EXTRADITION IN THE OTTOMAN INTERNATIONAL LEGAL PRACTICE OF THE NINETEENTH CENTURY

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DECLARATION OF ORIGINALITY

I, Berna Kamay, certify that

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ABSTRACT

Extradition in the Ottoman International Legal Practice of the Nineteenth Century

This dissertation examines extradition (*iade-i mücrimin)*, the rendition of criminals, in nineteenth century international legal practice of the Ottoman Empire. An examination of extradition cases in the nineteenth century shines a light on the diplomatic stage of world politics, which was characterized mainly by international security policies against transnational crime and crime mobility across the borders. Extradition directly pertained to the major questions hovering over the Ottoman legal operation: capitulations, extraterritoriality (*haric-ez memleket*), and subjecthood. It is mainly because the capitulatory system and the operation of the consular system hampered the practice of extradition in the Ottoman Empire. However, the increasing mobility at the Ottoman borders necessitated regular communication and diplomatic channels to surrender criminals. It was a world of skillful diplomats, of state officials with expertise in law, and of cunning state politics. It was also a world of professional impostors, fugitive criminals, political refugees, and armed rebels whose transnational mobility and offenses shaped international security policies. These entailed domestic legislative efforts as well as stricter preventive and punitive measures on the international stage. Extradition as a legal practice thus evolved into a protean political question and a diplomatic tool, necessitating its analysis within the broader context of Ottoman history. This study challenges the portrayal of an Ottoman judicial system as weak in legislative and jurisdictional power, which is regarded as operating at the behest of the capitulatory system.

ÖZET

19. Yüzyıl Osmanlı Uluslararası Hukuk Pratiğinde Suçlu İadesi

Bu tez çalışması, 19. yüzyıl Osmanlı uluslararası hukuk pratiğinde suçlu iadesini (iade-i mücrimin) incelemektedir. 19. yüzyılda suçlu iadesi vakaları ülkeler arası suç ve sınırlardaki suç mobilizasyonuna karşı alınan uluslararası güvenlik politikalarının belirlediği dönemin dünya politikasındaki diplomasi ilişkilerine ışık tutmaktadır. Suçlu iadesi Osmanlı hukuki işleyişini doğrudan etkileyen kapitülasyonlar, yargı dokunulmazlığı (*haric-ez memleket*), ve tabiiyet konularıyla doğrudan ilintilidir. Kapitülasyon ve konsolosluk sisteminin işleyişi suçlu iadesi pratiğini engelleyen asıl sebepleri oluşturmaktadır. Ne var ki, Osmanlı sınır bölgelerindeki artan hareketlilik suçluları teslim etmek için düzenli bir haberleşme ağı ve diplomasi kanalını gerekli kılmıştır. Bahsettiğimiz bu dünya yetenekli diplomatları, hukuk alanında yetkin devlet adamlarını ve de akıllı devlet politikalarını bir araya getirmiştir. Diğer taraftan ülkeler arası hareketlilikleri ve suçları uluslararası güvenlik politikalarını belirleyen silahlı isyancıların, politik sığınmacıların, kaçak suçluların ve profesyonel sahtekarların dünyasıdır. Bu figürlere karşı açılan mücadele ülke içinde yasa yapmayı ve uluslararası arenada önleyici ve cezalandırıcı önlemleri gerektirmiştir. Bu açıdan incelediğimizde, hukuki bir pratik olarak suçlu iadesi Osmanlı Devleti için gittikçe çok yönlü politik bir sorun halini almıştır. Bu durum suçlu iadesini daha kapsamlı bir Osmanlı tarihi içerisinde incelemeyi gerektirmektedir. Bu çalışma kapitülasyonların gölgesinde işleyen, yasama ve yargılama alanlarında zayıf bir Osmanlı hukuk sistemi portresine karşı çıkmaktadır. Hukuk sistemi ve pratikte hukukun nasıl işlediğini birbirleriyle ilişkisi içerisinde yakından inceleyen bu çalışma ağırlıklı olarak hukuk tarihi okuması yapmaktadır.

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CHAPTER 1

INTRODUCTION

This dissertation examines extradition (*iade-i mücrimin)*, the rendition of criminals, in nineteenth century international legal practice of the Ottoman Empire. Extradition is defined as "the process by which one state, upon the request of another, effects the return of a person for trial for a crime punishable by the laws of the requesting state and committed outside the state of refuge."[1] In the context of international law, extradition was, and still is, a valuable diplomatic tool that can be leveraged to control crime mobility across states. That being the case, the practice of extradition has been subject to many political constraints and diplomatic controversies.

A cursory examination of newsfeeds from the last decade highlights some well-known extradition cases and allows us to easily acknowledge the weight of its place in international politics. For example, in April 2022, a U.K. court officially confirmed the extradition of Julian Assange to the United States.[2] Assange, an Australian activist and founder of the Wikileaks database, was accused of espionage in 2016 for leaking reports of U.S. Army Intelligence that contained confidential information on U.S. military operations undertaken in Iraq, and Afghanistan. The years-long trial and extradition requests went beyond the nature of the charges imposed on him and set the ground for extensive debates on asylum rights, freedom of expression, and transparency of state policies.[3] Likewise, in 2019, the Fugitive

[1] Andreopoulos, "Extradition." https://www.britannica.com/topic/extradition
[2] "UK court approves extradition of Julian Assange to US," *The Guardian,* 20 April. https://www.theguardian.com/media/2022/apr/20/uk-court-approves-extradition-of-julian-assange-to-us
[3] For a lengthy analysis of his trial process and the political developments taking place in the meantime; see Melzer, *The Trial of Julian Assange: A Story of Persecution.*

Offenders and Mutual Legal Assistance in Criminal Matters Legislation Bill proposed by the Hong Kong government was denounced by a protest march that saw hundreds of thousands of participants. The legislation brought the risk of arresting dissenters and silencing the protests against the political regime of the People's Republic of China. This meant the possibility of torture, arbitrary prosecution, and incarceration by the Chinese judicial system. After months-long local protests as well as reactions received from the international community, the Hong Kong government withdrew the bill. Moreover, the legacy of these protests lasted longer as human rights were considered at stake with the ambiguities in the proposed regulations.[4]

If we turn our attention to Turkish foreign politics, we follow the most recent dispute on the extradition of Sezgin Baran Korkmaz, a Turkish businessperson in charge of SBK Holding. Accused of money laundering and tax fraud, Korkmaz was arrested in Vienna at the request of the U.S. Department of Justice in 2021. As there was an ongoing criminal procedure in Turkey and Austria, the U.S. and Turkish governments demanded his extradition. Both parties justified their claims with evidence of financial damage to the U.S. Treasury and many Turkish companies. Even though the Austrian court approved his extradition to Turkey last August and the United States last March, he still remains in detention.[5]

It is evident from these examples that extradition stands out as a critical political issue in our contemporary world. Similarly, an examination of extradition

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[4] Martin, "Hongkong's Proposed Extradition Law Amendments," https://sgp.fas.org/crs/row/IF11248.pdf ; and "Hongkong-China extradition plans explained," *BBC News* https://www.bbc.com/news/world-asia-china-47810723

[5] "US and Turkey Caught in Extradition Fight for Businessman With Ties to Turkish Elite," *The Wall Street Journal,* Aug. 2, 2021, https://www.wsj.com/articles/u-s-and-turkey-caught-in-extradition-fight-for-businessman-with-ties-to-turkish-elite-11627905600 ; "Request for Businessperson Sezgin Baran Korkmaz's extradition to Turkey accepted," *Bianet* Aug. 31, 2021, https://m.bianet.org/english/politics/249518-request-for-businessperson-sezgin-baran-korkmaz-s-extradition-to-turkey-accepted ; and "Sezgin Baran Korkmaz Davası," *Junshu,* 2 May, 2022, https://apos.to/s/608ebc106686bb0006226e61?utm_source=aposto

cases in the nineteenth century shines a light on the diplomatic stage of world politics, which was characterized mainly by international security policies against transnational crime and crime mobility across the borders. As Christopher Pyle argues, extradition as a legal concept and diplomatic practice was, at the time, designed "to replace the politics of abduction and deportation with the rule of law."[6] Many states signed bilateral extradition treaties to guarantee international security across their borders. Even though the extradition practice formed one central argument that states frequently resorted to in controlling crime mobility, the application of the treaties was far more complicated. Many state actors and informal agents were involved in judicial policing, and an elaborate information network was required internationally. Border security, anarchism, and severe crimes generated their own political trajectories in the nineteenth century. The diplomatic efforts and principles of international law did not follow a standard pattern, and ad-hoc policies usually superseded the treaty agreements. Ultimately, the power contest, conflicts of law, and claims to sovereignty were most decisive in shaping each state's policy towards transnational crimes. Therefore, extradition opened a new window into nineteenth century international relations when considering all these factors.

Despite the importance of extradition, the Ottoman Empire did not sign any official treaties, except for the 1874 Treaty of Extradition with the United States. It is mainly because the capitulatory system and the operation of the consular system hampered the practice of extradition in the Ottoman Empire. However, the increasing mobility at the Ottoman borders necessitated regular communication and diplomatic channels to surrender criminals. The diplomatic documents and legal reports reserved in the Ottoman archives reveal numerous negotiations and regulations on extradition.

[6] Pyle, *Extradition, Politics, and Human Rights,* 322.

They constitute a valuable source of information as they reveal that extradition was not merely a diplomatic tool instrumental in stopping overseas impunity, but that it also manifested the value of territorial jurisdiction with equal force. Ottoman officials reflected those considerations in their reports, underscoring the changing Ottoman perception of territorial law.

These were the crucial points that compelled me to undertake this research project. The existing literature in Ottoman legal history is significantly silent about extradition practices, which is in stark contrast to the Ottoman officials' time and efforts spent dealing with this issue. Therefore, this dissertation aims to contribute to Ottoman legal studies through the analysis of the neglected diplomatically legal issue that occupied Ottoman international diplomacy in its last century. Extradition directly pertained to the major questions hovering over the Ottoman legal operation: capitulations, extraterritoriality, and subjecthood. In this respect, this study challenges the portrayal of an Ottoman judicial system as weak in legislative and jurisdictional power, which is regarded as operating at the behest of the capitulatory system. Despite its critical approach, this study does not overlook or repudiate the weight of the capitulatory system in the Ottoman Empire; on the contrary, it clearly shows that capitulations were always present and fully operational until the end of the empire. However, it argues that as legislative efforts gained pace at home, the capitulations gradually lost their sanction of power, though they remained binding on the title.[7]

[7] Turan Kayaoğlu, in his work, comes up with a similar argument: "Extraterritoriality negotiations from the Treaty of Paris (1856) to the Treaty of Lausanne (1923) show a legal-institutional logic. I argue that the abolition of extraterritoriality in the Turkish case was related to the comprehensive legal reforms that accompanied the transition from the Ottoman Empire to the Turkish Republic." Kayaoğlu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China,* 15.

The Ottoman legal transformation underwent a painstaking and slow process, which followed an erratic course of progress. When Namık Kemal expressed his reservations about abolishing the capitulations in 1871, he had strong reasoning behind his arguments. He claimed that legal formalism still had a way to attain its perfection by evincing the presence of false witnesses crowding the courts and the inefficacy of laws to assert the level of competence they already had in the courts.[8] A few decades later, similar problems were still occupying the minds of the Ottoman bureaucracy. In 1912, the Ministry of Justice requested Count Léon Valérien Ostrorog, an Ottoman legal advisor of Polish origin, to compose a legal work promoting judicial reform. Ostrorog described Ottoman justice as too antiquated to succeed with an urgent call for progress in the legal field. [9]

Those voices from the Ottoman intelligentsia and state officials clearly reveal that the Ottomans were in a quandary regarding their own judicial system up until the end of the empire. It was rightly so considering the problems encountered regarding the operation of justice at home. However, a close examination of official correspondences shows that this transformation did not follow a linear path; instead, it came in leaps and bounds. There were setbacks and achievements that ruled out a single holistic approach to the operation of Ottoman justice. In this respect, reviewing the practice of extradition constitutes a novel medium of research, placing the Ottoman legal studies beyond the arguments of the capitulatory system and its

[8] "…doğrusu ben yalnız kapitülasyonların devam-ı vücudundan dolayı ilâ-nihâye müteessif kalarak bunların ilgâsı içün bir ecnebi ile pençeleşmeğe cesâret alamam. Mahkemelerimizin bu hâlde bulunmasından dolayı yalnız kapitülasyonların devamı içün değil kendi hukukumuzu dahi nazar-ı dikkate alarak anın içün dahi başkaca müteessir ve mütessif olurum. Mahakim-i Şeriyye'de yalan şahidlerin hali ikinci derecede teessüf etdiğim bir şey olup birinci derecede teessüf ettiğim hal ise Mahakim-i Nizamiye'de bunca milyon nüfusun muhafaza-i hukukunu kafil olan bir kanunun dahi hükmünü 'Ben Yeniçeriyim Yeniçerice hareket ederim' den ibaret bulan bir fikir tarafından yok hükmüne konulduğu halde hiçbir mesuliyyete duçar olmaması ve halkın o kanuna olan emniyeti yerine başka bir emniyet gösterilmemiş bulunması kaziyyesidir." Namık Kemal, "Kapitülasyonlar," *Diyojen,* 1871.
[9] Ostrorog, *Pour la Reforme de la Justice Ottomane,* 54.

judicial quagmires. Despite the shortcomings of the juridical operations, Ottoman diplomacy owes a lot to the legal transformation it underwent at home. For the extradition question, this worked out as a mutual process; extradition negotiations had a direct impact on the evolution of Ottoman legislative reforms. Accordingly, extradition is treated here as an umbrella term as the issue of extradition sheds light on the broad processes of Ottoman legal transformation.

This study also opens a new avenue to examine the changing state discourse in law and Ottoman claims to sovereignty. This novel discourse was primarily achieved thanks to the interaction between the empire and international law. This study shows that the legal transformation of the Ottoman Empire created its own social and informal agency that involved various state actors, legal scholars, and diplomatic agents beyond the circles of the Sultan and senior bureaucrats. The Ottoman representatives abroad relied heavily on the principles of international law and penal codes in their diplomatic endeavors. At home, a newly emerging group of legal scholars, who were entirely preoccupied with these issues, pioneered the advancement of legal knowledge.

Finally, this study establishes a closer dialogue with the law as a written code and its application by providing a historical context. It aims to address the gap between legal theory and its practice in daily politics. This study covers the last century of the empire; it primarily focuses on the years between the 1860s and 1914. The timeframe is selected on purpose as the Ottoman legal evolution gained pace from the 1850s onwards, allowing us to comprehend this transformation process better. On the other side, the advent of WWI in 1914 changed the political atmosphere and diplomatic balances halting the extradition negotiations for a while.

Thus, this study follows a chronological and thematic order, although it frequently gives place to comparative accounts from different regions around the same period.

1.1 Literature Review

In the Turkish Republic, extradition is also regulated by bilateral treaties but under the principle of national jurisdiction. The Turkish Penal Code states that if a Turkish or foreign citizen commits a crime in Turkey, they will be tried by Turkish courts. In the scenario that a Turkish citizen commits a crime abroad and is found guilty, jurisdiction belongs to the country of the crime. If a country demands the extradition of its citizen for a crime committed in Turkey, the Ministry of Justice maintains the right to conduct a trial in Turkish courts. This is to say that, the Turkish Penal Code is guided by the same principle of territorial sovereignty as all other modern nations, and there is no discrimination on the basis of national, ethnic, or religious affiliation.[10]

On the other hand, the Turkish Republic signed many bilateral extradition treaties with several states.[11] The Turkish Republic was also a party, among 33 other countries, to Protocol 2 of the European Convention on Extradition. In 1957, this

[10] The 2nd clause of the 3rd article of the Turkish Penal Code states that "Ceza Kanununun uygulamasında kişiler arasında ırk, dil, din, mezhep, milliyet, renk, cinsiyet, siyasal veya diğer fikir yahut düşünceleri, felsefi inanç, millî veya sosyal köken, doğum, ekonomik ve diğer toplumsal konumları yönünden ayrım yapılamaz ve hiçbir kimseye ayrıcalık tanınamaz". Also see the Articles 9 to 19 of 2004 Turkish Penal Code https://www.tbmm.gov.tr/kanunlar/k5237.html and https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5237.pdf Also see, Yenisey, *Milletlerarası Ceza Hukuku: Ceza Yargılarının Milletlerarası Değeri ve Mevzuat,* 35.

[11] The Turkish Republic signed extradition treaties with Jordan in 1975 (renewed in 2015), the United States in 1980, Syria in 1982 (renewed in 2009), Tunisia in 1982, Pakistan in 1984, Libya in 1987 (officially in force in 1989), Egypt in 1987 (renewed in 1990), Northern Cyprus in 1988, Morocco in 1990, Polonia in 1990, Romania in 1991 (officially in force in 1994), Australia in 1994 (officially in force in 2004), Kazakhstan in 1997 (renewed in 2015), Kosovo in 2011 (officially in force in 2018, and renewed in 2021), Russia in 2017, Uzbekistan in 2019, Serbia in 2019. For the treaty agreements, see https://diabgm.adalet.gov.tr/home/BilgiDetay/7#collapse1

convention was put in force, regulating the extradition proceedings among its signatories, including the Turkish Republic.[12]

On the other hand, there was no legislation regulating international judicial collaboration until 1984. Along with separate treaties for such collaborations, the Ministry of Justice occasionally issued an official circular to fill the legal loopholes in the procedures. Legal statute no. 3002, issued on May 8, 1984, regulates the procedures of a criminal prosecution brought on foreign citizens in the Turkish Republic and Turkish citizens in foreign courts. Relying on the reciprocity principle, this statute is designed to ensure the trial of each side's nationals by their own jurisdiction. The recent statute no. 6706, which came into force on April 23, 2016, elaborates on this and lays down the rules for international judicial collaboration. Comprehensive in content, this new statute places the Ministry of Justice as the leading authority to administer and oversee the means and channels of that cooperation.[13]

It is evident that penal codes, bilateral treaties, and special statutes are complementary for the practice of extradition in Turkey. Nevertheless, we cannot say the same for the Ottoman Empire. The origin of the practice of extradition as formulated by bilateral treaties dates back to the nineteenth century. Many European states signed bilateral treaties; however, this was not the practice in the Ottoman state. The only agreement in such form was signed with the United States in 1874,

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[12] "European Convention on Extradition," https://rm.coe.int/1680064587 ; and "Suçluların İadesine Dair Avrupa Sözleşmesi'ne Ek İkinci Protokol," https://diabgm.adalet.gov.tr/arsiv/adli_yardimlasma/adli_isbirligi_ceza/suclularin_iadesi_ek/SİDAS%20EK%20İKİNCİ%20PROTOKOL,%20yürürlük%20%201992,%20No%2098.pdf

[13] Turhan, "6707 Sayılı Cezai Konularda Uluslararası İş Birliği Kanunu'nun Kapsamı ve Genel Hükümleri Hakkında Bir Değerlendirme," 3069; for the legal statute no. 3002 see "Türk Vatandaşları Hakkında Yabancı Ülke Mahkemelerinden ve Yabancılar Hakkında Türk Mahkemelerinden Verilen Ceza Mahkumiyetlerinin İnfazına Dair Kanun," https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3002.pdf ; and for the legal statute 6706 see "Cezai Konularda Uluslararası Adli İş Birliği Kanunu," https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6706.pdf

but it was plagued by many controversies, as we will see in Chapter 4. The extraterritorial regime was one major factor as the Ottoman Empire was considered to be among the semi-civilized states, and capitulations barred the possibility of maintaining diplomatic relations on equal terms. This state of affairs directly affected the extradition practice as consular jurisdiction frequently replaced for Ottoman justice for foreign criminals who had escaped to the empire. Consequently, the alternative scenario was not even taken into consideration.

The abundance of correspondence addressing the issue of extradition in the archives is the reason that encouraged me to delve into this subject, whereas the desire to better understand its practice in the Ottoman Empire at the expense of the capitulatory system was another powerful incentive. In this respect, I place my research among the works that provide a critical examination of the questions of capitulations, extraterritoriality, and Ottoman sovereignty.

1.1.1 On Transnational Crime, Ottoman Legal Transformation, and Extraterritoriality

Extradition is usually addressed by legal scholars who examine it under normative international and criminal laws. This was also the case in the nineteenth century. The volume of scholarship on this question in the world was largely the compilation of bilateral treaties and the analysis of particular legal cases.[14] Books on international law vaguely touch upon this question as it appears in Ottoman scholarship. Therefore, the value of addressing it in a historical framework becomes quite

[14] For some of them see Bernard, *Traite Théorique et Pratique de l'Extradition Comprenant L'Exposition d'un Projet de Loi Universelle sur l'Extradition;* Soldan, *L'extradition des criminels politiques;* and Fiore, *Traite Droit Pénal International et de L'Extradition;* and Clarke, *A Treatise upon the Law of Extradition;* and Cornewall, *On Foreign Jurisdiction and the Extradition of the Criminals.*

evident, considering the relevance of this legal concept to many other crucial issues and the light it sheds on issues as legal jurisdiction and the role of the Ottoman Empire on the international stage.

Two recent works on American history achieved a similar goal by focusing on extradition practices. *Uncle Sam's Policemen* by Katherine Unterman accounts for the mobility of crime across U.S. borders between the 1840s and 1930s with a focus on U.S. policing, legal apparatuses, and foreign policy. The "boodler phenomenon," as Unterman terms it, opens a new window into understanding how official extradition treaties vs. quasi-official manhunt policies of the United States shaped its foreign policy, asserting legal influence abroad in search of transnational embezzlers. This work places extradition into a larger historical framework that shows the advent of technology and the rising imperialist vision of the United States.[15]

The work of Bradly Miller, on the other hand, discusses extradition practices through the lens of the U.S.-Canada border security and the migration question. In *Borderline Crime*, he portrays the challenges posed by fugitive criminals, escaped slaves on the run, and refugees searching for political asylum, demonstrating how the U.S. government promoted diplomacy for judicial collaboration and law enforcement. Through an analysis of law and state formation, Miller argues that sovereignty was always at stake at the borders, necessitating alternative policies as the rule of law could never be taken for granted. Instead, he takes law "not as a clear and coercive force but rather as a continually riven, often underwhelming, and perpetually shifting aspect of governance."[16]

In a similar vein, my study explores transnational crime mobility and border security in Ottoman international politics through an examination of the extradition

[15] Unterman, *Uncle Sam's Policemen: The Pursuit of Fugitives across Borders.*
[16] Miller, *Borderline Crime: Fugitive Criminals and the Challenge of the Border, 1819-1914,* 11.

practice and aims contributing to few existing works. This study examines how the Ottoman state frequently responded to the challenges posed to border security under the aegis of extradition talks. Whereas border politics has been subject to a variety of research,[17] there are not many studies that place particular emphasis on the impact of legislative efforts in controlling crime at the borders. In the existing literature, crime is usually studied with an emphasis on its relevance to domestic security and legislative efforts at home. While some of the research focuses on the agency of perpetrators, [18] others address the crime in light of state policies and coercive measures to get it under control.[19]

Despite the rich and analytical content of the existing works, the historical overview of criminal mobility across the Ottoman borders and transnational crime is conspicuously absent. *To Kill a Sultan,* recounting the 1905 assassination attempt against Sultan Abdülhamid II achieved this aim by investigating the anatomy of a crime in the axis of Ottoman-European relations. Each scholar who contributed to the volume centered their research on a different story behind the plot that placed the episode in trans-imperial politics.[20] Likewise, the security concerns of the Hamidian regime across imperial borders, mainly due to a surge in anarchist actions, have been addressed in the works of İlkay Yılmaz. Yılmaz explores the Ottoman state's

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[17] See the two edited volumes recently published, which offer ample scope for analyzing various border stories of the Ottoman and post-Ottoman worlds: Öztan, Yenen ed., *Age of Rogues: Rebels, Revolutionaries, and Rackeeters at the Frontiers of the Empire;* and Tezel, Öztan ed., *Regimes of Mobility: Borders and State Formation in the Middle East, 1918-1946.*

[18] For some of them; Lévy-Aksu, *Osmanlı Istanbul'unda Asayiş, 1879-1909;* Türker, "Toxic Murder, Female Poisoner, and the Question of Agency at the Late Ottoman Law Courts, 1840-1908," 114-137; Tuğ, *Politics of Honor in Ottoman Anatolia;* Deal, *Crimes of Honor, Drunken Brawls and Murder – Violence in Istanbul under Abdülhamid I.*

[19] Schull, "Criminal Codes, Crime, and the Transformation of Punishment in the Late Ottoman Empire," 156-178; Lévy-Aksu, "A Capital Challenge: Managing Violence and Disorders in Late Ottoman Istanbul," 52-69; Lévy-Aksu, "Institutional Cooperation and Substitution: The Ottoman Police and Justice System at the Turn of the 19th and 20th Centuries," 146-168; Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey;* Zarinebaf, *Crime and Punishment in Istanbul: 1700-1800.*

[20] Alloul, Eldem, de Smaele (eds.), *To Kill a Sultan: A Transnational History of the Attempt on Abdülhamid II (1905).*

surveillance system such as passport regulations and hotel registers by setting her account around the state policies that were largely used to track down Armenian suspects and suppress the anarchist activities they were actively involved.[21] Likewise, David Gutman's *The Politics of Armenian Migration to North America* examines Armenian migration to the United States, examining the identity crisis, political conflicts due to the migration, and criminal mobility by investigating their repercussions on Ottoman-U.S. diplomacy.[22]

My research joins these works on the nineteenth century by exploring the dynamics of organized transnational crime and individual criminal actions across international borders, while taking into account the Ottoman state's reactive and preventive measures through extradition. Firstly, this study examines the timeline of judicial cooperation beginning in the 1850s, the period in which large-scale transformation took place within the legal system in the Ottoman Empire. This underscores the organic tie between domestic legislative forces and international diplomacy. Around the same time, the Ottoman Empire established an elaborate diplomatic network abroad. The focus of this study shifts to examine the phenomenon of transnational crime in a diplomatically legal framework. It surveys various political trajectories by adopting a micro-scale approach to diplomatic conflicts of a legal nature in the larger historical context. It undertakes a closer reading of the law to better understand its application, practice, and interpretation in Ottoman politics. I place my research among an increasing number of studies that

[21] Yılmaz, "Conspiracy, International Police Cooperation, and the Fight Against Anarchism in the Late Ottoman Empire 1878-1908," 208-234; and Yılmaz, "Governing the Armenian Question Through Passports in the Late Ottoman Empire (1876-1908)," 1-16; and Yılmaz, *Serseri, Anarşist ve Fesadın Peşinde: II. Abdülhamid Dönemi Güvenlik Politikaları Ekseninde Mürur Tezkereleri, Pasaportlar ve Otel Kayıtları.*

[22] Gutman, "*The Politics of Armenian Migration to North America 1885-1915;* and Gutman, "Travel Documents, Mobility Control, and the Ottoman State in the Age of Global Migration," 347-368.

look into the discourse of Ottoman legal texts and contextualize them in the political milieu of their time.[23]

The existing scholarship addressing the capitulatory system has been recently reexamined and enriched by alternative narratives that call for an analytical inquiry into extraterritorial regime. Extraterritoriality, a term used to identify the diplomatic and jurisdictional immunities in a foreign land, gave an excuse to the Europeans to exploitatively operate their consular system in the Ottoman territories for centuries, which will be analyzed in the following chapter at length.[24] Addressing extraterritoriality, Philip Marshall Brown argues that "one invents fiction when one does not know how to justify rules which are perceived to be necessary."[25] Therefore, the excuse behind the extraterritorial fiction relied on the political discourse generated by European states for their non-European contemporaries. Some studies, including the Ottoman example, have brought a critical approach to

[23] See Kırlı, *Yolsuzluğun İcadı: 1840 Ceza Kanunu, İktidar ve Bürokrasi*; Heinzelman, "The Ruler's Monologue: The Rhetoric of the Ottoman Penal Code of 1858," 292-321; Fahmy, "The Anatomy of Justice: Forensic Medicine and Criminal Law in Nineteenth Century Egypt," 224-271; Terzibaşoğlu, "Eleni Hatun'un zeyin bahçeleri: 19. yy'da Anadolu'da mülkiyet hakları nasıl inşa edildi?" 121-147; Aytekin, "Agrarian Relations, Property and Law: An Analysis of the Land Code of 1858 in the Ottoman Empire," 935-951. Many works Ottoman constitution(s) present fruitful approaches for reading the constitutional period through different episodes: see Lévy-Aksu, "An Ottoman variation on the state of siege: The invention of the *idare-i örfiyye* during the first constitutional period," 1-24; Strauss, "A Constitution for a Multilingual Empire: Translations of the *Kanuni Esasi* and Other Official Texts in Minority Languages," 21-52; Kılıç, "1876 Anayasa'sının Bilinmeyen İki Tasarısı," 557-635; Erdoğdu, "The Administrative and Judicial Status of the First Ottoman Parliament according to the 1876 Constitution," 67-89; Koçunyan, "The Transcultural Dimension of the Ottoman Constitution," 235-258; and Tuğ, "Gendered Subjects in Ottoman Constitutional Agreements, ca. 1740-1860;" Ardıç, "Islam, Modernity and the 1876 Constitution," 89-107.

[24] For a lengthy treatment of the capitulation system with different historical perspectives: See, Rausas, *La Régime des Capitulations dans l'Empire Ottoman;* Sousa, *The Capitulatory Regime oF Turkey: In History, Origin and Nature;* Angell, "The Turkish Capitulations;" Eldem, "Capitulations and Western Trade," Boogert, *The Capitulations and the Ottoman Legal System: Qadis, Consuls, and Beartlıs in the 18th Century;* and Blumi, "Capitulations in the Late Ottoman Empire: The Shifting Parameters of Russian and Austrian Interests in Ottoman Albania, 1878-1912;" Thayer, "The Capitulations of the Ottoman Empire and the Question of Their Abrogation as it Affects the United States;" Mughal and Sadiki, "Shari'ah Law and Capitulations Governing the Non-Muslim Foreign Merchants in the Ottoman Empire;" Groot, "The Historical Development of the Capitulatory Regime in the Ottoman Middle East from the Fifteenth to the Nineteenth Centuries"; and Ahmad, "Ottoman Perceptions of the Capitulations 1800-1914," 1-20; Augusti, "From Capitulations to Unequal Treaties: the Matter of an Extraterritorial Jurisdiction in the Ottoman Empire," 285-307.

[25] Brown, *Foreigners in Turkey: Their Juridical Status,* 116.

this understanding on theoretical grounds. They have argued that Europe advocated positivism that propagated the idea of European superiority. The justification of this notion stemmed from the idea that some non-European countries were not considered civilized in the same way that their European counterparts were. These studies formulated their arguments on civilization criteria as either "legal, legitimate, and morally justified or illegal but fundamentally legitimate."[26]

Jennifer Pitts argues that European international law served a ready-made agenda to justify European imperialist visions for those states.[27] Turan Kayaoğlu shares similar ideas claiming that the unequal relations resulted from the modern theory of sovereignty. This notion sprang out of the ideals of legal positivism and the colonial venture of European expansion.[28] Similarly, Ntina Tzouvala and Arnulf Berker Lorca punctuated the importance of capitalist interests in the overseas intervention policies.[29] With the comparative methodology they used, these works join similar critical studies on other regions that were identically positioned in the international order. China, Siam, Japan, and Korea were the other states that were considered to exist in the gray area between civilized and uncivilized societies.[30] Among these states, as Umut Özsu argues, the Ottoman state became the first "laboratory" region for Europeans to calculate their future moves in other

[26] Rodogno, European Legal Doctrines on Intervention and the Status of the Ottoman Empire within the 'Family of Nations' throughout the Nineteenth Century," 6.
[27] Pitts, *Boundaries of International: Law and Empire.*
[28] Kayaoğlu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire and China,* 34.
[29] Tzouvala, "The Specter of Eurocentrism in International Legal History," 426; and Lorca, "Universal International Law: Nineteenth-Century Histories of Imposition and Appropriation," 519.
[30] The article of Aimeé Genell on the autonomous provinces of the Empire, namely Mt. Lebanon and Egypt, reveals a good example of how the semi-sovereignty of the Ottoman Empire was called into question when addressed in light of the arguments of international law. Thus, this study also shows that the in-between positioning of the states in the European world order was closely related to the established arguments while portraying the non-European states. See, "Autonomous Provinces and the Problem of 'Semi-Sovereignty' in European International Law," 533-549.

territories.[31] Along the lines of Özsu, Nobuyoshi Fujinami argues that "it was through the Muslim Ottoman's incorporation that European international law claimed its universality over non-Christian countries."[32] Therefore, the Ottoman case gains further importance among these states considering its centuries-old capitulation tradition in its interplay of diplomacy with Europe. The Empire was indeed the first laboratory to experiment with international law, before it gets transported to other non-European settings.

Most of these works argue that the countries labeled as semi-civilized transplanted the European legal system to their own domestic judicial operations to empower their own legal structure to refute the extraterritorial regime in a natural course of adaptation.[33] Others have regarded the rise of the nation-state as the momentous milestone that struck a blow to the extraterritorial regime.[34] These works enable us to understand the power of the political discourse the European world imposed on other states, which they treated on unequal grounds. However, they do not address how efficiently the legal systems of those states operated independently of European influence. It is mainly because most research lacked archival data to illustrate the legal operation in action. In the last few decades, however, the proliferation of publications on the daily operation of local legal systems has made

[31] Özsu, "The Ottoman Empire, the Origins of Extraterritoriality, and International Legal Theory," 128.
[32] Fujinami, "The First Ottoman History of International Law," 246.
[33] See the following works for a comparative analysis: Horowitz, "International Law and State Formation in China, Siam and the Ottoman Empire during the 19th Century," 445-486; Slys, *Exporting Legality: the Rise and Fall of Extraterritorial Jurisdiction in the Ottoman Empire and China;* Cassel, *Grounds of Judgement: Extraterritoriality and Imperial Power in Nineteenth century China and Japan;* Jones, *Extraterritoriality in Japan, and the Diplomatic Relations Resulting in Its Abolition, 1853–1899.*
[34] Umut Özsu evaluates the 1922 population exchange, in the post-Ottoman world, as one of the watershed moments of political change for Republican Turkey to eliminate the remnants of the extraterritorial regime. The more the country became homogenously Turkish, the less the state authorities encountered similar problems similar to the capitulatory system. See Özsu, *Formalizing Displacement: International Law and Population Transfers,* and also see Liu, *Extraterritoriality: Its Rise and Decline,* 232.

up for the shortcomings in the field. Most of them also underscore how those states' diplomatic and legal interactions with Europe were far from unilateral, which instead reveals contest and struggle to claim sovereignty and autonomy in their jurisdictional system.[35]

Similar studies on the functioning of the Ottoman justice system have portrayed a complicated judicial world. The institutional reforms are examined by many scholars on account of the legal transformation throughout the nineteenth century. Even though the European examples largely inspired the initiatives for new codifications, the Ottoman legal transformation follows a pattern of continuity at a large-scale level. It was an amalgam of Islamic law, customary practices, and secular legislative reforms that ultimately resulted in a legal system that carried its own unique character.[36] Some of these studies also show that the operation of Ottoman justice already carried pluralistic traits before the nineteenth century. In earlier periods, law was instrumental in standing against injustice as well as maintaining the

[35] See some of these for a comparative framework; Auslin, *Negotiating with Imperialism: the Unequal Treaties and the Culture of Japanese Diplomacy;* Chen, *Chinese Law in Imperial Eyes: Sovereignty, Justice & Transcultural Politics;* Martines-Robles, "Constructing Sovereignty in Nineteenth-Century China: the Negotiation of reciprocity in the Sino-Spanish Treaty of 1864," 719-740; and Tzouvala, " 'And the laws are rude … crude and uncertain' Extraterritoriality and the emergence of territorialized statehood in Siam," 134-150.

[36] Demirel, *Adliye Nezareti: Kuruluşu ve Faaliyetleri(1876-1914);* Shaw, "The Central Legislative Councils in the Nineteenth Century Ottoman Reform Movement before 1876,"51-84; İnalcık, Seyitdanlıoğlu (eds.), *Tanzimat ve Değişim Sürecinde Osmanlı İmparatorluğu;* Ekinci, *Osmanlı Mahkemeleri: Tanzimat ve Sonrası;* Bingöl, "Tanzimat Sonrası Taşra ve Merkezde Yargı Reformu," 533-545; Akiba, "The Local Councils as the Origin of the Parliamentary System in the Ottoman Empire," 176-204; Akiba, "From Kadı to Naib: Reorganization of the Ottoman Sharia Judiciary in the Tanzimat Period," 43-60; Akiba, "A New School for Qadis: Education of Sharia Judges in the late Ottoman Empire," 125-163; Kayalı, "Elections and Electoral Process in the Ottoman Empire, 1876-1919," 265-286; Yılmaz, Osmanlı Devleti'nde Batılılllaşma Öncesi Meşrutiyetçi Gelişmeler, 1-30; Bedir, "Fikih to Law: Secularization Through Curriculum," 378-401; Bozkurt, "*Batı Hukuku'nun Türkiye'de Benimsenmesi: Osmanlı Devleti'nden Türkiye Cumhuriyetine Resepsiyon Süreci;* Bozkurt, "Review of the Ottoman Legal System," 115-128. Unlike most of the studies, Gülnihal Bozkurt evaluates the Ottoman legal transformation, especially considering its effects during the first years of Republican Turkey, as full of ruptures as well as continuities. For a comparative study on Egypt, Petricca, "Filling the Void: *Shari'a* in Mixed Courts in Egypt: Jurisprudence (1876-1949)," 718-745.

social order. Above all the written laws and customs, the discretion of the sultans also had an influential role in dispensing justice.[37]

Many works have come out on the daily operation of Ottoman courts, which cautions us not to take the arguments of borrowed modernization at face value. Instead, they have shown that the traditional courts and newly established Nizamiye courts coexisted, though occasionally in tension, to respond to Muslim and non-Muslim subjects' quest for justice.[38] Whereas *kadı sicilleri* (Qadi court records) provided comprehensive data on the operation of Sharia courts,[39] especially before the nineteenth century, the outstanding work of Avi Rubin on Nizamiye courts has become an example in the transformation of Ottoman courts. Describing his work as a socio-legal analysis, Rubin argues that the course of modernity followed a global pattern in which the Ottoman Empire should be examined independently of this path to modernization. He claims that the old and new courts were "the entwined components of a single judicial system, converging in some respects and departing in others."[40] His extensive use of *Ceride-i Mehakim*, the weekly official newspaper that the Ministry of Justice first published in 1873, reflects the standardization of the Ottoman judicial operation, thus testifying to the advancement of legal formalism.

In light of these studies, the legal pluralism in the Ottoman judicial system has underscored the agency of Ottoman subjects, who engaged in forum shopping by

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[37] Kurz, "Gracious Sultans, Grateful Subjects: Spreading Ottoman Imperial 'Ideology' throughout the Empire," 104.
[38] Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-late 1860s)," 81-113; Agmon, *Family Court: Legal Culture and Modernity in Late Ottoman Palestine;* Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," 139-158; Rubin, "Legal borrowing and its impact on Ottoman legal culture in the late nineteenth century," 279-303; and Peters, "Islamic and Secular Criminal Law in Nineteenth-Century Egypt: The Role and Function of Qadi," 70-90; and Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective.*
[39] For some of the studies on qadi court records; see Jennings, *Studies on Ottoman Social History in the Sixteenth and Seventeenth Centuries, Women, Zimmis and Sharia Courts in Kayseri, Cyprus and Trabzon;* Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab;* Ergene, "Pursuing Justice in an Islamic Context: Dispute Resolution in Ottoman Courts of Law," 51-71.
[40] Rubin, *Ottoman Nizamiye Courts,* 7 and 15.

resorting to different courts to meet their individual needs.[41] The analyses of Ottoman legal pluralism could be placed among others that brought a revisionist outlook to colonial studies, featuring the implications of cultural and religious diversity along with the local conflicts against authorities in the evolution of legal structures. The case studies from various regions have demonstrated assorted mediums of judicial operation that gave room to the individual subjects to assert self-agency in seeking their own justice. On the domestic level, they shed light on law making in action that blurred or downplayed the role of the state, which sometimes did not even exist.[42] Conversely, their critical approach refuted the idea that the *mission civilisatrice* of the European world ushered in a legal system strictly based on the interpretation of "the rule of law" in colonized regions and semi-civilized states. Instead, this research focused on various local legal regimes, which functioned equally competently by relying on a myriad of agents and institutions. Avoiding the pitfalls of modernist reductionisms that portrayed the law of indigenous societies as sui generis in character, these studies show that the nineteenth-century legal regimes across the world shared a lot with their European counterparts.[43]

Similarly, a group of studies focusing on the Ottoman Empire deconstructed the existing arguments on the treaty system. Instead, they portrayed an Ottoman legal world that was not immune to political conjecture and manipulated by several actors, which have presented an alternative to the dominant narratives on extraterritoriality.

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[41] Petrov, "Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864-1868," 730-759; Al-Qattan, "Dhimmis in the Muslim Court: Legal autonomy and religious discrimination," 429-444; Anastaspoulos, "Non-Muslim and Ottoman Justice(s?), 275-292; Barkey, "Aspects of Legal Pluralism in the Ottoman Empire," 83-108; Fahmy, "Jurisdictional Borderlands: Extraterritoriality and "Legal Chameleons" in Precolonial Alexandria, 1840-1870," 305-329; Shahar, "Legal Pluralism and the Study Shari'a Courts," 112-141; Mughal and Sadiki, "Shari'ah law and Capitulations Governing the non-Muslim Foreign Merchants in the Ottoman Empire," 138-160; Toprak, "From plurality to unity: Codification and jurisprudence in the late Ottoman Empire," 26-39.
[42] Berman, "From Legal Pluralism to Global Legal Pluralism," 258, and 264.
[43] Ross and Benton (eds.), *Legal Pluralisms and Empires, 1500-1850;* and *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900.*

Most recently, the edited volume of *The Subjects of Ottoman International Law* has redirected our attention to the trans-imperial context of Ottoman foreign relations while dealing with the question of extraterritoriality. The articles in this volume show that the treatment of the issue of subjecthood and the Ottoman leverage in international law displays the complicated nature of foreign diplomacy that go beyond the boundaries of the capitulation system.[44]

Subjecthood was always a thorny issue impossible to evaluate from a single perspective. As the main focus of this study is on the nineteenth century, the 1869 Ottoman Nationality Law is of particular interest as it marked a watershed moment in treating that question in the Ottoman context. After all, the disputes over who could hold the jurisdictional rights for criminals primarily derived from the question of subjecthood.[45] In his critical overview of the issue, Will Hanley has examined the content of the 1869 Law and determined it to be distinct from the European citizenship laws since it was a specific regulation of naturalization and denaturalization. It separated the issue of nationality from the concept of citizenship, which was emblematic of civic rights and duties usually designated in citizenship laws. When it is read in the Ottoman imperial context, the claims over Ottoman nationality created a contested arena, further placing this issue apart from its European counterparts.[46]

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[44] Can, Low, Schull, and Zens (eds.), *The Subjects of Ottoman International Law.*

[45] In the early centuries, religion became decisive for the claims of Ottoman subjecthood and legal belonging. See Hanley, "The Burden of Subjecthood: The Ottoman State, Russian Fugitives, and Interimperial Law, 1774-1869," 73-93.

[46] For a critical review of the existing works on Ottoman subjecthood and nationality law; see Hanley, "What Ottoman Nationality Was and Was Not," 277-298. In another work on Egypt, Hanley challenges the idea that Egypt should be taken independent of the Ottoman Empire after the 1882 British occupation. On the contrary, he shows how the legal belonging of Egyptians still carried the traits of Ottoman subjecthood. See Hanley, "When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study," 89-109.

The contested nature of Ottoman subjecthood has reversed the established accounts of extraterritoriality in many ways.[47] Aviv Derri, like Hanley, also argued that Ottoman nationality law did not primarily aim to designate rights for participation to the Ottoman political system. It was instead the desire of the state to control the movements of Ottoman subjects and foreign nationals. Hanley also argues that the 1869 Ottoman Nationality Law emerged to resolve the problem stemming from the protégé legislations.[48] By examining the economic activities both groups engaged in, however, Derri claims that the privileges granted by protégé status and Ottoman subjecthood were not defined by a set of rules outlined in the 1869 Ottoman Nationality Law but contingent on the mutual interests between the state authorities and consulates that would generate economic benefits on both sides.[49] On the other hand, the work of Berke Torunoğlu on the Ottoman Greeks subjects, whom he called as neo-Hellenes, examines how the 1869 Ottoman Nationality Law formed the legal basis of the Ottoman State's arguments to expel a large number of Ottoman Greeks. His research critically calls on Ottomanism as an inclusive identity policy of the Ottoman State.[50]

Among these publications, the work of Lale Can and Michael Cristopher Law focuse on a different side effect of this law. Lale Can examines how the Central Asian subjects, that is, Bukharans, Afghans, and Turkic Muslim populations, residing in the Ottoman empire were left in legal limbo devoid of extraterritorial rights. They were not officially accepted as Russian or English naturalized subjects because of the

[47] The recent work of David Todd can well represent how extraterritoriality violated Egypt's sovereignty rights after the 1882 occupation. Todd argues that the extraterritoriality 'hollowed out' sovereignty, whereas the newly established courts represented by foreign magistrates warded the Egyptian government's efforts to impose power and legal sanction. See Todd, "Beneath Sovereignty: Extraterritoriality and Imperial Internationalism in Nineteenth-Century Egypt," 105-137.
[48] Hanley, "What Ottoman Nationality Was and Was Not," 284-285.
[49] Derri, "Imperial Creditors, 'Doubtful' Nationalities and Financial Obligations in Late Ottoman Syria: Rethinking Ottoman Subjecthood and Consular Protection," 1060-1079.
[50] Torunoğlu, "The Neo-Hellenes in the Ottoman Empire, 1830-1869," 49-70.

weak diplomatic networks the Ottoman Empire had with those far-away regions. Unlike the assumption that capitulations could protect them as colonial subjects, they did not; further to that, the 1869 Ottoman Nationality Law precluded them from the rights of Ottoman subjecthood. The stipulations of the law effaced the flexibility of Ottoman justice for foreigners, although the Hamidian state discourse raised hopes of protection for non-Ottoman Muslim subjects in the name of the caliphate. [51] Likewise, as Michael Cristopher Low examines, the non-Ottoman Muslim Indians in Hijaz became the cat's paws of British colonial authorities in their contest to extend capitulations to these people. In return, the Ottoman officials had to frequently rebuff European claims with the arguments of international law and sovereignty rights.[52] These two situations apply to one facet of the Hamidian regime, as Ebru Akçasu maintains, promoting "a secular and territorial nationalism based on rational law," whereas it contradicts the other facet she points out that relied on "extraterritorial transnationalism based on divine jurisdiction."[53]

Building upon these arguments, this study, especially in Chapters 4 and 5, shows that legal belonging and Ottoman identity were in a precarious position in Ottoman foreign politics. The patterns of the extraterritorial regime were equally outlined by Ottoman authorities alongside European agents when they address

[51] Can, "The Protection Question: Central Asians and Extraterritoriality in the Late Ottoman Empire," 679-699.
[52] Low, "Unfurling the Flag of Extraterritoriality: Autonomy, Foreign Muslims, and the Capitulations in the Ottoman Hijaz," 299-323.
[53] Akçasu, "Migrants to Citizens: An Evaluation of the Expansionist Features of Hamidian Ottomanism, 1876-1909," 393. Also, see the work of Karen Kern, which addressed the 1869 Ottoman Nationality Law in light of restrictive regulations imposed on the Ottoman women and Iranian men. In contrast to the content of the 1869 Ottoman Nationality Law, which did not differentiate ethnic communities and religious denominations, she shows how the Shiite identity of the Iranians compelled the Ottoman state to promote the nationality law as a safeguard of Ottoman women's subjecthood against acquiring foreign nationality. Kern, *Imperial Citizen: Marriage and Citizenship in the Ottoman Frontier Provinces of Iraq.*

criminal mobility and the right of jurisdiction, as concomitant to the political expedience under change.

Another group of studies has posed a critical approach to extraterritoriality by exploring the active role of international law in Ottoman foreign politics. Some of them have already addressed Ottoman international law as a discipline, explaining its reception by the Ottoman school curriculum and the Ottoman legal scholars in the nineteenth century.[54] Unlike the notion that international law was a European construct, scholars such as Serdar Palabıyık and Zülâl Muslu have sought and found its origins in the Ottoman diplomatic culture of earlier centuries.[55] While these studies provide us with a historical background on the evolution of international law in the empire, the historical episodes that others examined further reveal the decisive role of international law and the power of treaty agreements in Ottoman diplomacy.

For example, Mostafa Minawi, in *The Ottoman Scramble for Africa*, illustrates the inter-imperial rivalry between the Ottoman Empire and European powers in the Sahara and Hijaz regions after 1878. This episode shows how the Ottoman delegates successfully used the 1884 Act of Berlin when addressing the empire's position in the region's entangled colonial politics. Calling this Ottoman venture "new imperialism," Minawi argues that the Ottoman Empire took an active part in the global power contest despite the recent economic and political burdens and territorial losses after the Russo-Ottoman War. Going against the grain of the imperial image portrayed as weak and in decline, he shows that the Ottoman Empire

[54] Aral, "The Ottoman 'School' of International Law as Featured in Textbooks," 70-97; Erozan, "Türkiye'de Uluslararası İlişkiler Disiplininin Uzak Tarihi: Hukuk-u Düvel," 53-80; Fujinami, "The First Ottoman History of International Law," 245-270; Fujinami, "Law for Tanzimat: Islam and Sovereignty in Kemalpaşazade Sait's Legal Thought," 171-188; and Palabıyık, "International Law for Survival: Teaching International Law in the late Ottoman Empire (1859-1922)," 271-292.
[55] Palabıyık, "The Emergence of the Idea of 'International Law' in the Ottoman Empire before the Treaty of Paris," 233-251; and Muslu, "Language and Power: The Dragoman as a Link in the Chain Between the Law of Nations and the Ottoman Empire," 50-74.

secured an equal legal standing in the international order. As this study has revealed, that achievement owed a lot to the Ottoman government's engagement with international law.[56] In a similar fashion, Michael Christopher Low, by examining the colonial power politics of the Hijaz region, counts on the role of Ottoman diplomacy and international law. Even though Low describes the whole diplomatic course as a limited success, his emphasis is on the success of novel state discourse in adopting the alternative diplomatic mediums.[57]

In the nineteenth century world, the new legal profession of lawyers gained significant importance in the Ottoman Empire.[58] While many states established legal bureaus in state departments for counseling on domestic and foreign legal matters, including the Ottoman Empire, lawyers played a crucial role in Ottoman foreign relations each day.[59] Initially staffed by European lawyers, they were eventually replaced with Ottoman officials who graduated from law school and were able to provide legal counsel on a variety of state policies and matters of diplomacy.[60]

The works of Aimee Genell and Will Hanley approach the Ottoman engagement with international law by exploring the agency of Ottoman lawyers. Genell examines the operation of the Office of Legal Counsel in her article,

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[56] Minawi, *The Ottoman Scramble for Africa: Empire and Diplomacy in the Sahara and the Hijaz;* also see Minawi, "International Law and the Precarity of Ottoman Sovereignty in Africa at the End of the Nineteenth Century," 1098-1121.
[57] Low, "Unfurling the Flag of Extraterritoriality: Autonomy, Foreign Muslims, and the Capitulations in the Ottoman Hijaz," 299-323.
[58] On the role of lawyers in the state politics of different geographies in the nineteenth century; see Jacobson, *Catalonia's Advocates: Lawyers, Society and Politics in Barcelona, 1759-1900;* Flaherty, *Public Law, Private Practice: Politics, Profit, and the Legal Profession in Nineteenth-Century Japan;* Cheta, "A Prehistory of the Modern Legal Profession in Egypt, 1840s-1870s," 649-668; and Reid, *Lawyers and Politics in the Arab World, 1880-1960.*
[59] Rubin, "From Legal Representation to Advocacy: Attorneys and Clients in the Ottoman Nizamiye Courts," 123. For the advocacy in the early periods; Jennings, "The Office of Vekil (Wakil) in 17th Century Ottoman Sharia Courts," 147-169.
[60] On the reports of the Ottoman Office of Legal Counsel; Kuneralp, Öktem (eds.), *Chambre des conseillers légistes de la Sublime Porte: Rapports, avis et consultations sur la condition juridique des ressortissants étrangers, le statut des communautés non musulmanes et les relations internationales de l'Empire Ottoman.*

portraying the inner structure of that institution. While doing so, she sheds light on the changing attitude of the legal professionals in the office in applying international law to state politics over time.[61] On the other hand, Genell's other research on Egypt focuses on the Ottoman and European international law books by revealing the conflicting views on "semi-sovereignty" while both parties addressed the autonomous Ottoman provinces of Mt. Lebanon and Egypt.[62] Likewise, Hanley adopts a comparative lens to investigate the way in which Egyptian, Ottoman, and European lawyers in Egypt incorporated international law into their practice. His study on the jurisdiction of Eduard Joris, the Belgian journalist accused of the assassination attempt against the Sultan, takes up the debates the Ottoman legal advisors and their European peers had with one another on the extradition of Joris in detail.[63]

In the same vein, my study aims to enrich the scope of studies on Ottoman engagement in international law and the role of Ottoman legal scholars in international state diplomacy. This study probes into how Ottoman diplomatic agents and legal advisors utilized international law by scrutinizing diplomatic exchanges and legal reports. Davide Rodogno was hesitant about the impact of international law, arguing that "the Porte was repeatedly disappointed by international law."[64] However, this study, like the ones mentioned above, shows that the discourse of international law reoriented the course and influence of Ottoman diplomacy to an extent that could not be underrated.

