Petitions of the Supplicant Ambassador: British Commercial Representations to the Ottoman State in the Eighteenth Century

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Duacınız Elçinin Takrirleri: XVIII. Yüzyılda Osmanlı Devleti'ne Sunulan İngiliz Ticari Dilekçeleri

Öz ■ Bu makale, 18. yüzyılın ortalarında ve sonlarında İngiliz elçisi tarafından Osmanlı hükümetine sunulan takrirleri, Osmanlı dilekçe sistemi çerçevesinde ve elçinin konsolosluk görevlerine ışık tutmak amacıyla inceleyecektir. Bu belgelerin şekil ve dili değerlendirildikten sonra, iki tip vaka analiz edilecektir. İlk gruptaki vakalar kapitülasyonlar ve diplomatik gelenekler uyarınca İngiliz tüccarlar ve seyyahlar tarafından talep edilen karada ve denizde seyahat özgürlüğü ve mal güvenliğini konu almaktadır. İkinci grup ise kapitülasyonlar ile diğer hukuki uygulamalara konu olan ve İngiliz ve Osmanlı tabileri arasında gerçekleşen daha karmaşık davaları içermektedir. Bu belgelerin incelenmesi diplomasinin uygulamasını görmemize imkan sağlamanın yanısıra, metin ve geleneğin, kapitülasyonların esnek bir yorumu üzerinden İngiliz tüccarlarının hak ve özgürlüklerini Osmanlı dilekçe sistemi üzerinden nasıl düzenlendiğini göstermektedir.

Anahtar kelimeler: Takrirler, Kapitülasyonlar, Osmanlı-İngiliz ilişkileri, Ticaret, Tüccarlar

In April 1788, a *takrir*, a formal representation, was presented to the Ottoman government on behalf of the British ambassador in Istanbul, Sir Robert Ainslie.[1]

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1 My thanks go to Güneş Işıksel and Antonis Hadjikyriacou for their valuable critiques and comments on the initial drafts of this article. I am also grateful to the anonymous reviewers for their corrections and comments. *Takrir* has been translated in various ways: 'report', for example in Can Erimtan, 'The perception of Saadabad: The 'Tulip Age' and Ottoman-Safavid rivalry' in Dana Sajdi (ed.), *Ottoman Tulips, Ottoman Coffee; Leisure and Lifestyle in the Eighteenth Century* (London & New York, 2007), 41-62 at 47, 55; 'official petition', in Tuncay Zorlu, *Innovation and Empire in Turkey: Sultan Selim III and the Modernisation of the Ottoman Navy* (London & New York, 2008),

Far from communicating matters of high politics or international intrigue, this document detailed a rather more mundane affair. Submitted to the Sublime Porte by one of the British translators who had rendered the document into Ottoman Turkish, the matter at hand concerned Peter Took, a British silk merchant living in Istanbul. Took wanted to send one Gianni son of Michele, a broker (*simsar*), to look into certain matters of his trade in Bursa, Ankara, and Kütahya.[2] The ambassador's petition requested that Gianni be granted a travel permit (*yol hükmü*) so as to avoid any interference or attacks (*dahl ve ta'arruz*) on his journey, and to ensure that he should be protected and cared for in accordance with the imperial Capitulations (*ahdname-i hümayun mucebince himayet ve siyanet olunmak*).[3] The same document contains the official Ottoman deliberations on the case, and a decision that the matter should be settled so that Gianni's capitulatory right to travel should be protected through the issuing of a travel permit for his journey.

Ainslie's representation on behalf of Peter Took's broker led me to reconisder the nature of the duties performed by a British ambassador in eighteenth-century Istanbul, and led me to a detailed investigation of petitions in both the British and Ottoman archives concerning the activities of British merchants, and particularly into the various sorts of trouble in which they expected to find, or actually found themselves. This article, an off-shoot of my doctoral research into eighteenth-century British-Ottoman relations, will explore a number of these *takrir*s held in the Ottoman Archives in Istanbul that are representative of the

47, 155; 'memorandum', in Edhem Eldem, *French Trade in Istanbul in the Eighteenth Century* (Leiden, 1999), 85. In a legal sense, it can also refer to a presentation of a claim, 'to set forth a claim (*takrir-i da'va idub*)', as noted in Süleyman Demirci, 'Complaints about Avâriz assessment and payment in the Avâriz-tax system: An aspect of the relationship between centre and periphery. A case study of Kayseri, 1618-1700', *Journal of the Economic and Social History of the Orient* 46:4 (2003), 437-474 at 463. I prefer 'representation', because, as I will argue, *takrir*s encompassed all of these elements: they often contained narrative reports; they were usually petitionary in some form; but were viewed, at least in a diplomatic sense, as a sort of memorandum or *note verbale*. Moreover, there is an oral element to *takrir*s, many of which were presented verbally as well as being written down, something evident in Claudia Römer, 'Contemporary European translations of Ottoman documents and vice versa (15th-17th centuries)', *Acta Orientalia Academiae Scientarium Hungaricae* 61:1/2 (2008), 215-226 at 219.

2 Took was one of the first British merchants to buy raw silk directly from producers in Bursa, rather than through middlemen. William Eton, *A Survey of the Turkish Empire* (London, 1798), 479.

3 Başbakanlık Osmanlı Arşivleri [Prime Ministry's Ottoman Archives, Istanbul], A.DVN.DVE (3) 83/48, 22 Receb 1202 (27 Apr. 1788).

wider collection held in the *Düvel-i Ecnebiye*, *Cevdet Hariciye*, and *İbnülemin Hariciye* series, and use them to demonstrate the sort of legal regime under which British merchants operated in the Ottoman Empire. They are a significant set of documents that also place British subjects in the Ottoman Empire within a wider petitionary framework, with the ambassador acting as a 'supplicant' on their behalf for a variety of cases involving their freedom of movement and trade. As noted by James Baldwin in his article on Egyptian petitioners, the study of petitions in early modern Ottoman Empire is still very much in its infancy, although progress has been made through a number of important works on the subject, his own included.[4] An analysis of these British *takrir*s will therefore provide further examples in understanding the Ottoman petitionary process, especially where foreigners were involved.[5] From another angle, this article will also build on the research of Edhem Eldem and Maurits van den Boogert into the interplay between trade and diplomacy, and the Capitulations and the Ottoman legal system, by considering the ambassador's role in performing consular functions, on the one hand for British merchants resident in Istanbul, and on the other for British merchants unable to resolve their disputes at the local level in the provinces.[6]

4 Michael Ursinus, *Grievance Administration (Şikayet) in an Ottoman Province: The Kaymakam of Rumelia's 'Record Book of Complaints' of 1781-1783* (London, 2005), especially 1-46; James Baldwin, 'Petitioning the sultan in Ottoman Egypt', *Bulletin of the School of Oriental and African Studies* 75:3 (2012), 499-524. A number of other studies have greatly informed my thinking on this subject: Halil İnalcık, 'Şikâyet hakkı; *'Arż-i ḥâl* ve *'arż-i maḥżar*'lar', *The Journal of Ottoman Studies* 7:8 (1988), 33-54; Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (New York, 1994); Fariba Zarinebaf-Shahr, 'Ottoman women and the tradition of seeking justice in the eighteenth century' in Madeline Zilfi (ed.), *Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era* (Leiden, 1997), 253-263; Boğaç Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)* (Leiden, 2003); Anton Minkov, *Conversion to Islam in the Balkans: Kisve Bahası Petitions and Ottoman Social Life, 1670-1730* (Leiden, 2004). The use of petitions in cases involving both Ottoman subjects and foreigners is also investigated in İsmail Hakkı Kadı, *Ottoman and Dutch Merchants in the Eighteenth Century: Competition and Cooperation in Ankara, Izmir, and Amsterdam* (Leiden, 2012), 68-98.

