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SÜREÇ OLARAK RİBA: 1548 TARİHLİ OSMANLI PARA VAKIFLARI FERMANINA ETNOGRAFİK BİR YAKLAŞIM[ab]

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ÖZ

Bu makale, Kanuni Sultan Süleyman'ın para vakıflarına getirdiği yasağı kaldıran 1548 tarihli fermanının etnografik bir incelemesidir. Para vakıfları, nakit paranın borçlandırma yoluyla işletilerek elde edilen kârın hayır işlerinde kullanılmasına imkân tanıyan bir Osmanlı icadıdır. İslami bankacılık tartışmalarında ribâ yasağının oynadığı merkezi rolün etkisiyle, para vakıfları ve etrafındaki ihtilaflar günümüzde hâlen güncelliğini korumaktadır. Buradan hareketle, bu makale 1548 fermanını ele almakta ve ribâ'yı sabit bir sayısal sonuç olarak değil ("faiz" ya da "tefecilik" gibi), müşterek ve cismanileşmiş bir yorum ve müzakere süreci olarak yaklaşmayı önermektedir. Fermanın "ribâ rayihası" kavramsallaştırmasından hareketle, ribâ yasağı hesap yaparak değil, gündelik hayatın ritüelleşmiş pratikleri aracılığıyla yönetilen bir süreç olarak karşımıza çıkmaktadır. Ribâ ile ribh, gündelik pratikler aracılığıyla birbirinden ayrışmakta; ferman da ayrıntılı olarak bu süreçte rol oynayacak kişileri (erbâb-ı hayrât, mütevelli, kadılar) işaret edip vazifelendirmektedir. Ribâya dair bu içerden yaklaşım, Osmanlıların yasakla olan nüanslı ilişkisini ve sahip oldukları zengin finansal kategori yelpazesini tek bir "faiz" kavramına indirgeyen literatürü sorgulamaktadır. Ribâ'ya süreç olarak yaklaşmak, günümüzde "şer'î yönetişim" olarak adlandırılan alanı yeniden düşünmeye davet etmekte; para vakıflarının modern İslami bankacılıkla bağlantısını yalnızca hukuk ya da kurumlar üzerinden değil, onlara hayat veren kültürel kategoriler aracılığıyla kurmaktadır.

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RIBA AS PROCESS: AN ETHNOGRAPHIC READING OF THE 1548 OTTOMAN DECREE ON CASH WAQFS[ab]

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ABSTRACT

This article offers an ethnographic reading of Sultan Süleyman's 1548 decree that lifted the ban on cash waqfs, an Ottoman innovation that allowed individuals to endow money and, through lending, generate returns for charity. Cash waqfs and the controversies surrounding them have become increasingly relevant, as contemporary debates on Islamic banking continue to revolve around the implications of the riba prohibition. Building on this tradition, the article reconsiders the Ottoman case to argue that riba is best approached not as a fixed outcome, whether "interest" or "usury," but as a collective and embodied process of interpretation and negotiation. Drawing on the decree's formulation for navigating "the scent of riba" (riba rayihası), the article frames riba prohibition as a process to be managed through ritualized everyday practice rather than calculated into a numerical outcome. An emic approach to riba highlights the ways Ottoman actors engaged with the prohibition, challenging earlier scholarship that collapsed a rich spectrum of financial categories into the single notion of "interest." The processual approach to riba offered here reframes what is today called "shariah governance," connecting cash waqfs to modern banking, not necessarily through institutions or law, but through the cultural categories that once animated them.

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[a] This article is a revised and expanded version of the study "A Prehistory of Islamic Banking: From Muamele to Mudaraba, The Transformation of Riba Consensus," which appears as the second chapter of the doctoral dissertation *Banking on Doubt: Law and Ambiguity in the Everyday Life of Islamic Participation Finance in Turkey* conducted at Northwestern University.

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INTRODUCTION

Cash waqfs were an Ottoman innovation in which individuals endow cash, instead of the established practice of endowing immovable property such as land. Instead of earning profit for charitable purposes from immovable, cash waqfs generated returns from lending the endowed money. However, in the face of the Islamic prohibition on *riba*, how does one earn profit from cash? Ottoman jurists engineered contracts, the most common of which are called *muâmele-i şer'iyye*, through which people were allowed to make a profit by lending money, grounding cash transfer in the transfer of goods. As contemporary debates on Islamic banking continue to revolve around the implications of *riba* prohibition and the permissibility of profit, this article reconsiders the Ottoman case to argue that *riba* is best approached not as a fixed economic outcome, whether "interest" or "usury," but as a *process* of negotiation and resolution.

During twenty-one months of ethnographic fieldwork and archival research on Islamic banking in Türkiye, I became accustomed to hearing about *riba* anxieties surrounding the industry: whether profit shares (kâr payı) are indistinguishable from interest (faiz) or whether service fees conceal forbidden gain. Such debates, however, are historically myopic: they treat contemporary *RIBA* ambiguities as exceptional, rather than recognizing that remarkably similar controversies have unfolded for centuries in countless contexts. Scholarly accounts show that whether it is about the permissibility of cash waqfs in the 16th-century Bursa (Çizakça, 1995), khiyar sales in 18th-century Zanzibar (Bishara, 2017), or Islamic mortgages in the 21st-century United States (Maurer, 2006), *riba* doubt is a norm, rather than an exception.