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[61] Genell, "The Well-Defended Domains: Eurocentric International Law and the Making of the Ottoman Office of Legal Counsel," 255-275.
[62] See Genell, "Autonomous Provinces and the Problem of 'Semi-Sovereignty' in European International Law," 533-549.
[63] Hanley, "International Lawyers without Public International Law: The Case of Late Ottoman Egypt," 98-119; and Hanley, "Extraterritorial Prosecution, the Late Capitulations, and the New International Lawyers," 163-192.
[64] Rodogno, "European Legal Doctrines on Intervention and the Status of the Ottoman Empire within the 'Family of Nations' Throughout the Nineteenth Century," 19.

1.2 Methodology

This dissertation is not built on a particular legal theory, but it features the importance of law in shaping nineteenth-century world politics and international order. In this respect, law plays a crucial part here as a discourse in diplomatic and political relations.[65] Thus, this study adopts a legal approach that establishes a dialogue with the law as a concept and practice in daily politics. Bruno Latour supports the idea that "fiction does not imply either cynicism or unreality but a solution to make the law move forward."[66] This study does not use a fictional narrative. However, similar to what Latour achieved in his work on the French Council of State, it offers a historical narrative based on a close reading of the judicial operation and the text of the law to highlight the place of law in Ottoman international politics.

A close reading of normative law could not provide an exhaustive analysis of historical context on its own. Law as a tool in action was contingent upon the agencies of many actors, the legal discourse adopted, and shifting state politics. Accordingly, this study treats law as an interactive process to explain the political, social, and diplomatic implications of extradition.[67] Since the mobility of criminals and the fears that they would go unpunished is the primary concern behind the question of extradition; being a diplomatic and legal practice, it stands as a valuable subject matter for both transnational history and domestic politics in this study. It is

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[65] Anthony Anghie comes up with a similar argument. He underscores the importance attached to law and international legal theory for influencing the political order in the world. See Anghie, "Imperialism and International Legal Theory," 157. On the other hand, Fisk and Gordon invite the researcher to avoid law and the causal relationship it builds with other disciplines. Instead, the law is treated as an interactive process in social, economic, and political actions. See Fisk and Gordon, "Foreword: 'Law as Theory...': Theory and Method in Legal History," 523-524.

[66] Latour, *The Making of Law: An Ethnography of the Conseil d'Etat,* 58. In this work, Latour portrays the operation of the French Council of State in a fictional narrative.

[67] Benton and Ross, *Empires and Legal Pluralism, 1500-1850,* 12; and Lorca, "Universal International Law: Nineteenth-Century Histories of Imposition and Appropriation," 486.

grounded on comparative analysis to promote a better understanding of interconnections, networks, and divergences of historical events. Therefore, each chapter is centered around a legal episode that moved beyond the spatial patterns characterized by the limits of the concept of the nation-state and geographical boundaries.[68]

The comparative method has enabled this study to avoid the potential pitfalls of Eurocentrism. As a historical construction, Eurocentrism followed the advent of modernity and held the aspirations of a global order that the Euro-American world projected. Accordingly, the progress each state experienced was subjected to specific standards of being civilized for which the Ottoman Empire, treated as a semi-civilized state in the nineteenth century, forms a perfect example. However, a comprehensive analysis of interstate relations reveals that the process of modernization was not immune to various political, cultural, economic, and legal interplays between states. Without delving too deeply into the debates regarding the extent to which Eurocentric model of modernity was imposed on countries under the sphere of influence of those nations wishing to impose this view on them, this dissertation demonstrates that the path to modernity was dependent on various factors, interactions, and contingencies.[69] A micro-level analysis of particular Ottoman legal episodes within a broad historical and transnational framework revealed the multiplicity of dimensions in interpreting the historical phenomena.[70]

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[68] See Bayly, Beckert, Connelly, Hofmeyr, Kozol, Seed, "Conversation: On Transnational History," 1440-1464; and Levi, "Frail Frontiers," 40; and Ngai, "The Future of the Discipline: Promises and Perils of Transnational History," https://www.historians.org/publications-and-directories/perspectives-on-history/december-2012/promises-and-perils-of-transnational-history

[69] Dirlik, "Is there History after Eurocentrism? : Globalism, Postcolonialism, and the Disavowal of History," 2-8; and Tzouvala, "The Specter of Eurocentrism in International Legal History," 432.

[70] Revel, "Microanalysis and the Construction of the Social," 10; and Putnam, "To Study the Fragments/ Whole: Microhistory and the Atlantic World," 620.

1.3 Sources

This dissertation relies heavily on primary sources collected from the Ottoman Archives (BOA). While I made use of the *Sadaret, Bab-ı Ali Evrak Odası, Dahili, İrade, Meclis-i Vala*, and *Yıldız* catalogues, the arguments of this study are primarily supported by different folders stored under the *Hariciye* catalog. It was especially from the *Hukuk Kısmı* and *İstişare Odası* sections of this catalog that I was provided with various legal reports rich in content, thanks to which I have the chance to see how Ottoman state officials, diplomatic agents, and the Office of Legal Counsel addressed the practice of extradition in relation to foreign politics. As it relates to the extradition issue, the thorny questions of the capitulations, consular jurisdiction, subjecthood, and the controversies over Ottoman territorial sovereignty are also addressed in these sources. Therefore, these documents have enabled me to closely survey the Ottoman judicial transformation, the evolution of state discourse in law, and the changing face of Ottoman diplomacy.

Since this dissertation examines legal cases with an international component, foreign archives have also been consulted for particular chapters. For Chapter 4, I have referred to the National Archives of the United States (NARA). The documents cataloged under the folders 5505, 5084, 8778/10, and 8778/40 speak of the debates over the 1830 Treaty of Commerce and Navigation, the naturalization question, and the Kelly Affair. In the same vein, the section on "the 1848 Hungarian Refugee Crisis" included in Chapter 6 has been written in light of the reports taken from the British archives, catalogs 424/5 and 424/6 of the Foreign Office (FO), to shed light on this international dispute. The folder *Mémoires et documents* (MD) 45 stored in the French archives, Archives du ministère des Affaires étrangères et de l'Europe (AMAE), has also been used for the same episode.

This study equally benefited from printed primary sources. To understand the role of extradition in normative law, I have examined several books on Ottoman international and criminal law published in the late nineteenth century. As the scope of the dissertation centered around comparative analysis, the legal sources published in Europe and the United States have also been analyzed at length. Newspapers published during the period in question served to enrich my scope of analysis. A variety of secondary sources pertaining to the Ottoman, European, and U.S. legal literature have supported the general framework of this dissertation.

1.4 Chapter Outline

This dissertation comprises seven chapters, including the introduction and epilogue. Chapter 2 covers the evolution of the practice of extradition in its extended historical context. The first part of the chapter focuses on the European continent to portray the earlier forms of interstate rendition practiced by various civilizations. It was considered a diplomatic courtesy of one ruler toward another for centuries. The evolution of our understanding of asylum rights and the legal status of foreigners in different periods provide a comparative lens to the nineteenth century legal thought and regulations regarding crime. This section explains how the mobility of crime gradually became a political question. Consequently, the extradition practice among states followed a close line with codification efforts. With the transformation from the law of nations into international law, extradition policies were guided by the latter's principles. The advancement of territorial sovereignty directly affected the extradition question for which states worked on bilateral treaties to bracket the jurisdictional disparities among various legal systems.

The European context forms a comparative framework for the extradition practice in the Ottoman Empire. The second part of this chapter reveals that the Ottoman example could not be studied independently from the European context. Ottoman and European politics were tightly interwoven in the nineteenth century. The alarming mobility rate of crime in the world was likewise visible in and across borders, which pushed the Ottoman state to devise a security mechanism that evolved with each passing decade. However, consular jurisdiction in the empire presented a different picture of extradition practices. Unlike European states, the Ottoman Empire did not sign any bilateral treaties except the 1874 Extradition Treaty with the U.S., which never became an effective tool to bring criminals to justice. In this light, Chapter 2 contextualizes this legal concept by touching upon the capitulations, extraterritoriality, and subjecthood questions that are concomitant to the extradition issue.

While focusing on extradition, Chapter 2 also sketches out the legal transformation of the empire in its last century. The increasing engagement with international law, especially after the 1856 Paris Conference, promoted awareness of territorial law. On the other hand, the establishment of the Office of Legal Counsel (*Hukuk Müşavirliği İstişare Odası*) in 1881 and the educational reform emblematic of the newly founded schools of law further consolidated the idea of territorial sovereignty. In the establishment of a legalist state, the Ottoman Empire gradually projected this evolution on its official discourse. By investigating the reports of the Office of Legal Counsel and the Ottoman books on law, this chapter examines how extradition was addressed in normative law and its application.

After the prelude to the extradition subject in Chapter 2, the other chapters follow a chronological and thematic structure to document the extradition practice in

Ottoman foreign politics. The transnational security measures were recounted through illustrative episodes of Ottoman history. Therefore, Chapter 3 presents one of the earliest examples of Ottoman diplomatic and judicial collaboration on an international level with a capitulatory power without an extradition treaty. The Ottoman Empire and the nascent Italian nation exerted collaborative efforts against a vast forgery network formed during the Crimean War (1853-56) that had expanded from Istanbul to Turin and Bologna in its aftermath. The *kaime* forgers, most of whom were wartime profiteers with a middle-class profile, availed themselves of the security vacuum created by the war and current political upheavals resulting from the Risorgimento (Unification of Italy). Accordingly, this chapter undertakes a micro-scale analysis of an episode within a larger historical context.

Forgery was a severe offense considered anarchist activity, and the states called for joint actions to address it. In this respect, the Ottoman and Italian states acted in unison to safeguard international security and domestic public order. It is not to suggest that the hardships induced by the capitulatory system have been overstated in the existing literature when considering alternative narratives similar to the one in this chapter. On the contrary, the capitulatory predicaments were always present, and the consular jurisdiction in the empire frequently challenged Ottoman sovereignty. However, Chapter 3 testifies that the Ottoman legal studies, if enriched with more analyses built upon a close reading of historical cases with a legal character, open new avenues for analysis beyond the well-established debates around the capitulations.

This chapter further argues that the power of the capitulations gradually weakened in the face of the ongoing domestic legal reforms. Despite certain setbacks, the legal codification and institutional transformation gained pace,

manifesting itself in the culmination of the juridical competency of the Ottoman state steadily confided in territorial law. The altering state discourse underscoring international law and penal codes well-represent this point. In the fight against *kaime* forgers, the Ottoman agent Rüstem Bey availed himself of these tools in his arguments during the court trials in Italy. The diplomatic networks Ottoman officials established in various parts of Europe, and the informal agencies they communicated with, resulted in an elaborate information channel extending beyond imperial borders.

Chapter 4 leaps forward to the 1870s and focuses on a legal battle over jurisdiction with the United States. It examines the application of the 1874 Extradition Treaty within the broad scope of U.S.-Ottoman relations. This chapter shows that the official legal texts did not always form a binding force for an ultimate solution to a diplomatic crisis; instead, they were always prone to the shifting political agenda. The tension between the text of the law and its application was the best testament to it. As the only official agreement, the 1874 Extradition Treaty was drafted along with the 1874 Naturalization Treaty due to the ambiguity surrounding the legal state of the Armenian population that migrated to the United States in large numbers during this period. However, the 1869 Ottoman Nationality Law was incompatible with the principles of the naturalization procedures for which reason the naturalization act was never officially sanctioned.

To better understand these relations, this chapter analyses the Kelly Affair that occurred in 1877. This legal dispute became the testing ground of the 1874 Extradition Treaty and brought to light the long-standing political obstacles between the two powers. U.S. foreign policy that was based on the principles of Westphalian sovereignty soon favored a capitulatory system in the so-called semi-civilized states.

Like most European states, the U.S. government advocated for the consular rights of its nationals with the 1830 Treaty of Commerce and Navigations, while it departed from its counterparts by claiming complete jurisdiction for the legal suits that involved Ottoman subjects. The jurisdictional conflict stemmed from the famous Article 4 of 1830 and was also the departure point of the Kelly Affair which became the crux of subjecthood and extradition questions. However, the legal diplomacy adopted by the diplomatic agents of both parties complicated the mediation as both governments were reluctant to step back in their jurisdictional claims. The tact and skill in Ottoman diplomacy proved that they were equally successful in not relinquishing territorial rights and utilizing international law in foreign policy, with as much skills and effectiveness as the Great Powers. This chapter argues that the experiences gained during the decades-long Kelly Affair shaped the future of Ottoman-U.S. diplomacy to a large extent.

Chapter 5 focuses on the Balkan and Russian frontiers after the 1877-78 Russo-Ottoman War. It examines the changing borders after the Treaty of Berlin by investigating how criminal mobility was controlled across the Ottoman borders. The shifting borderlines stipulated by treaty regulations resulted in mass mobility across states, which compelled the Ottoman government to take various measures to strengthen surveillance and security. This chapter demonstrates that the Ottoman borders were the interplay of foreign politics, which were occupied with new geopolitical concerns. The emigration of many people into the empire forced the government to revise its political agenda when faced with crimes and unrest. In the case of the Balkan frontiers, the border regulations had an undulant pace. The Balkan states took pains to follow a diplomatic line that could be conducted on equal terms to prevent crime and impunity of fugitives. However, the centuries-long suzerainty

relations with the Ottoman Empire created a power hierarchy on the Ottoman side and frequently urged both sides to adopt tit-for-tat policies since the recent memories of political history did nothing to foster a reciprocal approach to, or confidence in, joint efforts. Rather than extradition treaties, they opted for provisory agreements due to the increasing emphasis on territorial jurisdiction.

The surveillance over criminal mobility at the Russian frontiers followed a different course from the Balkan example, and it also marked a departure from the pre-war diplomacy previously exhibited between the two empires. In the early decades, diplomatic relations with Russia relied on the reciprocity principle established in the 1774 Treaty of Küçük Kaynarca. In light of this agreement, the second part of Chapter 5 starts with an account of the Ottoman policing system and capitulatory regulations for the exchange of criminals. The aftermath of war in 1878 reoriented the nature of these relations and brought novel bargaining conditions for the Ottoman Empire. The terms of the 1879 Treaty of Constantinople brought up the nationality question of Armenian populations. The double citizenship they enjoyed gave the pretext to both governments to manipulate this political issue on their own behalf, whereas the recurrent clashes among the Armenian and Kurdish populations created a security vacuum at the frontier. These developments affected the process of controlling criminal mobility.

Despite the Russian and Ottoman governments' negotiations for an extradition treaty, the 1879 Ottoman judicial reforms made it difficult to conclude an official agreement. Chapter 5 examines how the newly promulgated Procedural Code came as a severe blow to the privileges previously guaranteed by the capitulations. The creation of two new roles in the Ottoman judicial system, the public prosecutor and the investigating magistrate, restructured court jurisdictions. Accordingly, the

presence of European consular officials during the trials and their signature under the verdict was no longer deemed necessary, whereas preventive incarceration in Ottoman prisons was introduced for foreign subjects. This whole process was an achievement in advancing legal formalism. As the protests of the consular authorities to the new code made it clear, this part argues that the resentment felt by the European powers, including Russia, hampered the extradition negotiations and effectively quashed the option for reciprocity. It also investigates the discussions among the ministries and the Office of Legal Counsel, which testifies to the empowering emphasis on the rule of law and Ottoman penal codes. On the other hand, it shows the painful course of legal transformation since the same debates also witness the hesitancy of state officials to challenge the capitulatory system.

Chapter 6 focuses on political crime and extradition practice in the Ottoman Empire. Political crime was considered a non-extraditable offense because of the asylum rights attributed to it in the nineteenth century. Most of the bilateral extradition treaties excluded political crime. It was treated as an ordinary crime in the early periods since *lèseé majesté* (regicide) was subjected to harsh punishments everywhere, and extradition was applied to this category as part of diplomatic courtesy. The French Revolution was a momentous event for altering the perceptions of political crime, which was now characterized by the desire for radical social transformation. The rise of civil society and the power of public protests were justified as the remonstrances of populations against injustice and the lack of civic rights. The codification efforts along with the novel political ideologies further contributed to the changing views on this topic. However, the states questioned the plausibility of asylum rights granted to persons who had employed violent and

anarchist actions. In this respect, the extradition of political criminals was revisited in depth.

This chapter argues that the Ottoman treatment of political crime was closely associated with the political developments that resonated worldwide after the French Revolution. The nationalist waves, local insurgencies, and anarchist fervor were equally forceful in Ottoman politics. As this chapter highlights, the Ottoman state actively participated in the debates over extradition during the 1898 Rome Conference and the 1904 St. Petersburg Protocol. Notwithstanding the failure to enact an international extradition treaty, the states favored expulsion and extradition ex gratia. This chapter shows that security concerns mostly prevailed over the difference of opinions observed in the international conferences.

In this framework, Chapter 6 initially examines the 1848 Hungarian Refugee Crisis as the first international diplomatic question the Ottoman state had to face. This event enables us to track the changing Ottoman perceptions towards asylum rights, political crime, extradition, and their place in international law. The Hamidian period, on the other hand, was marked by the strict surveillance policies against anarchism. This part examines how the Ottoman political adversaries in exile, and the Armenian and Macedonian Revolutionaries, were closely monitored and how the Ottoman state resorted to various methods to earn back their loyalty to the Sultan. They frequently sought help from other states to arrest and expel Ottoman anarchists and opponents. In addition, it investigates the elaborate arguments Ottoman legal scholars articulated on the concept of crime and its relation to extradition. Political crime differed from ordinary crime because it was all about building alliances and silencing opponents in the shifting political landscape. The changing policies of the CUP (Committee of Union and Progress) towards the Armenian populations when

they came to power best represent this phenomenon. Whereas the CUP and Armenian revolutionaries collaborated against the Hamidian oppression in their actions and protest, the social engineering of the CUP regime ultimately led to the ethnic cleansing of their old companions.

CHAPTER 2

EXTRADITION PRACTICE: EUROPE AND THE OTTOMAN EMPIRE

> I desire them to resolve me by what right any prince or state can put to death or punish an alien for any crime he commits in their country. It is certain their laws, by virtue of any sanction they receive from the promulgated will of the legislature, reach not a stranger… Those who have the supreme power of making laws in England, France, or Holland are, to an Indian, but like the rest of the world-men without authority. And therefore, if by the law of Nature every man hath not a power to punish offences against it, I see not how the magistrates of any community can punish an alien of another, since they can have no more power than what every man naturally may have over another.[71]

John Locke's complaint, from his *An Essay Concerning the True Original Extent and End of Civil Government,* reveals the bitter reasoning of a man who had faced the threat of deportation for political dissent. Just a few years before the publication of this volume, the English government had sought his extradition from Holland due to his alleged participation in the 1683 Rye House Plot hatched against the king.[72] The request was rejected, and Locke continued life in exile, but his words remain striking. Adopting a liberal stance, he formulated his ideas about fugitives that were a matter of grave concern for the state, basing them on territorial law and sovereignty. He frequently expressed the legal penalties required for criminals in that category in terms of natural law, but question would soon come to be considered as part of interstate politics.

Treated as a subset of asylum rights, which are as old as human history, the legal status of fugitive criminals or refugees on foreign soil transformed from being a simple matter of diplomacy to becoming an issue of global concern starting in the late seventeenth century. This transformation was directly affected by a new outlook

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[71] Locke, *An Essay Concerning the True Original Extent and End of Civil Government,* 12.
[72] Ashcraft, "The Radical Dimensions of Locke's Political Thought: A Dialogic Essay on Some Problems of Interpretation", pp.753-771.

and political changes with respect to domestic security. It was no longer the criminal fugitive but the crime and the legal persona of its perpetrator that came to shape the policies in various governmental bodies. From penal codes to international relations, from the art of diplomacy to the consolidation of power on the global stage, crime gradually became a decisive political issue. The practice of extradition thus became a practical solution by which the application of such policies was facilitated and public order in the international arena was maintained.

Extradition, as a legal concept, is an interstate procedure by which a state secures the return of a person accused or convicted of a crime from another jurisdiction which currently possess the right to try the individual. As both a political tool and a gesture between rulers, the practice has existed – albeit irregularly – since ancient times.[73] While states generally adopted a bilateral approach, extradition regulations were not yet well-established in the nineteenth century. A person's domicile determined their legal status before the law and remained legally binding for civil and criminal matters. In addition, judicial differences and territorial law posed difficulties for extradition proceedings, which was, after all, an issue of territorial sovereignty. [74] However, the practice remained a diplomatic linchpin for controlling transnational crime, which encouraged many states to support an international penal code and implement extradition legislation during the nineteenth century.

Most European states had signed bilateral treaties, but the Ottoman Empire had no official policy except for the 1874 Extradition Treaty with the United States.

[73] Blakesley, "The Practice of Extradition from Antiquity to Modern France and the United States: A Brief History."
[74] Lewis, *On Foreign Jurisdiction and the Extradition of the Criminals,* 57. For a general history of extradition practice in the world: See, Lawrence, *Études sur la Juridiction Consulaire en Pays Chrétiens et en Pays non-Chrétiens et sur l'Extradition.*

Capitulations and extraterritorial jurisdiction were legally binding in the empire, sabotaging the prospect of extradition agreements. The operation of consular jurisdiction in the Ottoman territories provided the backdrop for hampering any negotiations.

Considering the importance of extradition practices in history and their distinct application in the Ottoman Empire, this study begins with a general analysis of the issue. This chapter analyzes the evolution of extradition and its place in the normative law. It first accesses extradition practices in world history, focusing mainly on continental Europe. It then explains the political circumstances in which the Ottoman state addressed the question of extradition in the last two centuries of its existence, as well as how Ottoman legal scholars interpreted the issue. In so doing, Ottoman legal system and its evolution is outlined. The reform of legal education brought about a generation of legal scholars who were emblematic figures of the Tanzimat administration. The Office of Legal Counsel and Ottoman books on law comprise distinct sources of information that have not yet been adequately addressed; they shed fresh light on the question of extradition and its treatment during the legal transformations that the Ottoman Empire underwent it in the late nineteenth century.

As a legal issue, the concept of extradition is an umbrella term in this dissertation. Ironically, the dearth of international conventions was accompanied by an increasing threat of mobile criminals in and beyond the borders of the Ottoman Empire in the nineteenth century. Considering the unstable political environment, especially in the Balkans and on the Eastern frontiers, crime as an act and concept took different forms in different places. The Ottoman archives are overflowing with remarkable stories of crime, transnational dimension of which reveals an intricate world of actors and agents beyond the criminals themselves.

It was a world of skillful diplomats, of state officials with expertise in law, and of cunning state politics. However, it was also a world of professional impostors, fugitive criminals, political refugees, and armed rebels whose transnational mobility and offenses shaped international security policies. These entailed domestic legislative efforts as well as stricter preventive and punitive measures on the international stage. Extradition as a legal practice thus evolved into a protean political question and a diplomatic tool, necessitating its analysis within the broader context of Ottoman history. Extradition practice in the Ottoman Empire was beset by thorny questions, such as capitulations, extraterritoriality, subjecthood, and conflicts of law. Accordingly, this chapter is a conceptual prologue to those that follow. In this light, subsequent chapters document different episodes of Ottoman international security policy regarding transnational crime and extradition practices. Meanwhile, the study revisits questions of the dubious nature of the Ottoman legal system. Some of the questions raised by Eliana Augusti are of interest in this regard:

> In my opinion, this dualistic representation is the final aspect of an Ottoman "fantastic" sovereignty that needs to be investigated in relation with the jurisdiction problem: how was Ottoman sovereignty still held believable in face of the flagrant violations of its norms and in face of the logical antinomies of its constitutive principles operated by capitulations and unequal treaties? How was it possible to reconcile this state of subordination with the activation of the formal procedures for admission and participation of the Ottoman Empire to the European Concert of the nineteenth century? And what was the role of international law?[75]

2.1 Extradition in History

In international law, extradition was frequently hammered out in bilateral treaties to contain criminal mobility in the nineteenth century. However, it was usually a gesture and expression of amity between sovereigns in early centuries and was not

[75] Augusti, "From Capitulations to Unequal Treaties: The Matter of an Extraterritorial Jurisdiction in the Ottoman Empire", 290. Notwithstanding her critical approach on capitulations, Augusti did not use any Turkish sources in her work.

regularly applied. The practice of extradition always existed as an option, reserved rights of asylum notwithstanding.[76] The earliest known example was a peace treaty dating to the thirteenth century B.C. After the failed invasion of Egypt by the Hittite king Hattusili III, he signed a convention with Ramses II, the Pharaoh of Egypt, guaranteeing the rendition of the fugitives.[77] Even though similar examples from ancient times and even the early modern period are scarce, the few exceptions indicate that the exchange of fugitives concerned diplomatic relations rather than a legal formula as we understand extradition today.

The circumstance for this concern was the lack of a judicial standard concerning for alien status compared to present-day jurisprudence. The Latin word *hostis* denoted both an enemy and an alien residing on foreign soil.[78] In the Roman Empire and in Greek city-states, foreigners were always regarded as potential enemies since states were usually in a permanent state of war. Aristoteles and Plato reduced the legal status of foreigners that of slaves and even justified the right to plunder their goods.[79] Thus, it is difficult to ascertain how foreigners were actually treated amid these categories.

Despite the difficulties alien faced in foreign lands, they still had certain judicial rights. If Roman subjects committed an offense against a foreigner, they were not spared from punishment. Instead, a special court was convened to determine whether to deport the subject or adjudicate the case at home.[80] If the

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[76] Etienne de Vazelhes stated that in the case of asylum, the convict could sometimes encounter the veto against the decision by the Bishop in the medieval ages. Such occasions depended on the severity of the crimes. Vazelhes, *Étude Sur L'Extradition: suive du texte des traites franco-belge de 1874 et franco-anglais de 1843 et 1876,* 10 and 14.

[77] That peace treaty was inscribed on clay tablets which could be found now in the Hittite archives located in Boğazköy. Blakesley, "The Practice of Extradition from Antiquity to Modern France and the United States: A Brief History,"42.

[78] Lewis, *On Foreign Jurisdiction and the Extradition of the Criminals,* 4.

[79] Martens, *Précis du droit des gens moderne de l'Europe*, 60.

[80] Calvo, *Le Droit International Théorique et Pratique,* 468.

criminal targeted foreign embassies in the empire, Roman law obliged the delivery of the culprit to the offended state.[81] On the other hand, privileges of foreign embassies were limited in Europe until the modern period. Despite their immunity, diplomatic representatives were never wholly exempt from court penalties in foreign lands. Suspicions of conspiracy necessitated immediate arrest or even execution by the host state, particularly on occasions when the expulsion of ambassadors was out of the question.[82]

From the Middle Ages onwards, increasing concern for state security was a profound motive for the practice of extradition. Corruption, violence, and threats to public safety required immediate measures to be taken against suspects.[83] Beyond good diplomatic relations, fugitives were considered severe threats who were generally politically motivated. Accused of *lèse majesté*[84] and disturbing public order, assassins ran in fear for their lives, and unlike the trend of protecting political fugitives adopted in the nineteenth century, they were usually surrendered back through conventions between the rulers.[85] A few notable instances stand out in history. Claude Meissonier of Avignon was extradited for being one of the leaders of the plot against Pope Eugene IV in 1443. Upon the request of the Papal Legate, the principality of Orange, where Meissonier had taken refuge, consented to surrender him.[86] Three centuries later, in 1798, Irishman Napper Tandy organized an insurrection with the help of France. Tandy sympathized with the French Revolution,

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[81] Clarke, *A Treatise Upon the Law of Extradition,* 18.
[82] Vattel, *The Law of Nations or Principles of the Law of Nature Applied to the Conduct and Affairs of Nations and Sovereigns,* 478.
[83] Cardaillac, *De l'Extradition,* 5.
[84] The term is used for the offenses targeted against a ruler/king or a state.
[85] Blakesley, "The Practice of Extradition from Antiquity to Modern France and the United States: A Brief History," 48.
[86] The first demand was rejected because Meissonier was not a member of the clergy but a layman. Thus, it was not a crime according to the legal regulations of the principality of Orange. To maintain the good relations, they consented to surrender him only after a second request. Chabot, "Un Cas d'Extradition en 1446 entre la Principauté d'Orange et l'État Pontifical d'Avignon," 104–106.

and the British Empire accused him of treason. After years in exile in France and the United States, the Hamburg Senate eventually extradited him.[87]

A preoccupation with moral ethics in medieval times and during the Reformation influenced legal scholarship up until the seventeenth century. As jurist Alberico Gentili[88] pointed out, the law of nations – which was defacto the law of war in those years – was dominated by the opinions of Catholic ecclesiastics. In Italy, France, and Spain there was no parliamentary system and no journalism; instead, an accumulation of religious monographs addressed the many questions that later formed the essential parts of modern international law.[89] These religious texts reminded states of their moral responsibility to one another. The legal advancement of early modern societies owes much to this scholarly legacy.

In the seventeenth century, the extradition of criminals and fugitives was, for the first time, formulated as a legal concept. Amid prevailing concerns for justice and morality, extradition took its place in the newly emerging corpus of the law of nations. Termed *droit de gens, jus gentium*, or *jus inter gentes*, textbooks on the law of nations revolved around the concept of morality due to the continuing dominance of the church over scholarship. This legal shift was also the outcome of the flourishing Enlightenment, which was preoccupied with bringing peace and order among the states. States had endured constant warfare and strife both within and outside of their territories, which is why intellectuals and statesmen were devoted to the contemplation of political movements and their ethical underpinnings.[90] With the

[87] Servières, "Un Épisode de l'Expédition d'Irlande, l'Extradition et la Mise en Liberté de Napper Tandy (1798-1802)."
[88] Alberico Gentili (1552-1608) was a prominent Italian lawyer and jurist. With many doctrines he established on legal thought, he is also considered one the first among many legal scholars who wrote on the concepts of international law.
[89] Rivier, *Note sur la littérature du droit de gens avant la publication du Jus Belli ac Pacis de Grotius,* 33–34.
[90] Grotius and Vattel expressed the earliest and comprehensive ideas on justice, morality, and their place in the law of nations. They paved the way for other distinguished scholars, such as John Locke,

publication of the Dutch jurist Hugo Grotius' celebrated *De Jure Belli Ac Pacis Libri Tres*[91] (*The Rights of War and Peace, in Three Books*) in 1625, the concerns for interstate relations took a more scientific color.

Referred as the father of international law by many scholars, Grotius enjoyed fame as a professional lawyer who supported the interests of the Dutch East India Company by defending its overseas expeditions. On this last point, Martine Julia Van Ittersum argues that the reputation of the legal scholar, whom she calls "Grotius Delusion," exceeded the imperialist ventures he was involved in.[92] However, Grotius' writings painted a vision of an egalitarian international legal order that was not frequently encountered at the time. Accordingly, sovereignty as a natural right was accorded to states and autonomous powers in Europe as well as beyond the old continent. In this respect, his work did not reflect conventional notions about minimum standards for civilization.[93] The breakthrough achievement in his work was its positioning of natural law in the arena of jurisprudence. Treating the law of nature and the law of nations as similar concepts, he demonstrated the reasonable causes of wars.[94] Significantly, his emphasis on justice as a determinant of the rules of interstate relations and the principles of peace and war stands out. As such, the previous focus on moral obligation gradually gave way to jurisdictional regulations of a particular shape. With these developments in place, the legal status of the foreigner gradually changed. In time, they affected the procedures of extradition.

Thomas Hobbes, Samuel von Pufendorf, and Immanuel Kant, who set off the pretext for future debates on the law of nations. These debates are still highly influential in modern-day international law studies.

[91] Grotius, *De Jure Belli ac Pacis Libri Tres*.

[92] Van Ittersum, "Hugo Grotius: The Making of a Founding Father of International Law,"84.

[93] Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics,* 6.

[94] Grotius, *De Jure Belli ac Pacis Libri Tres*, 28.

2.1.1 *Locus Regit Actum* (The Place Governs the Act)

The practice of extradition has always essentially been a matter of sovereignty. Thus, securing a worldwide judicial network to fight against criminal activities has always been an "impracticable chimera" to secure.[95] The Roman custom of *locus regit actum* (the place governs the act, or *el-emr-i bi-mekân* in Ottoman Turkish) was jurisdictional standard. Offenses were heard and adjudicated wherever they took place.[96] Most of the time, states did not insist on the return of fugitive criminals. Except for grave cases that damaged the state itself, authorities preferred to pardon their offenses. Some of these figures were extolled among the public as sympathetic heroes who acted on behalf of the poor. Grotius cites examples of such rare cases in which notorious thieves and pirates enjoyed dignity and respect rather than punishment.[97] If there happened to be an official extradition treaty between two powers, they were little more than a show of alliance; due to the difficulties of communicating over long distances, most were never effectively put into practice. Except for neighboring territories, where proximity made extradition viable, states favored local justice.[98] This mutual understanding, which was a practical solution to the securing of justice, was a principle of territorial sovereignty up until the nineteenth century.

France was the first country that sought to make the practice of extradition official with a treaty. Starting in 1759, its government presented a proposal to various states, but only in 1794 did England, after decades of reflection, consent to negotiate

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[95] Lewis, *On Foreign Jurisdiction and the Extradition of the Criminals,* 57.
[96] : Eren, *Lahey Konferansı Yahud Taknin-i Hukuk-u Düvel*, 32 : *"Her emr ve fiil vaki ve hadis olduğu mahalde cari olan kanun ile takdir olunub ânâ terettüb edecek hükm ol mülk kanununda muharrer ve mevzu' olan hükümdür."*
[97] Grotius, *De Jure Belli Ac Pacis Libri Tres*, 463.
[98] Bernard*, Droit international : Traité théorique et pratique de l'extradition comprenant l'exposition d'un projet de loi universelle sur l'extradition,* 34–36.

an international pact.[99] Despite its long history, however, the origin of the word "extradition" is relatively new etymologically. Before 1828, the term does not appear in any treaties. It first did so in a French decree in 1791 entitled "Decree which instructs the constitutional and diplomatic committees to present a law on the reciprocal extradition of defendants of certain crimes between France and the other powers of Europe." In earlier decades, the terms "remettere" or "restituer" (to return) were preferred. Before that, "remittere" was used in place of the Latin "tradere" (to hand), the latter of which never appeared in official documents.[100]

By the early nineteenth century, extradition as a practice was far from being established in Europe; extraditing the criminals usually depended on mutual accord among two or more states. However, in most cases, this reflected an idea rather than a reality. This was the result of discrepancies between the executive and judicial operations among various countries, which created many legal conflicts that were difficult to overcome. The principle of reciprocity, which was the crucial criterion for extradition, was trivial in the face of judicial incompatibilities. Only when states first worked out the jurisdictional issues between them could extradition proceed smoothly. There were four fundamental steps in the procedure: the states or rulers should give consent; each party to a treaty should have a competent judiciary; there should be a reasonable legal justification to initiate an extradition proceeding; and both parties should achieve some benefit in the end, such as the maintenance of public order.[101]

For some crimes, such as treason, forgery of the state seal, and counterfeiting of public banknotes, protection and asylum were unacceptable as an excuse, as the

[99] Potter, "The Expansion of International Jurisdiction," 549.
[100] Vazelhes, *Étude Sur L'Extradition: suive du texte des traites franco-belge de 1874 et franco-anglais de 1843 et 1876,* 7, and Cardaillac, *De l'Extradition,* 4.
[101] Bernard*, Droit international,* 26.

next chapter highlights. Because of the gravity of such offenses and their consequences, the state laws where the crime took place would try the defendants.[102] There was another motive behind this practice. According to some legal theories, the place where a person settled was the place to which the person belonged. Therefore, people's place of domicile determined their legal status before the law, which was binding in all judicial and civil matters. Contrary to this understanding, as we will see, capitulations and the naturalisation issue created problems for the practice of extradition in the Ottoman case.[103]

2.1.2 Extradition in Europe

France and England are the states with the longest tradition of extradition. A few well-known, early examples are the Treaty of 1174 between Henry II and Guillaume of Scotland and the 1303 Treaty of Paris between France and England. These agreements ensured that neither side was to protect the enemies of the another. Another agreement signed between King Charles V of France and the Count of Savoy in 1376 once again upheld the extradition of felons.[104] However, it was not until the nineteenth century that extradition treaties reached their modern shape. France signed its first modern extradition treaty in 1843, again with England. In ensuing years, these two states signed a series of treaties with other powers.[105]

Nevertheless, the number of official conventions was not reflected by scarce extradition cases in practice. Reluctance was related to the *locus regit actum* principle*,* as stated above. For example, the 1843 treaty was modified in 1853

[102] Calvo, *Le Droit International Théorique et Pratique »,* 427.
[103] Polyvios, *La Condition Légale de Sociétés Étrangères Dans L'Empire Ottoman,* 25.
[104] Blakesley, "The Practice of Extradition from Antiquity to Modern France and the United States: A Brief History," 48, and Cardaillac, *De l'Extradition,* 9.
[105] For the extradition treaties of France: See, Billot, *Traite de L'Extradition.* For the extradition treaties of England: See, Clarke, *A Treatise upon the Law of Extradition.*

and rescinded in 1865. The British government claimed that only accused criminals could be extradited. They refused to extradite convicts, distorting clauses of the treaty and subverting the agreement.[106]

The principles of extradition laid out in French legislation on extradition in the nineteenth century set forth an extensive agenda vis-a-vis most other countries. However, the French government, like England, generally preferred its own penal codes, which were relatively rigid in principle. Articles 5 and 6 of the French *Code d'instruction criminelle* enacted in 1808, confirms that any native or foreign subject charged with a crime that posed a threat to the security of France, even if it was committed outside French territory, should be punished by French laws on French territory. This attitude was not unique to France. All European powers considered mischievous activity against the state to be a severe offense. The Kingdom of Sardinia-Piedmont, the Netherlands, Austria, Bavaria, and other German states took the same firm stance of insisting that such people be tried according to their own laws. Only Belgium pursued a slightly different practice. An offense committed by a Belgian against a foreigner outside of Belgium could be punished by the latter's country provided that no request was made for former's extradition.[107]

This legislation established the rules of criminal jurisdiction in European states. Nevertheless, they became a matter of legal conflict due to variance in judicial competence. Therefore, legal experts adopted different approaches to the issue of extradition. In support of criminal law, some thought that states should not consider extradition as an option. Territorial law was sufficient for the punishment of criminals. According to others, states should act in diplomatic concert with respect to certain categories of offenders as matters of political etiquette and social benefit. The

[106] "La Turquie," 23 Feb. 1866.
[107] Lewis, *On Foreign Jurisdiction and the Extradition of the Criminals*, 18.

most accepted notion was the one that exalted the supremacy of bilateral treaties to which states should strictly submit.[108] As the divergence of opinions and conflicting laws show, the extradition was never a smooth process. Due to the failure to establish international extradition legislation, numerous bilateral treaties emerged in time, and extradition was treated as a matter of private international law.[109] The first exception to the bilateral model came from the Americas. In 1879, a multilateral extradition treaty was signed in Lima, Peru, which was successfully entered into force. European states managed to negotiate a similar treaty among themselves only in 1957.[110]

The idea of international extradition legislation, on the other hand, emerged primarily from various views on the nature of criminal offenses. Legal scholars discussed whether to treat crimes as abuses of justice or as threats to human rights. These ideas gradually envisaged an international penal code.[111] However, the extradition of fugitives often remained a matter of polemic among the European states. European diplomats sought compatibility between respective governments' penal codes even when treaty regulations clearly mandated the extradition of a criminal.[112] The treaties were inefficient as territorial jurisdiction was given more weight than official agreements.[113] Although international law envisioned a world

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[108] Fiore, *Traite de Droit Pénal International et de l'Extradition,* 455–458, and Calvo, *Le Droit International Théorique et Pratique,* 454–462.
[109] Grey, "Extradition: A Draft Convention," 201.
[110] Zanotti, *Extradition in Multilateral Treaties and Conventions,* 1–45. The Inter-American extradition treaty was renewed in 1902 at Mexico, in 1911 at Venezuela and in 1928 at Havana.
[111] Fiore, *Traite Droit Pénal International et de L'Extradition,* 44.
[112] The treaties Italy signed with France in 1870 explains the sanctions on forgery as follows: "Dans tous les cas, crimes ou délits, l'extradition ne pourra avoir lieu que lorsque le fait similaire sera punissable d'après la législation du pays à qui la demande est adressée," Billot, *Traite de L'Extradition,* 515. The Italian-English extradition treaty has a similar clause: "Accomplices before the fact in any of these crimes shall, moreover, also be delivered up, provided their complicity be punishable by the laws of both the Contracting Parties", in "Order in Council, Dated March 24, 1873, for Carrying into Effect a Treaty Between Her Majesty and the King of Italy for the Mutual Surrender of Fugitive Criminals."
[113] "'Political Offense' in Extradition Treaties", 459; and Potter, "The Expansion of International Jurisdiction," 550.

order empowered by a universal legal structure, this was never achieved for extradition in actual practice.

International extradition legislation first became a serious consideration in the 1860s. In 1866, France proposed a universal arrangement that would supersede bilateral treaties for the sake of world security. They planned to organize a conference for this purpose, which was financed by Napoleon III (r. 1852-1870). Despite emerging enthusiasm, these projects were aborted as everyone conceded that extradition remained under state authority.[114] The International Penal and Penitentiary Commission of 1872, to which the Ottoman Empire sent a delegate,[115] refigured the problem of international crime by directing attention to the criminal figure as a new mobile threat in the contemporaneous era.[116] The committee aimed to reorganize security mechanisms by addressing migration and identity politics related to criminal activity. Criminal statics were analyzed, and a regular flow of communication was envisaged among participant states. Years later, in 1926, the Italian diplomat Commendatore Pallicia again gathered a commission for extradition negotiations during the Vienna Conference of the International Law Association. Ultimately, states dismissed the proposals given the well-founded fear that governments would use fugitives as shields for differing political interests.[117] Instead, European states relied on the power of bilateral treaties.

[114] Bernard, *Traite Théorique et Pratique de l'Extradition Comprenant l'Exposition d'un Projet de Loi Universelle sur l'Extradition,* II, 44-46.
[115] I could not detect the name of the Ottoman delegate who attended the conference. See HR.SFR. 3 191/75.
[116] Kuhn, "International Cooperation in the Suppression of Crime," 542.
[117] Grey, "Extradition: A Draft Convention", 103-104.

2.2 Extradition in the Ottoman Empire

The features of extradition practice in the Ottoman context were peculiar, and at a superficial level seemed to deviate from the established pattern. A closer inspection of the issue instead reveals that extradition, anywhere, cannot be considered independently of interstate relations and the political and diplomatic dynamics of sovereignty. Therefore, rather than seeing cases like the Ottoman Empire as an aberration from the standard of law, scholars should instead adopt alternative perspective of analyzing the unique conditions of each state and not underestimate the fickle arena of state politics.

2.2.1 The Ottoman Legal System and Capitulations

> It is constantly said that justice should be rendered everywhere as it is in Turkey. Can it be that the most ignorant of all peoples have seen clearly the one thing in the world that it is most important for men to know? …. If you examine the formalities of justice in relation to the difficulties a citizen endures to have his goods returned to him or to obtain satisfaction for some insult, you will doubtless find the formalities too many; if you consider them in their relation to the liberty and security of citizens, you will often find them too few.[118]
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> In Turkey, when an officer of the government dies, the Sultan takes possession of his entire fortune, and his children fall at once from the height of opulence to the depths of poverty. This law, which overturns all-natural expectations, was perhaps borrowed from some other oriental government, in which it was less inconsistent and less odious, because the sovereign entrusted employments only to the eunuch.[119]

Montesquieu and Bentham's words reflect a longstanding perception of Europeans concerning the Eastern cultures. The rule of law, an essential advancement in the direction of an ideal state, was a paramount criterion for the standard of civilization.

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[118] Montesquieu, *The Spirit of Laws*, 74.
[119] Bentham, *Theory of Legislation,* 151.

According to Europeans, the semi-civilized Ottoman Empire lacked the integrity attributed to the rule of law. The arbitrariness of justice and an incompetent legal order evinced such European complaints. Nevertheless, this picture did not represent the reality in its all aspects.[120]

The prejudiced European viewpoint positioned the Ottoman Empire as a latecomer and disregarded the achievements of its idiosyncratic system. However, it is crucial to note that the ideas projected on the Ottoman Empire were not wholly inventions of European bias. Spatial, cultural, and legal distance from the Muslim world justified these criticisms. Subsequently, the Ottoman Empire fit perfectly into the picture of oriental despotism.[121] Yet, while acknowledging some degree of historical truth to the contemporaneous European portrayal, it should be received with caution. Considering the series of reforms undertaken in the nineteenth century, Ottoman successes cannot be dismissed.

The legal transformation of the nineteenth century was built up from an efficient judicial system upon which the Ottoman Empire had relied for centuries. Two different juridical systems functioned in the empire. The first was the Islamic Sharia law, the principles of which were applied by the *kadı* (qadi) courts. Sharia served as public law for centuries. This legal compendium oversaw the disputes of

[120] Pitts argues that the 'Christian Europe' was confused to decide where to position the Ottoman Empire in the interstate legal order. On the one hand, they reasoned that the capitulations served as excellent data to evaluate the Empire as a legal system. However, the differences in the culture generated doubts about the function of this legal system: See, Pitts, *Boundaries of the International: Law and Empire,* 35.

[121] 'Kadı justice' is the most common example given for the arbitrary Ottoman court system. Referring to the discretional qadi courts, the Europeans pointed out the dearth of legislation. However, Agmon demonstrates how the qadi figure represented a traditional pattern, a legal system precisely based on arbitration and mediation, which functioned quite effectively: See, Agmon, *Family Court: Legal Culture and Modernity in Late Ottoman Palestine,* 171. Gerber, likewise, counters similar criticisms about the qadi courts. He thinks that qadi justice relied on careful judicial reasoning and expert witness. Correspondingly, these judges gave their decisions by relying on the jurisprudential legacy of many years. Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective,*18 and 54.

all Ottoman subjects living in the empire, regardless of their religious or sect.[122] Qadi courts had jurisdiction, over conflicts among Ottoman and non-Ottoman subjects, alike – Muslims and non-Muslims. Criminal cases between the Ottomans and foreign nationals also fell under the jurisdiction of qadi courts. [123] The second legal arena, the consular courts, were responsible for disputes among their own nationals or with other foreigners.[124]

In the nineteenth century, legal transformations supported by large scale codification transferred power and the legal workload from qadi courts to newly established judicial bodies and advisory councils. Undeterred by setbacks along the way, the empire restructured its judiciary into a modern form.[125] The Penal Codes of 1840, 1851, and 1858, the Civil Code of 1877, the new courts and tribunals, the 1876 Constitution,[126] and procedural laws do not even scratch the surface of these

[122] Anastasopoulos, "Non-Muslims and Ottoman Justice," and Al-Qattan, "Dhimmis in the Muslim Court: Legal autonomy and religious discrimination."
[123] Despite that, the capitulations were the constant excuse for European objections. They usually stated that the punishment and trial of their citizens by the Ottoman courts were against the Ottoman concessions (*ahidname mucebince uygun olmadığı),* and they could not confirm to that regulation. For a verbatim protest written by English, Russian, Austrian and Spanish consuls in 1810, see BOA HAT 488/23965.
[124] Heidborn, *Manuel de Droit Public et Administratif de l'Empire Ottoman,* 202.
[125] Stanford Shaw argues that the legal transformation, especially in the field of legislation, became visible only towards the end of Mahmud II's reign. It was mainly because, during the reign of Selim III and Mahmud II, the legislative forces were in the hands of few individuals who relied more on profit-seeking and power consolidation than state interests. The attempts of Selim III to establish *Meclis-i Meşveret* (Advisory Council) to delegate power to various government officials had only limited success at the time. Shaw, "The Central Legislative Councils in the Nineteenth Century Ottoman Reform Movement Before 1876," 52-53.
[126] Zafer Toprak argues that the Tanzimat reforms focused more on law-making than parliamentary legislation as it was the arena that the dearth of commercial and civil codes felt much more in their relations with Europe. See Toprak, "From Plurality to Unity: Codification and Jurisprudence in the Late Ottoman Empire," 32-33. As complementary to Toprak's arguments, Teyfur Erdoğdu argues in his work why and how the legislative power of the first parliament was limited. See Erdoğdu, "The Administrative and Judicial Status of the First Ottoman Parliament according to the 1876 Constitution," 67-87.

reforms.[127] In addition to newly-founded educational institutions, qadi schools were established by 1855.[128]

Consular courts retained the right to try their subjects, relying on privileges acquired through the capitulations. The nature of the capitulations and their place in the Ottoman legal system is worthy of in-depth analysis. The capitulations were an amalgam of laws and contracts, initially termed *ahidnâme* (concessions), that protected foreign citizens residing in the Ottoman Empire and granted them certain privileges. They were among concessions offered by the Sultan that, along with other policies like *aman* (forgiveness and grace),[129] symbolized the benevolence of the ruler.