5 For one diplomatic example, see: Michael Talbot, 'Feeding an elephant in eighteenth-century Istanbul', *Tozsuz Evrak*, 5 Sep. 2013, http://www.docblog.ottomanhistorypodcast.com/2013/09/elephant-istanbul.html

6 Eldem, *French Trade*, 260-283; Maurits van den Boogert, *The Capitulations and the Ottoman Legal System: Qadis, Consuls, and Beratlıs in the 18th Century* (Leiden, 2005), passim.

The study of British diplomacy in the Ottoman Empire has often neglected the Ottoman-language sources, and consequently there has been something missing in our understanding of both the diplomatic and commercial functions of the ambassador. The British embassy in Istanbul was rather different from the other resident European embassies in that it was financed by the Levant Company, a chartered commercial monopoly, from 1579 until 1804.[7] This has left the British embassy with an unusually rich body of sources in addition to the usual diplomatic correspondence, particularly the registers and accounts ledgers of the Company. However, whilst there are some English and Italian copies of the petitions sent to the Ottoman government by the ambassador, a large number of the versions actually received by Ottoman officials are held in the Ottoman archives in Istanbul. By examining these, it is therefore possible to reconstruct the ambassador's daily activities beyond the gossip and bluster of his official letters to London. Considering them as a petitionary corpus, the *takrir*s provide two important insights into the nature of daily interactions between the embassy and the Sublime Porte.

First, the *takrir*s show how the requests of the ambassador, acting on behalf of British subjects, were translated into an Ottoman legal language by the embassy translators. That is, however the documents might have been phrased in English, or even in their Italian translations (Italian being the diplomatic lingua franca), it is this version that would have been read, understood, and acted upon by the Ottoman officials, and therefore the translated Ottoman version is perhaps the most important version. Consequently, it is necessary to see how these documents were constructed, what tone they employed, and what comments they received from the officials who attended to them. What might have been a firm demand linguistically in English became a petitionary request in Ottoman Turkish, an important rhetorical device that at once acted out the Ottoman claim to universal monarchy, and at the same time ensured that the British operated as part of the Ottoman legal framework.[8] This is a fundamental point: the British merchants,

7 The standard text on this subject remains Alfred Wood, *A History of the Levant Company* (Oxford, 1935). For a reassessment, see: Michael Talbot, 'British diplomacy in the Ottoman Empire during the long eighteenth century', Ph.D. thesis, School of Oriental and African Studies, University of London (London, 2013). Other studies on the eighteenth century and commercial relations in particular include: Ralph Davis, *Aleppo and Devonshire Square: English Traders in the Levant in the Eighteenth Century* (London, 1967); Mübahat Kütükoğlu, *Osmanlı-İngiliz İktisâdi Münâsebetleri* (Ankara, 1974), vol. 1.

8 The idea of universal monarchy, particularly in the sixteenth century, has been much discussed of late, such as in Mehmet Sinan Birdal's *The Holy Roman Empire and the*

although subject to a different sort of law to their Ottoman counterparts through capitulatory law and custom, still had to abide by the formal processes of the Ottoman legal system in certain respects and cases.

Second, these documents provide the opportunity to see the commercial side of an embassy in action. The idea of 'consular functions', the specific duties expected of consuls, is essentially a modern one concerning intervention and protection of both individual and corporate rights and interests abroad, and offering various forms of assistance in times of distress or trouble.[9] It would be problematic to try to impose modern notions of consular functions onto the eighteenth-century diplomatic context, but it is still important to think of ambassadors as exercising a variety of functions, and not just those of a political diplomat. On the other hand, these *takrir*s show the ambassador acting as the head representative of the *İngiltere taifesi*, the 'British nation' in certain legal and financial matters with the Ottoman government. This links back to the incorporation of the British into the Ottoman legal system, but also demonstrates that the ambassador had to spend a significant amount of his time dealing with commercial affairs, something that is simply not represented in the diplomatic correspondence. Therefore, the *takrir*s concerning commercial freedoms, rights, and disputes show the daily activity of the ambassador as a consular official as well as the head of his mercantile community. Given the importance of this role as communal protector, we might well expect to see the ambassador and his translators attempting to manipulate the rules governing British activities in their favour; which indeed we do.

After considering the language and form of the *takrirs,* the discussion that follows will examine number of examples of *takrir*s that fall under capitulatory law in two main areas. The first area to be explored will be the freedom of movement and guarantees of safety, and how the texts of both the *takrir*s and the British Capitulations demonstrate a continual need to protect the passage of merchants around the

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Ottomans: From Global Imperial Power to Absolutist States (London, 2011), Kaya Şahin, *Empire and Power in the Reign of Süleyman: Narrating the Sixteenth-Century Ottoman World* (Cambridge, 2013). Much of this discussion has focussed on literary productions that necessarily had limited circulation outside the court, whereas the texts presented to and by ambassadors were part of a working system in which we can see the rhetoric of monarchy applied regularly in daily documents. For a considered perspective on state rhetoric and power, see: Hakan Karateke & Marius Reinkowski (eds.), *Legitimizing the Order: The Ottoman Rhetoric of State Power* (Leiden, 2005).

9 For an overview, see: Ivor Roberts (ed.), *Satow's Diplomatic Practice*, 6th edn. (Oxford, 2009), 78-79, 259-285

Ottoman realms by land and at sea. These will include a number of fairly standard requests for travel permits, and more pressing cases that demonstrate the dangers faced by British merchants and their employees on their travels. The second set of examples will look at disputes with Ottoman subjects, provincial officials, and the Ottoman state, which almost exclusively involved non-payment of debts. Here, it is possible to view the legal process specified by the Capitulations in action, and the response of the Ottoman government to these cases. In sum, I will use these documents to show Ottoman capitulatory law in action, and to demonstrate that the *takrir*s represented the intersection of legal text and custom in the regulation of the commercial legal regime under which the British operated in the Ottoman Empire. In doing so, this will place *takrir*s as a particular kind of petitionary text, that in some respects followed the conventions of other forms of Ottoman petition, but had their own particular conventions and approaches specific to interactions between the Ottoman state and foreigners. It seems clear that certain provisions of the Capitulations were interpreted in a way to ensure that complex or problematic disputes between Ottoman and British subjects could be easily referred to arbitration in Istanbul, whilst leaving more easily reconcilable cases to the consular and provincial authorities.

Language and form of diplomatic *takrir*s

In order to see how *takrir*s placed the British ambassador and British subjects within the wider Ottoman petitionary framework, it is necessary to consider some of the basic elements of their language, form, and appearance. The diplomatic *takrir*s follow the basic elements of the structural model observed by Reychman and Zajaczkovski in a range of Ottoman state and petitionary documents, and more recently as described by Anton Minkov in his study on the petitions of converts to Islam, Baldwin in the case of Egypt, and, crucially, Eldem in his examination of relations with France.[10] All of these petitions contained certain common features that formed a sort of petitionary syntax.

The process of composition of the diplomatic *takrir*s was the responsibility of the embassy translators (*tercüman*). They would be given an English, or usually Italian text with a request drafted, and then would have to render it into the particular form of Ottoman Turkish necessary for petitionary documents. This

10 Jan Reychmann & Ananiaz Zajaczkowski, *Handbook of Ottoman-Turkish Diplomatics* (The Hague, 1968), 140; Minkov, *Conversion to Islam*, 110-144; Baldwin, 'Petitioning the Sultan', 505-506; Eldem, *French Trade*, 270-280.

was a skilled job indeed, and was the basis of livelihood for an entire class of scribe, the *arzuhalcı*, or professional petition-writer. The impressive abilities and heavy demands of the position of embassy translator has been clearly demonstrated by Alexander de Groot and Gilles Veinstein, and it is not necessary here to go too deeply into their wider role.[11] The British translators in the eighteenth century, also known as dragomans, were Italian speakers and Ottoman subjects, and were usually from the same families, notably the Timonis and the Pisanis. Having learned their trade from a young age as *giovanni di lingua*, they were very skilled in translating both oral and written communications linguistically and culturally.