With this background in mind, I initially assumed that Ottoman cash waqfs were a footnote in a project on contemporary Islamic banking. A crucial footnote, but a footnote nonetheless. That assumption shifted, however, when I encountered a striking claim in the cash waqf literature: that there

was a period in which explicit *riba* doubt was absent, even amid heated controversies over the legality of cash waqfs (Mandaville, 1979; Genç, 2000; Dindaroğlu, 2013). Drawing on the writings of Ottoman scholars Ebussuud, Çivizade, and Birgivi, in his seminal article, "Usurious Piety," Mandaville noted that up until Birgivi, "no one had raised the issue of usury directly" (1979, p. 305). How was it possible that cash waqfs could exist and become the center of public legal controversy for decades (Özcan, 2008), but they focused on issues such as the legal possibility of endowing immovables, yet *riba* itself remained unspoken? This would imply that during the banning and reinstatement of cash waqfs between 1538 and 1548, and until Birgivi's writings in 1571, no one directly raised the issue of *riba* doubt.

If correct, such an absence would be more revealing than its presence, suggesting a moment when *Riba's* doubt was muted or suppressed. This possibility matters because the prohibition of *riba* has always been marked by ambiguity. Qur'anic verses on *riba* were revealed gradually, with verses 2:275–279 articulating the definitive prohibition (Erdem, 2017). Yet these verses are not only the final verses on *riba* but are also understood to be among the very last revelations altogether (Nasr et al., 2015). Since the Prophet Muhammad passed away soon thereafter, relatively few hadiths and sunnah elaborated on its scope. This scarcity created an enduring ambiguity, leaving *riba* open to interpretation and debate for centuries. With every new mode of exchange or innovation in credit, such as the establishment of cash waqfs, the expansion of trade networks, or the colonial arrival of modern finance, *riba* has remained a contested category, repeatedly reopened to dispute.

To be clear, this does not imply that Muslim scholars and communities have never reached strong conclusions about *riba*. On the contrary, the birth of modern Islamic banking represents a remarkable moment of international consensus in the mid-20th century: it is built on what O'Sullivan (2020) explains as the so-called "maximalist" interpretation of

riba, which holds that *any increase* while in lending or borrowing is prohibited. Conviction and doubt, however, coexist and imply each other (Pelkmans, 2013). Even though people today hold strong convictions about the *correct* interpretation of *riba* prohibition, those convictions are continually produced and reinforced through explicit debate.

As I was grappling with Mandaville's implication of the absence of direct *riba* doubt during the cash waqf controversy, I came across a crucial document, indeed in an article titled "A Crucial Document Related to Cash Waqfs" (Özcan, 1998). The document was unearthed from the Ottoman archives years after Mandaville's article was published, and it decisively contradicted his statement that scholars have debated cash waqfs without directly addressing the issue of *riba* for decades, until Birgivi. The document was Sultan Süleyman's 1548 decree that lifted the ban on cash waqfs and it directly addressed the issue of *riba*. Although we still do not have access to the original copy of the decree, scholars found two documents that report a similar account of the decree, one being slightly longer (Özcan, 1998; Gel, 2010, the latter being the longer one). These documents call for us to reevaluate Mandaville's understanding of the history of cash waqfs, especially in terms of the relevance of *riba* in the surrounding sociolegal debate.

Yet the aim of this article is not merely to correct Mandaville's claim (or those of later scholars who built on it) with new archival evidence. Rather, I use the controversy as an entry point to an ethnographic reading of Sultan Süleyman's 1548 decree on cash waqfs. In the decree, Sultan Süleyman not only directly raised *riba* doubt, but also framed it in specific terms and prescribed ways to address it. My approach is guided by what anthropologists call an emic perspective: seeking to understand how people in a specific historical and cultural context defined and engaged with a category rather than imposing fixed analytical definitions from outside. In this perspective, the ethnographic evidence suggests approaching *riba* not as a fixed numerical result but as a collective and

embodied process of interpretation and negotiation.

My analysis of the 1548 decree highlights two points in particular. First, the decree's articulation of "the scent of riba" (ribâ rayihası) offers a way of approaching *riba* prohibition as an embodied process that is managed and resolved rather than simply calculated. Second, it underscores how the distinction between *riba* and *ribh* was grounded not in abstract doctrine but in the everyday practices, particularly centered on the roles of benefactors (erbâb-ı hayrât), trustees (mütevelli), and the judges (kadı). The decree emphasizes responsibility at the everyday level: it mentions the practical problems the cash waqf ban created, specifies what trustees must do, and instructs judges directly, "you shall not involve deputies, preachers, or imams; you shall always carry out the transactions yourself." It even details the benefactors' registration process. In this sense, the decree frames the management of *riba* doubt not as a distant theological abstraction resolved through contractual tricks, but as a set of ritualized, institutional practices embedded in everyday financial life.