Initially, the capitulations proved the porousness of the Ottoman judicial device, and the treaty was applied in times of need as if it was an official legal ordinance.[130] As a sort of *jus gentium* (international law) as defined in Roman law, the capitulations safeguarded individuals' legal status by adjusting the regulations for foreign residents.[131] The legal system of *jus gentium* governed the legal arrangements

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[127] For some of the developments in the Ottoman legal field: See, Ekinci, *Osmanlı Mahkemeleri: Tanzimat ve Sonrası;* Demirel, *Adliye Nezareti; Kuruluşu ve Faaliyetleri (1876-1914);* and Bozkurt, *Batı Hukukunun Türkiye'de Benimsenmesi: Osmanlı Devleti'nde Türkiye Cumhuriyeti'ne Resepsiyon Süreci (1839-1939)*; Kahraman, "Osmanlı İdari Modernleşmesinde Şura-yı Devlet"; Miras, "Le Tanzimat et son système législatif," 26-28; Ahmet Lütfi, *Mirat-ı Adalet yahut Tarihçe-yi Adliye-yi Devlet-i Aliyye.*

[128] Besides the significant transformations in its educational policies, the qadı school frequently underwent title change. In 1855, these schools were first founded as *muallimhane-yi nüvvab.* The title changed as *mekteb-i nüvvab* in 1883, *mekteb-i kudat* in 1909 and *medreset-ül kudat* in 1914. See, Akiba, "Muallimhane-yi Nüvvabtan Mekteb-i Kuzata Osmanlı Kadı Okulunun Yarım Yüzyıllık Serüveni."

[129] Gilles Veinstein explains the term as having double meaning of grace and forgiveness which adapted to different conditions. Veinstein, "Les Fondements Juridiques De La Diplomatie Ottoman En Europe," 516.

[130] In his article, Eldem underlines the capitulations' legal character by pointing out the pitfalls of misreading it: *"One should not be too hasty in equating the granting of capitulations with a proto-colonial process of commercial expansion or, from an Ottoman perspective, of gradual subservience. The undeniable fact that the capitulations did eventually develop into instruments of dominations is in itself the cause for an a-posteriori reading of their true intent and context," See:* Eldem, "Capitulations and Western Trade," 292–293.

[131] Eldem, "Foreigners at the Threshold of Felicity: The Reception of Foreigners in Ottoman Istanbul," 117; Pitts, *Boundaries of the International: Law and Empire,* 36.

between the Romans and the rest of the population not bestowed with citizenship.[132] The capitulations were not confined to protective economic immunities for foreign merchants; these treaties prepared the groundwork for a separate legal framework. The evidence of this is discernable in specific articles of the capitulation treaties which state that foreign subjects must not be molested and secured their right to trial by their consular court. The consulates thus obtained the right to hear criminal cases among their nationals or other foreigners, though crimes involving foreign and Ottoman subjects were under the jurisdiction of the Ottoman judicial system. [133] Most European states abided by this arrangement, though the Ottoman state frequently faced European protests against the latter regulation in the nineteenth century.[134]

Consequently, the capitulations assumed an extraterritorial character in time. They functioned at the expense of the empire's territorial sovereignty and assumed the reputation of being unilateral agreements that symbolized European encroachment on Ottoman jurisprudence. By the seventeenth century, the popular law of nations began to supersede the conventional conduct of Ottoman diplomacy in international relations.[135] In earlier periods, the Ottoman *siyar* tradition, which was

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[132] On the other hand, the Romans regulated the interstate legal relations with other states through the practice *jus fetiale* (fetial law). The fetial law set the principles for negotiation and diplomacy, especially regarding the ambassadors' rights and the procedures applied during the war campaigns: See: Pitts, *Boundaries of the International,* 18.

[133] Article 5 of the treaty with Germany in 1761, Articles 5 and 6 of the treaty with Austria in 1718, Article 10 of the treaty with Britain in 1579, Article 4 of the treaty with Spain in 1782, Article 4 of the treaty with the US in 1830, and Article 65 of the treaty with France in 1740 underscores the legal status of the foreign subjects and their jurisdictional rights/conditions. Aristarchi Bey (Grégoire), *Legislation Ottomane ou Recueil des Lois, Reglements, Ordonnonces, Traites, Capitulations et Autre Documents Officiels.* For the Ottoman version of these treaties : See, "Devlet-i Aliyye ile Düvel-i Mütehabbe Beynlerinde Teyemmünen Münakid Olan Muahedat-ı Atika ve Cedideden Memurîn-i Saltanat-ı Seniyeye Müracaatı Lazım Gelen Fukarat-ı Ahdiyeyi Mutazammın Risaledir".

[134] For the legal status of the foreigner in the Ottoman Empire, See: Halil Cemaleddin and Asadur, *Ecânibin Memâlik-i Osmaniye'de Haiz Oldukları Imtiyâz-ı Adliye;* and Arminjon, *Étrangers et Protèges dans l'Empire Ottoman.*

[135] Many Europeans associated that attitude to insist on the conventional way of diplomacy with Ottoman arrogance. Sir James Porter expressed similar ideas as follows: "The Turks has no idea of the law of nations, they consider themselves as the only nation on earth, and regulate their own conduct

closely associated with Christian traditions, had relied on the Quran to regulate negotiations of war and peace with other states.[136] Alexander de Groot argues that it was around this time that relations that had previously been maintained on equal footing between the worlds began to change.[137] A recent study by Mustafa Serdar Palabıyık shows that the Ottoman Empire adopted the official rhetoric of the European law of nations in diplomatic treaties starting in the seventeenth century.[138] However, the shifting power balance in favor of Europe crystallized the prejudices of European superiority. Terms such as *en ziyade müsaadeye mahzar memleket* (most favored nation), *imtiyazat* (concessions), and *haric ez memleket* (extraterritoriality), which were already in use, appeared more frequently in nineteenth-century diplomatic correspondences, distinguishing it from the official rhetoric of early centuries which often used words like *dostluk* (amity), *muhabbat* (affinity), and *musavat* (equality).[139] The consular protests against the Ottoman state were gradually replaced by the former's ultimatums in the nineteenth century.[140]

European states frequently faced a dilemma when trying to define the capitulatory regime. Were they the basis of centuries-long relations that determined reciprocal rules of law and diplomacy, or were they regulations whose "peculiar features revealed an anomalous and inferior form of interstate law?"[141] In one

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towards others on positive compact, spontaneous concessions, or usage or customs." Porter, *Turkey, Its History and Progress,* 284.

[136] Palabıyık, "The Emergence of the Idea of 'International Law' in the Ottoman Empire before the Treaty of Paris," 237.

[137] De Groot, "The Historical Development of the Capitulatory Regime in the Ottoman Middle East from the Fifteenth to the Nineteenth Centuries," 577.

[138] Palabıyık, "The Emergence of the Idea of 'International Law' in the Ottoman Empire before the Treaty of Paris," 236-238.

[139] Veinstein, "Les Fondements Juridiques De La Diplomatie Ottoman En Europe," 520.

[140] *Avania* (meant bullying by the Persian word *avan*) is another illustrative example reflecting the other side of capitulations in the early centuries. Pointing to various injustices done by Ottoman officials against the European merchants, avania indicates how capitulations were not yet as a powerful bilateral privilege as we observe in the nineteenth century. See Eldem, "Istanbul: from Imperial to Peripheralized Capital," 160 and Van den Boogert, *The Capitulations and the Ottoman Legal System: Qadis, Consuls, and Beraths in the 18th Century,* 122-123.

[141] Pitts, *Boundaries of International Law,* 35.

dispatch to its consulate in Istanbul, the British Foreign Office clearly expressed its reservations even though it was equally resolved to make use of the privileges granted to it:

> This state of things in Turkey is an exception to the system universally observed among Christian nations. But the Ottoman Emperors having waived in favor of Christian Powers' rights inherent in territorial sovereignty, such Christian Powers, in taking advantage of this concession are bound to provide as far as possible against any injurious effects resulting from it to the territorial Sovereign.[142]

As the statement suggests, the motive behind the consular system appeared to be less about territorial sovereignty than about the strong dichotomy Europeans put forward when appraising the Christian and Muslim worlds. The ideas of the French politician Auguste Champetier de Ribes (1882-1947) strikingly resembles the arguments of the Foreign Office:

> It is fair to recognize that it is exorbitant in law to ask a Turkish subject to renounce at home the benefit of his own jurisdiction because it is a trial with a foreigner, and it must also be admitted that the text of no capitulation authorizes in formal and explicit terms such a derogation from the rules of territorial justice. But, in fact, it may seem harsh and far too perilous for the interests of nationals, in the still persistent state of hostility that exists between the Muslim civilization and our Christian civilization to submit to the Muslim Courts the judgment of such a conflict.[143]

Ultimately, a more powerful consensus on the capitulations emerged from the legal course.[144] Thus, these treaties were an exception to the rule and territoriality of law, under which every state had the right to apply its legislation to everyone living within its territories. Capitulations functioned to the detriment of imperial

[142] Lewis, *On Foreign Jurisdiction and the Extradition of the Criminals*,16.
[143] De Ribes, "Les Capitulations ou La Reforme dans Les Échelles du Levant," 2.
[144] Customary usage or practice was usually defined with *teamül* or *teamül-ü kadim* or sometimes *uhud-u kadime* in Ottoman Turkish. However, it should be noted that *teamül* has a broader spectrum of meaning. A catalog browsing of the Ottoman archives demonstrates that the term is also frequently applied to ceremonies/protocols and all sorts of official relations of the society with the state.

sovereignty.[145] This exceptional system characterized the diplomatic stance that Europeans adopted towards the Ottoman Empire. Even though capitulatory system was abolished by the Treaty of Lausanne in 1923, its cumbersome weight lasted even into the Republican period of modern Turkey.[146]

2.2.3 The Question of Extradition and Capitulations

The capitulations and the question of extradition were closely linked in diametrical opposition. The treaty system had enabled a policy of extraterritoriality by which the Europeans operated their consular jurisdiction in the Ottoman Empire. Every European state believed that they had to secure the rights of their nationals in the Ottoman Empire by exempting them from local justice. Their justification was a belief that the Ottoman Empire had been blind to the territoriality of law, and this excuse hampered force against the practice of extradition.[147] The principal object of initiating an extradition practice – that is, the fugitive – acquired a distinct meaning in the Ottoman context.

Extradition was possible if there was a fugitive, and the principal purpose of surrendering them was to punish the criminal where the crime was committed.[148] The criminal's current whereabouts were an essential prerequisite factor in an extradition request. If there was no escape, there was no need for extradition. In the Ottoman

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[145] Polyvios, *La Condition Légale de Sociétés Étrangères Dans L'Empire Ottoman,* 44 ; and See: Gatteschi, *Manuale di Diritto Pubblico e Privato Ottomano.*

[146] MacArthur-Seal, "Resurrecting Legal Extraterritoriality in Occupied Istanbul, 1918-1929." In his article, MacArthur-Seal outlines a chronological but not linear timeline of the joint effort shown by the Ottoman and European sides from the early nineteenth century until the first decades of the twentieth century. It demonstrates how each party sought to preserve their superior position in the face of the animosities the capitulatory regime generated. Also See: Özsu, "'Receiving' the Swiss Civil Code: Translating Authority in Early Republican Turkey," 76. Özsu argues that the Turkish nationalists always felt an urge to fill the vacuum the capitulations left. The Turkish Civil Code, in this respect, was formulated to fill this vacuum of legal recognition by the European audience.

[147] For a comparative lens; see Jones, *Extraterritoriality in Japan and the Diplomatic Relations Resulting in Its Abolition, 1853–1899.*

[148] Lewis, *On Foreign Jurisdiction and the Extradition of Criminals,* 42.

case, a criminal on the run was just "a word of art and need not to involve the idea of flight."[149] Indeed, consular jurisdiction had eliminated the primary motive behind the practice of extradition. The criminals who escaped to the Ottoman Empire from Europe were tried and sentenced by their own consuls.

What happened when, hypothetically, a suspect or convict escaped from the Ottoman Empire to France, for example? If the crime was committed in a province, the request for extradition would come from the district (*liva*) of that province. Once the authorities determined the fugitive's whereabouts abroad, the local public prosecutor (*müddei-i umumi*) would submit an official request to the public prosecutor of the Court of Appeal (*istinaf müddei-i umumisi*). The public prosecutor would then attach the official report from the district administration to a court order (*mahkeme ilâmı*) and the arrest warrant (*tevkif müzekkeresi*) of the investigating judge and send them to the Ministry of Justice. Only after these legal procedures were completed would the Ottoman representatives abroad turn to diplomacy.[150]

If a foreigner took refuge within the Ottoman Empire, the procedure would proceed in the same way. A foreign consul's request would first be sent to the Ottoman Foreign Ministry which would later forward it to the Court of Justice along with the relevant documents. Then, following close examination, all the correspondence would be submitted to the public prosecutor of the Court of Appeal. This prosecutor would conduct the necessary field research and ascertain the whereabouts of criminal. He would then arrange for the documents to be returned to

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[149] "Fugitive Criminals in International Extradition," 176.

[150] BOA DH. HMŞ 18/109*:"Tebaa-ı osmaniyeden birinin bir cürm ile meznûnen Fransaya firârı halinde tevkifi esbabına tevessül olunmak üzere doğrudan doğruya Paris sefaret-i seniyyesine telgrafla işâr-ı keyfiyet olunmağla beraber bunda tevkif-i mezkuresi ısdâr olunduğunda da ilavesi posta ile tevkif-i mezkuresinin ve lüzum-ı muhâkemeye dair müstezak kararnamesinin musaddık Fransızca tercümeleriyle birlikte sefaret-i müşarünileyhâya irsâli, Hariciye Nezaretinde işarı üzerine tamamen tebliğ olunur,"* See also Servet, *Hukûk-u Ceza,* 90; and Ahmet Şuayb, *Hukûk-u Umumiye-yi Düvel,* 26.

the Court of Justice and to the Directorate of Penal Affairs (*Umur-ı Cezaiyye Müdüriyeti*). These two authorities would defer to the Foreign Ministry and the Ministry of Internal Affairs, which would grant permission for extradition.[151]

If the crime was strictly civil or commercial and required foreign witnesses to be heard, the magistrate could send the official request, called "letters rogatory," to a judge or authority located in the jurisdiction where these people resided. These letters could be delivered via diplomatic means in the name of judicial cooperation or as part of a convention.[152] However, such procedures were not usually applied to the consular system, wherein consuls had to rely on Ottoman authorities to act on an arrest warrant – a situation that ran contrary to the nature of the treaty system.[153]

The Ottoman Empire had no official extradition (*iade-i mücrimin)* agreements except for a single treaty signed with the United States in 1874. Moreover, documentation of how fugitive criminals were treated in the Ottoman Empire before the nineteenth century is scarce. Hrand Asadur and Halil Cemaleddin point to a 1701 treaty between Venice and the Ottoman Empire as a first example of its kind. In one part of the treaty concerning runaway criminals, they used the word *vireler/vereler* (they should surrender) is used rather than *iade* (extradition).[154] Küçükkaynarca Treaty, with Russia in 1774, is another early example. It stated that if the subjects of either party, whether members of the Islamic and Christian community, committed a crime and took refuge in the other land, they would be deported without delay upon

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[151] Ahmet Şuayb, *Hukuk-ı Umumiye-yi Düvel,* 28.

[152] This was the solution resorted by the Parisian court in 1865, when Ottoman subjects Kirkor Alyanak and his brother committed theft in their jewelry store in Pera and from the Ottoman Bank, after which they escaped to Paris. Such crimes of financial character are another huge topic that deserves their own analysis. See, BOA HR.H. 135/15.

[153] Rausus, *La Regime des Capitulations dans l'Empire Ottoman,* Vol. I., 382-383.

[154] Cemaleddin and Asadur, *Ecanibin Memalik-i Osmaniye'de Haiz Oldukları İmtiyaz-ı Adliye,* 29: *"Kaleler ve adalara varûb temekkün itse kabûl olunmaya, varan adamlara ta'allül etmeyüb ayniyle vireler, şöyle ki adamı öldürüb … rızk-ı serika eyleseler ayniyle vireler. Benim cânibimden dahi ol vechle itdirülüb ol tarafdan adam öldürülüb … rızk getürürse ayniyle vireler."*

request.[155] These peace treaties substantially differed in form and content from the bilateral treaties of the nineteenth century.[156] The capitulation treaties, on the other hand, did not address the extradition of criminals as part of their judicial concessions. The only terms used regarding crime and criminals were *tedib etme* (to punish), *tevkif etme* (to arrest), and *habs etme* (to imprison).[157]

The 1874 extradition treaty with the United States, the only official one, was not altogether successful. It entered into force a year later, and the treaty and its principles were secondary in the face of repeated diplomatic crises, as Chapter 4 illustrates. Washington soon adopted an ad hoc diplomacy to supervise the legal conditions of its subjects and *protégés,* like the other capitulatory powers. In return, Ottoman authorities were compelled to redesign their own diplomacy in tune with the American policy.

In the early twentieth century, three treaties were signed: with Switzerland in 1917 and with Germany and Austria in 1918. However, these were dissimilar from the United States example. In the epoch of World War I, these conventions were the outcome of a wartime alliance and political friendship, coming at a time after the capitulations were abolished by the Young Turks. They differed in form and content. Compared to the 1874 treaty, which comprised eight articles, the latter three

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[155] Article 2 of the Treaty of *Küçükkaynarca; "Kezâlik tarafeyn reâyâsından olub gerek ahali-yi İslâm ve gerek Hristiyan zümresinden bir kimesne bir dürlü taksirât idüb her ne mülâhaza ile bir devletten ol bir devlete ilticâ iderlerse bu misüllüler talep olundukça bilâ te'hir red olunalar,"* Sırrı, *Hukuk-ı Hususiye-yi Düvel,* 158; Ahmet Şuayb, *Hukuk-u Umumiye-yi Düvel,* 25.

[156] In most other peace treaties with Europeans, the exchange of war prisoners was also frequently addressed. However, it has a different context than the surrender of criminals this dissertation aims to analyze. The most significant regulation in these treaties was the emphasis put on religion. If the war prisoners converted to Islam or Christianity, the states had no obligation to surrender the prisoners. Küçük Kaynarca Treaty (1774) is one of the best examples of that regulation. However, most of the peace treaties had similar statements. Sometimes, a convention was unnecessary; diplomatic means were also of service. For instance, in 1802, the French consul demanded 24 French prisoners of war stuck in Yanya as long as they were not converted to Islam. See, BOA C.HR. 151/7530, 27 Sep. 1802.

[157] "Devlet-i Aliyye ile Düvel-i Mütehabbe Beynlerinde Teyemmünen Münakid Olan Muahedat-ı Atika ve Cedideden Memurîn-i Saltanat-ı Seniyeye Müracaatı Lazım Gelen Fukarat-ı Ahdiyeyi Mutazammın Risaledir".

introduced a comprehensive regulation on extradition along with criminal jurisdiction and consular protection.[158]

In the absence of extradition treaties, consuls relied on capitulations to secure justice with respect to criminals taking refuge in the Ottoman Empire. In most cases, this was at the expense of Ottoman territorial sovereignty, as the latter had ceded its right to conduct trials to the consuls. In other cases, however, Europeans had to frequently risk the impunity of their citizens in the Ottoman Empire. Pelissie du Rausus recounts the case of a French criminal fugitive in Alexandria, whom was arrested by the consul there but was later surrendered to Ottoman authorities reluctantly. France insisted on trying him in Marseille and thus demanded his extradition ex gratia. To initiate extradition proceedings, an Ottoman court first had to hear the accusations. The Ottoman state was aware of the constraints imposed by capitulations, but also knew how to make use of the treaty system to serve to its interests. The decision of the Ottoman court in 1858 reasoned that the right to conduct a trial could only be granted to the consular courts by the capitulations. The Ottoman Empire could neither try a person for a crime committed in a foreign country nor extradite them, as there was no extradition treaty. Thus, they acquitted the criminal of all charges to the protests of France.[159]

The importance of extradition treaties came to the fore in such situations. The lack of reciprocal regulations confounded cases when Ottoman fugitives were in a similar predicament. To solve this problem, the government in Istanbul initially engaged in a series of abortive attempts at diplomacy in the name of justice. The

[158] The treaty drafts prepared with Switzerland and Austria were remodeled after the German project. For the treaty with Switzerland, See: BOA HR.SYS. 1881/18. For the treaty with Austria, See: BOA HR.SYS. 2282/4. For the treaty with Germany, See: BOA HR.HMŞ.İŞO. 155/10. For the treaty text in Ottoman Turkish, see: Appendix A.
[159] Rausus, *Le Regime des Capitulations dans l'Empire Ottoman,* Vol.I., 385-386.

earliest was an extradition proposal made to the Austro-Hungarian Empire in 1865. However, despite a renewed request two years later by the Ottoman legal counsel Parnis Efendi, the parties could not reach an agreement.[160] Kostaki Musurus Pasha (1851–1885), the ambassador to England, likewise offered an extradition treaty to Lord Granville, the Secretary of State for Foreign Affairs, in 1872 – again to Lord Derby a few years later. Notwithstanding the positive attitude of the Foreign Office, neither request progressed.[161] At around the same time, Alexander Karatheodori Pasha (1833-1906), the ambassador to Rome, presented a similar proposal to the Italian diplomat Isacco Artom (1829-1900).[162] Karatheodori hoped that his project would constitute a set of legal relationships to replace the lopsided capitulatory regime and diminish the exaggerated importance attributed to the treaty system.[163] Though Artom expressed desire for a solution, negotiations did not proceed. Nor did subsequent negotiations with Italy in 1881 and 1901.[164]

While extradition negotiations with most European states did not bring about the hoped-for results, the transnational crime and the mobility of criminal actors along the frontiers compelled the Ottoman Empire and the neighboring powers to develop long-term policies to respond to everyday threats and the vacuum of security at the borders. Even though no official bilateral treaty emerged in any medium from these communications, the politics adopted by the various parties resulted in regulations and other legal devices to maintain the borders and control population movement. Chapter 5 analyzes how the question of the frontiers of the Ottoman

[160] BOA HR.H. 212/5.
[161] BOA HR.SYS. 587/25, BOA HR.ID. 139/24 and HR. SFR. 3 225/72. I assume that there could be other negotiations, on an unofficial basis, as the British police officer and politician Howard Vincent (1849-1908) sent a copy of the book on the collection of extradition treaties to the Sublime Porte in 1883. See, BOA HR. SFR. 3. 290/37.
[162] Artom was also the secretary of Camillo Benso (1810-1861), the famous Count Cavour, who was among the leading figures behind the Italian unification.
[163] BOA HR.ID. 139/24.
[164] BOA HR. HMŞ.İŞO. 164/19 and BOA HR.ID. 2100/40.

Empire created the particular defense mechanisms along the Balkan and the Russian borders, independent of states' sovereignties.

The lack of official regulations usually compelled the Ottoman state to collaborate on judicial issues, a circumstance that became obligatory in the face of severe crimes and threats, as Chapter 3 illustrates. The card of reciprocity played a significant role in negotiations,[165] even though *locus regit actum* remained the decisive principle. These diplomatic dialogues are representative as they reveal the Ottoman legal mindset. The corpus of dispatches produced by the Office of Legal Counsel, in particular, provides valuable insight into the evolution of this mindset and the utilization of international law as state discourse.

In the nineteenth century, Ottoman diplomacy was no longer confined to treaty-making and court ceremony. Following the Crimean War in 1856, the empire began to play an active role in the international legal order. Its participation in the Paris Peace Conference and the ensuing *Islahât Fermanı* (Reform Edict) redefined the position of the Ottoman state on the global stage. Long-term, asymmetrical relationships with Europe substantially changed. The empire's well-trained bureaucrats and diplomats actively engaged in debates on international law through which awareness of territorial sovereignty gradually increased.[166] A striking example is in the words of Ali Pasha, who, during the Paris Peace Conference, indignantly

[165] When Britain demanded the extradition of Ottoman Themistocles Constantin, who cheated many commercial companies in England and for whom four arrest warrants came out, they requested to adopt the principles of equity. Rüstem Pasha stated their doubts about whether the English government would regard the rules of extradition and reciprocity. So, they did not consent to surrender Themistocles Constantin. See: BOA HR.H. 494/2 and HR.SFR. 3 59/2.

[166] Since the late 18th century, the Ottoman Empire already used the phrases of *hukuk-u nas, hukuk-u ümem* and *hukuk-u milel* as equivalents of *hukuk-u düvel* in their diplomatic correspondences, as Palabıyık shows. Besides, the work of Vattel, *the Law of Nations* was translated in 1837. Thus, the year 1856 was not a milestone for the emergence of international law in the Ottoman Empire. However, I argue here that the year 1856 signifies the regular utilization of international law in the Ottoman foreign affairs. Also see Palabıyık, "The Emergence of the Idea of 'International Law' in the Ottoman Empire before the Treaty of Paris," and 239-240.

reclaimed the empire's territorial rights vis-à-vis the evil of an extraterritoriality that "constituted a multiplicity of governments within the government, and consequently, an insuperable obstacle to all improvements."[167]

This awareness created an official rhetoric echoed by Ottoman officials. The correspondence related to questions of extradition are among the best examples by which to understand the state's discursive transformation related to foreign affairs and sovereignty. For example, when the Austro-Hungarian Empire demanded the return of Thomas Mircovich, an Austrian subject accused of murder in the Ottoman Empire, Foreign Minister Safvet Pasha lashed back with an argument of territorial jurisdiction. His official letter of 1875 stated his protest as follows:

> You are very kind to remind us that the Sublime Porte agreed in various circumstances and on an exceptional basis to deliver to authorities Austro-Hungarians convicted by Ottoman courts and save them the trouble of completing their sentences (by returning them to) Austro-Hungarian territory. However, in the name of international public law and treaties, the Sublime Porte has never ceased to demand the execution of justice in Ottoman territory for crimes and offenses committed in the empire. This regulation includes Austro-Hungarian subjects, as well. The Ottoman government surely appreciates the basis of public order, which requires that punishment be carried out in the place that the crime was committed, regardless of the rules of international law.[168]

The legal agendas of Ottoman officials also drew on the works of famous legal intellectuals. For instance, during an extradition negotiation with Austria, Parnis Efendi quoted Grotius and Beccaria. He underscored that Grotius did champion the idea that the nations stand on equal footing. In this way, Parnis Efendi desired to frame a treaty on the basis of equality. He added the notion of punishment by the famous jurist Beccaria who stated that "the persuasion of finding no point on the

[167] Slys, *Exporting Legality: The Rise and Fall of Extraterritorial Jurisdiction in the Ottoman Empire and China,* 51; also quoted by Cobbing, "A Victorian Embarrassment: Consular Jurisdiction and the Evils of Extraterritoriality", 275.
[168] BOA HR.H. 212/5. (My translation)

earth where the crime can go unpunished would be an effective means of preventing it."[169] Therefore, the progress of international law in the Ottoman Empire was as much the result of political developments as of increasing legal knowledge and education. The emergence of legal advisors and the establishment of the Office of Legal Counsel played a significant part in the process.

Figure 1. Paris Peace Conference (1856)[170]

2.4 *Hukuk Müşavirliği İstişare Odası* (The Ottoman Office of Legal Counsel)

By introducing international law, the Ottoman Empire built upon the Tanzimat reforms. Initially, legal advisors of European origin were hired to advise various state departments. French citizens Français Émile Tarin, Louis Amiable, and Benjamin

[169] BOA HR.H 212/5.
[170] BOA FTG.F. 269.

Eduard Cor, the Maltese William Parnis, and the German Gerscher brothers served the Porte for many years. They provided counsel to the Ottoman state in an assortment of political, legal, and economic affairs.[171] Starting in 1875, each ministry installed an office of legal advisors, and the magnitude and institutionalization of the profession continued into the twentieth century.[172]

The establishment of the *Hukuk Müşavirliği İstişare Odası* (Ottoman Office of Legal Counsel) in 1883 ushered in a new era of scholarly and political discussion of law. The staff of the department provided counsel in various state affairs and acted as the attorney on behalf of state interests. On such occasions, the office resorted to the formidable legal corpus accumulated over the years.[173] Şarl Kişer (Carl Gerscher) and Noradunghian Efendi (Gabriel Noradunghian) replaced the late Parnis Efendi as the new legal advisors to the Foreign Ministry. They later became the first directors of the Office of Legal Counsel. Born in 1850 in Münster, Germany, Gerscher completed his legal education in Cologne, Munich, and Bonn. Fluent in German, French, and Latin, he commenced his career in the German government where he served from 1874-1877. By the time Gerscher was delegated to the Ottoman Foreign Ministry, he was working in the Strasburg Court of Justice as a legal advisor just as his father, who had held the same post in the Cologne Court of Justice.[174] His brother, Alfred Gerscher, a legal advisor to the Ottoman Ministry of Police, was the original candidate for the position in the Ottoman Foreign Ministry. Because of the heavy workload and the fact that Alfred was in charge of ordinary affairs (*umur-u*

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[171] Kuneralp and Öktem, ed., *Chambre des conseillers légistes de la Sublime Porte: Rapports, avis et consultations sur la condition juridique des ressortissants étrangers, le statut des communautés non musulmanes et les relations internationales de l'Empire Ottoman,* p.10.
[172] *Nafia Nezareti* (The Ministry of Public Works) and *Maliye Nezareti* (the Ministry of Finance) were the first state departments that hired legal advisors.
[173] Genell, "Autonomous Provinces and the Problem of 'Semi-Sovereignty' in European International Law," 534.
[174] BOA HR. SAİDd. 4/12 and 2/1020.

adiye), it was key to employ someone else with qualifications pertinent to the Foreign Ministry. The candidate needed to tackle a wide range of tasks required by assignment. Gerscher served until Germany nominated him to be a member of the Court of Appeal in Alexandria in 1894.[175]

In addition to Gerscher, Gabriel Noradunghian was appointed to assist in administering the office in 1883.[176] Noradunghian was an Ottoman-Armenian official and scholar with a distinct educational background in law, political science, and diplomacy. After attending various schools in Istanbul and Paris, Noradunghian entered the Ottoman Foreign Ministry in 1871. Until 1883, the year he joined the Office of Legal Counsel, Noradunghian had gained extensive legal and diplomatic experience in Ottoman missions abroad and in various state departments at home. He excelled in law and remained in the post of legal counsel until 1908,[177] preparing a celebrated four-volume legal corpus, *Recueil d'Actes Internationaux et l'Empire Ottoman,* at the same time.[178]

An official letter addressed to the *Sadrazamlık* (Grand Vizierate) and the *Meclis-i Vâlâ* (Council of Ministers) by Carl Gerscher in September 1889 hints that the Office of Legal Counsel was already being set up when he took office. Complaining about the lack of expertise in linguistics and legal norms – despite a surplus of the assistants – Gerscher asked to redesign and institute well-defined

[175] In a report dated 1881, the missions of Parnis Efendi and Alfred Gerscher as legal advisors were clearly stated. Accordingly, Parnis Efendi would give advice political problems related to foreign affairs, as Alfred Gerscher would adress ordinary affairs. See: BOA Y.PRK.DH. 1/44, BOA Y.A.HUS. 293/28 and BOA HR.TH. 144/53.
[176] BOA I.HR. 289/18150 and BOA HR.ID. 1828/52.
[177] BOA DH. SAIDd., 81/473. For a detailed monograph on the life of Noradunghian, See: Kévorkian, "Gabriel Noradunghian: Extraits des Mémoires recueillis par Aram Andonian,"1–37 and Karakoç, "Osmanlı Hariciyesinde Bir Ermeni Nazır: Gabriel Noradunkyan Efendi," 157–177.
[178] According to Will Hanley, the most significant shortcoming of this work was the failure to incorporate Islamic law and the *siyar* tradition. He argues that Noradunghian did not need to rely on these fields, as the Ottoman Empire usually addressed foreign audience. Hanley, "International Lawyers without Public International Law: The Case of Late Ottoman Egypt," 101.

employment standards. Eight copy clerks responsible for translating and editing texts from French to Turkish and Turkish to French were needed. Some clerks were transferred to other state departments, and new candidates were required to hold a law degree. For competent officials, Gerscher demanded salary increases in proportion to each person's abilities. After examining the requests in detail, the Council of Ministers approved all of them in March 1890.[179]

Within a decade, the office was staffed with the ideal candidates that Gerscher and Noradunghian had envisioned. As Table 3 illustrates, the number of staff increased twofold, and most were graduates of well-known schools that offered modern curricula. Among these schools, the *Mekteb-i Mülkiye-yi Şahane* (School of Civil Service), the *Mekteb-i Sultani* (Imperial School/ present day Galatasaray High School), and *Darülfünûn (*the equivalent to a present-day university) stood out as pioneers of educational reform in the empire. Except for those who received their educations at schools abroad, all high-profile Tanzimat statesmen graduated from one of these three institutions.

The School of Civil Service was founded in 1859 to prepare the clerks for service in the bureaucracy. For two years, students were trained in various fields such as history, geography, economics, statistics, and law. During the rule of Abdülhamid II, the school became a respected five-year college, the first three years of which were devoted to a secondary school curriculum. Special courses were taught in the last two years.[180] The Imperial School, established in 1868, was another renowned institution. Its curriculum was modeled on the French system, but the school also provided a classical Ottoman education and taught language courses.[181] On the other

[179] BOA Y.A.RES. 50/42, BOA I.DH. 1164/91031, and BOA MV. 51/49.
[180] Somel, *The Modernization of public Education in the Ottoman Empire 1839-1908: Islamization, Autocracy and Discipline,* 52. Also See, Babaoğlu, "Osmanlı'dan Cumhuriyet'e Mekteb-i Mülkiye."
[181] Somel, *The Modernization of public Education in the Ottoman Empire 1839-1908*, 52-53.

hand, the *Darülfünûn,* founded at the turn of the twentieth century, provided for graduates of the two aforementioned schools to further their studies in particular professions.[182]

The progress achieved by these institutions gradually allowed recruitment regulations to be transformed. Previously, selection from the pool of candidates reflected their social standing and family tree, as Table 3 illustrates. However, towards the end the century, the pool itself was filled with potential officials that had been filtered through a meritocracy. Doğan Gürpınar argues that this gradual shift from a cultural system that favored patronage and acquaintance was natural in light of the new, reliable educational system and exponential increase in the numbers of students attending those schools.[183] I further argue that the favoritism in question was not always nepotism; it also reflected the significant economic and social means to acquire an education. The significance of these public schools came into focus once the level of education spread to the different segments of society and the competency of graduates employed in state departments stabilized.

The Office of Legal Counsel was one among these departments. Its mission was delegated among its two *hukuk müşaviri* (legal advisors), legal assistants, and office clerks. Aimee Genell argues that the office was founded to take advantage of international law after the Ottoman defeat in the Balkans and the British conquest of Egypt in 1882. Its mission was to pioneer "a legalistic approach" to the Ottoman state's diplomatic relations, comparable to other European states that had assembled teams of legal advisors by that time.[184]

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[182] Since 1865, there were efforts to establish that educational system. Somel, *The Modernization of public Education in the Ottoman Empire 1839-1908*, 38.
[183] Gürpınar, *Ottoman Imperial Diplomacy: A Political, Social and Cultural History,* 89.
[184] Genell, "The Well-Defended Domains: Eurocentric International Law and the Making of the Ottoman Office of Legal Counsel," 255–256.

It is true that the Office of Legal Counsel responded to crises following successive military defeats and served sweeping goals for the Ottoman state's legal structure. Similar offices in Europe were established in the same decades following distinct policies in each state.[185] The Office of Legal Counsel likewise formulated a legal strategy unique to the Ottoman state rather than modeled on a European pattern. Even though international law is usually considered equivalent to public law, Ottoman legal advisors more frequently addressed questions of private international law such as nationality, capitulations, and extradition. The particular conditions of the Ottoman case compelled them to accumulate their own legal corpus on international law in order to generate their own arguments. This was primarily a compilation of the decisions made by executive forces in various legal cases.[186]

For this reason, the occupation and tasks of the office were not limited to select political matters but soon covered diverse legal subjects and state affairs. The office answered directly to the Grand Vizierate and the Foreign Ministry. The office staff assisted the legal advisors on bureaucratic and legal issues. *Muavin* (assistants) supported legal advisors by analyzing the legal frameworks of various issues, whereas *hülefâ* (clerks) dealt mainly with official paperwork. The legal advisors offered counsel with respect to the formulation of treaties and conventions, to acts of

[185] In England, the first full-time legal advisor to the Foreign Office was Edward Davidson, who was appointed in 1886. Even though France had legal advisors giving counseling to the state since 1722, this office never became a regular post. Only in 1890, with the appointment of Lois Renaud, legal counseling assumed an official character. In the United States, the system of legal counseling followed a specific pattern. Since the 1780s, legal officials had provided counseling under different titles. Only in 1931, the Office of Legal Adviser was established under the State Department. See Zidar and Gauci (eds.), *The Role of Legal Advisers in International Law,* 14, 179, 291-292.

[186] Egypt is a good case for comparison. The legal officials with a good background of European education, and mostly the ones working in the mixed courts, neither rely on Islamic law nor applied international law effectively. Similarly, they resolved the conflicts on case basis. Hanley, "International Lawyers without Public International Law: The Case of Late Ottoman Egypt," 103, 111 and 113-114. Similar to the arguments of Hanley, Francesca Petricca also underscores the absence of Islamic law in the Egyptian mixed courts and shows how the legal officials relied on their own judgment determined by each case. Petricca, "Filling the Void: *Shari'a* in Mixed Courts in Egypt: Jurisprudence (1876-1949)," 725.

arbitration, and to the interpretation of legal terms. The scope of public and private international law, the state of war, and legal matters regarding judicial, civil, and fiscal affairs as well as public works were within the scope of their work. The legal advisors debated the amendment of the legal corpus and regulations before introducing them to other state authorities. On thorny issues such as the capitulations, consular jurisdiction, and the question of subjecthood, they had a crucial role in determining the rhetoric and content of negotiations between the state departments and with the representatives of foreign powers. Extradition was another crucial matter on which the office was expected to offer expertise.[187]

In the following decades, the standards for employment in the office steadily advanced. For candidates applying for the chief clerk position in 1912, qualifications included having a law degree and experience in a different state department. The candidates also needed to hold a *hüsn-ü ahlâk şehadetnâmesi* (certificate of manners). If they met these criteria, candidate could apply to a committee consisting of the legal advisors and the *umur-u siyasiye müdürü* (Director of Political Affairs). The evaluation of the committee and the results of the Ottoman Turkish and French composition exams determined the recruitment and selection process. In the end, the official decision would be announced in the *Takvim-i Vekayi* and other official newspapers.[188]

During World War I, dissolving the Office of Legal Counsel was discussed, and a legal memorandum to this end was prepared in 1915.[189] However, as Table 4 shows, this plan was not realized, and the department continued with a skeleton crew of officials until the end of the empire.

[187] BOA HR. HMŞ.İŞO. 109/10, BOA DH.KMS. 65/49, and *Salname-yi Nezaret-i Hariciye, 1302.*
[188] BOA HR. HMŞ.İŞO. 101/34.
[189] BOA MV. 241/134.

Table 1. The Office of Legal Counsel – Staff List in 1883[190]

	*Esami (*Names)	*Tarih-i Memuriyet (*Date of Appointment)	*Maaş (*Salary in piastre)	*Rütbe (*Rank and Medals)
*Bâb-ı Alî Hukuk Müşaviri (*Legal advisor of the Sublime Porte)	Geşer Efendi (Şarl)	*6 Nisan 1299* (18 April 1883)	9027	*Altın ve Gümüş İmtiyâz Madalyası (*Medal of distinction in gold and silver)
Legal advisor of the Sublime Porte	Garabed Efendi (Noradunkian)	*6 Nisan 1299 (*18 April 1883)	6000	*Evveli*
Serhâlife (Chief Clerk)	Mustafa Şekib Bey	*20 Kanun-u Evvel 1301* (1 January 1886)	3500	*Evvel-i Sani*
Mümeyyiz (Examining Clerk)	Ali Daniş Bey	*9 Mart 1307* (21 March 1891)	1500	*Mütehayyiz Rusya Muhaberesi Madalyasu* (Medal of Russian War)
Muavin (Assistant)	Ali Seyid Bey	*1 Mart 1299* (13 March 1883)	2500	*Mütehayyiz*
Assistant	İsmail Hayati Bey	*19 Şubat 1299* (2 March 1884)	2500	*Evvel-i Sani*
Assistant	Abro Hırand Bey	*29 Ağustos 1300* (10 September 1884)	2000	*Mütehayyiz*
Assistant	Koçiyan Ohannes Bey	*14 Mayıs 1302 (*26 May 1886)	1200	*Evvel-i Sani*
Assistant	Mehmed Sezai Bey	*25 Teşrin-i Evvel 1302 (*6 November 1886)	600	*Saniye*
Assistant	Eşref Cafer Bey	*14 Ağustos 1303* (26 August 1887)	_	*Evvel-i Sani*
Assistant	İzgoridi Nikolaki Efendi	*3 Teşrin-i Evvel 1303* (15 October 1887)	2000	*Evvel-i Sani*
Assistant	Cevanyan Nişan Efendi	*24 Teşrin-i Evvel 1303 (*5 November 1887)	1200	*Mütehayyiz*
Assistant	Ahmed Muhtar Bey	*5 Kanun-u Evvel 1303 (*17 December 1887)	_	*Salise*
Assistant	Mısriyan Edvar Bey	*9 Teşrin-i Evvel 1304* (21 November 1888)	1000	*Saniye*
Assistant	Mehmed Sadık Bey	*24 Kanun-u Sani 1306* (5 February 1891)	1500	*Mütehayyiz*
Assistant	Mehmed Tevfik Bey	*11 Ağustos 1305* (23 August 1889)	_	*Salise*
Assistant	Mehmed Nuri Bey	*5 Ağustos 1305* (17 August 1889)	_	*Salise*
Assistant	Hamid Bey	*24 Kanun-u Sani 1305* (5 February 1890)	1500	*Mütehayyiz*
*Hülefâ (*Clerk)	Keresteciyan Boğos Efendi	*30 Teşrin-i Sani 1300* (12 December 1884)	450	*Salise*
Clerk	Şadan Bey	*14 Teşrin-i Sani 1305 (*26 November 1889)	1500	*Saniye*

[190] BOA HR. HMŞ.İŞO. 166/4.

Clerk	Adnan Bey	*25 Teşrin-i Sani 1305* (7 December 1889)	_	*Saniye*
Clerk	Rober Efendi	*5 Teşrin-i Evvel 1305 (*17 October 1889)	_	*Saniye*
Clerk	Abdullah Vahdi Bey	*4 Nisan 1307* (16 April 1891)		
Clerk	Fuad Bey	*1 Teşrin-i Sani 1307* (13 November 1891)	_	*Saniye*

Table 2. Salary increase proposed for the Office of Legal Counsel in 1889[191]

*Esami (*Names)	*Maaş* (Salary in piastre)
Saadetlü İsmail Bey	3000
Saadetlü Nikolaki Efendi	3000
Gayretlü Nişan Efendi	2000
Gayretlü Ohannes Bey	2000
Gayretlü Hrand Bey	2000
Gayretlü Baki Bey	2000
Refetlü Tevfik Bey	1000
Refetlü Bogos Efendi	1000

Table 3. The Office of Legal Counsel – Staff List in 1901[192]

Position	*Esami* (Names)	*Pederlerinin Esamisi* (Names of the Fathers)	*Maaş* (Salary)	*Mektebleri* (Schools)
Serhâlife (Chief Clerk)	Mustafa Şekib Bey	*Sadr-ı Esbâk* (former Grand Vizier) Arifi Paşa	3100	*Saltanat-ı Mekteb-i Şahane* (Imperial School of Civil Service)
First Examining Clerk (*Mümeyyiz-i Evvel)*	Hrand Abro Bey	*Şura-yı Devlet azasından* (Council of State member) Abro Efendi	2660	*Hukûk-u Darülfünûn* (School of Law / Istanbul University)
Second Examining Clerk (*Mümeyyiz-i Sani)*	Abdürrahim Şadan Bey	*Mabeyn-i Hümayûn Müşir-i esbâkı* (former Marshal in the private secretariat of the Imperial Palace) Ferid Paşa	2425	*Mahrec-i Eklâm ve Hukûk-u Darülfünûn* (Outlet for the Bureaus and the School of Law)
Assistant	Eşref Cafer Bey	Mehmedzade Ali Bey	30000	*Valide Mektebi ve Mekteb-i Sultanî* (School of Education and the Imperial School / Galatasaray High School)
Assistant	Mehmed Cemal Bey	*Sadaret-i Uzma Müsteşarı* (Counselor of the Grand Vizierate) İsmail Hayab Efendi	2520	*Mahrec-i Eklâm*
Assistant	Aziz Harun Bey	*Teşrifât-ı Divân-i Hümayûn* (Chamberlain of the Imperial Council) Kamil Bey ,	4000	*Mekteb-i Sultanî*

[191] BOA Y.A.RES. 50/42.
[192] BOA HR. HMŞ.İŞO. 188/49 and BOA Y.PRK. HR. 30/35.

Assistant	İstavraki Grigoryakidi Efendi	Griyako Efendi	2699	*Heybeliada Rum Mektebi ve Muallimin-i Mahsusi* (Heybeliada Greek School and School of Teachers)
Assistant	Celal Münif Bey	*Maarif Nazırı sabık* (former Minister of Education) Münif Paşa Hazretleri	2000	*Mekteb-i Sultanî*
Assistant	İbrahim Edhem Bey	*Mektubi-yi Hariciye Serhâlifesi* (Chief Clerk in the Secretariat of the Foreign Ministry) Mustafa Bey	1850	*Mekteb-i Mülkiye-yi Şahane* (School of Civil Service)
Assistant	Hamid Bey	*Müşîr* (Marshall) Cemil Paşa	1550	*Mekteb-i Sultanî*
Assistant	Nişan Efendi	Cevan Ağa	2180	*Üsküdar Ermeni Mahalle Mektebi* (Armenian School of Üsküdar)
Assistant	Mehmed Ahmed Bey	*Muhacirîn Komisyon-u Alisi Birinci Azası* (Member of the Committee of Immigration) Rıza Paşa Hazretleri	1500	*Muallimin-i Mahsusi*
Assistant	Ali Seyid Bey	Seyid Ali Bey	2250	*Mekteb-i Sultanî*
Assistant	Şerif Kazım Bey	Kazım Paşa	1300	*Mekteb-i Sultanî ve Paris Hukuk Darülfünûnu* (Imperial School and Paris School of Law)
Assistant	Mazlum Hamid Bey	*Dahiliye Nazırı (*Minister of Interior) Mehmed Paşa	1000	*Mekteb-i Sultanî*
Assistant	Esad Bey	*Kürdistan Valisi* (Governor of Kurdistan) Mustafazade Esad Muhlis Paşazade Yusuf Bey	2000	*Mekteb-i Sultanî*
Assistant	Mehmed Sadık Bey	*Meclis-i Muhasebe-yi Maliye azasından* (Member of the Council of Fiscal Accounting) Ahmed Samed Paşa	Bila maaş	*Üsküdar Rüstiye Mektebi* (Üsküdar Junior High School)
Assistant	Mehmed Ali Bey	*Mahkeme-yi Temyiz azasından* (Member of the Court of Appeal) İsmail Hakkı Bey	2350	*Mekteb-i Sultanî*
Assistant	Ferid Bey	Gelibolu Mutasarrıfı (Governor of Gelibolu) Fahrettin Bey	1850	*Mekteb-i Sultanî*
Assistant	Yusuf İzzet Bey	*Taşlıca Mutasarrıfı ve Kumandanı* (Governor and Commander of Taşlıca) Süleyman Paşa Hazretleri	1500	*Mekteb-i Sultanî ve Paris Hukuk Darülfünûnu*
Assistant	Sezai Bey	*Meclis-i Ali* Dahiliye Memuru (Officer of the Interior Affairs at the High Council) Sami Paşa	540	*Muallimin-i Mahsusi*
Assistant	Edvar Bey	Mısırlı Bogos Efendi	900	*Muallimin-i Mahsusi*
Assistant	Bogos Efendi	Kevork Efendi	190	*Muallimin-i Mahsusi*
Assistant	İsmail Suad Bey	*İcra Encümen-i Reisi* (Head of the Execution Council) Ahmed Şevket Bey	1900	*Mekteb-i Sultanî*

Assistant	İsak Yuşa Efendi	Bogosyan Efendi	450	*Mekteb-i Sultanî ve Mekteb-i Hukûki*
Assistant	Mehmed Bey	*Evkaf Nazırı* (Minister of Pious Foundations) Subhi Paşa	1500	*Mekteb-i Sultanî*
Assistant	Hasan Hilmi Bey	Leskovikli Ali Bey	150	*Mekteb-i Hukûk* (School of Law)
Assistant	Aram Adel Efendi	_____	1000	_____
Assistant	Mehmed Tevfik Bey	*Valide Katibi* (Scribe of the Queen Mother) Hüseyin Efendi	750	*Mekteb-i Sultanî*
Assistant	Abdullah Lami Bey	*Aydın Valisi* (Governor of Aydın) Kamil Paşa	1800	*Mekteb-i Sultanî*
Assistant	Şevket Cenani Bey	*Sadr-ı esbâk* (former Grand Vizier) Kadri Paşa	1800	*Mekteb-i Sultanî*
Assistant	İbrahim İhsan Bey	*Birinci Daire-yi Belediye Memuru* (Officer at the First District of Municipality) Fevzi Bey	760	*Mekteb-i Mülkiyey-i Şahane*
Assistant	Mehmed Suad Bey	*Konya Defterdarı* (Konya Head of Treasury) Muhtar Bey	325	*Mekteb-i Sultanî*
Assistant	Hrand Bey	*Ekmekçi Başı* (Chief Baker) Agop Efendi	320	*Mekteb-i Sultanî ve Muallimin-i Mahsusi*
Assistant	Celal Aladdin Faik Bey	*Evkâf Mahlulât Müdürü* (Pious Foundation's Director of Crops) Faik Bey	2500	*Mekteb-i Sultani*
Assistant	Vehbi Bey	*Mahkeme-yi Temyiz Baş Müddei-i Umumisi* (Chief Public Prosecutor of the Court of Appeal) Lebib Efendi	2500	*Mekteb-i Sultanî*
Assistant	Mahzar Bey	Hıfzı Paşazade Emin Kamil Bey	1500	*Muallimin-i Mahsusi*
Assistant	Murad Bey	*Şiraz (?) Hanedanından* (from Şiraz Dynasty) Seyid Bey	1500	*Mekteb-i Sultani*
Assistant	Mehmed Celal Bey	*Mirlivâ* (Brigadier) Şefik Paşa	2000	*Serkilâri Hazret-i Şehriyari Konağında* (Chief butler at the Imperial Palace of the Sultan)
Assistant	İstefenaki Karatodori Bey	*Şurâ-yı Devlet Mülkiye Dairesi azasından* (Member of the Civil Department of the Council of State) Aleksandre Karatodori Paşa	Bila maaş	*Brüksel Hukuk Darülfünûnu* (Brussel School of Law)
Assistant	Muhtar Bey	*Şurâ-yı Devlet Mülkiye Dairesi azasından* (Member of the Civil Department of the Council of State) Haşim Bey Efendi	Bila maaş	*Muallimin-i Mahsusi*
Assistant	Ahmed Bey	*Sadaret Mektubî Kalemi Memuru* (Officer at Corresponding Secretary of the Grand Vizierate) Müfüt Bey	150	*Muallimin-i Mahsusi*

Assistant	Vahid Bey	*İzmir Ceza Reis-i Amiri* (Head of Izmir Penal Court) Fikri Efendi	50	*Mekteb-i Sultanî*
Assistant	Abdülkadir Mahir Bey	*Zabtiye Müsteşarı* (Counselor of Zaptieh) Rıfat Bey	Bila maaş	*Mekteb-i Idadiye.* (High School)
Assistant	Aziz Efendi	*Ticaretten* (Merchant) David Efendi	Bila maaş	*Mekteb-i Sultanî*
Assistant	Emin Bey	*Mülgâ-yı Emlâk Komisyon Reisi* (Head of the Comission for the Abolition of Property) Hayri Efendi	2000	*Mahrec-i Eklâm*

Table 4. The Office of Legal Counsel – Staff List in 1920[193]

Position	*Esami-i Memurin* (Names of the Officers)	*Maaş* (Salary)
Baş Muavin (Head Assistant)	Badi Efendi	2500
Muavin (Assistant)	Bogos Efendi	2500
Assistant	Tevhid Bey	2250
Assistant	Kenan Bey	2250
Assistant	Zühdü Bey	2000
Assistant	Şükrü Bey	2000
Assistant	Server Bey	2000
Katib (Scribe)	Tevfik Bey	1200
Scribe	Ahmed Şakir Bey	1200

The importance of the Office of Legal Counsel is that it is a valuable primary source to trace the evolution of the practice of extradition in the empire. As subsequent chapters of this dissertation explore, the arguments of the legal advisors comprise firsthand evidence with respect to the extradition question. For problems caused by the mobility of criminals, they were the first recourse for legal advice and arguments. The issue could not be conceived independently of Ottoman jurisdiction and the capitulations. In this respect, the Office of the Legal Counsel approached an ill-defined legal question by addressing critical problems of Ottoman legal system and other issues directly related to the extradition. Thus, the work of the legal advisors

[193] BOA HR. HMŞ.İŞO 108/55.

depicts a legalistic state in the making, one that relied on international law to promote novel legal rhetoric that redefined Ottoman sovereignty.