The *takrir*s began with a salutation, known as the *elkab*.[12] This almost always consisted of the phrase, 'Your Highness, my illustrious and felicitous sultan, health unto you' (*devletlü saadetlü sultanım hazretleri sağ olsun*), in common with other sorts of petitionary documents.[13] This is an important feature, and immediately placed the petitioner – in this case the British ambassador – as a dependent of the person he was addressing as his patron, and could be underscored in the text by the ambassador referring to himself as 'this, your supplicant' (*bu da'ileri*). Of course, the ambassador would never have referred to himself as such in English or Italian; this is a good example of cultural translation. The main body of the petition would then identify its subject by giving certain biographical details, usually the place of residence, name, and profession of the individual on whose behalf the application was being made. As these *takrir*s often concerned commercial affairs, the petition's subject would usually be described as being 'from among the British merchants' (*İngiltere tüccarlarından*), or in the case of travel permits for ships, 'from among the British captains' (*İngiltere kapudanlarıdan*). Private travellers passing through or going about exploring the Ottoman realms without trading would be referred to as 'from among the British gentlemen' (*İngiltere beyzadelerinden*).

After these introductory details, the narration of the request could begin. These were usually of a fairly standard form, with the length of the narrative

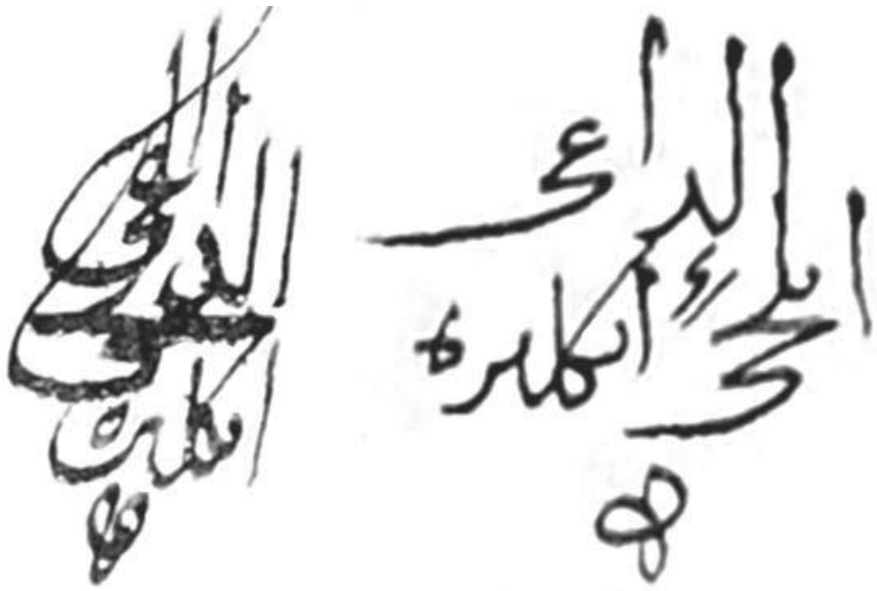
11 Alexander de Groot, 'The dragomans of the embassies in Istanbul, 1785-1834' in Geert van Gelder & Ed de Moor (eds.), *Eastward Bound: Dutch Ventures and Adventures in the Middle East* (Amsterdam, 1994), 130-158; Giles Veinstein, 'L'administration ottomane et le problème des interprètes' in Brigitte Marino (ed.), *Études sur les villes du Proche-Orient, XVIe-XIXe siècle: Hommage à André Raymond* (Damascus, 2001), 65-79.

12 Mübahat Kütükoğlu, 'ELKĀB' in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (Istanbul, 1995), vol. 11, 51-54.

13 Minkov, *Conversion to Islam*, 117-118; Baldwin, 'Petitioning the sultan', 505.

dependent on the complexity of the case: this particular captain wishes to set sail; a certain merchant is owed payment on his goods; the wares of a group of traders have been unlawfully seized. Having established the facts, the ambassador, as with all petitioners, would move to make his requests: that a travel permit be issued; that the commercial debt be paid; that the goods be restored. This would almost always be made with the phrase, 'it is petitioned and requested' (*rica ve niyaz olunur*). At the end of the *takrir*, the ambassador would use a standard declaration of deference and inferiority before the Ottoman state, usually 'the rest is for Your Highness, my illustrious and felicitous sultan, to order and command' (*baki emr ve ferman devletlü saadetlü sultanım hazretlerinindir*) or 'the rest is for his highness who commands to command' (*bakiü'l-emr li-hazret min leyhü'l-emr*). The final element of the *takrir* was the mark (*mühur*) of the ambassador. Sometimes this was given by the ambassador's own seal, but most often by a cypher representing his signature, a copy of which can be seen in Figure 1 below.[14] It reads 'the supplicant ambassador of Britain' (*ed-da'i elçi-i İngiltere*), and as such places the ambassador on a different level to other petitioners, who were usually signed as *bende* (servant), but certainly held the same deferential tone as the rest of the document.

Figure 1: *The British ambassador's cypher featured on* takrir*s, 1734 (l) and 1774 (r)*



BOA, İE.HR 18/1634 BOA, C.HR 18/1643

14 Until the turn of the nineteenth century, ambassadors used their British crests as their seal, but from the time of Charles Arbuthnot (ambassador 1805-1807) they began to use seals with their name in the Ottoman alphabet.

In their basic structural form and language, the *takrir*s submitted by the British ambassador conformed to the wider body of Ottoman petitionary texts, such as *arzuhal*s, through their inclusion of a deferential greetings and a clearly formulated textual body, as well as through the tone of language and standard phrases employed. The job of the embassy translator was therefore to fit the various different issues submitted to the ambassador into the template of the Ottoman petition, maintaining the original sense, and on occasion urgency of the original Italian or English text, but always within the linguistic and stylistic boundaries that were expected by the Ottoman bureaucracy. That said, there are clear differences in terms of style between the more formulaic sorts of *takrir*, such as travel permit requests, and those dealing with more complex cases.

Securing freedom of movement

The majority of *takrir*s submitted by the British ambassador in the eighteenth century appear to deal with the right to travel to and from, and within the Ottoman realms. The question of movement was one that featured prominently and frequently in the Capitulations granted to the British, a collection of dozens of *mevadd* (sing. *madde*, articles) that had been issued from the end of the sixteenth century until 1675.[15] They were also intertextual documents, so that the provisions granted to other friendly nations by the Ottoman state were similarly granted to the British by extension.[16] Crucially, they were more than treaties securing political alliances but through their provisions helped to form and develop the framework of the legal regime under which foreign merchants operated. The

15 For an analysis of the earliest Capitulations granted to the British, see: Susan Skilliter, *William Harborne and the Tade with Turkey, 1578-1582: A Documentary Study of the First Anglo-Ottoman Relations* (London, 1977).

