

İLTİZAM IN THE FETVAS OF OTTOMAN ŞEYHÜLİSLAMS

**The Institute of Economics and Social Sciences
of
Bilkent University**

by

MÜŞAT URUNGU AKPINAR

**In Partial Fulfillment of the Requirements for the Degree of
MASTER OF ARTS IN HISTORY**

in

**THE DEPARTMENT OF HISTORY
BILKENT UNIVERSITY
ANKARA**

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September 2000

To my parents,
I have been trying to follow their advice on being "open-minded"

and

To my wife Rabia,
"You may have come to life as the fourth one, but you shall always be the first one in my life"

and

To Zaim Mehmed Ağa,
whose great great grandchildren cannot read his tombstone. This work is a small attempt, by one his
descendants, in not just reading his tombstone but his whole world.

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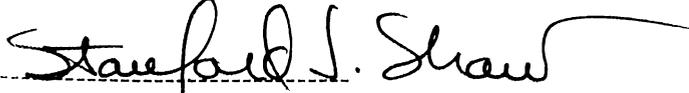
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I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in History.



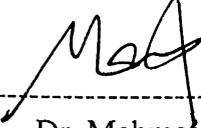
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ABSTRACT

İLTİZAM IN THE *FETVAS* OF OTTOMAN ŞEYHÜLİSLAMS

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M.A., Department of History

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İltizam, farming out revenues to individuals in exchange of an agreed sum of money for a limited period, had been one of the chief means of raising revenues for the Ottoman treasury. The decline of the *timar* system after sixteenth century rendered *iltizam* ever more important. Not only the state, but individuals entitled to the usufruct of revenues frequently farmed out revenue instead of collecting it themselves.

In this study, the manner in which *iltizam* is treated in the *fetvas* of the şeyhülislams is investigated. Most of the *fetvas* used are taken from the four most “reliable” collections, namely *Fetava-yı Ali*, *Feyziyye*, *Abdurrahim*, and *Behcetü'l- Fetava*, spanning the period 1674-1730. The *fetvas* constitute an important source in understanding the legal aspects of *iltizam*. The fact that *iltizam* begins to be included in the *fetva* collections after 1670s shows its

growing importance. In a period after the closing of “the gate of reasoning” (*İctihad Kapısı*) *fetvas* of şeyhülislams played a key role in treating a “novel” subject like *iltizam* within the classical framework of Islamic Jurisprudence. It is seen that şeyhülislam’s positions on the profit and liability of the tax-farmer differed from established practice. Şeyhülislams tried to prevent *mültezims*’ abuses while following the policy of protecting the high interests of the state. They treated the realities of their age in a practical manner without relinquishing a moral stance that accorded a fair share for everyone, and opposed injustice and wrongdoing –all in perfect harmony with the Near-Eastern idea of the “circle of justice.”

Keywords: Revenue raising and tax collection in the Ottoman Empire, *iltizam*, *mukataa*, land tax, şeyhülislam, *fetva*, *mültezim*.

ÖZET

OSMANLI ŞEYHÜLİSLAM FETVALARINDA İLTİZAM

Akpınar, Kürşad Urungu

Yüksek Lisans, Tarih Bölümü

Tez Yöneticisi: Dr. Evgenia Kermeli

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Gelir toplama işinin belli bir süre için bir kişiye belirlenmiş bir para bedeli karşılığında verilmesi demek olan iltizam, Osmanlı maliyesinin başlıca gelir toplama yöntemlerinden birisiydi. Onaltıncı yüzyıldan sonra timar sisteminin önemini yitirmesi ile *iltizam* yaygınlaştı. Devletin yanısıra timar, zeamet, hass ve vakıf gelirlerine mutasarrıf olan bireyler de gelirlerini kendileri toplamak yerine iltizama vermeyi karlı buluyorlardı.

Bu çalışmada, şeyhülislam fetvalarında iltizamın nasıl ele alındığı incelenmektedir. Kullanılan fetvaların çoğu, 1674-1730 dönemini kapsayan ve fetvahaneye en “muteber” addedilen şu dört mecmuadan alınmıştır: *Fetava-yı Ali*, *Feyziyye*, *Abdurrahim* ve *Behcetü'l- Fetava*. Fetvalar iltizamın hukuki yönlerini anlamak için önemli bir kaynaktırlar. İltizamın fetva mecmualarında 1670lerden sonra yer almaya başlamış olması, onun artan önemini gösterir. “İctihad

Kapısı”nın kapandığı bir dönemde, iltizam gibi bir “yeni” olguyu İslam Hukuku’nun klasik çerçevesine oturtmada şeyhülislam fetvaları önemli bir rol oynamıştır. Bu fetvalarda mültezimlerin yükümlülükleri ve iltizamdan edecekleri kar gibi konularda, uygulamadan farklı görüşlerin savunulduğu görülmektedir. Şeyhülislamlar fetvalarında mültezimlerin suistimallerini önlemeye çalışırken devletin ali menfaatlerini koruma amacı gütmüşlerdir. “Adalet dairesi” anlayışıyla tam bir uyum içinde olan bu yaklaşımlarıyla şeyhülislamlar, her kesime hakkını teslim eden, haksızlığa ve zulme karşı çıkan bir ahlaki tavrı elden bırakmadan yaşadıkları devrin gerçeklerini pratik bir anlayışla ele almışlardır.

Anahtar Kelimeler: Osmanlı İmparatorluğu’nda Gelir Toplama ve Vergilendirme, İltizam, Mukataa, Toprak Vergisi, Fetva, Şeyhülislam.

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forgiveness for tainting her memories of honeymoon with the anxiety and agony of the thesis. Without my parents' unceasing care and love, I would not be able to take the "road less traveled." I have always counted on their standing by me. I am also indebted to my sister Ülkü, who for the last three years had to endure the difficulties of living with me. Without her support, both financially and morally, I would long before have given up. I thank my friend Ercan Solak for permitting me to use his office facilities. I also would like to acknowledge the support of my friends Özgür Çevik and Mehmet Doğan. There are many more people that deserves acknowledgement –relatives, acquaintances, friends from different circles, but especially those from *afl89*, and *arkadaşlar*. The absence of their names explicitly listed here should not be construed that they are altogether forgotten.

TABLE OF CONTENTS

ABSTRACT.....	iii
ACKNOWLEDGEMENTS.....	vii
TABLE OF CONTENTS	ix
CHAPTER 1: INTRODUCTION	1
CHAPTER 2: <i>FETVAS</i> , <i>FETVA</i> COLLECTIONS AND <i>ŞEYHÜLİSLAMS</i>	4
2.1. The Basic Characteristics of <i>Şeyhülislam</i> Fetva.....	4
2.2. Fetva Collections	14
2.3. Four <i>Şeyhülislams</i> and Their Collections (1674-1730).....	17
2.3.1. Çatalcalı Ali Efendi (d. 1692).....	18
2.3.2. Feyzullah Efendi (d. 1703).....	21
2.3.3. Abdurrahim Efendi (d. 1716)	24
2.3.4. Yenişehirli Abdullah Efendi (d. 1743).....	26
2.3.5. Conclusions	28
CHAPTER 3: REVENUE RAISING AND TAX COLLECTION IN THE OTTOMAN EMPIRE	30
3.1. <i>İltizam</i> as a Method of Raising Revenue	30
3.2. <i>İltizam</i> in the Ottoman Financial Administration.....	33
CHAPTER 4: <i>İLTİZAM</i> AS REFLECTED IN THE <i>FETVAS</i>	37
4.1. General Discussion	37
4.2. When the Sipahi Wants to Break the Contract.....	42

4.3. When the Mültezim Wants to Break the Contract.....	47
4.4. Other Fetvas to the Benefit of Mültezim.....	50
4.5. The Death or Dismissal of One of the Parties to the İltizam.....	52
4.6. Sub-contracting İltizams	55
4.7. Revenue Raising by Imperial Treasury: Miri Hizmet/Mukataa.....	58
4.8. Partnership among Mültezims: Müştereken İltizam.....	63
CHAPTER 5: <i>İLTİZAM</i> AS A SPECIAL FORM OF <i>İCARE</i>	67
CHAPTER 6: CONCLUSION	72
SELECT BIBLIOGRAPHY	75
APPENDIX 1: STRUCTURAL ANALYSIS OF A <i>FETVA</i>	80
APPENDIX 2: FACSIMILES	81

CHAPTER 1: INTRODUCTION

Squeezed between the two main paradigms of Ottoman history, the “classical” sixteenth century and the “modernizing” nineteenth century lie a vast, uncharted territory which comprises two full centuries. The seventeenth and eighteenth centuries enter into historical narrative only when they serve as useful borderstones –either as the aftermath of the classical period or the precursor to the modernization period. While textbooks expend great effort in describing the *timar* system as the main strength of the empire, the subsequent demise of the *timars* in the age of firearms and their conversion to tax-farms, known as *iltizam* receives little attention due to its evil effect upon *reaya*. Thus, this study shall focus on the *iltizam* system as seen in the *fetvas* Ottoman *şeyhülislams*, without any claim to set the unfavorable balance of attention *iltizam* has so far received.

The choice of *fetvas* as the main source in this undertaking is not random, but deliberate. *İltizam* as a topic of question does not figure in the *fetvas* of sixteenth century *şeyhülislams* –an observation that owes more to the fact that *iltizam* had not been widespread in that era than to the disinterest of the *şeyhülislams*. The subject is properly included into *fetva* collections of *şeyhülislams* on a widescale only after 1670s. The fact that *fetvas* begin to discuss *iltizam* in the late seventeenth century and not previously is proof in itself of the

dialectical relation between society at large and jurisconsult¹. Here rises a rare opportunity to study how a “novelty” might have been incorporated into the supposedly unchanging body of Islamic law. According to İnalçık, “the *fetvas* issued by muftis on land questions should not be overlooked as a source. Many *fetvas* reflect changes that took place in the application of the laws².”

Fetvas are too often and too easily dismissed as being “theoretical” and thus “not so relevant to the reality,” perhaps more so in the Ottoman case due to the use of aliases. However, it should never be forgotten that there existed a real story behind each *fetva*, as shall be discussed in Chapter 2. Moreover, those *fetvas* on land issues are all the more important since in the early seventeenth century, even the general *kanun-names* had become nothing else but *fetva* collections³:

¹ Wael Hallaq, “From *Fatwās* to *Furū'* : Growth and Change in Islamic Substantive Law”, *Islamic Law and Society*, 1(1): 29-65, 1994.

² Halil İnalçık, “Ottoman Social and Economic History: A Review” “Ottoman Social and Economic History: A Review”, *Türkiye'nin Sosyal ve Ekonomik Tarihi (1071-1920)*, eds. Halil İnalçık and O. Okyar, 1980, 5.

³ In the early seventeenth century, a collection of *fetvas* by various şeyhülislams, known as *Zahirü'l- Kudat*, had also acquired the status of *kanunname*. Like previous general Ottoman *kanunnames* of Mehmed I and Süleyman I, there are many manuscript variants of this text, sometimes under the names of *Arazi Kanunnamesi*, *Budin Kanunnamesi*. Apparently, the work was edited by Üskübi Mehmed Efendi, who also had a *fetva* collection titled, *Fetava-yı Üskübi*. However, there are problems with this attribution since the work contains *fetvas* of Zekeriyazade Yahya Efendi (d. 1644) whose tenure as şeyhülislam began after the death of Üskübi Mehmed Efendi. A facsimile copy of *Zahirü'l- Kudat* has been published by Ahmed Akgündüz in *Osmanlı Kanunnameleri*. Compare this to the one published in *Milli Tettebular Mecmuası*, 1331 (AH), 1: 49-112; 2: 305-348. A very similar text was found by Salih Albayrak in the Istanbul Müftülük archive. (transliterated into modern Turkish as *Budin Kanunnamesi ve Osmanlı Toprak Meselesi*, Sadık Albayrak, İstanbul: Tercüman 1001 Temel Eser, 1973. I have also come across a closely related copy, placed before the *fetva* collection of Çatalcalı Ali Efendi in the following manuscript: *Fetava-yı Ali*, Nuruosmaniye Kütüphanesi, No. 2020. This *kanunname*/*fetva* collection follows up the theoretical foundation laid by Ebussuud. See Halil İnalçık, “Islamization of Ottoman Laws on Land and Land Taxation”, *Festgabe an Jozef Matuz: Osmanistik-Turkologie-Diplomatie*, eds. Christa Fragner and Klaus Schwarz, Berlin: Klaus Schwarz Verlag, 1992, 100-116. Also Colin Imber, *Ebu's-Su'ud, The Islamic Legal Tradition*, Stanford University Press, 1997.

If the Ottoman sultans ceased to publish new *kanun-names* and preferred to issue *adalet-names*, this must have been due principally to the fact that the *şaria* began to be considered as the source of legislation even in matters that hitherto had been the subject of legislative activity on the part of the political power. From the first decades of the seventeenth century on, the *kanun-name-i Osmani*, general Ottoman law, became increasingly overloaded with *fetwas*, the legal opinions of the *şeyh ül-islam*, based on religious authorities⁴.

The outline of the thesis is as follows. The nature of the topic necessitates a lengthy introduction both on *iltizam* and *fetva*. The basic characteristics of Ottoman *şeyhülislams*' *fetvas* are described in Chapter 2, which proceeds to discuss *fetva* collections. The collections used in this study and the biographies of their authors are also found in this chapter. Chapter 3 gives a brief background information on *iltizam*. The *fetvas* about *iltizam* are finally presented in Chapter 4. A similar method of revenue collection, *icare*, is investigated in Chapter 5. Finally, the question of how *iltizam* might be incorporated into the framework of Islamic jurisprudence shall be taken up in Chapter 5, with the assistance of *icare*, hiring labor, cases.

⁴ Halil İnalçık, "Suleiman the Lawgiver and Ottoman Law", *Archivum Ottomanicum*, 1: 136, 1969.

CHAPTER 2: FETVAS, FETVA COLLECTIONS AND ŞEYHÜLİSLAMS

2.1. The Basic Characteristics of Şeyhülislam Fetva

The *fetvas* of Ottoman şeyhülislams form a considerable bulk of material; the total number of *fetvas* issued by some 130 şeyhülislams may be in the range of hundreds of thousands. Like *Şeriyye Sicilleri*, the Ottoman court registers, the breadth of topics covered in the *fetvas* is limitless, making them an invaluable tool in writing Ottoman social history. Every conceivable aspect of family life, from marriage to divorce, from birth to death, has been subjected to countless *fetvas* over centuries. In summary, the importance of şeyhülislam *fetvas* as a source in Ottoman studies is beyond doubt.

Unfortunately, the *fetva* has still not received the attention it deserves in the Ottoman studies. “The Ottoman *fetva*” Uriel Heyd wrote in *Some Aspects of Ottoman Fetva*, “has not been systematically analyzed.”⁵ It must be admitted that, his judgment still holds true after more than thirty years. Thousands of manuscripts scattered all over various libraries await to be tapped by researchers. Apart from a few “lonely” attempts, there has not been a concerted effort of

⁵ Uriel Heyd, “Some Aspects of Ottoman *Fetva*”, *Bulletin of the School of Oriental & African Studies*, 32(1): 35, 1969.

publishing *fetvas*⁶. Though a glance at the *fetva* originals in *İlmiyye Salnamesi* of 1915-16 is sufficient to categorize them as an official document, the extent of a *fetva*'s authority is subject to debate. And did that authority an intrinsic property of the *fetva*? It could as well been derived from the personal qualities of the particular şeyhülislam. It is no coincidence that *fetvas* of the best known şeyhülislams are also the most widely copied ones.

What is *fetva*?

A *fetva* is basically the answer to a question of Islamic law and represents the opinion of the *mufti*, juriconsult, on the question⁷. The question and its answer are the two main parts of a *fetva*. The person who has requested a *fetva* is called *müstefti*, whose question is answered in the *fetva* that the *mufti* issues. The *mufti* expresses his opinion on the legal case, as described in the question, in the answer section.

⁶ Some noteworthy contributions include Colin Imber, *Ebu's-Su'ud, The Islamic Legal Tradition*, Stanford University Press, 1997. Ertuğrul Düzdağ, *Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, İstanbul: Enderun, 1972. Ahmet Akgündüz is preparing a critical edition of the *Fetava-yı Ebussuud Efendi*. However, there are still many methodological problems that needs to be addressed before *fetvas* may be used with confidence as a source. The status of şeyhülislam *fetva* in other departments of Ottoman bureaucracy and in the eyes of the populace is also ambiguous.

⁷ M. K. Masud, B. Messick, D. S. Powers, "Muftis, Fatwas, and Islamic Legal Interpretation", in *Islamic Legal Interpretation : Muftis and their Fatwas*, eds. M. K. Masud, B. Messick, D. S. Powers, Cambridge: Harvard University Press, 1996, 3-33. J. R. Walsh, "Fatwā", *EP*, 2:866-867, 1964. Ömer Nasuhi Bilmen, *Hukuk-ı İslamiyye ve Istilahat-ı Fikhiyye Kamusu*, 6:473-488, İstanbul, 1952.

Since “law” in Islam covers all civil or religious matters, any aspect of private and public life may be subject to a *fetva*⁸. Minute details about the religious rituals, such as prayer, fasting, ablution, or pilgrimage, may be clarified by a *fetva*. Family law issues, such as marriage, divorce, inheritance, also have a prominent place in *fetvas*. Conformity of a common habit, such as smoking, drinking coffee, playing chess, or wearing red clothes, to *şer’-i şerif* can be questioned in a *fetva*. The topics covered in *fetvas* are as rich and colorful as those found in *Şeriyeye Sicilleri*. There are two major differences between the two sources: firstly, a *fetva* deals with a hypothetical case with fictitious characters as opposed to the factuality of an *i’lam* in a *sicil*, and secondly, *fetva* lacks the executive power of a *kadı*’s judgement⁹.

The right to ask for a *fetva* was not restricted to a privileged group. Private individuals from all strata of society could -and indeed did- go to *muftis* to acquire a *fetva* related to their problems. Many incidents are recorded in the *sicils*, proving that not only Muslims but also *zimmis* sought for and obtained *fetvas* favourable to their claims.¹⁰ In some instances a *kadı*, unable to find a precedent in his legal manuals about a complex case, might apply for a *fetva*.

⁸ In the words of Schacht, “none of the modern systematic distinctions, between private and ‘public’ law, or between civil and penal law, or between substantive and adjective law, exists within the religious law of Islam; there is even no clear separation of worship, ethics, and law proper.” (J Schacht, *An Introduction to Islamic Law*, Oxford: Clarendon Press, 1964, 113.)

⁹ M. K. Masud, B. Messick, D. S. Powers, “Muftis, Fatwas, and Islamic Legal Interpretation”, 18-19. The difference between *muftis*’ opinion and *kadis*’ verdict has been thoroughly discussed in the literature of Islamic jurisprudence.

