BENEFIT OF THE REALM: BEYTÜLMAL AND ITS FOUR MAIN FUNCTIONS

5.1 Introduction

In order to engender a proper redistribution of the revenues and sources regarding unclaimed property, the Ottomans implemented the *beytülmal* institution based on a modus operandi. Taking into consideration the public, semi-public, and private interests of the claimers, as well as the distributive power of the Ottoman political organization, it is possible to suggest that the beytülmal institution functioned on four main axes: (i) Trustee (*emanetçi*) for keeping and restitution: The *beytülmal* officers were responsible to hold the unclaimed property in trust for a certain period so as to provide the rightful owners a length of time to collect their shares. As the first legal-*ly* claimer in this stage, the office acted only as a trustee aiming to help secure justice and protect the rights of legitimate claimants. However, if no one came forward and claim properties in a certain time period, the *beytülmal* officers would include the unclaimed properties in the treasury (*dahil-i hazine* or *mazbût-ı beytülmal*[547]). This was basically to protect the holdings of the treasury, as well as the right of a potential private claimant. This inclusion meant that the central or provincial fiscal authorities could use and direct these new properties to meet the expenses of the government. Yet, the rightful private parties were still provided an opportunity to claim the property or its price (*semen*),

[547] Defterdar Sarı Mehmed Paşa, *Zübde-i Vekâiyât* (haz. Abdülkadir Özcan), Ankara: Türk Tarih Kurumu, 1995, p. 79.

if they properly established their claims in court. In these cases, the *beytülmal* office served the purpose of rightful restitution.

(ii) Revenue Collector: Public officers deemed a precisely unclaimed property as a refreshing 'revenue'. Having authorized to claim these properties on behalf of the treasury, the *beytülmal* acted as the collector of a type of *mîrî* revenue. The *beytülmal mukataa*s were developed to serve this end. They were administered and operated mainly by way of *iltizam* or *emanet*. They fostered economic activities and generated employment over a significant question of law.

(iii) Spender of a Government Fund: The collected *beytülmal* revenues amounted to a considerable sum of means in different parts of the empire. Holding this wealth, the *beytülmal* was supposed to work in tandem with the fiscal authorities in the center and the provinces so as to properly distribute or dispense the funds it acquired as a revenue collector. In the simplest term, the funds were used for the expenditures of the *beytülmal mukataa*s' itself. There were regular expenses that the *emin*s were familiar with and expected to deliver. The imperial center could also direct the *beytülmalci*s to accommodate certain irregular payments by sending specific orders.

(iv) A Fund for Charitable Payments: The *beytülmal* institution was in charge of making some necessary payments to the needy. Having its roots in the pre-Ottoman period, the *beytülmal* provided subventions to widows, orphans, patients, and other needy individuals. Relevant *hüccets*[548] issued by the courts reflect the pattern of charitable expenditures that the *beytülmal* office initiated in different parts of the empire. As such, the beytülmal office acted as a charitable institution.

[548] An official legal deed prepared by the *kadı* verifying his desicion.

This section of the thesis will examine the above-mentioned functions of the *beytülmal* to illustrate and make sense of its institutional existence. Relying primarily on empirical sources, the chapter aims to shed a bit of light on the ways in which the state and its subjects benefited from the *beytülmal*.

5.2 Beytülmal as the Trustee for Safekeeping and Restitution

The rules and regulations that were adopted or legislated as early as the fifteenth century manifest that one of the chief concerns of the lawmakers regarding the *beytülmal* was to protect the shares of the rightful claimers. On that ground, the *beytülmal* stepped forward to point register and safe keep the properties that were left behind when the *de jure* owner/claimer was yet to be identified. Holding the title of *emanet* (trust/trustee), the *beytülmal* was ideally supposed to suspend any claims of ownership for a length of time. Within this period of suspension, the *beytülmal* was to re-check the properties and help to re-accommodate the rightful claimers if possible and turn over the properties to them. This was a process that redefine property relations for public and private claimers.

Upon hearing about the cases of unclaimed property, the *beytülmalci*s responded promptly to register and claim for keeping the properties in question. In the first instance, this was to prevent unlawful seizures who sought an opportunity to exploit the unsettled conditions. In these circumstances, the *beytülmal* acted as the official-legal trustee of the properties it took under its custody. The *kadı* was a key agent in these operations, and the *beytülmalci*s received their authorization (*berat*) from the imperial center. That primary role of the institution, trusteeship, had vital importance, especially for a number of cases: for the children who have not reached the age of maturity yet to legally claim their shares, for the legitimate claimers who were far away and unable to claim their shares there and then, and also for the creditors whose claims might have been jeopardised otherwise. The following examples aim to elaborate on this function of the office.

Mustafa b. Yakub died in the district of Gemlik. Though the document is silent on his identitiy except for his name (*nam kimesne*), his estate was held by Mehmed Ağa b. İlyas, the *de facto beytülmal emini* for Janissaries. The estate (*muhallefat*) included a garden. The *emin* Mehmed Ağa sold this garden (*emâneti hasebiyle bey' ettuği*) to a certain person. However, Zülfikar came up as the only legal heir of the deceased (*usûbet-i nesebiyye cihetiyle bi'l-inhisâr varisi*) and established his claim before the *beytülmal emini*. Since the garden was sold, Zülfikar was only able to collect the price of the total estate (*yetmiş üç bin nakd-i fizzî râicü'l-vakt akçeyi*) from the *beytülmal emini* and attested that he has taken all what he claimed for (*müteveffa-yı mezburun muhallefatından merkum Mehmed Ağa yedinde bir akçe ve bir habbe hakkım kalmadı*).[549]

As far as the document states, the *beytülmal* kept this estate as a trust, and still at the liability of the *emin*. However, in theory, the *emin*s were not authorized to sell any piece of the estates in their trust in the first six-month after receiving them. Deviation from this rule was possible only in case of fear of spoiling the spoilable contents of the estate such as food. How long did the *emin* wait before selling the garden and why he sold it are not explained, but the use of the concept of *emanet* implies that the price was not deposited to the treasury. Additionallty, although the document does not explain whether the deceased held an *askerî* status, the public claimer in charge was the *beytülmalci* of the Janissaries.

The case of Bedîi Efendi clarifies the trustee function of the office in different words and phases. Bedii Efendi died in 1070. Seemingly he did not have an heir. Mehmed Ağa, the *beytülmal emini* in charge in İstanbul sold Bedii's property and delivered the proceeds to the treasury. Although the price was deposited to the treasury (*an canib-i mîrî duhûl kerden*), and although the claimers came forward three years later (*bi-sebebi sahibi zuhur kerden*) the price

[549] TS.MA. e. 1264/69 (1029/1620).

of the estate was paid to the claimers.[550] These two cases shed light on the trustee function of the office. Whether the estate was in the liability of the *beytülmal* or its price was already delivered to the treasury and in someone else's pocket across the empire, the claimers were given a chance to establish their claims. In the latter case, the *beytülmal* serves as a bridge over which the claimers could notarise that the properties in question were once registered, claimed, and kept by public officers—the *beytülmalci*s in question.

Time was one of the important elements to establish an appropriate private claim. A too long delay in making a claim put the possibility of restitution at risk in the face of the *emin*s and *kadı*s. However, the story behind the case might prevail, and the time might remain of no consequence in some situations. For instance, some people were captured on the border of Budin, and they could hardly be free after fifteen years (*Müslümanların ekseri on beş yıldan ziyâde müdded ancak halas olmak müyesser olub*). The local officers refused to hear the case because of time limitation (*on beş yıl mürûr eylemiştir deyu taallül olunub*). However, the order (*hukm*) sent to the governor-general (*beylerbeyi*) and the treasurer (*defterdâr*) of Budin states that these people should be compensated for whatever happened to their belongings. If it was the *beytülmalci*, or *mevkufatçı*[551] that took these properites for the state (*mîrî*), they should ensure restitution (*halas olub gelenlerin ma-mülkleri ol zamanlarda kimler alub zabt eylemişler ise eğer beytü'l-mâl ve mevkuf eminleri mîrî içün alub zabt eylemişler ise beytü'l-mâlden taleb idüb şer'le hakların ne ise alıviresin*).[552]

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[550] AE. SMMD. IVI 53/6205 (1073/1662).

[551] The officer in charge of recording the revenues from properties temporarily in the possession of the treasruy.

[552] A.DVNS.MHM.d. 24/160, 9 Şevval 981 (1 Feb. 1574), A.DVNS.MHM.d. 31/236, 15 Ca 985 (30 Aug. 1577).

This trustee function of the beytülmal was also accountable in cases of debt claims. As far as the estates are sufficient, the first disbursement from the estate by the *beytülmal* would be debt payments.[553] For certain, the *beytülmalci*s were not favoring debt claims, particularly in the absence of heirs. Nevertheless, for the creditors, the first place to recourse was the *beytülmalci*'s door. If they successfully established their claims, they could collect the debt owed to them. For instance, Cafer Çelebi had a debt claim on the estate of the heirless deceased Ali bey in the village of Pedye in Kandiye in 1081. According to Cafer's claim, he had lent a value of 500 units (*semen*[554]) to the deceased Ali bey. Before he died, Ali had paid back 318 units of his debt, but the rest 182 units (*semen*) remained in Ali's charge. Because the estate was in the liability of the *beytülmalci* Ahmed Ağa, Cafer demanded the debt from him but got rejected:

> "Müteveffâ-yı mezbur terekesine mezbur [beytülmalci] Ahmed Ağa vâzi'u'l-yed olmakla suâl olunup meblağ-ı bâkî mezburdan alıverilmesi matlubumdur dedikte gıbbe's-suâl mezbur Ahmed Ağa müteveffa-yı mezburun terekesine vaz'ı-yedi ikrar, müddeî mezburun müteveffâ-yı mezbur zimmetinde hakkı olduğunu inkar etmeğin"

The court asked Cafer to support his claim with strong evidence (*mübeyyine beyyine*). Upon that request, for testifying his claim Cafer brought two of his countrymen, Şahin and

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[553] See chapter III.

[554] Rather than a currency unit, *semen* literally means the price or the value of a thing. In this case, it is used in the meaning of the price (*bedel*) of the money in circulation (*tedavül*). Considering the date of the case in question, it could be both kuruş and akçe. However, considering the value, it would be akçe (180 kuruş amounted to 21,600 akçe, 180 akçe amounted to 1.5 kuruş). See Şevket Pamuk, *A Monetary History of the Ottoman Empire*, Cambridge University Press., 2000, pp. 159-162.; Beşir Gözübenli, "Semen" *TDV İslâm Ansiklopedisi,* Vol.36, 2009, pp. 465-467., Şevket Pamuk, "Kuruş" *TDV İslam Ansiklopedisi,* Vol. 26, 2002, pp. 458-459.; Halil Sahillioğlu, "Akçe" *TDV İslâm Ansiklopedisi,* Vol. 2, 1989, pp. 24-227.

Mehmed, to the court. Their testimony supported and established Cafer's claim, and consequently, he collected the debt owed to him from the *beytülmalci*.[555]

Along with the third persons, the public claimers should also ascertain whether the deceased owed to the government, or to officials in different ranks. For a variety of reasons, lending money was common among government officials. Upon death of a debtor, the officials should make the disbursements from the estate of the deceased to pay his debts. By definition of his charge, the *beytülmal-i hassa* officer was responsible in such circumstances. A *hüccet* (legal deed) prepared by Yusuf b. Hüseyin, the Kazasker of Anatolia (one of the two chief judges of the empire) provides an example. According to this document, Gazanfer Bey, the late Sancakbeyi of Musul, owed money to Rüstem Paşa. The Paşa's claim was certified. Paşa's representative (*vekil*) Behram brought the certification (*tezkere-i şerif*) before the *beytülmal emini* and his *katib* who were in charge of Gazanfer's inheritance, and requested the payment of Gazanfer's debt to the paşa out of this inheritance:

> "…bi'l-fiil beytülmal emini olan kıdvetül'l-emasil Ahmed Bey ve kâtibi olan Mehmed Çelebi muvacehesinde takrir-i kelam ve sevk-i meram edip dedikde bundan akdem Musul sancağı beyi olub fevt olan Gazanfer Bey b. Abdullah zimmetinde müvekkilim olan müşarunileyh paşa hazretlerinin yağ bahasından 2120 Şâmî akçesi olub fevt olub zimmetinde baki kaldığı dergâh-i aliyede şer'le sabit olmağın mezburların ellerinde olan muhallefatı bahasından verilmek [için] tezkire-i şerif verilmişti…"[556]

Since the late Gazanfer Bey's estate was held in trust by the *beytülmal-i hassa* officer, the only addressee for Rüstem Paşa was *beytülmal-i hassa*. His agent established his debt claim before the *emin* and collected the amount Gazanfer owed Rüstem from the *emin*.

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[555] "...her biri edâ-i şehâdet-i şer'iyye ettiklerinde gıbbe riâyet-i şerâyiti'l-kabûl şehâdetleri makbul olmağın…" AE. SMMD IV. 41/4733 (1081/1670).

[556] AE. SSÜL. I. 5/307 (956/1549).

This *emanet* function of the office was manifest in the cases of restitution. In his work *Zübde-i Vekâiyât*, Defterdar Sarı Mehmed Paşa (d. 1717) includes a case that should serve as an example of the cases of restitution. Under the heading of "Fevt ve Ahz-ı emvâl-i Kızıl Ali", Sarı Mehmed Paşa narrates that a famuously wealthy merchant named Kızıl Ali died:"*...sâhib-i servet ve ziyâde mâl ile şöhret bulan tâife-i tüccârdan Kızıl Ali nâm bâzergân…*" His death announcement declared that he was 'heirless': "*'Bilâ-vâris fevt oldu' deyü ihbâr olunmağla*". The imperial center appointed Zülfikar Ağa, a kapucubaşı at Dergâh-ı Âlî, to take charge of Kızıl Alî's estate (*40 kîse akçe*). After the estate was appropriated for the treasury (*mazbût-ı beytülmal*),[557] his heirs came forward and establish their claims for restitution. Mehmed Paşa continues as follows: "*…'adâletlü Pâdişâh-ı 'âlî-şân hazretleri câdde-i şer'-i mutahharadan inhirâfa rızâ-yı hümâyûnları olmaduğundan, meblağ-ı mezbûru girü tamâmen verese-i mezkûra muktezây-ı şer'-i şerif üzere teslîme fermân buyurdular* (3 L 1087/ 9 Dec 1676)."[558]

The wording of this anecdote does not provide information on the *beytülmal* as an institution, but it sheds light on how a prominent and learned Ottoman[559] appreciated the sultan's fair approach to serving for justice in the case of the division of the inheritance (*muhallefat*) of a wealthy subject. Within this context, it was not only the law (*şer'i şerîf*) but

[557] It is almost certain that the word beytülmal here is used in the sense of a hazine rather than the beytülmal office. It refers not to an 'emin' or 'beytülmalci', but to the appointment of a high ranking official (Zülfikar Ağa) to take possession of the property on behalf of the mîrî (treasury):"taraf-ı mîrîden ahz ü kabzı içün tayin olunan… Zülfikar Ağa"

[558] Defterdar Sarı Mehmed Paşa, *Zübde-i Vekâyiât*, (Haz.) Abdülkadir Özcan, Ankara: TTK, 1995, p. 79-80.

[559] Sarı Mehmed Paşa was the chief Defterdar (the treasurer) and a member of the divân for several years.

also the sultan's moral standing in upholding the law that led to the proper way of conduct for the restitution.

Nevertheless, Sarı Mehmed Paşa's comment on the functioning of the *beytülmal* is valuable, particularly for a few reasons. He became a chief *defterdâr* (treasurer) in the middle of a rampant crisis in the early decades of the eighteenth century. The *beytülmal* office was, to borrow from Wright, a "branch of the treasury." Sarı Mehmed's comments and anecdotes from the golden age under the reign of Süleyman, and his moralistic reminders of the evil consequences of the appropriation of properties by the treasury without due cause reflect his thoughts on the *beytülmal* office's appropriate conduct of its business:

> "If money comes in under the designation of beyt ül-mal let them deposit it at the Bab-i Humayun as a trust fund until the coming of the heirs. It is said that the late Sultan Suleyman Khan (God's Mercy and Pardon on him!) followed in his age of felicity this excellent rule: If the heir makes his appearance within seven years, and if he cannot prove according to the canon law his rights of inheritance, it is taken by the treasury. Let them be diligent and careful in observing this laudable practice."[560]

For the *beytülmalcis*, restitution or the refunding of the appropriations was one of the most unpleasant parts of their operations[561] although it was rare.[562] For instance, between May1604 and Jan 1609, the *beytülmal* refunded only eight heirs who established their claims in the court.[563] Along with the cases in which the restitution of properties was carried out

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[560] "Ve beytülmal namıyla akçe düşse veresesi gelince bâb-ı hümâyunda emânet vaz' eyleyeler, yedi seneye dek" Defterdar Sarı Mehmed Paşa, *Nasa'ih ül-vüzerâ ve'l-umerâ,* by Walter. L. Wright, Princeton: Princeton University Press, 1935, pp.70-71.

[561] Haim Gerber, State, Society and Law in Islaim: Ottoman Law in Comparative Perspective, Albany: SUNY press, 1994, pp. 45, 138-139.

[562] Arif Bilgin, Osmanlı Taşrasında Bir Maliye Kurumu: Bursa Hassa Harç Eminliği, İstanbul: Kitabevi, 2006, p. 185.