16 There is a rich and developing literature on the Capitulations in theory and practice, but much more work needs to be done on comparing the various documents. Maurits van den Boogert, *The Capitulations and the Ottoman Legal System: Qadis, Consuls and Beratlıs in the 18th Century* (Leiden, 2005); Viorel Panaite, 'French Capitulations and consular jurisdiction in Egypt and Aleppo in the late sixteenth and early seventeenth centuries' in Pascal Firges, Tobias Graf, Christian Roth & Gülay Tulasoğlu (eds.), *Well-Connected Domains: Towards an Entangled Ottoman History* (Leiden, 2014), 71-89; Alexander de Groot, 'The historical development of the capitulatory regime in the Ottoman Middle East from the fifteenth to the nineteenth centuries', *Oriento Moderno* 23:3 (2003), 575-604; Dariusz Kołodziejczyk, *Ottoman-Polish Diplomatic Relations (15th-18th Century): An Annotated Edition of 'Ahdnames and Other Documents* (Leiden, 2000).

most important document for this study is the British Capitulations of 1675, specifically the Ottoman text of that document that was absolutely central in regulating commercial relations.

One of the first provisions that the 1675 text records concerns the freedom of movement, granted in 1592 during the reign of Sultan Murad III (r. 1574-1595), decrees in the Ottoman-language text that: 'In the time of the said [sultan], noble commands were given, saying that at the stopping places and way stations, and at the crossings and places of trade, no-one should trouble them.'[17] By examining instances in which the British embassy translators made direct reference to the Capitulations, it is evident that they were intimately familiar with its provisions and language. Indeed, in the following *takrir* issued in 1733 or 1734, the text of part of this article is quoted word-for-word:

> Our man called Lorenzo, one of our dependents, has certain [commercial] affairs with the son of Mihalaki, and needs to send two protected foreign individuals [*müstemin*] on his business to Ankara. A travel permit is requested and petitioned according to custom so that they may not be obstructed in their passage and journey, and so that the collectors of the *cizye* [tax on non-Muslims] may not offend or injure the said two protected individuals in their mission at the stopping places and way stations, and at the bridges and places of trade on their journey from the Exalted Threshold [Istanbul] by demanding payment of the *cizye* or other such pretences.[18]

Here the terms of the Capitulations are quoted directly with the phrase 'at the stopping places and way stations, and at the crossings and places of trade' (*menazil ve merahilde ve maabir ve benadirde*), and as this did not feature in the English-language text of the same article, this demonstrates that the translators made active use of the Ottoman-language text, and not the English version.[19] It also shows that the translators were very aware of the legal foundations upon

17 TSMA, d. 7018, 1187 (1773/1774), f7r.

18 BOA, İE.HR 18/1634, 1146 (1733/4).

19 In a very good example of important textual differences between the two texts, the English version reads: 'Our said ancestors of happy memory did then grant their imperial license, and gave into the hands of the English Nation divers especial and imperial commands, to the end that they might safely and securely come and go into these dominions, and in coming or returning either by land or sea in their way and passage that they should of no man be molested or hindered.' Cited from the official printed text of the original manuscripts, *The Capitulations and Articles of Peace between*

which to base their *takrir*s. Indeed, this particular *takrir* contains a number of important issues relating to the freedom of movement and protection of British subjects, and deserves some further analysis.

The document was presented on behalf of the ambassador, the Earl of Kinnoull, by the one of the embassy's translators, most likely the second translator, Antonio Pisani. It does not concern a British merchant, but, 'our man called Lorenzo, from among our dependents' (*etbaımızdan Lorençi nam ademimiz*). The term 'dependent' (sing. *tabi* pl. *etba*) was an important capitulatory term that distinguished non-British subjects who were under British protection through their employment or status from British subjects. The document also makes reference to Lorenzo's agents as 'protected foreign individuals' (*müstemin*), which meant that they were foreign non-Muslims granted safe-conduct and protection (*aman*) during their stay in the Ottoman Empire. As the two unnamed agents were *müstemin* and not Ottoman non-Muslims (*zimmi*), they were exempt from paying the particular taxes the Ottoman state collected from its Jews and Christians, known as *haraç* or *cizye*. This was a right explicitly granted in the Capitulations: 'The British and their dependents [*İngilterelü ve eka tabi olunlar*] situated in the Well-Protected Domains, whether they be married or single, may engage in their business, and in going about their trade, the poll-tax may not be demanded from them.'[20] This *takrir* represents a particular concern on the part of the British, almost certainly based on previous incidents that Ottoman officials in the provinces would still attempt to impose such charges on these British dependents.

However, the question of *how* to stop provincial officials from demanding *cizye* and engaging in other forms of 'offence' (*rencide*) was not dealt with in the Capitulations. Therefore, a solution had been developed separately through experience, and is an example of another important element of capitulatory law, custom (*mutad*). Maurits van den Boogert has argued that consular practices should be viewed as an integral component of the legal customs element of the 'Islamic Legal Triangle', the other two elements being Islamic law (*şeriat*) and sultanic law (*kanun*), and the issue of travel permits seems to fit in quite neatly with this view.[21] The fact that the granting of a travel permit (in this particular case, a *yol emri*, lit. road command) was not specifically required by the British

the Majesty of the King of Great Britain, France, and Ireland, etc., and the Sultan of the Ottoman Empire (London, 1679), 6.

20 TSMA, d. 7018, 1187 (1773/1774), f8v.

21 Van den Boogert, *Capitulations*, 58-61.

Capitulations meant that enforcement had to be continually requested in order to ensure the strength of precedent and law.[22] This was in contrast, for instance, to the requirements to carry specific passes and passports found in British treaties with Algiers.[23] Moreover, as travel in the Ottoman Empire could be a dangerous business, it was crucial that foreigners and their employees have some sort of written confirmation of their status and right to travel to ensure access to protection or redress.[24] The right to travel and the right of exemption from the poll-tax could be easily argued from the text of the Capitulations, but the issuing of a travel permit required the ambassador to participate in the Ottoman bureaucratic system by requesting written conformation that those rights would not be infringed. Considering the number of merchants and their employees who would need to travel around, this amounted to a lot of paperwork. Yet, in the archives of the central Ottoman administration where the ambassador's *takrir*s are kept, one can only find examples of requests for travel permits for British merchants and dependents resident in Istanbul. This is therefore a concrete example of the ambassador performing consular functions; just as the British consul in Izmir would have requested travel permits for British merchants resident in that city, it was the responsibility of the ambassador to do the same for the merchants in Istanbul.

This duty also applied to the British ships that came to Istanbul. The freedom of movement for ships was guaranteed – with certain exceptions – throughout the Ottoman Empire by the first article of the British Capitulations.[25] As with land travel, a ship's captain had to be in possession of a travel permit (usually a *sefine hükm-ü şerifi*, lit. a noble ship command) to ensure that the Ottoman port and naval authorities and commanders would allow a (theoretically) hassle-free journey. The most basic form of *takrir* in this area concerned the freedom of passage

22 For an overview of the different sorts of travel permits with examples, see: Hamiyet Sezer, 'Osmanlı İmparatorluğu'nda seyahat izinleri (18-19. yüzyıl)', *Ankara Üniversitesi Dil ve Tarih-Coğrafya Fakültesi Tarih Bölümü Tarih Araştırmaları Dergisi* 21:33 (2003), 105-124.

23 The National Archives, Kew (TNA), SP108/13, Treaty between Great Britain and Algiers, 5 April 1686.

24 Halil İnalcık, 'Part One: The Ottoman state, economy and society, 1300-1600' in Halil İnalcık and Donald Quataert (eds.), *An Economic and Social History of the Ottoman Empire, 1300-1914* (Cambridge, 1994), 191-192.