¹⁰ Ronald J. Jennings, “Zimmis (Non-Muslims) in Early 17th Century Ottoman Judicial Records”, *Journal of the Economic and Social History of the Orient*, Vol. XXVI, Part III, 1978, 261-263. Many further examples are found in the *İstanbul Ahkam Desterleri*.

With the growing importance of the şeyhülislam in the sixteenth century, even the sultans felt compelled to receive their favourable opinion through *fetvas* on state policies. Kemal Paşazade had authorized the execution of heterodox *kızılbaş* in a *fetva*¹¹. The *fetva* of Ebussuud authorising the conquest of Cyprus from Venice is perhaps the best known example of this type¹².

Issuing *fetvas* to anyone who asks for them had always been considered as a public service. The fees for *fetvas* were minimal, barely enough to cover the costs of paper and pen¹³. Besides, *fetvas* were also an important channel through which laymen were supposed to learn about religion. Many *fetvas* simply repeated what had been already established in classical works of Islamic jurisprudence as Heyd wrote: “The fatwa in Islam not only served as a means to explain and apply the law in complicated cases; it was also used simply to state it for people who were not in a position to look up a law book themselves¹⁴.” Therefore, demand for *fetvas* was always high. The Ottomans were not an exception to this general trend in Muslim countries¹⁵. It was not unusual for a

¹¹ *Fetava-yi Kemal Paşazade*, Süleymaniye Library, İzmir no. 259, folio 74a. Also *Ottoman Society and State in the Light of the Fatwas of İbn Kemal*, Ertuğrul Ökten, Unpublished MA Thesis, Bilkent University, Ankara, 1996.

¹² Colin Imber, *Ebu's-Su'ud*, 58.

¹³ In 1670s the fee for a *fetva* was eight *akça*, which was to be shared by the three personnel of the *fetva* office: *müsveddeci*, *mümeyyiz*, and *fetva emini*. (Paul Rychaut, *The Present State of the Ottoman Empire*, London, 1670, 109. Quoted in J. R. Walsh, “Fatwā”, *EI*², 2:866-867.) For the fees charged by these official at various times and for the development of *fetvahane*, see Ferhat Koca, “*Fervahâne*”, *DİA*, 1995, 12: 496-500. İsmail Hakkı Uzunçarşılı, *Osmanlı İlimiye Teşkilatı*, Ankara, 1965, 195-200.

¹⁴ Uriel Heyd, “*Ottoman Fetva*”, 54.

¹⁵ M. K. Masud, B. Messick, D. S. Powers, “*Muftis, Fatwas, and Islamic Legal Interpretation*”, 3.

Uncovering the Identity of Zeyd and Hind

The question part of the *fetva* was a heavily edited form by the clerks of the *fetva* office of the initial version posed by the *müstefti*, recipient of *fetva*. Unnecessary details were omitted, and the case was summarised in legal terms. The actual names of the persons involved in the case were deleted and hypothetical names were inserted in their place. For men, Zeyd, Amr, Beşr, and for women, Hind, Zeyneb, Aişe, were the most commonly occurring aliases in the *fetvas*. That might preempt some to the hasty conclusion that *fetvas* were nothing but “mind exercises.” One has to look a bit closely to see that veiled beneath those aliases lie real characters, justifying here a short digression.

There are many incidents recorded in *Şeriyeye Sicilleris*, court records, where people substantiated their claims through a *fetva* supporting their claims. Although it was beyond the scope of this work to conduct a thorough investigation of how *fetvas* fared in *kadı* courts by scanning the *sicils* exhaustively, preliminary research on a few sicils of Konya¹⁷, Kayseri¹⁸, and

¹⁷ *Konya Şeriyeye Sicili*, No. 21 (C.8), dated 1675-76. This coincides with the tenure of Çatalcalı Ali Efendi. In the following cases, claimants present *fetva-yı şerif* favorable to them and manage to have the *kadı* rule in their favor: 2/2, 75/1, 196/1, 262/1 (page no./document no.) In an earlier *sicil* from Konya, dated 1660, I have found more cases in which either the claimant or the defendant presented *fetvas* to the court: *Konya Şeriyeye Sicili*, No. C.2, dated 1660, 4/2, 4/3, 271/1, 284/3, 123/1 (page no./document no.)

¹⁸ *Kayseri Şeriyeye Sicili*, No. 88, dated 1678-1679. These dates also fall into the tenure of Çatalcalı Ali Efendi. In one incidence (page 16, document no. 38), several *zimmis* sued a *sipahi* who was not satisfied with the current level of taxes those *zimmis* paid and wanted more. The *zimmis* claimed that the *sipahi*'s demands were unjust and contrary to the *kanun* and sharia. They also presented a *ferman-ı şerif* and a *fetva-yı münif* as supporting evidence to the court. Finally, the *sipahi* was forbidden to take any extra tax. In this *sicil*, we come across an appointment of provincial *müfti* by the şeyhülislam. Ali Efendi, *müfti* of Aksaray, is appointed as the *müfti* of Kayseri by Şeyhülislam Çatalcalı Ali Efendi. (page 119, document no. 280 and 281)

458²². We see that about reference to *fetvas* is made in about 25 percent of the remaining cases.

How to “read” the *fetvas*

The şeyhülislam *fetvas*, like any other historical source, carry an image of the past. They represent the interpretation of the sacred law by the şeyhülislam; however, they also reflect the social, political and economic conditions of their age²³.

The peculiar construction of the şeyhülislam *fetvas* renders analysis difficult. The question was constructed with extreme care so that all possible loopholes were covered and all details making the case unique were clearly spelled out. These efforts ensured that a very brief answer such as “Olur” or “olmaz” by the şeyhülislam would be sufficient²⁴. When the şeyhülislam gave a longer reply, it was often aimed at preventing misuses or misunderstandings of his *fetva* due to the inappropriate formulation of the question. The şeyhülislams were not required to substantiate their opinions, either by referring to the established law-books, or by stating their logic. All these make the question part of the *fetva* ever more important.

²² *İstanbul Külliyyatı II, İstanbul Ahkam Defterleri, İstanbul'da Sosyal Hayat I*, edited by Ahmet Kal'a, İstanbul Araştırmaları Merkezi, İstanbul, 1997.

²³ It would be a mistake to bring together *fetvas* issued at different times and places under diverging circumstances and try to build a coherent theory. A *fetva* is always bound by the particular characteristics of its time.

²⁴ On the other hand, provincial *müftis* were required to provide supporting evidence for their opinion from the classical works of *fikh*. A *ferman* had even been promulgated to this effect. See Uriel Heyd, “Ottoman *Fetva*”, 44-45.

There are two opposite trends at work in a *fetva*. While the use of aliases instead of real names helps generalisation, the carefully constructed question prevents us from overreaching conclusions. One often has to go through very many *fetvas* to complete the picture. Deducing the basic principles behind the *fetvas* is like guessing the rules of a card-game by only looking at the played cards: it requires a lot of observation.

Another question rests on the rareness of the cases in *fetvas*; some of them describe definitely unusual events. If certain behaviour was condemned in a *fetva*, whether that behaviour was commonplace in the society or an exception is hard to conclude. Was the Ottoman society a morally corrupt one as the cases in question parts of the *fetva* depict, or a righteous one trying to eliminate all evil?

It would have been great if there existed official *defters* of the *şeyhülislam*, in which all issued *fetvas* had been registered. This would give us access to complete series, just as the *Muhimmes* enable the study of *hükm-i şerifs*, the imperial orders. Unfortunately, no such register of *fetvas* seems to have survived. The casual nature of the *fetva*-issuing must have made such registers unnecessary in the early periods. Still, several *fetva* originals have survived in scattered collections. The *İlmiyye Salnamesi*, published in 1915-16, contains facsimiles of original *fetva* documents from the earliest to the latest *Şeyhülislams*. These documents had been probably preserved in the *fetva* office of the

Şeyhülislam along with other surviving *fetva* originals. It is unfortunate indeed that this archive was burnt in a fire in 1927.²⁵

Structural Analysis of *Fetvas*

The following discussion on the structure of the *fetva* is based on documents in *İlmiyye Salnamesi*²⁶. The *fetva* originals there allows the comparison *fetvas* from the late fifteenth century to the beginning of the twentieth century. It is remarkable that the structure of the *fetvas* has remained unchanged throughout centuries.

First of all, it was customary to place a pious invocation in Arabic, the so-called *da'vet*, on top of the *fetva*. The *da'vet* in Ottoman *fetvas* was usually composed of a few rhyming lines in praise of God and expressing the mufti's request for divine guidance in his interpretation of the sacred law. A popular *da'vet* formula was that of Ebüssuud: *Allahümme ya veliyyü'l- ismetü ve't- tevfik, nes'elüke'l- hidaye ila sevae't- tarik* "O God, O fountainhead of infallibility and success, we ask Thee for guidance on the straight path." The parts of *fetva* are delineated on a *fetva* of Çatalcalı Ali Efendi in Appendix 1²⁷. The *da'vet* was usually written in a highly stylized pattern –in some early examples that pattern is strikingly similar to the sultan's *tuğra*.

²⁵ Heyd, "Some Aspects of Ottoman *Fetva*", p. 36.

²⁶ *İlmiyye Salnamesi, Meşihat-i Celile-i İslamiyye'nin Ceride-i Resmiiyesine Mülhakdır*, İstanbul: Matbaa-i Amire, 1334/1915-6.

²⁷ *İlmiyye Salnamesi*, 486.

The question text usually began with the formula, “*bu mes’ele beyanında eimme-i hanefiyeden cevab ne vechiledir ki*” (What is the reply of the great Hanafi teachers concerning this problem?) The letter *sin* of the word *mes’ele* was generally elongated to reach the left margin. The final words of the formula were packed together and were raised slightly in the left-hand side of the first line, in a manner reminiscent of the opening *nişan* formula in the *berats*, imperial diplomas. Together with the *tuğra*-like *da’vet* on top, a *fetva* must have looked not unlike the *berat* or the *ferman* to the eyes of illiterate reaya.

The opening of the question with the above formula was followed by the exposition of the case, ending in a direct question on the point at issue. Afterwards, another fixed formula followed “*beyan buyurub müsab olalar [olasız or oluna.]*” (May [this] be explained and may you find reward.)

The *mufti*’s reply began with the word *El-cevab*, whose last letter *be* usually covered the whole breadth of the text. The possibility of human error in interpreting the divine law was acknowledged with the statement *Allahu a’lem* ‘God knows best’, usually placed at the end of the *El-cevab* line. Up to this point, the *fetva* text had been prepared by a scribe and inspected by the *fetva emini* before it was brought to the *şeyhülislam*’s attention²⁸. The reply, however, was

²⁸ Heyd, “Some Aspects of Ottoman *Fetva*”, 46-49. Ferhat Koca, “*Fetvahâne*”, 496-500. İsmail Hakkı Uzunçarşılı, *Osmanlı İlmiye Teşkilatı*, 201-2.

almost always written by the mufti himself²⁹. Though Walsh has claimed in his *Encyclopedia of Islam* article on “*Fetva*” that the replies of the Şeyhülislams are “always very brief³⁰”, in quite a few occasions the şeyhülislam took the trouble of explaining his verdict. At the end, the şeyhülislam put his signature which usually conformed to the format of the *fetva* in Appendix 1: “*ketebehu Ali el-fakir, ufiye anhu*” (Ali the poor wrote this, may he (his sins) be forgiven.)

2.2. *Fetva Collections*

Although collections of *fetva* originals are immensely valuable in deducing the format of the *fetvas*, they are nonetheless far from constituting a complete series. When a researcher is searching for *fetvas* on a certain topic, he needs to accumulate as many *fetvas* as he could find, so there is no other choice but to delve into the rich *fetva* collections. Apart from *mecmuas* of *fetva* originals another, and by far the most plentiful, source for *fetvas* is *fetava* compilations. A computerized search over the catalogue of Süleymaniye Library has resulted in 1295 distinct titles containing the word *fetava*.³¹ *Fetava* collections must have been a popular genre as the high numbers of copied texts indicate. Especially, the

²⁹ Actually şeyhülislams were required to provide the answer in their own handwriting. İsmail Hakkı Uzunçarşılı, *Osmanlı İlmiye Teşkilatı*, 204. When Dürrizade Mehmed Efendi was appointed as şeyhülislam, he asked sultan Mahmud I's permission to use his seal instead of signing, saying that he was too old to sign all *fetvas*. *İlmiyye Salnamesi*, 515.

³⁰ J. R. Walsh, “Fatwā”, *EI*², 2:866.

fetvas of the distinguished şeyhülislams such as Ebussuud, Çatalcalı Ali Efendi, and Yenişehirli Abdullah Efendi had been widely read and appreciated in later times.

At this point, it is worth considering the nature of the *fetva* collections. They are not mere *fetva* anthologies where *fetvas* of many different şeyhülislams were bound together in a rather random fashion. A typical *fetva* collection came to life out of the efforts of a scribe, or *fetva emini*, either during the lifetime of the şeyhülislam or shortly after his death. For most collections, all extant manuscripts can be shown to have derived from a few authoritative copies. The contents of each collection can be considered as fixed. Surely, some manuscripts are abridged versions, some contain many errors, some are confused in order, but still, they are derived from a certain collection. There are not different sets of collections.

It is certain that a great portion of those collections had been copied from some others. Thus by comparing the manuscripts, one should be able to arrive at a limited number of “parent” editions out which all others were derived³². On the other hand, just like any manuscript copies, the reliability of these *fetva* compilations has to be established by careful comparison and and critical analysis

³¹ Other libraries with a sizable number of manuscripts are Milli Kutuphane and Konya Bolge Yazma Eserler Kutuphanesi.

³² In this work, I have not attempted to undertake the colossal task of establishing definitive texts of the *fetva* collections. Nevertheless, I compared the published text with a few manuscripts for those *fetvas* I took from *Fetava-yı Ali*. The published versions seem to be quite reliable.

of the texts. Unfortunately, the most widely cited *fetva* publication in modern Turkish, M. Ertuğrul Düzdağ's *Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, has been based on just two compilations. Though this work is highly susceptible to the pitfalls mentioned above, it has almost come to be accepted as a "primary" source on its own.

In order to save space, repeated formulas were also omitted in the *fetva* collections. The relation between a *fetva* original and its stripped-down version in a *fetva* collection reminds one the relation between a stand-alone *ferman* and the corresponding *hükm* in a *Mühimme*.³³

These remarks should make it clear that when a researcher sets out to collect all *fetvas* of a certain şeyhülislam, his work is simplified to establishing a definitive text for the collection. One may come across *fetvas* of the şeyhülislam here and there, inside the covers, or jotted down in the *derkenar*, corner, of a book, but these encounters are random³⁴.

***Fetva* Collections Studied in This Work**

Although I have gone through almost all *fetva* collections, most of the *fetvas* used in this study are taken from four great collections: *Fetava-yi Ali*, *Feyziyye*, *Abdurrahim* and *Behcetü'l-Fetava*. Among these, the earliest collection is that of

³³ Heyd, *Ottoman Documents on Palestine, 1552-1615*, Oxford, 1960.

³⁴ *Mecmua-i suver-i fetava, Eş'ar ve Fevaid* is such a book in which "lonely" *fetvas* are scattered haphazardly throughout pages that contain, among other things, herbal remedies. (Süleymaniye Library, Esad Efendi, no. 3812)

2.3. Four Şeyhülislams and Their Collections (1674-1730)

In this section, I shall briefly outline the careers of the four şeyhülislams whose *fetvas* form the backbone of this thesis³⁶. I shall also give some information on the properties of their *fetva* collections. I will then draw some conclusions from the biographies of the şeyhülislams' careers, point to the parallels, which will help us understand why their collections and not others' came to be acknowledged as the most reliable.

2.3.1. Çatalcalı Ali Efendi (d. 1692)

Çatalcalı Ali Efendi, Şeyhülislam for 13 years to Mehmed IV and author of the famous *Fetava-yı Ali Efendi*, was born in 1041/1631-32 at the town of Çatalca³⁷.

³⁶ There are four main sources for the biographies of the şeyhülislams. Şeyhi Mehmed Efendi's *Vekayii'l-Fuzala* (facsimile reprint prepared and indexed by Abdulkadir Özcan, 4 vols., İstanbul: Çağrı) follows up the great tradition of *Şakayık-ı Numaniyye* in the seventeenth and early eighteenth centuries. *Vekayii'l-Fuzala* provides very detailed information about the vitae of not only the şeyhülislams but of the lesser ranking *ulema* and even some *şeyhs* of the sufi orders as well. The appointment and dismissal dates are usually given down to the month -even including the day for important dates- which suggests that the author of *Vekayii'l-Fuzala* might have had access to official registers. The second most important source is *Devhatü'l-Meşayih* by Müstakimzade Süleyman Saadeddin Efendi (*Devhatü'l-Meşayih maa zeyl*, edited and abridged by Ahmed Rifat Efendi, facsimile reprint, İstanbul: Çağrı 1978.) which is devoted to the şeyhülislams only. Though not as detailed as the *Vekayi*, *Devhatü'l-Meşayih* nevertheless complements it by giving information otherwise not found in the former work. See Mehmet İpşirli, "Devhatü'l-Meşâyih", *DİA*, 1994, 9:229-30. The information found in Mehmed Süreyya's *Sicill-i Osmani* (4 vols., İstanbul, 1308/1889) and *İlmiyye Salnamesi* (İstanbul: Matbaa-i Amire, 1334/1915-6.) is often taken from these two, but not always, so these two works must also be consulted.

³⁷ *Vekayii'l-Fuzala*, 2: 67-69. *Devhatü'l-Meşayih maa zeyl*, 71-72. *Sicill-i Osmani*, 3: 519-20. *İlmiyye Salnamesi*, 485-6. Also see Mehmet İpşirli, "Çatalcalı Ali Efendi", *DİA*, 1993, 8: 234-5.

the properties of their *fetva* collections. I will then draw some conclusions from the biographies of the şeyhülislams' careers, point to the parallels, which will help us understand why their collections and not others' came to be acknowledged as the most reliable.

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³⁷ *Vekayii'l-Fuzala*, 2: 67-69. *Devhatü'l-Meşayih maa zeyl*, 71-72. *Sicill-i Osmani*, 3: 519-20. *İlmiyye Salnamesi*, 485-6. Also see Mehmet İpşirli, "Çatalcalı Ali Efendi", *DİA*, 1993, 8: 234-5.

³⁸ It is also interesting to note that Şeyh Mehmed Efendi's father was *kadı* Hasan. This shows the extent of the intermingling between the *sünni*, orthodox, sufism and *sünni ulema*.

³⁹ *Vekayii'l-Fuzala*, 2: 67.