Figure 2. Gabriel Noradunghian Efendi[194]

2.4.1 *İade-i Mücrimin* (Extradition) in the Ottoman Books of Law

The transformation of the Ottoman legal system progressed in leaps and bounds in the early decades of the twentieth century. Institutional reforms and legal

[194] *Servet-i Fünûn,* 313.

codification complemented to the growing engagement with international law. International law was first introduced to Ottoman school curricula in 1859. The program for the School of Civil Services (*Mekteb-i Mülkiye Nizamnamesi)* included courses on international law (*hukuk-u milel)* and the treaties of the Ottoman Empire (*muahedat-ı devlet-i aliyye)*. Emin Efendi of the Translation Office was the first to teach in these fields. By 1837, the Translation Office had translated many notable books on international law, and after 1877 it became an introductory course in all legal curricula.[195] As with the Office of Legal Counsel, developments in the field of international law reveal how the Ottoman state was tracking and adopting contemporaneous legal developments. England and France had no courses on international law in the first decades of the nineteenth century. In 1889, French universities officially started to teach and assess students in international law. On the other hand, the field had gradually become an area of professional study in Germany, which had previously relied on diplomacy and public law.[196]

The newly founded schools – the School of Civil Service*,* the Imperial School and the *Mekteb-i Hukûk* (Law Faculty) at *Darülfünûn* – offered professional courses on law in the subsequent decades. These schools, especially *Darülfünûn,* introduced a provisional curriculum since the content of each course was determined by a given legal scholar, and later published as a university textbook. In 1908, the qadı schools followed this trend by introducing a one-credit course on international law. The

[195] Emin Efendi was a converted official originally from Bohemia. He taught German, French, and English in the Translation Office, and he was among the founders of Law School *(Mekteb-i Hukuk)* in 1879. Erozan, "Türkiye'de Uluslararası İlişkiler Disiplinin Uzak Tarihi: Hukuk-u Düvel (1859-1945)," 50-51 and 62-63, and Palabıyık, "International Law for survival: teaching international law in the late Ottoman Empire (1859-1922), 279, and Ispahani, "Building Sovereignty in the Late Ottoman World: Imperial Subjects, Consular Networks and Documentation of Individual Identities," 39-51.
[196] Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960,* 29-31.

following year, it was revamped as a three-credit course.[197] Consequently, the process of legal accumulation became a driving force behind the empire's standardized legal education.

The Office of Legal Counsel was the definitive authority for legal matters in practice. Ottoman legal books, on the other hand, provided practical guidance in normative law. They shed light on how extradition as a legal concept was evaluated in the international theory of law and particularly in the Ottoman legal context. Since professionalization of law was still underway, most legal scholars were also state officials who held various official posts during their careers. They fine-tuned the rich curricula of the newly founded schools with their experience in state affairs. Legal scholars such as Ibrahim Hakkı Pasha, who reached the rank of Grand Vizier, and Hasan Fehmi Pasha, who served as various ministers, were emblematic statesmen of the Tanzimat. On account of their backgrounds, such figures were adept at applying the theory of law to everyday state politics during their long and varied careers.

In 1884, Hasan Fehmi Pasha wrote the first book of international law, a precursor to numerous works to come. After years of Hamidian autocracy, the Ottoman Empire enjoyed a boom in publications after the CUP revolution in 1908. Books on international law were numerous. These publications followed a similar pattern to earlier works; they relied on translations of European books, added excerpts on Ottoman diplomacy, and included the normative textbooks of the *Darülfünûn* Faculty of Law.[198] The works of İbrahim Hakkı Pasha, notably *Tarih-i Hukûk-u Beyn'eddüvel* (The History of International Law), and Ahmed Selahâddin,

[197] Jun Akiba argues that more importance was laid on international law courses than the courses on criminal and land codes. Akiba, **"**Muallimhane-i Nüvvabtan Mekteb-i Kuzata Osmanlı Kadı Okulunun Yarım Yüzyıllık Serüveni," 21.
[198] Genell, "Autonomous Provinces and the Problem of 'Semi-Sovereignty' in European International Law," 544, also see Aral, "The Ottoman 'School' of International Law as Featured in Textbooks," 70-97.

notably *Hukûk-u Beyn'ed-düvelin Mukaddemât-ı Nazariye ve Safahât-ı Tekamüliyesi* (Historical Theory and Evolutionary Phases of International Law), are examples that included a comprehensive purview of international law.[199] The order of the content presented in these books was random. In most such works, extradition was addressed as part of universal international law since the authors relied primarily on translated European sources. The few that treated the issue in the Ottoman context analyzed it along with other legal matters of primary importance. For this reason, the question of extradition was addressed in a different section in each book.

Ottoman books on international law *(hukûk-u düvel - hukûk-u umumiye-yi düvel)* usually addressed the question of extradition independently in the main text or briefly discussed the issue in the introduction. Some omitted this legal issue altogether. On the other hand, books on private international law (*hukûk-ı hususiye-yi düvel)* addressed the question of extradition vis-a-vis the legal status of the foreigners (*hukûk-u ecânib*), the capitulations, or the issue of subjecthood (*tabiyyet).* Since extradition was usually considered to fall under private international law, this legal concept was discussed extensively in such books with respect to Ottoman sovereignty.

It is crucial to understand how these legal scholars treated international law in the Ottoman context. All the authors agreed on one point: they all promoted the idea of Ottoman territorial sovereignty and apposed the fact of foreign jurisdiction. Hüsrevyan Hamayak voiced those criticisms in the following manner:

> As you know, sovereignty is the distinctive quality of a state. As for that, the law is nothing but the manifestation of sovereignty. Likewise, as you know, there should be only one sovereignty in place; sovereignty cannot be divided. In that case, no foreign legislation should compete with the law proclaimed in a country within the latter state's territory … Each individual who resides in

[199] İbrahim Hakkı, *Tarih-i Hukûk-u Beyn'ed-düvel.* For a more-in-depth analysis of the books written by İbrahim Hakkı: See, Fujinami, "The First Ottoman History of International Law," 245–270; and Ahmed Selahâddin, *Hukûk-ı Beyn'ed-düvel.*

> that territory must be subject to the legislation of that country in all circumstances. That state, independently and exclusively, has to implement local legislation, disregarding any foreign jurisprudence.[200]

Legal scholars of the time analyzed territorial sovereignty apropos international law and its subfields. Books on criminal law addressed similar concerns to those on international law books, offering lengthy discussions on extradition. For example, Servet,[201] who wrote on Ottoman criminal law, divided public law into the subfields of international law of internal affairs *(hukuk-u umumiye-yi dahiliye*) and international law of foreign affairs *(hukuk-u umumiye-yi hariciye*). He considered international law to be a part of public law constituted under foreign affairs. Servet argued that international law was devoid of judicial authority and should not have a legal character, given that the enforcement of penal codes already defined a state's judicial competence.[202] Another scholar of criminal law, Kirkor Zohrab (Zöhrap),[203] shared the ideas of Servet. He similarly argued that personal law (*kavanin-i şahsiye)* and public law (*kavanin-i umumiye*) cannot not be treated as independent. Bypassing

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[200] Hamayak, *Hukûk-u Hususiye-i Düvel,.*8: "Malûmunuz olduğu vechle hâkimiyet devletin sıfat-ı mümeyyizesidir. Kânûn ise hâkimiyetin tezâhüründen başka bir şey değildir. Kezâlik malûmunuzdur ki bir memleketde ancak bir hâkimiyet-i cari olabilür, hâkimiyet te'addüd edemez. Şu hâlde bir memleketde ilân olunan kânûna o memleket hûdudu dahilinde ecnebi bir kânûn hiçbir vakit rekâbet edemez … Bir devletin hûduduna dâhil olan her ferd o andan itibâren her hûsusda müstekilen o devletin kavâninine tâbi' olmak icâb eder! O devlet muhâkeme-yi kavânin-i ecnebiyeyi aslâ nazar-ı itibâra almayarak müstâkilen ve münhaseren kavânin-i mahalliyeyi tatbîk etmek mecburiyetinde bulunur."

[201] Servet Efendi (?) was a graduate of *Darülfünûn* Law Faculty. During his career, he was appointed to various judicial posts. He served as a public prosecutor at Tripoli Court of First Instance and Istanbul Court of Appeal. He was the Chief Justice of Salonica Trade Court and Lemnos Court of Appeal. Served also worked as the director of the School of Teacher. See: BOA İ.AZN. 29/11, TFR. I.ŞKT. 128/12720, MF. İBT. 266/98 and 266/110, BEO 4300/322450, 1696/127182, and 1087/81467.

[202] Servet, *Hukuk-ı Ceza: Malumat-ı Umumiye ve Kısm-ı Cürm,* 4-5: *"Hukûk-u beynelmilel tekemmül etmiş bir hukûk değildir. Vâsıta-ı tenfiziyesi yokdur. Mahkemeden, usûl-u muhâkemeden mahrûmdur. Hukûk-u cezâ, hukûk-u umumiyenin bu kısmına dâhil olamaz."*

[203] Kirkor Zohrab (1861-1915) was a prominent Armenian lawyer and politician who graduated from the Engineering Institute of the Imperial School and continued his education in the same department of *Ponts et Chaussée* in Paris. After his return, Zohrab participated to the Law Faculty. Elected to the Ottoman Parliament (*Meclis-i Mebusân)* as the deputy of Istanbul, he was arrested and exiled by the CUP to different cities during the 1915 Armenian deportation. He was killed by the brigand Circassian Ahmet and his accomplices in Urfa in the same year. For a monographic study on his life, See: Koptaş, "Armenian Political Thinking in the Second Constitutional Period: The Case of Krikor Zohrab"

international law, he linked criminal law directly to the territorial law (*kavanin-i mekaniye*) of a state.[204]

On the other hand, Nusret Bey clearly distinguished between law of territorial power (*kavanin-i mülkiye*) and law of non-territorial power (*kavanin-i gayri mülkiye)* which he considered equal to extraterritoriality (*haric-ez-memleket).* He assumed that extraterritoriality was directly related to the personal status of the subjects and marked it as legally binding in every condition. For instance, this was the situation for marriage in which the subjects had to comply with the state regulations applied to them. Nusret Bey underscored the difficulty of conceiving the territoriality of law as a fixed legal concept. He argued instead that even for strictly territorial penal codes, there were exceptions to the rule. The Ottoman Empire had not enacted any official legislation on extradition, nor did early penal codes explain the practice. Nusret Bey therefore referred to the related clauses of the 1879 *Usul-u Muhakemât-ı Cezaiyye Kanunu* (Code of Criminal Procedure) to prove his point.

Articles 5, 6, and, 7 of the 1879 Code explained the legal condition of criminals who posed a threat to imperial security. For example, forgery of official state seals, coins, and bank bonds were such severe offenses. It was vital to prevent widespread counterfeiting. Article 5 of the code stated that any Ottoman, who committed these crimes would be punished in accordance with Ottoman law regardless of whether a foreign investigation was also being conducted. The article echoes the ordinances of various European legislation. Article 6 insisted that foreign nationals in the Ottoman Empire were exempt from this treatment. Lastly, Article 7 illustrates the resolute Ottoman stance against impunity. It stated that any Ottoman who murdered another Ottoman in a foreign land and managed to return to the

[204] Zohrab, *Hukuk-u Ceza,* 86.

empire without legal sanctions would be tried by Ottoman courts and punished accordingly.[205]

Likewise, Zohrab accepted the exceptionality of the situation despite his criticism of extraterritorial rights and belief that they should not be granted to anyone except ambassadors. Even if a crime occurred on consular property, felonies fell under Ottoman law and jurisdiction, in line with the principles of international law. Extradition was to be applied to cases that threatened public order.[206]

The most precise, comprehensive framework of extradition was outlined in the unauthorized 1910 Penal Code.[207] Article 3 of the project emphasized the territoriality of law by ordering local punishment of anyone who committed a crime in the Ottoman Empire.[208] No distinction was made with regards to nationality or religion. Article 9 directly addressed the question of extradition and regulated its proceedings. Two circumstances were a basis for denying extradition. The first was the absolute refusal to extradite Ottoman subjects to a foreign power, and the second

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[205] Madde 5: *"Tebaa-yı Devlet-i Aliyye'den her kim olur ise olsun memâlik-i Osmaniye hâricinde emniyet-i Devlet-i Aliyye'yi ihlâl eylemek ve devlete mahsûs resmi mühürleri ve meskûkât-ı râyiceyi ve eshâm-ı umumiye ve tahvilât ve sergi ve her nevi senadât-ı hazineyi ve tedâvülü kânûnen mücâz olan banka tahvilâtını taklîd etmek cinâyetiyle müttehem olub da memâlik-i ecnebiyede muhâkemesi icrâ olunmadığı hâlde memâlik-i Osmaniye'de kânûn-u devlete tatbiken muhâkeme ve mücâzâtı icrâ olunur."* Madde 6: *"Madde-i sâbıkada beyân olunan ahkâm-ı cinâyât-ı mezkûreyi ikâ' veya iştirâk ile müttehem olub memâlik-i Osmaniye'de tevkif olunan ve yâhûd celp ve istirdâd olunabilecek olan tebaa-yı ecnebiyeye dahi şâmildir."* Madde7: *"Tebaa-yı Devlet-i Aliyye'den biri memâlik-i Osmaniye hâricinde tebaa-yı Devlet-i Aliyye'den diğeri aleyhinde bir cinâyete mütecâsir olduğu hâlde memâlik-i Osmaniye'ye avdet eder ve mürtekip olduğu cinâyetten dolayı memâlik-i ecnebiyede mücâzât-ı kânûniyesini görmediği tahakkuk eyler ise hakkında muâmele-i kânûniye icrâ olunur."*See: "Meclis-i Mebusanın Ictimaında Kanuniyeti Teklif Olunmak Üzere Usul-ı Muhâkemât-ı Cezaiye Kanunu Muvakkatıdır", *Düstur (Tertib 1),* Cilt 4; and Nusret Bey, *Hukuk-u Hususiye-yi Düvel,* 21.

[206] Zohrab, *Hukuk-u Ceza,* 95: *"Kâvanin-i cezâiyenin memâlikin her noktasında ikâ' edilen cerâime tatbîk olunması kâidesinin netâyicinden biri de şudur ki sefârethâneler ve konsoloshânelerde vâki' olan cerâim dahi kâvanin-i cezâiye-yi mahalliyeye tâbî olur…Sefârethâneler yalnız sefirin şahsı itibâriyle taaruzdan masûndur. Fakat sefârethânenin binâsı haric-ez-memleket (extraterritorial) ad edilemez."*

[207] For the debates on the project, which took place in the Ottoman Parliament: See, "Kanun-u Ceza'nın Bazı Mevad-ı Makamına Kaim Kanun Lâyihası" https://www5.tbmm.gov.tr/tutanaklar/TUTANAK/MECMEB/mmbd01ic03c005/mmbd01ic03c005ink079.pdf

[208] Servet, *Hukuk-ı Ceza,* 5: Madde 3: *Memâlik-i Osmaniye'de bir cürm ikâ' eden şahıs Osmanlı kanununa tevfiken ceza görür.*"

was protection granted to political criminals, i.e. asylum. These principles were anyway inscribed in most extradition treaties. In the absence of a treaty agreement, the extradition of foreigners depended on an imperial decree (*irade*). If extradition was a possibility, the procedure would start with an order from the Ministry of Justice to the local investigating judge of the place from which the criminal escaped.[209]

Most Ottoman legal scholars believed that extradition fell under local authority. However, they equally believed in the binding force of bilateral treaties as a means of negotiation that also safeguarded sovereignty rights. This is plausible considering the jurisdiction each state would otherwise claim. Even though they supported the need for an official contract, these authors acknowledged that surrendering a felon as ex gratia (*muamele-i cemile*) was an option.[210] As upcoming

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[209] Servet, *Hukuk-ı Ceza,* 84: Madde 9: *"Bir cürmden dolayı bir osmanlının memâlik-i ecnebiye iadesi talebi devletçe kabûl olunamaz. Cerâim-i siyasiyeden veya ânâ mürtebit olan bulunan cerâimden dolayı bir ecnebinin iâdesi talebi devletçe kabûl edilmez. Erbâb-ı cerâimden bir ecnebinin iâdesini kabûl ve tasvip etmek hükûmet-i mülkiyeye aid olub hükümet-i adliyenin muvâfakatını istihsâle hâcet yoktur. Şu kadar ki, iâdesi taleb veya tasvib edilen bir ecnebi hakkında bulunduğu mahal müstantiki tarafından tevkif-i mezkûresi ısdâr edilmek üzere adliye nezâreti tarafından emr verilebilinir"*.

[210] According to Kemalpaşazade Said and Cebrail Gregor, the extradition treaties: *"Bir devletin kendi memleketi haricinde irtikâb-ı cürm etmiş bir mücrimi kendi mülkünde tutub da o mücrimi taleb eden ve anı muhâkeme ve düçâr-ı ceza etmeye kaideten hakkı olan bir devlete iade etmesidir. İade-i mücrimin muahedeleri taleb-i iade ve icra-yı iade nasıl şerait-i tahtında cereyan edeceğini gösterir, bu hususa dair suret-i umumiyede ittihâz ve kabul olunmuş kavaid-i umumiye yokdur. Mücrimlerin iadesini taleb etmeye taleb eden devletin esasen hakkı olduğu gibi iadeyi icra eden devlet için dahi esasen bir gûna vazife yokdur. Bu cihetle husus-u mezkûra dair mevcud olan mukâvelâtı* ***istiklal ve saltanatları cihetiyle*** *akd etdikleri muahedattan münbeis kavaidden ibarettir. İade-i mücrimin hakkında kaide-i umur-ı cezaiyeleri müsavi kavain tahtinda bulunan devletler beyninde hüsn-ü tanzim olunabilir. Zira aksi halde birinin kavanin-i dahiliyesi diğerinin kavaninine tabii olmuş olur."* Kemalpaşazade Said and Cebrail Gregor, *Hukuk-ı Düvel,* 75. In a similar way, Hasan Sırrı thought that, *"her devlet, ecânibin, hatta mensub olduğu devletler tarafından taleb olunsalar bile, mülkü dahilinde ikamet etmelerine müsaade etmek hakkına malikdir. Binâenaleyh, memleketine iltica eden erbab-ı ceraimin devlet metbualarına teslim ve iadesi ancak muaheda-ı mahsusa ile vazife şeklini alır…. İşte bu kavaid-i esasiyeye müstenid bulunan iade-i mücrimin keyfiyeti hakkında devletimizin yalnız Rusya devleti ve şimal-i Amerika hükümeti müthedesiyle muahedat-ı mahsusisi vardır; düvel-i saireye erbabı ceraimi iade eylediği halde sırf bir* ***muamele-yi cemile*** *ibraz eylemiş olur."* Hasan Sırrı, *Hukuk-ı Hususiye-yi Düvel,* 157. According to Servet: "*hükümetler muahedat haricinde de iade-i mücrimin talebini kabul etmekde haiz salâhiyetdedirler. Yalnız, mukaveledeki tahdidasa riayete mecburdurlar.*" Nevertheless, even the strict adherence to these treaty regulations could disappear in certain situations, which he expresses in the following way: "*Memâlik-i Osmaniye'de cürmü irtikab eden kimseleri, bittefrik tabiyyet ve milliyet iade etmemelidir. Saniyen, Memâlik-i Osmaniye'de cezalandırılabilecek olan bir cürmü memâlik-i ecnebiyede irtikâb idüb de Memâlik-i Osmaniye'ye iltica eden kimse iade olunmaz. Salisen, Memâlik-i Osmaniye'nin emniyet-i dahiliye ve itibar-ı*

chapters demonstrate, the power of diplomacy was a fundamental motive for the ex gratia extradition of fugitives.

With respect to political criminals, Ottoman legal scholars could not reach a consensus. Considering the issue's controversial nature, European states likewise faced difficulties distinguishing political crimes from those with an anarchic nature. In the same vein, Kirkor Zohrab underscored the need to clearly differentiate between political and ordinary crimes and treat them accordingly. This was decisive when extradition was an option.[211] On the other hand, Servet reasoned that what mattered was not the intent, whether political or not, but the nature and consequences of the crime committed.[212] According to Nusret Bey, even purely political cases could not be an excuse to deny extradition – that is, extradition should always be an option if deportation should be best way to resolve the problem.[213]

Table 5. A list of Major Ottoman International Law Books

Book Title	**Author**	**Content**	**Printing Date, Publisher, and Print Page**
Private International Law (Husus-u Hukûk-u Düvel)	Hamayak Hüsrevyan[214]	* Subjecthood (Tabiyyet) *-Benefits of Law* (*Lütf-i Kanun)* *-Naturalization (Telsik)* *-Annexation (İlhâk-ı Arazi*) *Law on Foreigners (Hukuk-u Ecânib) *-Capitulations (Kapitulasyonlar)* ***Extradition (İade-i Mücrimin)***	1329 Edeb Matbaası 238 pages No index

maliyesini ihlal eden cerâimi memalik-i ecnebiyede ikâ ederek, Memâlik-i Osmaniye'ye gelen mücrimleri iade etmemelidir." Servet, *Hukuk-ı Ceza,* 86 and 89.

[211] Zohrab, *Hukuk-i Ceza,* 70.

[212] Servet, *Hukuk-u Ceza,* 34: For the debates on the assassination attempt against the Sultan Abdülhamid II: See, Alloul, Eldem and Smaele, *To Kill a Sultan: A Transnational History of the Attempt on Abdulhamid II (1905).* The extradition of political crimes will be analyzed in Chapter 6.

[213] Nusret Bey, *Hukuk-u Hususiye-yi Düvel,* 68.

[214] Hamayak Hüsrevyan, or Hımayak Hosravyan, was born in 1873 in Bayburt. After completing secondary education in an Armenian school in that city, he attended *Mekteb-i Mülkiye* (The School of the Civil Service). After graduating from the School of Law at *Darülfünûn* (today's Istanbul University) in 1900, Hüsrevyan first worked as a lawyer and later started teaching as in both institutions. He was a loyal supporter of Armenian nationalism. See: Çankaya, *Yeni Mülkiye Tarihi ve Mülkiyeliler III,* 543–544.

Private International Law I (Hukûk-u Hususiye-yi Düvel I)	Nusret Bey (Metya)[215]	*Subjecthood (Tabiyyet) *Naturalization (Telsik) * Immigration (Hicret) * Law on Foreigners (Ecânibin Hukûku) *-Personal Liberty (Hürriyet-i Şahsiye)* ***Extradition (İade-i Mücrimin)*** *-Freedom of Religion (Serbest-i Mezâhib)* *-Freedom of Press (Serbest-i Matbuat)* *-Industrial Property (Mülkiyet-i Sınâiye)* *-Legal Person (Eşhâs-ı Maneviye)* *-Copyrights (Hakk-ı Telif)* *Law on Foreigners in Our Country (Memleketimizde Ecânibin Hukuku) *-Capitulations (Kapitülasyonlar)* *-Treaties (Muahâdeler)* *-Consulates (Konsolosluklar)* *-Right of Expropriation (İstimlâk Hakkı)* *-Subjecthood (Tabiyyet)*	1329 Osmanlı Şirketi Matbaası 198 pages No index
Private International Law II (Hukuk-u Hususiye-yi Düvel II)	Nusret Bey (Metya)	*Capitulations (Kapitülasyonlar) *-Common Law (Hukûk-u Umumiye)* *-Inviolability of Establishment (Masuniyet-i Mesken)* *-Personal Liberty (Hürriyet-i Şahsiye)* ***(Extradition) İade-i mücrimin*** *-Freedom of Travel (Serbest-i Seyahât)* *-Freedom of Trade (Serbest-i Ticaret)* *-Freedom of Sect and Religion* *-(Serbest-i Mezâhib and Edyân)* *-Right of Petitioning (Arzuhâl Virmek Hakkı)* *-Freedom of Education (Serbest-i Talim ve Taallüm)* *-Freedom of Press (Serbest-i Matbuat)* *-Conflict of Laws (İhtilâf-ı Kavanin)*	1328 Cihan Matbaası 334 pages No index
Private International Law (Hukuk-u Hususiye-yi Düvel)	Hasan Sırrı (Örikağasızâde)[216]	*Introduction (Medhâl) *Subjecthood (Tabiyyet) *-Naturalization (Telsik)*	1327 Mahmud Bey Matbaası 400 pages Index attached

[215] Nusret Bey (Metya) was born in 1877. After graduating from the School of the Civil Service, he started working in *Tercüme Odası* (the Translation Office) as a clerk. He was excelled in the French and Greek languages. During his long career, Nusret Bey taught courses on private international law in the School of the Civil Service while he held posts in different state departments. He was delegated to the commission for the abrogation of the capitulations in 1914. During the Republican Period, he was elected as the Chief Justice. See: BOA MF.MKT. 1102/48, BOA DH. SAİDd. 100/481, BOA HR. HMŞ.İŞO. 101/24, BOA HR. SAİD. 11/30.

[216] Hasan Sırrı (1861-1939) was the son of governor Ahmed Nafiz Pasha and the father of writer Nahid Sırrı Örik. After graduating from the School of the Civil Service in 1882, he joined the Foreign Ministry. Hasan Sırrı worked as a translator in the office of the private secretary at Yıldız Palace. Also served as the keeper of custom registers (*rüsûmat emini),* Hasan Sırrı was appointed to the Ministry of Education, and he also taught courses on geography at the School of Teachers and law at the Faculty of Law. See: BOA DH. SaiDd. 47/401; and Çankaya, *Yeni Mülkiye Tarihi ve Mülkiyeliler III,* 129–130.

		*Foreigners (Ecnebiler) *Conflicts of Law (İhtilâf-ı Kavanin) *Competence and Observance of Trial (Salâhiyet ve Usûl-ü Muhâkeme)	
Private International Law (Hukûk-u Hususiye-yi Düvel)	Ahmed Nesimi (Sayman)[217]	*Subjecthood (Tabiyyet) *Execution of Judgement (İcra-yı Muhâkeme) *Boundary Treaties (Hudud Mukâveleleri) *Law on Foreigners (Ecnebilerin Hukuku) *Personal and Propert Laws of Foreigners (Kavanin-i Şahsiye ve Mülkiye-yi Ecnebi) ***Extradition (İade-yi Mücrimin)**	1324 Manuscript 34 pages No index
International Law (Hukûk-u Umumiye-yi Düvel)	Ahmed Şuayb[218]	***Extradition (İade-i Mücrimin)** *Territorial Waters (Karasuları) *Interstate Relations (Devletlerin Münasebât-ı Salahiyeleri) *-Ambassadors(Süfera)* *-Consuls (Şehbenderler)* *-Treaty Rights (Hakk-ı Muâhede)* * Law on War (Hukûk-u Harb) *-Prisoners of War (Esir-i Harb)* *-Booty (Ganâim)* *-War Fugitive (Harb Kaçağı)* *-Peace Treaties (Muâhedât-ı Sulhiye)*	1328 Matbaa-yı İkbâl 584 pages No index
International Law (Hukuk-u Umumiye-yi Düvel)	Hamayak Hüsrevyan	*Law of Nations (Hukûk-u Düvel) *-Custom and Traditions (Örf ve Âdat) -Treaties (Muâhedenâmeler)* *Public International Law (Hukûk-u Umumiye-yi Düvel) *-Sovereignty (Hakimiyet)* *-Annexation (İlhâk)*	1326 Mekteb-i Mülkiye 384 pages No index

[217] Ahmed Nesimi (Sayman) (1876-1958) was an Ottoman statesman, originally from Crete, who served as the Minister of Trade (1914–1917) and Foreign Affairs (1917–1918). A graduate of Law Faculty at *Darülfünûn,* he resumed his education in Paris. See: BOA DH. SAİDd. 193/343; and Kuneralp, *Son Dönem Osmanlı Erkân ve Ricâli (1839–1922): Prosopografik Rehber,* 59.

[218] Ahmed Şuayb (1876–1910) was a graduate of the Law Faculty, who taught at the Ottoman *rüştiye* (junior high school) and Law Faculty on international and administrative law. He also served as the Director of Education in Istanbul and as the Public Prosecutor of the Court of Accounts (*Divân-ı Muhasebât Müddei-i Umumisi).* See: BOA MF. İBT. 20/94, BOA MF.MKT. 1036/73, and BOA BEO 3654/274004.

		-Fundemantal Laws of the States (Hukuk-u Asliye-yi Düvel) *-Diplomatic Agents (Devletleri Hâricen Temsil Eden Zevât)* *-Fiction of Extraterritoriality (Hâriciyet Ez-Memleket Fariziyesi)* *-Interior Waters (Dahl-i Deniz)* *The Exam Example (İmtihan Programı)	
International Law (Hukuk-u Düvel)	Ali Edib[219]	*Personality of States (Şahsiyet-i Düveliye) *-Identity (Hüviyet)* *-Sovereignty (Hakimiyet)* *-Right of Equality (Hakk-ı Müsâvât)* *-Treaties (Muâhedenâmeler).* *-Right and Privileges of the Legations (Süferânın Mahzar Olduğu Hak ve İmtiyâzât)* *Subjecthood (Tabiyyet) *-Functions and Competence of the Courts (Mehâkimin Vezâif ve Salâhiyeti)* ***-Claiming Back and Extradition (İstirdâd ve İade-i Mücrimin)***	1307 Mekteb-i Mülkiye 1124 pages No index
International Law (Hukuk-u Düvel)	Said (Kemalpaşazade)[220], Cebrail Grigor[221]	*Identity of States (Devletlerin Hüviyeti) *Law of Nations (Hukûk-u Düvel) *-Treaties (Muâhedât)* *-Capitulations (Kapitülasyonlar)* *-Consulates (Konsoloslar)* *-Judiciary Affairs (Umur-u Adliye)* ***-Extradition Treaties (İade-i Mücrimin Muâhedeleri)*** *-Diplomacy (Diplomasi)* *-State of War (Hal-i Harb)*	1299 Matbaa-yı Ebü'l-Ziya 156 pages Index Attached
Summary on International Law	Hasan Fehmi (Pasha)[223]	*Law of Peace (Hukûk-u Sulh)	1300 Matbaa-yı Osmaniye

[219] Ali Edib (1870-1897) was a graduate of the Imperial School and the School of the Civil Service. He earned his living as a high school teacher by giving courses on history, geography, and literature. Besides his book on the law of nations, Ali Edib wrote poems with the pseudonym "Nâlâni." See: Çankaya, *Yeni Mülkiye Tarihi ve Mülkiyeliler III,* 507.

[220] Kemâlpaşazade Said (Mehmed Said Bey) (1848-1921) was the son of Ahmet Kemâl Pasha, the ambassador of Berlin. He served in the Foreign Ministry and at the Council of State (*Şura-yı Devlet)*. He was later appointed as the president of the Court of First Instance at the Council of State. After a period of exile in Yemen, he retired from the Reform Legislation Section of the Council of State (*Şura-yı Devlet Tanzimât Dairesi).* Mehmed Said Bey taught at the Law Faculty and the Imperial School. See: BOA BEO 3461/259502, BOA Y.EE. 83/17, Beyhan, "Said Bey, Lastik (1848–1921)," 549–551, and Fujinami, "Law for Tanzimat: Islam and Sovereignty in Kemalpaşazade Sait's Legal Thought."

[221] Cebrail Gregor (Grigor) (?) was an attorney who was elected as the council member of municipality (*Şehremâneti Meclis Azası).* See: İ.DH. 931/73744, and BEO 1653/123961.

[223] Hasan Fehmi (Pasha) (1836-1910) was a prominent Ottoman statesman who served as Minister of Public Works and Minister of Justice. He also held diplomatic missions in Rome and London. After

(Telhis-i Hukuk-u Düvel)[222]		*Extraterritoriality (Haric-ez memleket) ***Extradition (İade-i Mücrimin)** *Piracy (Deniz Hırsızlığı) *Slave Trade (Esrâ-yı Zenciye Ticareti) *Treaties (Ale'l-umum Muâhedât) * Reasons of Waging War (Esbâb-ı Harb)	500 pages Index Attached
International Law (Detailed) *Mufassal Hukuk-u Düvel*	Ali Şahbaz[224]	*Law of Nations (Hukuk-u Düvel) *Public International Law (Hukuk-u Umumiye-yi Düvel) *-Personality of States (Şahsiyet-i Düveliye) -Right of Sovereignty (Hakk-ı Hakimiyet) -Right of Equality (Hakk-ı Müsâvaât) -Right of Treaty (Hakk-ı Muahedât) -Diplomatic Relations (Münâsebât-ı Diplomatika)* *Responsibility of the States (Mesuliyet-i Düvel) *Interstate Relations (Münâsebât-ı Hususiye-yi Düvel) *-Capitulations (Kapitülasyonlar)* *-Consular Right of Judgement (Konsolosların Hakk-ı Kazası)* ***-Claiming Back and Extradition (İstirdâd ve İade-i Mücrimin)***	1324 Bağdadlıyan Matbaası 616 pages Index Attached
International Law II (Detailed)	Ali Şahbaz	*Law on War (Hukuk-u Harb) *– Reciprocity (Mukâbele-yi Bi'l-misl)*	1325 Dersaadet

graduating from the Imperial School and the School of the Civil Service, Hasan Fehmi first joined the Translation Bureau and then the Foreign Correspondence Office. In his early career, he worked in the Ministry of Pious Foundations, served as district governor, the head of the Court of Accounts (*Divân-ı Muhasebât Reisi),* and taught at the Faculty of Law, which he established with few others. See: BOA Y.MTV. 236/151, BOA DH. SAİDd. 4/176. In 1897, he presided the negotiations with Greece for a treaty agreement addressing extradition, consulate regulations and subjecthood issue, See: BOA BEO 1060/79447.

[222] Even though Hasan Fehmi wrote this work for the Faculty of Law by renouncing any copyrights, the Hamidian government soon denounced the book and called off its use in the schools. Because, on the one hand, they thought that some parts regarding the consular right of jurisdiction and extraterritoriality needed clarification. On the other hand, they believed that the arguments of Hasan Fehmi in the section "Sovereignty and the Liberty of States" implied the idea that the stormy and longtime insurrections in the empire would harm the local trade and justify foreign interventions (*İhtilâlât-ı dahiliyenin müddet-i medide devam ve istidâsının, ticâret-i mahaliyenin haleldâr olması ve düvel-I ecnebiyenin müdahalelerinin bilâhare tasdik-i istiklâllerine kadar gidebileceği medtûr olduğundan…).* See: BOA MF. MKT. 188/43, BOA Y.EE. 37/54, BOA İ.HUS. 30/38, BOA MF.MKT. 232/46, BOA BEO 493/36957.

[224] Ali Şahbaz Efendi (1838–1898) was an Ottoman Armenian legal scholar, who first went to an Armenian Faculty of Theology in Venice. After completing his law education at the School of the Civil Service and Sorbonne Faculty of Law, Ali Şahbaz later taught at the Faculty of Law on international law and trade law. During his career, he also worked as a translator at French Consulate and he became a member of the Ottoman Supreme Court. See: BOA DH. SAİDd. 112/179, and Çankaya, *Yeni Mülkiye Tarihi ve Mülkiyeliler II, 945.*

Mufassal Hukuk-u Düvel II		*-Embargo (Ambargo)* *-Right of War (Hakk-ı Harb)* *-Armistice (Mütareke)* *-Right of Expulsion (Hakk-ı Tebid)*	Matbaa-yı Ziraiye 562 pages No index
Historical Theory and Evolutionary Phases of International Law (Hukuk-u Beyn'ed-düvelin Mukaddemât-ı Nazariyesi ve Safahât-ı Tekâmüliyesi))	Ahmed Selahaddin[225]	*International Law (Hukûk-u Düvel) *-Private and Public International Laws (Hukûk-u Hususiye-yi ve Umumiye-yi Düvel) -Comity of Nations (Mücâmele-yi Düveliyye)* *History of Law of Nations (Hukûk-u Düvelin Tarih-i Tekemmülü) *Private International Law (Hukûk-u Hususiye-yi Düvel) *Subjecthood (Tabiyyet) *Privileges of Foreigners in the Ottoman Empire (Memâlik-i Osmaniye'de İmtiyâzât-ı Ecnebiye)	1331 Kanâat Matbaası 672 pages No index
History of International Law (Tarih-i Hukûk-u Beyn'ed-düvel)	İbrahim Hakkı (Pasha)[226]	*Historical Periods *Political Regulations (Kavâid-i Siyasiye) *Authors and Works (Müellifin ve Asâr) *International Treaties	1303 Karabet ve Kasbar Matbaası 240 pages Index Attached

2.5 Conclusion

Embassies are not to be a place of refuge for any person having committed a felony as ascribed in the provisions of international law. Accordingly, if a

[225] The father of Haldun Taner, Ahmed Selahaddin (1878–1920) graduated from the School of the Civil Service. Working at different institutions, such as Regie Company, Agricultural Bank (*Ziraat Bankası),* and Ottoman Public Debt Administration *(Düyûn-u Umumiye),* he taught at the Faculty of Law. Ahmed Selahaddin was elected as Istanbul parliament member in 1919. DH. SAİDd. 113/51; Çankaya, *Yeni Mülkiye Tarihi ve Mülkiyeliler III, 837–838,* and Meray, *Lozan'ın Bir Öncüsü: Prof. Ahmet Selahattin Bey 1878-1920.*

[226] The son of Mehmed Remzi Efendi, the Head of the Municipality Council, İbrahim Hakkı (Pasha) (1863–1918) was the Grand Vizier of the Ottoman Empire (1910–1913). After graduating from the School of the Civil Service, he worked as a translator at the Imperial Palace Secretariat (*Mabeyn-i Hümayûn Mütercimi).* Later, Ibrahim Hakkı served in different ministries of the Sublime Porte and foreign missions. Also working at the Office of Legal Counsel for a while, Ibrahim Hakkı taught at the Law Faculty and wrote many books on law. See: BOA DH. SAİDd. 183/100, and also Fujinami, "The First Ottoman History of International Law," 245–270; and Findley, *Ottoman Civil Officialdom: A Social History.*

> fugitive criminal takes refuge in a consulate, their extradition and surrender was obligatory. But if the authorities abstain from doing so, the offenders cannot be taken by force. Instead, an official appeal to the government and political mediation will follow… As most European states extradite ordinary criminals to the Ottoman Empire in accordance with international law, there are no difficulties so long as the criminals were tried for the offenses for which they were surrendered. If there are political criminals or soldiers, there is no offense with which to accuse and sentence. In such situations, there will be obstacles with respect to their extradition.[227]

The words in an 1898 report by İbrahim Hakkı Bey, the legal advisor of the Office of Legal Counsel and the future Grand Vizier (1910-1911), briefly describes how extradition should ideally be practiced in the Ottoman Empire. However, the legal concept conforms neither to the ideals of the Ottoman Empire nor to anywhere in the world. Guaranteed in bilateral treaties, the extradition of criminals and fugitives was always accomplished through diplomatic means and affected by the political order of the day. Above all, the issue was a matter of territorial sovereignty determined by the judicial and executive forces. In this chapter, I have laid down a concise outline of the importance of extradition practice in a historical context.

Crime is a universal part of history, and preventive and punitive measures have continually evolved in time and place. The asylum of fugitives and the legal status of foreign outlaws add a diplomatic dimension to designated state policies. With a focus on Europe, this chapter demonstrated how the surrender of criminals had relied on diplomatic courtesy in the earlier centuries and gradually changed

[227] BOA Y.EE. 10/9: "Hukuk-ı düvel kavaid-i umumiyesi ahkâmınca sefarethaneler hiçbir nevi erbâb-ı cerâim ve cinayâta melce olamaz. Binaenaleyh hakkında heyet-i adliyece icrâyı takibat olunan bir mücrim bir sefarethâneye iltica ederse sefir tarafından iade ve teslimi icâb ederek ancak tesliminden imtina' olunursa cebren alınamayub hükümete müracâat ve işi siyaseten halle mübaderet icab eyler…. Avrupa devletlerinin kısm-ı azamı hukuk-ı düvel kavaid-i umumiyesine tevfiken mücrimin-i adiye-yi osmaniyeyi iade eylediklerinden bu gibilerin istirdâdlarında müşkülât çekilmeyip yalnız avdetlerinde kendilerinin hangi cürümden dolayı iadeleri taleb olunmuş ise ondan dolayı mahkûmiyetleriyle iktifâ olunması lazımdır. Saniyen firarilerin cerâim-i siyasiye ashâbından ve salisen askerden olmaları ve kendileriyle hukuk-ı adiyye ceraiminden birinin isnadı ve o suretle ithamları dahil-i imkân bulmaması halleridir. Bu suretde bunların istirdâdları kesb-i müşkülât ider."

shape concomitant with political developments and evolving legal perceptions. As the notion of the law of nations came to be advanced in the seventeenth century, interstate relations were reoriented around the new idea of state sovereignty. The Roman custom of *locus regit actum* (the place governs the act), which Europe had adopted to secure justice and prevent impunity, gradually became a cardinal principle for territorial sovereignty. Thus, the diplomatic courtesy of earlier centuries gave way to bilateral conventions that addressed the criminal mobility and the practice of extradition. Only in the nineteenth century, did these treaties assume the standard form and content of extradition treaties proper. However, conflicting law and judicial variances exemplified the impossibility of depending on treaties.

Extradition treaties of the nineteenth century were an official response to increasing sweeping of transnational crimes on the global stage, addressing it under the auspices of international law. Extradition was also an aspect of domestic security, and states formulated resolutions against it in their penal codes. Both executive and judicial state authorities regulated the operational procedures. As the subject of extradition touched on questions of territorial jurisdiction and nationality, the subfield of private international law dealt with this issue. This situation notably applied to the Ottoman case since extradition was never treated independently of the issue of subjecthood and jurisdictional impediments posed by the capitulations. The existence of the consular system eliminated the need for extradition treaties because the notion of a fugitive criminal had little meaning in the Ottoman Empire. Consuls already had the right to try their nationals in situ. On the other hand, there were no reciprocal regulations to prevent the impunity of Ottoman criminals who sought refuge in a foreign state. Accordingly, this chapter briefly outlines the capitulatory

system and its place in the Ottoman judicial structure. In so doing, it has also pointed out the legal reforms introduced in the nineteenth century.

The only official treaty of the Ottoman Empire was an 1874 agreement with the United States, which was never effectively applied. The regulations of previous centuries and their distinctive stipulations were reiterated in peace treaties signed after wars. Given the absence of treaties, the Ottoman state faced a serious challenge in responding to the contemporaneous increase in transnational crime. Security along the frontiers, in particular, required other means of maintaining order. This chapter provides a preliminary introduction to these efforts, which are analyzed in depth in the following chapters.

Finally, this chapter presents Ottoman engagement with international law with an account of educational reform in the legal profession. The Office of Legal Counsel was a leading institution to which this engagement took place. As emblematic Tanzimat statesmen in the Ottoman bureaucracy, the legal advisors of this office had expertise in both law and assorted state affairs. The legal opinions they put forward formed the primary stance of the empire on extradition. This chapter also presents how normative law addressed the practice of extradition with a comprehensive analysis of Ottoman legal books in which legal scholars treated the issue in the context of territorial sovereignty and the capitulation system.

CHAPTER 3

SEEKING JUSTICE ABROAD: OTTOMAN INTERSTATE COLLABORATION AGAINST *KAİME* FORGERS

> Changing the scale of a map is a matter not simply of depicting a constant reality in a larger or smaller format but of changing content of the representation (that is, the choice of what is representable). Note, incidentally, that in this sense the "micro" dimension enjoys no particular privilege. It is the principle of variation that is important, not the choice of any particular scale.[228]

In February 1858, Italian authorities reported that some individuals were producing counterfeit *kaime* (Ottoman paper money) in Turin. Count de Salmour[229] of the Italian Ministry of the Interior notified Ottoman envoy Rüstem Bey about the circumstance. A printer using the alias Mircovich ordered a vast amount of good quality paper from Charles Lena, the director of the Avando Brothers paper factory in Sassari, a small town in Sardinia. The size of the order and circulating rumors raised the suspicions of the authorities. Although the director denied all the accusations of the *Questura* (the Italian police), he later admitted to delivering the materials to the district of Madonna del Pilone near Turin. The paper was sent to an apartment in the same building where Mircovich (whose real name was Dimitri Calvocoressi) lived. Even though he was nowhere to be found, his accomplices Alexandre Venanzi, Louis Varallo Pandolfini, and Ambrosio Bondesio were arrested. The gardener of the apartment building, Jean Berrino, confirmed police suspicions by providing a leather case containing 4181 bills of 20 Ottoman piasters

[228] Revel, "Microanalysis and the Construction of the Social," 495.
[229] Rugiero Gabaleone di Salmour (1806-1878). French politician and state official, having double citizenship from France and the Sardinia-Piedmont. Count Salmour was a senator and member for years in the Chamber of Deputies of Sardinia-Piedmont Kingdom. See, Gentile, "SALMOUR, Ruggiero Gabaleone conte di" https://www.treccani.it/enciclopedia/ruggiero-gabaleone-conte-di-salmour_%28Dizionario-Biografico%29/

(kuruş) each as well as the accomplices' bank accounts. He had found the bag covered with snow in a vineyard not far from the house.[230] A yearlong investigation uncovered an extensive criminal network that not only linked Turin to Istanbul but other corners of Europe and the Ottoman Empire, as well.

This chapter adopts a legal approach to the subject but over a larger time frame. On the micro-scale, it is the story of a Greek merchant and forger, Dimitri Calvocoressi (alia Mircovitch), and an Italian lawyer Ambrosia Bondesio who brought this vivid historical episode in the late 1850s into being. The criminal network they initiated was the effect of sweeping changes on the world scene. A decade of war and the unification of Italy were underway, an atmosphere from which frauds of all sorts profited. In this respect, this episode suggests an alternate reading of the Crimean War (1853-1856) and *Risorgimento* period (1848-1871) beyond their nature as military conflicts.[231] On a macro-scale, the data enable a comprehensive analysis of a case study that yields a much broader historical picture.[232]

The Ottoman Empire was undertaking far-reaching measures to develop the state's judicial power and capacity, which is the precise point from which this chapter intends to move forward. In the absence of extradition treaties, the case of the *kaime* forgers became the first serious efforts by the Ottomans in the international arena to seek justice ex gratia. In the face of war, the judicial collaboration with Italy

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[230] BOA HR.H169/2, 15 February 1858.

[231] Great number of books on the memories of war participants were published during the war time and afterwards. For some of them: See, Bazancourt, *Cinq Mois au Camp Devant Sevastapol*; Conway and Bayley, *Soldier-Surgeon: The Crimean War Letters of Dr.Douglas A.Reid, 1855-1856;* Calani, *Scene Della Vita Militare in Crimea*; Clifford, *Letters and Sketches from the Crimea*; Evelyn, *A Diary of Crimea*; Reid, *Memories of Crimean War, January 1855 to June 1856*; Robinson, *Diary of the Crimean War*; Heath, *Letters From the Black Sea During the Crimean War, 1854-1855*; Hornby, *Constantinople During the Crimean War*; Slade, *Turkey and the Crimean War: A Narrative of Historical Events,* (London; Smith-Elder, 1867.

[232] Recently, *Past&Present* published a special issue on micro and global history writing. For some of the preliminary remarks and analysis: See, Ghobrial, "Introduction: Seeing the World like a Microhistorian;" Vries, "Playing with Scales: the Global and the Micro, the Macro and the Nano," and Levi, "Frail Frontiers?".

and the legal challenges encountered are crucial for understanding how interstate security devices worked for the Ottoman state in times of crisis. This chapter recounts an early example of how Ottoman international relations were not limited to political and economic alliances but evolved through diverse diplomatic dialogues and legal mediations. In particular, recent penal codes played a decisive role as a basis for legitimate judicial collaboration. Artful diplomatic agents became the advocates of a novel legal rhetoric to achieve this.