[563] Bilgin, Bursa Hassa Harç Eminliği, p. 185.

properly by the *beytülmalcis*, there were also cases that the common people sued the *beytülmal* emins for their unlawful seizure of the estates of deceased people.[564] This is the case, especially after the appropriation of the properties of wealthy and supposedly heirless deceased people.[565]

For instance, a merchant died in Bursa and the *beytülmalci* appropriated his properties for the treasury.[566] The merchant's two sons proved their heirship (*isbât-ı verâset*) in the court but Pîrî Çavuş, the *Harc-ı Hassa emini* (the agent for the Privy Purse) in Bursa, did not refund the money. Suing Piri Çavuş, the two sons sent a petition to Istanbul, and said that the çavuş seized the money for his own benefits, and not for the *mîrî*: "*…mâl-ı gâibdir deyu bendelerine ait olan hisse-i şer'iyyeyi miriye deyu kabz idub miriye virmeyub kendu ekl u bel' idub bu fakir bendelerine ve sayir eytam kullarınıza zulüm eylemişlerdir…"*. The amount in question was 377,194 akçes and was delivered to the beytülmal, not pocketed by Piri Çavuş. According to the decision, which did not breathe a word for warning the *emin*, the heirs were refunded 300,000 akçes.[567] Commenting on this case, Bilgin suggests that both the government and its bureaucrats appear to have adopted a fiscalist approach in view of the fiscal crisis of the period. They put the benefit of the treasury first as 377,194 akçes constituted a considerable sum. However, the legal decision acknowledged the heir's right despite the difference of 77,194 akçes.

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[564] Gerber, State, Society and Law in Islam, p. 138.

[565] Bilgin, *Bursa Hassa Harç Eminliği*, p. 95. fn.177.

[566] This case was catched by Arif Bilgin. *Bursa Hassa Harç Eminliği,* p.95., see MAD.d. 5452, p. 128. (1015/1606)

[567] MAD.d. 5452, p. 128. (1015/1606).

The *beytülmal emaneti* aimed not to lose even a shadow of property to an invalid private claim. It consistently fulfilled its trusteeship function in the first instance. However, one can claim that different motivations might have prompted the *beytülmaci* to act quickly in practice. Delivering the estate to lawful heirs, increasing the *beytülmal* revenue for the *mîrî* or the *mukataa* in *iltizam*, or overeagerness due to entirely selfish interests might have driven the *beytülmalci*s. Yet, the *kadı* and the *beytülmalci* needed to observe certain notarial procedures in each case. They had to keep an official register which, ideally, documented the identity of the ex-owner and the quantity and the quality of the properties put under the trust of the *beytülmal*. In a sense, the legal procedures—and the agents' observance of them—sustained this trusteeship function of the institution. Thus, both the public and the private claimers could be able to benefit from the services of the *beytülmal*.

5.3 Beytülmal as the Collector: Property Claiming through Beytülmal Mukataas

As discussed above, the *beytülmal* office took part in the greater Ottoman fiscal organization as the *beytülmal mukataa*s of specific locations. In this section, this title and the revenue-collecting function of the office will be dealt with. What were the main grounds for claiming *beytülmal* as a revenue through tax-farming? How did the *iltizam* and *emanet* systems apply to the *beytülmal*? What were the drawbacks and benefits of these systems? Before delving into the revenue collection, the section will briefly tackle the logic of the *mukataas*, and then *beytülmal*s' relation to it.

Tax-farming through *mukataa*s was the backbone of the Ottoman fiscal organization from the fifteenth century[568] onwards until the final stages of the empire. *Mukataa*s were

[568] Yaşar Yücel, "Reformcu Bir Hükümdar Fatih Sultan Mehmed", *TTK Belleten*, c. LV, s.212, 1991, p. 83.

fiscal units that yielded revenue collected from a wide range of taxes and duties levied on production and exchanges in all sectors of Ottoman economic activities. Having its roots in the medieval Abbasid, Seljuk, and Ilkhanid periods, the *iltizam* system was used for the sum turned over by a tax farmer in return for paying certain sums to the treasury.[569] Through the *iltizam* and *emânet* systems the *mukataa*s, as tax units, were contracted out to agents called *mültezim*s and *emîn*s who were people of different origins from across the empire.

The range of the sources of *mukataa* revenues varied considerably. Taxation imposed on agricultural and commercial production was a major source. Other sources included various fees, dues, tolls, and other taxes collected from commercial activities. A *mukataa* could involve a variety of revenues or a single item depending on the objects of taxation and the location of the *mukataa*. Additionally, the number of *mukataa*s, and the diversity of revenue units, were inversely proportional with the expanse of the space. If the number of diverse *mukataa*s in a region is high, it is more likely that the expanse of this region is less. Conversely, for instance, the empire-wide tobacco tax, which corresponds to %1 of total revenues annually, was contracted to tax-farmers as a single-element revenue unit and organized as ten *mukataa*s only. Another example is the empire-wide tax on coffee consumption; it was organized as two *mukataa*s only, one in Istanbul and the other in Syria.[570] The nature of the tax element and the potential amount of revenue it yields were decisive in

[569] Bosworth, C.E. and Gerber, H., "Muḳāṭaʿa" in *The Encyclopaedia of Islam,* New Edition, vol.VII, ed. C.E. Bosworth, E. Van Donzel W.P. Heinrichs and CH. Pellat., Leiden- New York: E.J. Brill, 1993, p.508.; Mehmet Genç, "Mukaataa" *TDV İslam Ansiklopedisi*, 2006, c.31, pp. 129-132.

[570] Mehmet Genç, "Mukaataa", *TDV İslam Ansiklopedisi*, 2006, c.31, pp. 129-132..

the organization and undertaking of the *mukataa*s. In general, however, different kinds of revenue items were combined within a single *iltizam*.[571]

The *mukataa*s were auctioned to *mültezim*s for a certain period. The highest bidder won the right to collect the specified revenues according to the terms set in the iltizam contract (*tahvil*). The *mültezim* was expected to pay a fixed annual sum to the government for the revenues he collected for the duration of his *iltizam* contract. He was liable in case of a loss but owned the surplus. Depending upon the circumstances and the nature of the *mukataa*s, some *mukataa*s were contracted as *ber vech-i emânet* (by means of trusteeship) instead of *iltizam* (by means of undertaking). These *mukataa*s were administered by officials, called *emîn*, in return for a fixed salary (*emânet ulûfesi* or *emânet mevâcibi*).[572] Mainly the *mukataa*s of an administrative nature were run by the *emânet* system. Unlike the *mültezim*s, *emin*s were expected neither to cover their loss and nor to pocket excess revenue. The *emîn* had to deliver the yield of the *mukataa* to the government, as he was entitled only to a certain amount of payment as salary.[573] However, if the *emin* took charge of a *mukataa* (*deruhte*) for

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[571] Linda T. Darling, Revenue-raising and Legitimacy: Tax Collection and Finance Administration in the Ottoman Empire 1560-1660, Leiden: E.J. Brill, 1996, p.125.

[572] Baki Çakır, "XVI-XVIII. Yüzyillarda Osmanlı Mukataa Sistemi'nin Yapısı ve İşleyişi", Ph.D Diss., Marmara University, 2003, p. 120.

[573] Koçi bey also states the distinctive feature of emins as follows "… Emânet derler ki "bu mansıbı bana verin ne kadar akça alursam getirim teslimi hazine edeyim" der, her ne hasıl olursa getirüp hazineye teslim eder. Ana emin derler. Fakat halk arasında doğru adam az bulunduğu için iltizam ile verilir. Onun için mültezim derler." *Koçi Bey Risalesi*, sad. Zuhuri Danışman, Ankara: M.E.B., 1972, pp. 142-143.

a return (*bedel*), then the *emin* was named "*emîn* by means of *iltizam*" (*emin ber vech-i iltizam* or *emin ü mültezim*).[574]

The *emânet* system was majorly applied during the sixteenth century, but the *iltizam* system overshadowed it towards the end of the century. The central administration favored *iltizam* system for it was less costly and it called for fewer bureaucratic staff for the operation and provided maximum yield from tax collection. Although the pitfalls that posed fiscal threats both for the government and the undertakers (*mültezim*s), "returning to the *emânet* system instead of *iltizam*" was not considered as a remedy throughout the ages.[575] However, the complex pattern of measures taken to avoid these pitfalls of the *iltizam* system until the end of the empire reflects the dynamism of the *iltizam* system in the Ottoman empire.[576]

In principle, one can undertake a *mukataa* for periods ranging from one to twelve years.[577] However, archival sources indicate that most of the *iltizam* contracts were for one to three years. There were also contracts in which a six-year period (*tahvil*) was agreed upon. However, as a very common practice, the *nâzır* as supervisor of the *mukataa* in the region could re-sell the same *mukataa* to a new bidder before the ending of the *tahvil* of the previous *mültezim*.[578] Various reasons prompted those situations, including the health of the *mültezim*, his negligence (*ihmal*) of the *mukataa* or being unfit to hold the mukataa (*nâ-ehl*). Above these reasons, considering the cash need of the government, even a tiny increase in the price

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[574] Çakır, "Osmanlı Mukataa Sistemi", p. 121.; Ömer L. Barkan, (haz. Hüseyin Özdeğer) *XV. ve XVI. Asırlarda Osmanlı İmparatorluğu'nda Zirai Ekonominin Hukuki ve Mali Esasları*, *c. I, Kanunlar*, İstanbul, 1943, p.140.

[575] Mehmet Genç, "İltizam", *TDV İslâm Ansiklopedisi,* Vol. 22, 2000, pp. 154-158.

[576] Genç, "İltizam", *TDV.*

[577] Genç, "İltizam", *TDV.*

[578] Bilgin, *Hassa Harç Eminliği*, pp. 70-71

of the *mukataa* (*ziyâde*) was enough for the re-sale of *mukataa*s to a new bidder.[579] Consequently, for saving their interests, the contractors sometimes included a term to protect their interests against such re-sales: "…*tahvilimiz içinde ziyade ile tâlib zuhur ederse sadaka buyurulan terakki mukarrer kalub ve kesri içun verdiğim akçeyi bana vermeyince mukataa verilmeye …*"[580]

5.3.1 Beytülmal Mukataas

As significant revenue yielding units, the *beytülmal mukataa*s were run in keeping with the modus operandi of the central and provincial treasuries. Irrespective of its type and amount, unclaimed property was of interest to the government. Along with its legal implications for third persons, the government considered unclaimed property in the category of a revenue to be claimed and collected based on the Islamic legal tradition. It devised the *beytülmal* as *mukataa* units across the empire so as to administer this task. Considering the territorial extension of the empire and the early modern means of revenue raising, these *mukataa*s were pertinent for the Ottoman fiscal organization. *Mukataas* enabled the system to draw on even small amounts of goods or money to be benefited in the course of the empire: auctioning of the *beytülmal mukataa*s either alone or along with a bunch of other revenue sources, relying on *beytülmal* revenues to meet certain expenses or including a part of these revenues in the imperial treasury were the essential ways of the in which the *beytülmal*

[579] A.DVNSMHM.d. 41/512 (987/1579); A. DVNSMHM. d. 25/2005 (982/1574).; Genç, "İltizam", *TDV*.; Darling, *Revenue-raising and Legitimacy,* pp. 136-151., Fatma Şensoy, "Mukataalarda Muhasebe Kayıtları ve XVII. Yüzyıl Başında Bursa Mukataası Örneği", *Muhasebe ve Finans Tarihi Araştırmaları Dergisi*, 7, 2014, pp. 208-209.; Çakır, "Osmanlı Mukataa Sistemi", p. 130-131.

[580] İ.E. ML. 1/78 (981/1574); A. DVNSMHM. d. 25/2005 (982/1574).

mukataas became important. They were firmly integrated into the overarching mechanism of the Ottoman financial structure.

In fact, the system of *mukataa* or *iltizam* was mostly applied in settings in which controlling, collecting, and liquidating properties proved difficult for the government. Collection of heirless properties, which also called for a complex organization, were of this kind. Leasing out the right to collect revenue to private parties, the government provided maximum efficiency for the relevant operations of the treasury.[581]

Claiming the *beytülmal* was not a consistent revenue collection as it was not based on regular activity such as agricultural production or trading. By its very nature, it was an irregular and coincidental revenue (*zuhûrata bağlı*, like *tayyârât*[582]). Mainly for that reason, relying on the *emânet* system to arrange *beytülmal* was considered more appropriate sometimes. For instance, in his examining of the Ottoman tax farms in Hungary, Pal Fodor enumerates four reasons for the recourse to the *emânet* system as opposed to the *iltizam*. The first three of these reasons involved technical problems that the *iltizam* system encountered. However, the fourth reason is related directly to the nature of the *beytülmal* as a source of revenue.[583] Some documents may indicate that the *emânet* system was considered 'morally'

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[581] Halil İnalcık and Donald Quataert (ed.), *Osmanlı İmparatorluğunun Ekonomik ve Sosyal Tarihi*, 1. Cilt: 1300-1600, Çev.Halil Berktay, İstanbul: Eren yay., 2000, p.105

[582] Though the Ottomans did not used the word tayyârât in the meaning of beytülmal, one of the revenues under the title of tayyârât could be a beytülmal type of revenue but not contracted as mukataa. "irâd-ı tayyârât ve bâd-ı hevâ". C. DH. 348/17370 (1104/1692-93).; C. ML. 702/28694 (1151/1738), A. DVNSMHM.ZYL. 18/240b/1 (1015/1606); A. DVNSMHM.d. 85/410 (1040/1631).

[583] Pal Fodor, "Some Notes on Ottoman Tax Farming System in Hungary", *Acta Orientalia Academiae Scientiarum Hungaricae,* 54/4, 2001, pp. 427-435.

more fit for claiming *beytülmal* than *iltizam*, in cases of abusive *mültezim*s in particular.[584] However, *mukataa* contracts in this period manifest that, when the conditions were suitable, and the *mukataa* units yielded sufficient revenue to bear on *iltizam* (*iltizama tahammülü olmak*),[585] the government preferred to apply the *iltizam* system to maximize the revenues in the early modern period.[586] The the novel aspect of the *beytülmal mukataa*s might be said the flexibility and dynamism of the system, rather than the switch from *emanet* to *iltizam*, or vice versa.[587] To accommodate different conditions or shifting—at least in the case of *beytülmal mukataa*s, the system was capable of choosing a suitable method of claiming depending upon the circumstances. Moral concerns might have affected choices, but the local and imperial administrators were mostly in pursuit of maximizing the revenues.[588]

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[584] "…Sen ki beğlerbeğisin min ba'd beytülmal emanetin iltizâma virmeyub gayet mütedeyyin müslüman kimesneye emanet tarîki ile virub müslümanlara te'addi itdirmeyesin"

[585] MAD.d 5452 p.72a, (1015/1606).

[586] MAD.d 5452 p.72a, 1(1015/ 1606).; A. DVNSMHM. d. 41/512 (987/1579).; A. DVNSMHM. d. 41/309, (987/1579).

[587] For instance the beytülmal mukataası of the Jews of Istanbul was undertaken by way of iltizam in 972 and it resulted in 30 thousand akçes deficit after three years of tahvil. Upon that result, no bidders showed up and it was contracted by way of emanet (*tâlib olmayıp ve zabtı mümkün değildir deyu ber vech-i emânet tayin buyrulan*). However, the new holders also left the mukataa such that it remained uncollected for severeal years. Then, in the month Ramazan of the year 983 Mustafa and Haydar bid for iltizam. Considering the earlier deficit, they undertook the mukataa (*ber vech-i iltizam*) 10 thousand akçes less (40 thousand) than the earlier price. KK.d. 4994/ 58M. (983/1575).

[588] Based on a possibilitiy of a more profitable tax collection in Zigetvar, the local administrators notified the imperial center. According to the response, if the case is such, the necessary steps should be taken: "…havass-ı hümayunum içun defter-i cedide kayd olunub müstakil mukataa olursa her sene iki kere 100.000 akçeye yarar kefiller ile iltizama talib kimesneler alub âna

The task to collect unclaimed properties was generally combined with the task of managing a bunch of other *mukataa*s.[589] Generally, the government made combined more than one revenue source together for bidders who sought *iltizam*s.[590] One of the reasons for that was to disperse the risks that the *mültezim*s might face. Through risk dispersion, any surplus in one item could be used to make up for the deficit encountered in another.[591] In such cases, the government could pair lucrative mukataas with unprofitable ones so as to make the bunch of mukataas more appealing to the bidders.[592] Having a list of unprofitable (*çürük*) and non-earning (*bî-hasıl*) *mukataa*s, the government sold them at a discount.[593] By these means, the government increased the cash shares that were transferred to the treasury over the selling

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bedel havass-ı hümayundan müşarun ilehye bazı karyeler ta'yin olunub verilmek malı miriye enfa' olduğun ilam olunmağın…şöyleki kaziyye arz olunduğu gibi ise … müstakil mukataa eyleyub miri içün zabt ettirub…" A. DVNSMHM. d. 9/205, 1(0 Za 977/16 April 1570).; "… Husus-ı mezbur arz olunduğu üzere ber vech-i iltizam zapt olunmak mâl-i miriye evla olmağın…" MAD 5452, 91 and 92 (1015/1606).; See also Darling, *Reveue-raisinig and Legitimacy*, pp.128-129.

[589] Mehmet Genç, "Mukataa" *TDV İslam Ansiklopedisi,* Vol. 31, 2020, pp. 129-132.; Deniz Kahraman, "XVIII. Yüzyılın İkinci Yarısında Ankara Sancağındaki Mâlikâne-Mukataalara Dair Bazı Bilgiler", *Bilig*, 29:2004, pp. 139-174.

[590]Doğan Yörük, "XVI. Yüzyılın Ortalarında İltizam Sisteminin Yaygınlığı: Lârende Kazası Örneği" *SUTAD*, 47, 2019, p.221.

[591] "…Ve iki tahvil [beytülmal-i hassa and mevkufat mukataas] biri birinden ayrılmayub birinin fazlası, birinin kesrine mahsub ola" C.ADL. 34/2017 (2 Za 1013/1605) "…zikrolunan mukataaları biri birinden ayrılmayub birinin fazlası birinin kesrine mahsub olunmak şartıyla ber vech-i kefalet nezaret kabul eden zaim Ömer…" A. DVNSMHM.d. 26/777 (26 C 982/1574).; TS.MA. d. 4183/2a. (1040/1631).