Halveti order, while Çatalcalı's father, Mehmed Efendi was a Nakşi şeyh⁴⁰. No doubt, his father's sufi ways must have left a lasting influence on Çatalcalı Ali Efendi, who was noted as "*Mecmau'l-bahreyn*" –the meeting points of the two seas: *şeriat* and *tarikât*.

In 1062/1652, Ali Efendi entered the service of Minkarizade Yahya Efendi. Minkarizade became, from then onwards, the mentor of Ali. In the same year, with Minkarizade's appointment as the kadı of Egypt, Çatalcalı went to Egypt as Minkarizade's *naib*⁴¹. During his stay in Egypt, Çatalcalı performed hajj and visited the tomb of the Prophet. In Receb 1069/1659, Ali Efendi followed Minkarizade, who had been appointed as the *kadı* of Istanbul. He had by then acquired fame in the circles of ulema as "Naib Çelebi." In Ramazan 1073/1663, Ali Efendi joined the army during the Uyvar campaign as *ordu kadısı*, military judge. Next year, he served as *ordu kadısı* once again during the Crete campaign. During these two campaigns, his services were appreciated by all statesmen, especially by Köprülüzade Fazıl Ahmed Paşa. He had worked as *kadı* of Selanik until the Zilhicce of 1078/1668. Between 1671 and 1673, Çatalcalı served as the *kadıasker* of Rumeli. arrived.

When his mentor Minkarizade was relieved from the office of şeyhülislam due to illness and age, Çatalcalı Ali Efendi was appointed as şeyhülislam in

⁴⁰ Mehmet İpşirli, "Çatalcalı Ali Efendi", *DİA*, 1993, 8: 234-5.

⁴¹ For the role of *naibs* and their relations vis-à-vis *kadis* in the Ottoman judicial system, see Halil İnalçık, "Mahkama", *EI²*, Leiden: E. J. Brill, 1986, 6: 3-5.

Zilkade 15, 1084/February 21, 1674. Until his dismissal from the office in 1097/1686, he served for 13 years 2 months and 15 days, reckoning by the lunar calendar. In 1686, Ankaravi Mehmed Efendi replaced him as şeyhülislam. Çatalcalı was exiled to Bursa. He was permitted to return to İstanbul only in 1690. In 1692 he became şeyhülislam for the second time but this tenure was destined to last for slightly more than two months. On Şaban 2, 1103/April 19, 1692, he died at Edirne.

Çatalcalı's career coincided with a tumultuous period of Ottoman history. He had been şeyhülislam during the second Vienna siege of 1683 and the catastrophic years that followed. There were many who criticized him of passivity against the excesses of Mehmed IV. On the other hand, he spent many years in the courts, first as *naib*, then as *kadı*. When he replaced as şeyhülislam his aging mentor Minkarizade, he had acquired all the necessary skills for this post. His interest in sufism no doubt helped him gain popularity.

The *fetva* collection of Çatalcalı Ali Efendi is one of the largest, with over four thousand *fetvas*⁴². The presence of two manuscripts, dated 1100/1689 and 1102/1691⁴³ shows that the collection was prepared during the lifetime of Çatalcalı. In the earliest manuscripts, only the *fetvas* are found. In later times, two works had been authored that give the related quotations from the classical works

⁴² It probably carries the distinction of having the most extant manuscript copies. Süleymaniye Library alone houses more than 50.

⁴³ Süleymaniye Library, İzmir 25 and Serez 1113, respectively.

of fiqh by Ahiskali Ahmed Efendi and Gedizli Mehmed Efendi. Both these works are titled *Nukulu Fetava-yi Ali Efendi*. The most widely circulated edition of *Fetava-yi Ali Efendi* had been prepared by Salih b. Ahmed el-Kefevi, which came to be known as *Kefevi tertibi*, or *tertib-i cedit*. Kefevi simply inserted the Arabic quotations below each *fetva*, and reorganized the material. *Fetava-yi Ali Efendi* has been one of the most acclaimed and widely copied collections. It was published more than 10 times in the nineteenth century, in the years 1245, 1258, 1266, 1272, 1278, 1283, 1286, 1289, 1311, 1322, and 1324-5.

2.3.2. Feyzullah Efendi (d. 1703)

Feyzullah Efendi was born in Erzurum in 1048/1639⁴⁴. His father, Seyyid Mehmed Efendi, had been the *müfti* of Erzurum. The eponym of his father, *seyyid*, signified that he was a descendant of the prophet. The family also counted Şems-i Tebrizi among its ancestors. Feyzullah Efendi received his first education in the family, while he also attended the lectures of Vani Mehmed Efendi in Erzurum. When Vani Mehmed Efendi became the *hoca*, mentor, of sultan Mehmed IV in 1662, he called up Feyzullah Efendi to Istanbul, took him under his protection, and then married to his daughter.

⁴⁴ *Vekayii'l-Fuzala*, 2: 247-49. *Devhatü'l-Meşayih maa zeyl*, 74-76. *Sicill-i Osmani*, 4: 33-34. *İlmiyye Salnamesi*, 491-3. Also see Mehmet Serhan Tayşi, "Feyzullah Efendi, Seyyid" and the bibliography there (*DİA*, 1995, 12:527-28.) A Ph.D. thesis has been prepared on Feyzullah Efendi: S. F. Messervey, *Feyzullah Efendi: An Ottoman Şeyhülislam*, Unpublished Ph.D. thesis, Princeton University, 1966.

Although the şeyhülislam of the time, Minkarizade Yahya Efendi had wanted him to be appointed as *müderriş*, Feyzullah Efendi's father-in-law intervened and arranged a pilgrimage trip for his son-in-law in 1078/1667-8. This suggests a rivalry between the şeyhülislam and Vani Mehmed Efendi for the influence over bright Feyzullah under their control.

In 1669, at the suggestion of his father-in-law, Feyzullah's Efendi was appointed as the *hoca* to Şehzade Mustafa. The young sehzade was deeply influenced by his *hoca*, he held Feyzullah Efendi in so high esteem that when he became sultan, he would immediately call Feyzullah Efendi. That was to prove a turning point for his fortunes. From then onwards, Feyzullah Efendi would climb the ranks of *ulema* fast –after a few successive promotions through various medreses as *müderriş* for five years, he was elevated to the rank of the kadi of Istanbul in 1675. In 1678, he started teaching Şehzade Ahmed (future sultan Ahmed III). In 1685 he was appointed as the kazasker of Rumeli. Next year he became the *nakibü'l-eşraf*.

Feyzullah Efendi was appointed as şeyhülislam shortly after the dethronement of Mehmed IV by the new sultan, Suleiman II, in Rebiulahir 11, 1099/February 14, 1688. Nevertheless, Feyzullah Efendi's first tenure as şeyhülislam ended after only 17 days in a military rebellion. After his dismissal, he was exiled to his hometown Erzurum. He would live there for 7 years.

Feyzullah Efendi's former pupil was enthroned as sultan Mustafa II on February 6 1695. The sultan immediately called upon Feyzullah Efendi from Erzurum and appointed him as şeyhülislam. He held great influence over the sultan and used his authority exercised his power in ways never seen before from a şeyhülislam. For 8 years 2 months and 3 days, until the end of Mustafa II's reign, Feyzullah Efendi had intervened in the government affairs. He made appointments to the high ulema offices only from his close family circle and his retinue. He managed to get his son Fethullah Efendi declared as "heir to şeyhülislam." These policies had hitherto been unknown, so they created huge discontent.

Feyzullah Efendi's whimsical interference in government affairs had created a huge discontent. This was coupled with the poor economical situation. On top of everything the sultan's long stays in Edirne caused rumors among people that the capital of the empire was going to be moved to Edirne from Istanbul. The situation exploded to a full scale rebellion in 1703, known in the Ottoman tradition as "*Edirne Vakası*." The rebellious janissaries gathered in Istanbul and decided to ask from the sultan, dismissal of Feyzullah Efendi and his sons from office. When Feyzullah Efendi learned about this, he secretly arranged for the arrest and exile of the rebels. This only served to flare the rebellion. Feyzullah Efendi and his sons were finally captured by the rebels. After being tortured for three days, Feyzullah Efendi was beheaded. As if this gruesome death had not enough, his dead body was subjected to various disgraces, to be thrown

away to the river Tunca finally.

Feyzullah Efendi's *fetva* collection is the briefest of these four collections. It has been published twice in the 19th century, the first one, being a standalone publication, in 1266, and the second one in the *derkenar*, margins, of *Fetava-yi Ali*, in 1324-25.

2.3.3. Abdurrahim Efendi (d. 1716)

Menteşizade Abdurrahim Bursevi Efendi was born in Bursa as the son of Kurt Mehmed Efendi, chief scribe at the Bursa court⁴⁵. After his primary education in Bursa, Abdurrahim Efendi came to Istanbul. Like Çatalcalı, Abdurrahim Efendi entered the retinue of Minkarizade Yahya Efendi. He worked as *müderriş* in several medreses for a while, then switched career track to become *kadı*. He was first appointed as *kadı* to Yenişehir, then in 1693/1105 to Edirne. After a while, he was dismissed from office and stayed as *ma'zul*, dismissed, for ten years. He became favorable only after the enthronement of sultan Mustafa II. After brief tenures as *kadı* at Üsküdar and Egypt, he was appointed as *kadı* of Istanbul in 1705. He became the *kadıasker* of Anadolu in 1708. He was appointed as the *kadıasker* of Rumeli three times, in 1711, 1713, and 1715. On June 26, 1715, he

⁴⁵ *Vekayii'l-Fuzala*, 2: 196-97. *Devhatü'l-Meşayih maa zeyl*, 84-85. *Sicill-i Osmani*, 3: 331. *İlmiyye Salnamesi*, 504-5.

was elevated to the office of şeyhülislam. While on this post, he died on December 4, 1716.

Even though Abdurrahim Efendi served as şeyhülislam for a mere 17 months, his *fetva* collection is a monumental work that includes more than 11 thousand *fetvas*. It has been published in 1243 in two volumes. With many well-thought subsections, the topical organization of *Fetava-yı Abdurrahim* is meticulous –its contents pages include more than 950 entries of chapters (*Kitab*), sections (*Bab*), subsections (*Fasl*), and even smaller groupings of variant themes (*Nev-i Aher*.) Some topics that are not admitted into the other collections under consideration are treated in *Fetava-yı Abdurrahim*. For example, the discussion on *raks* and *sema*, trans-like dances of the sufis, which had formed a controversial part of the sixteenth century collections, appears in only the *Abdurrahim* collection. The *fetvas* of Abdurrahim Efendi are also not so strict in anonymizing all aspects of the cases they discuss, thus instead of “*so-and-so akça*,” we sometimes encounter actual monetary value of the transactions such as “30 thousand *guruş*⁴⁶,” “4 thousand *akça*⁴⁷,” or “210 thousand *akça*⁴⁸.”

⁴⁶ *Abdurrahim*, I, 55. [31] The number in square brackets denote the *fetva* number in Appendix 2.

⁴⁷ *Abdurrahim*, I, 55. [27]

⁴⁸ *Abdurrahim*, I, 55. [28]

2.3.4. Yenişehirli Abdullah Efendi (d. 1743)

Abdullah Efendi, the famous şeyhülislam of the *Lale Devri*, the Tulip Period, was born in Yenişehir of Morea⁴⁹. According to Altunsu, he was descended from Şeyhülislam Çatalcalı Ali Efendi⁵⁰. After receiving primary education in Yenisehir, he came to Istanbul and completed his studies here. After successfully passing the *ruus* exam, he worked as *müderriis* at various institutions, including *Süleymaniye Darü'l- Hadis Medresesi*. He then chose to become a kadi, serving at Aleppo in 1704, and in Bursa in 1711. His extensive knowledge in *fikh*, Islamic jurisprudence, brought him to the *fetvahane*, the *fetva* office, as the *fetva emini*. He served as military judge (*ordu kadısı*) during the Morea campaign in 1715. Afterwards, he was elevated to the office of the *kadıasker* of Anadolu. A short while after getting dismissed from this office, he was appointed as the *kadıasker* of Rumeli.

Abdullah Efendi had, in the meantime, earned Damad İbrahim Paşa's favor. With the paşa's help and recommendation, Sultan Ahmed III bestowed the white robe (*hil'at-i beyza*) of şeyhülislam on Abdullah Efendi in 1130/1718. His tenure would last 12 years four months and 23 days (by lunar reckoning). He played a central role on the cultural advances of the period. Abdullah Efendi managed to stay on good terms with both the sultan and the grand vizier.

⁴⁹ *Devhatü'l-Meşayih maa zeyl*, 86-87. *Sicill-i Osmani*, 3:377. *İlmiyye Salnamesi*, 507-9. 1988. Mehmet İpşirli, "Abdullah Efendi, Yenişehirli", *DİA*, 1: 100-101.

⁵⁰ Altunsu, *Osmanlı Şeyhüliislamları*, 117.

However, towards the end of Ahmed III's reign, he became critical of İbrahim Paşa; he even expressed his strong opinions to the sultan. During the *Patrona Halil* rebellion, Abdullah Efendi turned against the grand vizier. When Abdullah Efendi found out that the rebels had demanded his surrender along with other officials from the sultan, he became very afraid. In the *divan* meeting about the rebellion, he showed great weakness by yielding to the rebels' requests. He even declared that he supported dethroning Ahmed III. For this unloyalty and reprehensible behaviour, Ahmed III immediately dismissed the şeyhülislam on September 30, 1730. He was sent to exile at Bozcaada. He died in 1743.

Although the *fetvas* of Abdullah Efendi had been brought together in a collection during his lifetime⁵¹, a later edition, named *Behcetü'l-Fetava* had become the definitive and most widely circulated version. *Behcetü'l-Fetava* was prepared by Mehmed Fikhi El-Ayni, who had also served under Abdullah Efendi as *fetva emini*. The organization of material in *Behce* closely parallels those of the classical *fikh* books, with a minor but significant deviation: rather than starting out with *taharet*, ritual cleanliness, a few *fetvas* about basic tenets of faith are placed at the beginning.

The *fetva* texts are followed by *delils*, supporting arguments from the classical sources, in Arabic. The existence of several manuscripts in the Suleymaniye Library, which were copied in 1733-1743, suggest that *Behcetü'l-Fetava* took its

⁵¹ Ahmet Özel, "Behcetü'l-Fetâvâ", *DİA*, 1992, 5: 346.

final form while Abdullah Efendi was still alive. *Behce* had been one of the most popular *fetva* collections, thus there are many extant manuscripts copies⁵². It was also published twice in the 19th century in Istanbul, in 1266, and in 1289. Abdullah Efendi had been a central figure of the Tulip Period. He is famous for his *fetva* permitting the foundation first printing press in the Ottoman Empire⁵³.

2.3.5. Conclusions

Comparing the biographies of the four şeyhülislams above, we see many parallels. They were all born in important provincial centers and raised in scholarly circles. Their fathers had been learned men to some degree –Çatalcalı's father was a sufi *şeyh*, Feyzullah Efendi's was a *müfti*, and Abdurrahim Efendi's was a court *scribe*. At an early stage in their career, all of them came to Istanbul and associated themselves with a powerful figure in the *ulema* circles. The patronage system (*mülazemet*) was the key to their rise.

The most significant aspect of the careers of these şeyhülislams is that they had already been well versed in the practicalities of their age when they were appointed as şeyhülislam. These were no theoreticians who spent all their life dealing with hypothetical cases. Every one of the four şeyhülislams above had

⁵² Manuscripts found at the Süleymaniye Library include Fatih, no. 2276 and Halet Efendi, no. 165.

⁵³ *Behcetü'l-Fetava*, İstanbul, 1266, 552.

had a long experience in the courts as *naib* or *kadı*. All of them had also served as *kadiasker*. In summary, they had acquired all the necessary skills to issue competent *fetvas* as *şeyhülislam*.

CHAPTER 3: REVENUE RAISING AND TAX COLLECTION IN THE OTTOMAN EMPIRE

3.1. İltizam as a Method of Raising Revenue

It may be argued that the most important function of the Ottoman Empire, like any other state of its time, had been the collection of revenues and their subsequent distribution in the form of expenditures. The empire claimed various taxes and dues from its subjects, extracted customs duties from foreign merchants, required tribute payments from suzerain states, profited from various state monopolies and enterprises –in sum, it accumulated revenues of all sorts. Collecting revenues in the medieval and pre-modern times had never been easy, if not it was a very costly affair. Necessary though in order to retain power. To remain powerful required endless military spending. Military strength necessitated the keep of a large standing army, the assignment of land revenues as military fiefs, the building of costly warships and its equipment, and the ensurance of food and supplies for the troops. In addition, upholding the image of an empire meant showing off strength in monumental building projects: payments for upto twenty thousand workers and material costs. Running an empire *was* expensive.

Out of this description emerges a picture of the Ottoman state: a

clearinghouse where as soon as money comes in by way of revenues, it has to go out to meet expense. In 1528 the central treasury recorded revenues of 277 million *akça*, while total revenues reached 537 million *akça* (including *evkaf* and *emlak* revenues⁵⁴.) Nearly one and a half century later, in 1660, central treasury commanded revenues of 600 million *akça*, while the total number climbed to 2,400 million *akça*⁵⁵. After the sixteenth century, the expenditures sky-rocketed due to the need to increase the number of *kapikulu* troops, while revenues stagnated, or even dropped in real terms due to the decreasing value of silver and gold⁵⁶. This made the task of finding resources to match the ever-rising expenditures a colossal task.

Ideally, revenues would be assessed and collected by the salaried personnel of the empire, and then spent by the central treasury⁵⁷. Every step would be carefully monitored to prevent abuses and losses. But insurmountable technical limitations of the pre-modern times rendered such an idealization impossible. Dearth of coinage, difficulties and dangers in transporting species over long distances, primitive state of communications all necessitated a much decentralized system in which revenues and expenditures were closely linked at

⁵⁴ Halil İnalçık, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700", *Archivum Ottomanicum*, 1980, 6: 312.

⁵⁵ For a more detailed discussion of the revenues and expenditures of the Ottoman Empire see, Halil İnalçık, *An Economic and Social History of Ottoman Empire, Volume 1: 1300-1600*, (eds.) H. İnalçık and D. Quataert, Cambridge: Cambridge University Press, 1996, 77-102.

⁵⁶ Halil İnalçık, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700", *Archivum Ottomanicum*, 1980, 6: 312.

⁵⁷ Linda Darling, *Revenue-Raising and Legitimacy, Tax Collection and Finance Administration in the Ottoman Empire, 1550-1660*, Leiden: E. J. Brill, 1996, 119-121.

local level. The classical Ottoman land regime addressed all these issues in a simple, if not primitive, way. A great portion of land revenues was directly allocated to the provincial fief-holder, who also undertook the task of collecting these revenues.