25 The Capitulations specifically restricted travel to the Crimean port of Caffa, and by custom non-Muslim ships were prohibited from travelling beyond Jeddah in the Red Sea.

from 'the Bosphorus Castles' (*Boğaz hısarları*, the fortifications at Seddülbahir), as in this example submitted by the ambassador John Murray in 1774: 'A noble command is petitioned and requested for a permission to sail as is customary [*mutad üzere*] so that the British captain George Massam should not be obstructed in his passage and journey from the Bosphorus Castles.'[26] This standard sort of request turns up again and again in the Ottoman archives, and highlights the importance of requesting permission to sail (*izn-i sefine*).[27]

The reason for the necessity of securing a sailing permit from the Bosphorus Castles is made clear in another *takrir*, presented a few years earlier:

> Our captain John James, one of the British captains, has been bringing and taking goods by sea with his ship. Having paid all of the customs duties and taken a receipt for them in accordance with the imperial Capitulations, he is now seeking to make his return. After the customary inspection at the Bosphorus Castles has been performed, he should not be [searched] even one additional time. A noble command is petitioned and requested for a permission to sail as is customary so that he should not be obstructed in his passage and journey.[28]

The British merchants were, naturally, obliged to pay various customs and duties on imports and exports, and the Ottoman customs authorities inspected ships to ensure that no prohibited items were being traded and that all duties had been paid. Several articles of the Capitulations insisted that customs and duties be paid only once, and later it became part of capitulatory law rather than custom that Ottoman officials should issue a receipt (*tezkere*) as proof so as to better avoid disputes.[29] However, the problem of ships being checked more than once, with the implication that merchants were being harassed for extra payments, clearly

26 BOA, İE.HR 18/1643, 3 Cemaziyelahir 1188 (10 Aug. 1774).

27 For a discussion, see: İdris Bostan, 'İzn-i sefine defterleri ve Karadeniz'de Rusya ile ticaret yapan Devlet-i Aliyye tüccarları 1780-1846', *Marmara Üniversitesi Fen-Edebiyat Fakültesi Türklük Araştırmaları Dergisi* 6 (1990), 29-44 at 27-37.

28 BOA, A.DVN.DVE (3) 81/92, 2 Cemaziyelahir 1185 (11 Sep. 1771).

29 One article granted in 1662 to the Earl of Winchilsea – the penultimate set of articles granted – deals with the problem that customs officials would not always immediately issue a receipt for customs paid causing disputes. The issuing of this should therefore be seen indicative of the intention to move the issuing of *tezkere*s from the law of custom to the law of the Capitulations. The specific command was that: 'an application being made on this injury, they [the customs officials] may not cause any hindrance or delay and may not divert from their presenting the receipt [*eda tezkerelerini eğlendirmeyüb verüb*].' TSMA, d. 7018, 1187 (1773/1774), f15r.

persisted, as the *takrir* had to emphasise that only one search should be performed. This was again because both the inspection at the Bosphorus Castles and the granting of the sail permit were both according to custom (*mutad üzere*) and not a requirement of the Capitulations (*bir muceb-i ahdname-i hümayun*) with the process of the payment of duties.

The examples above demonstrate the importance of the *takrir* in ensuring the enforcement of the customary elements of capitulatory law for the smooth continuance of British trade in the Ottoman Empire. As with most commercial activity, then and now, without the necessary travel permits being issued the merchants and their employees ran the risk of falling foul of or being taken advantage by local officials. Similarly, without the written conformations of sailing permissions that had to be requested by *takrir*, British captains might have been more vulnerable to unscrupulous inspections by customs officials. The examples shown here so far, which represent a large number of the British *takrir*s, were largely formulaic texts aimed at securing a particular permit in order make the business of commerce that bit easier by going through the motions of the Ottoman bureaucracy. This activity is perhaps not surprising, but it is important to understand just how regular it was.

However, not all of these consular *takrir*s concerned merchants, and not all were preventative or formulaic. In addition to caring for the British merchants who resided in or visited Istanbul, the ambassador was also responsible for any British travellers in the Ottoman Empire, and there were certainly a number of them in the eighteenth and early nineteenth century. As with merchants, *takrir*s had to be presented in order to gain these curious Britons travel permits, such as with the case of William Meyer and his two servants in 1810, who planned to undertake a month's travel from Istanbul to Bosnia, Albania, the Morea, Izmir, the Mediterranean Islands, Crete, Cyprus, Syria, and Egypt.[30] Although the *takrir* issued by the ambassador Robert Adair noted that Meyer was concerned about the 'dangerous and perilous' (*mahuf ve muhatara*) journey, it was a fairly standard request for a road travel permit (*yol hükm-ü şerifi*).[31]

However, another case demonstrates that not all *takrir*s presented for issues of freedom of movement were so formulaic. Edward Wortley Montagu was the son of the famous Mary Wortley Montagu, whose husband, also Edward, had briefly been British ambassador in Istanbul in the late 1710s. Having spent a

30 It is possible that this is the William Meyer who later served as British consul at Preveza.

31 BOA, C.HR 50/2484, 10 Cemziyelevvel 1225 (12 Jun. 1810).

fair part of his youth abroad, this younger Wortley Montagu had developed a taste for travel, and from the mid-1760s had lived in Egypt and Syria. In July 1770, he found himself in the Ottoman port of Izmir, at a very bad time indeed. Britain had been (correctly) suspected by the Ottoman government of providing military aid to the Russians in their war with the Sublime State, which resulted in a significant amount of ill will towards the British mercantile community, the major consequences of which will be seen shortly. Perhaps as a result of this, Wortley Montagu had hired a Ragusan ship to take him and his retinue to Tripoli in Syria, but on their journey they were detained by the governor of the castle of Foça near Izmir.[32] As a result of this detention, and despite the fact that they had not been granted permission (*ruhsat*) for their journey, the ambassador in Istanbul presented a *takrir* requesting that a strong (*müekked*) order be issued at the earliest opportunity (*bir an evvel*) for their release and permission for their journey, to both of which the Ottoman government agreed. This, then, represents a different sort of document to the requests for travel papers. In one respect, it shows that the ambassador was responsible for all Britons of a certain social rank within the Ottoman Empire. But, more importantly, the ambassador in this case was not acting as a local consular official seeking to secure the regular permits for travel and movement for British subjects and their dependents, but as a national consular official in demanding a resolution for a dispute in the provinces that could not be resolved at the local level. As such, the ambassador was expected to intervene in certain kinds of disputes between British and Ottoman subjects in the provinces, most often involving debts of one form or another. Through this, the *takrir*s provide an important insight into the diplomatic and commercial elements of relations between the Ottoman centre and the provinces in the eighteenth century.

Resolving provincial disputes

Edward Wortley Montagu was not the only British subject to experience trouble in Izmir in 1770. A *takrir* presented on behalf of ambassador John Murray spoke of a disturbance of the public order (*ihtilal-ı tanzim*) arising from rumours that the Ottomans and British were now enemies due to the provision of British aid to Russia in their war against the Sublime State.[33] Consequently, the British consul and merchants dispatched a messenger to Istanbul with a document saying,

32 BOA, C.HR 115/5742, 7 Rebiülahir 1184 (30 Jul. 1770).

33 BOA, C.HR 79/3907, undated (but almost certainly 1770).

among other things, that 'in order to avoid various sorts of damage and harm (*zarar ve ziyan*), and in order to be prepared and ready for any similar danger and peril (*hatar ve tehlike*), they petitioned for guards for the protection and security of their persons (*kendilere himayet ve emniyet içün*).'[34] Murray pressed the issue, and the Ottoman state agreed to protect the British merchants, as indeed they were obliged to under the first article of the Capitulations, which prohibited any interference or assault (*dahl ve tecavüz*) against them or their goods.[35] Such physical assaults against British merchants on this scale were virtually unheard of, and required a special intervention to ensure Ottoman compliance in a period of political tensions. This *takrir* may represent an exceptional case of violence suffered by the British merchants, but in the course of their trade they were faced with plenty of other sorts of dangers and risks.