This processual understanding helps reframe what is today called "shariah governance"—a key site of encounter where finance professionals, academics, state officials, lawmakers, and fiqh scholars meet, negotiate, and reach legal resolutions. At both national and international levels, the growth of modern Islamic banking has created demands for codification, standardization, and new regulatory frameworks to address legal pluralism and geopolitical fragmentation. In Türkiye, for example, drafting the participation finance law has stretched over a decade and remains under revision. Such shifting legal terrain compels us to step back from familiar patterns of thought, to develop new analytical and methodological approaches. To do so, I turn to a 477-year-old document by Sultan

Süleyman, remembered in these lands as Kanuni, the Lawgiver.[1]

THE METHOD: TOWARD AN ETHNOGRAPHIC READING

Archives of cash waqfs are remarkably rich, and scholarship has begun to mine them through computerization and quantitative analysis (Çizakça, 1995; Altay, 2024; Özdeğer and Gürsoy, 2024) as well as qualitative descriptive approaches that identify local trends (Kıvrım, 2016; Ahbab 2017; Ademi 2018) and offer glimpses into Ottoman social life (Çınar, 2017; Taşkaya, 2022; Taygur, 2025). My paper builds on this flourishing discussion of "Ottoman financial mentality" (Bulut and Korkut, 2019), the comparative framing of Ottoman practices and modern Islamic banks (Bulut and Korkut, 2016), and recent debates on whether such approaches risk historical anachronism (Özsaraç, 2021). I suggest that close readings, whether of individual documents through an emic perspective, or of individual life trajectories, may offer a different set of insights and possibilities. This article takes only a first step in that direction. Ethical approval was granted by the Northwestern University Institutional Review Board (IRB) on September 15, 2020, under IRB ID STU00213435.

Much of this existing scholarship prioritizes certain perspectives, often relying on institutional records or writings produced by the Ottoman elite. This is unsurprising, since what survives in the archive tends to be documents such as waqf registers, court records, legal decrees, and compilations of fatwas. Historians have long debated how to grapple with this power imbalance in the construction of historical narratives, with some advocating reading of the archives "against the grain" (Scott, 2017). But what would this mean for the study of cash waqfs? Should we sideline this remarkably rich body of data because it reflects a limited perspective?

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[1] It bears mentioning that the decree was most likely not composed by the Sultan but rather drafted by chancery officials and issued in his name. I thank Dr. Hüseyin Sağlam for alerting me to this important nuance.

Given the focus of this article, of course, there is a serious challenge (and irony) here. Compared to waqf registers, which, although trustees were often drawn from local elites, nonetheless offer a more decentralized perspective, I focus on a decree signed by Sultan Süleyman himself. My point, however, is that even such a top-down text can be read for what it may reveal about non-elite engagements and practices. Consider, for instance, how scholars of cash waqfs usually approach the ulama’s risalas and fatwa collections. The fatwas are organized as question-and-answer, yet most analyses focus on the answers, the authoritative rulings. By contrast, I am drawn to the questions: What were people’s general anxieties about cash waqfs? What prompts them to seek a fatwa in the first place? Shifting attention from the answer to the question can offer richer clues into everyday life.

Ann Stoler (2010) offers a useful framework for this methodological move, which she calls “reading along the grain.” To read along the grain, Ann Stoler (2010) urges to treat archives as processes rather than fixed, stable “things,” and as subject matters in their own right rather than mere sources of information. Her notion of tracing the “social etymologies” of categories —what she calls the “grids of intelligibility”— draws attention to the frameworks that shape “how people think and why they seem obliged to think, or suddenly find themselves having difficulty thinking, in certain ways.” (2010, p. 36)

By calling this an ethnographic reading of the 1548 decree, then, I mean to approach the text not only as Ottoman legal history but as a social text: one that reveals how categories such as *riba* and *ribh* were made intelligible in a particular historical moment, and how they ordered everyday practices and obligations within the institution of the cash waqf. In this sense, my ethnographic approach to the decree rests on two axes. First, it prioritizes everyday life: which actors, processes, and practices were deemed relevant; what roles they were assigned; and how these together constitute the functioning of a cash waqf. Second, it seeks to

grasp the “grids of intelligibility” —the conceptual imaginaries, or meaning-worlds, within which cash waqfs were situated. This perspective makes it possible to trace connections between contemporary Islamic banking and Ottoman cash waqfs not only through institutions or fragments of law, but through the cultural categories that animated them. Today, people encounter Islamic banks through affective experiences—such as conscientious unease —and rational strategies— such as regulatory oversight and incentive mechanisms. Together, these constitute the everyday practices through which the prohibition of *riba* is managed. I seek to historicize this dynamic by understanding how *riba* was conceptualized in the context of cash waqfs and permeated everyday life.