[592] Darling, *Revenue-raising and Legitimacy,* p.150., Çakır, "Osmanlı Mukataa Sistemi", p.131., Doğan Yörük, "16. Yüzyıl Ortalarında İltizam Sisteminin Yaygınlığı: Lârende Kazası Örneği" *SUTAD*, Aralık 2019, 47, pp. 217-238.

[593] Baki Çakır, "Osmanlı Mukataa Sistemi", p. 62.

of the *mukataa*s. Moreover, through the system, it handed over the risks of tax collection to the *mültezim*s and defraying of the local expenses which were made on the spot relying on *mukataa* revenues. This fiscal-institutional decentralization, in a sense, represented the imperial center's quest for the effectiveness of the system concerning its revenues and expenses.[594]

The imperial center notified the provincial administrators almost in each *sancak* (sub-province) to implement the rules designated to protect the *beytülmal*, not to lose even a shadow of property to an invalid private claim, and to prevent the *beytülmalcis* from lining up their own pockets.[595] So as to guard the potential public properties over which the government might have a claim, and to protect the rightful shares of the individuals across the empire, the office was organized more locally than centrally. In addition, the collection

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[594] Linda Darling, "Osmanlı Maliye Tarihinde Gelir Toplama ve Meşruiyet" in *Osmanlı Maliyesi Kurumlar Bütçeler I* (haz. Mehmet Genç ve Erol Özvar), İstanbul: Osmanlı Bankası Arşiv ve Araştırma Merkezi, 2006, p. 21.

[595] "Ve eğer zikr olunan mevâddır ve gayri lâzım olur husûslardır bi-hasebi'ş-şer' ve'l-kānûn görüp asla meşkûk mübhem komayup malımın tahsîlinde envâ'-ı ihtimâmın vücûda getüresin." A. DVNSMHM.d. 34/369, 22 S 986/30 April 1578.; "…emvâl ü erzâkdan bir akça ve bir hâbbesi zâyi ve ketb olduğına rızâ-yı şerîfim yoktur, şöyle ki bir nesnesi zâyi ve ketb ola senden tazmîn itdürilmek mu'âteb olursun ana göre mukayyed olasın." Derya Elvan, "18 Numaralı Mühimme Zeyli Derfteri (H.1013-1015/M.1604-1607) (vr.131-260)" MA Thesis, Marmara Üniversitesi, 2017, pp. 408-409. "…Şöyle ki müteveffanın muhallefatı on binden ekall olub dergâh-ı muallam olmayub hassa beytülmale; alakası olmayanları amme beytülmal mültezimlerine zabt ettiresiz. Mâl-ı beytülmalden kimesneye bir akçe ve bir habbe bel' ve ketm ettirmeyesiz… ol takdirde vaki olan zarar sizden tazmin ettirilir bilmiş olasız…Ve liva-i mezburede sancakbeyi ve zuama ve erbabı tımar ve kapum kulları ve bilcümle beratı hümayun ile dirliğe ve cihete mutasarrıf olanlar fevt olub varisi ma'rufu kalmadıkda cüzi ve külli vaki olan muhallefatlarına hilafı kanun amme beytülmal nazırları ve eminleri dahl ettirilmeyib kanun üzere beytülmali hassa eminlerine zabt ettirub hassa beytülmale zarar ve gadr olmaktan hazer idub ve muhtacı arz olan *kadı*ları yazıp kapuma arz idesiz" A. DVNSMHM.d. 41/349 (21 N 987/1579).

of unclaimed property involved explicitly more complex procedures than those applied in the collection of agricultural and commercial taxes. So as to get maximum output from this complex task of property claiming, the government tended to deal with private persons in leasing out the *beytülmal mukataa*s.[596]

Despite imperial center's tendency to favor *iltizam*, some *mukataa*s run by *iltizam* did not always yield favorable results. In some cases, neither the revenues were collected efficiently, nor the people of townsfolk were satisfied with the *mukataa* holders. As could be seen also in some regitsters, complaints about the abusive conduct of the *mültezim*s poured. If the imperial center realized that the system was not even working basically, it sent orders for switching to *emânet* system to guarantee the systems' better operation at the hands of reliable persons. For instance, Kansu, the *emîr-i Hac*[597] in Damascus, complaints about the misconduct of the *beytülmalci*s and offers to appoint the them by way of *emanet*: *hüccac-ı zevi'l-ibtihâcın beytülmalı iltizâm ile virilmek caiz değildir ber vech-i emanet gayet mütedeyyin ve müslüman kimesneye virilmek lazımdı*r.[598] In response to the grievances about the abusive use of the office by kethüda Yûsuf,[599] the *serdâr-ı beytülmal* of *hüccâc* (head of the *beytülmal* for pilgrims), the imperial center forewarned the local administrators to ensure that those *mukataa*s were put under the management of god-fearing Muslims as *emânet*.

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[596] Halil İnalcık, *Osmanlı İmparatorluğu'nun Sosyal ve Ekonomik Tarihi*, c.1, 200, p. 105.

[597] The public official in charge of providing order and safe travel for the pilgrims on the way to hajj. The two emîr-i Hacc of the Ottomans, the Damascene and the Egyptian, were liable for the huccac whose route map geographically coincide with their region of responsibility. Münir Atalar, "Emîr-i Hac" *TDV İslâm Ansiklopedisi*, Vol.11, 1995, pp. 131-133.

[598] A. DVNSMHM.d. 23/70 (980/1573).

[599] Yûsuf was the head of the community (*kethüda*) of the janissaries in Damascus at that time period, and entitled to collect the beytülmal of the *hüccâc*.

The imperial center also wanted to eliminate the question of debt and remainder (*zimmet* and *bakaya*). Since *mukataa* holders (*mültezim*s) could not always balance their accounts, the treasury had to deal with the deficit in the treasury and had to chase after the dues that *mültezim*s owed the treasury. In order to put an end to this fiscal problem, the historian Mustafa Âlî, who was also a defterdar, counceled the government to rely on the *emânet* system instead of *iltizam*.

> "Pes neden-ki ri'âyet-i şer'-i nebevi ve mütâba'at-i sünnet-i mustafavî muktezasınca memâliki mahrûseden iltizâm ref' olunmaya ve mukâtaat-ı zuamânun ve bölük halkınun mu'teddün-bih u mâldâr ve mu'temedün-'aleyh u perhîzkâr olan rü-şinâsân u ahyârınaber vech-i emânet u nezâret virilmeye."[600]

Âlî also advised that the way of trusteeship and contracting with the people of the regiments (*bölük halkı*), instead of *mültezim*s, would increase their ability to be able to take part in the campaigns: "…*ve hem emânet u nezâretle istihdâm olunan sipâh arkalanub sefer seferlemeğe liyâkat u qudret bulurdu…*"[601]

Âlî was right in his advice to a certain extent. The *beytülmal* mukataas were mostly undertaken by military classes, especially in the sixteenth century. The *kapıkulu*s (servitors

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[600] "Why then should the contractor system (iltizâm) not be abolished in the well-guarded lands [of the Empire] as demanded by an observation of Divine Law and by an application of the sacred tradition of the Prophet? Why are the mukataat not given by way of trusteeship and supervisorship to reliable, wealthy, trustworthy, honest persons of the zaîms and Janissary cavalry?" Mustafa 'Âli: Mustafâ 'Âlî's Counsel for Sultans of 1581: Edition, Translation, Notes, Andreas Tietze (ed. and trans.), v.II, Vien: Verlag Der Österreichischen Akademie Der Wissenschaften, 1982, pp. 43-45, 168.

[601] Mustafa 'Âli: Mustafâ 'Âlî's Counsel for Sultans, 1982, p. 168.

of the sultan's gate), *sipahis*[602] (mounted soldiers, cavalry) and e*bnâ-i sipahiyan* (sons of cavalry) were holding mukataas in an out of the *mülazemet*[603] system.[604] However, as could be seen in the documents, one of the terms included in the *mukataa* contracts by way of *emânet* was exemption from military campaigns.[605] For instance, a person contracted a bundle of *mukataa*s using a combination of the *iltizam* and *emânet* methods simultaneously. Strikingly, while he held the *mevkûfat mukataası* by way of *iltizam*, he held the *beytülmal-i hassa* by way of *emânet*, and his contract exempted him from military campaigns.[606] However, in another contract Abdi b. Mehmed undertook *beytülmal-i amme* and *hassa* together with a few other *mukataa*s. He was the *bölükbaşı* (captain) of the 69th regiment of

[602] "In return for the right to collect revenues from his assigned villages, the Ottoman provincial cavalryman, or *sipahi*, had to provide for his arms (short sword and bows), armor, and horse and to report for military service along with his armed retainers when called on by the sultan." Gábor Ágoston, *The Last Muslim Conquest: The Ottoman Empire and its Wars in Europe,* Princeton University Press, 2021, p.41.

[603] The system of initiation to the hierarchy in the administrarive and military organization of the Ottoman Empire. Mehmet İpşirli, "Mülâzemet", *TDV İslâm Ansiklopedisi*, Vol.31, 2020, pp. 536-537.

[604] TS.MA. e.191/9 (05 C 1046/1636); AE. SAMD. I. 7/624 (4 Z 1017/1609); TS.MA.d 2573/6 (18 L 1040/1631).; Erhan Afyoncu, "Sipahi" *TDV İslâm Ansiklopedisi,* Vol. 37, 2009, pp. 256-258.

[605] "…ki cümle 20.000 akçe-i terakki inayet olunub tahvilleri içinde seferi hümayun vaki olursa mukataa hizmetinde olub sefere gitmeyeler…" A. DVNSMHM.d. 25/2005 (24 Ra 982/1574).

[606]"…Sipahi oğlanları cemaatinden livayı mezbure mevkufatın ve hassa beytülmali ber veçhi emanet zabt eyleyen Hasan'ın üç yıllık muhasebesi görülüp mevkufat mukataasını ber vech-i iltizam ve beytülmal-i hassayı ber vech-i emanet olmak üzere zabt olunmağın …" A. DVNSMHM.d. 25/2005 (24 Ra 982/1574).

sağ bölük gurebası,[607] and took over (*deruhte*, *iltizam*) the *mukataa*s in question upon the death of the *mültezim* in charge of them. Abdi's contract included terms to protect his financial interests but did not mention any conditions related to exemption form military campaings.[608]

According to Linda Darling's research, the cavalry gained a primary position in tax farming (*iltizam*) by the first quarter of the seventeenth century. This was an advantage for the Ottoman government as "it tapped the wealth of the military elite and kept them busy during the off-season for campaigning."[609] The *sipahi*s offered set-offs (*mahsûb*) from their salaries (*ulufe* and *mevâcib*) to pay their debts to the treasury resulting from the *mukataa* contracts they made. Called *hazîne-mânde*,[610] these withholdings provided savings for the treasury resulting from the fees from the *mukataa*s to meet the salaries. Additionally, when *sipahis* from the Altı Bölük halkı[611] wanted to undertake (*deruhte*) a *mukataa*, they showed

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[607] Garipler (*gurebâ*) was one of the regiments serving as cavalry among the Kapıkulu corps. The six regiments serving as cavalry were *sipah*, *silahdaran*, *sağ ulûfeciler*, *sol ulûfeciler*, sağ *garipler* (*gurebâ-i yemin*), *sol garipler* (*gurebâ-i yesar*). İsmail H. Uzunçarşılı, *Osmanlı Devleti Teşkilatından Kapıkulu Ocakları I (Acemi Ocağı ve Yeniçeri Ocağı)*, Ankara: TTK, 1988, pp. 2-4.

[608] İ.E. ML. 1/78 (981/1573).

[609] Darling, Revenue-raising and Legitimacy, pp. 169-170.

[610] A tax collector leaves his salary 'in' the treasury and compensate himself with the fees from tax farming. Darling, *Revenue-raising and Legitimacy,* p. 313; Fatma Şensoy, "Mukataalarda Muhasebe Kayıtları ve XVII. Yüzyıl Başında Bursa Mukataası Örneği", *Muhasebe ve Finans Tarihi Araştırmaları Dergisi*, 7, 2014, pp. 208-209.

[611]The cavalary branch of the standing army known as the "People of the Six Regiments" Christopher Whitehead "The Veledeş Conflict: A Reassessment of the Mid-Seventeenth-Century Rebellions of the Altı Bölük Halkı." *Journal of the Ottoman and Turkish Studies Association* 8, no. 1 (2021), pp. 291-310.

their dues in the treasury as cash they should have paid in advance.[612] Since these soldiers were in charge of a *mukataa*, i.e., tax-collection, they could also get the right of exemption from engaging military campaigns.[613]

Holding a *mukataa* whether as an *iltizam* or an *emânet* was the principal way to claim and collect *beytülmal.* However, outside these methods, both the local officers and other figures in a neighbourhood could also assume this task under certain circumstances. For instance, a document shows that the *mukataa*s related to the *beytülmal-i hassa* and *mevkufat* remained under loose government control and were neither put under a properly-authorized person (*bî-berat*), nor sold and contracted to any person (*nâ-furuht*) for the last six years. However, the last year Nâzır Mustafa administered the *mukataa* and he suggested to the *mukataa* inspector and former supervisor (*mukataa müfettişi* and *nâzır-ı sâbık*) that since the mukataa had become messy and disorganized, he might hold it as well for an additional three years to organize it for the benefit of the *miri*. The record of the properties in this document shows that what was collected as *beytülmal mukataası* before the appointment of a *mültezim*

[612] Çakır, "Osmanlı Mukataa Sistemi", p. 56.

[613] "…Sipahi oğlanları cemaatinden livâ-yı mezbure mevkufatın ve hassa beytülmalin ber vech-i emanet zabt eyleyen Hasan'ın üç yıllık muhasabesi görülüp mevkufat mukataasını ber vech-i iltizam ve beytülmal-i hassayı ber vech-i emanet olmak üzere zabt olunmağın …Mehmed Çavuş kullarına 10.000 ve mezbur Osman Paşa'nın adamlarına kefilim Ferhad nam sipahiye 7.000 ve bana 3.000 ki cümle 20.000 akçe-i terakki inayet olunub tahvilleri içinde seferi hümayun vaki olursa mukataa hizmetinde olub sefere gitmeyeler…" This mukataa contract noted the conditions regarding the way the mukataa is held (*iltizam* or *emânet*), the payments and the conditions for the holders (*terakkis* and the roles), and the exemption from the campaings. A. DVNSMHM. d. 25/2005 (24 Ra 982/ 1574); see also Çakır, "Osmanlı Mukataa Sistemi", p. 44.

or *emin* with a permit through berat[614] was also registered and controlled by other officials in the area. In this respect, the key figures in the city, like *mukataa* inspector and supervisor kept en eye on the unclaimed property with or without an official contract.[615]

To sum up, the issue of the different types of unclaimed property (*mâl-i mefkûd, mâl-ı gâib, muhallefât, yava, kaçgun* etc.) had legal implications that concerned public officials and private subjects. They paid attention to and discuss the terms based on the rules and regulations prevailing in the empire. However, utilizing the early modern means of rendering services and revenue raising (*iltizam* and *emanet*), the Ottomans commercialized this task of property setting and making property claims through the *beytülmal mukataa*s. It attributed a commercial value both to the properties in question, and the ways they were claimed and collected. Through this legal-commercial operation and its yield, certain officials could make a living and different parties could utilize the circulation of goods and money that accrued from unclaimed properties across the empire.

5.4 Beytülmal as the Spender of a Government Fund

Early modern empires covered vast and diverse territories. Their governments had to perform multifaceted tasks under diverse settings. The Ottoman empire was not an exception. The Ottomans had to cover a wide range of military expenditures, disbursements in return for services, charges for construction and repairs, and many additional costs. In order to generate a reliable well-working system and to eliminate fiscal difficulties arising from long wars, rebellions, adverse climate conditions, and so on, the revenues and the expenditures

[614] A diploma of privilege, bestowed on a particular person the right to collect the revenues of a particular area by the imperial authority.

[615] C. ADL. 34/2017 (1013/1604).

had to be dealt with appropriately based on the rules and regulations ideally. *Beytülmal mukataas* constituted one of the branches, and revenue sources of the Ottoman central and local treasuries. The revenues that accrued from *beytülmal mukataa*s also made up a considerable amount of wealth. The *beytülmal* funds were assigned to cover a dazzling spectrum of expenditures including payments within the *mukataa*s, the private expenses of the people at issue in *beytülmal* cases, and the regular and irregular public expenses of the government.

5.4.1 A Fund for Private and Public Expenses of the Beytülmal

Before passing on to the use of *beytülmal* by the government, it is necessary to identify first the processes for obtaining the *beytülmal*. As in the other *mukataa*s, the *beytülmal* had its own expenses to be covered first, such as payments to persons working for the *mukataa—katip*, *emîn, âmil,* etc. Apart from these expenditures related to the *mukataa* itself, two processes that needed to be completed for the use of every single *beytülmal*: the phases of private and public expenses respectively.

One might suggest two terms to clarify these processes. The first is de-personification of the property: Before departing this life, or went missing for good,[616] people hold their properties or possessions themselves. They disconnected from their belongings when they die or go missing. *Beytülmal* takes charge of what they left behind, but first severs all connections to the original owner. The original owner's debts to third parties, the shares of legitimate heirs, coffin, and owner's burial (*techîz* and *tekfîn*) expenses (if pertinent) and the like need to be paid out of the possessions of the original owner. In this phase, the property becomes de-personified, but is not publicized yet. Though the original owner is no longer

[616] Such that the missing individual drift apart totally, *gaybet-i munkata'a.*

around, these expenses can still be regarded as his/her private expenditures paid out of the properties now held under *beytülmal*'s trust.