At this stage, *iltizam* enters the picture as a method of raising revenues through tax-farming. In contrast with the *timar* system, revenues collected through *iltizam* enters the coffers of the state as cash money, which could be more efficiently spent. *İltizam*, as a fiscal practice of the Ottoman Treasury, denoted a tax-farm of state revenues, in which the tax-farmer, *mültezim*, took over the rights to collect a certain revenue, in exchange of which he promised to make cash payments to the treasury according to a schedule.⁵⁸ In theoretical terms, *iltizam* was a contract between the two parties -in this case, between the treasury and the *mültezim*- about the sale of the usufruct (*tasarruf*) of a certain revenue⁵⁹. From the point of view of the treasury, the revenue was secured by its transfer to a *mültezim*. For the *mültezim*, *iltizam* was an opportunity to make

⁵⁸ For general discussion on *iltizam* system and definitions, see Halil İnalcık, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700", *Archivum Ottomanicum*, 6: 283-337, 1980. Also Linda Darling, *Revenue-Raising and Legitimacy, Tax Collection and Finance Administration in the Ottoman Empire, 1550-1660*, Leiden: E. J. Brill, 1996.

⁵⁹ In Islamic law, the contract of sale (*bey'*) occupies a central place; the intricate details of sale have been meticulously laid down. Thus, all other contracts could be worked out by analogy with sale contracts. Here, the subject of an *iltizam* agreement is not the sale of the absolute property (*rakabe*) since *iltizam* only entitles the *mültezim* to the revenues for a limited period of time. See Schacht, *An Introduction to Islamic Law*, 151-157. An interesting point is that in the *sicils*, many contracts about transfer of revenue collection rights were called as *bey'*. For example, a document in the *sicil* of Malatya (*Malatya Şerhiyye Sicili*, dated 1714-1720, p. 113, document no. 203) is about the transfer of revenue collection rights to Karaköçekler village in Malatya for the years 1127-1133/1714-1720. The agreement is concluded on 57 and two-thirds *guruş*. The contract is called as *icare* and *bey'* at the same time. This is reminiscent of *tapu* transfers being called as *bey'* in the *sicils*.

profit using the capital as down payment. The act of farming out as *iltizam* was called *iltizama vermek*, or *iltizamlarla vermek*.

3.2. *İltizam* in the Ottoman Financial Administration

Together with *emanet*, *iltizam* had been the primary methods of revenue collection in the Ottoman Empire⁶⁰. The two systems were frequently compared and contrasted. The Ottoman chronicles and modern researchers agree on the observation that the *emanet* method had been more widely applied before the seventeenth century and had been better than the *iltizam* method, since the *emanet* method was less prone to abuse⁶¹. Both systems relieved the government from setting up bureaucratic mechanisms just for the collection of taxes and dues.

However there were important differences between the two methods. In the *emanet* system, the *emins*, trustees, undertook the collection of revenues. The *emins* were salaried personnel, they carried out their task under no obligation to meet certain levels. In Islamic law, *emin* could not be held liable for the losses that concurred without his intention. The most important qualities sought in *emins* were trustworthiness and fairness, which were associated with religiosity. For

⁶⁰ Halil İnalcık, *A Social and Economic History of Ottoman Empire*, 1:64-66.

⁶¹ One reason was that *emanets* were given out mainly in locations (cities, for example) where Ottoman officials could more directly supervise the *emins*. Contrary to the common perception, Ottoman treasury closely monitored the activities of *mültezims* through *nazırs*, overseers.

that reason, many times, *emins* were appointed from among *ulema*. For jobs that required high competence, palace officials of *kul* origin might be sent. It appears that after a point towards the end of the 16th century, it became much harder to collect revenues through *emins*. Being salaried officials, they did not have sufficient incentive to ward off usurers.

The *EI*² article on “mültezim” distinguishes between *iltizam* and *mukataa*, the former term being mostly used for revenues from the *havass-i humayun*, the Imperial Domains, while the latter referred to other types of revenues.⁶² But it was possible for a *mukataa* to be farmed out as *iltizam*. *Mukataa* simply represented a state enterprise or revenue source, named and isolated from other ventures under a unique heading⁶³.

According to the *EI*² article, the origins of *iltizam* system lied in the revenue collection from the Imperial Domains. Instead of being trusted to *emins*, revenue collection from the Imperial Domains were “leased yearly to officers who had distinguished themselves in war.”⁶⁴

Any agricultural, commercial or industrial undertaking could be subject to a *mukataa*. Mints, mines, customs dues, tolls were typical sources of revenue that

⁶² Fatma Muge Göçek, “mültezim”, *EI*², 550.

⁶³ Ahmet Tabakoğlu, *Gerileme Dönemine Girerken Osmanlı Maliyesi*, İstanbul: Dergah, 1985, 120.

⁶⁴ Fatma Muge Göçek, “mültezim”, 550.

might be identified as a *mukataa*.⁶⁵ There were also examples of *mukataas* whose revenues were reserved for *vakfs*, trusts in perpetuity⁶⁶. In some cases, the revenues of *resm-i ağnam*, sheep tax, of a certain province could be lumped together under a *mukataa*. In fact, the term *mukataa* could be used for any revenue whose value was expressed in a lump-sum. Thus, it was not surprising to see *sipahis* enjoying some revenues that were called as *mukataa*⁶⁷.

An Ottoman budget for the lunar year 1108 (1706-7) showed that most *mukataa* revenues were controlled under the *Başmuhasebe Kalemi*, the office of chief accountant.⁶⁸ The total value of the *mukataas* under this office reached nearly 200 million *akças*.

In order to increase government control and reduce *mültezims*' chances of becoming powerful, strict time limits had been placed on the duration of *iltizams*. However, with the treasury increasingly in dire need of money, especially in wartime, tax-farmers were able to dictate their own terms and receive longer tenures. After 1695, land revenues began to be farmed out for life terms –a

⁶⁵ Halil İncalcık, *A Social and Economic History*, 1: 55-64.

⁶⁶ Ahmet Tabakoğlu, *Osmanlı Maliyesi*, 120, footnote 2. Accordingly, the *mukataa* of Yeniil and its environs had been allocated to the *vakf* of Uskudar Valide Sultan mosque.

⁶⁷ For example in the *fetva* in *Behce*, 36. and also *Fetava-yı Ataullah*, Süleymaniye Library, Esad Efendi, no. 1095, folio 12b.

⁶⁸ Ahmet Tabakoğlu, *Osmanlı Maliyesi*, 169. For the organization of the Ottoman financial administration, the *Bab-i Defteri*, see p. 40-113 of this work.

practice known as *malikane*⁶⁹. The *malikane* system made its tenants virtual owners of the land under their control⁷⁰.

⁶⁹ Mehmet Genç, "Osmanlı Maliyesinde Malikane Sistemi", *Türk İktisat Tarihi Semineri*, Ankara: Hacettepe Üniversitesi Yayınları, 1973, 231-291. Halil İnalçık, "Military and Fiscal Transformation, 6: 329-30.

⁷⁰ *Malikane* system is not found in any *fetva* collection upto *Neticetü'l-Fetava*. In *Netice*, there are some *malikane* cases.

The *fetvas* mostly do not give details about the revenue type, probably because the type of the revenue would not change the şeyhülislam's opinion. In any case, a significant portion of revenues from a military fief must have been tithes, *öşr*. As the representative of the fief holder, *mültezim* was entitled to all kinds of other revenues: various *resms*, dues and fines. In one *fetva*, one such revenue is explicitly mentioned as *resm-i kovan*⁷⁴. When *hass* lands reserved for high officials –viziers or *valis*– are the subjects of an *iltizam*, they are usually farmed out by their men: *kethuda*, *subaşı*, or *zabit*. In many cases, *mültezims* were also empowered to issue *tapus*, certificate of usufruct of land, to the *reaya*, and collect *tapu* dues⁷⁵. These *mültezims*, for all practical purposes, replaced the original holder of the usufruct during the contract.

We also come across cases in which the revenue to be farmed out belongs to a *vakf*. These *vakf* revenues may again be villages, that is, revenue from arable land, but in many other cases they are termed as *vakf mukataa*⁷⁶. In one specific example, the revenue of a *vakf tuzla*, saltworks, is farmed out as *iltizam*⁷⁷.

Finally, there are *iltizams* farmed out by the imperial treasury. In many cases, the revenue in question is a *miri mukataa*, the term *miri* corresponding

⁷⁴ *Abdurrahim*, I, 56. [29] See chapter 4.

⁷⁵ *Fetava-yı Camiu'l- İcareteyn*, edited by Mehmed Arif Efendi, İstanbul, 1252, 47-56.

⁷⁶ An example of *vakf mukataa* being farmed out as *iltizam* is found in a *temessük* dated 1130/1718 in *Malatya Şeriyeye Sicili* (from the period 1127-1133/1714-1720.) There, various revenues (*ihtisab*, *bac*, *kassabhane*, *boyahane*, *tamga*, and *kapan*) of the city of Malatya had been assigned as *mukataa* to the İsmail Ağa *vakf* in Üsküdar. In this *temessük*, the *kaimmakam*, overseer, of the *vakf*, Hasan, states that he farmed out the aforementioned *mukataa* to El-Hac Mustafa Ağa.

⁷⁷ *Behce*, 193. [45]

In most *iltizam* cases found in the *fetva* collections, the revenue source is from *timar*, *zeamet*, *vakf*, or *hass*. State revenues farmed as *iltizam* by the imperial treasury are also seen in *fetvas*, but never because of a problem between the treasury and the *mültezim*. This point is quite significant, as it seems as if the rules of the public *iltizams* were beyond the reach of the şeyhülislams. However we should not forget the fact that collections are *selections* from the *fetvas* of a şeyhülislam that were deemed useful as reference. Even if şeyhülislams did indeed issue their opinions about *iltizams* farmed by the Imperial Treasury, the editor of the collection might well have exercised his discretion in not admitting those *fetvas*. Thus the fact remains that no such cases are found in the collections.

A great portion of *fetvas* is concerned with revenues of military fiefs, *timar*, *zeamet*, or *hass* lands. The revenues were referred to by the blanket term *mahsul* (or sometimes *mahsul-i şer'i*, lawful revenues,) which also meant produce⁷². The revenue collected by the *mültezim* is called *makbuz*, receipt or collection⁷³.

The *fetvas* mostly do not give details about the revenue type, probably because the type of the revenue would not change the şeyhülislam's opinion. In any case, a significant portion of revenues from a military fief must have been

⁷² In a sense, produce embodied the *revenue* of the *reaya* from farming. Thus it could be said that the taxes *reaya* paid out of their *mahsul* became *mültezim's mahsul*.

⁷³ The act of collecting is then called as *kabz etmek*.

tithes, *öşr*. As the representative of the fief holder, *mültezim* was entitled to all kinds of other revenues: various *resms*, dues and fines. In one *fetva*, one such revenue is explicitly mentioned as *resm-i kovan*⁷⁴. When *hass* lands reserved for high officials –viziers or *valis*– are the subjects of an *iltizam*, they are usually farmed out by their men: *kethuda*, *subaşı*, or *zabit*. In many cases, *mültezims* were also empowered to issue *tapus*, certificate of usufruct of land, to the *reaya*, and collect *tapu* dues⁷⁵. These *mültezims*, for all practical purposes, replaced the original holder of the usufruct during the contract.

We also come across cases in which the revenue to be farmed out belongs to a *vakf*. These *vakf* revenues may again be villages, that is, revenue from arable land, but in many other cases they are termed as *vakf mukataa*⁷⁶. In one specific example, the revenue of a *vakf tuzla*, saltworks, is farmed out as *iltizam*⁷⁷.

Finally, there are *iltizams* farmed out by the imperial treasury. In many cases, the revenue in question is a *miri mukataa*, the term *miri* corresponding closely to the modern term “public”. There is another category of public *iltizams*, called as *miri hidmet*. These were revenues that involved collecting certain taxes

⁷⁴ *Abdurrahim*, I, 56. [29] See chapter 4.

⁷⁵ *Fetava-yı Camiu'l- İcareteyn*, edited by Mehmed Arif Efendi, İstanbul, 1252, 47-56.

⁷⁶ An example of *vakf mukataa* being farmed out as *iltizam* is found in a *temessük* dated 1130/1718 in *Malatya Şeriyeye Sicili* (from the period 1127-1133/1714-1720.) There, various revenues (*ihtisab*, *bac*, *kassabhane*, *boyahane*, *tamga*, and *kapan*) of the city of Malatya had been assigned as *mukataa* to the İsmail Ağa *vakf* in Üsküdar. In this *temessük*, the *kaimmakam*, overseer, of the *vakf*, Hasan, states that he farmed out the aforementioned *mukataa* to El-Hac Mustafa Ağa.

⁷⁷ *Behce*, 193. [45]

and dues, such as *avariz-divaniyye* or *cizye*, poll-tax levied on non-Muslim subjects. Most public *iltizam* cases found in the *fetvas* are because of problems arising between the original *mültezim* and sub-contracting *mültezims*.

We generally do not have information on the whereabouts of the incidents described in the *fetvas*. Nevertheless, when the case shows particular characteristics of a certain region, such as the *malikane-divani* system of the *Rum* province (Amasya and Tokat region,) that is explicitly mentioned in the *fetva*. It can be conjectured that *iltizam* cases described in these *fetvas* took place in the core lands of the empire where *timar* system had prevailed. Things were quite different in Egypt, where *iltizam* had been practiced on a wide scale since sixteenth century⁷⁸.

If a revenue collection was to be delegated to a private individual, there were also other ways than *iltizam*. In some cases, revenue collection was delegated to a *vekil*, representative. In these cases, it is not clear whether *vekils* carried out revenue collection without pay, so what *fetvas* refer to as *vekils* may also have been *emins* in reality. Another possibility was to hire someone in a *icare* contract⁷⁹. As will be seen, *icare* type contracts will play an important role in the theoretical understanding of *iltizam*.

⁷⁸ Shaw, Stanford J. 1962. *The financial and Administrative organization and development of Ottoman Egypt 1517-1798*, Princeton: Princeton University Press. There is one *fetva* in the *Netice* collection (*Netice*, 160) that discusses the Egyptian *iltizam*, which is referred to as *hilvan*.

⁷⁹ Revenue farming by *icare* is discussed in some detail in Chapter 5 below.

We will now proceed into discussing different categories of problems which called upon the şeyhülislam's attention. Sections 4.2 and 4.3 present cases in which *sipahi* and *mültezim*, respectively, would like to annul the agreement. *Fetvas* that support *mültezims'* positions are presented in Section 4.4. Death or dismissal of one of the parties is treated in the next section. Section 4.5 is about subcontracting *iltizams*. Revenue-raising by the imperial treasury is treated in Section 4.7. Finally, partnership among *mültezim* is taken up in Section 4.7.

4.2. When the Sipahi Wants to Break the Contract

The *sipahi* has the right to cancel the *iltizam* contract before the *mültezim* begins collecting the taxes. The *mültezim* then, cannot interfere in the collection of the taxes, as illustrated in the following *fetva* by Çatalcalı Ali Efendi:

Question: After Zeyd has given his *timar* village for so-and-so *akça* to Amr as *iltizam*, may Zeyd, refusing to be content with *iltizam* (*iltizama razı olmamağla*) before Amr could assume control of the *timar*, undertake the collection of taxes himself and not allow Amr to collect?

Answer: He may do so.⁸⁰

An exactly identical *fetva* is found in the *Fetava-yi Feyziyye*.⁸¹ In these cases, no mention is made of any prompt payment by the *mültezim*, probably because no prompt payment had been made by the *mültezim*. The answer would not have been different if the *mültezim* had paid all or part of the *bedel-i iltizam* and then the *sipahi* decides to break the contract. As the following *fetva* of Feyzullah Efendi states, the *sipahi* is empowered to dissolve the *iltizam*. He only needs to return the *bedel* to the *mültezim*. This time, the subject of *iltizam* is revenues from a *hass* village:

⁸⁰ *Ali*, I, 165. [1] The number in square brackets denote the *fetva* number in Appendix 2.

⁸¹ *Feyziyye*, I, 256. [15]

Question: If Amr, the legal guardian of minor Zeyd, farms out the *hass* village of Zeyd to Bekr as *iltizam* for so-and-so akças and receives the aforementioned amount as prompt payment from Bekr, may Amr assume control of the *hass* himself by withdrawing from the *iltizam* (*iltizamdan rücu idüb*), returning the money to Bekr, and preventing Bekr's interference with the *hass*, before Bekr could take control?

Answer: He may do so.⁸²

In another *fetva* of Feyzullah Efendi, the revenue in question is not a *timar* or *zeamet*, but a *vakf* village. The *iltizam* agreement is concluded between the *mültezim* and the *mutevelli* of the *vakf*. Before the *mültezim* has begun the collection process, the *mutevelli* may decide to dissolve the *iltizam* and undertake the collection of taxes himself.⁸³

The *sipahi* has the right to dissolve the *iltizam* agreement even if the *mültezim* has completed the collection of revenues. In that case, he may refuse to take the *bedel-i iltizam* -or he may return the money to the *mültezim* if he has already received it- and take the collected revenue from the *mültezim*'s hands. The *bedel-i iltizam* is usually stated in terms of *akça*, while revenues are usually collected in kind. This shows us one possible scenario for the reversal of *sipahi*'s mind: a rise in the grain prices may have made the *öşr* collection, which would be

⁸² *Feyziyye*, I, 262-3. [12]

⁸³ *Feyziyye*, I, 258-9. [13]

in kind, more valuable than it had been at the time of the *iltizam* agreement. Conversely, a reduction in the value or silver content of *akça* may have rendered the *iltizam* agreement unprofitable to the *sipahi*. In a *fetva* of Abdurrahim Efendi, a *zaim* changes his mind after the *mültezim* has collected the *a'şar*:

Question: Amr, who had taken the *zeamet* villages of Zeyd as *iltizam* for so-and-so *akças*, has undertaken the revenue collection of those villages. He has received so-and-so amount of grains as the *a'şar-i şer'iyye*. At the moment, may Zeyd take the collected *a'şar-i şer'iyye* and refuse the *bedel-i iltizam*?

Answer: He may do so.⁸⁴

Many *iltizam* agreements were concluded on a certain fixed sum, called *bedel-i iltizam*. The *mültezim* promised to pay the *bedel-i iltizam* to the *sipahi*. This way *sipahi* guaranteed his income while sacrificing the opportunity to earn more. It was *mültezim*'s hope that *iltizam* revenues would turn out to be higher than the *bedel-i iltizam* he had agreed to pay. The surplus revenue was called *ziyade*, which thus represented the profit *mültezim* stood to make from the *iltizam*. Thus many *iltizam* agreements specified that "the surplus above the *bedel-i iltizam* was going to be *mültezim*'s" expressed in the *fetvas* by the following formula: "*bedel-i iltizamdán ziyadesi mültezimin olmağla.*" When that surplus was realized, it was hard for the *sipahi* to resist the temptation of trying to get it

⁸⁴ Abdurrahim, I, 56-7. [36]

as well. This forced *sipahi* to seek a *fetva* favorable to his case, as in the following example:

Question: When Zeyd had given the *timar* of a minor, of whom he is the legal guardian, as *iltizam* for so-and-so akça to Amr, he had agreed that the surplus revenue beyond the *bedel-i iltizam* was going to be Amr's. Thus Amr undertook the control of the revenue collection and worked for a few months, after which his collection amounted to more than the *bedel-i iltizam*. May Zeyd return the aforementioned *bedel* to Amr and take Amr's collection, less the appropriate wage for Amr's labor?