I also call this “toward” an ethnographic reading because the work is necessarily partial. We do not have the original decree, but what survives are later accounts of it. The versions I analyze here come to us through two manuscript copies, largely overlapping but with important divergences (Gel, 2010). These divergences themselves suggest avenues for future research: What other copies of the decree exist and differ from each other and from the original? What other traces did the decree leave as it was copied and circulated? Were notes or commentaries added? How did engagement with these categories shift across centuries of transmission? How was the decree preserved, and among what different collections of documents? As a first step, I limited myself to a direct engagement with the text we have, reading along the two axes described above. But the promise of an ethnography in the archives lies precisely in pursuing these broader questions: following the decree through its afterlives, and tracing how social categories were continually reinterpreted, stabilized, and transformed across centuries.

The Decree: “so that Muslims are assured to be free from the scent of *riba*.”

The historical context is well known: two Ottoman scholars were strongly

opposed to cash waqfs: Çivizade[2] (1477- 1547) and Birgivi (1523-1573). Çivizade was a chief justice, *Shayk al-Islam,* and he convinced Sultan Süleyman to ban cash waqfs.[3] The proponents of cash waqfs later persuaded Sultan Süleyman to lift the ban, and in 1548, a year after Çivizade's death, Sultan Süleyman issued the decree below. The structure of the decree is as follows: Sultan Süleyman explains his previous ruling that banned cash waqfs, detailing what legal religious concerns were raised by Çivizade (referred to by his full name Mevlânâ Şeyh Mehmet in the decree) that made him ban them. Then, he references reports of negative social consequences of his ban and presents a list of great Islamic scholars who agreed on the validity and necessity of cash waqfs and who presented their reasoning to him, the imperial court. Then, he moves on to his new ruling: First, stating that he lifts the ban and, therefore, people can endow cash from now on. But he goes on to explain in a nuanced and specific way how they can do so. He provides details of a ritualistic process of registering a cash waqf that involves many parties, in a particular order, announcing, demanding, accepting, rejecting, and always in reference to various Islamic scholars' reasonings. It is notable that the new process he details addresses and resolves the concerns that made him ban cash waqfs in the first place. He repeatedly warns that the decree shall be followed as is, and he details who will regulate its adherence and how they will do so.

This text has never been translated into English in full, as far as I know, either in its shorter (reported in Kefevi's Ketaib) or longer version (reported in an anonymous edited volume called Mecmûatu'r-Resâil) (Gel, 2010). The existing partial translations either omitted or (mis)translated significantly, changing the parts of the decree I would like to draw

[2]Full name is Çivizade Muhyiddin Mehmed Efendi (1476/7- 1547) appointed to be şeyhülislam in 1539 and (arguably the fırst to be) removed 1542, not to be confused by his son, Çivizade Mehmed Efendi (1530/1-1587), also a şeyhülislam, appointed in 1582 and served until his death from the plague in 1587.

[3] There are also clues that this debate was not an illegible legal debate but closely concerned the general public. For example, a Sufi leader of the time criticizes Çivizade's opposition, complaining: "It led to common people saying [about the cash waqf], 'This is a void and sinful act!'" (Mandaville 1979, p. 301)

attention to (Repp, 1986). Therefore, I combined the shorter and longer versions of the text and kept the original words referring to money and currencies (*dirham, dinar, akçe,* and *florin*) and financial contracts (*muâmele-i şer'iyye* or *muâmele*):

To the illustrious judges and governors, the paragons of virtue and eloquence, and the districts and judges—may their virtues increase—of the protected lands, be it known, with the arrival of the exalted Imperial decree, that:

> Previously, the late former Chief Justice, [Çivizade] Mevlânâ Şeyh Mehmet, had presented to my throne—the center of the world—the following concerns regarding the waqf of *dirhams* and *dinars*: it rests on weak narration, most jurists agree that it lacks validity, its registration is not even feasible, and trustees mostly do not act according to *muâmele-i şer'iyye*, inevitably opening the door to *riba*. Consequently, my decree was issued that no one in my protected domains should establish waqfs of *dirhams* and *dinars* and that judges should not register such waqfs. Sharia rulings were sent to various places to this effect.
>
> It has now been reported that in the protected realms under my wings, [following the ban] the trustees and heirs of *akçe* waqfs are using the endowed *akçe* for consumption and trade; causing masjids and other places of worship and charity to fall into ruin and neglect, and that most benefactors do not have immovables to endow, leading to a decrease in charitable works. Formerly my Chief Justice, who has retired from issuing fatwas, the most learned of the great scholars, Mevlânâ Abdülkadir

(may Allah prolong his virtues), and the most learned of the erudite scholars, Grand Mufti Mevlânâ Ebüssuûd (may his virtues increase), and the most learned of the erudite scholars, my Chief Justices (may Allah prolong their virtues), and the former Chief Justice of Anatolia, Mevlânâ Emir Mehmet (may his virtues increase), and other great scholars (may Allah multiply their kind until the Day of Judgment), contrary to the deceased mentioned [Çivizade], agreeing, issued a fatwa on the validity and bindingness of endowing *dirhams* and *dinars* and stated that there is no harm in resting upon weak narration in such cases. This was presented in detail to the Imperial Court.