The second term is net-beytülmal: After the de-personification of the property, the amount freed from the original owner is reserved for the government. However, public claimers could not use this de-personified entity directly yet. The officials in charge ought to meet first some operational expenses to get to the value claimable as net beytülmal. Depending on the type of the operations that each case necessisated, these expenses involved (in general) *müjdegâne*, *dellâliye*, *resm-i kısmet*, *hammâliye*, *dîdebâniye, ihzâriye, kira* etc. If the amount of the *beytülmal*'s value is sufficient, all the expenses were covered by the *beytülmal* in question.[617] After deducing the private payments in the process of de-personification and the operational expenses in the phase of obtaining net-*beytülmal*, the rest (in cash or kind) constituted the net-*beytülmal*, and the government could use it for various expenditures.

However, it is necessary to underline here that payments made to various parties in both phases led to a circulation of money, which, to a certain extent, commercialized the administration of the unclaimed properties.

The net *beytülmal*s were either directed to the imperial center or consumed in spot for local expenses by the order of the center. For example, in the case of Bursa, *Bursa Hassa Harç Eminliği* ordered the use of the *beytülmal* revenues to pay for provisions procured for the imperial kitchen (*Matbah-ı Âmire*) in Bursa.[618]

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[617] In case of beytülmal-i amme revenues, sometimes the amount of heirless property claimed by the government was inadequate even to cover the private expenses of the original owner. In such cases, the imperial center orders to cover the expenses like cerement (*kefen*) and burial from the beytülmal eminliği of the region in question. A. DVNSMHM.d.46.46 (989/1581).

[618] Arif Bilgin, *Bursa Hassa Harç Eminliği*, İstanbul: Kitabevi, 2006, pp.91-95.

An early example of the *beytülmal defter*s[619]shows the amount collected through *mukataa* under the *tahvil* of Mehmed from *ebnâ-i sipâhiyân* in the district of Galata, and the expenses made from these revenues: *Mahsûlât ve ihrâcât-ı beytülmal-i hâssa ve mâl-i gâib ve gayrı der mahrûse-i Galata an tahlvil-i Mehmed, emin an ebnâ-i sipâhiyân*.[620] According to that between Zilhicce in 957 and the end of Ramazan in 958 (between December 1550 and October 1551), Mehmed claimed the *muhallefat* of thirty-one people in Galata, three of whom were non-Muslims. The revenue he collected amounted to 111,425 akçes. The document first gave a list of the *muhallefat*s under the title of *mahsûlât*, and then lists the expenses made from the collected amount after saying *vuzia'l-mâl.*[621] Although it is not detailed sufficiently to allow further comments on the type of properties and operations belonging to that each case involved. The list reveals the range of the expenses and their ratio to the total amount of the *beytülmal* in the mid-sixteenth century.

Mehmed covered the following costs for the private expenses of the deceased persons: the costs of the coffin and other burial expenses (*techîz* and *tekfîn*),[622] the shares of the wife and husband (*hisse-i zevc ve zevce*), and the irreversible payments, delayed dowry, (*mihr-i müeccel*) based on marriage contracts, and payment based on the testament of the

[619] The type of the registers that include beytülmal accounts. See MAD.d. 23352 (949/1543): "Yoton'dan olan beytülmal defteridir icmâl ser bölüküne teslim edilmiştir".; For a register dates back to the first quarter of sixteenth century see MAD.d. 15450, p.2, 15-16 (925/1519). Including beytülmal, the register has some other revenues in the imperial lands in Malatya.

[620] MAD.d. 23361, p.2 (958/1551).

[621] In these type of registers, this phrase identifies expenses covered from the total amount.

[622] See similar costs in D.BŞM. 40815, p.12 (934/1527)

deceased Mevlânâ Bedreddin[623] (*be-cihet-i vasiyyet…*). Having covered the private payments related to each *beytülmal*, the remaining revenues became public properties.

The register also provides information on the operational expenses undertaken to liquidate properties, and to be able to use them. These expenses included: *Müjdegâne*; as a reward for those who cooperated with the officials to inform them about the *beytülmal.*[624] Indeed making a certain amount of payment to such informants was allowed. Particularly, in the cases of *yava* and *kaçkun* (a lost animal and absconding slave) the person who found and got the owners (or officers) informed about what s/he found, or brought what s/he found to the attention of the *beytülmalci*s had the right to charge a certain amount of payment depending on the conditions in each case.[625] However, the documents are not fruitful in tracing the identity of informers in cases of *beytülmal*. Besides, this practice implies that depending upon the status of the land (like *tımar*, *vakıf* etc), the *müjdegâne*[626] could be reserved either for the *miri*, or for the tax collector of that land.[627]

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[623] One of the thirty-one people who deceased heirlesly. The record shows that Bedreddin Efendi left a certain amount of his inheritance as bequest. MAD.d. 23361, p.3 (958/1551).

[624] Though stated as 4% in the kanunnâme, in practice, it was amounted between 2.01% and 8.46 of total beytülmal in question. Bilgin and Bozkurt, "Beytülmal Mukataaları", p.8-9; Fatih Bozkurt, "Tereke Defterleri ve Osmanlı Maddî Kültüründe Değişim (1785-1875 İstanbul Örneği)" Ph.D Diss., Sakarya Üniversitesi, 2011, p. 191.

[625] Ahmed Akgündüz, *Kanunnâmeler,* v.4, 1992, p.374.

[626] The documents of the later periods name this expense *ihbâriye.*; AE. AE.SABH.I. 57/4008 (1194/1789); Yavuz Cezar, "Bir Ayanın Muhallefatı Havza ve Köprü Kazaları Ayanı Kör İsmail-Oğlu Hüseyin (Müsadere Olayı ve Terekenin İncelenmesi)." *Belleten XLI,* no.16, 1977, pp. 41-78.

[627] A. DVNSMHM. d.41/ 215 (987/1579); C..NF. 47/ 2336 (1164/1751).; C..EV. 382/19393 (1147/1734).

*Dellâliye: Dellâl*s were the officially appointed auctioneers or brokers in real estate sales. They were supposed to know the market price of the properties that the *beytülmalci*s would want to sell. Similar to their role in regular —non-*tereke* —sales, these brokers got their payments known as *dellâliye* as a commission (which was one percent in the *Kanunnâme* of Mehmed II) of what they helped in selling. The right to work as an official *dellâl* was often farmed out to the highest bidders. *Dellâl*s played a crucial role in the circulation of goods and money across the empire.[628]

Hammâliye: It is a fee paid for the *hammâl*s, or porters of movable properties. *Hammâl*s helped in transferring properties in *tereke*s to stores (for keeping them), or markets to sell.[629] *Dîdebâniye:* The fee paid to the watchmen or sentries who are in charge of keeping the safety of the properties in question.[630] *İhzâriye:* The fee paid to the *muhzır*s who summon the litigants and defenders to the courts in keeping with the order of judges.[631] *Kirâye-i dükkân:* Meaning literally shop, *dükkân* (pl. *dekâkîn*) was the store where unclaimed properties were kept by the *beytülmal emin*s. The properties were stored there until the concerned claimers arrived or until the time come to sell them for ready money with the help of the *dellâl*s. The rental payments to those shops (*kirâye-i dükkân*) are covered from the

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[628] Yûsuf Halaçoğlu, "Dellâl", *TDV İslam Ansiklopedisi,* Vol.9, 1994, pp. 145-146.; AE. SAMD. II 19/2027 (1105/1693).

[629] AE. SMMD. IV 4/358 (1077/1666).

[630] Said Öztürk, "Kassâm", *TDV İslâm Ansiklopedisi,* Vol. 24, 2001, pp. 579-582.; "Mahrûse-i Burusa'da beytülmal-i amme ve hassa mukataası mahsulünden olmak üzere yevmî 8 akçe vazife ile dîdebân olan…Mehmed b. Mustafa…" AE. SMMD. IV 24/2736 (1058/1648).

[631] Recep Ahıshalı, "Muhzır" *TDV İslâm Ansiklopedisi*, Vol.31, 2020, pp. 85-86.

beytülmal fund.[632] Though the registers do not give specific locations for them, they were most probably close to the marketplaces in the cities.[633] *Navlun* was also a fee paid for the transportation of the goods in question via ships or boats. [634]

Based on this particular record, the ratio of the expenses to total proceeds of the *beytülmal-i hassa* collected in a year period was 42.34%. This ratio reveals that the net *beytülmal* that accrued to the government for the benefit of *mîrî* was 67.66% of the gross value of the *beytülmal*, which is more than half of the total amount. The ready money delivered to the imperial treasury (*teslîm be Hizâne-i Âmire*) was 75,396 akçes and free from any property relations. Below shown the ratio of each (bundle of) expense to the total amount in the middle of the sixteenth century.

Table 4: Galata Beytülmâl-i Hassa Mukataasi (Zilhicce 957- Ramazan 958)

	Amounts in akçe	**% of total revenue**
Total Revenues	**111,425,5 (akçe)**	**100%**
Expenses		
Dellâliye, hammâliye kirâiye-i dükkân	1,993	1.78%
Techîz ve tekfin	2,562	2.29%
Müjdegâne, ihzâriye	2039	1.82%
Duyûn-ı sabite ve edâ-i kefâlet-i mîrî	17,030	15.2%

[632] In another register for beytülmâl-i amme and hassa in Bursa the cost is defined as "be-cihet-i kirâye-i dükkânı-ı beytülmal". D. BRM.d. 24258 (1003/1595).; AE. SSÜL. I 3/166. (962/1555).; YB..04.d…16/2b (979/1572).

[633] Bilgin and Bozkurt, "Beytülmal Mukataaları", 2010, p.8

[634] The expenditures like *navlun* and *resm-i gümrük* indicate that certain inheritances had to be transported from their original location to the storage facililty of the beytülmal or from the storage facility to an appropriate market place (by boat and paying tolls along the way). This document also refers to other expenses like *edâ-i kefâlet-i mîrî,* but it does not specify for which person they were paid. MAD.d. 23361 (29 N 958/1551).

Navlun … resm-i gümrük	1,986	1.78%
Hisse-i zevc ve zevce ve mihr-i müeccel	3,600	3.23%
Sicil	161	0.1%
Vasiyyet-i hane an vakf-ı Mevlana Bedreddin ve nakdiyye-i muhallefat-ı mezbur ber-muceb-i kazasker efendi	17,810	15.9%
(Expenses related to beytülmal only)	47,181	42.34%
Teslim be-Hizâne-i Âmire	75,396	67.6%
Total expenses (with excess)	**122,577**[635]	

Another register of the same district, Galata, shows revenues and expenses of the *mukataa* of *beytülmal-i hassa* for two months in 959[636]—the year following the previous register. Compared to the previous one in which the total revenue is 111,425,5 akçes, this register includes only four *muhallefat*s that amount o 44,246 akçes in total. While the previous register covers a period of nine lunar months, the later register covers a period of two lunar months (*şehrayn*). 41,183 akçes was submitted to *Hizâne-i Âmire.* Different from the previous register, the list under the title of expenses (*el-ihrâcât*) includes debts due third persons that had to be paid from the *muhallefat*(s). Based on the *kadı*'s entry in the register, 470 akçes were used to cover these debts (*deyn-i müsbet ber mûceb-i hüccet*).[637]

[635] Though it was not specified in the register, the total costs exceeded the total revenue with 11,1515,5 akçes.

[636] Between 27 Şevval and 27 Zilhicce in the year 959/ 1552 Between 16th of October and 14th of December. AE. SSÜL.I 2/109 (959/1552).

[637] These types of registers do not particularise the expenses for each muhallefat, instead, it lists them as cost items in total.

Table 5: Galata Beytülmal-i Hassa Mukataasi (27 Şevval 959- 27 Zilhicce 959)

Revenues (*vâridât*)	**Amounts in akçe**	**% to total**
An muhallefât-ı İlyas b. Abdullah müteveffa der kurb-u Ağriboz metrukateş der keştî-mande[638]	5,004	
An muhallefât-ı Fadim Hatun el-müteveffiye der mahalle-i Hoca Ali der kurb-ü Galata	65	
An muhallefât-ı Mahmud Reis el-meşhur be-vardiyan der mahrûse-i Galata der mahalle-i Bereket	36,800	
An muhallefât-ı Mustafa b. Abdullah Kalafatî[639]der keştî-mânde	2,377	
***Asl-ı mal* (total revenues from four muhallefats)**	**44,246**	
Expenses (*el-ihracat*)		
Mevâcib-i emîn	480	1.08%
Mevâcib kâtib	450	1.01%

[638] In the last two account registers, the ex-owner of the properties subject to beytülmal were Muslims, non-Muslims (Jews, Christians), merchants and people from different towns and cities, and from different occupations (*papaz*, *Acem*, *Adavî*, *rençber*, *kantârî*, *azebân* etc.). Here, *keştî-mânde* means 'remained in ship' that implies that the property of deceased person was in the ship; and he might be a merchant, a mariner, or in the lowest possible, a passenger. Galata was a crossroads of trade between Asia and Europe, the Black Sea and the Mediterranean since medieval times. Being a port site, it had an intense dynamism of diplomacy, commercial exchage and cultural encounters. It was the European port of Costantinople/Istanbul where the identities of local inhabitants continuously being reshaped. For further discussion on Galata see Fariba Zarinebaf, *Mediterranean Encounters: Trade and Pluralısm in Early Modern Galata*, California, Oakland: University of California Press, 2018.

[639] *Kalafatî* (caulker, *v*. caulk) repairs ships, seals and fills between woods for making it airtight and watertight. As understood from the register, he (and his muhallefat) remained in the ship (*keştî-mânde*).

Deyn-i müsbet ber muceb-i hüccet	770	1.74%
Hisse-i zevc ve zevce	661	1.49%
Dellâlin	489	1.10%
Hammâlin	10	0.022%
Sicil ve muhzıriyye	94	0.212%
Nafaka-i gulâmân	90	0.203%
Kirâye-i dükkân	19	0.042%
Total Expenses (*el-ihracat*)	**3,063**	**6.92%**
Teslim bud be-hizane-i amire	**41,183**	**93%**

One can claim that 44,246 is not a large sum as the total revenue of *beytülmal*. However, for the imperial treasury, the most favorable part of this account would be the ratio of the payment it received to the total amount which was 93%. As could be seen in these two different registers of the same district, what yielded (more) revenue in the *beytülmal mukataa*s was the affluence of the persons' whose properties fell to the beytülmal rather than the high number of *beytülmal* cases. This is the case, particularly, when the cost of liquadating the properties (such as *dellâliye* or *hammâliye* expenses) to net *beytülmal* was cheap, and private payments of the *beytülmals* are economical (like *hisse-i zevc* and *zevce*, *techiz-tekfin,* and *duyûn*). For instance, the ratio of the total costs (private and public) to total revenue was only 6.9% in this case.

The range of the expenses in the *beytülmal* registers might differ from each other based on some variables. For instance, the register kept in Bursa for the mukataas of *beytülmal-i amme* and *hassa* under the administration of *Bursa Hassa Harc Emini*[640] reveals

[640] The Bursa Privy Purse Office. See Arif Bilgin, *Osmanlı Taşrasında Bir Maliye Kuruu Bursa Hassa Harç Eminliği,* İstanbul: Kitabevi, 2006.

how a revenue turned into an expense at the hands of *beytülmal emin*s. According to the register, Emine died in 1001 in the district of Harîrî in Bursa, and her *cariye,* Mâhitab, remained as part of her estate. The *beytülmalci* claimed Mâhitâb *cariye* and sold her to Kerime Hatun—a third person unrelated to the estate. However, something happened to Mâhitâb[641] that made the sale void. Based on the *hüccet*[642] of *kadı* Muhyiddîn, the *beytülmaci* had to repay the price of the sale of Mâhitab *cariye* to Kerime Hatun.[643] The list of the estates in this register does not include the aforementioned Emine. Emine died in 1001, and the thirty-four persons on the list died in 1003. However, the cost concerning Mâhitab was charged from the same *beytülmal* and noted as the expenses of the *beytülmal mukataası* of the year 1003.

This document also includes a restitution payment. Selver bt. Abdullah died in 26 Zilhicce 1000 (3 October 1592) and her estate was taken (*kabz*) by the Mehmed Çavuş, the *emin* for *beytülmal-i hassa* in Bursa. Though the document is silent on the identity of the heirs that came up, based on the *hüccet* of the *kadı*, the *beytülmalci* paid the price of the estate in 1003 to Hasan: "*edâ-i bahâ-yi muhallefât-ı Selver bt. Abdullah… be-yed-i Hasan b.*

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[641] I could not read the word, but in either case (died or got free), the sale became void and the beytülmalci had to refund the payment to Kerime Hatun.

[642] The copy of an entry in the *kadı*s' register (*sicil*).

[643] "Be-cihet-i edâ-i baha-i Mâhitab cariye ki an muhallefât-ı Emine (?) (?) el-müteveffiye der mahalle-i Hariri fi evaili Rebîulevvel sene 1000 ve metrukâteş Mehmed Çavuş emîn-i sâbık-ı beytülmali'l-mezbur kabz kerde ve cariye-i mezbure an muhallefat-ı müteveffiye-i mezbure Kerime nam hatun bey' kerde. Lakin cariye-i mezbure (?) bude. Ez an sebeb akçe-i Kerime Hatun el-mezbure dâde ber-mûceb-i hüccet-i Mevlâna Muhyiddin Kâdı-i sabık-ı Bursa be-yed-i Piri Çavuş veled-i Kerime el-mezbure Fi 4 Cemâziyelahir 1003." D.BRM. d. 24258, p.3 (1003/1595).