Most studies in the existing academic literature focus on the Hamidian era in contrasts to a dearth of studies on Ottoman struggles with transnational crime in earlier decades. The earlier periods are crucial to understand the seeds of an Ottoman security organization expanding beyond the domestic setting.[233] How did the Empire deal with crimes that transcended state borders? How did judicial and security policies align with existing reforms at home? How did parties settle conflicts between their laws? What was the role of penal codes? How were fugitive criminals put on trial? Few studies focus on the kaime forgery and its global impacts.[234] The

[233] The studies of Ilkay Yılmaz meticulously address the Hamidian security policies and passport regulations. See Yılmaz, *Serseri, Anarşist ve Fesadın Peşinde;* "Propoganda by Deed and Hotel Registration Regulations in the Late Ottoman Empire"; "Governing the Armenian Question Through Passports in the Late Ottoman Empire (1876-1908)". For other works on late Ottoman policing: See, Levy-Aksu, "A Capital Challenge: Managing Violence and Disorders in Late Ottoman Istanbul"; Deal, *Crimes of Honor, Drunken Brawls and Murder – Violence in Istanbul Under Abdulhamid II;* Özbek, "Policing the Countryside: Gendarmes of the Late-Nineteenth-Century Ottoman Empire (1876-1908)"; Gutman, "Travel Documents, Mobility Control, and the Ottoman State in the Age of Global Migration, 1880-1915"; *To Kill a Sultan,* ed. Alloul, Eldem and Smaele,; and the special issue of *The late Ottoman port-cities and their inhabitants: subjectivity, urbanity, and conflicting orders.*

[234] Among these works, the recently published book by Marc Aymes unravels a forgery incident in 1844. The book is centered around a criminal forgery network organized by a Greek captain from Corfu and a French lithographer from Grenoble: See, Aymes, *Les Faux-Monnayeurs d'Istanbul.* For the other examples: See, Kılıç, "XI. Yüzyılın ikinci yarısında Osmanlı Devleti'nde Kalpazanlık Faaliyetleri," and Taşkın, "1844 Tashih-i Sikke Sonrasında Para Düzeni ve Kalpazanlık"; Baytimur, "Osmanlı Devleti'nde Kalpazanlık Faaliyetleri ve Uygulanan Cezalar (1789-1808)". Also see Cörüt, "Social Rationality of Lower-Class Criminal Practices in the Nineteenth Century Istanbul," Gürsoy, "Osmanlı İmparatorluğu'nda Sikke Kalpazanlığı (1808-1861)," Karakaya, "Osmanlı Ceza Hukukunda Parada Sahtecilik Suçu," and Öztel, "Osmanlı Devleti'nde Madeni ve Kağıt Para Kalpazanlığında Yabancıların ve Yabancı Ülkelerin Rolü (1818-1923)"; "Osmanlı Devleti'nde Kalpazanlık ve Sahte Para (1818-1914): Kalpazanlığın ve Tedavül eden Kalp Paraların Sosyo Ekonomik Etkileri"; "Ingiltere'de Osmanlı Meskukatı Konulu bir Kalpazanlık Olayı: Anthony Cavocaressi ve Thomas Moss Davası". Especially, the studies of Öztel use numerous archival documents that are broad in

crimes of transnational character required close collaboration as each state held jurisdictional competency for crimes took place in their territories. The legal scholar Servet Bey underlined that point, stating that each state should punish the convicts under charge after their penal codes.[235] Thus, this chapter contributes to the few existing works by addressing how a significant crime became an international question on the global stage.

scope on forgery and touch upon certain judicial points relevant to the capitulations and immunities of foreign subjects. However, his main arguments could not go beyond falling into the trap of portraying a weak Ottoman state that had to cope with foreign pressure. Öztel argues that widespread activities of forgery in the Ottoman lands were the result of immunities foreigners cherished without the fear of being punished and the inability of Ottomans to confront them. On the contrary, the archival materials I analyzed demonstrate a more complicated picture that could not be easily explained by power imbalance.

[235] Servet, *Hukuk-ı Ceza: Malumat-ı Umumiye ve Kısm-ı Cürm,* 63-64: "Cerâim-i mütemadiyede cürm bir anda nihayet bulmayarak mütemadi edebileceğinden bir memleket-i ecnebiyede başlar ve Memâlik-i Osmaniyede devam edebilir. Şu hâlde bir cürm mütemadi ancak Memâlik-i Osmaniyede ikâ olunan silsile-i ifâl ile memleketimizde ikâ edilmiş ad olunabilir, …Ifâlden bir kısmı Memâlik-i ecnebiyede diğer bir kısmı Memâlik-i Osmaniyede ikâ edilmiş ise muhakeme-i Osmaniye ancak ifal-i ahireye itibar eder,"

Figure 3. Portrait of the transnational thief Paolo Maltese (alias Nicolas Demetrius), who committed crimes both in Austria-Hungary and the Ottoman Empire in 1878. He was first imprisoned in Austria-Hungary, then extradited to the Ottoman Empire after a yearlong sentence.[236]

[236] BOA HR.H. 382/11. His nationality was not stated in the document.

3.1 Forgery and Extradition

Forgery was a grave offense that directly threatened a state's interests and crippled economic confidence. But the growing threat of international forgery attracted worldwide attention only in the early twentieth century. Since then, states have sought common solutions at the international level. But even before that time, forgery had never been considered to be an ordinary crime but rather an anarchic activity. Grotius defined them as such and supported legal sanctions against such anarchic activities that put public order at risk.[237] As an early example, Henning Friedrich Bargum, a Danish merchant, was accused of the embezzlement of 174,000 fake florins in 1791. After seeking refuge in France, Bargum was arrested in Huningue, and his extradition became a hot topic between the French and Viennese governments. Fearing Bargum's harsh punishment, France protected him and proposed an international measure for such a crime that "touches the interests of all nations and their public fortune that rests on the security of national papers."[238] As such, crimes of this nature during the Age of Revolution became part of an endless debate; the political motives attributed to their actions frequently situated the forgers as anarchic heroes who resisted state authorities.[239] Extradition served as a powerful international tool employed against forgers in the next century and every extradition treaty incorporated regulations with respect to forgery.

For the first time, on 5 June 1926, France suggested a worldwide meeting because the French National Bank was coping with an increase in forgery cases in branches abroad. In April 1929 the delegates of many states came together in

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[237] Keene, "Introduction", *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*), 2.
[238] Reuss, "L'Affaire des Faussaires de Vienne Arrêtes a Huningue et l'Assemblée Nationale (1790-1792) d'Après Quelques Documents Inédits," 300.
[239] This term refers to the late 18th - mid 19th centuries. The historian Eric Hobsbawm contributed to its popularization as a term when he published his book that has the same title.

Geneva. The meeting, which was inaugurated by the president of the National Bank of Czechoslovakia, was initially unable to agree on an extradition treaty due to difference in jurisdiction. Ultimately, an agreement was endorsed as part of the League of Nations Treaty Series, and it was officially put in force in March 1931. Forgery was declared a crime under the prerogative of the extradition regulation. The agreement remains valid today.[240]

The Ottoman Empire had no agreement to apply with respect to the fraudulent activities of the *kaime* forgers in Italy. Italian kingdoms had extradition agreements among themselves. After *Risorgimento*, Italy, as a nation, likewise signed treaties with other states, which the Ottoman Foreign Ministry closely monitored. [241] In 1864, Fuad Pasha extensively reviewed these treaties which Rüstem Bey was collecting.[242] However, despite a few attempts, an official extradition treaty with Italy was never signed. The first official extradition treaty with Italy was only secured by the Republic of Turkey in 1926.[243]

The absence of treaties with the European states was related to the inequality of their relationship; the fetters of the capitulations devaluated the legal system of the Ottoman state as discussed previously. That capitulations were the foremost issue standing in the way of Ottoman legal autonomy is considered inconvertible, as this was the long-established practice. Nevertheless, this idea should be treated with

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240 Dupriez, "La Répression Internationale du Faux-Monnayage" and *Compte Rendus de la Conférence Internationale pour l'Adoption d'une Convention Pour la Répression du Faux Monnayage : Genève, du 9 au 20 avril 1929 ;* and "International Convention for the Suppression of Counterfeiting Currency and Protocol. Signed at Geneva, April 20, 1929"; "Rapport Faux Monnayage", *Troisième Conférence International d'Unification du Droit Pénal.*

241 For the list of Italian extradition treaties: See, Fiore, *Traite Droit Pénal International et de L'Extradition,* Vol. I, 302-304.

242 BOA HR.TH 3/16. The Ottoman Foreign Ministry received the copy of the treaties between Italy-Britain and Italy-USA: See, BOA HR.TO 512/31 and HR.TO 512/23.

243 BOA HR. HMŞ.İŞO 164/19; BOA HR. İD 2100/40; and BOA HR. İM 193/89. See, "Trattato di Estradizione del 19 Giugno 1926 tra l'Italia e la Turchia". It was signed by Benito Mussolini, the Prime Minister of Italy (1922-1943) and Suad Bey (Davaz), the Turkish ambassador to Italy (1923-1932).

caution. Customary application aside, the jurisdictional privileges of foreign subjects guaranteed by the capitulations were limited in the treaties.

The passages concerning judicial rights in the treaties signed with the Kingdoms of the Two Sicilies in 1740, with Sardinia in 1825, and with the Duchy of Tuscany in 1833 makes this last point explicit.[244] The content of these passages in each of these treaties are facsimiles of all other capitulation treaties. No plenary authority was given to the consuls except in civil and criminal cases between their nationals and other foreign consuls.[245] No right to adjudicate or hand down sentences in criminal cases involving Ottoman subjects was granted to the consuls, and commercial cases were likewise to be resolved in mixed courts.[246] In such legal cases, the trial and judgment were the mandates of the Ottoman legal system. The only distinctive procedure was the right of dragomans or consular representatives to

[244] These treaties later became the model of the 1861 Treaty of Navigation and Commerce with Italy. *Report of Edward A. van Dyck, Consulate Clerk of the United States at Cairo, upon the Capitulations of the Ottoman Empire since the Year 1150, part I,* 19.

[245] For instance, the Italian consul demanded in 1867 the application of Italian laws in the mixed courts of the legal conflicts that included the Ottoman subjects. The Ottoman Foreign Minister, Fuad Pasha, refused the request pushing the consulate to convince the Italian government to step back. BOA HR.H. 511/52.

[246] *Sardinya Devleti ile Münâkıd olan Muâhede; Madde 4:* "Sardunya tebaâsı beyninde zuhûr iden da'vâ ve münazaât elçi veyahut konsoloslar marifetiyle rü'yet olunub eğer Devleti Aliyye tebaâ ve reayâsıyla Sardunya reayâsı beyninde niza' ve da'vâ vâkıa olur ise tercümanı hazır olduğu hükkâm ve zabitân vesair taraflarından bilmûceb dahl ve taarruz olunmayub töhmetleri vukûnda sair müsteminân haklarında muamele olunduğu vechle elçileri ve konsoloslarının **inzimâm** ve **marifetiyle** iktizâ eden te'dîbleri icrâ oluna"; *Sicilyateyn Devleti ile Münâkıd olan Muâhede, Madde 4: "*Konsolos ve tercümânları ile da'vâ-yı zuhûr ider ise dörtbin akçeden ziyade da'vâ olunduğu hâlde da'vâları sâire mahâlde istimâ' ve fasl olunmayub Asitâne-i Saâdete havâle oluna ve kezalik Devlet-i Aliyye reayâsıyla kral-ı müşarünileyh tüccâr vesâir reayâları ve himâyesi altında olunanlar bey'ü serâ ve ticâret huşularıyla vesâir bahane ile da'vâ ve kâzaya vardıklarında tercümânlarından biri bulunmadıkça da'vâları istimâ've fasl olunmaya ve borçları ve kefâletleri ma'mûl be senedât ve defter olmadıkça da'vâ olunan deyn içün hilâf şeri'-yi şerîf müdâhale olunmaya ve tüccarı beyninde da'vâ zuhur eyledikde bu makule olan da'vâları konsolos ve tercümânları **vesâtetleriyle** şurût ve kaideleri üzere görülmesi câiz ola ve bu muâmele hîn-i iktizâda onların memleketlerinde bulunan devlet-i aliyyenin tüccâr ve reayâsı haklarında dahi böylece mer'î tutula", *Madde 5:* "Devlet-i Aliyye'nin hükkâm ve zabitânı kral-ı müşarünileyhe tâbi' olanlardan her kim olur ise olsun bir ferdini bilâ-vech ta'sdi ve tahkir ve habs itmeyeler ve reayâlarından bir kimesne ahz olunduk da vekili ve konsolosu tarafından taleb olunur ise teslim olunub töhmetlerine göre te'dîb oluna". See, "Devlet-i Aliyye ile Düvel-i Mütehabbe Beynlerinde Teyemmünen Münâkid Olan Muahedât-ı Atika ve Cedideden Memurîn-i Saltanat-ı Seniyeye Müracaâtı Lazım Gelen Fukarât-ı Ahdiyeyi Mutazammın Risaledir".

attend and officially confirm sentences. After that, consuls had the right to detain their own citizens in consular prisons.[247]

In practice, Ottoman and Italian authorities occasionally delivered criminals ex gratia.[248] Nationality and whereabouts of the crime were the key determinants of this policy. Even if the parties were reluctant to hand over their own citizens, they often strayed from this principle depending on the nature of the crime and where it was committed. If the crime did not directly harm the interests of the Ottoman state, fugitives were usually delivered to consular authorities within the empire. In the alternative scenario, Italians would deliver them via sea from Italy.[249]

Nevertheless, customary practice frequently prevailed over the rule of law and obscured the implications of the written texts: namely, capitulations implied unequal treatment before the law. For example, the proposed penal legislation, prepared by the Italian legal expert Pasquale Fiore (1837-1914),[250] which would have regulated criminal sentences abroad, is consistent with the double reality of the capitulations. Articles 31 and 32 stated that Italian consuls in Turkey and other states of similar standing had the absolute right to "arrest, judge, and punish" Italians in

[247] While Germany, Holland, Russia, Austria and US renounced the right to imprison their subjects in the Ottoman prisons; England, Spain, France, Italy, Greece, Sweden and Persia allowed this option under certain conditions: Brown, *Foreigners in Turkey: Their Juridical Status*.
[248] This practice is representative for other European states, as well.
[249] Giacomo Giorgio, an Italian that escaped to Izmir after committing theft and murder was delivered to the Italian authorities in 1865: BOA HR.H. 170/5. In 1875, two bohemian comedians who attacked the Ottoman consular members in Brindisi were placed to an Austrian by the Italian authorities to be sent to an Ottoman port: BOA HR.H. 311/63. Even though Abdullah Suleiman was an Ottoman subject, he was arrested by the Italian authorities because of his offense on an Italian ship and his escape thereafter in 1872. The extradition was not possible as the offense was outside of the empire and as he was responsible for the escape of an Italian who murdered the member of the Italian consul in Izmir: BOA HR.H. 170/11. The fraud Osman, alias Joseph Raskovic, escaped to Italy for an embezzlement incident in Belgium in 1866. Because of his dubious identity as an Ottoman and the place of crime, the Ottoman government guaranteed not to interfere in the process of his extradition to Belgium: BOA HR.H. 164/20. In 1874, the Ottoman Vice Consul of Civita Vecchia was arrested and imprisoned in Italy for defraud and fake documentation. Despite he was under consular protection, his identity and the severity of crime blocked the Ottoman protests. BOA HR.H. 164/48.
[250] The well-known Italian jurist and expert in international law.

those territories.[251] There was no need for extradition since a simple arrest warrant was sufficient for consuls to initiate proceedings. For this reason, they "neglect(ed) all discussions of the reasons that motivated such an exceptional choice," by which Fiori referred to the capitulatory regime.[252]

Clearly, the import of the capitulations increased twofold in the interpretation of its advocates. The capitulations were used to argue against extradition, but this treaty system of agreements was not the issue. The dearth of a comprehensive Ottoman civil, criminal, and procedural legislation empowered this use of capitulations to justify European claims of supremacy over the weak Ottoman judicial apparatus. In the meantime, European states had long protected their judicial sovereignty via their penal codes. The nature of legal relations with Europe changed saliently after the accelerated efforts of the Ottoman Empire to codify their legal practices. These developments contributed to a broad policy change regarding legal conflicts with foreign parties. The Tanzimat envisioned a government body bolstered by taxation and conscription and ultimately legitimated by state law and ideology. Herein, legal reforms played equally a significant role in establishing the relations between the state and society.[253]

The policies employed in this early Ottoman legal venture in the international arena were examples for future attempts to deal with transnational crimes. Later efforts herein owed as much to accumulated legal knowledge as the experiment and technical knowhow as to diplomacy. It is striking how penal codes assumed both a

[251] It is a question to ponder on why Italy had extradition treaties with Siam and China in the nineteenth century, while it was reluctant to have one with Japan and the Ottoman Empire. These were the four powers that were usually treated within the same category of semi-civilized states. Among many other factors, I think this situation mainly signals the imponderable nature of relations among the states. For a good comparison with the historical developments in Japan and China: See; Hobsbawm, *The Age of Capital,* 178-186.
[252] Fiore, *Traite Droit Pénal International et de L'Extradition,* Vol. I, 25.
[253] Kırlı, "Tanzimat: Düzen ve Kaos", 80.

territorial and personal character in interstate legal mediations.[254] Despite chaos created by the *kaime* forgers, the atmosphere did not push Turin, Istanbul, and Bologna into a political tug of war or a diplomatic crisis. On the contrary, the states closely collaborated and developed confidence in one another's police forces, diplomatic agents, and legal apparatuses.

3.2 The Crimean War through Rogues and Impostors: The *Kaime* Forgers[255]

> A few days ago, at a late hour, a merchant saw a packet on the ground while visiting a friend near the Ağa Cami. Opening it, he found 70,000 piastres of false caimes of 250 piastres each. Then, two individuals passing by claimed a share of the discovery, and he had to give half of the money to them. The merchant then admitted that they were fake and sent the money to the Grand Vizier. We are in search of those who forced him to share half of the amount.[256]

Such encounters in the streets of Istanbul have the taste of a fiction, but forgery was a common phenomenon in the 1850s and 1860s Istanbul. The official Ottoman newspaper *Journal de Constantinople Écho de l'Orient* reported similar cases from various corners of the city.[257] Beyond the specific reasons of given forgers, the

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[254] Billot explains this double character in the following words: "La loi pénale présente un double caractère; elle est à la fois territoriale et personnelle : territoriale, en ce sens qu'elle oblige tous ceux qui habitent le territoire, les étrangers comme les citoyens; personnelle, parce qu'elle oblige les citoyens, même en pays étranger, et que, s'ils commettent une infraction en pays étranger, elle permet de leur en demander compte, lorsqu'ils reviennent dans leur patrie. Cette doctrine, il est vrai, n'est pas encore universellement admise. D'après certains jurisconsultes (l), la loi pénale serait essentiellement territoriale ; le droit de punir n'appartiendrait qu'au pays sur le territoire duquel l'infraction a été commise. Plusieurs législations suivent encore ce système. Toutefois, ces divergences n'infirment en rien la théorie qui va être établie. Il y avait lieu seulement de les noter, pour prévenir que, dans la pratique, elle n'est pas applicable en toutes circonstances." Billot, *Traite de L'Extradition*, 228-229.

[255] For this title, I am inspired by the chapter "Impostors and Incorrigible Rogues" of the following book: See, Cole, *Suspect Identities: A History of Fingerprinting and Criminal Identification.*

[256] *Journal de Constantinople Echo de L'Orient,* 13 March 1858: "Il y a quelque jours, un négociant se rendant vers le tard chez un de ses amis demeurant du côté d'Ağa Cami, aperçut par terre un paquet. L'ayant pris et ouvert il y trouva pour 70.000 piastres de faux caimes de 250 piastres. Au même moment, deux individus qui passaient par là, réclamèrent leur part de la trouvaille, et la moitié des caimes leur fut donnée : le négociant reconnaisse ensuite qu'ils étaient faux, les envoya chez le grand-vesir. On est à la recherche de ceux qui l'ont force de partager avec eux. »

[257] For some other examples: See, *Journal de Constantinople Echo de L'Orient,* 17 Fevrier 1858, 12 June 1858, 6 November 1859, 30 October 1860. Forgery in the Ottoman lands was not only restricted to that period. In earlier decades, there were numerous cases of an international character, as a series of archival documents demonstrate. One outstanding example was the forgery network dating back to the 1840s. A group of forgers, led by Mihail Patyoni, an English of Greek origin, produced fake

circumstances that eventually paved the way for the Crimean war fully explain the alarming rise in forgery.[258] The period was decisive for the histories of both the Ottoman Empire and world as the shifting balance of power left its mark on postwar international settlements.

After the Napoleonic Wars (1803-1815), most European powers were determined to avoid the same suffering in the future. Thus, the ensuing 1815 Congress of Vienna envisaged a world order undergirded by international law to secure public order and political stability.[259] Emblematic of such diplomatic relations, the Concert of Europe was too fragile in the face of upcoming revolutions. The police networks of the Restoration Period, which were established throughout Europe under the initiative of Metternich were likewise ineffective in preventing increasing agitation.[260]

After decades of turmoil, the Crimean War initiated a new phase in diplomatic relations by reorienting global politics.[261] The Treaty of Paris (1856) and

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kaimes and put them in circulation in the Ottoman empire. After employing diplomatic negotiations with English officials, the Ottoman state arrested many of them: See, BOA HR.SFR.3 4/28, 4/14; BOA MVL 846/49, 224/3; BOA HR. MKT 41/55.

[258] There were many forgery incidents reported in Istanbul. In January 1859, the Ottoman consul in Siros wrote on three Italian forgers active in Istanbul. With a network covering Istanbul, Marseilles, Messina, Corfu, and Naples, Guiseppe Civicoff, Giuseppe Lopetz and Nicolo Feranti were arrested and later acquitted by the Greek authorities due to lack of evidence. BOA HR.H. 169/4, BOA MVL. 830/105, BOA HR.MKT. 281/15. In October 1858, a printer was arrested in New York for forging Ottoman kaime. It turned out that an Armenian woman from Istanbul, Sevasti, encouraged fake fabrications. Sevasti was similarly acquitted of all the allegations due to lack of evidence. BOA HR.H. 114/2, BOA C.DRB. 42/2070. In February 1861, Marcellino Minasi and Frederic Bianco were arrested in Messina, who were convicted by both the Ottoman and Italian tribunals. The delay in delivering the documents to the Italian authorities resulted in the release of the two suspects. BOA HR.H. 170/2.

[259] Jarrett, *The Congress of Vienna and Its Legacy: War and Great Power Diplomacy after Napoleon,* 353.

[260] By 1815, all German states had their *Sicherheits-Kommission* (security commissions). Metternich led the establishment of police stations in Venice and Milan, whereas the Papal States had their *Carabinieri Pontifici* (pontifical police force) responsible for all the security measures. Besides, Metternich also coordinated other bureaus for the secret societies active in Italy. France outstood as the power with a police force less equipped for contemporary needs among these states. See, de Haan and van Zanten, "Constructing an International Conspiracy Revolutionary Concertation and Police Networks in the European Restoration," 185.

[261] See, Alexander, *Europe's Uncertain Path, 1814-1914: State Formation and Civil Society;* Mitzen, *Power in Concert: The Nineteenth-Century Origins of Global Governance.*

the subsequent congress were pivotal in legitimating the postwar claims of each participant state. Austria lost its garrison in the Balkans, and Russian dominance of the Black Sea was curtailed by making it a neutral and open for free navigation. The defeat was a call for urgent reform against the autocratic regime in Russia.[262] On the victorious side, Britain was proud to undertake the task of restoring the European balance of power. Despite heavy war losses and public dissent at home, the British Empire secured its long-term economic investments.[263] Likewise, France retained a powerful position in European politics until 1870, when it would be defeated by the Prussians at war.[264] The Italian peninsula was in the midst of civil war amid Sardinia-Piedmont's participation in the Crimean expedition. But by 1871, Italy would appear on the world stage as a united nation. [265]

[262] See, Ardelenau, "Russian-British Rivalry Regarding Danube Navigation and the Origins of the Crimean War (1846-1853)," 165-186; and Radzinsky, *Alexander II: The Last Great Tsar*; *Russia's Great Reforms, 1855-1881;* John Laver, *The Modernization of Russia, 1856-1985.*
[263] See, Markovits, *The Crimean War in the British Imagination.*
[264] Hobsbawm, *The Age of Capital: 1848-1875,* 97.
[265] Thanks to the alliance established with France and England, the Kingdom of Sardinia-Piedmont sent a troop of 15.000 soldiers to the battlefronts in the last years of the war. However, the Ottoman government requested a separate agreement for allegiance to ensure the support of this kingdom all the way. See, BOA I.HR. 5799/5. Also see, Grassi, "Sardinya Krallığı'nın Kırım Savaşı'na Katılması," 80-86. Also see, Tirelli, "the Unification of Italy as Seen Through the Ottoman Diplomatic Correspondences (1848-1870)."

Figure 4. The Map of Italian Unification (*Risorgimento)*[266]

Prima facie, the aftermath of war brought recognition and a new position for the Ottomans in European politics. The participation in the congress and the concomitant reform agenda ostensibly reversed the empire's semi-sovereign status. International law was more frequently employed as a political apparatus in diplomatic relations. The new order of world politics became a common topic, as discussed in the press and in various publications on the international arena. For example, in November 1861, *The Times* published a review of Travers Twiss' recent book[267] in which the newspaper echoed the changing spectrum of international relations:

> It can hardly be expected that there should be many substantial novelty in a practical treaty on the Law of Nations; there is, however, some new matter in the work, and various improvements in the treatment of the old subject. Thus, the international status of the Ottoman empire and of the Argentine State in South America are subjects not heretofore discussed in any cognate treatise. The distinction of independence from sovereignty, the

[266] Lee, "The Kingdom of Sardinia," https://age-of-the-sage.org/history/italy_unification_map_pr.html
[267] Twiss, *The Law of Nations Considered as Independent Political Communities.*

> true characteristic of national life is more clearly defined, and the classification of certain States as conventionally independent, in lieu of their former classification as semi-sovereign States, is new.[268]

However, the Ottoman Empire would still face many challenges in its domestic affairs. Above all, the current state of affairs created a fragile economic situation that fueled speculation and necessitated fiscal regulation. Two large-scale foreign loans offered by Dent, Palmers & Co. and Rothschilds of London were poised to bring about economic recovery after the expenditures of wartime. It was the first time that the Ottoman government seriously considered accepting foreign financial aid.[269]

The state reintroduced paper money *(kaime*) into circulation as a short-term solution. The efficiency of this system was first tested in 1839. Previously, the government had taken a similar economic precaution when it was in a pinch by devaluing metallic currency. While the Monetary Standard of 1844 (*Tashih-i Ayar)* brought about a temporary solution to growing inflation, the outcome of the war, followed by the issuance of paper money, led to another wave of economic problems. Easy access to foreign coins in Ottoman markets and the inability to ensure a healthy, credible monetary system created an atmosphere ripe for fraud.[270] Forgers flooded the Ottoman market with fake coins. [271] These forgers roamed free and crossed states

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[268] "International Law", *The Times*, 22.
[269] Eldem, "Ottoman financial integration with Europe: foreign loans, the Ottoman Bank and the Ottoman public debt", 434; Martykánová, "Public Debt After a Defeat: Negotiating the French image of the Ottoman Empire as debtor in the aftermath of Russo-Turkish War of 1877-78", 58.
[270] Amid the Civil War, President Abraham Lincoln (1861-65) and his Secretary of Treasury Salmon P. Chase (1861-64) devised a similar policy and introduced paper money to the financial markets. Chase brought the "Legal Tender Act" to the attention of Congress, and they decided producing papers known as greenbacks in value of 150 million dollars. As a solution to the war expenses, both the people and shareholders used the greenbacks. That new state policy likewise provided a heaven for frauds. Keneally, *Abraham Lincoln: A Life,* 135-136.
[271] Subsequent damage exacerbated the already severe problems of the Ottoman fiscal system, a situation which has already mainly been analyzed through an economic perspective.
Edhem Eldem thinks that the Ottoman monetary system followed an erratic course throughout the nineteenth century, particularly from the reign of Mahmud II to the outbreak of WWI. Despite the periodical monetary reforms carried out, the experiments on metallic, paper money and banknotes did not drastically change the existing situation. They instead reflected at a continuous fiscal instability. Eldem, "Chaos and Half Measures: The Ottoman Monetary 'System' of the Nineteenth Century",

borders by using different identities. In a time of crisis that had ended with global economic and social changes, states inadvertently lost track of border control in the face of more pressing problems. The crisis of mobility created its own trouble, as exemplified by forgers who freely traversed state boundaries in pursuit of material wealth.[272]

Thus, the Crimean War was not just about military conflict. The frontlines were also the locus of encounter and complicity for profiteers.[273] A bill of indictment on forgery, issued by the Bolognese Court of Appeal on 4 April 1861, directly referred to this point.

> The Crimean expedition, which was one of those events that hastened the glorious resurrection of Italy, was at the same time the cause that many individuals went to the East, not to defend the endangered civilization there, not to acquire glory on the battlefields, but to seek sudden profits and to repair the hardships of fortune.[274]

251-252; and 275.Also see, Akyıldız, *Para Pul Oldu: Osmanlı'da Kağıt Para, Maliye ve Toplum*; Pamuk, *Osmanlı Imparatorluğu'nda Paranın Tarihi*; Mine, *Osmanlı Imparatorluğu'nda Kağıt Para (Kaime).* It is to be underlined here that this period is one part of a larger historical timeline which is coined by many historians as 'the age of capital'. A detailed evaluation of the period in all its aspects can be found in the famous book of Eric Hobsbawm, the title of which also carries the name of the epoch. See, Hobsbawm, *The Age of Capital: 1848-1875*. On the other hand, many Ottoman historians also evaluated the period with its relation the Ottoman economy. It is thus important to place and analyze the economic upheavals the empire within a broader scope of economic developments in the world. For the world economy, the age is considered as growth period in production and accumulation of wealth. As for the Ottoman case, the historians, except with few differences of opinions, agree upon the idea that the economic flourishment was not even close to the level experienced by other states in the world, and Crimean War had a decisive role in that situation. Consequently, economic instability came along with other social and political factors in the Ottoman case. For different arguments, see Quataert, *Ottoman Manufacturing in the Age of the Industrial Revolution,*164, Kasaba, *The Ottoman Empire and the World Economy,* 88, and Geyikdağı, *Osmanlı Devleti'nde Yabancı Sermaye,* 92, and Özbek, "Policing the Countryside: Gendarmes of the Late-Nineteenth-Century Ottoman Empire (1876-1908)", 785.

[272] Katherine Unterman explains the "crisis of mobility" within a larger historical context. Her work on embezzlement in the US and the criminal mobility it bore on an international scale provides a good comparison for the forgery case in this chapter. The *boodler* problem was likewise usually treated under the extradition law: See, Unterman, "Boodle over the Border: Embezzlement and the Crisis of International Mobility, 1880-1890".

[273] The Crimean War was the first war that availed the new technology on photography. The journalists regularly reported and documented the progress at war zones by large-scale use of photography. This new publicity could have positively served the forgers in their purpose, as they could easily keep track of the latest developments. See, Bektaş, "The Crimean War as a Technological Enterprise"; Hannavy, *The Camera Goes to War: Photographs from the Crimean War*; James, *Crimea, 1854-56: The War with Russia from Contemporary Photographs*; Gernsheim, *Roger Fenton, Photographer of the Crimean War*.

[274] BOA HR.H. 169/5; Rüstem Bey to Ali Pasha, 25 April 1861.

These words perfectly apply to the case in Turin. The forgery at Madone del Pilone was organized by professional swindlers who shared wartime interests. Most were of Italian origin, mainly from Turin and Bologna. A steady population movement from Italy to Crimea and Russia had been underway since the seventeenth century, and as trade relations developed and commercial interests in the region consolidated in the nineteenth century, the numbers significantly increased.[275] Consequently, a fraud network came to life in Turin, Bologna, and Istanbul during the war. The Beyoğlu quarter, in particular, became a scene of organized crime rivaled only by movie scripts.[276]

At the time, Istanbul was facing increasing crime related to demographic changes. The Crimean War ushered in urban transformation in the region. On one hand, the pace of city was hectic given the increasing number of foreign communities, especially in Pera and Galata. On the other, the city was a waystation for European soldiers awaiting their transport to the battlefronts. French, British, and Sardinian soldiers in the streets of Beyoğlu were a familiar sight. The flow of these populations prompted the state to generate new security policies to maintain order in the city.[277]

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[275] Gomez, "Migrazione Italiani in Nuova Russia e Crimea: Tracce, Fonti, Contesti in la Crimea tra Russia, Italia e Impero Ottomano," 134.

[276] BOA HR.H.169/5. Also See, Eldem, "Istanbul as a Cosmopolitan City: Myths and Realities," 220, Rosenthal, *The Politics of Dependency: Urban Reform in Istanbul,* 11, Badem, "Kırım Savaşı'nn Osmanlı Toplumsal Yaşamına Etkileri", 64, and Bekir Günay, "The Crimean War and Its Effects on Ottoman Social Life," 119. As a matter of fact, the exponential increase in the number of foreign nationals and the security problems thus increased was apparent since the 1840s. Charles White described this phenomenon as follows: "The subjects of foreign nations now amount to a numerous and formidable body-formidable from their iniquity. Pera and Galata are overrun with outcast Italians, reprobate Ionians and Maltese, dissolute Hellenic subjects, vaga- bond Sclavonians and Wallachians, Germans of many nations, but mostly of similar worthless character, and, lastly, with Perote and Galata Greeks, the most profligate and abandoned race of people on the habitable globe. Scarcely a day or night occurs without some atrocious crime being committed." See White, *Three years in Constantinople or Domestic Manners of the Turks in 1844,* 153-154.

[277] Hakan Kırımlı, "Emigrations from the Crimea to the Ottoman Empire during the Crimean War", *Middle Eastern Studies,* Vol.44, No.5 (Sep., 2008), p.761.

When it was discovered, the scene of the crime shelter at Madone del Pilone was no more than a lithography studio. Items were sprawled all over the place: paper in different qualities, a wooden press with two screws, a small press with a grass iron screw used for stamp production, and another press mounted on a bench for iron imprints. The forgers probably destroyed the counterfeit money as police found pieces of paper that had recently been burned in the hearth. Sardinian officials initially deferred to Ottoman agents for the official *kaime* samples for comparison with the counterfeit ones.

Rüstem Bey, the Ottoman diplomatic agent in Turin, sent several *kaime* papers tied with a ribbon that carried the seal of the Imperial Treasury. These ribbons bore an official inscription indicating that the paper money sealed within was authentic and produced by the Ottoman state. [278] In return, he requested that the fakes be bundled and delivered with a similar official note. [279] The authentication process was cumbersome not to mention unreliable. The Ottoman Empire was not yet prepared for such threats and relied on such methods rather than forensics.

However, it would not be long before Seropyan's invention was adopted. A similar forgery incident in New York in late 1858 prompted the Ottoman government to apply the invention patented by Christopher Dikran Seropyan (Ter-Serobyan) in 1856. Seropyan was an Armenian chemist from Istanbul. After being invited to the United States to settle in New York and develop anti-counterfeiting measures, Seropyan designed the colors that the US bills still carry today.[280] Horsford Smith,

[278] BOA HR.H 169/2.
[279] BOA HR.H. 169/2. The same procedure was followed for the judicial trial that took place in Bologna. BOA HR.MKT. 329/1.
[280] As Tigran Manukyan states, Seropyan received 6.000 $ for this project. After completing his training and mission in the project, he returned to Istanbul and continued his life as a pharmacist. Manukyan, "Christopher Ter-Serobyan, US Dollar," https://www.mersoft.am/en/famous-armenians/christopher-ter-serobyan.html

the Ottoman Deputy Consul in New York, recommended Seropyan's invention to "perfectly secure their bills and *kaimes* from the forgers."[281] As *Journal de Constantinople* revealed, the Ottoman government would soon experiment with Seropyan's invention.[282] In late 1858, 20-piastre Ottoman *kaime*s utilizing this design began being produced.[283]

The US government likewise began employing it in the face of frequent forgery since the American War of Independence (1775-1783). [284] According to a statement by the US Senate,

> this invention consists in printing banknotes on colored paper, with an ink which is equally or more fugitive than the tint of the paper, so that in destroying the tint of the paper, the letters thereon shall be equally destroyed; and, as the color of the banknote cannot be produced by the photographic process, it follows that the banknotes which are printed with such fugitive ink cannot be counterfeited. [285]

[281] BOA HR.H 114/2.
[282] *Journal de Constantinople écho de l'Orient,* 3 Mars 1858 : "Nous avons donnes, dans un précèdent numéro, un aperçu de la découverte chimique de M. le docteur Seropian, découverte qui intéresse le S. Porte, car elle a pour effet de prévenir la contrefaçon du papier monnaie. Nous apprenons que la valeur de ce procède a été, sur l'ordre du grand vesir, pleinement vérifiée. Les bank-notes américaines que le docteur Seropian avait préparées ont été rendues par la monnaie impériale sans qu'elle ait pu altérer le moins du monde leur couleur, tandis qu'une bank-note ottomane de 4.000 livres, remise à l'inventeur, a été retournée par lui ayant la couleur du papier entièrement effacée. Dans un pays comme la Turquie ou les faussaires sont si nombreux, cette découverte est d'une grande importance. »
[283] *Journal de Constantinople écho de l'Orient,* 18 Septembre 1858.
[284] BOA HR.H 114/2, BOA C.DRB 42/2070 ; *Journal de Constantinople, Echo d'Orient,* 10 Nov. 1858 ; Hatfield, "Faking It: British Counterfeiting During the American Revolution." https://allthingsliberty.com/2015/10/faking-it-british-counterfeiting-during-the-american-revolution/
[285] *Senate: Report of the Commissioner of Patents for the Year 1857,* Vol. II, p.404, and Mihm, *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the Unites States,* 301.

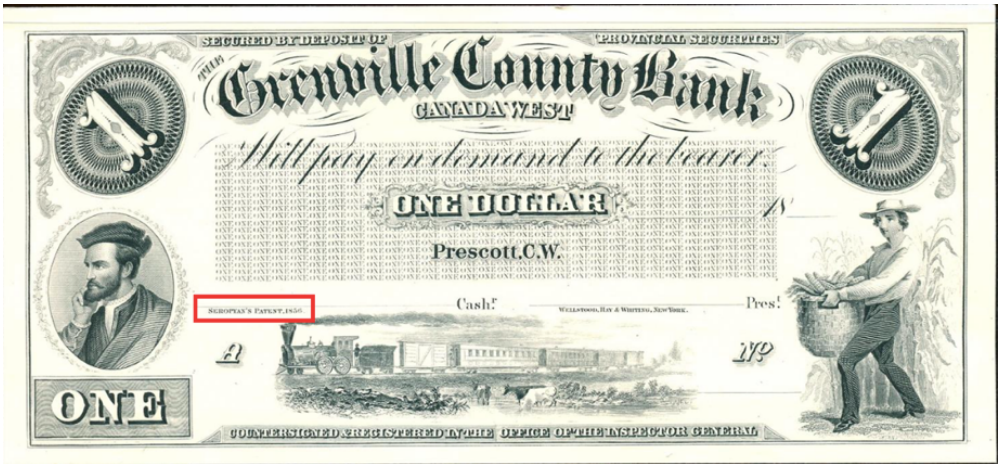

Figure 5. A Canadian dollar from 1856 using Seropyan's technique. The patent was acknowledged on the money itself, as the red annotation highlights.[286]

3.2.1 Diplomatic Networking: A Novel Foreign Policy

The ensuing police investigation in Turin unearthed a team of forgers: artists and professionals in the business of lithography.[287] Dimitri Calvocoressi, a Greek merchant from Istanbul, guided the organization. Calvocoressi set up shop in Pera with a lawyer from Galata, Marcello Brescianni; first in 1857 in Pera, then the team hid themselves in Turin. It turned out, however, that it was a project of old acquaintances dating back a decade to 1848.[288] Since then, Calvocoressi and his friend Ambrosio Bondesio, another Sardinian lawyer who had settled in Pera, had extended a complex web of forgery into various regions. Alexandre Venanzi, Louis Varallo Pandolfini, and Ambrosio Bondesio were arrested in Turin, and Dimitri

[286] This sample was produced by the Greenville County Bank in 1856 and it is no more in official use. The Canadian Numismatic Company Auction. https://www.numisbids.com/n.php?p=lot&sid=3649&lot=1560

[287] They were Dimitri Calvocoressi, Marcello Brescianni, Philippe Peppo Spadafora, Alexandre Venanzi and his wife Antoinette Biancardi, Philippe Peppo Spadafora, and Ambrosio Bondesio.

[288] BOA HR. H. 169/2, Fuad Pasha to Rüstem Bey, 29 March 1858. I could not figure out whether their acquaintance had any direct link to the 1848 Revolutionary events.

Calvocoressi and Marcello Brescianni would be detained in Istanbul soon afterward.[289]

Even though Bondesio was among the suspects arrested in Turin, he was released due to insufficient evidence. Count Cavour, the Sardinian prime minister,[290] opposed the arbitrary extension of his detention[291] despite his amity towards the Ottoman government.[292] However, the Bondesio house was the hub where his many companions and their several frauds came together. His interrogation provided the clues exposing the Bolognese forging teams.[293] Wartime commerce in liquor, animal skins, and wine expanded from Crimea to Istanbul and Bologna. Those engaged in this trade had long sought to expand their investments in illegal directions.[294] During the war, the Ottoman state issued *ordu kaime* (paper money for the military) to sustain the basic needs of the troops for staples such as meat and bread.[295] Issued in 10 - and 20- piastre denominations, this paper money was perfect for counterfeiting.[296]

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[289] At the time, Brescianni was also charged with embezzlement in Russia, where he travelled under the alias Edouard Bélisaire. BOA HR.H. 285/5 and BOA HR.MKT. 241/21.
[290] For the history of Italian Penal Code: See, Mittermaier, "Il progetto di revisione del Codice 1859 pel regno d'Italia, presentato al Senato in Torino nel 9 gennaio 1862," 49-52.
[291] Provisory detention was a judicial precaution taken to prevent the accused from escaping until a bill of indictment was issued. The extradition process also applied a similar regulation, in which the reclaiming party held the right to request such a measure be taken. See, Fiore, *Traité de Droit Pénal International et de l'Extradition,* II, 472.
[292] Bondesio's friends also made great efforts for his release by carrying the lawsuit to the pages of press. They accused the judicial authorities of keeping him in prison for five months without a trial. As there was no rogatory commission to prove his complicity, the Sardinian Tribunal released Bondesio on 29 November 1858. His release was the cause of much stress for the Ottoman state. Rüstem Bey described him as a dangerous criminal with talent and energy, whose calumnies, just like the support of press, could turn into public truth. This, in turn could damage the dignity of Ottoman Empire. BOA, HR.H. 169/3,169/5, BOA HR.MKT. 252/15, 282/95.
[293] BOA HR.H. 169/3, BOA HR.MKT. 272/32 and HR.MKT. 254/59.
[294] BOA, HR.H.169/5; "Procès-Verbal de la Cour d'instruction criminelle au Ministère Imperial de la Police."
[295] Sir Adolphus Slade, *Turkey and the Crimean War: A Narrative of Historical Events,* (London; Smith-Elder, 1867), p. 375.
[296] The Ottoman state was aware of the upcoming forgery threat. An official decree warned that precautions should be taken against such attempts. BOA, A.) MKT.UM. 156/47.

News of the forgery rapidly filled the headlines. [297] The Ottoman public easily kept track of the latest news on these forgers and their intricate network in the newspapers. Interest increased twofold as the criminals did not fit stereotypes. They were described as true gentlemen who had manners, dressed tastefully, frequented theaters, had the means to live in good houses, and possessed sizeable savings.[298] Indeed, the ongoing legal process and police operation remained confidential because it was difficult to capture figures with such a middle-class portfolio.[299] The Ottoman Foreign Ministry expressly warned Rüstem Bey to be discreet during the secret investigations launched in Turin and Bologna.[300]

When his accomplice in Turin was captured, Calvocoressi was already under provisional arrest in Birmingham for another alleged fraud. He had been caught with copper Ottoman coins. Under the questioning of the Birmingham Police, he asserted that he was working on behalf of the Ottoman government, but the Sublime Porte refuted his claims that he had received official permission to produce money. Since there was no clause in the British Penal Code allowing the use of Ottoman currency in the British market, Calvocoressi was released on bail. [301] Unaware of the police raid at Madone del Pilone, Calvocoressi returned to Istanbul to put the money into circulation in Ottoman markets. The Sardinian government was unconcerned for

[297] *Journal de Constantinople Echo de l'Orient;* 20 March 1858 and 27 March 1858.
[298] *Journal de Constantinople Echo d'Orient,* 11 Janvier 1861.
[299] Considering the political upheavals marked by democratic and liberal thought, the forgers were frequently caricatured as archetypal heroes challenging state authority. See, Barosky, "Legal and Illegal Moneymaking: Colonial American Counterfeiters and the Novelization of Eighteenth-Century Crime," 533-534, and Mihm, *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the Unites States.*
[300] BOA HR.H. 169/2, 25 February. 1858. There were other trials of small-scale that took place in Venice and Messina. BOA HR.MKT. 258/69, 379/29 and 325/9.
[301] Calvocoressi was in an accomplice with an English named Thomas Moss. The Ottoman Consul of Birmingham covered all the expenses of the prosecution, including the ultimate bail. Besides, the English police officers who assisted them received a significant sum of gratuity. BOA. İ.HR. 177/9725, BOA. HR. MKT. 275/60, 283/41, and 343/81, BOA HR.SFR. 3 48/13, *Journal de Constantinople,* 13 October 1858 and 27 October 1858, and Öztel, "Osmanlı Devleti'nde Madeni ve Kağıt Para Kalpazanlığında Yabancıların ve Yabancı Ülkelerin Rolü (1818-1923)", 174-175.

three reasons: the counterfeit money was not in circulation in Sardinia, he had not been caught in the act, and Calvocoressi was an Ottoman subject, which further cleared him of charges in Italy.[302] In May 1860, *Meclis-i Vala* (Ottoman Supreme Council) sentenced him to ten years of forced labor in Salonica in accordance with Article 143 of the 1858 Penal Code.[303]

Despite it being a crime of international standing, only the Ottoman treasury suffered harm. It was universally accepted that the right to conduct a trial belonged to the injured party in crimes of grave consequences, and this regulation was usually applied in principle regardless of the existence of an extradition treaty. Forgery was one of the crimes in which this practice was observed. [304] Nevertheless, the Ottoman government could neither demand Venanzi and Pandolfini ex gratia nor the forgers arrested in Bologna. They were all Italian subjects and no nation had an obligation to surrender its own citizens. [305] Instead, tribunals in Turin, Bologna, and Istanbul heard each case separately, yet in close communication.

Rüstem Bey (later Rüstem Pasha) was the diplomatic agent in the field who acted as the Ottoman plaintiff in judicial processes abroad. He was an Ottoman diplomat of Italian origin and thus familiar with the Italian world. From the Florentine Mariani family, Rüstem Bey had established connections in the Ottoman Empire. Engin Deniz Akarlı notes that it was thanks to his mother's connections that Rüstem Bey first entered the Ottoman diplomatic corps as a protégé in the embassy of Rome. His education and upbringing sped his distinguished career in the Ottoman

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[302] BOA HR.H. 169/2, April 1858.
[303] BOA A.) MKT.MVL 123/38 and BOA HR.MKT. 336/6.
[304] "Extradition. Fugitives from Justice. Necessity for Physical Presence at Time of Commission of Crime", 784, and Potter, "The Expansion of International Jurisdiction", 550, and Fiore, *Traite Droit Pénal International et de L'Extradition,* Vol. II, p.4
[305] For example, Italy surrendered an Austrian subject Nicolas Cusma to Austria ex gratia in 1865. Cusma had escaped to Italy after being accused of forgery in Alexandria, Egypt. See Bernard, *Droit international : Traité théorique et pratique de l'extradition comprenant l'exposition d'un projet de loi universelle sur l'extradition,* 187.

bureaucracy.[306] In this respect, Rüstem Bey's efforts during the legal affair was not some overseas adventurism but the calculated diplomatic moves of an Ottoman statesman relying on years long experience, prudence, and knowledge.

These pursuits were not confined to a single person. In this case, the success of diplomatic network of Ottoman agents abroad revealed a sophisticated foreign policy and the modus operandi of the Ottoman Foreign Ministry. The communication channels that emerged among consuls in strategic locations had an enormous impact on the flow of information. Indeed, the capture by the Italian police of the fugitives of the Madone del Pilone team, Philippe Peppo Spadafora and Augustin Veiller, owed much to diplomatic organs. Rüstem Bey sent messages to Ottoman consuls in the ports of the Mediterranean Sea and to the embassies in Paris and Vienna to track the fugitives. In the meantime, he was in close contact with Sigmund Spitzer, the Ottoman plenipotentiary of Napoli (1857-1860), to monitor the judicial process in Bologna. [307]

Back in Istanbul, surveillance by the *zabtiye* (the Ottoman police) was in full force, already ears pricked for any sign of the forgers on the lam. On the other hand, the government offered imperial decorations and reward money to Ottoman subjects to report suspicious activities. [308] A joint commission comprised of Ottoman officials and consular delegates was established to interrogate the suspects in custody. [309]

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[306] Starting his career as an official in the Translation Bureau, Rüstem Bey worket at *Tahrirât-ı Ecnebiyye* Bureau. He was the plenipotentiary of Rome and Turin. He was appointed as ambassador to Rome (1862-70), St. Petersburg (1870-73) and London (1885-his death). He also worked as Ottoman vizier and governor to Mount Lebanon. See, DH. Said.d 2/100. Akarlı, *The Long Peace: Ottoman Lebanon, 1861-1920,* 195; Khair, *Le Moutaçarrifat du Mont-Liban,* 87-89; and Kuneralp, *Son Dönem Osmanlı Erkân ve Ricâli (1839-1922): Prosopografik Rehber,* 48 and 118.

[307] Sardinia government consented the Ottoman request to be present as a litigant in trials took place in Messina. BOA HR.MKT. 367/63 and 379/29.

[308] BOA İ.DH. 391/25893 and 832/66943, BOA A.) MKT.NZD 342/48, BOA A.) MKT. MHM. 208/97, BOA HR.MKT. 12/23, and BOA A.) DVN. 161/100.

[309] BOA HR.H. 169/5 and *Journal de Constantinople Echo d'Orient,* 28 Oct.1859. The English and Austrian consulates initially raised difficulties not to surrender two Italian and Greek forgers under their protection. After a series of official statements, they consented for an Ottoman tribunal. BOA, MVL 845/75 and 844/40.

Photos of these felons were taken in the studio of Abdullah Frères and sent to Turin and Bologna for their examination. [310] Fuad Pasha, the Ottoman Foreign Minister, also contacted officials in İzmir, Salonica, Tripoli, Alexandria, Tunis, and other ports and ordered the Imperial Police on patrol lest they get wind of the forgers.[311] In the 1850s, postal services were the most efficient means of communication. Mailboats carried all sorts of materials, and Trieste was a central station for shipments along various Mediterranean routes.[312] Official letters between Rüstem Bey and Fuad Pasha were delivered within two or three weeks through this channel.[313]

The Ottoman diplomatic network resulted from long-term economic investments in Europe. In the early modern period, diplomacy conducted abroad was considered "a new type of espionage," as Fatih Yeşil describes it. [314] This structure gradually transformed from a provisional intelligence service in the eighteenth century to an elaborate consular institution. [315] For centuries, Ottoman overseas

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[310] Abdullah Frères were well-known palace photographers whose profession ranged from taking mug shots of ordinary people and famous figures to landscapes, panoramas, and many other themes. To learn more about them see; *Camera Ottomana: Photography and Modernity in the Ottoman Empire 1840-1914,* eds. Zeynep Çelik, Edhem Eldem, (Koç Üniversitesi Yayınları, 2015), Edhem Eldem, "The Search for an Ottoman Vernacular Photography," in Ritter M. and S.G. Scheiwiller (Eds.), *The Indigenous Lens: Early Photography in the Near and Middle East,* (De Gruyter, 2018), pp.29-56, and Ahmet Ersoy, "Ottomans and the Kodak Galaxy: Archiving Everyday Life and Historical Space in Ottoman Illustrated Journals," *History of Photography,* 40:3 (2016), p. 339.