To regulate religious affairs and strengthen the straight path of Sharia, which is per the noble Sunnah and commendable custom of my sultanate, my esteemed decree has been issued as follows:

In my protected realms, as has been customary since old times, those inclined towards charitable works and wishing to make endowments may endow in *akçe* or *florin* as they choose. I order that when my binding and noble decree reaches you, each of you warn and inform the general public under your jurisdiction of this imperial command that any benefactor who wishes to endow *akçe* or gold, whether it be *dirhams* or *dinars*, explaining and determining the path of the great scholars, whatever they wish to endow they endow it and deliver it to the trustee, and for registration purposes: if the founder says, ‘According to the ruling of the three Imams, the endowment of dirhams and dinars is not valid; therefore I will spend the endowed money on my own expenses,’ and

if the trustee, considering Imam Zufar's opinion that the waqf is valid, refuses to consent to its annulment, then the judge shall rule on the validity of the endowment according to Imam Zufar's opinion, and by this ruling its validity becomes established.

According to the mazhab of [İmam Azam] —the light of the leaders and the pillar of the community, the remover of sorrow, we rely on him, the presence of the great İmam, the exalted İmam the Kufi, may Allah's mercy be upon him—merely saying 'I have endowed' and handing it over to the trustee does not make the endowment valid [lāzim]. Based on this, [the founder of the endowment] shall revoke it and request the return of the endowed money to his ownership. And the judge shall then rule in accordance with the opinions of Imam Abū Yūsuf and Imam Muhammad [that the endowment is binding]. From now on, act accordingly, and no one should act contrary to it.

Furthermore, when trustees wish to renew *muâmele*, they should go to the judge's court and have it registered in the records. You, judges, shall not allow anyone to conduct *muâmele* except after the assembly of the noble Sharia court; and without conducting *muâmele-i şer'iyye*, you shall not permit anyone to receive *ribh* so that Muslims are assured to be free from the scent of *riba*. And in these mentioned matters, you shall not involve deputies, preachers, or imams; you shall always carry out the transactions yourself personally. After reviewing this noble decree, you shall record a copy of it in the registers of your court and safeguard it in the hands of a reliable person among the leading figures of the province, so that

> future governors and judges act per this noble decree and do not perform actions contrary to the noble Sharia. Know this, and act accordingly, being bound by it and relying on the noble sign. This was written and recorded on the twenty-third day of the month of Safar in the year nine hundred and fifty-five.

ANALYSIS AND DISCUSSION

In the 1548 decree, Sultan Süleyman presented four reasons for his ban on cash waqfs and explained one by one how to overcome them now that the ban is lifted. Resolving the first two reasons by listing Islamic scholars whose fatwas render cash waqfs valid and binding, he reinstates cash waqfs [“those inclined towards charitable works and wishing to make endowments may endow in *akçe* or *florin* as they choose”]. In the rest of the decree, he outlines the process by which the latter two reasons for the initial ban were to be resolved: how to make cash waqf registration feasible and how to close “the door to *riba*,” ensuring that trustees adhere to the Islamic financial contract, *muâmele-i şer‘iyye.*

This was not a decree that simply lifted the ban on cash waqfs. As Özcan (1998) emphasized, it provides insight into the process of decision-making in Ottoman governance, as it lays out the scholarly justifications and expert opinions that served as reference points for rulings both for and against cash waqfs. In Table 1, I show how the decree was structured, pairing each of Çivizade’s objections with the scholarly opinions the Sultan invoked in response. In what follows, I first detail the contents of the decree in a way that supports Özcan’s emphasis on its legitimization through scholarly authority. I then turn to the central concern of this article: how the decree approached the question of *riba*.

Table 1 Objections to and Resolutions of Cash Waqfs in the 1548 Decree

Çivizade's Objection (Problem)	Original Text	Decree's Response (Resolution)	Original Text
It rests on weak narration.	rivâyet-i za'îfedir	[Scholars issued a fatwa] and stated that there is no harm in resting upon weak narration in such cases.	[ulema fetva verüp] bunun emsalinde rivayet-i zaîfe ile amel olunmakta zarar yoktur dedikleri
Most jurists agree it lacks validity [ṣıhḥat].	ekser-i müctehidîn adem-i sıhhat üzerine zâhib olub	[scholars] agreeing, issued a fatwa on the validity and bindingness of endowing dirhams and dinars	müttefik olup derâhim ve denânîr vakfının sıhhatine ve lüzûmuna fetva verüp
Its registration is not even feasible	ve tescili dahi mümkin değildir	Merely saying 'I have endowed' and handing it over to the trustee does not make the endowment binding [lāzim]. Based on this, [the founder of the endowment] shall revoke it and request the return of the endowed money to his ownership. And the judge shall then rule in accordance with the opinions of Imam Abū Yūsuf and Imam Muhammad [that the endowment is binding]."	…vakf eyledim deyup mütevellîye teslim etmekle vakf lâzım olmadığına binâ rücu' ve giru mülküne avdet kastedüb ve hâkim-i vakt dahi imâmeyn-i hümâmeyn Hazreti İmam Ebû Yusuf ve Hazreti Muhammed mezhepleri üzerine hükmeyleye…