Abdullah dâde ber mûceb-i hüccet-i mevlâna Muhyiddin kâdı-i sabık-ı Bursa."[644] The revenue (3795 akçes) obtained through the estate of Selver Hatun in 1000 turned into an expense in the year 1003.[645]

5.4.2 A Fund for Regular and Irregular Public Expenses

Once the property was deemed as *beytülmal*, there were a number of ways to use it by the government: as a reserve fund in times of pressing needs, a fund for lending to people who are in urgent financial need, a fund for paying wages of different ranks of government functionaries, and so on. Among them, the last could be said the most prevalent and regular way of spending of the *beytülmal* across the empire. Along with the regular ones, the *beytülmal* also covered some irregular expenses of the government. Upon the orders sent from the imperial center or the provincial administrators, the officers in charge of the *beytülmal* revenues channeled these funds to cover those irregular expenses or transferred these to the places stated in the order. By their nature, these expenses were not systematical and continuous and were generally prompted by current circumstances; such as an expense for military campaigns, a need for the repairment of a religious or governmental building,[646]

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[644] For more examples of different regions like Vize and Kırkkilise in 995 see BMK.d. 22451, p.2 (995/1586).; for Edirne MAD. d. 23347, pp.14-19 (1536-37).; D. BŞM. d. 7677, Document No. 53 (1120/1709).

[645] Said Öztürk wrotes that 241 (24,1%) registers include slaves or *cariye*s as items remained in the inheritances out of 1000 tereke registers kept in the seventeenth century by İstanbul Askerî Kassamlığı. Said Öztürk, "XVII. Yüzyıl Askeri Kassam Defterlerinin Sosyo-Ekonomik Tahlili", Ph.D Diss. Marmara Üniversitesi, 1993, p.149.

[646] AE. SAMD. III. 145/14116 (1022/1613)

or a payment for a specific private claimant, etc.[647] Based on the conditions of each mukataa, the *müfettiş*s or *nâzır*s supervised the utilization of the *beytülmal* revenues—either spending the revenue on the spot (*ocaklık*)[648] or transfer it somewhere.[649]

There were mainly two types of regular spending for the *beytülmal* revenues. In the first, with the revenue freed from any private expenses, the *beyülmal* made up its own costs. This, in effect, helped for properly operating the system. The payments of employees of the *mukataa* like *emîn*, *âmil*, and *kâtib*,[650] the rental payments for the shops where the unclaimed properties kept, *kira*,[651]and the restitution of the property to a newly appeared (*zuhûr eden*) eligible claimer were the most common expense items of the beytülmal.[652] In the second, the officers in charge of the *beytülmal mukataa*s delivered some pre-defined sums to their place. The amounts were generally ascertained based on each *mukataa*'s yields. Being the primary regular expense of the *beytülmal*, the salary payments (*mevâcib* and *vezâif*) of non-*beytülmal* employees was holding the lion's share in total expenditures.

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[647] AE. SMST. II. 58/6043 (1112/1701).

[648] Beside its meaning in administrative organization, the Ottomans used *ocaklık* in the meaning of revenue allowance. It was the assignment of some revenue sources on behalf of certain localities in exchange of covering of some specific expenses of the state. These expenses might be the provisions for Matbah-ı Amire, Istabl-ı Âmire and equipments for Tersâne-i Amire, or the salaries of the officials. Orhan Kılıç, "Ocaklık" *TDV İslâm Ansiklopedisi*, Vol.33, 2007, 317-318.; Çakır, "Osmanlı Mukataa Sistemi", p. 101.

[649] Fatma Şensoy, "Mukataalarda Muhasebe Kayıtları ve XVII. Yüzyıl Başında Bursa Mukataası" Örneği, *Muhasebe ve Finans Tarihi Araştırmaları Dergisi*, 7, 2014, pp. 208-209.

[650] Mevacib-i ümena or mevâcib-i kâtiban-ı mukataa

[651] "*Be-cihet-i kirâye-i dükkân-i beytülmal*" BRM.d 24258 **(**1002/1593-94).; AE.SSÜL.İ. 2/109 (959/1552),; Bilgin and Bozkurt, "Beytülmal Mukataaları", 2010, p.8.

[652] AE. SMMD. IV. 53/6205 (1073/1662).; A. DVNSMHM.d.24/160 (981/1574).

However, the circulation of the *beytülmal* revenues, either in cash or in kind, was materialized in a multifarious way. There were some determinants that made the way of that circulation, like the type and amount of the *beytülmal*, the sort of the expense of the government, the turn of the events, etc. As could be seen in the registers, the unforeseen turn of events, like an urgent need for public and private agents often resulted in the circumstantially issued orders (*ber mûceb-i emr-i 'âlî*) for spending of the *beytülmal*. That is why this section sees fit to name the *beytülmal* as a fund for regular and irregular expenses of the government.[653]

There are a considerable number of account registers of the *beytülmal* located under different categories in the archive.[654] For instance, in a document, dated relatively early period, the *beytülmal* register also includes the account for the *emvâl-i müteferrika* (miscellaneous revenues) and *emvâl-i havâss* (the revenues of the imperial demesne lands).[655]Abdülvehhâb Efendi, the *Kadı* of Konya and the financial inspector of the imperial lands in Karaman (*Nâzır-ı emvâl-i havâss-ı vilayet-i Karaman*) confirmed the register. The revenue (Abdülvehhab Efendi supervised its collection) was in total 2,735,415 akçes in a year and twelve in 934-935 (1528-1529). While the yield from *emvâl-i müteferrika* and

[653] The revenue taken into consider here is the net beytülmal, freed from any private and operational expenses.

[654] MAD. d, D. AHM.d., D.BMK.d, D. ISM.d, TS.MA.e, TS.MA. d., C.ML., C.NF, A. DVNSMHM.d, different sub-categories of A.E. and so on. Though these registers are different in respect to their details, form and wording, the diversity of beytülmal registers helps to figure out the place of the beytülmal in the agenda of different reports.

[655] TS. MA. d. 4666/01 (936/1530).

beytülmal[656] was 145,003 akçes in total, the rest was collected through the *mukataa*s, *iltizam* and *emânet* (*tahvîlât-ı ummâl* and *tahvilât-ı ümenâ*). The *kadı* (who was also the *müfettiş* and *nâzır* in this case) supervised the revenues and expenses of the *mukataa*s in question. He affirmed the register in question during his span of authority. From this total amount, 2,738,341 akçes were used for the expenses as shown below (*vuzi'a min zâlik*).

Table 6: Revenues and Expenses of the Imperial Domains in Konya and Karaman

Revenues	Amounts	Rates
Asl-ı mâl fi sene ve on iki eyyâm	2,735,415	100%
An tahvilât-ı ummâl-i hashâ-i vilayet-i mezbûre	2,186,628	80%
An tahvilât-ı ümenâ-i ki ber vech-i emânet zabt kerde	403,784	15%
An emvâl-i müteferrik ma'a beytülmal ber-vech-i usube (?)[657]	145,003	5%

[656] For the method of collection of the beytülmal revenues, the document uses the phrase "*beytülmal ber vech-i usûbet*". I could not figure out what does that mean in the context of mukataa. I came accross with this word in Barkans's seminal work on the Ottoman financial budget for the year 933/934. In a similar way, he noted this type of revenue as "*an-beytülmal-i hâssa ve usûbet*". Ömer L. Barkan, "H. 933- 934 (M. 1527 -1528) Mali Yılına Ait Bir Bütçe Örneği" *İ.Ü. İktisat Fakültesi Mecmuası*, c.15, no.1-4, 1953, see esp. p. 287.

[657] 'Asabe' (عصبه) means "the body of a deceased person's collateral relations to whom no definite portion of the inheritance is assigned by law and who become residuary legatees after the assigned portions have been paid over." 'Asaba', *New Redhouse Turkish-English Dictionary*, Istanbul: Redhouse yay. 1986, p.78.; Hayreddin Karaman, "Asabe" *TDV İslam Ansiklopedisi*, Vol.3, 1991, pp. 452-453.; *Usûbe* (عصوبه), the noun form, was not very common in the registers concerning to the matters in the mukataas. In this register the word is used as if it denotes a method of collecting the revenues "*ber vech-i usûbe*" (like iltizam or emanet). Barkan also came up with *usubet* (which he noted as عصوبت) in the context of the beytülmal in his work on the Ottoman fiscal budget of the year 1527-1528 (*An beyt-til-mal-i hassa ve 'usubet*). Ömer L. Barkan, "H. 933- 934 (M. 1527 -1528) Mali Yılına Ait Bir Bütçe

Expenses		
Vuzia' min zalik ma'a'z-ziyâde[658]	2,738,341	100 %
Et-teslîmât: be-Hizâne-i Âmire[659]	1,015,603	37%
Mevâcibât-i Kılâ-'i İçil[660]	1,406,097	51%
Mevacibât-i ümenâ ve küttâb ve mütekâidîn[661]	96,379	3.5%
İhracat-ı müteferrik ma'a salyâne-i türbe-i münevvere ve Şeyh Bulduk ve Zâviye-i Ömer Bey[662]	220,220	8%
Ez-ziyâde 'ani'l-asl (the amount spent exceeding the revenue)	2,929	

One striking point in this example is that the *mukataa* revenue was not sufficient to cover the expenses of the period in question —it lacks 2,926 akçes. Additionally, the rate of

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Örneği" *İ.Ü. İktisat Fakültesi Mecmuası*, c.15, no.1-4, 1953, pp. 251-329.; This word may have been chosen based on the heirship of the government in case no residuary heirs showed up and claimed the inheritace, and particularly for the askerî class: "Memâlik-i Mahrûsemde mansıbı ve ciheti olanlardan ve anlarun müte'allikatından fevt olub terekeleri beytülmal cihetiyle veya usûbet sebebiyle kapuma müteveccih olsa…" *Kânunnâme-i Beytülmâl-i Hâssa* in Ahmet Akgündüz, *Osmanlı Kanunnâmeleri ve Hukûki Tahlilleri*,v.2, İstanbul: Fey vakfı yay., 1990, p. 119., see fn. 1.; Ömer N. Bilmen, *Hukukı İslâmiyye ve Istlâh-ı Fıkhiyye Kâmusu* v.4, İstanbul: Bilmen yay.,1985, pp.107-108.

[658] The expenses made from that amount with the excess

[659] The sum delivered to the treasury.

[660] The payments (*el-mevâcibât*) of the soldiers in the tower of İçil.

[661] Payments for the *emîn*s (*ümenâ*), the clerks (*küttâb)*, and the retired (*mütekâidîn*)

[662] The other payments (*ihrâcât-ı müteferrika*) and the yearly allowances (*salyane*) for those; the *zaviye* (sûfi lodge) of Ömer Bey, the tomb (*türbe-i münevvere*) and Şeyh Bulduk.

the *beytülmal* revenues to total yield was only 5%. The register does not include details about the number of *beytülmal*s (*muhallefat*s or others) claimed in this period. The method of claiming was not specified except for the word *usûbe*. The collected revenues were used for covering the regular expenses of the locality first; it paid the salaries of the officers (working for the *mukataa*s, or soldiers defending the empire), and the yearly allowances for dervish lodges and tomb. The *mukataa* also delivered 37% of total revenues to the imperial treasury.

By its very nature, the unclaimed property is a revenue of the locality first, where collected, and fell to use of the government primarily in spot. On that account, it was operating in almost all the corners of the empire for the overarching property claim of the government—considering together with its legal grounds. It produced revenues for both the provincial and the imperial treasuries. However, it did not only operate for revenue collection; it was also the government's strategy for having services provided in the locality in a network of hierarchically organized officers and making the necessary payments to the persons in charge. Thanks to the institution of 'assignment' (*havale*), the government could either make the payments in the place where the revenue was collected or in remote territories.

Other than the *emin* and *mültezim*, *havale* (assignee) is the person who is authorized by holding a letter of transfer (*havale*) for taking some specific public revenues. *Havale* could possess these revenues on his own behalf, or to send to the treasury, or a to a third person based on the letter he holds. In the sixteenth century, *havale*s were mainly preferred for the following settings; when the claimer of the *mukataa* revenue was a particular person, the central treasury was in pressing need of revenues, and for specific spending of the state. *Havale* might also be opted for the safe delivery of the revenues if the liability of an *emin*

was in question.[663] Utilizing these revenues in spot and in the roundabout system, the government, to an extent, overcame the pitfalls caused by the lack of banks for transferring money and an efficient road system for transportation in the early modern period.[664]

The *havale,* generally an official assigned this payment, would come to the mukataa holder, *amil* (tax farmer), and claim a certain sum of money. This claim was grounded by virtue of a *hükm* by the sultan. For instance, in a *hukm* sent to the *kadı*s in Vidin and Kırkkilise it was stated that all the *beytülmal* revenues of the districts should be sent to the imperial treasury. According to the document, the money would be delievered to the *havale* (*…emîn-i mezkûr marifeti ile varan havale kuluma kabzettirdüb…*) as he was assigned to deliver it to the treasury.[665]

In general, these payments were made with the notice of *emin* and *kadı*, as the supervisory representatives of the central administration, and *kadı* recorded these payments in the registers.[666] The orders of *havale* are three types: (i) the order specifies directly a

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[663] Çakır, "Osmanlı Mukataa Sistemi", pp. 158-159.; Darling, *Revenue-raising and Legitimacy*, pp. 157-158.

[664] Bosworth, C.E. and Gerber, H., "Muḳāṭaʿa" in *The Encyclopaedia of Islam,* New Edition, vol.VII, ed. C.E. Bosworth, E. Van Donzel W.P. Heinrichs and CH. Pellat., Leiden- New York: E.J. Brill, 1993, p.508.

[665] MAD.d 9824/101, 22 B 1024 (17 Aug. 1615)

[666]Thinking their roles as the notaries in different parts of the empire, the role of the *kadı*s and registers kept were of importance. For studying mukataas and havala transactions, the *hüccets kadı*s gave to the tax-farmer in return for a payment made to the assigned; and a mektub given to the bearer of assignation stating the reason and the explanation, when the payment was not made were most valuable sources. İnalcık, Halil, "Ḥawāla" in *The Encyclopaedia of Islam*, New Edition, vol.III, ed. B. Lewis, V.L. Menage, Ch. Pellat And J. Schacht, (Leiden: E.J Brill; London: Luzac&Co), 1986, pp. 282-285.; For the inclusion of siclis' different registers

claimant of the revenue— like military officers in the provinces— for paying the allowances like *salyane*, *ulûfe*, or *mevâcib*[667] (ii) the order assigns at the disposal of *emin* to cover the provincial public expenses —like constructions, repairments and so on— or to cover the needs of the palace.[668] (iii) the order reserves the revenue for handing over to Sultan's emissary as sums to be included in the treasury, *Hazine-i Amire*.[669] Considering the circumstances of the period and the territorial extensiveness of the empire, this type of utilization of the revenues was best fit for a vast and inevitably decentralized empire like the

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and the literature on sicils see Yunus Uğur, "Mahkeme Kayıtları (Şer'iye Sicilleri): Literatür Değerlendirmesi ve Bibliyografya", *Türkiye Araştırmaları Literatür Dergisi*, 2003, pp. 305-344

667 For instance, Beytülmal-i amme (*hurde*) and beytülmal-i hassa mukataas in Vize and Kırkkilise yielded 27,213 akçes between 994 (Şevval) and 995 (Muharrem). As *hâvale,* the salary of a certain İbrahim Bey (4,400 akçes) was paid and the rest of the revenue (*el-bâkî* 16.281) was delivered to him based on his holding a berat of *bi-havâle* BMK.d. 22451, p.2 (995/ 1586).

668 "Be-cihet-i mevâcib-i İbrahim Bey kilari an havale-i mukataa-i mezbur" (a paymet for larder from the mukataas of hurde and beytülmal-i hassa in Vize and Kırkkilise) BMK.d. 22451, p.2 (995/1586).; Arif Bilgin, *Bursa Hassa Harç Eminliği*, İstanbul: Kitabevi, 2006, pp.91-95.

669 "Teslim be-Hizâne-i Âmire" AE.SSÜL.İ. 2/109 (29 Z 959/1552).; "Der kîse teslim İbrahim Bey bi-havale-i mukataa-i mezbur" BMK.d. 22451, p.2 (995/1586).; MAD.d. 23361, p.3 (958/1551).; AE. SSLM.II 1/5 (979/1571).; Darling, *Revenue-raising and Legitimacy*, pp. 130-131, 157-158.; Çakır, "Osmanlı Mukataa Sistemi", pp.158-160.; The payments of mukataa revenues were sent to the central treasury from the 17th century onwards via *polices* (bill of exchange). This was provided by sarrafs established in the main towns. However, till the declaration of the Tanzimat in 1839, i.e. the abolishion of tax-farming (mukataa) payments via assignment continued. Halil İnlacık, "Ḥawāla", in *The Encyclopaedia of Islam,* New Edition, vol.III, ed. B. Lewis, V.L. Menage, Ch. Pellat And J. Schacht, (Leiden: E.J Brill; London: Luzac&Co), 1986, pp. 282-285.

Ottomans.[670] Through the network of these assignees, the remote territories of the empire came together in the circulation of bits of pieces of unclaimed properties that devolved to the beytülmal.

The *beytülmal* revenues were not always yielding in promising quantities. Like in the example above, it was put together with some other mukataa revenues. For instance, according to the summary register (*İcmâl Defteri*), the *mukataa* revenues in Edirne and the revenues from *tahmîs-i kahve* (tax on coffee trade)[671] and the *beytülmal* were put together to cover the salaries (*vezâyif*) of *mütekâidîn* (the retired), *duâgûyân*,[672] *huddâmân*,[673] and

[670] For instance, one-year revenue of Egypt could hardly be received by the imperial center up to four or five years. Ahmet Tabakoğlu, *Osmanlı Mali Tarihi*, İstanbul: Dergah yay. 2020, pp.228-229.

[671] İdris Bostan, "Kahve" *TDV İslâm Ansiklopedisi,* Vol.24, 2001, pp. 202-205.