Disputes over payments and contracts are a possibility in almost any commercial setting, and the trade between Britain and the Ottoman Empire was no exception. The early articles of the Capitulations gave a number of indications about what sorts of commercial disputes might arise. One article granted in 1606 set the provision that any legal disputes involving British subjects must be heard in the presence of the ambassador, a consul, or a translator, but also made the regulation that: 'lawsuits with a value of more than four thousand *akçe*s are to be heard at the Threshold of Felicity, and may not be heard in any other place.'[36] Therefore, capitulatory law decreed that it was not appropriate for disputes of a certain level – 4,000 *akçe*s – to be dealt with at the provincial level, but had to be resolved by the imperial government and the British ambassador 'at the Threshold of Felicity' (*Asitane-i Saadet'te*), i.e. by the ministers in Istanbul. However, by the eighteenth century, 4,000 *akçe*s was a rather small amount by the standards of many commercial transactions, with inflation meaning that prices had almost tripled between 1606 and 1770.[37] In other words, a dispute worth 4,000 *akçe*s in 1770 was worth only a third of its initial capitulatory value. This meant that a huge variety of provincial disputes would, in theory, have to be sent to the Ottoman capital to be heard. It seems unlikely that every provincial dispute over 4,000 *akçe*s – that is, 33.3 *guruş* – would have been forwarded, as the costs and

34 Ibid.

35 TSMA, d. 7018, 1187 (1773/1774), f7r.

36 TSMA, d. 7018, 1187 (1773/1774), f9r.

37 Şevket Pamuk, 'Prices in the Ottoman Empire, 1469-1914', *International Journal of Middle Eastern Studies* 36:3 (2004), 451-468 at 455.

effort would have far outweighed the value of the case.[38] There is certainly no evidence in either the British or Ottoman archival records to suggest that this was done on a regular basis. Consequently, one does find a number of *takrir*s dealing with provincial disputes in Istanbul, but only cases involving large amounts of money that were sufficiently complex or troublesome to warrant central attention. Interestingly, this provision also seems to have been used as a means of circumventing local judicial authorities in difficult cases. These *takrir*s therefore provide important insights into the implementation of capitulatory law and custom in practice, and provide evidence that the literal wording of the Capitulations was up for interpretation by diplomatic actors depending on the circumstances of an individual case, and based on economic as well as political circumstances on the ground.

A number of disputes concerned non-payment on goods, and towards the end of the eighteenth century this more frequently involved British merchants and the Ottoman government. In 1789, a *takrir* was presented by the ambassador on behalf of Messrs Barbaud & Co., one of the main British merchant houses in the Ottoman Empire.[39] An order had been placed for a set of new ships' cables (*gomana-ı cedid*) and two anchors (*lenger-çapa*) for the use of the Ottoman navy. The two parties agreed terms of advanced payment (*bahası muaccelen verilmek*), but the money had in fact been withheld, and the British merchants were owed 5,205 *guruş* and 20 *para*s by the Ottoman admiralty. The endorsement above this *takrir* gives a *buyuruldu* (lit. it is commanded) ordering the *Defterdar*, the imperial treasurer, to find out what was going on from the *Kapudan Paşa*, the admiral. A note written underneath the *takrir* by the office of the *Defterdar* summarises the case, and recommends that the admiral be ordered to provide an official explanation (*istilam*), which received another *buyuruldu* ordering it to be done. On the back of the *takrir* is the response of the *Kapudan Paşa*, Cezayirli Hasan, confirming under his seal that the consignment was indeed in the naval storehouse. The endorsement above this short note of Cezayirli Hasan Paşa commanded that the *Defterdar*, the imperial treasurer, be advised of the situation, presumably in order that the bill be paid.

38 By the eighteenth century, the main practical unit of Ottoman currency was the *guruş*, which was worth 120 *akçe*s. There was another coin, the *para*, which was worth 3 *akçe*s, and thus there were 40 *para*s in the *guruş*. For a full discussion, see: Şevket Pamuk, *A Monetary History of the Ottoman Empire* (Cambridge, 2000), 97 and passim.

39 BOA, A.DVN.DVE (3) 83/58, 1188 (1774/5).

This document thus provides a relatively straightforward example of dispute resolution. The British merchant complained to the ambassador, who complained to the Ottoman government, which investigated the matter through a series of commands. This document also provides a sense of timeframe for such disputes. The *takrir* was presented on 23 Receb 1203, and the first *buyuruldu* was scribbled on 26 Receb. The note of the *Defterdar* is undated, but the *buyuruldu* is dated 28 Receb, whilst the *Kapudan Paşa*'s report was given on 1 Şaban with the final *buyuruldu* noted on 2 Şaban. Thus, the entire case was presented and resolved between 19 April and 28 April 1789, a remarkably short period of time that probably reflects the importance of ensuring a continuing supply of naval stores for the Ottoman navy. However, it seems likely that the main reason for a swift resolution is that all the action took place in Istanbul. All of the main figures involved were in roughly the same place, and therefore it was easier for the different parties to take action to ensure the case was being pursued.

Those disputes that arose in the provinces, however, often occurred well outside of the limits of the official view from the capital.[40] One *takrir* from 1779 demonstrates one sort of problem that occurred from time to time between British merchants and officials in the provinces.[41] In the narrative, it is recounted that the former governor of Baghdad, Abdullah Paşa, had been engaged in the rather important business of guarding the borders and protecting the Ottoman realms (*muhafaza-ı hudud ve muharese-i memleket*), Iraq being in the midst of a rebellion against Ottoman rule at that time.[42] However, there were few means to pay and supply the soldiers, and so the treasurer, Selim Efendi, took out a loan (*istikraz eylediği*) on behalf of the Ottoman state of 60,000 *guruş* from the British vice consul, who was an Ottoman Armenian called Markar. The loan was described as *ba-temessük*, that is, secured with a written deed, so everything had been done by the book. However, Abdullah Paşa died, and his successor, Hasan Paşa, had still not honoured the debt owed to Markar. In such an event, the letter of the law of the Capitulations required that, as all lawsuits over 4,000 *akçe*s should be heard in Istanbul, the case move up to the capital. However, it appears from the

40 For a discussion of Europeans in provincial courts, see: Eyal Ginio, 'Perceiving French presence in the Levant: French subjects in the sicil of 18th century Ottoman Salonica', *Southeast Studies / Südost-Forschungen* 65-66 (2007), 137-164.

41 BOA, A.DVN.DVE (3) 83/16, 1193 (1779).

42 Dina Rizk Khoury, 'Violence and spatial politics between local and imperial: Baghdad, 1778-1810' in G. Prakash & K. M. Kruse (eds.), *The Spaces of the Modern City: Imaginaries, Politics, and Everyday Life* (Princeton, 2008), 181-213 at 189.

takrir that efforts had been made to solve the dispute locally, and only when this had failed had the central British and Ottoman authorities been brought into play.

The language employed in the *takrir* attempted to shift responsibility for the debt from the local governor directly to the Ottoman government. It spoke of Markar as being aggrieved and suffering from his losses (*magdur ve mutazarrır*), which was 'contrary to the auspicious consent of the requirements of the Sublime State' (*hilaf-ı rıza-yı yümn-ü iktiza-yı Delvet-i Aliye*), referring to a legal regime that covered both Ottoman and foreign subjects. In requesting that the debt be paid from the funds of the central imperial treasury via the ambassador (*meblag-ı mezkurun hazine-i amire tarafından bu dailerine eda ve teslim olunmak*), the document provides a clear instance of the ambassador acting as a national consular official in place of the actual local consuls. Not only was he warranted, even required to intervene under the Capitulations due to the size of debt in question, but the fact that the provincial officials were unwilling or unable to bring the case to a satisfactory conclusion necessitated his written representation on behalf of a British dependent. He had therefore utilised the 4,000-*akçe* article as a way of removing authority over the dispute from the provincial authorities.