Trustees mostly do not act according to muâmele-i şer'iyye, inevitably opening the door to riba	ve müteveliîlleri dahi ekser muâmele-i şer'iyye etmedikleri sebebden bâb-ı ribâ meftûh olmak lâzım gelür	You, judges, shall not allow anyone to conduct muâmele except after the assembly of the noble Sharia court; and without conducting muâmele-i şer'iyye, you shall not permit anyone to receive ribh so that Muslims are assured to be free from the scent of riba.	siz ki kâdîlarsız min-ba'd meclîs-i şerʿ-i şerîfden gayrı yerde kimesneye muâmele etdirmeyesiz ve muâmele-i şer'iyye etmedin kimesneye ribh deyû akçe aldırmayasız ki müselmân ribâ râyihasından emîn olalar…

Table 1 outlines how Sultan Süleyman first explained the reasons for the ban—presented in the first two columns with the original text and my translation—and then directly addressed how each problem was resolved in the third and fourth columns. First, Çivizade argued that cash waqfs rested on weak narration [rivayet-i za'ifedir]. Later in the decree, Sultan Süleyman cites scholars who argued that in this case, reliance on weak narration was permissible. Second, while Çivizade maintained that most jurists agreed that cash waqfs lacked validity [sıhhat], the decree invokes other scholars who not only affirmed their validity and bindingness but even deemed them necessary. In other words, Süleyman reframes Çivizade's claim into the opposite: not only are cash waqfs permissible, they are also necessary, as he points out social harm [*causing masjids and other places of worship and charity to fall into ruin and neglect*] and socioeconomic realities [*that most benefactors do not have immovables to endow, leading to a decrease in charitable works*]. The point here is not that contemporary social or economic needs override fiqh, but rather that such needs shape and reinforce fiqh-based reasoning. What emerges is an attitude that aligned state law with fiqh-based legitimacy.

The third objection raised by Çivizade, that the registration of cash waqfs was not feasible, is in fact the one most extensively addressed in the

decree. It appears with detailed instructions that amount to a highly structured, almost ritualized set of procedures involving multiple actors. As Murat Çizakça (1995) demonstrates in his study of the Bursa court registers, the procedures outlined in the decree seemed indeed to be implemented in practice. In this sense, the decree codified the steps necessary for the registration of cash waqfs.

The fourth and final objection raised by Çivizade —and its resolution in the decree— is particularly noteworthy, not least because the relevant passage appears only in the most recently discovered manuscript copy (Gel, 2010), absent from Özcan's 1998 edition. This was the part of the decree that first drew my attention and prompted me to examine it in detail. In what follows, I focus on how *riba* is articulated in the text, and I will use this in the next section as the ground from which to suggest a reconceptualization of *riba*.

It is noteworthy that in the two and only instances where Sultan Süleyman explicitly mentions *riba*, both are in relation to the financial contract. In the first instance, the relationship between *riba* and contract is established: "Trustees mostly do not act according to *muâmele-i şer'iyye,* inevitably opening the door to *riba*." The lack of adherence to the processes of the contract by trustees thus raises doubt about the *Riba* offense. This framing also compels me to draw a parallel between the role of a trustee in a cash waqf and that of an employee in a modern Islamic bank today. Although extreme in their temporal distance, almost five centuries, both are central figures in financial discourse, entrusted with adherence to financial contractual forms to avoid *riba*.

The second instance where the *riba* issue is raised —articulated poetically as "ribâ râyihasından emîn olalar" and found exclusively in a recently recovered manuscript (Gel, 2010)— establishes the crucial relationship between *riba*, ritual (contract), and *ribh* (permitted profit). The text states:

> You, judges, shall not allow anyone to conduct *muâmele*

> except after the assembly of the noble Sharia court; and without conducting *muâmele-i şerʻiyye*, you shall not permit anyone to receive *ribh* so that Muslims are assured to be free from the scent of *riba*.

This passage underscores the necessity of adhering to the financial contract, *muâmele-i şerʻiyye*, under the regulation by sharia scholars. It explicitly prohibits receiving excess through lending if it does not conform to the contractual process. In this context, *ribh* refers to the permissible profit derived from lending money via *muâmele-i şerʻiyye*, and if not done so correctly, the transaction may *smell* like it contains *riba*.

As I will elaborate in the next section, this textual evidence suggests a process-based model to comprehend *riba* interpretation, wherein *riba*, usury, and interest are conceptualized as interconvertible. Such an approach is essential for contextualizing and interpreting this passage, as it illuminates the relationship between *ribh* and *riba* and demonstrates how they could potentially transform into one another through the contractual and institutional processes delineated in the preceding sentences. In such a framing, the problem lay not in the contract itself but in its everyday practice. Indeed, as Birgivi later observed in his 1571 risala, quoted in Özcan (2003, p. 55), Kurt (1996, p. 36) and Güney (2019, p. 27), the issue ultimately comes back to the trustees:

> Since most trustees are ignorant people, they do not know the legitimate forms of the ʿīna sale mentioned in the books. They operate waqf funds in the form of loans (qarḍ) or sale contracts. Yet every loan transaction that generates benefit is riba. Some of them are also immoral (fāsiq) individuals who, without concern, engage in riba transactions. They then hand this over to the waqf functionaries, who thereby consume riba.