[672] Literally and originally, the *duâgû*s are the prayers for the well being of the state. They perform and lead the religious ceremonies in the palace or in other occasions. By the end of the 16th century, they also attained some symbolic positions (*cihet*) such that their allowance reached to a considerable point. Their salary was paid from the revenues of customs, mukataas and vakıf lands. Mehmet İpşirli, "Duâgû" *TDV İslâm Ansiklopedisi*, Vol.9, 1994, pp. 541-542.; Rhoads Murphey, "The Veliyyüddin Telhis: Notes on the Sources and Interrelations Between Koçi Bey And Contemporary Writers of Advice to Kings," *Belleten*, Ankara: Türk Tarih Kurumu, 1979, pp. 547-571, see fn.21.

[673] *Huddam* is the plural of the word *hadım* which means servants (esp. Eunuchs). Here it is used for the employees of the mukataa. Their occoupation was denoted in the documents as *hüddâm-ı câmi-i şerif*, *hüddâm-ı vakıf*, *hüddâm-ı dârüşşifa* and so on. See for example Ömer L. Barkan "Süleymaniye Camii İmareti Tesislerine Ait Yıllık Bir Muhasebe Bilançosu 993/994 (1585/1586)" *Vakıflar Dergisi*, 9, 2006, pp.109-161.

müşâherehorân[674].[675] As shown in a register dated 1670, the range of the revenue units in a bunch of *mukataa* might cover different cities and different kinds of revenue sources like *beytülmal*, the revenues of gardens and vineyards (*bâğât and besâtîn*), the rents of the shops (*icâre-ı dekâkin*) and public baths (*hamam*) and so on. In return for that diversity, the range of the items in the list of expenditures covered; the purveyance for the public kitchen (*zehâir*, *revgan*), the salaries of the *mukataa* workers and the servants in the vakıf (*hüddâmân*, *vazîfe-horân*), the amounts for the repairments of mosques and public baths, the debts, etc.[676] Principally, it was the same financial inspector (*nâzır* or *müfettiş*), under whose administration these different *mukataa*s were put together and controlled.[677]

[674] The government functionaries generally work in the finance department. Different from the *askerî* class paid quarterly, their salary is paid on a monthly base from the treasury. Erhan Afyoncu, "Müşâherehorân" *TDV İslam Ansiklopedisi,* Vol. 32, 2006, pp. 153-154.; See also Ömer L. Barkan, "H. 974-975 (M. 1567 -1568) Mali Yılına ait bir Osmanli Bütçesi", *İ.Ü. İktisat Fakültesi Mecmuası*, C.19, No.1-4 (Ekim 1957-Temmuz 1958), esp. pages 277-278 and his study "H. 933- 934 (M. 1527 -1528) Mali Yılına Ait Bir Bütçe Örneği" *İ.Ü. İktisat Fakültesi Mecmuası*, C.15, No.1-4, esp. pages 308 and 313 for the types of the occupations of *müşâhere-horân*.

[675] D.İSM.d. 25438, p.2 (1172/1759).

[676] This register shows the revenues and expenditures related to the endowment (*varidat and masarifat defteri*) of Eyyüb Ensâri TS. MA.d.1359, 2b-3a. (1080/1670-71).

[677] For instance, in the first half of the 17th century, the tahmîs-i kahve mukataası was administered together with the beytülmâl-i amme-i mahmiye-i İstanbul and beytülmâl-i hâssa-i Galata along wiht a few others. Eşref Temel "İstanbul Tahmishanesi (1590-1836)", *MUTAD*, VIII (2), 2021, pp. 373–401.

The regular *beytülmal* expenses were recorded in advance on the mukataa for the persons who benefited from these revenues.[678] The *müezzin-i hâssa*,[679] for instance, was appointed to *yevmi sekiz akçe vazife* (eight akçes stipend per diem) from the reveneus of the *beytülmal-i hassa* in Istanbul.[680] Stated in the documents as *vazifeye mutasarrıf* or *beytülmalden istihkakı olmak*,[681] different groups of government functionaries got paid their salaries from the *beytülmal* revenues.[682]

By its nature, unclaimed properties fell as *beytülmal* suddenly and unexpectedly—upon an heirless death, foundering of a merchant ship, a missing individual, etc. Similar to its uneven fall as revenue, the *beytülmal* covered some pop-up expenses of the government. In respect to that the *beytülmal* could be viewed as one of the standby funds of the government for irregular expenses.

The *beytülmal* registers do not authentically signify the expenditures whether regular. However, sporadic, or rare items under the title of *ihrâcât* imply some exceptional payments. Though it was out of the scope of this study to delve into the minute details of *beytülmal*

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[678] Being one of the most essesntial sources on the functioning of the beytülmal, the catalogue D. BŞM. İSB. (Bâb-ı Defterî Başmuhasebe İstanbul Beytü'l-mali Mukataası) includes a considerable number of documents related to arrangements of salary payments from the mukataa of Beytülmal-i Hassa (and amme) in Istanbul. See for example D. BŞM. İSB. 3/1, 5, 20; 4/1, 2, 3, 60 and 125.

[679] The person who calls the faithful to prayer in Enderun. Mustafa Sabri Küçükaşçı, "Müezzin" *TDV İslâm Ansiklopedisi,* vol. 31, 2020, pp. 489-495

[680] "İstanbul'da vaki Beytülmâl-i Hâssa mukataasından yevmi olmak üzere sekiz akçe vaziyefeye mutasarrıf olup…" TS. MA. e. 956/6 (1084/ 1673).; AE. SMMD. IV 92/10921 (1087/1676).

[681] AE.SAMD.III 85/8479 (1119/1708); TS.MA. e. 956/6 (1084/1673).

[682] Based on capacitiy of the returns, these revenues were collected either from a bunch of mukataa or only from the beytülmal.

accounts, the documents help understand its role as a reserve fund in times of unexpected payments of different types.

As in the regular ones, the salary payments were the leading item among the irregular expenses. For the *mukataa*s, the stipendiary lists were prepared in advance. However, for some servants of the state who could not be paid because of the deficits (*kusur*), the fiscal authorities prepared quick notes for making up the costs from the *beytülmal* fund. Based on the orders sent from the imperial center (*ber-mûceb-i fermân-ı şerîf*) in the form of a *tezkire* (memoranda or note), the *emîn* in charge channeled the revenues for a special setting or claimant.[683] Apart from the account registers, the existence of those *tezkire*s for covering 'some' expenses also indicates the use of the *beytülmal* as a reserve fund in times of need.[684] Particularly, in the cases of purchases of some crucial equipment for defending the borders or fighting in the wars, or purveyance for the imperial kitchen, *beytülmal emins* were sent *tezkire*s. For instance, the fund of the *Beytülmal-i hassa* in Istanbul was used to pay the expenses for the equipment (*barutçıyan*, *kundakçıyan*, *perdâhan*) that are necessary for defending the Belgrad Fortress. [685]

In another register, a *tezkire* was given to Lütfullah Efendi,[686] *emin-i beytülmal-i hassa* in Bursa, to cover the expenses of *simidhâne-i hâssa* (the palace bakehouse).[687] This payment was later entered into his account (*mahsub*). While this was a very short note for

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[683] AE. SMRD. IV 1/76 (1037/1628).

[684] AE. SMRD. IV. 7/719 (1043/1633).; AE. SMRD. IV. 9/899 (1041/1632)

[685] AE. SMST. II. 80/8545 (1106/1695).

[686] Issued by the Kaimmakam Pîrî Çavuş, the Harc-ı Hassa Emini in Bursa.

[687] "Beytülmal-i Hassa emini Lütfullah Çelebi tezkire vusul buldukda Simidhane-i hassa mühimmâtiyçün beş çift çuval alıverup simidhâne-i hassaya teslim idüp… muhasebede deynine mahsub oluna…" İE. SM 2/114 (21 N 1029/ 20 August 1620).

channeling the revenue, these rare expenses were also listed in the expenditures list of *beytülmal* account registers.[688]

For instance, in an account register, the payments Ömer b. Abdurrahman Ağa—*emin-i beytülmal-i hassa* in İstanbul—made was listed. Based on the order, the *emin* covered the expenses for İbrahim Paşa's tents (*haymehâ*) and some other equipments (*hırdavat çuka*, *akmişe-i mütenevvia, haymehâ-i celeb*, etc).[689]

Intrinsically, all these technical terms came to mean that being an item of *mukataa* and the revenue raised, the unclaimed property was one of the key funds at the hands of the empire. Through the *mukataa* organization, the imperial treasury and local authorities cast a method to circulate and utilize the bits of pieces of things in the *beytülmal*—irrespective of the amount. Moreover, the above-mentioned fiscal functions of the *beytülmal*, either collecting or spending, brought together the laypersons and the Ottoman officials in the same document. That is to say, a cushion belonged to an heirless deceased person, a comb or a pot, in one way or another, might be utilized by a certain *paşa* for covering the costs of some equipments in defending the empire. The correspondence of the Ottoman officials came side by side with the names of the heirless deceased, or missing individuals, the things that belonged to those names and their expenses of burial in the same document.

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[688] For instance the beytülmal account register for Vize and Kırkkilise in 994 and 995 included a list of expenditures (*be-cihet-i ihrâcât*). Along with the amounts like salaries and delivery to the treasury, four thousand akçes was delivered to a certain Mustafa for buying *kendir* (cannabis) by the order of the imperial center: "be-cihet-i berâ-yı kendir teslim be-yed-i Mustafa an (?) hassa ber mûceb-i emri şerif" BMK.d. 22451 (995/1587).

[689] "An tahvil-i Ömer b. Abdurrhaman an ebna-i sipahiyan emin-i beytülmal-i hassa ve Nasuh b. Karagöz an cemaat-i mezkure katib an baha-i haymeha-i İbrahim Paşa ki bera-yı füruht dade el-vaki' fi 15 M sene 945" MAD.d.23349, p.2 (945/1538).

5.5 Beytülmal as a Reserve Fund for Charitable Expenses

Based on the theory of the *beytülmal* (in the sense of the treasury), the fourth category of the revenues[690] claimed and collected on behalf of the government was reserved for charitable expenses.[691] The government was holding the right of heirship in case of unclaimed properties for securing both the right of Muslims in general and the rights of minors who did not reach the age of maturity yet. It aims to provide financial support for the expenses of private persons, like maintenance payments (*nafaka*), the funerary expenses of the needy (*techîz* and *tekfîn*), and so on. In this respect, even the term confined to the office/officer responsible for escheating the unclaimed properties, when it comes to the charitable

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[690] According to the theory of beytülmal (lt. the house of wealth in Islamic states), there are four category of reveneus for an Islamic political organization and each sort of revenue had a peculiar law of disbursement. Among them, the fourth is the revenues obtained through the inheritance (*mukhallefāt*) of the heirless deceased persons that the state has the ultimate claimer; the properties obtained when one of the two, in a married couple, died without inheriting another person, and the troves (*al-luqata*). Dede Cöngi, *Risâle fî Emvâli Beyti'l-mâl ve Aksâmihâ ve Ahkâmihâ ve Masârifihâ*, Süleymaniye Ktp. Esad Efendi, no. 3560, v.6a-6b.; For further discussion see Abu Yusuf, *Kitāb al-Kharaj*, Bulak, 1302, pp.80-81, Abu al-Ya'la Muhammad b. al-Husayn al-Farra (d.458), *al-Ahkamu's-Sultaniye*, ed. Muhammad Hamid al-Faqî, Beirut: Daru'l-Kutubu'l-'Ilmiyye, 2000 (1421 H), pp.244, 249.; Abu al-Hasan 'Ali b. Muhammed al-Maverdi (d.450), *al-Ahkamu's-Sultaniye*, ed. Ahmed Cad, Cairo: Daru'l-Hadis, 2006 (1427 H), pp. 307-308.

[691] In his pamphlet on the beytülmal, Dede Cöngî explains each category of revenues for the government and the allowances made from each of these revenues. Based on that the government uses the revenues in the fourth as follows: allowance to diseased poor people for providing them treatment and medicine; enshrouding and burying (*techîz* and *tekfîn*) the death who has no any property; supporting the abandoned children and paying the price if they (the abandoned children) commit a crime; allowance for the people who cannot earn for his/her and so on. Dede Cöngi, *Risâle fî Emvâli Beyti'l-mâl ve Aksâmihâ ve Ahkâmihâ ve Masârifihâ*, Süleymaniye Ktp. Esad Efendi, no. 3560, v.12b.

payments, the theoretical whys, and wherefores of the *beytülmal* institution in the Ottoman Empire were nothing short of pre-Ottoman Islamic States'.[692]

The *beytülmal mukataa*s come across as pointedly designed to increase the revenues for the treasury. The account registers would saliently evidence that phenomenon. The revenues benefited in a dazzling spectrum of expenses both in the center and periphery, and the imperial treasury collected the rest as a cash payment. However, a substantial number of archival documents of different categories also manifest that the office act as for the benefit of Ottoman subjects in some ways. Particularly for those who died pennilessly and without heirs, and for those who experience difficulties in providing for themselves.

For example, Neslihan and her daughter Saliha from Galata district in Istanbul remained devoid of means of subsistence as her husband is absent (*gâib*). Ahmed, the husband, neither left behind something nor sent for their sustenance (either *nafaka* or *kisve*). Thus, she asked the court to provide for her and daughter's maintenance (*havâic-i sarf*). Upon her request, the *kadı* issued a payment for her as debt until her husband re-appears.[693]

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[692] See chapters I and II.

[693] İstanbul Kadı Sicilleri, Galata Mahkemesi, no.90, 15b-5, 1663. (109, p.121); It is also worth to note that this sicil register (Galata Mahkemesi, no. 90 (1073-1074/1663) starts with a fetva, which asks about the validity of a marriage of a woman whose husband is missing. According to that two realible persons withnessed the death of Bekir, who is missing with *gaybeti munkatı'a*, and confirmed this to his wife, Hind. Knowing her husband's death, Hind waits the necessary period, and intends to marry to another man named Bişr. Assuming the ex-husband is alive, can any (third) person prohibit this marriage? The answer is no: "Sikātdan Zeyd ve Amr gaybet-i münkatı'a ile gāib olan Bekir'in zevcesi Hind'e Zeyd'in vefâtın müşâhede eyledik deyû haber verdiklerinde Hind'e Zeyd'in vefâtına ilm hâsıl olmağla ba'de inkızâi'l-idde nefsini Bişr'e tezvîc edip Bişr Hind'e ( ) dâhil olmak murâd eyledikde ba'zı kimesneler câiz ki Bekir hayâtda ola deyû Bişr'i Hind ile izvâc mu'âmelesinden men'e kādir olur mu beyân buyurula." Olmaz, Ketebehû el-fakīr (?) Yahya -ufiye anhu.

Another payment was made for Fatma, who needs sustenance since her absent husband (*gâib*) did not cut up for her. The *kadı* provide 10 akçes after that time on as loan to her husband (*mezbûrenin nafakası, kisvesi ve sâir havâic-i lâzımesi için zeyilde mezkûr târihden i'tibâren gāib-i mezbûr zevci üzerine râyicü'l-vakt on akçe farz ve takdîr etti*).[694] The remarkable point here is that the *gâib* husband is expected to return and cover his debt as his wife was issued an ongoing payment from the *beytülmal*. That also indicates the *kadı*'s precision in choosing the word *gâib*, instead of *mefkûd*.[695] However, one can claim that either the *gâib* husbands would return or not, the *beytülmal* ventured to pay those amounts.

The same procedure applies to orphans (*yetim*, pl. *eytâm*) or foundling (*lakît*) children. In fact, protecting the rights of the *eytâm* often mentioned as the *raison d'être* of the *beytülmal*. The sicils call the *beytülmal* officer *mu'înu'l-eytâm* (who helps orphans). For instance, a child was found in the courtyard of Uzun Câmii in Trabzon province. Hatice bt. Ömer nursed the 3 years old child who was named Hasan. However, Hatice states that she could not afford to maintain and raise the child and requests *nafaka* in the court in the presence of *beytülmal* officer.[696] Upon her request, the *kadı* issued a payment for Hasan.

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[694] İstanbul Kadı Sicilleri, Galata Mahkemesi, no.90, 2b-1, (14.p.57).; See also 43a-1 (311, p.257); 12a-2 (82, p.103).

[695] Missing individual, no one know his/her whereabouts.

[696] "… Uzun câmi-i şerîfinin avlusunda li-ecli't-terbiye bana teslîm ve Hasan ismiyle tesmiye olunan işbu hâzır-ı bi'l-meclis üç yaşında lakîtanın asla malı olmayub ebeveyni dahî nâ malum olduğu gibi kendisini infâka vasî ider bir kimsesi bulunmadığından ben dahî mu'sıre olmamla lakîta-yı hâzıra-i mezbûru bilâ nafaka idare ve terbiyeye muktedire olmadığımdan lakît-i hâzır-ı mezbûrun nafaka ve kisve ve sâir levâzım-ı zarûriyyesi içün ebeveyn ve vasîsi zuhûruna değin cânib-i beytü'l-mâldan i'tâ olunmak üzere…" Sinan Başaran, "1498 Numaralı Rize Şer'iyye Sicil Defterinin Transkripsiyon ve Değerlendirmesi", MA Thesis, Niğde Üniversitesi, 2011, p. 155.