Answer: He may.⁸⁵

In a case, discussed in *Behçetü'l-Fetava*, a vali of a certain region delegates (*tevkil*) his mutesellim to farm out his hass villages when he is away campaigning. The mutesellim contracts those villages to a *mültezim* for a certain sum, the surplus meant to be *mültezim*'s. When the vali comes back from the campaign, he sees that the revenue from his villages indeed exceeded the *iltizam* amount. The *fetva* then rules that the vali may refuse the *iltizam*, and take all the collected revenue except for the *mültezim*'s *ecr-i misl*⁸⁶, fair wage.⁸⁷

⁸⁵ *Ali*, I, 166. [7]

⁸⁶ In *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, *ecr-i misl* is defined as "the monetary value of benefit that is borne out of the use of a commodity (or capital.) In the case of occupancy without announcing a rent, *ecr-i misl* is determined as the rent of a real estate having similar location and usage." (Mehmet Zeki Pakalın, 3 vols., İstanbul: Milli Eğitim Bakanlığı Yayınevi, 1993.) *Ecr*, or its plural form *ücret* is rent or wage. The adjective *misl* has connotations of making comparison to a similar thing. Thus, *ecr-i misl* can be said to be the wage that is comparable to the wage that other people doing the same job earns. A similar construction is *mehr-i misl*, comparable dowry.

The *fetva* collection of Çatalcalı Ali Efendi contains more cases in which the party who farmed out the revenue changed mind and wanted to break the contract. In these cases, the initial *iltizam* agreement stipulated that any surplus beyond the agreed *iltizam* value was going to be *mültezim*'s. In one such case, an *iltizam* agreement was concluded between a *zaim* and *mültezim* along familiar lines: any surplus beyond so-and-so *guruş*, which is the *bedel-i iltizam* was going to the *mültezim*. After both sides had agreed and the *mültezim* had undertaken the revenue collection, but before the *zaim* had a chance to receive the *bedel-i iltizam*, the *zaim* dies. According to Çatalcalı then, the heirs of the *zaim* had the right not to accept the *bedel-i iltizam*, but take whatever the *mültezim* had collected from the *zeamet* minus his appropriate wage.⁸⁸

In these *fetvas*, we see that the *mültezim* could not keep the surplus revenue to himself, even though the initial agreement was based on this clause. He stood to lose all of his collection save his rightful wage for his labor (*amelinin ecr-i misli*). The phrase “*ecr-i misl*” occurs again and again: the *mültezim* is reduced from his aspirations as a capitalist to a mere laborer. On the other hand, the *sipahis* sometimes fix their eyes even on the *ecr-i misl* of the *mültezim*:

Question: When Zeyd had given out his *timar* village to Amr as *iltizam* for so-and-so *akça*, he had agreed that out of the revenues of the *timar*, the surplus beyond the *bedel-i iltizam* was going to be

⁸⁷ *Behce*, 192-3. [39]

⁸⁸ *Ali*, I, 166. [8]

Amr's. Amr took control of the *timar*, worked for a few months and had collected the lawful revenues (*mahsul-i şer'i*). If Zeyd, now not being content with *iltizam*, takes away all of Amr's receipts of revenues (*makbuz*) may Amr be able to get back the appropriate wage for his labor from Zeyd?

Answer: He may.⁸⁹

In a similar *fetva*, the *mültezim* achieves to surpass the *bedel-i iltizam* in collecting revenues from a *zeamet*. The *zaim* then refuses to be content with the original *iltizam* agreement; the *mültezim* even agrees to that and gives all of the revenues he had collected except the appropriate wages for his labor. The *fetva* rules that the *zaim* cannot prey on the appropriate wages for *mültezim*'s labor.⁹⁰

4.3. When the Mültezim Wants to Break the Contract

Just like the *sipahi*, the *mültezim* also had the right to back off from the *iltizam* agreement before collection:

Question: If Zeyd has contracted [the tax collection of] his *timar* village to Amr as *iltizam* for so-and-so *akça* and has received the aforementioned amount promptly from Amr, may Amr, being not

⁸⁹ *Ali*, I, 165. [9]

⁹⁰ *Ali*, I, 166. [10]

content with the *iltizam* agreement before he assumes control of *timar*, return to Zeyd the aforementioned amount?

Answer: He may.⁹¹

A similar case is found in the *Fetava-yi Feyziyye*, in which the *mültezim* does not want to continue collecting before he has undertaken control of the *timar*. He says to the *sipahi*: “Collect the revenues of the *timar* yourself.” The *sipahi* refuses and tells the *mültezim* to “undertake the revenue collection and pay me the *bedel-i iltizam*.” In Feyzullah Efendi’s opinion, the *sipahi*’s argument, based solely on the fact that “the *mültezim* had agreed to the *iltizam* in the first place” is not valid and he cannot force the *mültezim*.⁹²

When the collected revenues are seen to be less than the *bedel-i iltizam* the *mültezim* cannot be forced to pay the difference from his own funds:

Question: When Zeyd has given out his *zeamet* villages to Amr as *iltizam* for so-and-so *guruş* and Amr undertook the control of the villages and collected revenues, Amr’s collection does not amount to the *bedel-i iltizam*. When Amr gives his collection to Zeyd, may Zeyd say “by agreeing to the *iltizam*, complete the *bedel-i iltizam* from your own funds” to Amr?

Answer: He may not.⁹³

⁹¹ *Ali*, I, 165. [3]

⁹² *Feyziyye*, I, 262. [14]

⁹³ *Ali*, I, 165. [2]

We have seen above that when the *mültezim* could realize a surplus beyond the *bedel-i iltizam* the *sipahi* wanted to dissolve the *iltizam* agreement, since that was in his interests. On the other hand, when it turned out that revenues could not even reach the *bedel-i iltizam* level, it was in the interest of the *mültezim* to try to break away from the *iltizam* contract. The following *fetva* by Yenişehirli Abdullah Efendi is interesting in several aspects. Firstly, the revenue in question is a *vakf* mukataa and is farmed out by the mutevelli of the *vakf*. Nevertheless, this does not make any difference at all, since the case is grouped together with the other *iltizam* cases. Secondly, just like the cases that we have seen in the previous part, it was agreed that any surplus beyond the *bedel-i iltizam* was going to be *mültezim*'s. But it turns out that, far from achieving a surplus, the *mültezim*'s efforts could not even meet the *bedel-i iltizam*.

Question: Zeyd farmed out a *vakf* mukataa, of which he is the mutevelli, to Amr as *iltizam* for so-and-so *akças*. He has agreed that from the revenues, the surplus above the *bedel-i iltizam* was going to be Amr's, and Amr, in his turn, undertook control of the mukataa and worked for a few months, however his collection did not amount to the *bedel-i iltizam*. While Amr is ready to give the collection minus the appropriate wages for his labor, may Zeyd take the collection completely?

Answer: He may not.⁹⁴

⁹⁴ *Behce*, 193. [38]

Thus, the picture about *iltizam* that emerges out of the *fetvas* is an interesting one: if the *mültezim* manages to collect more revenues than was expected of him, he gets nothing as a reward, on the other hand, if he cannot succeed to match the *bedel-i iltizam*, he loses nothing.

Four more *fetvas* found in the Abdurrahim collection underscore the same point –that the *mültezim* is not responsible to meet the *bedel-i iltizam* level stipulated in the original *iltizam* agreement.⁹⁵ He undertakes the revenue collection and collects whatever he could, then he takes the appropriate wage for his labor from within the receipt and delivers the rest to the *sipahi*. The distinguishing feature of these *fetvas* are that they include the phrase “while the *mültezim* swears that he did not receive anything else” “[*mültezim*] ziyade nesne kabzetmedigine yemin iderken.”

4.4. Other Fetvas to the Benefit of Mültezim

It may be said that *mültezims* were universally condemned and held responsible for the “Ottoman decline.” Sultans tried to prevent their bad effect on reaya in *adaletnames* for example. In the *fetvas*, on first glance it appears as if the rights of the *sipahi* is more important than those of the *mültezim*. Although many *fetvas*

⁹⁵ Abdurrahim, I, 55. [25] through [28]

seem to put the contractor side at an advantage over the *mültezim*, there are nevertheless others that protect *mültezims*. The *fetvas* in the preceding section took off the obligation to match the *iltizam* sum from the *mültezim*. He could not be forced to pay the difference from his own funds, if the revenue he collected ended up less than the *bedel*. In this section, I shall provide more examples that eased the burden off the shoulders of *mültezims*.

If the harvest failed because of drought, floods, or hailstorms the reaya did not have to pay *öşr* that year, as evidenced in the *fetvas*⁹⁶. By analogy, harvest failure due to such natural disasters must have relieved reaya off their obligations of *osr* to the *mültezim*. In such a case, how would this affect *mültezim*'s obligations? What would happen to his down payment? A *fetva* in the *Netice* collection discusses a case in which the *mültezim* was unable to collect any revenues because all harvest failed in a hailstorm.⁹⁷ Accordingly, the *mültezim* is entitled to get back his down payment.

In another case in *Behcetül Fetava*, a *sipahi* farmed out his *timar* village as *iltizam* to a *mültezim* for 100 *guruş* and had taken that amount from the *mültezim*.⁹⁸ The *mültezim* controlled the *timar* and collected its revenues. On the other hand, the *sipahi* had not been paying his share of *cebelu akcesi*. Then, by an

⁹⁶ *Behce*, 37. [49] and [50] Also *Fetava-yı Ataullah*, Süleymaniye Library, Esad Efendi, no. 1095, folio 13b.

⁹⁷ *Netice*, 162. [42]

⁹⁸ *Behce*, 193. [37]

emr-i serif, sultanic decree, all revenues that the *mültezim* had collected were taken to the imperial treasury for the missing *cebelu akcesi*. The *fetva* supports the *mültezim*'s request to get back his 100 *guruş* down payment from the *sipahi*.

4.5. Death or Dismissal of One of the Parties to the *İltizam*

Fetvas also discuss cases when the *sipahi* dies or is dismissed from service or the *mültezim* dies.

If the *sipahi* died before the harvest ripened in the fields, the *iltizam* agreement he may have concluded becomes void:

Question: Zeyd had farmed out his *timar* village to Amr, then Zeyd died before the harvest could ripen. The harvest ripened after the *timar* was assigned to Bekr. When Bekr wanted to collect the *osr* of the harvest, may Amr be able to say “since I received the *timar* as *iltizam* from Zeyd, I collect the *öşr* of the harvest”?

Answer: He may not.⁹⁹

A similar *fetva* is found in the *Abdurrahim* collection.¹⁰⁰ It would be interesting to see what the answer would be if the *sipahi* died *after* the harvest

⁹⁹ *Ali*, I, 167.

had ripened in the fields. Indeed, a *fetva* of Çatalcalı Ali Efendi deals with such a case, in which the *sipahi* dies after the harvest had ripened in the fields and after the *mültezim* had collected the revenues:¹⁰¹

Question: After Zeyd farmed out his *timar* village to Amr as *iltizam* and delegated him (*tevkil*) to collect the revenues, the harvest ripened and Amr collected the revenues. If, Zeyd dies after this and his *timar* is assigned to Bekr, may Bekr take the revenues from Amr by claiming that “the *timar* has been assigned to me”?

Answer: No, he may not.

The revenues had already become the property of the *sipahi*; they are to be treated in his estate. If the *sipahi* died after he had collected the revenues *himself*, there would be no question that the revenues would be treated as his freehold property and be included in his estate.¹⁰² The fact that the revenues had been collected not by the *sipahi* himself but by his *mültezim* does not change the case, since the *mültezim* was acting as the *vekil*, representative, of the *sipahi* and he collected revenues *in the name of* the *sipahi*. It is worth noting that the “representative” function of the *mültezim* is stressed in the *fetva* by referring to

¹⁰⁰ *Abdurrahim*, I, 52. [34]

¹⁰¹ *Ali*, I, 167. [11]

¹⁰² For example in the following *fetvas*, the revenue, which had been collected before the death of the *sipahi*, is awarded to the heirs of the deceased *sipahi*: *Ali*, I, 167. [54] and [55] *Suver-i Fetava-yi Piri Efendi ve Çivizade*, Süleymaniye Library, Amcazade Hüseyin Paşa no. 243, folio 75a. On the other hand, when the *sipahi* died before collecting the revenues, even if harvest had already ripened, the revenue was to be collected by the *emin-i Beytü'l-Mal*, trustee of the public treasury, as the following *fetvas* state: *Ali*, I, 167. [53] *Mecmua-i suver-i Fetava*, Süleymaniye Library, Esad Efendi no. 3812, folio 6a. [57] This *fetva* was issued by Zekeriyyazade Yahya Efendi (d. 1644).

the act of *sipahi* as “delegating” the *mültezim* (*tevkil*), which is contrary to common practice in the *fetvas* on *iltizam*.

Sipahis were not the only mortal ones –*mültezims* could also die. An interesting situation is described in Behcetü'l-Fetava in which a *mültezim* had paid a certain amount to a *sipahi* to receive his *timar* as *iltizam*.¹⁰³ The poor *mültezim* then collects the revenues from the *timar*, but before he could deliver his receipts (*makbuz*) to the *sipahi* –and probably retain some portion as profit- he dies, leaving more debts than his estate. The debtors would obviously like to share the dead *mültezim*'s receipts from the *timar*, while the *sipahi* would like them to be content with the *mültezim*'s prompt payment. As can be conjectured in the light of previous *fetvas*, the *sipahi* may return the prompt payment to the debtors and take *mültezim*'s receipts in its stead, which are presumably higher.

It was also possible –and probably quite frequent- that the *sipahi* was dismissed from his *timar* in the middle of the process. In the example below, the one to be dismissed from office is not an ordinary *sipahi*, but a *vali*:

Question: Amr, the kethuda of Zeyd the vali, farmed out the hass villages of Zeyd to Bekr as *iltizam* for so-and-so *akças* and received the aforementioned amount from Bekr promptly. Afterwards, if the hass is assigned to Beşr before Bekr could control the *hass*, may Bekr take the aforementioned amount back from Amr?

¹⁰³ *Behce*, 193. [46]

Answer: He may¹⁰⁴.

The *iltizam* agreement empowered the *mültezim* to collect all kinds of revenues from the source subjected to the *iltizam*. Thus, if a *timar* was farmed out as *iltizam*, the *mültezim* would collect not only the *öşr* of the harvest, but various other *resms* normally taken by the *sipahi*, since the *mültezim* was now acting on behalf of the *sipahi*. In a *fetva* of Abdurrahim Efendi, the *zabit* of a *hass* had farmed out all revenues from the *hass* throughout a year to a *mültezim*.¹⁰⁵ The agreement was valid until the end of the year. The *mültezim* successfully collected revenues from the grain harvest, but before he could collect the *öşr* from the beehives, the *zabit* dismissed him, and delegated (*tevkil*) the collection of *kovan öşrii*, beehive tithe, to someone else. The *fetva* rules that, after getting dismissed, the previous *mültezim* cannot collect any further revenues, solely by claiming that “since honey was produced in those beehives while I had been *mültezim*, I collect the *öşr*.”

4.6. Sub-contracting İltizams

Once the amount that can be extracted from a revenue source was subjected to speculation in an *iltizam* agreement, it was a very easy step to carry the

¹⁰⁴ *Ali*, I, 165. [5] A *fetva* with the same opinion is found in the *Feyziyye* collection: *Feyziyye*, I, 257-8. [16]

¹⁰⁵ *Abdurrahim*, I, 56. [29]

speculation further. If the revenue in question, be it a *timar* village or a *vakf* *mukataa*, really had the potential to bring in more than its stated value, there were always others ready to make profit. *Iltizams* were bought and sold as objects of speculation, creating *iltizam* chains. Thus, a *mültezim* would farm out his *iltizam* to a second-degree *mültezim* or *mültezims*. In this section, I shall discuss issues related to such *iltizam* chains.

The reason behind a *mültezim*'s transfer of *iltizam* rights to a second *mültezim* is clear: the potential of making more profit. The second *iltizam* agreement would frequently be concluded at a higher level with a *ziyade*, surplus, added to the original *bedel-i iltizam*. This *ziyade* represented the profit the original *mültezim* was expected to make. In a *fetva* of Feyzullah Efendi, the revenue in question is a *miri hidmet*.¹⁰⁶ Zeyd, the original *mültezim*, farms out this *miri hidmet* to Amr, the second *mültezim* in the chain. The *iltizam* agreement between Zeyd and Amr is concluded with a so-and-so *akça ziyade*, added to the original *bedel-i iltizam*. Thus, it was expected that out of the total revenues Amr will collect, Zeyd will pay the *bedel-i iltizam* to the *miri*, whereas Zeyd will take the *ziyade* as his profit, and there will be even more left as Amr's profit. Unfortunately, when Amr has completed the revenue collection, his receipts only amount to the original *bedel-i iltizam*, called as the *miri* part of the *iltizam*. Zeyd, then claims that "by agreeing [to the second] *iltizam*, Amr should complete the *bedel-i iltizam* [of the second *iltizam*] from his own funds" and forcibly collects a

¹⁰⁶ *Feyziyye*, I, 260. [17]

certain amount of *akças* from Amr besides Amr's receipts. After this, Zeyd dies without any recuperation to Amr. The *fetva* states that Amr, the second *mültezim*, may get back the extra from Zeyd's estate.

In a similar case, the revenue in question is a *vakf mukataa*.¹⁰⁷ Again, the original *mültezim* farms out the *iltizam* to a second *mültezim* with a certain *ziyade*, surplus. When collection of the revenues is completed, it is seen that the receipts only amount to the *bedel-i iltizam* of the original *iltizam*. The original *mültezim*, thus, cannot force the second *mültezim* to pay him the *ziyade* from his own funds. Feyzullah Efendi rules in exactly the same fashion in another *fetva*, the subject of which is a *vakf* village this time.¹⁰⁸

When the *iltizam* does not produce the expected revenues, the second *mültezim* cannot sue the original farmer for his losses. In such a case, a *sipahi* had farmed out his *timar* village to a *mültezim*, who in his turn transfers the *iltizam* to another *mültezim*¹⁰⁹:

Question: Zeyd farmed out his *timar* village as *iltizam* to Amr, then Amr farmed it out to Bekr as *iltizam* for so-and-so *akças* and received the aforementioned amount from Bekr as prompt payment. Afterwards, when Bekr took control of the *timar* and collected its

¹⁰⁷ *Feyziyye*, I, 258. [18]

¹⁰⁸ *Feyziyye*, I, 258. [19] These three *fetvas* all begin with the same formula: "Zeyd taht-ı *iltizamında* olan x'i me'zun olmağla *bedel-i iltizamından ziyade* şu kadar *akçaya iltizamla* Amr'a virüb"

¹⁰⁹ *Ali*, I, 165-6. [4]

revenues, if the revenues do not amount to the *bedel-i iltizam*, may Bekr, not suing Amr, take anything from Zeyd by simply claiming that “I suffered losses from your *timar*”?