[311] BOA HR.MKT. 235/26 and BOA HR.H. 169/2: "Zaptiyeye verilüb Turin'de derdest olan kalpazanların refiklerinden olan Agustin Veiller ile Spadoafora nam kimesnelerin ahzu girift olmaları mukaddemâ ba-fermânnâme same-yi emrü işâr olunduğundan meclisçe memurlar tayiniyle ber vech-i hukuk tahrirât-ı lazımeye sürât kılınmış ve elyevm taharri ettirileceği beyân olub bunların İzmir ve Selanik ve İskenderiye ve Tunus ve Trablus taraflarına gitmeleri dahi memul bulunduğu cihetle devleti aliyye memurlarına dahi bab-ı keyfiyet olan maslahatgüzâr-ı mumaileyhin tahrirâtında bab olunmuş olmağla …"

[312] The forgers also availed of that communication channel. During their investigation, some Bolognese forgers confessed to hiding the fake money inside the sardine fish barrels, which were first sent to Trieste by road and later shipped to Istanbul by a steamboat. BOA HR.H. 169/5, 15 February 1859.

[313] Only by the late 1870s, the Ottoman telegraph operation stretched extensively beyond imperial borders. See, Bektaş, "The Sultan's Messenger: Cultural Constructions of Ottoman Telegraphy, 1847-1880," and BOA HR.H 169/2, 25 Feb. 1858 and 4 Mar. 1858.

[314] Yeşil, "The Transformation of the Ottoman Diplomatic Mind: The Emergence of Licensed Espionage," 469.

[315] Hawai'i faced similar experiences as a non-European state while establishing its diplomatic services in Europe. They put strenuous efforts to assert themselves as a legitimate power in the international politics. See Miller, "Trading Sovereignty and Labor: The Consular Network of Nineteenth Century Hawai'i".

commerce relied on the private enterprises of non-Muslim Ottoman merchants, and Ottoman diplomatic delegates usually frequented locations in which those merchants actively conducted in international trade.[316] Years of engagement in European commerce and social ties led to an elaborate diplomatic structure in time. Except for a brief interval in 1821, twelve Ottoman embassies had been active in Iran and the major cities of Europe since 1793. Seventy-one Ottoman consulates followed in various parts of the world.[317] Meanwhile, Ottoman diplomatic agents built up their personal networks in tandem with the various official ones placed at their disposal.[318] The fight against the *kaime* forgers thus illustrates how, by the first half of the century, diplomatic interaction was not restricted to state apparatuses but embodied in and advanced by individual actors and the informal agencies they built up around themselves.[319]

[316] Findley, "The Foundation of the Ottoman Foreign Ministry: The Beginnings of Bureaucratic Reform under Selim III and Mahmud II," 397.
[317] By the first decades of the twentieth century, this number almost doubled for the embassies, as there were 21 Ottoman embassies now. On the other hand, the number of consuls increased exponentially, reaching 325 new establishments. See Bostan, *Osmanlı Hariciyesinin Modern Temelleri: II. Abdülhamid Döneminde Diplomasi.* Compared to the many European countries, these numbers are significant as France had ten, Britain had nine embassies by the same period. On the other side, the Us opened its first embassy no earlier than 1893. See Weisbrode, *Old Diplomacy Revisited-A Study in the Modern History of Diplomatic Transformations.*
[318] For a comparative work in which Italian government similarly mobilized its various intelligence service and police resources against Italian anarchist active in London between 1870-1914: See, Pada, "The Spies Who came in from the Heat: The International Surveillance of the Anarchists in London".
[319] In their article, Alloul and Anwers similarly argues that the historians recently evaluated "the main participants and divergent practices of diplomacy as a socio-cultural space, that is, rituals, networking, perceptions, as well as the day-to-day realities behind the conduct of international relations": See, Alloul and Anwers, "What is (New in) New Diplomatic History," 113.

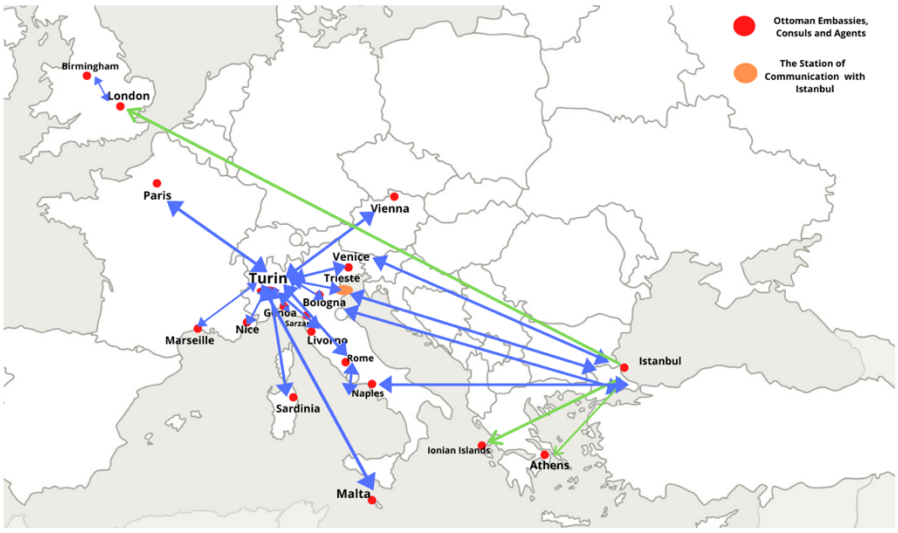

Figure 6. Diplomatic networking vis-à-vis the forgers (1858- 1860)

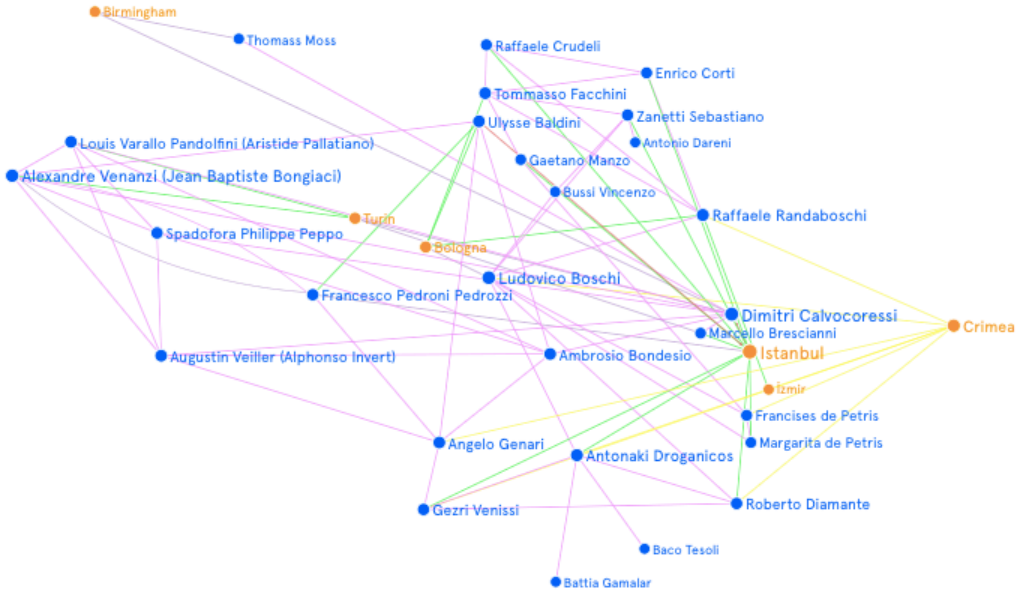

Figure 7. Forgery network (1853-1859) For the animated version: https://graphcommons.com/graphs/d226ebea-9383-4905-a2ef-dae1e75d0ead?sel=96022144-5607-41ab-a4ae-6e523ee78fd8&auto=true

3.2.2 Rüstem Bey: An Ottoman Litigant at the Court of Turin

The prosecution of Alexandre Venanzi and Varallo Pandolfini started in late February 1859 at the Court of Appeals, where the trial of the Bolognese forgers would likewise take place in early March.[320] After a year-long investigation, the Royal Public Prosecutor of Turin compiled the evidence and transferred the case to the Fiscal Prosecutor. In the company of two lawyers, a district attorney of Turin, and a legal expert from the Piedmont-Sardinia parliament, Rüstem Bey attended each session as a litigant.[321]

Defending Ottoman state interests in a foreign court and delegating work to legal experts accordingly was novel at the time. It was also novel in diplomatic terms and clearly showed the changing course of an Ottoman diplomacy no longer reliant on the ad-hoc diplomacy of envoys temporarily sent to Europe. It was equally novel in judicial terms: an experiment with proficient legal structures that were not yet fully functioning at home. The modern attorney system did not yet exist. Until the foundation of the *Nizamiye* (provincial) courts in the Ottoman provinces, legal deputies known as *vekils* were employed to assist litigants in court procedures but did not directly defend their causes. Their chief responsibility was to submit the necessary documents to ensure an acquittal. Counseling and advocacy as a legal profession became a common practice in Ottoman courts only in the 1870s during a time of rising legal formalism in the judiciary. Attorneyship became a professional occupation with the *Dava Vekilleri Nizamnâmesi* (Regulation on Attorneyship) of 1876, and the notarial system was established in 1878.[322] The modernization process

[320] BOA HR.H. 279/14, 7 March 1859.
[321] BOA HR.MKT. 234/73, BOA HR.H. 169/3 and 169/2. The Ottoman empire paid 989.000 francs for the District Attorney Mr. Vayra and 415.000 francs for the legist Mr. Lecchio. Unfortunately, I could not detect the first names of these two figures.
[322] Rubin, "The Trial of the Prosecutor Hamdi Bey: Inside and Out of the Ottoman "Nizamiye" Court", 763; Rubin, "From legal representation to advocacy: Attorneys and Clients in the Ottoman

in the legal arena was not restricted to a readymade reform packages from Europe but owed much to domestic efforts to address various political and diplomatic questions.

The Ottoman judicial system was discernably patchy compared to modern legal structures as exemplified by the coexisting modern and traditional court systems in the empire, which were often in tension.[323] Nevertheless, domestic reform was making piecemeal progress, and successive criminal codes had just been promulgated. The Ottoman Investigative Courts (*Tahkik Meclisleri)* were established in 1854 to function as a mixed court, although their impact remained limited to certain regions of the empire. In these courts, the primary objective was to enforce the Ottoman penal code, against which foreign consulates sometimes raised complaints.[324] There were also reservations concerning their operation as trials were conducted in Turkish and no legal advisors were present. In this respect, they closely resembled Sharia courts.[325] Nonetheless, it was neither a weak nor dysfunctional legal system. The Ottoman bureaucracy benefitted from centuries-long accumulation of legal knowledge and managed to bestow the system with the latest advances.[326]

The amalgam of legal structures at home were becoming efficient at the same time that they were becoming part of diplomatic policies abroad. In this case, Rüstem

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Nizamiye Courts", 113, and Jennings, "The Office of Vekil (Wakil) in the 17th Century Ottoman Sharia Courts," 148, and Özman, "The Potrait of Ottoman Bar Attorney and Bar Associations: State, Secularization and Institutionalization of Professional Interests," 325-328.

[323] For example, at the beginning of the century, a French entomologist and traveler Antoine Olivier expressed his astonishment at how legal procedures and the judicial structure were insufficient in function compared to their European counterparts. Olivier, *Travels in the Ottoman Empire, Egypt, and Persia,* Vol., 181.

[324] BOA HR. MKT 328/79. For example, when the mixed court was established in Larnaca in 1863, the French consul refused the trial of their citizens by the new penal code. While other consuls accepted the regulation, the former criticized the Ottoman government for not informing them in advance: See, BOA HR.H 426/28.

[325] Schull, "Ottoman Criminal Justice and the Transformation of Islamic Criminal Law and Punishment in the Age of Modernity", 23.

[326] For a comprehensive analysis, See Barkey, "Aspects of Legal Pluralism in the Ottoman Empire", in *Legal Pluralism and Empires, 1500-1850,* and Rubin, *Ottoman Nizamiye Courts*.

Bey's position as a litigant was a decision made for political and practical reasons. As a diplomat, he had had difficulty obtaining the investigative reports of the Italian police. His new role as litigant legitimated this purpose. Fuad Pasha reasoned that they could interfere in the ongoing judicial process whenever Ottoman sovereignty was at stake.[327] This was a known formula since a similar legal case involving fraud, the Mestrallet case, had ended up with a *nolle prosequi* (unwillingness to pursue trial) the previous year. The Turin Court of Appeal had dismissed the case due to scant evidence and the absence of an Ottoman deputy during the trials.[328] To mitigate the setbacks of the previous year, the 1858 Penal Code further consolidated Rüstem Bey's position, whereupon the laws of each state would determine the course of judicial process.

3.3 The Penal Codes: Symbol of Change and Sovereignty

3.3.1 The 1858 Ottoman Penal Code

> In consideration of prejudices that prevail as such and to prevent unease aroused public concerns, the Sublime Porte adopted legislation whose principals were drawn from a French model, the content of which it largely reproduced. In the view of any impartial man who has some notion of law, the Sharia, particularly the parts concerning property, obligations, and agreements, constitutes an irrevocable proof of a great relationship to Roman law, which today forms the basis of civil laws. The Sublime Porte also introduced a penal code whose structure, like the French law, is based on three modes of punishment, and later codes were introduced for criminal investigation, including indictments and testimony and prescribing the formalities to be performed to arrest and try the guilty. This comprehensive legislation of the Ottoman Empire, which has been in operation for a few years and has been applied by courts composed of Muslim and non-Muslim judges, testifies to the desire of the Sublime Porte to provide justice for all.[329]

[327] BOA HR.H 169/2, 7 March 1858.
[328] BOA HR.TO 99/31, and BOA HR.H 169/2.
[329] Aleko Pasha (1822-1910), whose original name was Alexander Bogoridi, was the Ottoman statesman of Bulgarian origin. After holding different official positions, he became the Governor-General of Eastern Rumelia. Aleko Pasha had a degree in law from Germany. HR.H 212/5, Apr. 1877.

The words of Aleko Pasha echoed deep resentment for the unfair attacks against Ottoman legal system. Growing emphasis on the rule of law in the Ottoman Empire coincided with the Tanzimat reforms, a broader process that incorporated new institutions, legislative forces and legal rhetoric. Public law gradually outweighed private law and became emblematic of territorial sovereignty.[330] Ottoman penal codes illustrated a fundamental evolution of discourse in that direction. The first article of the 1858 Penal Code states that

> it is the state's responsibility to enforce punishment for wrongdoings against individuals, disturbances caused to public order, and direct threats to the state. For this reason, this code regulates various degrees of penalty, the application of which is transferred to the higher authority of the Sharia; individual rights enshrined by the Sharia cannot be infringed in any case.[331]

The value of the preliminary article is that it underscores public order and state security as much as private law. Private law prioritized the Sharia and positioned the sultan as the primary lawgiver.[332] In this respect, the text did not unambiguously distinguish between private and territorial law as Islamic law maintained its place alongside the novel rhetoric and the legal discourse. Instead, an emphasis on public order and the territoriality of law became gradually more evident in an ongoing process of codification and the application of procedures.[333]

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[330] Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-late 1860s)", 82.
[331] Madde 1: "Doğrudan doğruya hükümet aleyhine vuku bulan cerâyimin icrâ-yı mücâzatı devlete ait olduğu gibi, bir şahıs aleyhinde vuku bulan cerâyimin âsayiş-i umumiyi ihlal eylemesi ciheti dahi kezalik devlete ait olduğundan, tayin ve icrası şer'an emr-i ulül-emre ait olan ta'zirin tayin-i derecâtım dahi işbu Kanunname mütekeffil ve mutazamm olub ancak herhalde şer'an muayyen olan hukuk-u şahsiyeye halel gelmeyecektir", Akgündüz, *Mukayeseli Islâm ve Osmanlı Hukuku Külliyatı,* 834.
[332] Under the Shari'a law, there were hardly any preventive measures as the crime and its perception mattered instead of the motives for the criminal action. The qadı courts usually resorted to *kıssas* (reprisal) and *diyet* (blood money) to restore the public peace. If the offenses posed a threat to the Ottoman state, they were treated as *hadd* crimes (as a reference to Quran) and these offenses were severely punished. See, Schull, "Ottoman Criminal Justice and the Transformation of Islamic Criminal Law and Punishment in the Age of Modernity," and Aslan, "Transformation of Turkish Criminal Law from the Ottoman-Islamic Law to the Civil Law Tradition."
[333] Heinzelman also underlines the same article clause to assert the emphasis for public order, Heinzelman, "The Ruler's Monologue: The Rhetoric of the Ottoman Penal Code of 1858", 85.

In this respect, there was a continuity to Ottoman criminal regulations starting with the 1840 Penal Code. The latest version, the 1858 Penal Code, took the 1832 French Penal Code as a model even as it profoundly elaborated on the earlier legislation.[334] The 1840 Penal Code first outlined the importance of a public realm distinct from private space and guaranteed by legal rights. The law put forward punitive policies not strictly for individuals but for society as a collective. The 1851 Penal Code likewise highlighted public security and the status of subjects before the law, thus, the 1858 Penal Code further advancing the dialogue between the state and society more than ever. [335] A dual trial system was introduced that gave the state the option to impose a retrial if deemed necessary. Investigation of court evidence and testimonial hearings were to proceed in a more bureaucratic fashion.[336]

There are criticisms of the shortcomings of the 1858 Penal Code such as Tobias Heinzelmann's argument that the legislation adopted a different stance that western counterparts by not including Article 4 of the French Penal Code. The article in question echoed the principle of Beccaria: no punishment without a law.[337] Heinzelmann blamed the coexistence of two legal realms in the Ottoman Empire.[338] These fluid judicial bodies were insufficient to define the limits of laws in practice as well as the limits of their power to impose sanctions. Moreover, Gabriel Baer points

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[334] Heinzelman, "The Ruler's Monologue: The Rhetoric of the Ottoman Penal Code of 1858", 295. For a comparison : See, *Code Pénale ;* and Duvergier, *Code Penal Annoté : edition de 1832.*
[335] Kırlı, *Yolsuzluğun İcadı: 1840 Ceza Kanunu, İktidar ve Bürokrasi,* 111, and Schull, "Ottoman Criminal Justice and the Transformation of Islamic Criminal Law and Punishment in the Age of Modernity", 26.
[336] Petrov, "Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864-1868," 738.
[337] Cesare Beccaria was a famous Italian jurist (1738-1794), who is famous with his acclaimed work *On Crimes and Punishments.* He was one of the pioneers who supported a reformation in the punitive systems, which should be regulated according to the nature of crime and the punitive policies guaranteed by the official penal codes. See, Beccaria, *On Crimes and Punishments.*
[338] Heinzelman, "The Ruler's Monologue: The Rhetoric of the Ottoman Penal Code of 1858", 318. Article 4 of 1832 French Penal Code : "Nulle contravention, nul délit, nul crime, ne peuvent être punis de peines qui n'étaient pas prononcée par la loi avant qu'ils fussent commis," Duvergier, *Code Penal Annoté : edition de 1832,* 6.

that the content in the 1858 Penal Code was incomprehensive, in part because of the absence of criminal procedures.[339]

While procedural laws were indeed later added in 1879, it was a problem in earlier decades as these procedural laws determined and regulated how judicial courts would operate. On the other hand, the insufficiency of the content of the laws to address every crime had been an ongoing problem since the 1840 Penal Code. Thus, the principle of no punishment without a law was frequently ignored by the introduction of ad hoc solutions applicable to individual legal cases.[340] However, the 1858 Penal Code substantially expanded and revised the content of criminal prosecution. Its two hundred sixty-four new articles divulge the thorough manner in which the code was prepared, especially considering the paucity of earlier versions. And while the principles promoted by Beccaria were not explicitly stated in the 1858 Penal Code, Article 15 suggests the similar sentiment that all crimes and felonies be punished according to effective laws and regulations instead of former ones. There is a clear correspondence between the laws and punitive measures.[341] In this respect, each penal code, and chiefly the one of 1858, made valuable contributions to the body of Ottoman law. These crucial developments gradually established a judicial system based on the principle of the rule of law.

Ottoman penal codes included strict measures against forgery. Article 12 of Part 3 of the 1851 Penal Code states that forgers and their accomplices who circulated counterfeit currency would be imprisoned for from six months up to four

[339] Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," 146 and 158.
[340] Bingöl, *Tanzimat Sonrası Taşra ve Merkezde Yargı Reformu,* 537.
[341] Article 15: "Her cinayet ve cünha ve kabahatin taraf-ı hükûmetten zahire ihraç olunduğu veya müddeisi zuhur eylediği zamanda mer'î olan kanun ve nizam ile tedibi icra olunup muahhar olan kanun ile mücazatı icra olunamaz," Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyatı,* 836.

years.[342] Articles 143 to 148 of Part 14 of the 1858 Penal Code further refined the punishment by replacing imprisonment with ten years of forced labor. Extended incarceration was prescribed for related crimes. Article 144 likewise indicates the exact punishment for foreign forgers who circulated counterfeit money in the Ottoman Empire.[343]

In the case of Madone del Pilone forgery, it was a transnational crime that affected both regions. The extradition of Pandolfini was not an option as he was Sardinian national, and no state was obliged to extradite its own subjects. Sardinian Penal Code took a firm stance concerning this point, though the Sardinian laws allowed a pleas to be made against their subjects in cases where an official request was submitted by a foreign government.[344] However, the nature of this forgery rightly justified a lawsuit in Italy, as the money had been produced in Turin. For the same reason, remonstrances against the prosecution of Venanzi by his lawyer were denied. He claimed in vain that Venanzi's alleged actions only had a legal basis only in the Ottoman Empire since Venanzi was Roman and only the Ottoman Empire suffered any damage.[345] For this reason, Sardinian government had jurisdiction for charges of forgery. Consequently, not only Rüstem Bey but both parties were to respect one another's state laws to arrive at a legal resolution. The first task was to compare the 1858 Penal Code with the Sardinian laws.

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[342] "Sikke-i sultaniye ve evrak-ı nakdiyeye taklid eden kalpazan eşhas dahi derece-i sû-i a'maline göre altı mahdan dört seneye kadar pırankaya konula ve kalp sürücülerin haklarında dahi derece-i cürüm ve kabahatlerine göre kalpazan cezası ayniyle icra kılma.", Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyatı,* 828.

[343] "Her kim memâlik-i mahrûsede tedavül etmekte olan meskûkât-ı nühasiyeye takliden sikke kat' eder ve o misillû kalp meskûkâtın memâlik-i mahrûsede tedavülüne veyahut bilâd-i ecnebiyeden gelip derûn-i memâlik-i Hazret-i Padişahîye dühulüne muîn olur ise muvakkaten küreğe konulur.", Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyatı*, 857.

[344] "Charlton Extradition Case (Charlton vs Kelly)," 649.

[345] BOA HR.H 169/2, 5 March 1859.

3.3.2 The 1859 Italian Penal Code and *Risorgimento*

Like the Ottoman Empire, Italy had a new penal code which was promulgated in 1859. Since the Middle Ages, city-states on the peninsula had counted on the territoriality of law.[346] By 1814, each kingdom had its own criminal codes which partly reflected the legacy of the 1810 French Penal Code. The Sardinian Penal Code, an amalgam of the French code and the House of Savoy was put in force in January 1840. In the wake of an ongoing codification process that started with the 1723 Sardinian Constitution, parts of the penal code were annulled while others underwent extensive modification. This code reached its ultimate form in 1859 and was entered into force throughout Italy. When Camillo Benso, the famous Count Cavour,[347] issued a public statement on the new Italian political regime, he held up international law and recent codification efforts as the beacons of judicial advancement. [348] However, most kingdoms hesitated to put this code into effect due to territorial concerns amid a civil war. Until the 1889 Zanardelli Code, which was adopted by consensus as the official Italian Penal Code, constant debates on the promulgation of new criminal legislation took place in parliament. During that period, legal experts and jurists pondered the creation of "an Italian genius of criminal law on which the new penal code should be based as a peculiar creation influenced by neither the Napoleonic code nor the German model."[349]

Article 9 of the 1859 Penal Code underscored the principle of *locus regit actum* for all offenses, including those by foreigners. If fugitives sought refuge in

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[346] Alexander, "International Criminal Law", 95.
[347] Camillo Benso (1810-1861) was an Italian statesman from Turin. During the monarchy of Victor Emmanuel II, the King of Sardinia (1861-1878), Count Cavour was the Ministry of Finances and Ministry of Agriculture and Trade. He was later appointed as Prime Minister of Sardinia-Piedmont, and he pursued this career as the first Prime Minister of Italy.
[348] R.D., "Review: Storia degli studi del diritto internazionale in Italia by Augusto Pierantonio".
[349] Pifferi, "The Roots of Italian Penal Codification: Nation Building and the Claim for a Peculiar Identity in Criminal Law", 16.

Italy, the law allowed their surrender when an affected state made an official request, otherwise, Article 6 would be in effect. The latter article explained in detail how to punish or remit the offenses of such criminals. Punitive measures for various types of fraud ranged from seven to ten years of incarceration.[350] However, the 1859 Penal Code remained only semi-official until November; the previous penal code was still valid, which caused divergence among judicial authorities' decisions. The Sardinian Prosecutor of State demanded fifteen years of forced labor for both offenders, as prescribed by the old law. But, the Court of Appeal ultimately allowed 8 years of incarceration as prescribed by Article 357 of the 1859 Penal Code. The fugitives Spadafora and Veiller were sentenced to the same punishment in absentia. On April 9, 1859, the Court of Cassation approved their eight-year sentences.[351]

Venanzi's lawyer protested the decision on the basis of the plurality of law. The forgery was not a crime according to the Sardinian penal code. He was shocked by the sentence which could only be justified in political terms as a favor made to a friend and ally. The court did not heed his claim that the silence of law on this point should prompt the interpretation of the text in extenso.[352] The ultimate decision of the court was thus the outcome of legal mediation between two governments, for which reason the objections of the defendants were quickly overruled. Rüstem Bey expressed his pleasure that all his efforts were rewarded. The penalty of eight years sufficiently corresponded to the ten-year period of incarceration in the Ottoman Empire, so justice was secured in a fairway. He thought that the judgment met the

[350] Pifferi, "The Roots of Italian Penal Codification: Nation Building and the Claim for a Peculiar Identity in Criminal Law", 101-104. Articles 316-328 also explain the penalty on forgery and falsification of documents/money.
[351] BOA HR.H 169/2, 14 April 1859.
[352] BOA HR.H 169/2, 5 March 1859.

ultimate goal, which was to deter similar offenses from threatening the State Treasury in the future.[353]

However, the Ottoman state was unwilling to be contented by trials, even if it was satisfied with the outcome. Given the economic burdens endured, Rüstem Bey also asked for reparations of 37,804 francs, which the criminal tribunal ultimately granted. The recuperation of reparations was then rendered symbolic by the promise of an almshouse in Turin: a token of Ottoman altruism and power that would further the image of the Ottoman state among both domestic and foreign audiences.[354]

Meanwhile, trials in Bologna were not advancing smoothly due to political upheaval in the region. As Rüstem Bey was already occupied and the political conditions required more work in the field than a diplomatic agency could provide, an Ottoman police officer, dragoman Joseph Ange Tkiades, went there to be a part of the surveillance operation against the forgers.[355] There was a political vacuum in papal states at the time. The geography comprised of Rome, Bologna, and Ferreira was under the control of the Pope, and Austria was lending full support to the current administration.[356] His position as a police officer enabled Tkiades to collaborate with the police chief of Bologna, Chevalier Giri. But Giri was constantly being called to maintain control over the region at large, so Giacomo Antonelli, the Cardinal Secretary of Rome (1848-1876), also assisted Tkiades in his mission.[357]

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[353] BOA HR.H 169/2, 10 March 1859.
[354] BOA HR.H 169/2, 10 March 1859.
[355] BOA HR.MKT 283/84 and 285/73. Fuad Pasha later called him back to Istanbul to track other forgers active in Venice and Athens. Tkiades was almost an Ottoman Sherlock, chasing the runaways at full speed from one place to another. See, BOA HR.H 169/5, 23 March 1859.
[356] The Kingdom of Two Sicilies, the neighbor region of the Papal States in the South, also received the same support from Austria.
[357] BOA HR.H. 169/5, 27 Feb. and 17 Oct. 1859. Giacomo Antonelli (1806-1876) was the proponent of Italian unification, representing the interests of the Vatican and the Papal States in international politics.

The 1832 criminal legislation of the pontificate contained strict measures against forgery and embezzlement.[358] However, contemporaneous political and social conditions had undermined judicial function in the region, creating a tangible void of legal authority.[359] Further impediments were caused by the bureaucratic process, and the resulting delays served the interests of the forgers, the elapsing time increased their chances of released from preventive detention. Bolognese authorities also could not decipher the nuances of the 1851 and the 1858 Ottoman penal codes, so the interrogation of the Bolognese forgers detained in Istanbul were likewise continually interrupted. They opted to rely on an official report sent by the Ottoman police force, but it was only treated as an accusation rather than as legal evidence for a trial. Rüstem Bey frequently expressed his displeasure with this setback. [360]

When the lawsuit at last arrived before the Bolognese Tribunal of the First Instance in December 1860, the 1859 Sardinian Penal Code was about to be officially adopted in Romagna, as the region had recently been annexed. This situation created a duality of law, further complicating the matter with the effect that the whole procedure had to be started anew. [361] Ultimately, in April 1861, eight convicts received ten years of forced labor according to Article 330 of the 1859 Sardinian Penal Code and Articles 230/231 of the criminal laws of the pontificate. [362]

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[358] Similar to the Sardinian penal codes, the penalties on forgery varied between 10-15 years forced labor, or life-time imprisonment for dire situations. See, *Regolamento sui Delitti e Sulle Pene del 20 Settembre 1832,* 40-41 and 59.

[359] During this period, the crime rate was exponentially increasing. The Bolognese Court of Assize reported 483 cases of assault and theft in the year 1861. The number is significant as it far surpassed statistics collected during the revolutionary era. See, Hughes, *Crime, Disorder and the Risorgimento: The Politics of Policing in Bologna,* 203-243 and 245.

[360] BOA HR.H. 169/5; 17 Nov., 22 Feb. 1860, 23 Apr., 25 Apr. 1860, and BOA HR.MKT. 329/1.

[361] BOA HR.H 169/5, 8 Dec. and 27 Dec. 1860. See, Hughes, *Crime, Disorder and the Risorgimento: The Politics of Policing in Bologna,* 243.

[362] BOA HR.H 169/5, 4 April 1861. Article 330 of the Sardinian Penal Code: "se si tratterà di contraffazione o di falsificazione nei regi stati di obbligazione o carte di credito pubblico equivalenti a moneta emesse sotto qualunque denominazione da un governo straniero, o di introduzione dolosa di esse nei regi stati, ovunque siano state contraffatte o falsificate, ovvero di uso doloso delle medesime; la pena sarà della reclusione non minore di anni cinque, estensibile anche ai lavori forzati per anni dieci." *Codice penale per gli stati di s.m.il re di Sardegna,* 105. Articles 230/231 of the Pontificate

The sentences corresponded to the ten-year penalties issued by the Ottoman Courts in February 1861 in accordance with after Articles 143 and 148 of the 1858 Penal Code.[363] As this forgery incident unravels, the long and laborious collaboration the Ottoman Empire and Italy established moved beyond capitulatory predicaments and proved a success in a period of a major political crisis that wrought havoc on their territories.

Table 6. The Forgery Network of Turin-Istanbul-Bologna

Name of the Forgers	**Age**	**Birthplace**	**Occupation**	**Place of Arrest**
Alexandre Venanzi (alias Jean Baptiste Bongiaci in Istanbul)	24	Rome	Sculptor	Turin
Louis Varallo Pandolfini (alias Aristidi Pallatiano)	41	Moncalvo, province of Casal in Piedmont	Ex-military officer (he was a sergeant in the Sardinian troops; later he became the officer in Anglo-Italian Legion)	Turin
Antoinette Biancardi (wife of Varallo Pandolfini)	24	Moncalvo		Turin (later released)
Augustin Veiller (alias Alphonse Invert) (alias Mayner)	50	Rome (he lived in Turin)	Lithographer - engraver	Fugitive
Spadofora Philippe Peppo	26	Rome (he lived in Turin)	Painter -engraver - sculptor	Fugitive
Dimitri Calvocoressi (alias Mircovitch) (alias Falzone)	25	Scutari (Ottoman Greek) As Mircovitch, lived in Sardine, Sassari	Merchant (his office was located in Stamboul near the Porte)	Istanbul
Marcello Brescianni		Brescia (he lived in Istanbul)	Lawyer (he had an office at Galata)	Istanbul
Ambrosio Bondesio	55	Genoa (he lived in Istanbul)	Lawyer (he had an office at Pera)	Turin (later released)
Ulyssee Baldini[364]	27	Bologna (Austrian Protégé)	Goldsmith, engraver	Bologna
Raphael Randa Boschi	40	Bologna (Budrio) (Austrian protégé)	Cook, café owner	Bologna

legislation: "Qualunque altra persona che commette falsità in una scrittura autentica e pubblica, o in una scrittura ò epoca di commercio o di banco, è punita con la galera dai cinque anni ai dieci" and "Alla medesima pena è soggetto quello che sciente mente ha fatto uso degli atti falsi con scienza della loro falsità." *Regolamento sui Delitti e Sulle Pene del 20 Settembre 1832,* 41.

[363] BOA HR.H 169/5, 21 Feb. 1861.

[364] BOA HR.MKT. 284/69.

Ludovico Boschi	32	Bologna (Austrian protégé)	Carpenter at the place of Diomanikli in Beşiktaş, merchant (he sold drinks at Balıklıova, Gallipoli and at the battlefronts of Kamışlı, Keçe and Varna) (he worked in the Hotel Nestano owned by a Greek lady at Galata)	Istanbul
Raffaele Crudeli	40	Bologna	Singer	Bologna
Gezri Venissi	43	Livorno (he lived in Istanbul) (Austrian protégé)	Interpreter	Istanbul
Roberto Diamanti	36	Livorno (he lived in Istanbul) (Austrian protégé)	Carpenter (he worked at the house of Mavrocordato at Pera and Dolmabahçe Palace)	Istanbul (he died during the judicial process)
Andonaki Dragonicos	32	Ionian from Ithaca Island (he lived in Istanbul) (English protégé)	Carpenter (he had a store at Yeni Çarşı)	Istanbul
Thomas Facchini	51	Schwerin/ Mecklenburg (he lived in Bologna)	Lithographer	Bologna
Sebastiano Zanetti	34	Bologna	Lithographer	Bologna
Antonio Dareni [365] (brother in law of Sebastiano Zanetti)	28	Bologna	Lithographer	Bologna
Thumb Guilliame	23	Wurttemberg (he lived in Bologna)	Lithographer	Bologna
Angelo Gennari (Lougi Ergolani)	-	Rome (Austrian Protégé)	-	Venice
Busi Vincenzo		Italian (?)		Fugitive
Gaetano Manzoni		Sardinia	Worked as waiter at the café *Prado* in Beyoğlu and as coachman at the butcher shop *Parmesani* at Feriköy	Istanbul
Francisco Petris		Sardinia (Salazzo)	Blacksmith at the army during Crimean War (He had a beverage store at Feriköy)	Istanbul
Margarita de Petris (wife of Francisco Petris)	26	Sardinia (Salazzo)	He had a beverage store at Feriköy	Istanbul
Clitze Cole (Gaufliano Makri)	36	Malta (English protégé)	He was engaged in commerce	Istanbul
Tepeto Galita (Nitto)	44	Latin-Ottoman	Painter	Istanbul

[365] BOA. HR. H. 211/2.

Table 7. Beyoğlu: Crime Scene of Forgery (1856-59)[366]

Name of the Forgers	The Meeting Place	Location
*Francesco Pedroni Pedrozzi *Ulysse Baldini *Angelo Gennari *Aristide Bongiaci *Agostino Maureno *Viello Gio Balta	House of Pedrozzi (Jewelry shop of Francesso Pedroni Pedrozzi)	Pera
*Angelo Gennari *Louis Varallo Pandolfini *Ulysse Baldini	House of Bondesio	Pera
*Francisco Petris *Margarita Petris *Gaetano Manzo *Ludovico Boschi	Beverage shop (it was ran by Francis and Margarita de Petris)	Feriköy
*Francisco Petris *Gaetano Manzo *Giovanni Killo (Machinist)	Café *Charalanpas*	Kalyoncu Kulluk
*Francisco Petris *Gaetano Manzo *Ludovico Boschi *Carlato (?) *Nitto (Tepeto Galita)	The Butcher Shop *Parmesani* (it was ran by Cesare Parmesani)	Feriköy
*Gaetano Manzo *Ludovico Boschi	Café Bülbül	Beyoğlu
*Gaetano Manzo *Ludovico Boschi *Gezri Venissi	House of Gezri Venissi	Petit Champs de Morts
*Gaetano Manzo *Ludovico Boschi *Gezri Venissi *Andonaki Drogonicos	The water factory (it was owned by Greek Leonide Sarandi)	Located next to the Taksim Fountain
*Gaetano Manzo *Clitze Cole (Maltese) *Gezri Venissi *Ludovico Boschi *Andonaki Drogonicos	English Casino	Located across the Sardine Hospital (Later Italian Hospital) at Beyoğlu
*Gezri Venissi *Clitze Cole	Café Roco	Galata

3.4 Conclusion

The capitulatory system guided the spirit of Ottoman-Italian relations for centuries.

In this respect, these relations were no different from those observed with most other

[366] BOA HR.H. 169/5. Except for the Italian hospital, these places were not in the list of 1868-69 Istanbul yearbook. Considering the ten-year lapse between the forgery incident and the yearbook's publication date, it is no surprise that we could not encounter any of these places. This could also reflect on the swift urban change of Istanbul. Or, these places were simply omitted in the yearbook as they had not much significance. See, Raphael Cervati, *L'Indicateur Constantinopolitain: Guide Commercial, Premier Année 1868-1869,* (Imprimerie G. B. Pagano, 1868).

European states. In a series of confrontations over questions of jurisdiction arguments were based on or opposed to the extraterritorial privileges. Numerous legal conflicts of identical character are held in the archives. Their records usually narrate similar stories of Italian consulates denying requests for the surrender of convicts to Ottoman local courts even as the latter repeatedly claimed jurisdiction, especially if one of the litigants was Ottoman. In these cases, Italian authorities resorted to a familiar tactic among capitulatory states. They did not send dragomans to the courts, rendering the cases null and void (*keenlemyekûn*). In other circumstances, they overlooked offenses by permitting the escape of criminals from justice before any official prosecution started.[367]

From this standpoint, victorious judicial-diplomatic collaborations like the one revealed in this chapter cannot be held up as evidence repudiating the capitulations. On the contrary, the well-established doctrines of the capitulatory reality were always present and fully operational, functioning directly against Ottoman sovereignty. However, this chapter shows that the Ottoman judicial system moved beyond arguments construed against the capitulations in many venues. In matters of international security, both parties were seeking to maintain order and punish criminals. Moreover, blame for the problems of the capitulatory system cannot be put only on Europe. As legal codification and institutional reforms in law

[367] The following examples represent only the tiny results of in-depth digging of the archival documents cataloged as 'miscellaneous correspondence with Italy.' Thus, they cover a few documents that dated to late 1860-early 1870. These documents should be considered illustrative for other documents of similar nature that could pop up anywhere in the archives. BOA HR.H. 511/62: the legal case of a certain Mehmed, who murdered an official from the Italian Marine Forces in 1868. BOA HR.H. 512/28: the legal case of Italian Galizzi, who was arrested and imprisoned by the Ottoman police in 1871. BOA HR.H. 512/35: The Italian subject Petrini threw a chemical bottle to a woman passing by whose eyes and face got severely injured in 1871. Despite the Ottoman protests, the Italian consul in İzmir showed no effort to find and arrest him. BOA HR.H. 513/35: The Italian Giovanni, who committed vol in Istanbul, was arrested in Magnesia. He was first sent to İzmir, where he would be transported to Istanbul via a ship. However, he escaped somehow on the way. BOA HR.H. 514/3: The legal case of Italian Luigi Paverni, who was arrested and brought to the Ottoman court in 1874. BOA HR.H. 513/44: Legal case of an Italian against a Russian that stirred a debate over the judicial competency in 1874.

advanced, Ottoman juridical competency further legitimated its territorial sovereignty. Statements by Ottoman officials making avail of international law were the best testament to this evolution.

This chapter has recounted how Ottoman envoys, especially Rüstem Bey, furthered their causes using penal codes and various diplomatic networks to establish new channels of communication and trace forgers on the lam. Their success was on account of these instruments, other informal agencies, and their technical know-how. Interstate collaboration with Italy proceeded smoothly except for times of unforeseen political and social upheaval in one of the two geographies or the other. Forgery was a crime with severe consequences. Many states worked jointly in the international arena to regulate the extradition of forgers, who were considered anarchists targeting state security and interests. This case of forgery was one of the first examples of Ottoman efforts to combat transnational crime in the absence of extradition treaty in the early nineteenth century. This episode suggests the need to expand the sources used in Ottoman legal studies to shed light on similar legal conflicts that move arguments beyond the pretext of capitulations.

On the other hand, this chapter contextualizes a reading of a micro episode in a broad historical framework. As Giovanni Levi says, "it is not the 'microness' of the phenomenon studied that characterizes microhistory, but its habit of reading microscopically in order to highlight facts and issues of relevance."[368] The plans of Dimitri Calvocoressi and Ambrosio Bondesio, which were hatched amid the Crimean War, surpassed their expectations, and ultimately a vast criminal network emerged in its aftermath. The war exhausted the Ottoman Empire and Europe, and the Risorgimento was still at its peak on the Italian peninsula. In this atmosphere, the

[368] Levi, G. "Frail Frontier," 38.

network of forgery expanded from the war fronts in Crimea to Istanbul, Turin, and Bologna. The operation was facilitated by a lack of security due to ongoing turmoil. It was difficult to reign in mobility in such times of crisis. Accordingly, this chapter shows the value of similar stories overshadowed by the grand narratives of momentous events in history.

CHAPTER 4

THE 1874 EXTRADITION TREATY AND THE LEGAL BATTLE OVER JURISDICTION BETWEEN THE OTTOMAN EMPIRE AND THE UNITED STATES [369]

This chapter provides a historical explanation of the legal battle over jurisdiction fought between the Ottoman Empire and the United States on multi-levels. It focuses on the 1874 Extradition Treaty, the only such official agreement signed by the Ottoman state in the nineteenth century. This official agreement with the United States resembled treaties signed among European powers in the same epoch and was enacted alongside the 1874 Naturalization Act, the latter of which was never put in force. The abeyance of the naturalization issue directly affected the fate of the extradition treaty. Moreover, ongoing controversy over Article 4 of the 1830 Treaty of Commerce and Navigation further contributed to a diplomatic quagmire that would last years. The procedures imposed by Washington only continued to prevent successful extradition, and ad hoc political actions adopted on both sides further complicated negotiations.

The first section of this chapter analyses the historical context of the 1874 Extradition Treaty, examining political tensions over naturalization that emerged from various legal disputes over the 1869 Ottoman Nationality Law. Then, to shed further light on the extradition debate, the chapter explores a legal conflict between the Ottoman Empire and the United States, known as the Kelly Affair, which was a

[369] An abridged version of this chapter has recently published in *New Perspectives on Turkey.* See Kamay "The Ottoman Empire, the United States, and the legal battle over extradition: the 'Kelly affair'," 78-99.

testing ground for the 1874 Extradition Treaty.[370] The legal diplomacy adopted by the Ottoman Empire, an old power with a resolve to survive, and the United States, a power on the rise, shook up the inter-imperial relations in which Europe had been the locus of privilege and power. It demonstrated that the power balance had shifted in perpetuity.[371] The episode thus offers the chance to revisit the extraterritorial regime in the Ottoman Empire by delving into questions of subjecthood and legal belonging. In the last section of this chapter, I argue that ensuing Ottoman–American relations regarding extradition and jurisdictional rights were formulated, in significant part, by policies influenced by the experience of the Kelly Affair.

4.1 The Historical Background of the 1874 Extradition Treaty

The negotiation of a US-Ottoman extradition treaty first arose in the context of the question of subjecthood. An increasing number of Ottoman subjects, mainly from among its Armenian population, were seeking naturalization in the United States while maintaining their Ottoman birth identity, which was a threat from the Ottoman perspective. Correspondingly, felons on both sides remained in judicial limbo due to their ambiguous legal status, thereby avoiding punishment. For this reason, the extradition treaty emerged alongside negotiations over naturalization, which were intended to resolve the nationality problem of American and Ottoman subjects.

The 1874 Naturalization Act strikingly resembled the United States' convention with Germany.[372] On the other hand, the 1874 Extradition Treaty took the form of the 1868 American–Italian Extradition Treaty. Comprised of eight

[370] For the Ottoman-Turkish Text see İ. HR. 264-15815 and Appendix B.
[371] Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*, 114–15.
[372] The U.S. government followed an identical pattern while drafting a naturalization treaty with other states. However, Germany encountered problems when implementing the extradition convention because of the controversy over naturalized Americans in the German army**.** BOA HR. ID. 139/2, 139/3, 139/17 and 139/35.

articles, it was signed on 11 August 1874, by the US Minister Resident, George H. Boker, and the Ottoman Foreign Minister, Aarifi Pasha. The Ottoman government ratified the agreement in September, and the treaty came into full force in April 1875, when Grant gave a speech to Congress regarding its ratification.[373] However, political considerations prevented both the act and the treaty from being applied.

Initially, Edward Joy Morris, the Minister Resident of US Consulate in Istanbul (1861–1870), suggested that an extradition treaty along with a naturalization act be formulated with the Sublime Porte in 1868.[374] Secretary of State William H. Seward (1861–1869) articulated this desire to Eduard Blacque (Blak Bey), the Ottoman Ambassador to Washington (1867–1873), as an opportunity to set a novel precedent for European powers in their relations with the Ottoman Empire:

> We are now convinced of the progressive opinions which prevail in Turkey and of the sincere desire on the part of its sovereign and the outstanding men who govern the country to walk wisely in the way of civilization. The considerable facts which occur and the liberal reforms which are daily accomplished do not leave any doubt in this regard, and as for us, we no longer have any hesitation in considering Turkey as an Asian state with a lack of institutions. On the contrary, we want to be the first to treat Turkey on the same footing as any civilized state in Europe. We want the American people to come to know and appreciate the difference between Ottoman society today and that of just fifty years ago; let them finally acknowledge that there are no longer any Turks as the fierce enemies of Christians and European civilizations. In a word, I repeat, we want to show our eagerness to bring, little by little, our citizens to modify their beliefs and their ideas, which are in the abundance of old prejudices that unfortunately still exist in our country against the Ottoman race. We want to achieve that by claiming equity and developing our relations with the East. We show you an unequivocal testimony of our sincere intentions, and the Federal Government proposes to the Sultan's government to accede to a naturalization treaty that we have just concluded with Prussia and Bavaria.[375]

[373] BOA A.) DVN.NMH. 21/8, BOA MHD. 265 and 269, BOA HR.ID. 139/15, 139/16, and BOA HR. TO. 512/23, and *Salname-i Nezaret-i Hariciye,* 559, and *The Times,* 4 Sep. 1874.
[374] BOA HR. ID. 139/6.
[375] BOA HR.ID. 139/3.

Blak Bey regarded the invitation as a promising defense against the indiscriminate granting of the protection of the American flag to Ottoman subjects by the United States. He described this diplomatic act as a significant step towards abolishing the central predicament of capitulations.[376] Nevertheless, Safvet Pasha and Fuad Pasha, who successively held the post of Foreign Minister in 1869, did not share his confidence. Due to the 1869 Nationality Law, they were cautious of any naturalization project that did not follow the same course as treaties between the United States and Germany and Bavaria.[377] As it turned out, they were not wrong.

4.1.1 The 1869 Nationality Law (*Tabiiyet Nizamnâmesi)*

The nine article 1869 Ottoman Nationality Law took effect on 28 January of 1869. [378] On 17 July of 1867, the Ottoman Nationality Bureau was established, and a commission of Ottoman officers and consular agents was appointed to register the nationalities of residents in the provinces. Foreign nationals listed in these records had to carry an official certificate issued by the commission as proof of their nationality. These certificates were valid in all the tribunals and courts in the empire.[379] This law was an important milestone for determining who was or was not officially an Ottoman. Beforehand, the *millet* system had designated the legal status of Ottomans.[380] This system regulated the place and role of religious communities vis-à-vis a backdrop of Muslim Ottomans. Representatives, elected from among the religious community of each group, acted as intermediaries among the state, the

[376] BOA HR.ID. 139/3.
[377] BOA HR.ID. 139/7.
[378] *Düstur,* I. Tertip, 16-18.
[379] Arminjon, *Étrangers et Protégés dans l'Empire Ottoman,* 137, and for a lengthy discussion on this matter Moore, *A Digest of International Law,* Vol. III, 680-708.
[380] *Millet,* as a term, here describes the religious groups in the Ottoman Empire rather than 'the nation' as in modern definition.

other non-Muslim and Muslim populations, and their own communities. Religious diversity and a special poll tax (*cizye)* imposed on non-Muslim subjects were two main features that characterized the millet system for centuries.[381]

The 1869 Ottoman Nationality Law introduced a secular understanding of subjecthood as a legal concept since there was no reference to religious or ethnic classification. The law considered anyone born to Ottoman parents to be an Ottoman subject. If their parents were foreign nationals, children born in Ottoman territory had the right to assume Ottoman subjecthood three years after coming of age. Moreover, foreign nationals could acquire Ottoman subjecthood after residing in Ottoman territory for five years. Ottoman women who married foreigners could regain Ottoman subjecthood by submitting a petition within three years after the death of their husbands. [382]

The most significant parts of this law were contained in Articles 5 and 6, which became the crux of many conflicts over the question of subjecthood. According to these articles, when Ottoman subjects sought to obtain another nationality, they had to inform and receive the consent of the Ottoman state, which would authorize the change of nationality by imperial decree. Otherwise, they would continue to be considered Ottomans and their new identities would be null and void in the view of the Ottoman state.[383]

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[381] For a comprehensive and critical revisit to *millet* system, see Barkey and Gavrilis, "The Ottoman Millet System: Non-Territorial Autonomy and its Contemporary Legacy," 24-42.
[382] *Düstur,* I. Tertip, 16-18.
[383] *Düstur,* I. Tertip, 17: Article 5, "Tebaa-yı Saltanat-ı Seniyyeden me'zunen tâbiyyet-i ecnebiyyeye giren eşhas tebdil-i tâbiyet etdikleri tarihden itibaren ecnebi sıfatında tutulup haklarında ol vechle muamele olunur. Fakat Devlet-i Aliyyeden me'zun olmaksızın tâbiyyet-i ecnebiyyeye girer ise işbu tâbiyyeti cedidesi kanlembiken? ve kendisi kemakân tebaa-yı Devlet-i Aliyye'den azad (?) olunup kâffe-yi hususatta tebaa-yı Devlet-i Aliyye hakkında olunan muamelâtın aynı icrâ kılınacaktır. Herhâlde Devlet-i Aliyye'den bir şahsın terk-i tabiyyet etmesi mutlaka irâde-i seniyye üzerine verilecek bir senede muallak olacaktır," and Article 6, "Saltanat-ı Seniyye tarafından mezun olmaksızın diyar-ı ecnebiyyede tebdil-i tabiyyet eden veyahut bir ecnebi devletin hıdmet-i askeriyesine giren şahsı Devlet-i Aliyye ister ise tabiyyetten ıskât edebilir ve bu makule tabiyyeti ıskât olunan eşhasın Memâlik-i Şâhâneye avdeti memnu' olur."