The expression *riba* rayihası ("the scent of *riba*") points us in two directions. First, although *muâmele-i şer'iyye* provided a juridical resolution to the issue, and although — as Mandaville and others note— explicit fiqh debates about *riba* are not visible in the treatises until Birgivi, this does not mean the issue was absent from public discourse. If it were irrelevant for the general Muslim public, why would the decree insist "so that Muslims are assured to be free from the scent of *riba*"? Second, the phrase invites us to ask: what does it mean for something not to be *riba*? In other words, how was the prohibition of *riba* understood and enacted in daily life? In modern Islamic economic literature, this is often discussed through the framework of maqāṣid al-sharīʿa (Mergaliyev et al. 2021) or the form–substance debate (Maurer, 2010). Yet in this decree, ribâ rayihası —although clearly not a literal scent — serves as a metaphorical device, a way of approaching the navigation of *riba* prohibition as an embodied experience. Preventing a cash waqf from violating the *riba* prohibition requires a collective process, embodied through trustees, benefactors, judges, and even a "reliable person among the leading figures of the province" entrusted to safeguard the decree. Others were explicitly excluded— for example, "you shall not involve deputies, preachers, or imams; you shall always carry out the transactions yourself personally." The decree also anticipates possible future distortions or erosions of practice, detailing not only how it should be preserved but also how it should be transmitted. What is significant here is the emphasis not on numerical outcomes but on the details of social practice: the everyday responsibilities and mundane procedures through which *riba* doubt was managed.

Overall, I argue that we can read this decree as an instance of managing *riba* doubt or *riba rayihası,* as Sultan Süleyman calls it. This is not done through an arrangement of mathematical outcomes, but Sultan Süleyman orders people to follow the procedures of waqf registration and *muâmele-i şer'iyye* contract so that Muslims resolve *riba* doubts involving cash waqfs. The decree first raises doubt about *riba*, explains the underlying reason for

doubt, references relevant Islamic jurists and their writing on how they address the doubt, and offers a way to overcome it, detailing the exact process of how to manage uncertainties, emphasizing the importance of conviction, and ending with a note for jurists on to how to oversee and regulate adherence to the whole process.

The Riba Spectrum

As anthropologist Bill Maurer notes, the debate on Islamic banking and finance is simultaneously a debate on the meaning of *riba* (2005, p. 39). In simple terms, the interpretation of *riba* prohibition could be explained through two extreme sides of the spectrum: "*riba* as interest" vs. "*riba* as usury" positions (Shinsuke, 2012). On one hand is the maximalist interpretation of *riba* (*riba* as interest), which is the norm and consensus today, where people believe that any amount of increase demanded in return while lending money is prohibited. Any amount of interest, whether it is 1% or 500%, is haram (forbidden). On the other end of the spectrum is the "*riba* as usury" position, where people believe only excessive interest is haram, and that bank interest determined by the market rate is allowed. If we were to caricature, we would have, on the one hand, a pious individual who rejects engaging with financial institutions due to the prohibition of interest, and on the other hand, an individual who thinks, "Bank interest is not haram, usury is haram, and as long as it is not excessive, there is no problem," and works with financial institutions with a clear conscience and peace of mind.

I understand the draw to this approach; it is not just its simplicity but also its comfort that attracts people. It evaluates the *riba* prohibition in terms of mathematical outcomes: on the one side, the "*riba* as interest" approach means interest is forbidden; therefore, extra money demanded while lending must equal zero. On the other side, the "*riba* as usury" approach means not all interest is forbidden; therefore, extra money demanded while lending may be bigger than zero, but should not be

excessive, it should be around the market rates. We can even take it a step further and take this belief, now expressed in a mathematical formulation, and map it to social trends: those in line with Abul A'ala Mawdudi, labeled as Islamic fundamentalists, hold the "*riba* as interest" position, while those in line with Muhammad Abduh, labeled as Islamic modernists, hold the "*riba* as usury" position.

The first thing to do to grasp the debate of Islamic finance, today or in the 16th century, is to abandon this outcome-based lens. The outcome-based lens is useful to understand the caricatural positions I described above, but the majority of people for whom the prohibition of *riba* is of any interest do not fit these caricatures. It is not about the numbers, what ultimately happens in a mathematical sense, but it is about how it happens, in other words, what happens in the process itself.
I suggest we need a process-based lens that recognizes that *riba*, usury, and interest can be converted to each other. Depending on how one conducts the transaction, the same mathematical outcome that was prohibited previously could be rendered permissible. It depends on the process. What happens in modern Islamic banking or Ottoman cash waqfs is that people, in coordination with Islamic jurists, engineer social processes, a set of routines that we call "contracts." Neither in the Ottoman era nor in modern Türkiye was it casually[4] allowed by jurists to charge interest (Kaya 2007) —whether it is below or above a certain threshold— unless they adhered to certain contracts, such as the Ottoman *muâmele-i şer'iyye* or the modern *murabaha*, and routines that accompany them. A close reading of the 1548 decree reveals that throughout centuries, the way people and jurists have dealt with *riba* prohibition change but the question, the concern, "Would this be *riba*?" remains and is fundamental to the process.