Answer: No, he may not.

The *bedel* mentioned in this *fetva* has nothing to do with the *iltizam* of the *sipahi*. It is the *bedel* for the second *iltizam* agreement. We know from other *fetvas* that Bekr, the second *mültezim* of the above *fetva*, would have tried to get back his prompt payment from Amr, the original *mültezim*, he was going to get full support from the *fetva* author.

In a similar case, the subcontractor would like to give his receipts to the *sipahi* and get back the amount he had paid to the original *mültezim*.¹¹⁰ Obviously, the *sipahi* cannot be held responsible if the subcontractor overestimated the value of the *iltizam*.

4.7. Revenue Raising by Imperial Treasury: Miri Hizmet/Mukataa

İltizam as practiced by the Imperial Treasury or by the agents of the empire like the defterdar of a province is the subject of a number of *fetvas*. As explained above, *iltizam* was a standard practice in the Ottoman financial system, with many *mültezims* and *kuyruklu sarrafs* involved in the business. The threefold

¹¹⁰ *Feyziyye*, I, 260. [20]

relations among the treasury, *mültezims* and *sarrafs* must have been breeding grounds for disagreements. However, the overall number of *fetvas* involving *miri iltizams* is not so large. Furthermore those that do discuss *iltizams* of *miri mukataas* never mention the *kuyruklu sarrafs* and those *fetvas* are never about the problems between the treasury and the *mültezims*. Many of them are about the sub-contracts of *iltizams*.

Sometimes *mültezims*, who had received a revenue source as *iltizam* from the treasury, would transfer the *iltizam* to someone else. Similar to *iltizam* chains we saw in the *timar* section, *mültezims* of *miri* revenues farmed out their *iltizam* to sub-contractors in order to make profit, as in the following *fetva*¹¹¹ by Çatalcalı:

Question: Zeyd, having been authorized to a *miri hidmet* under his *iltizam*, farmed it out as *iltizam* to Amr for a value more than the *bedel-i iltizam*. If, when Amr controlled the *hidmet* and collected revenues, his receipts only amount to the *miri*, may Zeyd say to Amr “by agreeing to the *iltizam*, complete the *bedel-i iltizam* from your own funds” while Amr was delivering whatever he had collected?

Answer: No, he may not.

In a *fetva* of Abdurrahim, a *miri mukataa* is contracted to Zeyd the *mültezim* by the imperial treasury as *iltizam* for a certain *akça* (which is called as

¹¹¹ *Ali*, I, 166. [8]

the *miri* [value] of the *mukataa*)¹¹². Zeyd the *mültezim* then farms out the *mukataa* to Bekr with a *faide*, benefit for him, added on top of the original value. Bekr the second *mültezim* controls the *mukataa*, collects its revenues, and brings the *miri* amount (*mal-i miri*) to Zeyd. But Zeyd was also expecting to get a *faide*, benefit, out of his deal with Bekr. Zeyd naturally asks Bekr to pay him his *faide*, to which Abdurrahim Efendi replies, he is not entitled to. We are intrigued by the fate of the *faide* here: who ends up benefiting from it –the second *mültezim* or the *miri*? Unfortunately the *fetva* is silent in this respect.

There is another example of a *miri mukataa*, being farmed out by its *mültezim* to a second *mültezim* among Abdurrahim Efendi's *fetvas*.¹¹³ The *iltizam* agreement between the two *mültezims* was for 30 thousand *guruş* for a period of two years. The second *mültezim* had paid 15 thousand *guruş* as prompt payment. At the end the two years, the second *mültezim* could only collect revenues worth 15 thousand *guruş* and he delivers the revenues to the original *mültezim*. The second *mültezim* declares under oath that he “had not collected anything more.” The *fetva* rules that the original *mültezim* cannot take anything more than the collected revenues from the second *mültezim*. The second *mültezim* is also entitled to take his prompt payment back when he delivers the collected revenues. This may sound a bit odd: why does the second *mültezim* bother giving away collected revenues (which are probably in kind) worth 15 thousand *guruş* in exchange for his prompt payment, which is *also* 15 thousand *guruş*? What was

¹¹² Abdurrahim, I, 56. [30]

¹¹³ Abdurrahim, I, 55. [31]

the purpose of this *iltizam* agreement anyway? The answers of these questions are not provided in the *fetva*, so we have to look elsewhere: speculation, difference in official and market prices, and changes in the silver content of *guruş*.

Iltizams might be bought and sold, but in the end, the collected revenues had to find their way to the original contractor, especially if the revenue had been farmed out by the imperial treasury. In one such incidence, the original *mültezim* –called Zeyd in the *fetva*- died after spending all of the prompt payment he received from Amr, the second *mültezim*¹¹⁴. Amr’s collection of revenues were then confiscated for the *miri* by a sultanic decree. The *fetva* states that Amr may take his prompt payment from the deceased *mültezim*’s estate.

In his article “İslam Arazi ve Vergi Sisteminin Teşekkülü ve Osmanlı Devrindeki Şekillerle Mukayesesi,” İnalçık studies the practice of land taxation throughout Islamic history¹¹⁵. He states that *timar* assignments were nothing but *havales* in which the government delegated the revenues from a *timar* to the *sipahi* in exchange for his services. According to İnalçık, other practices such as *malikane* are also types of *havale*. The *havale* method, assignment of revenues to certain expenses, had been widely practiced in the Ottoman Empire¹¹⁶. In another *fetva* of Abdurrahim Efendi, Zeyd is registered to the usufruct of so-and-so *akça*

¹¹⁴ Abdurrahim, I, 56. [32]

¹¹⁵ Halil İnalçık, “İslam Arazi ve Vergi Sisteminin Teşekkülü ve Osmanlı Devrindeki Şekillerle Mukayesesi”, *İslami İlimler Dergisi*, 1(1): 29-46, Ankara, 1950.

¹¹⁶ Halil İnalçık, “Hawāla”, *EI²*, Leiden: E. J. Brill, 1965, 6: 283-285.

daily from the revenue of a *miri mukataa* as compensation for his *vazife*, services¹¹⁷. Zeyd is entitled to that pay by a *berat-i şerif*, imperial diploma.

The following *fetva* from the Abdurrahim collection show us how the revenues from *iltizam* were assigned as *havale* for expenses. Revenues from a certain *miri hidmet* are farmed out to Amr as *iltizam*¹¹⁸. Then, Zeyd, who has a certain amount of *akça* due to him by the *miri*, manages to have his *alacak* assigned to the revenues from Amr's *iltizam*. The term used for the assignment was "*salyane etdirmek*", which probably meant that Amr had to pay a certain sum annually to Zeyd. To this effect, Zeyd takes an *emr* from the *defterdar* which says that "You [Zeyd] shall get your *alacak* from Amr." After this, Zeyd goes over to Amr and asks for his money, while Amr had not collected anything as revenue from the *hidmet*. Abdurrahim Efendi's answer to the question "may Zeyd take anything from Amr's own funds by simply claiming that 'I have had my *akça* [alacak from the *miri*] registered into your *hidmet*." is negative.

¹¹⁷ *Abdurrahim*, I, 57-8. [33] This *fetva* is interesting from the aspect of monetary history as well. Zeyd's daily compensation is stated in terms of *akça*, while the revenues to the mukataa were received as *esedi gurus*. The *fetva* is about the conversion rate between the currencies; the *emin* of the mukataa is forbidden to apply a higher rate of exchange for *gurus* when he calculates Zeyd's daily pay. Also *Abdurrahim*, I, 59. [52]

¹¹⁸ *Abdurrahim*, I, 57-8. [33]

4.8. Partnership among Mültezims: Müştereken İltizam

In some cases, more than one persons would receive the tax farm collectively. There are a few *fetvas* that help us derive the responsibilities and rights of these partners-in-*iltizam* visavis each other and against the *sipahi*.

In a case, recorded in the *Feyziyye* collection, Zeyd the *zaim* farms out his *zeamet* villages to Amr and Bekr collectively for a certain *bedel*.¹¹⁹ Then, without collecting any revenues, Amr dies. When Bekr alone has taken over the *timar* and collected revenues, his receipts do not amount to the *bedel-i iltizam*. Then, Bekr delivers the receipts to Zeyd, only to see that Zeyd is not content with the receipts. The *zaim* then forcibly takes so-and-so *akças* from Bekr, saying that “by simply agreeing to the *iltizam*, you should complete the receipts to the *iltizam bedel*.” In order to minimize his losses, Bekr turns to the heirs of Amr: “since Amr had agreed to the *iltizam* with me, pay me this portion of the aforementioned amount from his estate” The opinion of Feyzullah Efendi is that Amr cannot get any reimbursements from the dead *mültezim*’s estate.

Another case found in the *Neticetü’l-Fetava* deals with the story of two partners, one of which was never involved in revenue collection.¹²⁰ In this case, a *sipahi* had farmed out his *timar* village to Amr and Bekr collectively (*ale’l-*

¹¹⁹ *Feyziyye*, I, 258. [21]

¹²⁰ *Netice*, 160-161. [41]

iştirak) and received the *bedel-i iltizam* immediately from the partners. Afterwards, the village is taken over only by Amr. He collects revenues without any involvement of Bekr. Then Bekr, instead of asking the *sipahi* to return his share of the prompt payment, would like his partner to give him half of the receipts from the *timar*. The opinion in the *fetva* is that Bekr is not entitled to do so. The story does not end here; Bekr's requests somehow yield Amr to give him a *temessük* in which Amr promises to deliver half of his receipts to Bekr. But even that shall not be enough, since according to the *fetva*, Bekr still cannot receive any portion from the receipts he so much desires. There is even more to this story: apparently Bekr was not satisfied with Amr's *temessük* and forced him to bring in a *kefil* to him. Still, the *kefil* has no responsibilities whatsoever by backing the *temessük* above.

The final case I would like to discuss in this section is not an altogether different story. This time, the revenue in question is a *miri mukataa*, under the *iltizam* of Bekr.¹²¹ Two partners, Zeyd and Amr, receive the *mukataa* from Bekr for a certain *bedel*. Before they paid the *bedel*, only Zeyd takes over the revenue collection of the *mukataa*. Zeyd then transfers all his receipts to the other *mültezim* and tells him to "give these to Bekr." Amr, the *mültezim* who did no work, then forces and imprisons Zeyd and forcibly makes him state that he "received this much from the *iltizam*." Amr then takes so-and-so *akça* from Zeyd

¹²¹ *Ali*, I, 166. [56]

forcibly, under the name of *mukataa faidesi*. As can be expected, the *fetva* rules that Zeyd is empowered for recuperation from Amr.

Two cases in *Fetava-yi Feyziyye* discuss *mültezims* who try to recruit someone to help him out in collecting revenues by promising them a share of the expected profit. In the first case, the *mültezim* of a *hidmet* promises his helper to give a share from the profit¹²². The two of them control the *hidmet* and work for a while to realize a certain amount of *faide* for themselves. Then the *mültezim* would like to give only the appropriate wages to his helper and take all the rest of the *faide* for himself. The *fetva* rules that the helper cannot become a shareholder to the *faide* on the claim that “by promising a share, I become a shareholder in the *faide*.” It is interesting that the *fetva* author does not raise an objection to the *mültezim*’s taking the *faide*.

In the second case, the *mültezim* declares to someone “if the *mukataa* produces a *faide*, then I shall make you a shareholder to it.”¹²³ In the end far from making a profit, the *mültezim* loses a certain amount *akça* from the *mukataa*. Then, the *mültezim* tries to make that person a shareholder to his *losses* by saying that “if a *faide* had been realized you were to share it, then pay me this much from the loss.” The *fetva* says “No” to this unusual prospect of profit-loss sharing scheme of the *mültezim*.

¹²² *Feyziyye*, I, 262. [22]

¹²³ *Feyziyye*, I, 262. [23]

A number of *fetvas* tell some quite interesting stories about hired middlemen whose job was to secure tax farms for their employers. In such an example, Zeyd asks Amr to “arrange a certain *hidmet* be recorded to Zeyd and take the *hidmet* for him¹²⁴.” As payment for his efforts, Zeyd promises Amr seven *ziras* of *çuka* if he succeeds in this endeavour, or two *ziras* of *çuka* if he fails. Afterwards, Amr works every day and finally manages to secure the *hidmet* for Zeyd. Then, what will be the payment he may get? The *fetva* answers neither seven *ziras* of *çuka* nor two, but the *ecr-i misl*, as experience suggests. In a similar case, the job is to acquire the *iltizam* of a certain mukataa of a certain *vakf* from the mutevelli¹²⁵. In another case we come across, the person hired to acquire an *iltizam* for his employer goes out and takes it for himself¹²⁶.

¹²⁴ *Abdurrahim*, II, 125.

¹²⁵ *Abdurrahim*, II, 124-5. [24] The *vakf* is located in another town at 8 days distance.

¹²⁶ *Abdurrahim*, II, 125.

CHAPTER 5: İLTİZAM AS A SPECIAL FORM OF İCARE

In the previous chapter we have seen the detailed rulings about *iltizam* case by case. Although the availability of many different cases has enabled us to gain insights into how the şeyhülislams treated *iltizam*, we have not advanced more in answering the question of what *iltizam* consists of. Was it treated as being in accordance with sharia or the *örfi* law, or is it an abhorred practice?" In order to clarify the ground further, some cases found in the *icare* chapters of the *fetva* collections about hired labor will be discussed.

As we have seen, there existed two main methods in which collection of a revenue could be assigned to a delegate: *iltizam* and *emanet*. When a *sipahi* was away in a military campaign he could not collect revenues from his *timar* himself, so he had to delegate the job to someone else. But there was another type of cases in which the *sipahi* hired someone and authorized him to perform the revenue collection.

Question: Zeyd says to Amr: "Collect revenues of my *timar*, then I shall give a tenth of whatever revenue you have collected." Amr then works for a while and collects a certain amount of revenue. If, when Amr delivers his receipts to Zeyd, Zeyd does not give anything to Amr, may Amr get the *ecr-i misl* from Zeyd?

Answer: Yes, he may. However he does not take a tenth of the revenue he had collected.¹²⁷

Another *fetva* from *Fetava-yi Ali* empowers the revenue collector, who had been hired by the *sipahi* and promised a tenth of the collection, to take *ecr-i misl*, the appropriate wage for his labor.¹²⁸

In a variation of the cases above, the collector had collected only a portion of the revenues, the remainder of which was still in the hands of the *reaya*. The *sipahi* then wanted to take the collected portion of the *makbuz-i şer'i*, the lawful collection¹²⁹. Although the *sipahi* was ready to pay the *ecr-i misl*, the collector would like to account the collection in his hands as his promised share –ten percent of the total. In conjunction with the previous cases, the response in this *fetva* is that the collector may only get the *ecr-i misl*, thus he cannot appropriate the collection.

In the following *fetva* of Abdurrahim, a *zaim* had assigned collection of revenues from his *zeamet* not to a stranger but to his own *hidmetkar*, servant¹³⁰. The *zaim* also decided to give one *akça* out of every ten *akças* to the servant under the name of *salariyye*. The servant controlled the *zeamet* for six years,

¹²⁷ *Ali*, II, 157. [44]

¹²⁸ *Ali*, II, 157. [43]

¹²⁹ *Abdurrahim*, I, 58. [47]

¹³⁰ *Abdurrahim*, I, 59. [48]

taking the *salariyye* from the collected revenues. At the end of six years the *zaim* gave a *temessük* to his servant stating that “I have taken all of Amr’s collection that is my *mahsul-i şer’i*, lawful revenue, from Amr completely. Not a single grain of my right has been left at Amr’s possession.” After this the *zaim* claims that Amr had collected more revenues than he declared and kept a portion of to himself. The *fetva* states that Amr’s *da’va*, suit, should not be heard in the court and it be dismissed.

In the examples above, we see a consistent theme about the pay that a revenue collector might hope to receive: it is the *ecr-i misl* of his *amel*, that is the proper wage for his labor. Whenever the collector tries to get the *ecr*, pay, that had been agreed upon at the time of the hiring, the *fetvas* refuse to grant him anything beyond the proper wage. On the other hand, if the original agreement had stipulated a wage *lower* than the *ecr-i misl*, the collector would have been entitled to get the *ecr-i misl* by the *şeyhülislams*. This attitude toward labor is not restricted to *icare* cases on revenue collection –in fact, the response is the same for *any* hiring agreement.

Perhaps no example may underscore the above point more illustiously than the following case in which a wounded person goes to a physician for treatment¹³¹. To the physician, the wounded person says: “treat me with your own medicine until I get healthy, I shall pay you so much *akça*.” In the end the wound

¹³¹ *Ali*, II, 162.

heals, but the *fetva* awards the physician his promised payment only because it is equal to the worth of the medicine and the appropriate wage for his labor¹³².

The concept of *ecr-i misl*, proper wage, have kept appearing again and again, however the question to be asked is how it is determined. The answer is found in the following *fetva*:

Question: By what [criteria] is *ecr-i misl* known?

Answer: By the information of *ehl-i vukuf*, the knowledgeable persons, who are *bi-garez*, unbiased.¹³³

In the terminology of Islamic Jurisprudence, the person whose services are hired is called as *ecir*. Furthermore, *ecir-i hass* is a laborer under exclusive contract with the employer, while *ecir-i müşterek*, an artisan who may work on many different projects simultaneously¹³⁴. According to *Mecelle* (article no. 610) *ecir-i hass* is to be treated as *emin*, thus he is not liable for any unintentional losses by his conduct.

Duration of *icare*, hiring, may be important in determining the status of the *ecir*, the laborer. If the laborer is *ecir-i hass*, the period of validity is usually

¹³² In another *fetva* that involves a similar agreement between a sick person and a physician, the sick dies despite the efforts of the physician. But, the *fetva* still awards the appropriate wage plus expenses to the physician, despite the objections of the heirs of the deceased man. *Ali*, II, 162.