Not all of the commercial *takrir*s concerned disputes over goods or contracts with the Ottoman administration, yet the ploy of assuming central authority over troublesome disputes can be found with regard to private cases too. Bankruptcy was an ever-present problem for those involved in any sort of trade, and the risks of the market, the distance of travel, and differences in legal regime made the regulation of bankruptcy disputes between British and Ottoman subjects potentially rather difficult. When someone reached the stage of bankruptcy, it was very often because the bankrupt was himself owed money by others, and so any distributions to the creditors depended on securing those debts for the benefit of the bankrupt's estate. One example from 1774/5 concerns the bankruptcy of two Dutch merchants, whose names are given in the *takrir* as Panşo and Seriyes, the Panchaud and Series whose earlier troubles with the Ottoman authorities have been examined by İsmail Hakkı Kadı.[43] Their bankruptcy estate was tied up in a legal dispute (*niza*) with their brokers, two Ottoman Jews named Musa and Isak, who were supposedly holding on to a significant amount of the merchants' money. So as long as the dispute continued, the British creditors of the two Dutchmen could receive no distributions. The *takrir* employed strong language against these

43 BOA, İE.HR 18/1642, 1188 (1774/5). Kadı, *Ottoman and Dutch Merchants*, 114-131. An interesting discussion on similar cases can be found in J. Schmidt, 'Dutch merchants in 18th-century Ankara', *Anatolica* 22 (1996), 237-260.

brokers, accusing them of procrastinating with a case of lies (*dava-yı tezvirlerinden imrar-ı vaktıyla*), and speaking of the resulting unjust treatment suffered by the British creditors (*dainlerinin magduriyet*). It then made a special (*hasseten*) petition and request that the dispute be judged and terminated according to law (*şerian fasl ve kaṭ*), and that the debt certificates (*deyn-temessükātı*) of over 65,000 *guruş* held by another Jew named Kamondo be drawn up and presented without delay (*bila tahir redd ve teslim*).

As with many bankruptcy cases involving European and Ottoman subjects, this one was complex.[44] The British ambassador held no right of legal jurisdiction over either the estate of the Dutch merchants or the legal affairs of the Ottoman Jews. The only interest he held in the case was that British merchants were owed money. Here, the British Capitulations, however, provided assistance. One very important article granted in 1603 dealt with the question of legal proofs (*hüccet*s), specifically the process through which transactions and other contracts should be registered with the *kazı* (Islamic judge), and particularly what should be done in the event of a dispute where no legal proofs had been registered. The Capitulations are clear: 'If there are no proofs [registered] with the judges, only false witnesses [*şahid-i zur*] being produced, the case should not be heard.'[45] Of course, the Dutch Capitulations (of 1612) contained a similar article, and the fact that all capitulatory texts referenced one another meant that this rule applied to all Europeans with capitulatory rights.[46]

This article might explain why the *takrir* uses the term *tezvirat* – lies – to describe the case presented by these Jews in their dispute with the Dutch merchants. It implies that there was no basis to their case because there was no legal proof for their claims, and therefore that the case should be stopped and the Jews forced to pay their debt to the Dutchmen's estate. In addition, the support of the British ambassador may well have been intended to provide extra weight to ensure that the promissory note be honoured. As Boğaç Ergene's research into written and oral evidence in early modern Ottoman Islamic courts has shown, written evidence on its own did not necessarily satisfy the burden of proof; rather, it often had to be accompanied by the testimony of witnesses who would validate both the claims

44 For a discussion of bankruptcy in Islamic law, see: Émile Tyan, 'Iflās et procédure d'éxecution sur les biens en droit musulman (madhab ḥanafite)', *Studia Islamica* 21 (1964), 145-166.

45 TSMA, d. 7018, 1187 (1773/1774), f8r.

46 Alexander de Groot, *The Ottoman Empire and the Dutch Republic: A History of the Earliest Diplomatic Relations, 1610-1630* (Leiden: Brill, 1978), 241.

and the document.[47] Does this then mean that the British ambassador could serve, via his *takrir*, as a witness in the local case? Surely not; rather given the sum of money involved, over 65,000 *guruş*, the case had to come to him. This seems to be a clear example of the ambassador invoking the clause of the Capitulations that decreed that cases involving amounts over 4,000 *akçe*s, be heard in Istanbul, and in no other place (*gayri yerlerde istima olunmaya*).[48] Due to the lack of progress of the Islamic court in resolving the dispute between the Dutch merchants and their Ottoman Jewish brokers, the British ambassador used this privilege to bring the case to the imperial court in the hope that he could put pressure for a ruling that would result in the payment of the debt and a distribution to the British creditors. This little document therefore shows how the arguments of *takrir*s had to take into consideration a number of issues of legal jurisdiction. It also demonstrates how an intimate knowledge of capitulatory law and its relation to the other legal systems in the Ottoman Empire helped the British ambassador, through the knowledge of his translators, to present *takrir*s that were legally sound petitions, and not just simple diplomatic representations.

A clearer example of this can be found in a *takrir* presented in October 1769.[49] Judging by the British correspondence, this was the continuation of a long-term and complicated dispute.[50] A certain Mustafa Bey, resident of the port of Latakia, had owed a significant amount of money to various European merchants, including 18,000 *guruş* to the former British consul Edward Purnell, and to the governor of the city. As he had not paid his debts, he had been imprisoned in accordance with Islamic law, but the money he owed had not been collected from his assets as he pleaded poverty, and so the new British consul, John Murat, petitioned the governor to secure a collection of the debt for the benefit of all the creditors. The *takrir* argued that, 'the requirements of the noble [Islamic] law and the imperial Capitulations against Mustafa Bey being proved by the said consul' [*konsolos-u mesfurun şer'-i şerif ve ahdname-i hümayun mucebince mezkur Mustafa Bey'de sübut bulan*], a strong [*müekked*] exalted command is petitioned and requested to be addressed to their excellencies the governor and judge of Arab Latakia that the

47 Boğaç Ergene, 'Evidence in Ottoman courts: Oral and written documentation in early modern courts of Islamic law', *Journal of the American Oriental Society* 124:3 (2004), 471-491, especially 474-5. See also, Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany, 1994), 48-50.

48 TSMA, d. 7018, 1187 (1773/1774), f9r.

49 BOA, A.DVN.DVE (3) 81/73, 1 Receb 1183 (31 Oct. 1769).

50 TNA, SP97/43, John Murray to the Earl of Shelburne, 15 Apr. 1767.

debt be collected within a month.' The endorsement concurred, and ordered that a legal address be sent to Latakia 'in order to prevent the said injustices'.