[4] I say "casually" here because, of course, it could happen and probably did and does happen. But when it happens, it is a marginalized position, not the norm.

CONCLUSION

In this article, I presented and examined the 1548 decree as a historical vignette of Islamic financial doubt, with the following questions in mind: Who voiced *riba* doubts, and how were they articulated? Which figures and institutions were responsible for managing and resolving these doubts? What contractual forms structured the process, and what underlying convictions distinguished permissible profit (*ribh*) from prohibited *riba*? Ultimately, the article proposed a process-based framework for understanding riba, emphasizing how ritualized institutional practices rendered profit permissible and connected Ottoman legal-financial debates to contemporary Islamic banking.

Earlier scholarship on Ottoman economic history erased these nuances, collapsing all Islamic legal terms into the category of “interest” (Jennings 1973; Repp 1986; İnalcık 1969; Çağatay 1974). Çizakça (2019) summarizes this controversy in cash waqf studies: on one side, historians such as Barkan and Ayverdi (1970), Mandaville (1979), and Gerber (1988) argued that Ottomans simply operated with interest; on the other side, Islamic legal scholar Döndüren (1990) drew attention to the misreadings of fiqh terminology that had led to this flawed conclusion. Seeking to move beyond this divide, Çizakça (1995) analyzed *ribh* rates in Bursa cash waqfs, asking what conclusions could be drawn from their stability and fluctuation. He ultimately differentiated “economic interest” from “legal interest” and, much like an anthropologist observing academics, highlighted the emic understandings of both historians and Islamic legal scholars, suggesting that each understood what is meant by interest differently within their own intellectual world.

One of Çizakça’s other important insights was to compare Bursa and Istanbul interest rates. Because Bursa’s were lower, he speculated that

trustees and Istanbul moneylenders (sarrafs) might have been connected in credit relations, and in cases where trustee and moneylender were the same person, this could even resemble a kind of premodern deposit banking scheme (1995). This brings us back to the repeated emphasis on the trustee. As Sultan Süleyman's decree foresaw, the proper functioning of cash waqfs depended on trustees' adherence to *muâmele-i şer'iyye*.

The key issue that emerges here is not the legal contractual form or the numerical outcome of a transaction, but its everyday implementation. This emphasis on practice is confirmed in other archival examples. For instance, Çınar (2017) shows how specific waqfs carefully stipulated to whom funds should and should not be lent. Mustafa Bey oğlu Ahmed Bey Vakfı forbade loans to judges, sipahis, janissaries, or men of the campaign, and held trustees personally liable for any losses (Çınar 2017, p. 160). Another, Mehmed Ağa oğlu Sirozlu Hacı Mustafa Ağa Vakfı, required that borrowers exhibit trustworthiness, chastity, and piety visibly in their appearance (Çınar 2017, p. 162).

These archival findings also contribute to anthropological studies of debt. Graeber (2011), in his famous *Debt*, challenges the modern notion that places the burden of debt asymmetrically on the borrower. Similarly, in his ethnography on Islamic finance experts in Malaysia, Rudnyckyj (2017) proposes the concept of "collaborative risk." Similarly, cash waqf records provide clues on how the waqf as a lender assumed responsibility vis-à-vis the borrower. The collapsing of the category of *ribh* with "interest" is profoundly problematic because scholars implied that Ottoman Muslims disregarded religious prohibitions without understanding the cultural and legal frameworks in which these actors operated.

On the contrary, the *riba* doubt surrounding the cash waqf controversy reveals not indifference but a deep concern with the prohibition on the part of Ottomans, regardless of whether we agree with their conclusions. The 1548 decree provides profound insight into the historical context of

controversies surrounding cash waqfs, raised by both Islamic scholars and the general public. The *Riba* doubt was manifested through both religious law (fatwas) and state law (the decree, hükm-i şerif), which appointed the ulema, judges, and —of course— the Sultan himself as the authorities for its management. The decree designated *muâmele-i şer'iyye* as the primary financial contract, and identified mütevelli (trustees) and kadi (judges) as the relevant figures to facilitate and oversee adherence to these contracts. The decree also established cash waqf as a legitimate institution, with its registration meticulously prescribed by various Islamic legal scholars mentioned in the text. The legal legitimacy to resolve *riba* issues was established through a combination of state authority and Islamic legal authority, which derived not only from individual scholars but also from the fiqh (Islamic legal) methodology they follow, where their fatwas build on one another. This is explicitly mentioned in the decree, where Çivizade leverages a perceived weakness in fiqh methodology to ban cash waqfs, and his opponents counter his argument by re-legitimizing their fatwa issuance methodology. Finally, this document illustrates the *riba* conviction that differentiates between *ribh* and *riba*: under specific circumstances (charity) and using particular mechanisms (*muâmele-i şer'iyye*), profit can be made from lending money, and the resulting excess will be called *ribh*, differentiated from prohibited *riba*.

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PEER REVIEW

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