However, if any of Hasan's relatives appear as his guardians (*vasî*), s/he has to pay back the total *nafaka* issued for Hasan until that time to the *beytülmal*.[697]

On the other hand, there are a significant number of documents on the use of the *beytülmal* to cover the funerary expenses of heirless and penniless died persons. The most orderly grouped cluster on the issue is "Belgrad Beytülmali" and is classified under the Başmuhasabe Kalemi. Concerning almost entirely the heirless and penniless deceased persons in Belgrad, there are three clusters of documents comprising 412 registers in total. Covering roughly the period between 1091[698] and 1110, they include the correspondence between the *kadı* (or *nâib*, his deputy) of Belgrad and the *beytülmal emini*. In each of those registers, the *kadı* states that with the *murasele*[699] he issued, he charges the *beytülmal emini* with covering the expenses for *techîz* and *tekfîn* (enshrouding and burial) of the heirless and penniless deceased person from the *beytülmal*. According to the registers, the deceased were generally hanging around public places like that of *han*s, *oda*s, *imârethane*s, and mosques

[697] "…Hasan'ın nafaka ve kisve ve sâir levâzım-ı zarûriyyesî içün men lehû hakku't-taleb ve'l-ahz üzerine rücû olunmak üzere cânib-i beytü'l-mâldan işbu tarih-i vesîka beher mâh (ay) yirmi beşer guruş nafaka ve kisve bahâ farz ve takdîr olunub meblâğ-ı mefrûz-ı mezkûru lakîte-i hâzır-ı mezbûr Hasan'ın nafaka ve kisve ve sâir levâzım-ı zarûriyyesine harc u sarfa ve lede'l-iktizâ istidâneye ve inde'z-zafer vasîsi zuhûruna değin cânib-i beytü'l-mâla rücûa…" Sinan Başaran, "1498 Numaralı Rize Şer'iyye Sicil Defterinin Transkripsiyon ve Değerlendirmesi", MA Thesis, Niğde Üniversitesi, 2011, p. 155.

[698] Only the first document of the first cluster dated 1605 and about a debt claim on the beytülmal of an heirless deceased soldier (*sipahi*). D.BŞM.BLB. 1/1(1013 /1605).

[699] An official letter of the court comprises of the *kadı*'s order.

before leaving this life. Except for *fakir*[700] (poor, pl. *fukara*) and *garîp*[701](destitute), no affiliation or adjective is mentioned for them. Yet more, some registers do not say the name and address them only *bâi'su'l-murasele* (reason for the present letter)—probably the name was not known by any.[702] The most common expression in these *murasele*s was "*...gariben fevt olan fakirin techîz ve tekfînine kifâyet eder malı olmayub* …".[703] Burying them through the financial support of the beytülmal revenues of the province is ordered as "*beytülmalden defn idesiz.*" Below is an example of these *murasele*s which touches an heirless deceased woman from Sava:

> "Medîne-i Belgrad'da beytülmal emini olan Mustafa Ağa el-mükerrem, Ba'de's-selâm inhâ olunur ki Sava Mahallesinde vefat eden bir hatunun techîz ve tekfîninine yarar ism-i mâl ıtlak olunur bir şey olmadığı inhâ ve beytülmaldan defn olunması içün murasele iltimas olunmağın tahrîr ve irsâl kılınmıştır. Vusûlünde mezbûreyi beytülmalden defn idesiz…"[704]

Sava was known as the hometown of non-Muslims. Copts, Jews and Gebrân (Christian) were living there and specified as "mahalle-i Sava cemaat-i gebrân and Yahudi der-varoş-ı Belgrad."[705] Though the register does not say her name, 'the deceased woman' (*vefat eden hatun*) might also be a non-Muslim; and for her funeral, no details is stated. Considering together with the frequency of the name 'Abdullah' and the no-name persons,

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[700] In the meaning of impoverished people.

[701] Not having close family, relatives, or friends. For instance, in a petition addressing the Sultan (probably Bayezid II), a woman describes her destituteness "garîp kişidük, akrabamız yoğdı ki anları göreler gözedeler." TS. MA. e. 755/52 (918/1512).

[702] D.BŞM.BLB 3/126 (1110/ 1698).

[703] D.BŞM.BLB 1/128 (1098/1687).

[704] D.BŞM.BLB 3/118 (1109/1698).

[705] For further details see İlhan Türkmen, "Osmanlı Kaynaklarına Göre 1740'larda Belgrad'ın Sosyo-Ekonomik Yapısı", *Belleten*, 2016, c.80, s.288, pp. 411-438.

this might be an intentional wording in the registers that avoids some additional correspondence and religious duties for the funerals.

In addition to Belgrad Beytülmali, the documents under Ali Emiri[706] includes a noticeable number of registers on the burial expenses of the needy. Particularly, AE. SMMD.IV consists of registers of this type, and almost all the cases occur in Bursa. Addressing the *beytülmal emini* there, the *nâib* of Bursa charges him (the *emin*) with covering the funeral expenses of the deceased; many of whom were the inhabitants of public places like *oda*s, *han*s, mosques, *tekke*s and *zaviye*s (Mercan Odaları, Kuşbazlar Hanı, Pirinç Hanı, Boyacı Odaları etc.):

> "Beytülmal emini inhâ olunur ki, Namazgâh mahallesinde fevt olan fakire mu'tâd-ı kadîm üzere kefen baha virub bu tezkireyi hıfz idesin tahriren fî şehr-i Zilhicce sene 1092. el-fakîr es-seyyid Mehmed el-nâib bi-medinet-i Bursa".[707]

> "Beytülmal emini es-seyyid Veli Çelebi gıbbe's-selâm inhâ olunur ki Hazret-i Emir Câmii Şerifi kurbünde vaki Zeynîler zaviyesinde fevt olan fakir ki üzerine kefen bahası lazım gelur vâris-i ma'rufu olmamağla gerekdir ki mu'tâd-ı kadîm üzere kefen bahasın virub bu tezkireyi hıfz idesiz…"[708]

Interestingly, the wording of these registers strictly sticks to the phrase *mu'tâd-ı kadîm üzere* (being an ancient custom). However, the dates in both clusters (Belgrad Beytülmali and AE. SMMD.IV) go back to the last quarter of the seventeenth century only. It is readily apparent that here the term *kadim* (ancient) does not only refer to the history of the *beytülmal* institution in the Ottoman empire. Rather, it refers to the theory and history of the *beytülmal* in Islamicate world, and more broadly the meaning of public treasury. According to this, it is an obligation upon the state to cover some expenditures such as to

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[706] See for example AE. SMMD. IV 28/3132 (1092/1681), 87/10363(1095/1684), 22/2437 (1096/1685).

[707] AE. SMMD. IV 4/380 (1092/1682).

[708] AE. SMMD. IV 57/6627 (1095/1684)

maintain its needy persons, the prisoners, the hospital services,[709] and the funerary expenses of the poor and destitute.[710] The local administrators are supposed to deal with the burial of the deceased in their lands.

For instance, in a *hukm* sent to the *kadı* of Medine and *Şeyhülharem*, the imperial center orders the court to send some men to enshroud the deceased people on the way to *hacc.* According to an earlier register, the *beytülmal emins* were prohibited to escheat properties of people deceased on the way to *Hacc*, if they have relatives (*akraba*) or countrymen (*hemşehrî*) with them. The *emir* and *şerif* oversaw the *beytülmal* cases there.[711] However, when someone died neither the *beytülmalci* nor the *kadı*s dealt with the burial of the deceased. The corpses stayed on the roads, and dogs ate them: "…*meyyit içun dahi miri canibinden kefen alınub defn olunmamağla meyyit yollarda kalup bazı kilab ekl edub ziyade teaddi olduğu…"*[712] The order states that in case the *beytülmalci*s are too late, the court should send

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[709] As Shefer also states "…poor people were admitted into hospitals where medical care was distributed free, whereas the well-to-do engaged private doctors and were treated in the privacy of their own homes." Miri Shefer, "Charity and Hospitality: Hospitals in the Ottoman Empire in the Early Modern Period" in *Poverty and Charity in Middle Eastern Contexts* (Edited by Michael Bonner, Mine Ener and Amy Singer), SUNY Press: Albany, 2003, pp.295-313.

[710] Dede Cöngi, Risâle fî Emvâli Beyti'l-mâl ve Aksâmihâ ve Ahkâmihâ ve Masârifihâ, Süleymaniye Ktp. Esad Efendi, no. 3560, v.12b.

[711] In the context of pilgrimages, beytülmal means recording the *metrukat* of deceased people and handing over their properties to either the relatives, if any, or countryman supposing they had their heirs in their hometown. In case of no heir, the beytülmal would take the property. The role of *kadı* in this process is to supervise (*mukayyet olup*) the process, but not to take a fee for recording or dividing the *metrukat*. See A. DVNSMHM.d. 31/564 and 31/565 (985/1577).

[712] A. DVNSMHM.d.46.46 (989/1581).

some capable men, first, for recording the *metrûkât* and then for furnishing cerement for the deceased so as to prevent any possible harm to the corpses:

> "…mahkeme canibinden adem gönderilup müteveffanın metrukatı var ise yazılup defter olunup bir mahfuz yerde marifet-i şer'le hıfz olunup ve vakti ile meyyit teçhiz ve tekfinlenub metrukatı olmayan fakirler müteveffasına dahi kefen aldırub ale'l-fevr defn ettirub kable'd-defn meyyite haşerât ırzından ve gayriden … zarar müteretteb olmak ihtimali olmaya".[713]

The background of this event is more dramatic. Four years before the above order, the *beytülmal* officers are prohibited to intervene in the *beytülmal* of the pilgrims (*hüccâc*). The order states that some of the *hüccâc* became seriously ill on the way to *hacc* and covetous *beytülmal* officers took all belongings and properties of these seriously ill people and left them in a place[714] remedilessly. They (the *hüccâc*) were dying of diseases in cries and laments: "*Hâcc-ı şerîf yolunda hüccacdan bazılar hasta oldukda henüz teslîm-i rûh itmeden beytülmâl emîni ve âdemleri soyub esbâb ve emvâlini alub bir yerde koyub gidüb maraz feryâd ve figân iderek fevt oldukları…*[715] From then on, the *kadı* and *emîr-i hac* shall not appoint a *beytülmalci*, and any officer who intervenes in these affairs on behalf of *beytülmal emaneti* shall be imprisoned in the tower in Damascus.[716]

After having grasped that *beytülmal* was not working properly in providing for the needy, the imperial center tried to figure out the issue by replacing the office, not the officer.[717] The fact remains that administrative regulations on the individuals and their

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[713] A. DVNSMHM.d.46.46 (989/1581).

[714] Though the document does not use the words like *sahra* and *çöl*, the archival summary says the pilgrims were left in the desert.

[715] A. DVNSMHM.d 23/344 (981/ 1573).

[716] A. DVNSMHM.d 23/345 (981/ 1573).

[717] One year before (980), there was also an attempt to change the method of appointing the beytülmalci. See A. DVNSMHM.d 23/70 (981/1573).

properties in case they die was a running battle among the local authorities and the officers appointed from the center. This is the case, especially on the way to *Hac*, Mecca and Medina, a remote region from the center where travelers were more cosmopolitan, and belong to the different strata of the society.

One conclusion that may be drawn from these registers is that the involvement of the *beytülmal* institution in charitable actions is strikingly limited. Though the office ventured to cover some charitable expenditures of the needy, it was also in hope of a possible future repayment. This would not underestimate its function as a fund for charitable expenditures. Rather, it implies that one can not estimate the Ottoman policies[718] related to the charitable functions of the state (and society) by examining the *beytülmal* institution. Moreover, there are a considerable number of documents that do not use the term *beytülmal* but include charitable actions. As shown in the registers, hearing their say to the Sultan via petitions, some people could get contributions from the treasury.[719] Additionally, the maintenance helps, and other charitable expenditures were covered in a huge network of *vakıf*s and private endeavours in the center and the provinces. This is mostly because "throughout its history, the most powerful formal vehicle for voluntary charitable and philanthropic endeavors in the

[718] In his work, the late Kunt also states that the endowment was one of the backbones of the Ottoman policy in maintaining the empire. The imperial *vakıf*s and others founded by government officials played a pivotal role for covering the charitable expenditures. İ. Metin Kunt, "The Waqf as an Instrument of Public Policy: Notes on the Köprülü Family Endowments" in *Studıes in Ottoman History in Honour Of Professor V. L. Ménage*, (ed.by Colin Heywood and Colin Imber), Istanbul: The Isis Press, 1994, pp. 189-198.; Kayhan Orbay, "The Imperial Waqfs within the Ottoman Waqf System", *Endowment Studies* 1, 2017, pp. 135-153.

[719] For instance, a women asks help for her orphans since her husband went with Hayreddin Paşa and captured there: "… ben gayetle fakire oldum ve dört oğlancıklarım dahi yetim oldular…" TS. MA.e. 971/92.; see also TS. MA.e.755/52 (918/1512).; TS. MA.e. 967/48 (886/1481).

Islamic world was probably the endowment, *vakıf*".[720] However, it is vital to keep in mind that the poor who were the possible beneficiary of these institutions were not a homogenous group. While some of them had access to solidarity networks or could hear their say to the Sultan, there was also a group of 'invisible poor' whose reach to the offerings was more difficult than others.[721]

5.6 Conclusion

This chapter aimed to cast light on the operation of the *beytülmal* from the perspective of an institution. Taking it as a legal and financial institution, it examined the main functions that it carried out during the late fifteenth to late seventeenth centuries. Keeping in mind its legal grounds, it sought to understand the ways of collecting, spending, and benefiting the Ottoman subjects from the *beytülmal*.

By the agency of the *kadı*, the beytülmal provided legality to its being the ultimate heir for the unclaimed property. It is a salient phenomenon that the office first functioned as a notary where the unclaimed property is registered for a possible authentic claimer—either the subjects or the government. Along with the legal regulations, the cooperation of *kadı* and *beytülmalci* featured the institution as the protector and the trustee of the rights and shares. Thus, the *beytülmal emâneti* collected and hold the properties for delivering the shares to the rightful claimers. Moreover, corroborating the title of *emânet*, the legal claimers who run

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[720] Amy Singer, "Charity's Legacies: A Reconsideration of Ottoman Imperial Endowment-Making" in *Poverty and Charity in Middle Eastern Contexts* (Edited by Michael Bonner, Mine Ener and Amy Singer), SUNY Press: Albany, 2003, pp.121-143.

[721] Eyal Ginio, "Living on the Margins of Charity", in *Poverty and Charity in Middle Eastern Contexts* (Edited by Michael Bonner, Mine Ener and Amy Singer), SUNY Press: Albany, 2003, pp.165-185.

very late at showing up in designated time limits (6 months or 1-3 years) could also claim reversion and got paid by the office. Though the office's reaction in the cases of reversion was not as prompt as in the collection, the register once kept by the *beytülmalci* and *kadı* secured one's claim at the very least.

As for the function of the collector, the *mukataas* could be said the fiscal engine of the *beytülmal* operations. It was the beytülmal mukataas that helped to raise systematically a revenue from the unclaimed property. In the great scheme, it determined the human source for the operations, the method of claiming (*iltizam* or *emânet*), the ways of spending the revenues, and the possible beneficiaries in the region. Through the beytülmal mukataas, the unclaimed property had the meaning of a commercial thing and took part in the daily life activities of the provincial and central fiscal organizations. From the beytülmals' register by the officers to its selling in the market, the intermediary figures involved in the operations got paid their shares based on the rates determined in advance.

As in the other mukataas, the government made use of the *beytülmal* revenues to cover a wide range of expenditures of the empire. While the salaries and other regular payments were the major items of expenditures, there were also some irregular costs met from the *beytülmal* fund.

In a nutshell, the Ottomans functioned the *beytülmal* for providing the government and the individuals—in line with the theory. Upon an heirless death, it acted like a guardian or heir; registered the estates, gave the shares to the rightful claimers, covered the debts to third persons, executed the will (*vasiyyet*), and helped with the funeral. All these private expenses were covered from the *beytülmal* of that specific person, if there was enough. When it comes to the penniless and heirless deceased persons, it undertook the covering of funerary expenses from the *beytülmal*. However, having a due sense of reality and the ability to utilize a touching and sorrowful property, they practically administered the institution and raised the revenues for the empire. Bearing in mind its drawbacks, the *beytülmal* institution could be

self-evidence for understanding what was the potential of law in attaching individuals and government over death and missing in a centralized empire in the early modern era.

CHAPTER 6

CONCLUSION

Property claims and their administration in the early modern Ottoman empire have been the focus of this study. Available sources show that the Ottomans paid considerable attention to supervising unclaimed properties. Building on the Islamic legal tradition, the law (laws, decrees, and instructions) and its implementing agencies helped create a consistent method and a considerably well-organized system to regulate and manage public and private claims on heirless, abandoned, and unclaimed properties in general. *Beytülmal* emerges as a particularly significant concept (and theme) to understand Ottoman views of public property and means of asserting public claims on property.

An inquiry into public claims on property needs to begin with specific legal issues. Ownership rights and categories of public and private property call attention to the context of Islamic legal tradition. From the early Islamic ages onward, the rulers and governments claimed and collected taxes in cash or kind from their subjects, Muslim or non-Muslim. These contributions and other acquisitions of the governments were deemed public property. Reflecting upon Islamic principles and sources constituting the "*shari'a*," scholars formulated the fundamentals of legal reasoning and produced practical regulations (*fiqh*). They viewed public property as a trust of sorts. Public property or wealth should be kept and supervised as a trust under the ruler's custodianship. The government should use it to serve the needs, interests, and benefits of the subjects –Muslim and non-Muslim alike.

In this respect, the legal tradition acknowledged that the ruler had the right to claim property and maintain a public treasury to protect the Islamic polity and its subjects. The redistributive capacity of the state apparatus (and the ruler) was the main ground of this acknowledgment. Three main rationales explain that capacity (in the context of Islamic

history): (a) Maintaining a government apparatus, (b) maintaining an army and financing wars, and (c) maintaining a stable religiopolitical balance/order. As part of these general tasks, the ruler was also responsible for providing for the needy and relieving fellow Muslims overwhelmed by heavy financial obligations.

Beytülmal (lit. house of wealth) was at the center of the framework of missions outlined above, pointing to the government's redistributive capacity. Beytülmal was both the physical destination of public revenues and the place where redistribution materialized. Islamic polities employed the term beytülmal literally and figuratively from the seventh century. Legal scholars interpreted the Qur'anic verses through jurisprudence and introduced the ways of property collection in an Islamic polity. Early works of Islamic scholars, like Abû Yusuf, Mâverdi, and Abû Ubayd b. Sallâm, underline the significance of raising revenue and explain in detail the categories of the revenue and disbursement that should guide the *beytülmal*'s work. These categories included regular tax payments like *haraj*, *jizya*, or '*uşr* and intricate settings involving multiple ownership claims. These settings involved estates of the heirless or semi-heirless persons, found goods, treasure troves, retrieved stolen goods, and the like.