In this case lies a fundamental problem for the resolution of disputes that required negotiation through the different regimes comprising the Ottoman legal system. As with many of the cases that should have been heard directly in Istanbul by virtue of their being worth over 4,000 *akçe*s, there had evidently been efforts to solve the bankruptcy dispute in Latakia. This makes sense for two reasons. First, it seems unreasonable to expect that every single dispute over what was a relatively small amount be taken all the way to Istanbul (although this was certainly an example that involved a large amount of money). And second, in this case, because the creditors of Mustafa Bey were a mixture of European and Ottoman subjects, specifically Ottoman Muslims, legal jurisdiction thus fell within the domain of the local Islamic court. In incidences of bankruptcy (*iflas*), the usual practice in Ottoman Islamic law courts was to order the imprisonment of the bankrupt (*müflis*), the rationale being that this would either persuade him to pay his debts, or enable the sale of his assets in order to pay off his estate.[51] This legal regime was referred to in the *takrir*, stating that Mustafa Bey was imprisoned because he had a number of debts (*mezkur Mustafa Bey'de alacakları olduğundan mezkur Mustafa Bey'i habs eylediklerinde*), and that he could only be freed (*itlak*) after a collection for the debts had been made (*baadü't-tahsil*). However, imprisonment evidently had no effect on Mustafa Bey, who instead accused his creditors of being the ones responsible for the whole mess. It is on this basis that the British appealed to the provisions of *şeriat* in demanding a quick collection of the debt from his assets. The requirement of swift justice was also mentioned in the Capitulations, in the article concerning *hüccet*s. It states that, 'if [the British] case matches the legal proof, let action be taken in accordance with the requirements of that legal proof [*muceb-i hüccet-i şeriye ile amel oluna*].'[52] This explains the emphasis in the *takrir* of the case against Mustafa Bey being proven (*sübut bulan*) in accordance with both Islamic law and the Capitulations, and demonstrates knowledge, presumably on the part of the translators, of the most forceful legal argument possible to resolve the case in the favour of the British merchants as quickly as possible.

The four cases of disputes examined here all dealt with slightly different sorts of legal issues. The debt owed by the Ottoman navy to Barbaud & Co.

51 See: Tyan, 'Iflās', 145-6.

52 TSMA, d. 7018, 1187 (1773/1774), f8r.

saw the ambassador submit a simple request that payment be made, whilst the non-payment of the loan taken Abdullah Paşa from Markar required a transfer of juridical authority from Baghdad to Istanbul. The dispute between the bankrupt Dutch merchants and their Ottoman Jewish brokers had left British merchants out of pocket, but due to a lack of legal authority the ambassador's representation saw him assert authority over the case due to the high amount involved, and to attempt to discredit the Jews' case in order to see the funds in the bankruptcy estate released. The final example, involving the debts owed by Mustafa Bey in Latakia, saw the ambassador's representation seeking to pressure the Ottoman state through legal arguments to ensure the implementation of justice in the provinces. The cases and locations were different, but all four incidents demonstrate the interplay between capitulatory law and practice and the various systems that comprised Ottoman law. The Capitulations did not provide a written solution for every conceivable legal situation, but instead provided a legal framework that also connected with the larger structure of the Ottoman legal system. In the case of Mustafa Bey, the legal argument played to both the Capitulations and the *şeriat*, and this could not have been possible if those two legal systems were not compatible or interlinked. Indeed, that crucial article in the Capitulations concerning legal proofs seems to be the key here. It states that for any legal affairs, including all manner of trade and matters of surety (*ticaret ve kefalet hususları ve sair umur-u şeriyeleri*) the point of reference was the local *kazı*, who would take the official record (*sebt-i sicil*) of all such matters. Therefore, and as these documents show, *takrir*s concerning legal disputes could not rely on capitulatory law alone, but had also to conform to Islamic law. Yet there was, in a sense, a get-out clause in the form of the rule concerning cases over 4,000 *akçe*s. If it seemed that the case was not being satisfactorily resolved in the provincial courts by the Islamic judges, the ambassador could invoke that article in order to ensure the transfer of jurisdiction to Istanbul and the imperial council, as was seen in the case of Markar. This perhaps explains why the limit was never amended to reflect inflation and currency debasement. It remained a useful tool for the ambassador as representative of the British *taife* to intervene in difficult cases of potentially any monetary value. In the provincial cases presented here, the legal process at the local level had stalled, and so by issuing a *takrir* demanding resolution, the ambassador essentially signalled the use of his right to bring such cases to be resolved at the imperial court in Istanbul, in the hope that a good result might be achieved for the British merchants and dependents.

Conclusion

The two sorts of *takrir* examined here reveal two key points about the practice of commercial diplomacy and dispute resolution between the British and Ottoman authorities in the eighteenth century. The necessity to continually request travel permits from the Ottoman authorities placed the British ambassador as a local consular official, performing the same functions for the merchants in Istanbul as the consuls in provincial cities such as Izmir and Aleppo did for British merchants there. The nature of these documents also reveals how important customary law was to the implementation of written provisions. The Capitulations provided the written framework guaranteeing the freedom of movement and protection from corrupt practices, but the mechanisms for ensuring their implementation, not being formally defined in that document, required constant renewal and approval. In this way, the regulation of the Capitulations was not *laissez-faire*, but was continually monitored and regulated via regular written and oral interaction between the representatives of the British and Ottoman authorities, through their translators of course. These sorts of documents provide further evidence for understanding the participation in and legal practices of European ambassadors and consuls within the wider Ottoman written and customary legal systems.

The second sort of *takrir*, those dealing with commercial disputes, allow this legal pluralism to be clearly demonstrated. The different cases examined above made reference to different sorts of legal practice, be they defined by the Capitulations, *şeriat*, or custom. Most interesting here from the perspective of the practice of commercial diplomacy was the clever and clearly selective use of the clause in the Capitulations that insisted that cases worth more than 4,000 *akçe*s be heard in Istanbul under the authority of the imperial court. This transferred legal authority away from the local governors and judges, and placed it directly in the hands of the Ottoman central government and the British ambassador. This only seems to have happened in cases where the resolution of the dispute was not possible, or going too slowly, at the local level, and enabled the ambassador to circumvent usual judicial process. That most cases of over 4,000 *akçe*s were not sent to be heard in Istanbul indicates that this power was not used by the ambassador routinely, but only in exceptional cases where his intervention was deemed necessary to ensure a good outcome for British interests.

In their sum, these *takrir*s demonstrate the legal strictures and loopholes navigated by the British diplomats, and more particularly of the translators who

rendered them into Ottoman Turkish. On the one hand, the regular requests for travel passes developed over time as a solution to an issue of practice not covered in the Capitulations. On the other, the use of the 4,000-*akçe* clause must also have developed over the eighteenth century as a response to increasingly complex commercial disputes in the provinces, as well as to inflationary pressures that drastically decreased the real value of the specified sum. There is much work to be done on how Ottomans and Europeans did commercial and diplomatic business in the eighteenth century, and comparisons with different Europeans and different parts of the Empire will be essential to truly get a sense of what was going on. However, this brief foray into the example of the British in the eighteenth century demonstrates that as well as requiring intricate knowledge on the part of the British embassy translators of both Islamic law and capitulatory practice, the implementation of the provisions of Capitulations relied as much on custom and interpretation as it did on the strictures of text. This furthers our understanding of how ambassadors, officials, and translators operated within a multi-layered legal regime, and in particular how the ambassadors, in seeking to bring complex cases to the Ottoman capital, played a part in the wider drama of central versus provincial authority in the eighteenth century.

Petitions of the Supplicant Ambassador: British Commercial Representations to the Ottoman State in the Eighteenth Century

Abstract ■ This article examines the body of *takrir*s – written representations – from the British ambassadors in Istanbul to the Ottoman government in the mid- and late eighteenth century, aiming to place these diplomatic representations within the wider Ottoman petitionary framework, and to illustrate the role of the ambassador in providing consular functions. It discusses the form and linguistic style of these documents, before analysing the two main types of cases found. The first concerns the freedom of movement and freedom from harassment requested by British travellers on land and at sea, in accordance with the rules of the Capitulations and custom. The second group of cases dealt with more complex legal disputes between British merchants and Ottoman subjects and officials involving the Capitulations and other sorts of legal practices. Examining these documents permits a view of the practice of diplomacy, and demonstrates how text and custom combined through the fluid interpretation of the Capitulations in order to regulate the rights and freedoms of British merchants through the Ottoman petitionary system.

Keywords: Petitions, Capitulations, Ottoman-British relations, Trade, Merchants

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