In context, the 1869 Ottoman Nationality Law reflected the principles of both *jus soli* (right of soil) and *jus sanguinis* (right of blood) since the importance of residence in Ottoman territory was equivalent to that placed on Ottoman lineage and birth. The rights extended to the Ottoman women were especially clear indications of the desire to preserve their Ottoman identity, in contrast with usual practice observed in Europe.[384] According to Ebru Akçasu, the 1869 Ottoman Nationality Law had much in common with Italian and Russian citizenship laws, which also combined these two legal principles. By contrast, countries such as England, Austro-Hungary, and Germany strictly underscored the birthright and blood. In pointing out the nuances of this law in comparison with legislation in other countries, Akçasu argues that the Ottoman regulation of subjecthood was more "inclusive" and "expansionist" than portrayed otherwise. She opposes the idea that the Ottoman state, in the face of its waning power over the previous decades, designed a particular notion of nationality characterized by bonds of loyalty to the imperial state.[385]

The concept of Ottoman nationality cannot be treated as equivalent to the prevalent notion of citizenship in Europe and the United States. In those countries, citizenship was the embodiment of a series of civic duties and legal and political rights. Unlike in the Ottoman case, the questions of nationhood and citizenship were not addressed by supplementary regulations; they were fundamental to either state constitutions or civil codes. On the contrary, the 1869 Ottoman Nationality Law specified the conditions by which to become an Ottoman or lose that distinction.[386]

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[384] "1874 Protecting the Prohibition of Marriage Between Iranians and the Ottoman Subjects" puts further restrictions by preserving the legal status quo of the Ottoman women marrying Iranians as Ottoman subjects. Thus, the children born were also treated as Ottomans. The regulation was the outcome of political concerns, as the Ottoman state was worried about the increasing number of conversions among the Iraqi Ottomans from Sunnism to Shiism. See Kern, *Imperial Citizen: Marriage and Citizenship in the Ottoman Frontier Provinces of Iraq,* 27 and 89.
[385] Akçasu, "Nation and Migration in Late-Ottoman Spheres of (Legal) Belonging: A Comparative Look at Laws on Nationality," 2-5.
[386] Hanley, "What Ottoman Nationality Was and Was Not?", 277.

In this respect, Will Hanley characterizes the 1869 Ottoman Nationality Law not as the bestowing of citizenship rights but rather as a naturalization regulation defined more by the principle of *jus sanguinis.* Accordingly, it primarily concerned who was officially Ottoman; social and political rights were of secondary importance in the face of this legal ambiguity.[387]

Even though the concept of nationality was a part of private international law, the 1869 Ottoman Nationality Law primarily addressed foreign audiences.[388] It was the product of and response to a long history of increasing foreign influence in the Ottoman Empire. Selim Deringil states that "the sphere of influence was being played out over the bodies of non-Muslims subjects" in the nineteenth century. He adds that, from the outset, the subjecthood problem was the outcome of foreign politics.[389] The call for equality vis-a-vis the non-Muslim Ottoman subjects were hallmarks of the 1856 Reform Edict (*Islahat Fermanı)* and the Paris Peace Treaty. However, the policies for safeguarding the non-Muslim Ottomans extend long before that time.

Since the eighteenth century, consulates in the Ottoman Empire employed Ottoman subjects, mostly non-Muslim Ottomans, and granted them the same extraterritorial privileges the consuls themselves enjoyed on account of the capitulatory system. The high number of consular agents and dragomans under *protégé* status who were Ottoman subjects became an increasing concern for the empire as they retained their Ottoman identity even as they acquired foreign naturalization. While the first attempt to resolve this problem, in 1852, was a failure,

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[387] Hanley, "When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study," 94, and Hanley, "What Ottoman Nationality Was and Was Not?", 278.
[388] Will Hanley argues that the Egyptian compendium on nationality also had similar characteristics with the 1869 Ottoman Law of Nationality and addressed the Western states. Hanley, Hanley, "When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study," 96.
[389] Deringil, *Conversion and Apostasy in Late Ottoman Empire,* 167 and 188.

the Ottoman state made a genuine effort to nip it in the bud in the 1860s when it realized the number of Ottoman protège*s* exceeded the foreign nationals employed in the consulates. The 1863 Regulation of Foreign Consulates was the first serious endeavor to clarify the limitations of the protégé status. Thus, only Ottoman subjects employed as the consular agents, as dragomans of either the ecclesiastical missions or foreign monasteries, or as *yasakçı kavass* (security forces) could receive protégé status. However, Ottoman subjects thus employed still had to perform their military obligations to the empire either by service or payment. It was underscored that none could renounce their Ottoman identity by obtaining a protégé title.[390]

Conflicts in foreign politics precipitated the need to address the subjecthood issue specifically in a legal framework. Due to the flow of immigrants from territories lost, such as Morean immigrants to the empire in 1830 and Algerians in 1848 due to French occupation, the Ottoman state was compelled to establish a permanent solution to these people's legal identification. The definitive problem that eventually brought about the 1869 Ottoman Nationality Law was the American naturalization of many Ottomans in the 1850s. The 1863 Regulation was the precursor of the 1869 regulation as it established the groundwork to avert legal loopholes with respect to double citizenship.[391] Nevertheless, the neither effectively curtailed the increasing number of American naturalized Armenians and Syrians, thus paving the way for the 1874 Naturalization Act.[392]

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[390] Aristarchi Bey, *Legislation Ottoman,* Vol. IV, and Van den Steen de Jehay, *De la Situation Légale des Sujets Ottomans non-Musulmans,* 503 ; and Serbestoğlu, "Zorunlu Bir Modernleşme Örneği Olarak Osmanlı Tabiiyet Kanunu," 119.
[391] See Torunoğlu, "The Neo-Hellenes in the Ottoman Empire, 1830-1869," 49-70; and Serbestoğlu, Zorunlu Bir Modernleşme Örneği Olarak Osmanlı Tabiiyet Kanunu," 193-214.
[392] Karpat, "The Ottoman Emigration to America, 1860-1914," 190.

4.1.2 The Conflict over the 1869 Ottoman Nationality Law

As Fuad and Savfet Pashas anticipated, the US-German naturalization agreement was not a practicable model for the 1874 Naturalization Act as it contradicted the principles of the 1869 Ottoman Nationality Law.[393] The first conundrum originated from Article 1, which treated anyone who resided for five years in a country as naturalized subject. The Ottoman government could not approve this mandate as it disregarded the obligation of obtaining authorization for Ottoman subjecthood in conformance with Article 5 of the 1869 Ottoman Nationality Law. Thus, the Ottoman government pushed American agents to acknowledge the prerequisite of an imperial decree by adding the clause: "a simple declaration of becoming an Ottoman subject or an American citizen would not suffice in any case to produce the effects of naturalization." In this respect, an Ottoman who was a naturalized American had no definitive legal status in the Ottoman Empire since the 1869 Ottoman Nationality Law was not retroactive. Which is to say, all Ottoman subjects who were naturalized Americans before 1869 were accepted as Ottoman subjects.[394]

However, US citizenship regulations did not conform to the Ottoman understanding. Ever since the United States War of Independence (1775-1783), its regulations relied on the principle of *jus soli,* according to which being born an American or acquiring naturalization made no difference. Adhering to the idea that anyone could choose to change their nationality by voluntary expatriation, the basic requirements to become an American under the American Naturalization Act of 1795 was conditioned on five-year residency, an oath of allegiance, and having good

[393] For the 1869 Ottoman Nationality Law, see Y.EE 41/133 and Appendix C.
[394] BOA HR.ID. 139/8.

traits.[395] Thus, the American delegation did not accept the Ottoman revisions to Article 1 as they could not make sense of imperial authorization.[396]

Other difficulties stemmed from Article 2, articulating statute of limitations for crimes perpetrated in the home country. It stated that,

> All subjects who are naturalized in one of the two states and returned to the other may be sought by their country of origin for punishment for actions committed there before their emigration, provided that there is no lapse of time.[397]

The Ottoman state considered lapse of time an impediment that would allow impunity for naturalized criminals. They made the further proposal regarding that a two-year condition stay in the country of naturalization implied a defective renunciation of their nationality of birth.[398] In the end, the United States Senate did not ratify the agreement and overlooked the proposals made by the Ottomans. Both states informally recognized this agreement until the Ottomans unilaterally defaulted on it in the early 1890s.[399] Up until then, both parties frequently negotiated the conflicting terms of the 1874 Naturalization Act.[400]

As stated, American regulations on naturalization did not prioritize blood right over territorial allegiance. However, race discrimination made these regulations distinct from European counterparts. These race theories, which primarily rested on a white-black divide, laid the groundwork for the US immigration policies throughout the nineteenth century.[401] There were endless race-based debates over the legal status

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[395] Perl-Rosenthal, *Citizen Sailors: Becoming American in the Age of Revolution,* 102 and 183.
[396] BOA HR.ID. 139/11. In 1891, they were still discussing the retroactivity of the 1869 Nationality Law. BOA HR.ID. 140/8.
[397] BOA HR.ID. 139/2.
[398] BOA HR.ID. 139/8.
[399]The 1874 Naturalization Act was first officially negotiated on August 11, 1874. Renewed negotiations in February 1889 did not result in success. BOA A.) DVN.NHM. 21/8.
[400] NARA 8778/40 (Notes from the Turkish Legation in the United States to the Department of State, 1867–1906), BOA HR.ID. 140/4,140/9 and 140/19.
[401] Before the Civil War, it was nothing but a painful process for the population of African descent to fight against various discriminatory regulations concerning traveling and citizenship rights, not to

of Asian, Japanese, Mexican, Armenian, and Syrian immigrants with respect to the US system of citizenship.[402]

Especially by early the twentieth century, these racial categories were reconsidered in a new policy that directly affected Ottoman subjects. The US Tribunal of the 1st Instance decided to no longer affirm the naturalization of the Asiatic race in the Ottoman Empire, with reference to Armenians, Turks, Syrians, and various Arab populations. Shortly thereafter, an appeal for naturalization by a Syrian was rejected in 1909. The Ottoman Minister in Washington, Alfred Rüstem Bey (Bilinski) (June 1914 – October 1914), protested the humiliating policy adopted vis-à-vis Ottoman subjects in the American press. He underscored that his remonstrance was not against the decision but against the reasoning that the tribunal invoked to justify its refusal. The policy, which positioned Ottoman subjects as inferior, offended both Ottoman dignity and diplomatic tradition as the American Department of State did not endorse the court decision, either.[403] Either the latter's efforts or Alfred Rüstem Bey's protest in the press prompted the Court of Georgia to accept a Syrian, George Najour, as a naturalized American in the same year. In the following decade, courts approved seven naturalization appeals among Syrian, Armenian, and Asian candidates.[404] However, many Ottomans had already obtained American naturalization by that time, a disproportionate situation considered the low number of Americans who would potentially secure an Ottoman citizenship compared to the increasing flow of Ottomans to the United States.[405]

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mention the harsh treatments they had to endure frequently. See Stordeur Pryor, *Colored Travelers: Mobility and the Fight for Citizenship Before the Civil War.*

[402] Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America,* 100.

[403] BOA HR.ID. 140/26 and 140/29.

[404] Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America,* 108 and 109.

[405] BOA HR. ID. 139/13. This was an ensuing problem alike between the United States and Germany. Whereas Germany requested thirty people from the United States, between 1871 and 1874, there came only three requests from the US side. In this respect, the first diplomatic agent of the German Empire in Washington, Kurd Von Schlözer, proposed to the Ottoman government to compare their

This large number of migrants, which prompted the pressing need for a naturalization convention, became, paradoxically, the prominent political obstacle in the way of establishing an extradition practice. The naturalized Ottoman population in Istanbul was primarily regarded as a future threat due to its high number. Meanwhile, the conflicts arose because of Ottoman fears that certain Armenian groups may instigate subversive activities. The latter were deemed political criminals, and their extradition was not an option unless they accepted voluntary expulsion.[406] Instead, the Ottoman police often arrested them without making criminal charges.[407]

Two such arrests, reported consecutively in 1893 in Salonica and Istanbul, became the last straw. In reply to US protests, Ottoman officials claimed that their decisions were not arbitrary but confirmed the applicable laws and regulations in the empire. They had reason to be suspicious of the political intentions of these two Armenians, who had obtained US naturalization without imperial authorization, for which Foreign Minister Said Pasha was demanding their immediate deportation.[408] In 1894, the Ottoman state transformed this security practice into legitimate state policy by declaring that all who had become naturalized since 1869 would be turned out

agreements. He wanted to be sure whether the Washington Cabinet followed similar principles with Germany and the Ottoman Empire likewise they did with Europe. Since the German Empire was a new power, they desired to be treated equally in European politics. See: BOA HR.ID. 139/17.

[406] BOA HR. İD. 140/3 and 140/16. Many of the naturalized Jewish population in Palestine were another concern for the Ottoman state in the late 19th c. They wrote protests to the Us Legation to stop protecting these populations. See BOA HR.ID 140/23. David Gutman explains these problems engendered by the naturalization draft and the governments' switching policies in detail. See: Gutman, *The Politics of Armenian Migration to North America, 1885–1915*, 124–43.

[407] The Ottoman state had already a cautious stance towards the naturalized Americans before the 1869 Nationality Law and the 1874 Naturalization Treaty. For example, in 1868, the naturalized American captain, Pantaleon Petronus, of Greek origin, was arrested by the Ottoman authorities for disrupting the public order in Chios. The Ottoman court overlooked the US protests and claims over Petronus' identity and judged him in the presence of a Greek dragoman. See: BOA HR.H. 346/2.

[408] BOA HR.ID 140/11, 140/12, 140/14, and 140/15.

from the Ottoman territories if they returned.[409] This state policy compelled many Armenians to renounce their Ottoman identity (*terk-i tabiiyet)*.[410] Given the recent developments, Ottoman resentment due to the failed attempts to address the naturalization question was a primary reason that the 1874 Extradition Treaty was not enforced.

Along with obstacles caused by the question of naturalization, there were economic concerns. Aristarchi Bey warned the Ottoman government about the lengthy procedures and vast expense of extradition proceedings. From his colleagues in Germany, Italy, and Belgium, he learned that such proceedings were at the mercy of lawyers who, as they were poorly paid, exploited all legal complications in their favor, namely the conflicts of law between states. The lawsuits lasted years, with expenses amounting to fifteen to twenty-five thousand francs.[411] The Kelly Affair would ultimately validate this concern. In the beginning, the 1874 Extradition Treaty seemed to be a plausible solution to increasing criminality, yet political debates over the 1830 treaty further thwarted its official application. The Kelly Affair thus became a testing ground for the 1874 Extradition Treaty and a turning point for future American-Ottoman conflicts over US jurisdictional rights in the empire.

4.2 The Legal battle over Extradition: The Kelly Affair

On 14 February 1877, Ottoman authorities received word that an American had murdered an Ottoman citizen Tahir, an officer of a customs house in Smyrna

[409] BOA HR.ID. 140/17. This regulation did not bring an immediate success to naturalization question as a deterrent factor. In 1899, another American naturalized Charles Moses was arrested out of similar excuses and the same debates recurred on his identity and expulsion. BOA HR.SYS. 2793/6.
[410] Photographing these people became the standard regulation and legal documentation to certify their expatriation. Hazal Özdemir's research focuses on this practice. See Özdemir, "Osmanlı Ermenilerinin Göçünün Fotoğrafını Çekmek: Fotoğrafçılar, Arka Planları ve Terk-i Tabiiyet Fotoğrafları" 48-59.
[411] BOA HR. ID. 139/26.

(modern-day Izmir). The accused, Patrick Kelly, was a crew member of the *USS Vandalia*,[412] a warship docked in the harbor at the time of the incident. As soon as the Ottoman police arrested him, they notified the consulate in Izmir.[413] After an initial inquiry, police handed Kelly over to diplomatic agents to detain him in a consular prison until a local court hearing. However, in a departure from the customary practice among capitulatory states, the American Consul-General in Istanbul, Horace Maynard, granted the head of the US Legation in Izmir, Enoch Joyce Smithers, permission to hold an independent consular trial on May 15, 1877. Convinced of Kelly's innocence, the legation released him without reporting to the Ottoman government.[414]

The unilateral consular decision to acquit Kelly was unprecedented, and no such legal provision was outlined in the capitulations. US diplomats involved in the Kelly Affair acted contrary to customary procedure by carrying out the trial for Kelly, and the Ottoman refusal to recognize the consular court ruling did not discourage them. Resolving the conflict over jurisdiction proved challenging, in large part due to the disputed translation of Article 4 of the 1830 treaty, which regulated the sojourning rights and legal status of US citizens in Ottoman territory.[415] When the Ottomans took steps to rearrest him, Patrick Kelly disappeared, and his whereabouts would become a critical facet of the subsequent conflict between Washington and Istanbul. Thus, the debate over extradition in the Kelly Affair move beyond the capitulatory regime and judicial predicaments, opening discussions of the

[412] The USS *Vandalia* was a United States Navy warship. It sank close to the Samoan Islands in the South Pacific Ocean in 1899 as a result of a hurricane. See: Kimberly, *Samoan Hurricane*.
[413] BOA HR. TH. 26/44, 30/18, 30/72 and 33/51.
[414] BOA HR.H. 232/4.
[415] Sinan Kuneralp addressed the diplomatic exchanges related to Article 4 of the 1830 treaty and their relevance to the Kelly affair in depth. See: Kuneralp, "Ottoman Diplomacy and the Controversy over the Interpretation of Article 4 of the Turco-American Treaty of 1830," 7–20. I express my thanks to Kuneralp for kindly permitting me to broaden the legal scope of the Kelly affair.

broader notion of jurisdiction in the Ottoman legal system and its engagement with international law.

> William Evarts: What do you want to do? Patrick Kelly is gone.
> Grégoire Aristarchi: No, he did not run away; your agents let him go.
> Evarts: As long as he is out of Ottoman territory, this is no longer the issue. I see no other solution except for the extradition treaty. The United States Government has no right to use executive powers against Kelly. If you think you have the right to complain about this because you claim that our agents helped the fugitive leave, you could ask for satisfaction by way of extradition.
> Aristarchi: We believe that the extradition convention applies only to those who escape on their own. Patrick Kelly does not belong in this category. Your government is responsible for his disappearance, and besides, he is not in the United States now. He is traveling in the waters of the Levant aboard the *Vandalia*, and the criminal has returned several times to Smyrna.
> Evarts: Why did you not stop him, then?
> Aristarchi: Because we are discussing the matter with your government, and because the American captains are somewhat hot-headed. They could threaten to bombard Smyrna as they once threatened to do in Tripoli.[416]

The conversation between US Secretary of State, William Evarts, and the Ottoman Minister in Washington, Grégoire Aristarchi (Aristarchi Bey), testifies to the sophisticated diplomatic advances and parries employed by both states during the Kelly Affair. When referring to the threat of the naval bombing of Tripoli, Aristarchi Bey was referring to a series of conflicts between the US and the suzerain powers of the empire that had come to a head in two battles fought near the North African coast. Known as the Barbary Wars in the West, these campaigns took place between 1801–05 and 1815–16.[417] The larger-scale imperialist ventures of the United States overseas had not yet taken place. Additionally, the threat of bombings can be attributed to the imprudent blustering of American captains rather than a general US

[416] BOA HR.H. 232/4.
[417] See: Lambert, *The Barbary Wars: American Independence in the Atlantic World*.

policy of encroachment. However, it was apparent to Ottoman observers that American diplomacy throughout the world at the close of the century was characterized by a carrot-and-stick strategy.[418] Aristarchi Bey's emphasis on the Barbary Wars, which had occurred more than half a century earlier, must be understood in this light.

These words were a testament to the discretion of a seasoned Ottoman diplomat, who carefully weighed the stance of his opponent. Aristarchi Bey acknowledged the need for a delicate balance in the Ottoman state's diplomacy with the United States. In this respect, he was a crucial figure in the Kelly Affair. As the Ottoman representative in Washington (1873–83), Aristarchi Bey was an Ottoman diplomat of Greek descent with years of experience.[419] He was more than just a career diplomat since he was also educated as a jurist and served in various provinces.[420] Furthermore, he was the author of the legal collection *Législation ottomane.*[421]

The Ottomans did not sweep the Kelly Affair under the diplomatic rug. On the contrary, the Sublime Porte conducted an effective campaign of legal diplomacy that reflected confidence in its developing judicial system. While the initial conflict erupted over a jurisdictional conflict, the Ottoman state had granted the United States the most favored nation title upon which the latter's claims were built. When Ottoman subjects were party to a criminal case, the so-called privilege of

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[418] Bender, *A Nation among Nations: America's Place in World History*, 183, and Yılmaz, *Turkish-American Relations, 1800-1952: Between the Stars, Stripes and the Crescent,* 11-15.
[419] After 1883, he was dismissed from his post for the reasons not clearly stated. See: Kuneralp, "The Last of the Phanariotes: Grégoire d'Aristarchi Bey (1843–1914), an Ottoman Diplomat and Publicist in Search of Identity."
[420] Strauss, "A Constitution for a Multilingual Empire: Translations of the *Kanuni Esasi* and Other Official Texts in Minority Languages," 27.
[421] See Aristarchi Grégoire Bey, *Législation Ottomane; ou Recueil des lois, règlements, ordonnances, traités, capitulations et autres documents officiels de l'Empire Ottoman*, and *The New York Times,* Mar. 12, 1875.

extraterritoriality was never officially accorded to American nationals, just as it was withheld from other European powers. Aristarchi Bey referred to this privilege as an "imaginary feature" in one of his dispatches, implying that it did not reflect practice in the least.[422] In any case, American consular representatives attempted to distort the terms of the capitulatory agreement. They solicited every means to push their extraterritorial right, occasionally making use of variances in Article 4 of the 1830 treaty. On May 15, 1877, Consul General Horace Maynard supported their claims by quoting the English version of Article 4 as follows:

> By these clauses the United States Government understands that those of its citizens who may have rendered themselves guilty of an infraction of the Turkish law within the Ottoman territory shall, nevertheless be considered as invested with the privilege of extraterritoriality, and shall not be amenable to Turkish law and procedure, but that these citizens may claim the right to be tried, and if found guilty, to be punished according to the laws of their own country which would be applicable to infractions of the law of like nature with those of which they may have been accused.[423]

However, this article differed between the Ottoman-Turkish and English translations of the text. Whereas the English translation stated that the rights to try and punish were the judicial prerogative of the American Consul General, the original Ottoman-Turkish version touched only on the point of judicial competency, thus leaving the door open to American claims of misinterpretation by the Ottomans.[424] Jay Morris stated that the English version was based on the verified French version and translated upon the US government's official order. The first draft was signed in Constantinople. However, the Ottoman officials received no satisfactory explanation

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[422] BOA HR.H. 232/4.
[423] "Considerations on Article IV of the Turco-American Treaty of 1830, in its bearings on the Position of American Citizens in Turkey," NARA 5084.
[424] For the American translation; See: Bevans, *Treaties and Other International Agreements of the United States of America, 1776–1949,* 621; and for the original Ottoman Turkish text, See: "Devlet-i Aliye ile Düvel-i Mütehabbe Beynlerinde Teyemmüna Mün'akid olan Muahedât-ı Atika ve Cedideden Memurîn-i Saltanat-ı Seniyyeye Müracaatı Lâzım Gelen Fukarat-ı Ahdiyeye Mutazammın Risaledir."

about the origin of the confusion. Aristarchi Bey speculated that the variance in translation could have stemmed between the French and English versions rather than the Turkish one, as the official document ratified in Washington was neither of these versions.[425]

Zülal Muslu argues that consular dragomans in the Ottoman Empire were more than translators of official documents or court interpreters. They were active participants in judicial procedures who held the right to confirm the court decisions and initiate prosecutions when conflicts arose among their consular agents. The active nature of their role was apparent in the translation processes, as well. These officials had a rich knowledge of the law and diplomacy, which was manifest in the art of their assigned translations.[426] Nevertheless, it is hard to ascertain the extent to which they contributed to conflicts caused by misinterpretation in the translation of diplomatic documents. Disputes over Article 4 of the 1830 treaty point to the importance and role of the dragomans in foreign politics. More than as a matter of translation, however, Article 4 reflected the prevailing, de facto US stance towards the legal system of the Ottoman Empire. In 1880, for example, a naturalized Armenian, Melkon Markarian, was imprisoned in Istanbul to await trial for the homicide of Mıgırdiç, an Ottoman Armenian from Muş. Horace Maynard reacted to the Ottoman decision to hold the trial with the assistance of the dragomans, as follows:

> Permit me to remark that it has been the uniform policy of the United States of America in treating with non-Christian powers, whose modes of justice and forms of punishment are unlike its own, to stipulate that when United States citizens are guilty of crimes or offences within the territorial limits of

[425] BOA HR.H. 232/4.
[426] Muslu, "Language and Power: The Dragoman as a Link in the Chain Between the Law of Nations and the Ottoman Empire," 56. In her work, Muslu focuses on the dragomans as the production of their cultural and social upbringing. She examines how the dragomans took an active part in the Ottoman engagement with international law.

> such powers, they shall be tried and punished by the diplomatic or consular offices of the United States, and I am persuaded there will be great unwillingness to depart from this policy.[427]

When American authorities pressed their right to try Kelly using the excuse of a difference in translation, they were reacting with that established notion in mind.[428] They frequently resorted to Article 8 of the Ottoman-Belgian Treaty, which similarly underscored the Belgian right to jurisdiction over its citizens. The Ottoman government countered that the government of Belgium never abused the capitulatory regulations but respected the Ottoman jurisdiction.[429]

On the other hand, the US Consul Enoch Joyce Smithers articulated another reason for freeing Kelly. Discounting the competency of the Ottoman legal system, he added, "I wish your excellency to understand that I claim not only to be present at the Tribunal regularly instituted but also claim an indispensable right to give my voice to the judgment."[430] He insisted that an "extraordinary" tribunal was necessary rather than leaving the case to the Ottoman Court of Appeals (*Temyiz Mahkemesi*).[431] This attitude by an American diplomat reflected a widely-shared European bias against the Ottoman judiciary system. Most believed that the concept of territorial sovereignty was unknown in the Ottoman empire, which legitimized their insistence on extraterritoriality.[432] However, as Shih-Shun Liu argues, "extraterritoriality was

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[427] BOA HR.H. 346/19.
[428] Article 4 of the 1830 Treaty was always a headache for the Ottoman Empire in its relationship with the United States. Not to encounter similar problems, Aristarchi Bey checked the English and French translations of the 1874 Extradition Treaty during the negotiations. BOA HR.H. 139/29.
[429] BOA HR.H. 232/4. Other capitulatory states sometimes manipulated these two articles in both treaties as a trump card to justify their jurisdictional claims of various sorts. For example, in 1874, the Italian consulate rejected the sentence heard in the mixed court without a dragoman. Rather than referring to the customary practice usually observed for centuries, he referred to Article 4 of the 1830 Treaty. The weaning power of capitulations is embedded in such daily legal practices, which demonstrate a more significant change in the Ottoman legal system if taken as a cumulation. As the Ottoman legal structure strengthened over time, the capitulatory states had to find new legal outlets for their jurisdictional claims. See, BOA HR.H. 513/54.
[430] BOA HR.H. 232/4.
[431] BOA HR.H. 232/4.
[432] Féraud-Giraud, "De La Juridiction Française Dans Les Échelles Du Levant," 581.

nothing but a legacy of the undefined or vaguely defined status of the alien in the ancient world, and a survival of the medieval theory of the personality of laws vs. territoriality of law, which was once prevalent everywhere in Europe."[433] Its centuries-long survival as a legal phenomenon was particular to a select few countries, among which the Ottoman Empire was the most prominent.[434]

Smithers' excuse had no legal basis in the Ottoman judicial system. First off, other European powers generally deferred to the Ottoman judicial system, if reluctantly.[435] Additionally, investigative courts (*tahkik meclisleri*) were established in 1854 to function like a mixed court, hearing criminal cases involving Ottoman and foreign subjects in the provinces. Despite their shortcomings, these investigative courts conducted trials in the presence of a dragoman, in conformance with capitulatory regulations.[436] Consuls had only limited powers of adjudication in criminal cases with Ottoman litigants.

For lawsuits in mixed courts, Ottoman legal experts frequently stressed the weight of the Ottoman penal codes as emblematic of territorial law. According to Zohrab, the penal codes should be the sole reference in criminal cases and should be in force everywhere, including in consular institutions.[437] On the other and, Hamayak Hüsrevyan emphasized that European powers flouted the jurisdictional rights of the European subjects. The lack of regulations concerning territorial jurisdiction permitted occasions in which justice could be manipulated.[438]

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[433] Liu, *Extraterritoriality: Its Rise and Decline,* 229.
[434] Özsu, "The Ottoman Empire, the Origins of Extraterritoriality, and International Legal Theory," 129.
[435] Ahmed Cevdet, *Tezakir I–II,* 62.
[436] Testa, *Recueil de Traités de la Porte Ottoman avec Les Puissance Étrangères*, Vol. 5, 153.
[437] Zohrab, *Hukuk-u Ceza*, 95.
[438] Hüsreyvan*, Hukuk-u Hususiye-i Düvel,* 181; and Brown, *Foreigners in Turkey, Their Juridical Status,* 62.

In the Kelly Affair, the question of who had the right to preside over a trial ended in deadlock over the controversial Article 4. The Ottoman government insisted on its jurisdictional rights. The situation compelled Washington to seek other legal maneuvers, and they proposed extradition. The proposal took Istanbul by surprise, as the terms of the treaty did not correspond to the case. Extradition proceedings required that Kelly be returned to the empire for a fair trial, but they could not find him. Additionally, no country would extradite its own citizen. For these reasons, Ottoman officials had already written off the possibility of extradition as a diplomatic solution.

Instead, they laid out a strategy of hearing to a strict interpretation of the treaty stipulations. The Ottoman Foreign Minister, Mehmed Esad Safvet Pasha, issued a rather shrewd answer, stating that they could not request extradition of the accused as he was not legally defined as a fugitive.[439] He was a detained suspect whom American consular agents had released in a criminal action. Only intent to escape could justify a demand of extradition. Safvet Pasha was directly quoting the relevant articles of the 1874 Extradition Treaty. He backed his claims by highlighting another technical obstacle to extradition. Even if Patrick Kelly had fled by his own means, extradition was not a viable legal option as the murder was unintentional. Article 2 of the 1874 Extradition Treaty supports this argument.

> Persons shall be delivered up who shall have been convicted of, or be charged, according to the provisions of this convention, with any of the following crimes: murder, comprehending the crimes designated by the terms of parricide, assassination, poisoning and infanticide, and *the attempt to commit murder.*[440]

[439] Mehmet Esad Safvet Pasha held this post many times in different decades.
[440] Bevans, *Treaties*, 643; BOA İ.HR. 264/15815.

Safvet Pasha pointed out that the murder of Tahir did not conform to these stipulations. Patrick Kelly was inebriated on the day of the attack and smashed a bottle over Tahir's head. The latter eventually died. The circumstances clearly indicated that it was not premeditated but fell within the purview of involuntary homicide. Thus, the extradition process could not be initiated, as there was no reference to involuntary homicide in the treaty.[441]

Thus, Ottoman authorities could not initiate proceedings for Patrick Kelly. Moreover, Kelly had not yet set foot on American soil and so was therefore not a fugitive in American hands. Rumors that he was aboard the USS *Vandalia* offered additional proof. This American warship was famous for its expeditions along Mediterranean coasts between 1876 and 1878.[442] Aristarchi Bey claimed that the implicit threat of attack by American captains prevented the Ottomans from apprehending Kelly in the ports, but the presence of American President Ulysses Grant on the ship might have been another reason for hesitations. While his visit to Istanbul was a grand occasion in the international arena,[443] the tension of the Kelly Affair hung in the air. In reference to Grant's visit, the Ottoman government expressed regret that "the present unhappy state of affairs prevented many courtesies they would gladly have extended."[444] Adherence to the treaty could not have resulted in Kelly's extradition as no regulations permitted arrest on the open sea. On the other hand, Evarts made clear that the United States would not attempt to repatriate Kelly if he took refuge in a third state.[445]

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[441] BOA HR.H. 232/4.
[442] USS *Vandalia* https://www.ibiblio.org/hyperwar/OnlineLibrary/photos/sh-usn/usnsh-v/vandla2.htm
[443] *Daily Levant Herald*, "General Grant in Constantinople."
[444] "Papers Relating to the Foreign Relations of the United States, Transmitted to Congress, With the Annual Message of the President, December 6, 1880," No. 508/230.
[445] BOA HR.H. 232/4. In the 1874 Extradition Treaty, there was no statement about fugitives who escaped to a third location.

No clause in the 1874 Extradition Treaty addressed jurisdiction at sea counted against the Ottomans. According to international law, crimes committed in territorial waters were to be treated under territorial jurisdictions. The Kelly Affair was one such example; as Patrick Kelly had murdered the customs officer in the Ottoman harbor, which would be readily accepted as territorial waters if not land.[446] The multilateral extradition treaty signed among the Latin American states and the United States in 1879 likewise included an article stating that "for the purpose of extradition, national jurisdiction includes the territorial waters, merchant vessels on the high seas, and men-of-war wherever they may be located."[447] This point went unnoticed by the Ottoman state which otherwise paid heed to the treaty's stipulations. They could have pressed Washington to recall the *USS Vandalia* to the Ottoman harbor by diplomatic means. This last solution may have ended with a victory for the Ottomans as the US government had been forced to submit in a similar incident with China in 1821.

Francis Terranova, an Italian sailor employed on the American opium ship *Emily,* threw a jug at a Chinese woman in a rowboat alongside to the ship after a dispute over the products she wished to sell. Hit on the forehead, she fell and drowned, which was considered a willful homicide according to Chinese law. Even though the US consul of Canton refused to allow the Chinese to prosecute, just as in

[446] If the crime had been on the American ship at open seas, both sides might have claimed the right to prosecute a trial. The ship could be considered American territory for the American side, whereas the Ottoman side had the right to claim the accused as the victim was an Ottoman. In a similar case in 1864, an Ottoman subject, Marcos Vartos, participated the assassination of the captain of a British ship, *Flowery Land.* As the ship was on board and the captain was English, the British courts tried him and the other four accomplices. They were sentenced to death without any protest from the Ottoman state. Instead, the Ottoman Embassy in London provided legal assistance to Vartos from the outset of the trials. On the other hand, Archimandrite Narcissus Morphinos, the head of the Greek Church in London, paid several visits to the prison to give him religious relief until his prosecution. BOA HR.H. 165/13.

[447] This was Article 4 of the Inter-American Extradition Treaty signed on March 27, 1879 at Lima. See Zanotti, *Extradition in Multilateral Treaties and Conventions,* 94.

the Kelly Affair, China instituted an embargo. Ultimately, Terranova was surrendered to the Chinese and sentenced to death.[448]

Acknowledging the difficulties of arresting Kelly and the procedural obstacles to his extradition, Istanbul resorted to another means of diplomacy: international law. They were determined to handle the conflict by adopting the legal parlance of the time. Maurus Reinkowski aptly remarks that the regular flow of Ottoman correspondence was a remarkable manifestation of the imperial "political idiom" and "rhetoric of power" of its time.[449] One of the most effective weapons of the nineteenth century was international law, which European states bent to extend their reach overseas. The Ottoman Empire, to its best abilities, also availed itself of this tool.[450]

A few decades earlier, European diplomats had looked down on Ottoman officials for their ignorance of the subject. In 1836, William Churchill, an English journalist living in Istanbul, accidentally killed an Ottoman boy in the Belgrade forest. His arrest and trial were hotly disputed in diplomatic circles. When Yusuf Halis Efendi, a civil servant in the Translation Office, quoted a prominent book on the law of nations to Frederick Pisani, the chief dragoman of the English embassy, the latter turned a deaf ear and suggested that international law was not fit for

[448] Chen, "Universalism and Equal Sovereignty as Contested Myths of International Law in the Sino-Western Encounter," 98 and 100. For a comparative example, the Lady Hughes affair of 1784 is also an illustrative case. This controversy of similar nature occurred between the British Empire and China paved the way for the 1889 Chinese Extradition Ordinance a century later. See, Chen, "Law, Empire and Historiography of Modern Sino–Western Relations: A Case Study of Lady Hughes Controversy in 1784," 1–54; and "Chinese Extradition Ordinance."

[449] Reinkowski marks the power of daily correspondences in the Ottoman bureaucracy to understand its political discourse. I apply his arguments to Ottoman foreign relations in the nineteenth century to demonstrate how international law transformed the state discourse. See: Reinkowski, "The State's Security and the Subjects' Prosperity: Notions of Order in Ottoman Bureaucratic Correspondence (19th Century),"195.

[450] Genell, "The Well-Defended Domains: Eurocentric International Law and the Making of the Ottoman Office of Legal Counsel," 256.

Ottomans.[451] From the 1850s onwards, an increasing engagement with international law transformed the Ottoman state's asymmetrical relationship to Europe.

The Ottoman government learned through bitter experience how European powers intervened in the affairs of the Ottoman Empire. The principles of international law frequently worked against Ottoman interests as "non-interventionism was the rule but the exception became the norm when it considered the Ottomans."[452] Under the pretense of humanitarian intervention, European nations frequently decried Ottoman domestic crises (which were often instigated by foreign agents) erupted, including the issue of Crete and the 1860 Intervention in Lebanon.[453] The Bulgarian massacres of 1876 and the Berlin Conference furthered Ottoman understanding of international politics, which was increasingly guided by Machtpolitik. Pushing back against this order, Ottoman officials employed international law. This was the same tool that European powers distorted to carry out their "dual civilizing mission," which brought "peace and order within the European system" but used "force to (civilize) outsiders."[454] Likewise, Ottoman bureaucrats increasingly leveraged international law in their foreign relations.[455]

Safvet Pasha claimed that the issues emerging from the Kelly Affair were not limited to the specific American and Ottoman conflict due to their international character.[456] Applying the same argument, Aristarchi Bey played for an international audience. The illegal attempt to try and release Kelly was contrary to the spirit and

[451] Akif Paşa, *Tabsıra,* 27.
[452] Fujinami, "The First Ottoman History of International Law," 257.
[453] See: Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815–1914*.
[454] Coates, *Legalist Empire: International Law and American Foreign Relations in the Early Twentieth Century*, 12.
[455] Palabıyık, "The Emergence of the Idea of International Law in the Ottoman Empire before the Treaty of Paris (1856)," 241; Aral, "The Ottoman 'School of International Law as Featured in Textbooks," 70–97.
[456] BOA HR.H. 232/4.

principles of the esteemed international law.[457] In return, the US government ignored the protests and hid behind a mask of supposedly amicable relations that were being maintained between the two governments. Aristarchi Bey remarked that if the American government insisted on extradition, the Ottomans would appeal to the Ottoman parliament (*Meclis-i Mebusan*). He asserted that the American government, a burgeoning constitutional power, would be embarrassed by the resulting international furors. Founded just two years earlier, the Ottoman parliament symbolized widely held hopes for a representative government. Ottoman officials were eager to prove "the actual value of Ottoman institutions" and expose "the abuses of foreign agents" in the empire. With reference to the latter point, Aristarchi Bey blamed US agents, who had made their claims without concrete evidence and without consulting lawyers.[458]

The politically legal discourse and the holding forth the text of the treaty indicated a novel diplomatic direction. Aristarchi Bey noted that there was trust in official Ottoman judicial system which was characterized by domestic legal formalism. The Ottoman state relied considerably on the opinions of legal advisors. Nevertheless, daily politics was always close to the surface as neither Ottoman nor American officials spoke or acted in the Kelly Affair without due consideration. The Sublime Porte pursued legal diplomacy only to the extent permitted by its pragmatic concerns. While it rebuffed the suggestion of demanding extradition by claiming that the 1874 Extradition Treaty was inapplicable in cases of involuntary homicide, it was primarily occupied with the costs of extradition proceedings, which amounted to 40

[457] BOA HR.H. 232/4.
[458] BOA HR.H. 232/4.

to 50 thousand francs. These expenses were too high to cover the probable number of extradition proceedings. Aristarchi Bey reported that other states also abandoned the repatriation of even the most offensive fugitives out of economic concerns.[459]

On the other hand, Washington remained distrustful of the capacity of the Ottoman judicial system. Otherwise, it would not have insisted on extradition, particularly with the knowledge that it could not be applied under the circumstances. In the United States, official treaties were as highly valued as congressional acts. In1848, by an act of Congress, the regulation of jurisdictional issues came under the control of the judicial system rather than being administered by the executive branch. Extradition treaties, in particular, were thus drafted to conform to the principles of statutory laws.[460] In this respect, US authorities could have surrendered Kelly to the Ottoman courts rather than essentially opting out the extradition treaty.

The obstacles to the extradition and impartial trial of Kelly vexed the Ottoman government, which feared that the incident would end with his impunity. Ultimately, in 1878, the United States consented to give 1200 dollars to Tahir's family. Aristarchi Bey confirmed that the acceptance of the payment signified the end of the crisis.[461] The reasons that the Ottoman state spent so much time and effort waging a legal battle against the American legation to protect its jurisdiction within its own territory only to accept pecuniary compensation must be considered within the broader historical framework of US-Ottoman interstate politics.

[459] BOA HR.H. 232/4.
[460] Rogers, "Supreme Court of the United States and Rauscher," 227; Hyde, "Notes on Extradition Treaties of the United States," 488.
[461] BOA HR.H. 232/4.

4.3 The Slippery Foundation of Foreign Diplomacy: Ottoman-American Relations

Ottoman-American relations primarily originated from commercial ventures. A ship sailing under the US flag, the *Grand Turk,* docked in an Ottoman harbor for the first time in 1782,[462] and efforts to establish a US Consulate in the empire were realized in 1824. A longtime resident of Izmir, David Offley, was the first consul to be appointed. A couple of years later, both parties signed the 1830 Treaty of Commerce and Navigation, and by 1867, American merchants were frequenting Ottoman ports.[463]

In contrast with the relatively recent origin of the Ottoman-US relations, the attitude adopted by the Americans during the Kelly Affair was reminiscent of powers long accustomed to a capitulatory system. In this respect, this legal conflict was a pointed example of the rapid change of US policy in the international arena. Initially, the founding fathers had the foresight to forge a political system that relied on constitutional principles and a territorially well-defined state. As such, the United States fine-tuned Westphalian sovereignty.[464] Washington had a domestic agenda that relied on territorial expansion and overall assimilation to American identity. Unlike the imperialist ventures launched by Europe, their political ideals were epitomized by the 1823 Monroe Doctrine, in which they reproached Europe for its colonial enterprises in the Americas.[465] However, the doctrine's overarching objective underwent a drastic change in response to novel foreign policy as the

[462] Howard, "The Bicentennial American-Turkish Relations," 292, and Kocabaşoğlu, *Anadolu'daki Amerika: Kendi Belgeleriyle 19. Yüzyılda Osmanlı İmparatorluğu'ndaki Amerikan Misyoner Okulları,* 9.
[463] Gordon, "Turkish-American Treaty Relations," 711.
[464] Krasner, *Sovereignty: Organized Hypocrisy*, 176.
[465] Heiss, "The Evolution of the Imperial Idea and the U.S. National Identity," 511. Just a few years later in 1850s, the American hegemony was visible in Hawaii. Known as *alii* by title, a new Hawaiian judicial system was established, combining Western legal philosophy and judicial structure with the traditional institution. American lawyers and Protestant missionaries were influential in this process. As both systems were difficult to adapt, *alii* remained an ephemeric experiment. See Silverman, "Imposition of a Western Judicial System in the Hawaiian Monarchy," 51.

United States adopted a more imperialist outlook against which it had taken a vigorous stance at the outset.[466]

In other words, the US legalist approach did not last long. Aggressive efforts to carve out a place in world politics reflected the United States' aspiration for power and desire to catch up with Europe. For the young republic, the Ottoman Empire ostensibly served as a place to test its strength and assert its overseas interests. The United States was determined to compel the Ottomans to grant it the same privileges accorded to Europeans. The American imperial gaze was not unique to the Ottoman Empire; US influence was increasing in various distant geographies. In a session of Congress held on 22 June 1860, the principle of foreign jurisdiction in China, Japan, Siam, and Iran were laid out:

> in regard to crimes and misdemeanours, the public functionaries are hereby fully empowered to arraign and try […], all citizens of the United States charged with offences against law, which shall be committed in such countries, to sentence such offenders in the manner herein authorized.[467]

For these countries above, the criteria of "civilization" seemed to determine the course of the United States' encroachment on their jurisdictions. Europeans, similarly, felt the rising challenge posed by American statecraft. In the same decade as the Kelly Affair, the case of Charles Lawrence (1876) created tension between the US and British governments. Washington demanded the extradition of Lawrence, who was accused of fraud against American financial interests. Ireland had earlier extradited the convict, in accord with the 1842 Extradition Treaty. However, his trial

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[466] The Monroe doctrine gradually represented a more pervasive US policy waged particularly in the Latin world with the excuse of national security. Thus, it is ironic how they quickly assumed a similar position against Western America as the European states did. For two recent/revisionist studies on these points, see Bryne, *The Monroe Doctrine and the United States National Security in the Early Twentieth Century,* and Scarfi, "Denaturalizing the Monroe Doctrine: The rise of Latin American legal anti-imperialism in the face of the modern US and hemispheric redefinition of the Monroe Doctrine," 541-555.

[467] Thirty-Sixth Congress. https://www.loc.gov/item/llsl-v12/

for multiple offenses was beyond obligations of the treaty, causing controversy over the agreement. Ignoring the British protests, US authorities vigorously argued the exceptional nature of the Lawrence case and strove to prevent British intervention. Unlike in the Kelly Affair, where the accused had eluded justice, the British–American legal battle resulted in the severe punishment of Lawrence by the American courts.[468] In this respect, the spirit of American diplomacy in the Lawrence case strikingly resembled to the Kelly Affair which would take place a year later.

After this legal dispute, the Ottoman and US governments rarely invoked the 1874 Extradition Treaty. In one dispatch, Naum Pasha explicitly states that the treaty was in disuse due to the naturalization quagmire and that the Americans were not encouraging any cooperation, either.[469] Costly procedures further hampered extraditions, so the Ottomans side preferred to diplomacy, as the following legal disputes illustrate.

When Lebanese citizen Tammous Elias Fares killed Emin Ibrahim Kader, a Lebanese author, and then escaped to the United States in 1893, Washington rejected Ottoman requests without even referencing to the treaty. They evaded the implementation of the convention by raising additional procedural obstacles. Secretary of State John W. Foster (1892–1893) announced that all extradition procedures were being revised to follow the principles of Section of 5270, "Revised Status of American Extradition Legislation".[470] The amendment was submitted to the American Senate and the House of Representatives in 1887; however, the Ottoman government was not informed whether the modifications would affect the validity of

[468] Fiore, *Traité de Droit Penal*, 702–704.
[469] BOA HR.İD.140/10.
[470] BOA HR.İD.140/10.

the 1874 Extradition Treaty. As the title "American Extradition Legislation" suggests, the new regulations rescinded official bilateral extradition treaties. Thereafter, the US Magistrate Courts started adjudicating extradition proceedings.[471]

Until the 1910s, no archival records indicate any correspondence over the extradition of ordinary criminals. While there are numerous political explanations, the 1894 decision to deport Ottomans naturalized before 1869 was the most probable reason that negotiations were suspended. In 1911, the case of Joseph Thomas Khouri, a Syrian from Ninah who killed his two children and escaped to the United States, revived the discussion of extradition. However, as he had been a naturalized American since 1903, the Ottoman government cited expense as a reason for not pursuing extradition, and it did nothing more until the case was resuscitated until 1917.[472]

The last official discussion of extradition was in 1912. The Diyarbekir Court of Appeals condemned an Armenian named Dikran and his brother Yekun Bogos to 15 years of forced labor for a homicide committed in the same province. Dikran fled to New York where his uncle Ohannes was living. The Ministry of Justice provided the photograph of the convict and the arrest warrant notarized by the criminal court in three languages (Turkish, English, and French), and appealed for his extradition via diplomatic means rather than resorting to the treaty. Asım Bey, from the Office of Legal Counsel, explained why the extradition treaty was not the best option in the legal case. His words recalled the experience of the Kelly Affair. Istanbul still harbored distrust issue; thus, it was uneasy about the transfer process lest the convict

[471] BOA HR.İD. 139/59.
[472] BOA HR.UHM. 98/43.

escape along the way. It was rare to find ships sailing directly aboard from Ottoman ports or from other cities that would honor the principles of neutral maritime transshipment.[473] The US government strayed from the treaty regulations and overlooked attempts at diplomacy, demanding instead a court trial before an American magistrate. The documentation was insufficient, so an Ottoman agent was invited to appear before the American court. Only after this individual stated the accusations under oath, charged Dikran with the offense and presented the evidence, would the magistrate commence the investigation.[474]

Eventually, the legal cases of Tanmous Elias Fares, Dikran, and Joseph Thomas Khouri resulted in their impunity, and no further attempts were made by the Ottomans to claim trial right them in the empire. The communication issues and political disputes between the two parties undercut the functioning of the 1874 Extradition Treaty. Following these legal cases, both sides set the option of extradition aside altogether. The convention remained officially in force yet was rarely invoked until the Republican period.[475]

4.3.1 Was the Legal Battle Over? The Quagmire of Jurisdiction

The 1874 Extradition Treaty was a promising solution to multi-level jurisdictional problems that Ottoman and US debates exacerbated. But on account of political considerations, the convention failed to efficiently respond to the security crisis

[473] BOA HR. UHM. 127/42, BOA HR. HMŞ.İŞO 6/6, 6/7, and 6/8.
[474] BOA HR.UHM. 127/42. However, the Ottoman Empire had immediately arrested, after the request of American Government out of international comity, an Ottoman subject Memar Rızk, who killed another Ottoman in New Jersey and escaped to Egypt in 1907. At the time, the US authorities expressed their thanks for this courtesy of the Ottoman Empire and their action in this matter, See: HR. ID. 140/46.
[475] The United States and Turkey signed an extradition treaty on August 6, 1923, and they renewed it on August 18, 1934. See; Bevans, *Treaties*, 642.

precipitated by increased transnational mobility. However, its failures aside, I argue that the 1874 Extradition Treaty, when tested by the Kelly Affair, reoriented the judicial policies each state resorted in the future. Crimes of political or anarchic character were addressed in separate policies, which Chapter 6 examines. For US-Ottoman disputes over ordinary crimes, Article 4 of the 1830 Treaty effectively sabotaged any resolution that to the extent of opting out of capitulatory practices was more effective. In 1889, the Ottoman Minister of Washington, Alexandros Mavroyeni (1889–1899), expressed astonishment with regard to the prevailing controversies over Article 4.