¹³³ *Ali*, II, 162. [40]

¹³⁴ J. Schacht, *An Introduction to Islamic Law*, 155. M. Z. Pakalın, *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, 1: 500. Ö. N. Bilmen, *Hukuk-ı İslamiyye ve İstilahat-ı Fikhiyye Kamusu*, 5: 172.

explicitly known, which may not be the case for *ec̄ir-i müşterek*, a laborer who may work on many different projects simultaneously. What concerns us here is the distinction between the two when the laborer caused a loss or harm with his work: an *ec̄ir-i hass* was treated like an *emin*, trustee, thus he could not be held liable while an *ec̄ir-i müşterek* had to provide full compensation for any damage he might have incurred. It appears that when a person was hired by a *sipahi* as revenue collector, he was considered as *ec̄ir-i hass*. In the following *fetva*, a *sipahi* hires someone to collect revenues of his *timar* without setting duration (*müddet*).¹³⁵ The collector is to earn so-and-so *akças*. The revenue collector works for a few months, completes his job, and delivers his collection to the *sipahi*. The request of the collector to receive his promised pay is not granted in the *fetva*: “[The collector] may only receive the *ecr-i misl*, the appropriate wage for his labor, he does not take the *ecr-i müsemma*, the previously agreed-upon amount.”

We see that the concept of *ecr-i misl* is present in both *iltizam* cases and *icare* cases. The conclusion is that the *fetvas* view *iltizam* agreements as nothing but a special *icare* agreements. The *mültezim* is treated not as a capitalist but a laborer working under contract.

¹³⁵ *Ali*, II, 157. [51]

CHAPTER 6: CONCLUSION

In a period after the closing of “the gate of reasoning” (*İctihad Kapısı*) *fetvas* of şeyhülislams played a key role in treating a “novel” subject like *iltizam* within the classical framework of Islamic Jurisprudence. The fact that *iltizam* cases were included in the *fetva* collections alone, carried a tacit recognition of the *status quo*. Although şeyhülislams were not tired of repeating their reservations against some of the well established practices of their time, they nevertheless took a compromising attitude toward the profit making *mültezims*.

The presentation in Chapters 4 and 5 employed *fetvas* of at least four şeyhülislams, spanning the period 1670 to 1730. It is seen that *fetvas* issued by different şeyhülislams were mixed and matched to reach common conclusions. There exists a remarkable degree of consensus among the şeyhülislams on *iltizam*.

Arguments put forward by the original holders of the usufruct to annul *iltizam* in two interesting *fetvas* cast doubts on the legality of *iltizam*. In the first case, a *mütevelli* of a *vakf tuzla*, saltworks in trust, would like to dissolve *iltizam*, and he substantiates his position by claiming that “*iltizam* is not correct¹³⁶” (*iltizam sahih olmamağla*.) He might be simply referring to his case in particular, especially if such a practice had explicitly been outlawed in the *vakfiyye*. In the

¹³⁶ *Behce*, 193. [45]

second case, a *zaim* farmed out his villages as *iltizam* for so-and-so *akça*, and received a portion of the established sum as down payment¹³⁷. Then he wants to cancel the contract by claiming that "*iltizam* is not *meşru'*, lawful." ("*iltizam meşru' değildir" diyüb.*) Both *fetvas* rule in accordance with the usurers. But, before rushing out to conclude that *iltizam* was deemed illegal by the *şeyhülislams*, we should remember that the answers would be exactly the same *without* the claims of illegality. Thus, it appears that they were simply put forward to strengthen claims. Besides, those claims are found only in the question part of the *fetvas* -the answers do not state any explicit agreement.

It is seen that *şeyhülislam*'s positions on the profit and liability of the tax-farmer differed from established practice. The *fetvas* do not recognize *iltizam* as a business venture in which the *mültezim* put his capital into use and hopes to realize a profit. The *fetvas* put an upper limit on the profit of the *mültezim* which is the fair wage for his labor. The distinguishing feature of *iltizam*, *mültezim*'s cash payment at the conclusion of the contract, was not taken into account. The *fetvas* did not entitle *mültezim* any further rights when he made a down payment.

The *fetvas* consistently try to protect the original owners of the usufruct - *sipahis*, *zaims*, or *mutevellis*- by awarding any surplus revenue to them, even though the original *iltizam* agreement may have given the surplus to the *mültezim* as profit. In order to protect *reaya* against possible excesses of *mültezims*, the

¹³⁷ *Abdurrahim*, I, 57. [35]

fetvas did not require them to meet the established *iltizam* amount. Thus, the responsibilities and liabilities of *mültezims* were rendered as essentially the same as those of *emins*. It must be stated that, the *fetvas*' stance against the *iltizam* was in perfect harmony with the "circle of justice" principle of the Near-Eastern tradition. The Ottoman *kanunnames* and imperial edicts tried to protect *reaya* and fief-holders so that the war efforts against enemies run as smoothly as possible. The underlying attitude in these *fetvas* was no different.

Comparison with *icare* cases shows that *iltizam* was seen as a special form of *icare* and *mültezims* as nothing but people who let their services be hired. In the terminology of Islamic law, *mültezim* was regarded as an *ecir*, or more specifically, *ecir-i hass*, which brings *iltizam* very close to *emanet*.

These *fetvas* show that the *şeyhülislams* treated the realities of their age in a practical manner without relinquishing a moral stance that accorded a fair share for everyone, and opposed injustice and wrongdoing. *Şeyhülislams* tried to prevent *mültezims*' abuses while following the policy towards protection of the high interests of the state.

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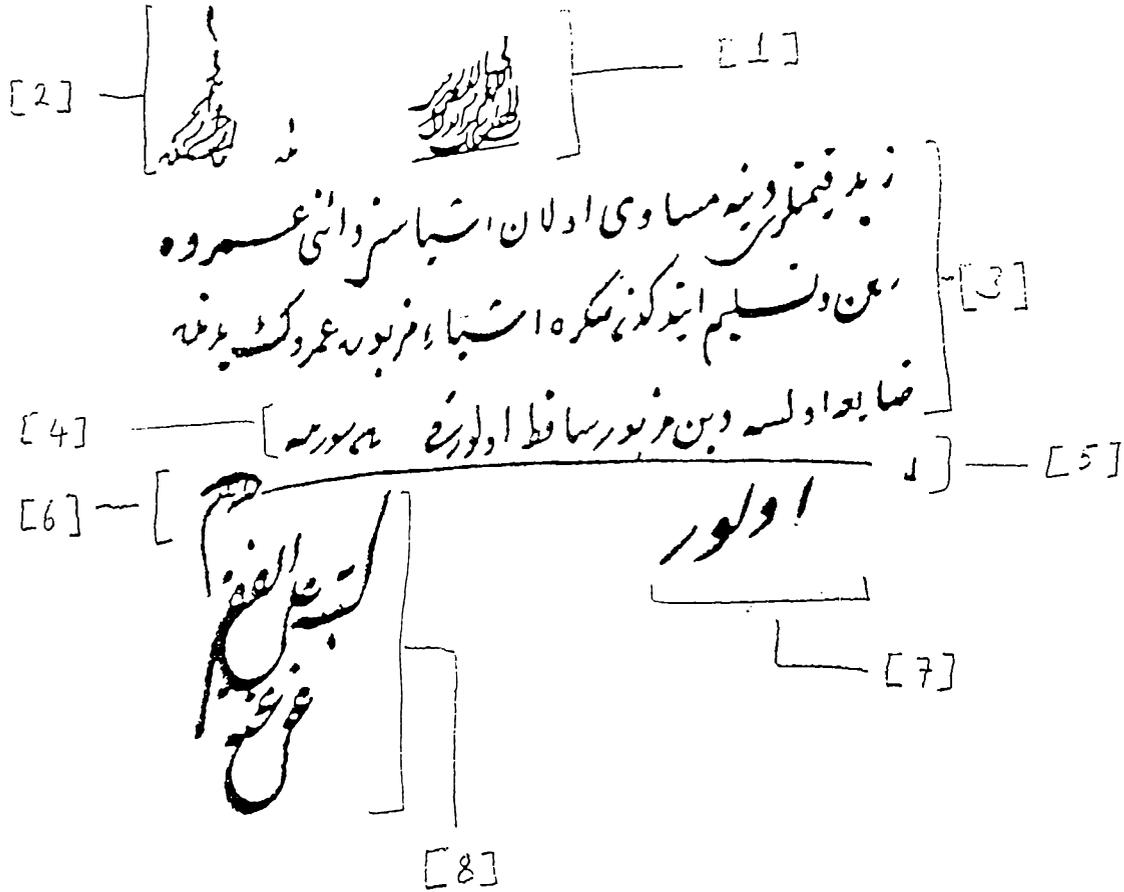
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APPENDIX 1: STRUCTURAL ANALYSIS OF A FETVA



This *fatva* is taken from *İlmiye Salnamesi, Meşihat-i Celile-i İslamiyye'nin Ceride-i Resmîyesine Mülhaktır*. İstanbul: Matbaa-i Amire, 1334/1915-6, 486.

[1] *Da'vet*, pious invocation

[2] Opening formula for the question part: *Bu mes'ele beyanında eimme-i hanefiyyeden cevab ne vechiledir ki*

[3] Question

[4] *Beyan buyurula*

[5] *El-Cevab*

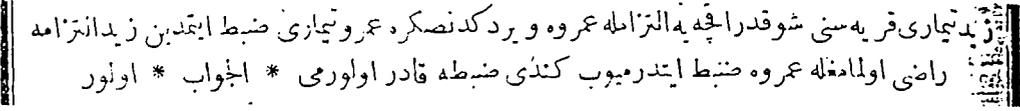
[6] *Allahu a'lem*

[7] Şeyhülislam's response in his own handwriting

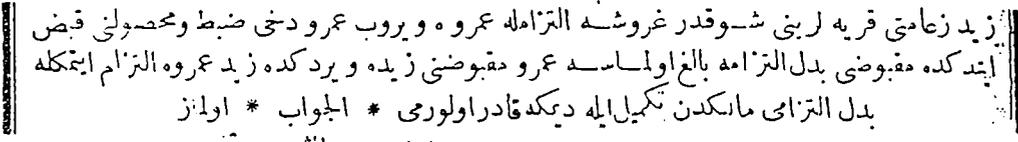
[8] Şeyhülislam's signature: *Ketebehu Ali El-Fakir, Ufiye Anhu*

APPENDIX 2: FACSIMILES

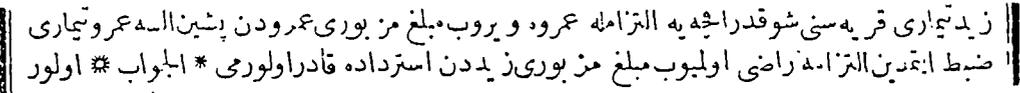
Although the *fatvas* used in this study were taken from the collections published in the nineteenth century, their facsimiles are provided here for ease of reference. For details, see the Bibliography.

[1] 

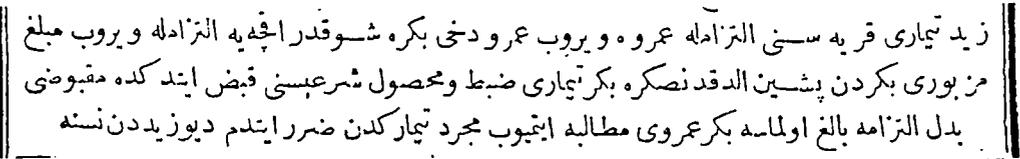
Ali, I, 165.

[2] 

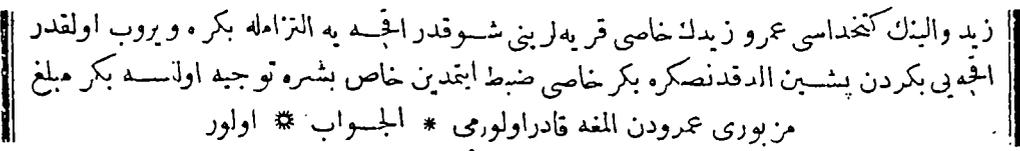
Ali, I, 165.

[3] 

Ali, I, 165.

[4] 

Ali, I, 165.

[5] 

Ali, I, 165.

[6] Ali, I, 166.

زيد تحت التزامنده اولان مېرى خدمتده مآذون اولمغه بدل التزامدن زياده يد التزامله عمروه
ويروب عمرو دخی خدمتی ضبط و محصولی قبض ایتد کده مقبوضی انجق مېریسته بالغ اولسه
عمرو مقبوضی زیده و یررکن زید عمروه مجرد التزام ایتمکله بدل التزامی مانکن تکمیل ایله دیکه
قادر اولورمی * الجواب * اولماز

[7] Ali, I, 166.

زيد وصیسی اولد یغنی صغیرک تیمار بنی شوقدر اچیه التزامله عمروه و یرد کده بدل التزامدن زياده سی
عمروک اولمق اوزره و یروب مبلغ مزبوری عمرودن الوب عمرو دخی ضبط و محصول شرعیستی قبض
ایتد کد نصکره مقبوضی بدل التزامدن زياده اولسه زید مبلغ مزبوری عمروه رد ایدوب عمروک
مقبوضدن عملک اجره مثندن زياده سی عمرودن الغه قادر اولورمی * الجواب * اولور

[8] Ali, I, 166.

زيد زعامتی قریه سی عمروه شوقدر غروشه التزامله و یرد کده بدل التزامدن زياده سی عمروک اولمق
اوزره و یروب بعده بدل التزامی المدين عمرو ضبط و محصول شرعیستی قبض ایتد کد نصکره زید
فوت اولسه ورته سی بدل التزامی المیوب عمروک مقبوضندن عملک اجره مثندن ماعداسی عمرودن
المنه قادر اولورمی * الجواب * اولور

[9] Ali, I, 166.

زيد تیماری قریه سی شوقدر اچیه التزامله عمروه و یرد کده محصولندن بدل التزامدن زياده سی
عمروک اولمق اوزره و یروب عمرو دخی ضبط و براق آی سیمی ایدوب محصول شرعیستی قبض
ایتد کد نصکره زید التزامه راضی اولمیب جله مقبوضی عمرودن السد عمرو عملک اجره مثلی زیددن
المنه قادر اولورمی * الجواب * اولور

[10] Ali, I, 166.

زيد زعامتی قریه سی عمروه شوقدر غروشه التزامله و یرد کده بدل التزامدن زياده سی عمروک اولمق
اوزره و یرد کد نصکره عمرو بدل التزامی زیده و یرمدین زعامتی ضبط و شوقدر غروش محصول
شرعیستی قبض ایتد کده مقبوضی بدل التزامدن زياده اولمغه زید التزامه راضی اولماسه عمرو
مقبوضندن عملک اجره مثندن ماعداسی زیده و یرد کده زید راضی اولمیب جله مقبوضی المنه
قادر اولورمی * الجواب * اولماز (بنهم جوابه ممامر آغا)

[11] Ali, I, 167.

زید تیماری قریه سنی التزامله عمروه و پروب محصولی قبضه تو کبل ایته کندن صکره حساد ادراک ایدوب
عمرو محصولی قبض ایدوب بعده زید فوت اولمغله تیمار بکره توجیه اولنسه بکر مجرد تیمار با که توجیه
اولندی دیو اول محصولی عمرو دن الله قادر اولورمی * الجواب * اولماز

[12] Feyziyye, I, 262-3.

زید صغیر خاصی قریه سنی وصی عمرو شوقدر ائجه دیه التزامله بکره و پروب مبلغ منبر
ببین الله بکر خاصی ضبط اتمدین عمرو التزامدن رجوع ایدوب مبلغ
منبروری بکره رد ایدوب و خاصی بکره
ایندرمیوب کندی ضبطه ﴿ ۲۶۳ ﴾ قادر اولورمی * الجواب * اولور

[13] Feyziyye, I, 258-9.

زید متولسی اولدینی وقت قریه یی شوقدر ائجه دیه التزام ایله عمروه و یرسه عمرو قریه یی ضبط اتمدین زید التزامه راضی
اولمغله قریه یی عمروه ضبط ایتدرمیوب وقت ایچون کندی ضبطه قادر اولورمی * الجواب اولور

[14] Feyziyye, I, 262.

زید تیماری قریه سنی شوقدر ایله
التزامله عمروه و یرد کدن صکره عمرو تیماری اصلا ضبط اتمدین التزامه راضی
اولمغله زیده تیماریکی ضبطه

دندکده زید مجرد التزام
ایتمکله بدل التزامی ادا
ایدوب تیماری ضبط ایله دیو
جبره قادر اولورمی * الجواب *
اولماز

[15] Feyziyye, I, 256.

زید تیماری قریب سنی شو قدر اجدیه التزامه عمروه ویرد کدن -
مکره عمرو تیماری ضبط اتمدین زید التزامه راخی اولمغله عمروه
ضبط ایتر میوب کندی ضبط قادر اولورمی * الجواب *

اولور

[16] Feyziyye, I, 257-8.

والینک کتخداسنی عمرو زیدک خاصی قریب سنی شو قدر اجدیه التزامه
بکره ویروب اولقدر اجدیه بکردن الدقت نصیحة

بکر خاصی ضبط اتمدین خاصن بشره توجید اولسد بکر مبلغ مزبورمی عمرو دن المنه قادر اولورمی * الجواب * اولور

[17] Feyziyye, I, 260.

زید تحت التزامه
اولان میرمی خدمتی مأذون
اولمغله بدل التزامدن زیاده
شو قدر اجدیه التزامه عمروه
ویروب عمرو دخی ضبط
و محصولنی قبض استدکده
مقبوضی الحق میرسنه بالغ
اولوب عمرو مقبوضنی زیده
ویرد کده زید مجرد التزام

ایتمکله بدل التزامی مال کدن تکمیل ایله دیو عمروک مقبوضندن زیاده تغلبا شو قدر اجدیه سنی اخذ واستهلاک ایدوب
بعده ضامن اولمدین فوت اولسد عمرو اول زیاده بی زیدک ترکه سندن تضمین قادر اولورمی * الجواب * اولور

زید تحت التزامنده اولان وقت
مقاطعتی مأذون اولمغله بدل
التزامدن شوقدر آنچه زیاده به
عمروه و یروب عمرو دخی
مقاطعتی ضبط و محصولی
قبض استدکده مقبوضی انجق
زیدک و قفدن التزام استدیکی
مقداره بالغ اولسد عمرو مقبوضی
زیده و بردکده زید عمرو مجرد
سن زیاده به التزام اتمکله
زیاده مالکدن تکمیل ایله
دیمکه قادر اولورمی . الجواب .
اولماز

زید تحت التزامنده اولان وقت قریبی

اولمغله شوقدر آنچه التزامله ﴿ ۲۶۱ ﴾ عمروه و یروب عمرو دخی

یدی ضبط و محصولی قبض استدکده
مقبوضی انجق زیدک و قفدن
التزام استدیکی مقداره بالغ
اولسد عمرو مقبوضی زیده
و بردکده زید مجرد التزام
اتمکله بدل التزامی مالکدن
تکمیل ایله دیمکه قادر اولورمی
• الجواب • اولماز

زید تیماری قریهستی التزامله
عمروه و یروب عمرو دخی بکره
شوقدر آنچه زیاده التزامله و یروب
مبلغ مزبور ی بیشین الدقدن صکره
بکر تیماری ضبط و محصولی
قبض استدکده مقبوضی بدل
التزامه بالغ اولماسه بکر عمرو
ایله محاصمه اتمیوب زیده
مجرد تیمارک اولمغله مقبوضی
الوب و بردیکم بدل التزامی
مالکدن ضامن اول دیمکه قادر
اولورمی . الجواب • اولماز

زید زعامتی
قریه لزیبی عمرو و بکره شوقدر
آقیمه التزام ایله و بردکدن
صکره عمرو سنه قبض اتمدن
قوت اولوب بعده بکر تیماری
مستقلا ضبط و محصولی قبض
استدکده مقبوضی بدل التزامه
بالغ اولمغله بکر مقبوضی زیده
و بردکده زید راضی اولیوب
التزام اتمکله بدل التزامی تکمیل
ایله دیو بکردن تغلبا شوقدر
آقیمه سه بکر عمروک ورئه سنه
مجرد عمرو زعامتی بنمیه التزام
اتمکله مبلغ مذکورک شو مقدماتینی

ترکه سندن ضامن اولک دیمکه قادر اولورمی • الجواب اولماز

زید
 شو قدر آنچه در التزامه
 بر خدمت اولاد قدده زید
 عمرو خدمتی سنکله
 معا ضبط ایدلم
 فائده حاصله اولاد قدده سنی
 تشریک ایدیم دیو و عدا ایدوب
 بعده زید و عمرو خدمتی ضبط
 و بر مدت سعی ایدوب شو قدر
 فائده حاصله اولاد زید و عمرو
 عملک اجر مثانی و یروب جلد
 فائده بی قبض اتمک استدکده
 عمرو زید مجرد شریکله

وعد اتمکله فائده سناکه مشارک اولورم دیکه قادن اولورمی . الجواب * اولماز

[23] Feyziyye, I, 262.