Growth and diversification of public revenues challenged *beytülmal*, particularly in the second half of the seventh century. The urgent need for a more elaborate and sophisticated bureaucratic organization became evident under the caliphate of the Umayyads and later the Abbasids. *Diwan*s, as specialized governmental bureaus, were established first to deal with financial, military, and administrative matters. A bureau called *bayt al-māl al-verese* and *dīwānu'l-mawāris* also emerged to administer the properties of those who died heirless or semi-heirless (and probably other kinds of unclaimed property). The *diwan*s that were established for supervising financial matters have played a significant role in managing the revenues and expenditures of the state, i.e the *beytülmal*.

One can see certain links between these pre-Ottoman use of the *beytülmal*s of these pre-Ottoman contexts and *beytülmal*s of the Ottoman empire. Although the fifteenth-century sources do not mention it, *beytülmal* was mainly used in the sense of a public treasury (*hazine*, *hazine-i âmire*) in the sixteenth century. Dede Cöngi's *risale* on this subject demonstrated the transmission of legal knowledge on the issue of public property and its reception in the sixteenth century. Additionally, Ebussuud's use of the concept in his *fetva*s and, later, Naimâ's elaboration showed the Ottomans' adoption of what we can call the classic theory of *beytülmal*. Like their predecessors, the Ottoman scholars elaborated on the categories of the revenues of the *beytülmal* in the sense of public treasury. The fourth revenue category they mention involves heirless estates and unclaimed properties (of different types). Similarly, using this revenue category ought to serve the needy, pay for certain expenses (such as burial costs) for people who could not afford them, and the like. Given the employment of the term in archival registers, it is safe to state that the *beytülmal* (in its classical connotations) served as a reminder to the Ottoman ruling class and the ruled some of their moral responsibilities and the need to reserve resources to meet these obligations.

As Akarlı discusses, the Ottoman empire was an Islamic state in the sense that its ruling cadres championed and "felt bound by the high ideals of Islam and its *shari'a*." Ottoman scholars relied on their extensive knowledge of legal classics to adopt, adapt, and interpret Islamic law to help generate and maintain an Ottoman order. *Beytülmal* is an example. The Ottomans mostly followed the Hanefî legal doctrines in property claims regarding the issues of escheat and the government's heirship. However, the general and provincial kanunnâmes and legal opinions indicate that practical concerns gave way to elaborating or remaking those legal opinions in the early sixteenth century.

Legal and administrative-financial concerns help to explain those adjustments. Scholars tried to define first such terms as *gâib mefkûd, yava,* and *kaçgun* regarding unclaimed properties. They also validated such terms as *emânet*, *emin, kayyım*, *vasî*, and

tereke that represented components of the administration of *beytülmal* revenues. The general kanunnâmes and f*etva*s provided details about the procedures to pursue a claim, both for the public and private claimers. These procedures and guidelines included issues related to undertaking *mukataa*s, keeping the property in trust for a while, its sale by the *emin*s, and the role of the *kadı*s in operation. For instance, in a well-circulated *fetva* attributed to Ebussuud, he defines the terms for absent and missing individuals and adds, "…it is only the property of a deceased person that can be sold as a mukataa and not the property of one who simply leaves his/her home or of someone who leaves his property in trust [of someone]."[722]

Administrative and financial concerns expressed in the provincial *kanunnâme*s are also noteworthy. By their nature, provincial regulations reflect intricate details regarding the different types of land (such as *vakıf*, *tımar*, *serbest tımar*, *has*, and *miri* lands) that the Ottoman land regime recognized and how *beytülmal* claims should apply to these lands. Provincial regulations also set down the local officials and military units entitled to certain revenues. According to these regulations, *beytülmal* revenues were assigned (in clusters or individually) to certain officials as their income or for delivery to the treasury. The provincial regulations thus indicate how the government set the spatial borders of a revenue unit and assigned these units to different officials. Furthermore, examining these laws, regulations, and *fetva*s to understand the management of various types of unclaimed property, i.e., *beytülmal*, shed light on the Ottoman ruling cadres and scholars' policies for the accommodation of the Ottoman subjects' legal and financial interests.

The importance of the provincial *kanunnâme*s becomes even more evident when they are read together with such archival registers as *mühimme* and *atik şikayet defter*s (registers

[722] "…Mal-i gâib ve mal-i mefkûd deyu beyt-ül-mâl ile mukâta'ya verilen tereke-i meyyit olandır. Her evinden çıkıp giden kişinin malı değildir. Yahut malını emânet koyup giden kişinin malı değildir."

of essential decisions and old complaints). These registers reflect that claims for *beytülmal* were a constant cause of contentions between the local officials and heirs, between different local figures (such as government officials, military officials, or *vakıf* administrators) who held the right to collect certain revenues in that area, and between the local and central administrations. The accommodation of conflicting interests partially depended upon the parties' respective economic and political influence. Legal norms interpreted with due attention to changing local and regional/imperial conditions guided the resolution of contentions. As Johansen puts it, it was the jurists' intellectual achievement as they produced systematic legal regulations by combining the "social and cultural traditions of the Near East perceptively" with the political experiences of the Muslims.[723]

This study has shown that the formation of the *beytülmal* as an office under the Ottomans necessitates viewing the *beytülmal* as a legal and financial institution (if a specifically Ottoman one). As such, *beytülmal* endured from about the early fifteenth century to the empire's final years. It operated in the center and the provinces according to a set of rules and procedures, making it an integral part of the greater Ottoman bureaucratic organization. The *beytülmalci*s cooperated with the *kadı's* court to fulfill their judicial task of delivering their due shares of an estate to rightful claimants. Most significantly, however, the *beytülmalci*s collected considerable revenue through the *mukataa*s they managed. This revenue met the needs of local and imperial treasuries at different levels.

Keeping in mind the conceptual and practical origins of *beytülmal* (as public treasury where certain revenues accumulated) in the early Islamic period, one can claim that *beytülmal* was not a distinctly Ottoman invention or institution, whether in the sense of public treasury

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[723] Baber Johansen, *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods*, New York: Croom Helm, 1988, pp.3-4.

or as an office that claimed certain types of property. However, the Ottoman use of the concept to cover only a specific group of revenues to claim on behalf of the public treasury and the typically Ottoman methods used to collect these revenues call for speaking of a peculiarly Ottoman institution. Thus, the potential revenues considered under the category of "*beytülmal*" were put into *mukataa*s. Beytülmal *mukataa*s prevailed in almost all corners of the empire. The *mukataa* system of revenue collection had its drawbacks. However, it was suitable for revenues considered under the "*beytülmal*" category because of their erratic yield and the complex procedures observed in their collection. *Muqataa*s allowed the combination of potential *beytülmal* revenues with each other and other revenues to balance their inconsistency. Furthermore, *mukataa* contracts made room for the legally necessary steps to accommodate rightful claims on a property and to prevent unfair appropriations.

Another distinctly Ottoman feature of the administration of *beytülmal* was the division of the potential *beytülmal* revenues according to the value of a property, the status of the ex-holder (whether *askeri* or *reaya*), and the status of the land. Each of these divisions is determinant for the ways of claiming, revenue collection and its use for the expenses. Finally, the Ottomans also allowed what we could call corporate groups to autonomously manage the *beytülmal* revenues accruing from members of their group (like janissaries, *bostancıs*, *matbah-ı âmire* servitors). Some of these groups were allowed to utilize *beytülmal* revenues for the collective benefit of the group. The Janissaries' *beytülmal* fund is a particular case in point.

The primary division of the "beytülmal" revenues into *amme* and *hassa* categories gave the government a relatively systematic, organized, and reliable method to claim and manage the relevant properties. Thus, the government paid closer attention to controlling the properties left behind by high-ranking officials and estates valued at over 10,000 akçes in the *hassa* category. Interestingly, while the management of *beytülmal-i amme* was brought under the mukataa system early in the fifteenth century, a similar commercialization of the

beytülmal-i hassa occurred in the sixteenth century. However, *beytülmal-i hassa* commanded the close attention of the imperial center all along. The registers indicate that the value of inheritance did not matter if the deceased (or the lost) person was of the *askeri* status; only the *emin* of the *beytülmal-i hassa* could manage that estate and collect the revenue that would accrue from it.

The *kadı*, *emin*, and *katip* served as central figures in the management of property claims, as they did in other *mukataa*s. Although the *emin* or the *mültezim* was the first person to lay hands on properties that constituted a potential or actual source of *beytülmal* revenue, he could not proceed with the steps necessary to claim it and to cash it out without the *kadı's* involvement. The *kadı* had to approve the *beytülmalci*'s register (kept by the *kâtip*) and keep a copy for the court. The *kadı* heard, checked, and settled creditors' claims, particularly in the case of heirless deceased individuals. In pleading their case before the *kadı*, private claimants confronted the *beytülmalci* who represented public interests ("*Kadı huzurunda*" and "*emin muvacehesinde,*" say the registers in their records about virtually all relevant cases that came before the courts.) The *kadı* heard the claims, resolved the differences, and refixed or redivided the shares accordingly. Clearly, the *kadı*s had multiple responsibilities to fulfill within their respective jurisdictions in the provinces. They served as inspectors or auditors of certain financial transactions, including the undertaking of various typey of *mukataa*s as well as the *beytülmal*. Their involvement checked the activities of the *mültezim*. *Kadı*s also acted as intermediaries between the *mültezim*s and the imperial center. They helped formulate the terms of the *mukataa* contracts and verified the credentials of the required guarantors (*kefil*). In summary, the kadı played a crucial role in managing property claims and ensuring that public interests were represented.

The *beytülmal'*s legal, financial, and institutional capacities discussed above indicate that it carried out various significant tasks for the subjects and the government. We can review these functions under four categories:

1. Trusteeship for the safe keeping of specific properties and the restitution (or indemnification) of relevant claims
2. Collection of a specific segment of government revenues
3. The direction of these revenues to designated ends.
4. Serving as a reserve fund for certain charitable expenses

Beytülmal claimed heirless, abandoned, and other unclaimed properties but had to keep them as a trust to allow potential rightful claimants the time to come forward and establish their claims. Legitimate claimants could claim their share or compensation even after the passage of the set waiting period if the courts validated their claims. The registers that the *beytülmalci*s took and the *kadı*s kept ensured the basic conditions for a possible future claimer. The institution's title (*beytülmal emâneti*) expresses this responsibility of the office as a bailee or trust. This trusteeship defined the legal character (and responsibilities) of the institution to a large extent.

Secondly, the *beytülmal mukataa*s enabled the government to manage a highly fluctuating source of revenue, the collection of which involved intricate steps to boot. As a collector of revenue, the *beytülmal* was firmly integrated into the broader Ottoman financial apparatus. Even the little bits of goods and cash that could be raised through the *beytülmal mukataa*s assisted the state's overall finances. The auctioning of *beytülmal* revenues in the form of *mukataa*s, individually or in combination with other revenue sources, contributed to financial transactions. The revenues thus raised helped meet certain local expenses or found their way to the central government's coffers to help cover its needs. In either case, these transactions contributed to economic vitality.

Thirdly, the beytülmal had to manage the revenues it raised. One might underrate the value of the properties that came under *beytülmalci*s′ control, as these properties mostly involved personal possessions of limited value. However, various sources indicate that although the yield of the *beytülmal* revenues was inconsistent and unstable (*nâ-mukarrer*), it

reached surprisingly high sums at times. A poor heirless person's legacy brought nearly nothing to the *beytülmal*. However, an heirless official or wealthy merchant might leave substantial sums behind, just as a thief's arrest might lead to a considerable amount of hoarded gold. At any rate, the revenues raised had to be appropriately managed. The *beytülmalci mültezim*s or *emin*s had to liquidate the properties under their liability first to meet their administrative expenses and then fulfill their obligations to the local and imperial treasuries. Thus, the *beytülmalci*s would have to channel certain amounts out of the revenue they raised to specific destinies depending on the instructions of the imperial center or the authorized provincial administrators (*nezâret*).

Lastly, the institution functioned as a reserve fund for specific charitable purposes to assist the subjects who needed immediate financial support. This function was consistent with the original theory of the *beytülmal* as public treasury discussed above. According to that theory, the ruler should utilize the revenues of the fourth category that is, the revenues accrued from heirless estates or various types of unclaimed property– on the needy and the sick people, or to cover the funerary expenses of the people who died pennilessly. The available sources indicate that the *beytülmal* systematically covered the funerary expenses of the poor and the destitute to a considerable extent. There are a fair number of registers concerning the instructions for the payments for coffin and other burial expenditures of the needy. The sources also indicate that the *beytülmal* covered the subsistence or maintenance payments (*nafaka*) made to the needy and financially supported people who shouldered raising an orphan child that was found in the street. However, in the latter types of maintenance payments, *beytülmal* officers also wrote down some conditions regarding these payments. These conditions were based on a refund of the payment the *beytülmal* made out of its fund. For instance, in case a missing husband returns and takes care of his family or in case a missing child’s family arrives and takes their child back to raise her/his themselves, the *beytülmal* had the right to ask the payments that were made to those out of its funds (such

as *nafaka* or payments for child raising expenses). To put it differently, despite providing financial aid, the department expected to reclaim the funds upon the improvement of recipients' circumstances. This was done in order to ensure that the funds could continue to be used for their intended charitable purposes.

The rise and operation of the Ottoman *beytülmal* administration for a long time in a territorially widespread empire with an ethnically and religiously diverse population deserve attention. On the one hand, it represents the continuation of *beytülmal* as a foundational Islamic notion and institution. On the other hand, however, it points to the transformation of the concept in time to express practices and procedures that served much more specific purposes. This dissertation highlights that transformation and as such, joins many other recent studies that invite us to view continuities in Islamic and Ottoman history amid the dynamic changes that affected human life.

This dissertation has also shed light on notions of property. The Ottoman government was eager to ensure that property did not remain in limbo and to claim unattended or unclaimed property to turn it into a source of revenue. Equally clearly, however, specific legal measures and procedures were observed to assure the protection of private rights against abusive or unjustifiable government interventions. The courts played a crucial role in maintaining this distinction between public and private rights or property claims.

Indeed, the findings of the present dissertation constitute only an introduction to this issue of sorting out differences between public and private claims on property and the intermediacy of the judicial system (in its adjudicative and notarial capacities) in the settlement of such disputes. These findings also further the inquiry to respective directions. For instance, an unclaimed property might be a subject of politics, particularly related to diplomatic relations. The Ottoman archives have rich information on disputes regarding the property rights of foreigners –whether they were merchants, captives, travelers, or diplomats– visiting Ottoman lands. The sources indicate that *beytülmal* (unclaimed properties) was one

of the causes of contentions regarding these foreigners. While some of these contentions were caused by the *beytülmalci*s, some others depended on the war and peace periods. Research on this material would enable us to acquire a fuller understanding of not only the operation and attitude of *beytülmal* but also the governments' reactions in cases of the properties of foreigners. Such a study would also enable us to view Ottoman law in a comparative international context (in war and peace).

Additionally, circumventing the *beytülmal* was also one of the issues of disputes between the public and private claimers. The debates on the law of inheritance, *fetva*s, and empirical sources are reflecting the weight of this subject in the *beytülmal*. Further research could illuminate the practical implications and types (such as bequests, family *vakıf*s, gifts, etc.) of the maneuvers that circumvent the share of the government, i.e., the *beytülmal*. It could also shed light on the relevant jurisprudential arguments on the lawfulness of these maneuvers and the government's policies to prevent them.

This dissertation also makes notable contributions to Ottoman financial history because *beytülmal* was a source of revenue that remained significant from the fifteenth century to the end of the empire. Thus, the distinction between *beytülmal-i hassa* and *amme* and the regulations regarding their respective conduct contributes to understanding the relations between the Ottoman financial apparatus's provincial and central branches or officials/offices. In future research, we should pursue other manifestations of this distinction in general in Ottoman financial and provincial administration.

Another implication of the current study involves the nature of *mukataa* contracts. A review of beytülmal *mukataa*s sheds light on the finer aspects of *mukataa* contracts that more typical tax collection arrangements do not reveal as vividly. A combination of different revenue sources under one contract is a case in point. The proliferation of such contracts may be mutually related to the growth of cash-based tax collection practices in the Ottoman empire. However, this connection remains to be better established and explained.

Finally, this dissertation has highlighted that the Ottomans were careful to establish an environment where private individuals could assert and defend their rights against public claims. The evidence suggests that what we can term collectivities or corporate entities, such as endowments (*vakıf*s) and funds (*sandık*s) of vocational groups, could also be parties to proceedings to reconcile property claims. Research on these cases should also enable us to elaborate on our understanding of the complex relationships revolving around "property" in the Ottoman empire. Cases related to heirless estates and unclaimed properties were widespread in the empire and involved people from all walks of life. The regulations, procedures, and due process that applied to these cases connected them as if in a network. Financial contracts (*mukataa*s) added another thread that spun this network together along with public, private, and collective claims and circulation of goods and money. All in all, *beytülmal* made Ziba bt. Abdullah's two pieces of wool abaya (*sof ferace*) a humble financial contribution to a soldier's provision while he was defending the empire. Or it made Ayşe's pied rug (*alaca kilim*) a contribution to Hatice and her daughter's allowance because Hatice's husband had gone missing (*mefkûd*).

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C.NF. Cevdet Nafia

C.AS. Cevdet Askeriye

C.ADL. Cevdet Adliye

C.BH. Cevdet Bahriye

C.SM. Cevdet Saray

C..EV. Cevdet Evkaf

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