زید میری مقاطعینی شو قدر
 آنچه ، التزامه ایدقدنصکره
 زید عمرو مقاطعدن فائده
 حاصله اولورسه فائده سند
 سنی تشریک ایدیم دیوب
 بعده زید مقاطعینی ضبط
 ایدکده شو قدر آنچه ضرر
 ایلد زید عمرو فائده حاصله
 اولسدنی تشریک ایدجک
 ایدم اولله اولیجق ضررک
 شو مقدارینی باکه ضامن
 اول دیکه قادن اولورمی
 * الجواب * اولماز

[24] Feyziyye, I, 257.

بر قلعه نک
 دزداری اولوب دزدارلق
 مقابله سنده براتله تیماره متصرف
 اولان زید برسنه اداء خدمت
 ایدکدنصکره حصا دادرالک
 ایدوب لکن عشر محصول
 قبض ایدمدین زید عزل اولوب
 بریند عمرو دزدار اولسد عشر
 محصولی زید و عمرو دن تقیسی
 الور . الجواب * زید آلور

زيد تجارى قريه لربنى شوقدر يك اجهه التزامه عمروه درعهده ايدوب مبلغ من بوزى

[25] عمرودن پشبن لندقدن صكره عمرو واروب ضبط و محصولاتى قبض ايلدكده التزامه بالغ اولماسه حالاه عمروه مقبوضنى زيده تسليم وزياده برسنه قبض ايتديكده عيبن ايتدكده نصكره پشبن نامنه ورديكى اجهه بي زيددن كبروالمغه قادر اولورمى
الجواب اولور

[26] زيد زعيم زعانتى قريه لربنى برسنه ضبط ايتك ايجون شوقدر غروش التزامه عمروه وروب عمرو دخی واروب ضبط ايدوب مقبوضى بدل التزامه بالغ اولمالمغه مقبوضنى ككتوروب زيده تسليم ايدوب زياده برسنه قبض ايتديكده عيبن دخی ايدرکن زيدر اضى اولمبوب مجرد سن يندن شوقدر اجهه التزام ايتدك ديوب عمرودن اول بدل التزامنى تمامالمغه قادر اولورمى *الجواب* اولمازل

[27] زيد سباهى تجارى قريه سنى درت يك اجهه به التزامه عمروه درعهده ايدوب عمرو دخی التزام و واروب اول قريه بي ضبط وعشر محصولى قبض ايلدكده التزامه بالغ اولمبوب بوانتاده زيد دخی فوت اولسه حالاه عمرو مقبوضنى ككتوروب ورثه زيده تسليم ايدوب بعده زياده برسنه قبض ايتديكده ورثه نك طلبلى ايله عيبن ايدرکن ورثه مجرد التزام وقبول ايتش ايتك ديوب مقبوضندن زياده برسنه المغه قادر اولورمى *الجواب* اولمازل

[28] زيد برانله متصرف اولدينى خاصتك قريه لربنى بوجه التزام ايكي بوك اون يك اجهه به عمروه درعهده ايدوب عمرو اول قريه لرى ضبطه طرفندن بكرى توكليل وارسال ايدوب بگردنى واروب ضبط وعشر محصولى قبض ايتدكده عمروك التزامه بالغ اولمبوب بوانتاده عمرو فوت اولوب بعده زيد فوت اولمش اولسه حالاه بكر عشر محصولدن مقبوضنى اولان مرتبه بي عمروك ورثه سى معرفتله زيدك ورثه سى تسليم ايدوب زياده برسنه قبض ايتديكده عيبن ايدرکن ورثه عمرو مجرد مورثندن شوقدر اجهه زياده به قبول والتزام ايتشيدى ديوب بگردن مقبوضندن زياده برسنه المغه قادر اولورمى
الجواب اولمازل

[29]

برخاصك ضابطى اولان زيد اول خاصك برسنه ده حاصل اولاجق محصولنى برسنه تمامنه دك عمروه شوقدر اجهه به التزامه وروب عمرو دخی واروب اول خاصك محصولنى اخذ وقبض ايدوب لكن اول خاص اراضينده اولان قوانلرك عشرنى المادين زيد عمرو عيبن ايدوب اول خاصك محصولنى ضبطه طرفندن بكرى توكليل ايتدكده بكر اول قوانلرك احسابى قوانلربنى بوزوب عيبن عشرنى المقي استدكده عمرو مجرد اول قوانلرده حاصل اولان غسل اول خاص بنم تحت التزامه ايكمن حاصل اولمالمغه عشرنى بن الورم ديوب بكرى اخذدن منعه قادر اولورمى
الجواب اولمازل

[30] Abdurrahim, I, 56.

زيد بر ميري مفاطمة بي ميريدن امر و دفتر سلطنتي موجوده ميري سي اولان شو قدر اقيجه به التزام ايندوب بعده بگه شو قدر اقيجه فائده ايله در عهده ايندوب بگه ضبط ايندوب امر و دفتر موجوده محصولاتي جمع ايندوب مال ميري بي تماما كتورب زيده تسليم ايلد كده زيد بنم ايجون در عهده ايندوبك فائده بي دختي بگه ضامن اولدويمه قادر اولورمى
* الجواب * اولماز

[31] Abdurrahim, I, 55.

زيد تحت التزامنده اولان بر ميري مفاطمة بي ما ذون اولغله ايكي سنه تمامه دك اوتوزيك غروشه التزامله عمره در عهده ايندوب و مبلغ من بوردن پشين نامنه عمرودن اون بش يك عروس الووب بعده عمرودن غي واروب اول مفاطمة بي ايكي سنه ضبط و محصولاتي قبض ايلد كده انجق اون بش بيك غرو شلق محصول قبض ايتكله مقبوضني كتوروب زيده تسليم ايندوب زيده بر نسنه قبض ايتد بكنه بين ايد ركن زيد مجرد التزام و قبول ايتد بديك ديوعمرودن مقبوضندن زياده بر نسنه المغه قادر اولورمى
* الجواب * اولماز
بوصورتده عمر و مقبوضني كتوروب زيده تسليم ايتد كدن صكره پشين نامنه و پرديكي اون بش بيك غروشي زيددن المغه قادر اولورمى
* الجواب اولور

[32] Abdurrahim, I, 56.

زيد بر ميري خدمتي شو قدر اقيجه به التزامله ميريدن الووب بعده عمره التزامله و بروب مبلغ من بوري عمرودن پشين الووب مصبار فيه صرفه استهلاك ايندوب بعده عمر و خدمتي ضبط و مال ميري بي تحصيل ايتد كدن صكره زيد فوت اولغله طرف سلطنتدن امر ايله عمر و ك جمع ايتد بيكي مال ميري ميري ايجون عمرودن اخذ اولننه حاله عمر و دختي و پرديكني زيدك تركه سندن المغه قادر اولورمى * الجواب * اولور

[33] Abdurrahim, I, 57-8.

ميري ده شو قدر اقيجه سي اولان زيد اولقدر اقيجه بي ميري دن التزامله بر خدمت آلان عمرودن قبض ايندوب جكي محصولدن ما ليايه ايتد روب دفتر دار عمرودن الله سك ديوب يدنه امر و بروب زيد عمر و وار دفته عمر و ك يدنه اول خدمت محصولدن بر نسنه بوغيكن

مجرد بن اقيجه سيك خدمتكه كچون مشيدم ديوعمر و ك كندي مانندن المغه قادر اولورمى
* الجواب * اولماز

[39] Behce, 192-3.

بر بلده نك وانبسى زيد سفره ابونه كند كده خاندلى قريه لر بنى آخره ويرمكه منسبى
نو كيل ايمكده متلم دى خالصرك قريه لر بنى شوقدر اچمه التزام ايله عمروه ويرد كده
بدل التزام بدن زياده سى عمروك اولمى اوزره و كانه وروب عمرو دى خالصرك قريه لر بنى
ضبط و محصول شرعى سنى قبض ايتد كد نصكره ز بد سفر بن عودت ايتد كده عمروك
مقبوضى بدل التزام بدن زياده اولمغه زيد التزامه راضى اوليوب عمروك مقبوض بدن
تمت اجره نل بدن ماعداسنى عمرو دن آله. قادر اولورمى * الجواب * اولور

[40] Ali, II, 162.

اجر مثل نه ايله معلوم اولور * الجواب * بي غرض اهل و قوفك اخبار ليله

[41] Netice, 160-161.

زيد سپاهى تيمارى قريه سنى شوقدر اچمه عمروه بكره على الاشتراك
التزامه وروب بدل التزامى عمروه بكر دن بشين الدقدن نصكره عمرو
اول قريه بي مستقله ضبط و محصول شرعى سنى قبض ايلسه ما لا بكر
بدل مرقوم بدن زياده ويردىكى مقبوضى زيدن طلب ايتيوب عمروه
مجرد التزام ايمكده مقبوضك نصفنى باكو ويرد بوجيره قادر اولورمى
الجواب * اولماز *
بوصورنده عمروه بكره مقبوضك نصفنى ساكو بره يم ديو وعد ايدوب
تمسك ويرمش اولسه بكر اول وعده و تمسكه بنا، عمروك مقبوضك
نصفنى عمرو دن المغه قادر اولورمى * الجواب * اولماز *
بوصورنده بشر نصف مرقومه كليل اولمش اولسه بكر كفالتا
مرقومه به بنا، بشر دن نسنده المغه قادر اولورمى الجواب * اولماز *

[42] Netice, 162.

زيد واليك كخدا سنى عمرو زيدك خصاصى قريه لر بنى شوقدر اچمه به
التزامه بكره وروب اولقدر اچمه بي بكر دن بشين الدقدن نصكره بكر
اول قريه لره وارد قده بقضاء الله تعالى محصول لرى طراو اورمش اولمغه
بكر قريه لرى ضبط ايتيوب اصلانسنه قبض ايتماسه بكر مبلغ مزبورى
عمرو دن استرداده قادر اولورمى * الجواب * اولور محمد كامل
افندى

[43] Ali, II, 157.

زيد سپاهى عمروه تيمارم قريه لر بنى عشر محصولاتنى جمع ايله سكا ونده زينى ويريم ديوب عمرو دى
جمع ايدوب زيده تيمارم ايتد كده زيد عمروه ننه ويرماسه عمرو خد متك اجر مثلنى زيد دن المغه
قادر اولورمى * الجواب * اولور

[44]

Ali, II, 157.

زيد عمروه تيمارم محصولي جمع ايله نقد محصول جمع ايدرسنك اونده بريني سكاويره بم ديوب عمرو
 دخي بر دنت سعي ايدوب شو قدر محصول جمع وزيده تسليم ايتد كده زيد عمروه نسنه و يرماسه عمرو
 عماتنك اجر مثلني زيد دن المنه قادر اولورمي * الجواب * اولور

[45]

Behce, 193.

بروقف طوزله ده حاصل اوله جق طوزي متواپسي زيد عمروه برسنه نمانه دك شو قدر الجديه
 التزامله و برد كده صكره متواپسي التزام صحیح اوله مغله طوزله بي عمروه ضبط ايتدر ديوب
 وقف ايجون كندی ضبطه قادر اولورمي * الجواب * اولور

[46]

Behce, 193.

زيد سپاهي تيماري قريه لريني شو قدر الجديه التزامله عمروه و يروب مبلغ مزبورك
 بر مقدار بني پشين عمرو دن آلوب عمرو و تيماري ضبط و محصولني قبض ايتد كده صكره
 عمرو ديون تركه سندن از يد اولد بغي حالده فوت اولد حال زيد عمرو دن پشين آلد بغي
 مبلغ مزبوري زيدك دايملر بند و يروب عمروك مقبوضي اولان محصول اخذ ايتك استه كده
 دايملر آلوب اول محصول بيمزده تقسيم ايد زدنك قادر اولورمي * الجواب * اوله نازل

[47]

Abdurrahim, I, 58.

زيد عمروه تيمارم قريه سنك محصولني جمع ايدوب بر عشري سنك اولسون ديوب بعده
 عمرو محصولاتك بر مقدارني جمع ايدوب ماعداسي رعاباسي ذمترنده ايكن زيد عملنك اجر
 مثلني و يروب مقبوضي اولان محصول شرعي بي عمرو دن المنى مراد ايتد كده عمرو
 مقبوضي جمله دن حاصل اوله جق عشره طو تدم ديوب و بر ممكه قادر اولورمي
 * الجواب * اوله نازل

[48]

Abdurrahim, I, 59.

زيد زعاتنك ضبطني خد شكارى عمروه سپارس ايدوب واون ايجمه دن پرافجه سي
 سالار به نامنه عمروه تعيين عمرو دخي التي سنه ضبط و سالار به سني ايجندن الدقندن صكره
 زيد عمرو دن بانتمام مقبوضي اولان محصول شرعي الدم عمروه بر حبه حقم قالمسادي
 ديوب محاسبه سنه كو ستروب تمسك و يرسه حال زيد عمرو دن سن زياده محصول قبض
 ايدوب بر مقدارني باكه و يرماش سنك ديوب عمرو دن دعوي ايلسه مسموعه اولورمي
 * الجواب * اوله نازل

[49] Behce, 37.

برقاج كيمسلك اراضى خراجيدده مزروع اولان حبوبتى ادراقنى قبل الحصاد
ضواوروب بانكيد اهلاك ابدوب اول اراضى بى اول سنه زراعت مكن اولوب
آخرنه يدك معطل قاله اول سنك خراجى ساقط اولورمى * الجواب * اولور

[50] Behce, 37.

اراضى عشر به و خراجيد اوزر يند مغروسه اولان ملك باغله طواصبت ايمكده اول
سنده اصلا سنه حاصل اول سنه مزبوره اول باغلك ايجنه عشر و خراج
و بايدلرى اولان رسم دونم نامنه است و بر ملك لازم اولورمى * الجواب * اولور

[51] Ali, II, 157.

زيد سپاهى عمروى تيمارى قريه سنك محصولاتنى جمع و تحصيل ايجون مدت تسعين ايمك سزبن
شوقدر ايجده استيجار ايدوب عمرو دختى برقاج آى سعى و محصولاتى جمع ايدوب زيده تسليم ايله
عمرو اجر مسلمانى زيد دن المغه قادر اولورمى * الجواب * اجر مثل آتور مسلمانى تجاوز ايلور

[52] Abdurrahim, I, 59.

برقعه ده برميرى مقاطعه دن يومى قرق اقبه وظيفه ايله مستحفظ اولان زيد برسنه
خدمت ايتدك دن صكره وظيفه مزبوره بى المادين فوت اولسه ورته سى اول سنه نك
وظيفه سنى امين مقاطعه مزبوره دن المغه قادر اولورمى * الجواب * اولور

[53] Ali, I, 167.

زيدك براتله متصرف اولديغى تيمارده حصه ادراك ايدوب لکن اکن دوس اولمبوب زيد عشر محصولى
قبض ايجدين فوت اولدقد نصكره عشر محصولى امين بيت المال اولان عمره قبض ايله زيدك ورته سى
ارابه اشغال ايدوبو عشر مزبوري عمرو دن المغه قادر اولورمى * الجواب * اولور

[54] Ali, I, 167.

زيدك براتله متصرف اولديغى تيمارينك محصولى صوباشسى اولان عمرو زيدك امر يلدعايدن قبض
ودر ايجار ايتدك نصكره زيد فوت اولوب ورته سى صوباشيدن المتى مراد ايتدك رنده امين بيت المال
اولان بكر زيد فوت اولغله محصولى بن قبض ايدرم ديمكه قادر اولورمى * الجواب * اولور

[55] Ali, I, 167.

زيد براتله متصرف اولديغى تيمارك مخصوصانى قبض ودرانيا رايند كند نكده زید فوت اولوب
مخصوصول مزبوری ورته سی اقتسام مراد ایتد کلرند ه امین بیت المال بن قبض ایدرم دیکد
قادر اولورمی * الجواب * اوناز

[56] Ali, I, 165-6.

زيد وعمر و برك تحت انترامنده اولان میری مقاطعدين بگردن شوقدر اخذ بید علی الاشتراك التزامله
الدقلمند نكده بدل الترامی ادا ایتدین اوله مقاطعه بی بالکن زید ضابطه ایتد كده متبوضی انجنى بدل
انترامد بانغ اولغله بیکره ویردیوجله متبوضی عمر و ویرد كده عمر و زیدی اخذ و حبس ایدوب بدل
التزامدن زیاده شوقدر اخذ قبض ایلدم دیواقرار ایتد بروب زیددن مقاطعه فاده سی نامه
تغلبا شوقدر اخذ السد زید بانغ مزبوری^۴ رودن استردادده قدر
اولورمی * الجواب * اولور

[57] Mecmua-i suver-i Fetava,
Süleymaniye Library, Esad Efendi no. 3812, folio 6a.

زیر زیمیم رحایا دمنلنده اولانم عشر نجه رحایا دمه الوبین زیر فوت اولسه حرم از نور احسن سال اولم بیکه
دراره سنده قیغی قیغی ایدر اهو احسن بیس مالل
دره حرم