> Every independent state exercises the right of trial unless it has renounced it in whole or in part by an express and categorical text. Now, the Ottoman Empire is an independent state; it was so in 1830, the date of the treaty...The more I examine this controversy, the more impossible it is for me to understand how a government like that of the United States of America, with so high a sense of justice, has been able, for even a single instant, to contest this right of trial in favor of such states like the Ottoman Empire.[476]

Due to the unremitting legal quagmire, Ottoman-US relations embraced an approach distant from diplomatic courtesy; the two powers resumed their aggressive diplomacy with respect to one another. The Ottoman government staunchly defended its local justice, but US consular officers clung to the attitude displayed in the Kelly Affair: an adamant refusal to deliver American criminals to Ottoman judicial system in favor of trying them in consular courts.[477] These offenders were often faced with double jeopardy, as the imperial police often forcibly delivered them to the Ottoman courts following their acquittal by their own consular agents. Consular authorities

[476] NARA 5505 and BOA HR. TH. 272/69.
[477] BOA BEO 302/22579 and 319/23872, and BOA HR. HMŞ. İŞO 185/19.

responded refusing to attend the Ottoman court trials, thus rendering the sentence null and void. Unresolved conflicts and absence of the dragomans paralyzed judicial proceeding and impeded justice, which necessitated the adoption of other legal measures. In this respect, the cases of Maurice Pfloum and Albert Leighton are representative of the jurisdictional battle waged by both parties in legal disputes.

The first official Ottoman attempt to overcome the predicaments of Article 4 was the *Istimlâk Nizamnâmesi* (property law) of 1867, which granted foreigners the right to hold real estate. There was one major condition, which was the requirement that these foreigners submit to Ottoman laws in all cases, if they wished to hold property in the empire. The novel part of this regulation, which concerned foreigners, was a procedure that had not existed in previous protocols. The law authorized the Ottoman police to deliver search warrants for foreign properties and authorized local courts to conduct trials without consular assistance if the scene of crime was more than 9 hours from any consular institutions. This was a major blow to the extraterritorial privileges that had previously governed such arrangements.[478] To rebuff American claims about Article 4, the 1867 Property Law became a frequently quoted legal anchor for Ottoman diplomats and legal officials. The legal advisor Gabriel Noradunghian first came up a solution in the case of Maurice Pfloum, in 1883. Pfloum was a doctor who provided medical services for tax collectors in Axos, Crete. During a quarrel, one collector called the police complaining that he had been insulted. The police beat Pfloum on their way to prison, and while resisting, Pfloum was thrown and fell over another man, which was considered a double offense. The

[478] BOA MHD 268, and Brown, *Foreigners in Turkey: Their Juridical Status,* 44.

Ottoman trial was conducted without the presence of a dragoman in the court in line with relations of 1867 Property Law.[479]

A similar procedure was applied in the case of American Albert Leighton, who killed a police agent and seriously injured an Ottoman soldier in Jerusalem in 1909. The legal advisor Hrant Abro argued that there was no need to refer to Article 4 as Leighton owned property in the empire and was thus subject to the 1867 Property Law. Notwithstanding an acquittal by the consulate, Leighton received a two-year sentence by default on July 4th, Independence Day.[480] Nevertheless, Ottoman trials were not overall successful due to a lack of trust between the two parties. The consulates did not recognize Ottoman jurisdiction. They were the ones to incarcerate their subjects after sentences were imposed by the Ottoman judicial system. As such, there was always a risk that criminals would suddenly disappear, just as Patrick Kelly. The Ottoman and US parties found relief in deportation or reparation only if dignity was at stake. In the case of deportations, the Ottoman police accompanied criminals to the harbor to ensure the ships set sail. Sometimes consulates revoked their passports to guarantee that these criminals remained out of Ottoman territories for good.[481]

Reparation demands and indemnity were the legacies of the Kelly Affair, which formed the basis of an alternative course of action to seek justice. When the Ottoman Minister to Washington, Ali Ferruh Bey (1895–1899), recalled the Kelly Affair in 1898, he praised the actions of the Ottoman government against the legal

[479] BOA HR.H. 347/10.
[480] BOA HR.H. 350/2 and HR. HMŞ.İŞO. 126/12.
[481] They first put Leighton on a train from Jerusalem to Jaffa, where he would get on vapor in the accompaniment of Ottoman police. BOA HR.H. 350/2. In 1902, the American consulate did not deliver Abdulkadir Matami, the naturalized American accused of attacking a Greek woman in Bayreuth, to the Ottoman authorities. The local officials arrested him by force and demanded the expiration of his passport to expulse him at ease. BOA HR.H. 349/8.

assumptions of the American consulate. He evaluated the financial remuneration given to Tahir's family as the United States' lack of confidence in its political stance in the dispute.[482] However, demands for repatriation became an occasional strategy adopted by the two governments to gain diplomatic advantage in deadlocked legal disputes. In the case of Maurice Pfloum, the American Legation demanded an indemnity of 2000 pounds, regardless of the legal charges against him.[483]

When the parties were concerned about safeguarding their prestige, indemnity acquired a symbolic meaning. When Sanderin Parson, an American missionary who had been a thirty-year resident of the empire, was killed by three Circassians and Kurds in Izmit in 1880, the event was closely followed by the international press. Even though suspects were arrested, the American Legation blamed the Ottoman government, pointing out the insufficiency of its internal security. They considered deploying a warship to the empire, reasoning that the Parson murder was the result of Muslim fanatism. The Ottoman government was compelled to compensate the victim's family to prevent further outcry.[484] However, power relations were always too fragile to cope with the fickle nature of day-to-day politics. In another, similar murder case, the Ottoman state avoided the threats encountered in the Parson affair. The famous American cyclist Franz Lenz was murdered in 1892 near Erzurum, a stopover on his world tour. His assassins were never found.[485] Ottoman state did not

[482] NARA 8778/10.
[483] BOA HR.H. 347/10
[484] Sanderin Parson was killed along with his Armenian servant Garabet. They were on their way back from a journey, travelling at night. During their sleep, those three bandits killed them to steal their money. BOA HR.H. 347/1, and "Papers Relating to the Foreign Relations of the United States, Transmitted to Congress, With the Annual Message of the President, December 6, 1880," 619 and 620.
[485] BOA HR.H. 349//1. Lenz was a long-distance cyclist who set off in 1892 for a world tour. In 1894, his track vast lost while traveling between Kızıl Direk and Erzurum during his stopover in the Ottoman Empire. Not having heard from him for months, another cyclist and his friend William Sachleben reported the missing case to the American authorities. After local inquiries, it turned out that some pieces of his bike were found in a region close to Karakilise. Even though five Kurds were

immediately consent to reparations for Lenz, requesting instead that the same amount be paid for Janos Davud, who had recently been killed in West Virginia and whose murderers had also not been found at the time.[486]

4.4 Conclusion

The only extradition treaty officially signed between the Ottoman Empire and the United States was the 1874 Extradition Treaty. This chapter has focused on this convention. The peculiarities of the 1874 Extradition Treaty, which was prepared along with the1874 Naturalization Treaty, were due to the particular nature of Ottoman-US relations. The convention was never effective in practice. Naturalization problem resulted from the dual citizenship of large numbers of Armenian and Syrian subjects, and Ottomans resented the fact that the 1874 Naturalization Treaty was never officially sanctioned, hampering the effective application of the attendant extradition treaty. The ambiguous legal standing of these populations of dual citizens and the increased mobility of crime necessitated a political solution in which both treaties would be enacted simultaneously. Nevertheless, the 1874 Naturalization Treaty was incompatible with the 1869 Ottoman Nationality Law, and the political interests of the two parties prevented their reconciliation. Accordingly, this chapter provides a broad historical framework of Ottoman-US relations which influenced but were not restricted to extradition negotiations.

In this respect, the Kelly Affair first tested the value of the 1874 Extradition Treaty. First, the legal conflict illustrated the tension between the text of a law and its

accused of killing him to steal the silver parts of his bike, they were tried and acquitted in the lack of enough evidence.

[486] BOA HR.H. 349/1. See also, Herlihy, *Lost Cyclist: The Epic Tale of an American Adventurer and His Mysterious Disappearance,* and Gambino, "The Unsolved Case of the 'Lost Cyclist'" https://www.smithsonianmag.com/history/the-unsolved-case-of-the-lost-cyclist-57021309/

application. Politics, conflicts over jurisdiction, and the practices of extradition reformulated the interpretation of the treaty text. While this chapter sheds new light on the Ottoman attention to legal formalism, it also reveals that invoking official legal documents was not always the best solution in practice. The agreement's nuanced terms became excuses that both governments used to further political claims in the following decades.

On the other hand, diplomatic controversies evident in the Kelly Affair disclosed the nature of Ottoman-US relations. These relations originated in commercial engagements dating to the late eighteenth century. Despite its formative ideals of a Westphalian state, US foreign policy towards the Ottoman Empire soon modelled itself on capitulatory regulations. Indeed, their jurisdictional claims exceeded the privileges enjoyed by other capitulatory powers. Thus, American authorities' translation of Article 4 of 1830 stirred up legal conflicts as was evident in the Kelly Affair. Debates over extradition process over the course of decades were the direct result of conflicts over Article 4.

However, the diplomacy adopted by Ottoman officials in the Kelly Affair situated the Ottoman Empire, which was usually positioned as semi-power in the geopolitical order, as a power passing between the Scylla and Charybdis of sovereignty and a political dexterity equal to that of Great Powers. Since the Ottoman state was more attuned to international law and was undertaking large-scale legal reforms, the stringent stance embraced by both parties to Kelly Affair made it difficult for either side to breach the jurisdictional limits in place. I have demonstrated that the experiences of the Kelly Affair determined legal policies adopted by Washington and Istanbul in later judicial conflicts. As the political controversies over naturalization resumed, deportation and remuneration became

alternative legal mediums to respond to the reluctance of the Americans to surrender criminals to the Ottoman judicial system.

CHAPTER 5

THE 1877-78 WAR AND THE SURGE OF CRIMINAL MOBILITY: SURVEILLANCE AT THE OTTOMAN BORDERS

> You have seen with your own eyes. Anatolia is swarming. The country is full of migrants from around the world. Everyone is seeking a plot of land to settle on, a roof over their heads.[487]
>
> Chelkash: You might be going to kick up your heels in Turkey for aught know.
> Young Boy: In Tur-tur-key? Who of all Orthodox would think of going there? What do you mean?
> Chelkash: I mean that you're a fool![488]

Unlike the skeptical young boy, the words of Greg Chelkash, the drunkard and professional thief that Maksim Gorky based on an acquaintance from Odessa, hints at the reality of the Ottoman empire in the nineteenth century. The empire witnessed a flux of migrants, and demographic changes were taking place on an epic scale in the last quarter of the century. The country was not just a haven for broke opportunists and vagabonds. Territorial losses, population exchanges, refugees, and the transnational mobility of tribes, families, and criminals of various sorts contributed to a security vacuum along the borders catalyzed by contemporaneous political and social developments.[489] The phenomenon of mobility was not unique to the Ottoman

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[487] "Sen kendi gözünle gördün. Anadolu kaynıyor. Dünyanın dört bir yanından göçler doldurmuş ülkeyi. Herkes ayağını basacak bir toprak parçası, başını sokacak bir dam altı arıyor," Kemal, *Karıncanın Su İçtiği, Bir Ada Hikayesi 2,* 122. This fictional work of Yaşar Kemal narrates the 1923 population exchange between Turkey and Greece. The passage I have excerpted from the book perfectly fits the nineteenth century reality, which was marked by large-scale population movements.
[488] Gorky, *Chelkash and Other Stories,* 15.
[489] For a comprehensive analysis on the Ottoman migration in the empire, see Kasaba, *Moveable Empire: Ottoman Nomads, Migrants & Refugees,* and Blumi, *Ottoman Refugees, 1878–1939: Migration in a Post-Imperial World;* Kale, "Transforming an Empire: the Ottoman Empire's Immigration and Settlement Policies in the Nineteenth and Early Twentieth Century," 252-271; and Ferrara and Pianciola, "The dark side of connectedness: forced migrations and mass violence between the late Tsarist and Ottoman empires (1853-1920)," 608-631.

empire; for a multitude of political and economic reasons, continuous population movements were occurring across the world at the time.[490]

The Ottoman Empire, over its long history, always had to monitor waves of mobility in frontier regions where security conditions were often unstable. The borderlands often became zones of conflict and contestation due to shifting boundaries, intra-communal rivalries, and how the population took advantage of political contests among states. In this respect, the border regime as a state policy was in a continual state of deconstruction in time and place.[491] This chapter focuses on the Ottoman border regime in a limited time period characterized by large-scale human flows and social upheavals. By providing a historical framework for the evolution of the Ottoman security system, it analyses a set of state policies that the Ottoman Empire generated to counter criminal mobility, ensure justice, and conduct surveillance along the Balkan and Russian frontiers after the 1877-78 Russo-Turkish War.

In the aftermath of the war, the 1878 Congress of Berlin reshaped the political maps of these regions. The new borders accompanied shifting national allegiances that brought the legal status of different communities into question. Interstate relations along the borders were affected by state policies largely informed by recent

[490] The period between the years 1850 and 1914, particularly speaking, was called as 'the Age of Mass Migration.' This terminology particularly referred to the large-scale migration to long-distance geographies, such as the mass population flow from Europe to American worlds to pursue economic opportunities. While the economic concerns were addressed as the primary push factor, there were various other reasons underpinning the motives behind the 19th c. migration movements. See Hatton, "The Age of Mass Migration: What We Can and Can't Explain," 11-29; and Knauf and Moreno, *Leaving Home: Migration Yesterday and Today.*

[491] The following work, which has recently been published, provides fresh insight into the transgressive politics at the Ottoman frontiers, which adopts a wide scope of geographical analysis: *Age of Rogues: Rebels, Revolutionaries and Racketeers at the Frontiers of the Empire.* For other studies that focuses on a different aspect of Ottoman frontiers, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850– 1921;* and Ateş, *The Ottoman-Iranian Borderlands: Making a Boundary, 1843-1914;* and The *Frontiers of the Ottoman World;* and "The Habsburg-Ottoman Borderlands: New Insights for the Study of the Nineteenth-Century European Legal and Social Order," and *Ottoman Borderlands: Issues, Personalities, and Political Changes.*

political memory. However, daily security concerns required immediate measures – often tit for tat policies – that outweighed diplomatic courtesy and conflicts over sovereignty. Given this, this chapter also reveals the problems encountered in the conduct of diplomatic dialogue in the extradition process. The 1879 Ottoman judicial reforms were decisive benchmarks; security policies and political debates over the Ottoman border regime were transmuted into a legal state discourse that relied instead on territorial sovereignty and legislative force. This chapter also demonstrates how jurisdictional privileges under the capitulatory system waned after the enactment of procedural codes.

5.1 The Concept of Border in the Ottoman Empire

"Border" is a loaded conceptual term. In terms of geography, it defines a physical line dividing territorial spaces. Frontiers, on the other hand, refer to larger territorial zones along the state borders.[492] The terms border and frontier also connote the history of different mechanisms of control formulated by states and the multifaceted interaction of multiple actors – officials as well as people of diverse ethnic and national backgrounds. In political thought, borders are conceptualized not only according to a state's territorial boundaries but around various spatial formations shaped primarily by administrative policies and the roles played by populations settled in the borderlands.[493] For example, workplace closures and regional shutdowns caused by the Covid-19 pandemic indicate the evolving meaning and

[492] Gadal and Jeansoulin, "Borders, Frontiers and Limits: Some Computational Concepts Beyond Words," 14. This study shows alternative definitions of these concepts in the field of geography.
[493] Frederick Jackson Turner, who introduced the frontier thesis to the literature, likewise argued that the American legislation as the primary power behind their national state was designed according to frontier politics. See Turner, *The Significance of the Frontier in American History,* 44. For a recent issue on the 19th-20th century migration and border politics, see *Migration and border processes: politics and practices of belonging and exclusion from the 19th to the 21st century.*

abstraction of the contemporary concept of borders. Conversely, the humanitarian crises due to refugees fleeing from the Middle East to Europe or from central America to the United States underscore the durable, territorial character of border regimes. Above all, the primary goal of border regimes is to govern regions along the borders and keep them under constant surveillance.[494]

The Ottoman Empire, which had been expanding into new geographies for centuries, always faced demographic mobility within its border regions and across borders. As it was neighbor to many states, the Ottoman frontier zones present a multitude of realities produced among various border communities and the state. On one hand, the "hybrid frontier," as Karen Barkey termed it, was shaped by existing circumstances in border region that "promoted companionship, mutual assistance, and concerted action especially in warfare, as well as a festivity, gift-giving, building of reciprocity, as ways of reducing uncertainty."[495] She further demonstrates that for centuries "imperial flexibility" was strengthened by close contact with local elites and diverse demographics: the countless, varied interactions that occurred on a daily basis along the frontiers. [496]

Maps, as a technologic solution of modern states, came to demarcate borders officially in the nineteenth century. Reşat Kasaba argues that these borderlines were epitomized as symbols of sovereignty, legitimizing state claims over subjects and territories, even though the mobility of populations rendered the presence of official boundaries moot.[497] For this reason, Sabri Ateş uses the term "filters" in reference to the Ottoman-Iran borderlands, which represent a region that was continually

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[494] The following article revisits the border politics in the world with a critical analysis and comprehensive literature survey. Laine, "Beyond Borders: Towards the Ethics of Unbounded Inclusiveness," 745-763.
[495] Barkey, *Empire of Difference: The Ottomans in Comparative Perspective,* 42.
[496] Barkey, *Empire of Difference: The Ottomans in Comparative Perspective,* 14.
[497] Kasaba, *Moveable Empire: Ottoman Nomads, Migrants & Refugees,* 38.

undergoing a demographic, social, and economic transformation.[498] Relations along the Ottoman borders were part of an interactive process in which the empire had to adapt state policies for current local conditions, populations, and the relative ease of mobility. In these regions, conflicts were not restricted to local competition, crime, and banditry; the borderlands also created "property's violence, distinguishing and constituting at one and the same time." [499] Territorial changes following wars led states to compel people retain or change their legal status with regard to property owned in newly annexed lands. This disruption of daily life was a foothold for crime, discord, and disregard for the rules that, in turn, resulted in systematic violence on the part of the states.[500] This is to say that these regions witnessed cooperation and conflict simultaneously. The ambiguity with respect to identity and the dearth of official registration before the late nineteenth century worked to the benefit of those people who moved across these regions unfettered.[501]

5.2 Crime, Surveillance and Extradition at the Balkan Borders

The geography comprised of modern Albania, Macedonia, Bosnia-Herzegovina, Serbia, Montenegro, Greece, and Bulgaria – namely the Balkan states – underwent significant historical transformations in the nineteenth century, both under Ottoman rule and subsequently as independent states. The many local uprisings, strife over the Ottoman taxation system, large-scale banditry, and underground networks of armed revolutionaries that characterized the epoch required particular surveillance and

[498] Ateş, *The Ottoman-Iranian Borderlands: Making a Boundary, 1843-1914,* 9.
[499] Blomley, "Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid," 135.
[500] Hartmann, "The Central State in the Borderlands: Ottoman Eastern Anatolia in the Late Nineteenth Century," 172.
[501] Reynolds, *Shattering Empires: The Clash and Collapse of the Ottoman and Russian Empires,* 101-102.

preventive measures on the part of the Ottoman state. Especially in the last quarter of the century, the first seeds of nationalism in the empire were spurred in these countries. As a consequence, the region was an arena of violent clashes between the state and local insurgents as well as fodder for foreign politics. The presence of a large Christian population and the death toll resulting from recent rebellions turned the domestic politics of Balkan nationalism into a humanitarian crisis in the international arena. In particular, the 1876 Batak Massacre of Bulgarians drew harsh criticism from Europe. Drawing attention to the antithetical relationship between Balkan nationalism and international law, Ntina Tzouvala argues that the European powers "showed a strong preference for manufacturing forms of limited international legal personality as steps towards independence and/or for conditioning sovereignty upon schemes of internationalization." [502] The 1877 Russo-Turkish War and the subsequent Congress of Berlin were explicit points of reference for her.

The border disputes with Balkan states was a long-running issue that occupied the Ottoman political agenda throughout the century. The first serious disputes arose between the Ottoman Empire and Greece in the 1830s, after the Greek War of Independence. Instability on the frontiers caused by clashes between Ottoman and Greek insurgents upstaged diplomatic efforts. The resurgence of the same issues in the 1850s and 1860s demonstrated a need for a long-term border regime based on cooperation and mutual trust. In reality, both governments favored ad-hoc policies that lacked well-conceived surveillance and came at the expense of rampant banditry.[503] Around this time, the Ottoman empire and Montenegro began struggling

[502] Tzouvala, "'These Ancient Arenas of Racial Struggles': International Law and the Balkans, 1878-1949," 1151.
[503] On Ottoman-Greek border; see Gounaris, "Blood Brother in Despair: Greek Brigands, Albanian Rebels and the Greek-Ottoman Frontier, 1829-1831," 1-26; and Gavrilis, "The Greek-Ottoman Boundary as Institution, Locality and Process, 1832-1882," 1531; and Özkan, "The Final Phase of the

with similar problems. European states recognized Montenegro's independence after its victory at the Battle of Grahovac in 1858, though the Ottoman empire would not acknowledge it until 1878. In the aftermath of the battle, the parties engaged in years-long negotiations to determine the Bosnian border.[504]

In the history of Ottoman-Balkan frontier disputes, the Russo-Turkish War (1877-1878) (*93 Harbi)* was the first momentous event to significantly reshape the map. The war was instigated by the Russian desire to establish a strategic outpost along the Black Sea and was further sparked by a conflict over the status of Orthodox Christians in the Balkans. These circumstances were accompanied by a long-simmering series of uprisings in the region. In 1876, Serbia, Montenegro, and Bulgaria rebelled against the empire due to ongoing economic problems and the burden of increasing taxes. The war resulted in the Ottoman's defeat and destined the empire to territorial shrinkage in the Balkans and Eastern Anatolia, eventually contributing to its demographic homogeneity in the long run.[505]

The Congress of Berlin was convened after the war with the participation of Russia, the Ottoman Empire, the United Kingdom, France, Germany, Italy, Austria-Hungary, and the Balkan States.[506] Ultimately, Romania,[507] Serbia, and Montenegro

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Greek Revolution: Delimitation, Determination and Demarcation of the First Greek Borders in Ottoman Sources," 111-138.

[504] See Gölen, "Karadağ Devleti'nin Doğuşu: Osmanlı Karadağ Sınır Tespiti," 659-698, also see the following archival file which the former article does not use. It contains numerous official documents on this particular border issue, BOA HR.SYS. 822/3.

[505] The Ottoman Empire also lost some of its territories in Eastern Anatolia. Kotur, located in the east of Van, was left to Iran, and Russia annexed Kars, Ardahan, and Batum. Bayezid and Alashkert, ceded to Russia by the Treaty of San Stefano (1878), returned to the Ottoman Empire. On the other hand, Crete remained under Ottoman control until it gained autonomy in 1898. Ultimately, the Ottoman Empire also had to pay a substantial war indemnity. See *War and Diplomacy: The Russo-Turkish War of 1877-1878 and the Treaty of Berlin,* and Keçecizade İzzet Fuat, *1293 Osmanlı-Rus Seferi,* and Jenkins, *The Russo-Turkish War: Janus or the Double-Faced Ministry,* and Hozier, *The Russo-Turkish War.*

[506] The Congress was convened at the request of Austria-Hungary, which the United Kingdom and France supported, to revise the conditions of the Treaty of San Stefano. They were concerned by the Russian demands legitimated in that treaty.

[507] It was renamed the United Principalities and the Kingdom of Romania in 1881.

gained complete independence. Bosnia-Herzegovina remained a nominal Ottoman territory, though Austro-Hungary was given control of the region and eventually unilaterally annexed it in 1908. The Principality of Bulgaria emerged as an autonomous state, a title it retained until its independence in 1908. Serbia had been an autonomous state since 1832. In 1878, the city of Nis came under its control, whereas Dobruja was ceded to Romania. Greece, which gained its independence in 1830, annexed the Thessaly region and a portion of southern Epirus following the Convention of Constantinople on 2 July 1881. Ultimately, in 1885, Eastern Rumelia became part of Bulgaria. [508]

This new territorial design not only resulted in shifting borderlines and demographic change; states had to revisit the question of national allegiance which accompanied the question of legal belonging. Allegiances were precarious due to the transfers of property titles in newly annexed regions. The solutions to these problems were conceptually formulated in the Treaty of Berlin. Newly independent states were to establish joint committees with the Ottoman Empire within three years to work on "the mode of alienation, working, or use, on the account of the Sublime Porte, of the property belonging the state and religious foundations (Vakoufs), as well as the questions regarding the interests of private persons engaged therein." [509]

The Ottoman government declared that anyone who wished to change their subjecthood in order to settle or remain in an independent Balkan state had to inform the empire and be issued an imperial decree in conformance with the 1869 Ottoman Nationality Law. Otherwise, they would forfeit their Ottoman identity and whose all

[508]See, "Treaty Between Great Britain, Germany, Austria, France, Italy, Russia, and Turkey for the Settlement of Affairs in the East: Signed at Berlin, July 13, 1878."
[509] See the Articles XXX, XXXIX, and XLVI in "Treaty Between Great Britain, Germany, Austria, France, Italy, Russia, and Turkey for the Settlement of Affairs in the East: Signed at Berlin, July 13, 1878." As Romania no longer shared a border with the Ottoman Empire, a European commission was suggested to demarcate the region's borderline with Bulgaria.

legal rights before the Ottoman judicial system. For properties belonging to emigrants (*muhacirûn*) from the Balkan states, who were mainly Muslims, the Ottoman government agreed upon different regulations for each individual state.[510] The policies formulated to formalize the status of emigrants and administer the new frontier zones took time. Sporadic meetings were held for these purposes up until the Balkan Wars.[511] In the meantime, massive migration and ongoing unrest compelled more immediate solutions to secure the borders.

To secure the frontier zones in the Balkans, the Ottoman Empire adopted a series of security measures. In 1881, they reinforced their military presence, deploying twenty-four infantry regiments near the Balkan borders.[512] Passport officers were employed at all border crossings.[513] By 1912, in the eve of the Balkan

[510] The Ottoman state officially announced in the 1880s that any Ottoman who became Romanian or Serb without official consent and returned to the empire would be considered Ottoman and treated in that way: BOA DH. MKT. 1347/15, and 1642/40, and BOA HR. HMŞ.İŞO. 145/1 and 145/3. A large portion of lands and real estate belonged to the Muslim population in Serbia. These properties belonging to the emigrants settled in the Ottoman Empire were given to the peasants on the condition that they could pay the owners. It was the regulation stipulated by Article 39 of the Treaty of Berlin. Milos Jagodic explains that the peasants usually manipulated this process in many ways. Ultimately, the Serbian government had to make the payments. See Jagodic, "The Emigration of Muslims from the New Serbian Regions," 14. The Convention of Constantinople signed by the Ottoman Empire and Greece in 1881 put the three-year rule for the residents of Thessaly to decide where to settle: BOA HR. SYS. 2942/75, and BOA HR.SFR.3. 280/20. The Muslim population remained in the territories that left for Greece were the pretext for a series of problems concerning mobility control and legal belonging: Immig, "The 'New' Muslim Minorities in Greece: Between Emigration and Political Participation, 1881–1886," 511–522, and BOA HR. HMŞ. İŞO. 164/17. In 1885, the Council of State held a long session that debated the payment required from the Greek side for the properties formerly belonged to the Muslim emigrants: BOA HR. HMŞ.İŞO 168/5. A similar regulation came into a discussion for the properties of Dobruja emigrants in 1888 and Montenegrin emigrants in1906: Hunt, "Changing Identities at the Fringes of the Late Ottoman Empire: The Muslims of Dobruca, 1839-1914," 193-203; and BOA BEO 2878/215794. When the control of Eastern Rumelia was left to Bulgaria, the properties of Muslim populations were transferred to the Bulgarian Christians. Anna Mirkova does an extensive reading over the property politics in the region while focusing on the larger political framework that displays the sovereignty rivalry among the Ottoman Empire, Bulgaria, and Russia. See Mırkova, "' Population Politics' at the End of Empire: Migration and Sovereignty in Ottoman Eastern Rumelia, 1877-1886," 955-985.

[511] In the Ottoman archives, particularly in the catalog HR.ID., numerous documents chronologically listed the negotiations between the Ottoman Empire and the Balkan states to administer the frontier regions and demarcate the borderlines.

[512] Erickson, "Template for Destruction: The Congress of Berlin and the Evolution of Ottoman Counterinsurgency Practices," 353-354.

[513] These officers received a monthly payment of 350-400 piastres. BOA DH.MKT. 1434/42, 1886 and BOA. İ.ŞD. 87/5164, 1886. For the Greek borderlines: BOA ŞD. 2092/19, 1886 and BOA İ.ŞD. 81/4781. For the Serbian borderlines: BOA DH.MKT. 1792/63. For the Montenegrin borderlines: BOA DH.MKT. 1912/71, 1891.

Wars, many border commissariats (*hudut komiserliği*) had also been established by appointing officers in charge of routine patrols in the frontier zones. The mixed committees (*karma komisyon*) were responsible for supervising the security of the borderlands and set the agenda for the commissariats.[514]

The pace of these developments was irregular, and before the upcoming Balkan Wars, widespread banditry was the most challenging security issue which compelled the states to formulate additional purity measures in case of exigent circumstances. Serbian authorities often complained of Albanians of transgressing the borders and called on the commissariats of both sides to act in unison.[515] They urged that additional Ottoman soldiers be deployed rather than irregulars (*başıbozuk*) who were mainly comprised of Albanian nationals who were not always cooperative.[516] Likewise, Greece demanded that measures be taken to prevent the Ottoman gendarmerie from crossing the Greek border under the pretense of pursuing criminal suspects.[517] In most other cases, however, authorities prepared for prompt, joint action to counter the mobility of criminals at the borders. When perpetrators were arrested in a border zone, officials employed usually preferred a collaborative judicial inquiry, for which a simple procés-verbal was enough to proceed.[518]

On the other hand, the Ottoman state sought to introduce long-term in treaties. In 1881, the legal advisor Parnis Efendi proposed revamping the 1856 treaty

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[514] The Ottoman Empire and Serbia prepared the regulations for the organization of the border guardianship (*sınır muhafızlığı teşkili nizamnamesi)* in December 1893: BOA HR.SYS. 1438/25. The mixed committee decided to take lengthy measures at the Serbian borders in 1898, see BOA HR.TH. 212/46. For the regulation to secure the peace (*musalaha-yı umumiye nizamnamesi)* at the borders of Montenegro, see BOA MV. 71/47, 1889; and BOA HR. HMŞ.İŞO. 107/29, 1908. For the mixed committee, see BOA HR.SYS. 138/14. For the Ottoman-Bulgarian frontier protocol prepared by the mixed committee in 1910, see BOA HR.SFR. (04) 416/76.
[515] BOA HR.TO. 299/23, 1879; BOA HR.TH. 37/18, 1880; BOA HR.TO. 19/19, 1885; BOA HR.TH. 149/37, 1894; and BOA HR. HMŞ.İŞO 183/46, 1895.
[516] BOA HR.SYS. 1445/6, 1887; and HR.SYS. 1430/70, 1897.
[517] BOA DH.MKT. 1576/120; 1888 and BOA I.MTZ. (01) 18/735, 1888.
[518] BOA HR. HMŞ.İŞO. 183/17; 1895, BOA HR.SYS. 1439/91, 1898; BOA HR.TH. 259/82, 1901; BOA HR.SYS. 1444/30, 1911. BOA HR. HMŞ.İŞO. 166/47, 1884, BOA HR.SYS. 323/2, 1885.

with Greece for the extirpation of brigandage (*tenkil-i eşkiyâ)*, the stipulations of which were no longer sufficient for the contemporaneous circumstances. A similar treatise was negotiated with Bulgaria in 1889.[519] By the advent of the twentieth century, mugshots, as a new forensic tool, facilitated criminal prosecutions and the investigation of banditry at the borders. When the Ottoman state received news that suspected bandits were moving toward the borders, their photos were immediately sent the authorities in the respective provinces. This measure enabled police forces to make the necessary preparations to prevent raids in advance.[520]

[519] BOA HR.SYS. 1730/61, 1881. On the pretext of capitulations, Greece was reluctant to renew the 1856 treaty: BOA HR. HMŞ.İŞO. 157/42, 1886. The 1856 Treaty for the Extirpation of Brigandage was composed of eight articles: BOA HR.SYS. 1628/2. The Ottoman-Bulgarian project was composed of 6 articles: BOA HR.TO. 479/8, 1889.

[520] In 1906, the Ottoman government confirmed the rumors that a band of brigands from Greece crossed the borders, and they had seditious plans to provoke the Bulgarian and Wallachian populations. The authorities immediately sent their photos to local governors: BOA BEO 2772/207833. In 1911, the Ottoman state was after Kostika Mavlasko, who was recently expelled from Romania. After confirming his identity through his mugshot and completing his official paperwork on fingerprint, they were planning to expel him from the empire: BOA DH.EUM. KADL 4/9. In 1912, the Ottoman government gave the notice to the Ottoman embassy of Sofia to send them the photos of the suspects who were tracked down at the Bulgarian borders: BOA HR.SFR. (04) 862/21.

Figure 8. Notorious brigand Sayef. In 1903, the Ottoman government received news that he and his entourage were planning to cross the Bulgarian border.[521]

Treaties for the extirpation of brigandage represented the preventive measures that the military and police forces used to trace bandits and deliver them to justice – measures unlike diplomatic mediation and negotiations of jurisdiction in the frame of extradition treaties. However, extradition was frequently discussed as an ideal solution in lieu of the such regulations. Notwithstanding the inconclusive outcomes,

[521] BOA A.) MTZ (04) 92/59. The Ottoman authorities were after Sayef for more than a year. A priest in the profession, he later participated in the comitadjis, the rebel bands fighting against the Ottoman military forces in the Balkans. Even though he was captured and put under custody in May 1903, he was killed during a shoot-out in the same month: BOA A) MTZ. (04) 75/46, 1902; BOA Y.PRK.UM. 64/44, 1903; and BOA TFR. I.SL. 16/1594, 1903.6

the Ottoman and Balkan states engaged in many diplomatic dialogues to arrive at an extradition convention. The crucial point here is to understand the power politics and hierarchical relations. This created contradictions in the state discourse to assert political stance and the diplomatic mediations against ongoing crime. The memory of disorder and bloodshed was fresh on everyone's minds. So, in any event, the existence of a treaty would not have redressed all grievances. As such, power politics was more visible in the negotiation of extradition with the Balkan states. The situation at the time was forged mainly by tit-for-tat policies and not by the adoption of international law on equal terms. Thus, the Ottoman Empire and the Balkan states often had to exercise diplomatic caution.

A couple of diplomatic efforts more clearly reveal the asymmetrical nature of the dialogues. In 1887, the Ottoman government rejected a request from Montenegro for an extradition treaty, using the latter's recent political past to implicitly refuse to acknowledge its official status. Tensions arose with other states still under Ottoman suzerainty, as well, due to similar stances by the Ottomans dating to before the 1877-78 War. In 1870, for example, the Ottoman state was reluctant to accept a similar offer from Romania since it felt no obligation to have an extradition treaty with a principality under its rule. This attitude changed little in the coming decades.[522]

A similar dispute had occurred with Bulgaria in 1884. When a Bulgarian killed an Ottoman gendarme and was condemned to death by the military court, Bulgaria claimed that a homicide case committed justified his extradition to Bulgaria. They proposed to exchange two Ottomans detainees in return for their national, a solution to which Balkan states frequently turned in cases of deadlock.[523]

[522] BOA HR.H. 561/8, 1870. After Romania gained its independence, the two sides negotiated in vain for the extradition of many fugitives: BOA MV. 38/6,1888; and BOA HR.SYS. 1055/3, 1894-1913.
[523] The Ottoman state proposed surrendering Serbian Gurcic for four Ottoman deserters who escaped to Serbia: BOA HR.H. 50/15, 1882. In return for Vangelia Constate, the Ottoman state demanded

Legal advisors Gabriel Noradunghian and Carl Gerscher initially appealed to the rule of law citing Article 12 of the Treaty of Berlin, which stated that "persons belonging to the Principality of Bulgaria, who shall travel or dwell in the other parts of the Ottoman Empire, shall be subject to the Ottoman authorities and law."[524] They ultimately lashed out at Bulgaria's insistence, which they claimed could barely be justified even in times of war. They argued that the Ottoman state cannot acquiesce to the arbitrary whims of vassal states that should, instead, be the primary parties responsible for the order and security of the frontiers.[525]

The absence of an extradition treaty with Balkan states meant that numerous cases were unresolved and criminals unpunished. After all, bilateral extradition treaties were essential as they removed procedural barriers resulting from jurisdictional conflicts and differing laws. Thus, they acted as powerful instruments of international law, enabling the states to pursue diplomacy on equal terms above the fray of the day's political problems.[526] And yet, those very issues – like ongoing concerns over border security – were a strong incentive not to establish bilateral treaties, as the case of Balkan frontiers demonstrates. The absence of bilateral treaties necessitated the adoption of provisory agreements, which were frequently negotiated with Balkan states.[527] These pacts were not binding, leaving space for states to maneuver with respect to security politics on the ground at the borders. Nevertheless, the practice of extradition was more viable given the semi-official sanction of these

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Receb Ismail from Skopje: BOA HR. HMŞ.İŞO 5/53, 1892. For fugitive Anastos Panayiotou, who murdered the brother of late grand vizier Hilmi Pasha, Greece demanded their national Georgios Sideris: BOA HR. HMŞ.İŞO. 5/40, 1909.

[524] BOA HR.SYS. 323/2; and "Treaty Between Great Britain, Germany, Austria, France, Italy, Russia, and Turkey for the Settlement of Affairs in the East: Signed at Berlin, July 13, 1878."

[525] BOA HR.SYS. 323/2, 1886.

[526] In the archives, most of the documents on extradition are composed of dry diplomatic correspondences stating that the extradition procedure could not be realized due to the absence of a treaty agreement.

[527] For Bulgaria: BOA HR. HMŞ.İŞO. 5/3, 1910. For Greece, BOA HR.SYS. 1664/2, 1889. For Montenegro: BOA HR. HMŞ.İŞO. 7/24, 1908.

provisory agreements. Gerscher and Noradunghian evaluated one such agreement with Serbia as a step toward a future, official treaty.[528] Until then, criminals could be surrendered provided that the Serbian government reciprocated. Requests for extradition would be accompanied by legal documentation, such as arrest warrants and witness statements, which incontestably established the guilt of the accused.[529]

Provisory agreements fell under the aegis of the reciprocity principle (*mükabele-i bil-misl, muamele-yi mütekabile)*; diplomatic courtesies mediated in this way indicated increasing mutual trust in interstate relations.[530] However, the Ottoman state more often rejected reciprocal extradition by noting its own local jurisdiction. The emphasis on the reach of Ottoman justice was a ready response to the arguments of the Balkan states. These arguments were also closely related to legal developments introduced as part of the 1879 judicial reforms, particularly the 1879 Ottoman Code of Criminal Procedure which established the basis for growing confidence in legal formalism.

5.3 The 1879 Judicial Reforms and the Ottoman Code of Criminal Procedure

In 1879, a set of judicial reforms were introduced in the Ottoman Empire. Since the onset of the Tanzimat, these regulations formed the second most significant nineteenth-century legal reforms in scope. Furthermore, the Ottoman Empire

[528] The initial attempt for an extradition treaty came from the Ottoman Empire when they demanded Arso Sevdic from Novi Bazar in 1885. As future requests on both sides failed, they often resorted to the provisory agreements. See, BOA HR. HMŞ.İŞO 158/23, 1885; BOA HR.H. 637/7,1888; BOA HR. HMŞ.İŞO. 7/5, 1898; BOA BEO 3699/277415,1907; and BOA DH. SYS. 39/50, 1911.
[529] BOA HR. HMŞ.İŞO. 156/19, 1886. The draft for an extradition treaty with Serbia was approved by the Ottoman Council of Ministers in 1909, see BOA HR. HMŞ.İŞO. 7/6.
[530] The promise for a reciprocal treatment in extradition practice was the discourse frequently resorted for diplomatic mediations. For the extradition of Romanian Eron Rosenfield in 1908: BOA HR. HMŞ.İŞO. 7/31. For the extradition of Montenegrin Pavel Radakovich in 1910: BOA HR. HMŞ.İŞO 7/22. For the extradition of Ottoman Namık from Greece in 1905: BOA HR. HMŞ.İŞO. 6/4. Until an official treaty was signed with Bulgaria, the Ottoman government gave notice to the Foreign Ministry and Ministry of Justice to proceed to exchange criminals with one another instead of extradition: BOA BEO 3843/288189, 1911.

consolidated its legal power at home during this period despite losing significant territory in the recent war. The growing importance of legal formalism was a double-edged sword which turned the state foreign policy to a new direction. The Office of Legal Counsel, which was the best symbol of the new state policies in the international arena, was a product of this reform process. At the same time, the structural evolution of the Nizamiye courts, which were established in 1864, came to a conclusion. To facilitate the function of the judicial system, they were divided into three branches: the court of first instance (*bidayet),* the court of appeal (*istinaf)*, and the court of cassation (*temyiz)*. Legal advocacy came to be regulated and investigating magistrates and public prosecutors emerged as two discrete professions. The civil and criminal procedural codes formed the most significant part of the judicial reforms.[531]

The Ottoman Code of Criminal Procedure entered into force on 26 June 1879. Though largely remodeled after the 1808 French Code of Criminal Procedure, it nevertheless depended on an accumulation of precedents in Ottoman law.[532] Avi Rubin defines the function and scope of the procedural codes as follows:

> These codes prescribed hundreds of procedural motions, from the very initial stage of submitting a civil lawsuit or criminal bill of indictment to the last stages of execution of rulings in both the civil and criminal courts. They ushered in functions hitherto unknown in Islamic law, such as the investigating magistrate (*müstantık*) and the public prosecutor (*müddei-i umumi).* The latter carried out duties in both the criminal and the civil domains. The meticulous codes allowed the judges who worked in the courts no leeway as far as the procedure was concerned.[533]

[531] On 1879 judicial reforms: Demirel, *Adliye Nezareti Kuruluşu ve Faaliyetleri (1876-1914).*
[532] Young, *Corps de Droit Ottoman,* Vol. VII., 226-300. The Ottoman Code of Civil Procedure was enacted a year later, on 10 June 1880. This law was in force until 1927.
[533] Rubin, "Legal borrowing and its impact on Ottoman legal culture in the late nineteenth century," 284.

The 1879 Code of Criminal Procedure was composed of 487 articles;[534] thus an exhaustively detailed legal guide to the procedures of the court, as Rubin indicates. As prescribed in the code, the investigating magistrate and public prosecutor had the leading roles in the oversight of the prosecution process. Despite disregard for the regulations in practice, which mainly stemmed from inadequate personnel and finances, these steps to reform the legal field nevertheless made the rule of law more visible. Moreover, the 1879 Code of Criminal Procedure revisited and expanded the scope of penal legislation. [535]

The Ottoman government frequently cited this code when emphasizing its jurisdiction over a locale in extradition arguments. On the other side, the absence of articles in the 1879 Code of Criminal Procedure addressing the enforcement of punishment for fugitives – whether Ottoman or foreign – who took refuge in the empire after committing a crime abroad was the basis of Ottoman disregard for arresting or punishing criminals in that category. The new law empowered state discourse on legal authority, and the lack of relevant articles on the latter issue were not seen as disadvantage. It enabled officials' diplomatic maneuverability in extradition disputes.[536]

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[534] For the full text see; Gökçen, "1296 (1879) Tarihli Usul-i Muhakemat-ı Cezaiye Kanun-ı Muvakkatı," 203-288.
[535] Demirel, *Adliye Nezareti Kuruluşu ve Faaliyetleri (1876-1914),* 301-302; and Ekinci, *Osmanlı Mahkemeleri: Tanzimat ve Sonrası,* 233.
[536] By addressing the Code of Criminal Procedure, the Office of Legal Counsel stated that they could not surrender the bandits, who crossed the borders of Serbia and Montenegro, to cause unrest in Yeni Bazaar: BOA HR. HMŞ.İŞO. 175/53, 1890. Adopting similar arguments, the Ottoman government rejected the extradition of İvan Stanbulov, who was charged with forgery of official documents and corruption by Bulgaria: BOA HR. HMŞ.İŞO. 5/16, 1909. The Ottoman Şahsuvar Numan Ramadan, from Tetovo, murdered someone and escaped to Romania in 1895. The Romanian government was reluctant to extradite him, fearing that he could receive the death penalty as a sentence. In a yearlong diplomatic correspondence, the Ottoman state frequently underlined the competency of their legislation: BOA HR.SYS. 1055/3, 1895.

The arguments the Ottoman state employed in its diplomatic correspondence often came to a head with Bulgaria.[537] In 1885, the principality of Bulgaria legislated its own penal code grounded on territorial sovereignty. Article 4 of the code stated that anyone – Bulgarian or foreign – who committed a crime abroad and escaped to Bulgaria would be punished provided that the Bulgarian penal code recognized that category of crime. Article 5, on the other hand, touched upon the issue of nationality and claimed that any Bulgarian charged with a crime that took place abroad had the right to a trial. Relying on the power of penal codes, Bulgaria thus contained its own jurisdiction and preferred reciprocity with respect to extradition rather than a treaty. However, the Ottoman state was not keen on reciprocity since it similarly claimed jurisdiction, which was upheld by the Code of Criminal Procedure.[538] This stance risked the impunity of criminals because, unlike the Bulgarian penal code, the procedural code did not compel the punishment of criminals who committed a crime and then escaped to the empire (with the exception of crimes committed by an Ottoman subject abroad against another Ottoman). In the latter case, Article 7 of the Code of Criminal Procedure claimed the right of the Ottoman judicial system to try the case.[539]

While the arguments of both states stemmed from a growing emphasis on criminal law, political stances hovered in the background. However, these stances, which were a hallmark of the power hierarchy in Ottoman-Bulgarian diplomacy, did not last. Given frequent impunity in criminal cases, Istanbul ultimately called for an official extradition treaty. The draft proposed by the Ottoman Ministry of Justice in

[537] For instance, Ramazan Hakkı Öztan's portrait of the revolutionary figure Naum Tyufekchiev sheds light on the Ottoman-Bulgarian frontier regime with its complicated diplomatic and political trajectories revealed in the larger historical context. See Öztan, "Chemistry Revolution: Naum Tyufekchiev and the Trajectories of Revolutionary Violence in Late Ottoman Europe," 261-301.
[538] BOA HR.SYS. 323/2, 1885; and BOA HR.SYS. 346/4, 1891-1915.
[539] Gökçen, "1296 (1879) Tarihli Usul-i Muhakemat-ı Cezaiye Kanun-ı Muvakkatı," 204.

1906 broached the sore points caused by the aforementioned conflicts between the Bulgarian Penal Code and the Ottoman Code of Criminal Procedure. The emphasis on Ottoman territorial law was evident, but the first clause of the draft, which required the extradition of political criminals to the Ottoman Empire was most striking. Political crime was often treated as a nonextraditable offense, which was the source of fierce polemics about the nature of political crime and anarchism in the international arena.[540] Ongoing unrest and rebellions pushed the Ottoman government to adopt sterner measures against anarchic activity by disregarding the sacrosanct category of political crime.

A joint committee established a year later work on an extradition treaty that was never officially enforced.[541] In 1909, the Office of Legal Counsel addressed the failure of these efforts at length, ultimately proposing a provisory agreement on limitrophe security. Due to omissions in the Ottoman Code of Procedural Law, the success of such a provisory agreement treaty seemed unlikely as the Ottoman state tended to rely on its own legislation. Given the Ottoman state's experiences, legal advisors were also suspicious that Bulgaria, like other Balkan states, would not observe an official extradition treaty.[542]

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[540] BOA A.) MTZ (04). 141/3, 1906.
[541] BOA A.) MTZ. (04) 159/13, 1907. The Bulgarian Ministry of Justice had already set to work to formulate an extradition treaty at home: BOA A.) MTZ. (04) 124/9, 1904.
[542] BOA İ.HR.423/1, 1909: Bulgaristan hükümeti Bulgaristan'da ikâ-yı cürm ile arazi-yi osmaniyeye firar ve iltica eden şahsın iadesini taleb ve iltimas eylemiş olmasına mükabil hükümet-i müşarünileyh ile devlet-i aliyye arasında iade-yi mücrimin muahedesi mevcud bulunmadığından iltimas ve ifali terviç ve kabul olamayacağı bildirilmiş ise de bu gibi eşhasın memalik-i ecnebiyede irtikab eyledikleri ceraim usul-ü muhakemat-ı cezaiyede tasrih edilmiş ifalden olmadığı cihetle cezasız kalmalarına mahal bırakmamak üzere bir iade-yi mücrimin mukavelenamesi akdi zımmında Bulgaristan ile sefaretden nezaret-i celilerine müracaat olunmuş ve akdi mezkure vakte muhtaç olduğundan şimdilik bir itilaf istihsali şifahen taleb edilmişdi. Bulgaristan hükümetinin dahi sair Balkan hükümeti gibi taahüdatına tamamıyle riayet edeceği müşkül olduğundan ağır bir muameleyi ihtiyar etmek olacak olan bir mukavele-yi daime ve katıyye akdinden evel alelade bir takdir-i şifahi ile kabul olmak üzere bir itilafname-yi muvakkat tanzim ve imza ederek mücrimlerin iadesi hususu ne dereceye kadar takdir-i ehem görüleceği tahrir etmek sureti nezaret-i penahilerinden dahi münasib görülür."

The strong stance maintained by the Ottoman state in its diplomacy with Bulgaria, which was useless in the face of urgent security concerns, was similar to the Greek case. The ease of mobility over the borders by land and sea was a deep concern for the Ottoman Council of State, prompting it to frequently confer with the Office of Legal Counsel. In a report dated 1887, Gabriel Noradunghian stated that the capitulatory system took the option of an extradition treaty with Greece off the table, although both states were aware of the utility of such a solution.[543] On the other hand, reciprocity was rarely an issue. Athens prioritized consular courts, especially in the border cities of Janina and Preveza, to which the Ottoman state responded by bolstering its emphasis on jurisdiction or opting for deportation as a last resort.[544] However, the protection that Greece claimed vis-à-vis Ottoman-Greek subjects posed a long-term problem when it came to day-to-day security politics in frontier regions. Greece was reluctant to accept fugitive or criminal Ottoman Greeks from the empire,[545] even when, ultimately, most were relieved of their Ottoman subjecthood.[546]

The 1897 Greco-Ottoman War, which was triggered by the ambiguous status of Crete and resulted in Ottoman victory, significantly reoriented negotiations on the

[543] BOA HR. SYS. 1664/2, 1889.
[544] BOA HR. HMŞİ.İŞO. 157/42, 1887; BOA HR.H. 689/20, 1888.
[545] BOA HR. SYS. 1664/2, 1889-1912; and BOA HR. HMŞ.İŞO. 90/21: "Yanni vilayeti ahalisinden olub memalik-i Osmaniye'de eşkıyalık ile meznun şakinin firaren bulundukları memalik-i Yunanistan'da mevkuf bulunduklarından hin-i tahliyelerinde memalik-i Osmaniye'ye iadeleri mümkün olamayacağı Atina sefaret-i seniyyesi maslahatgüzarının işar-ı cevabiyesinden olduğuna ve tebaa-yı Osmaniye'nin Yunanistan'da ahz-u girift ve tevkif ve muhakeme ve dûçar u mücazaat edilmeleri ve memalik-i Osmaniye'deki rumların Yunan hükümeti tarafından himayesi demek olan bu halin gayr-i caiz bulunduğuna ve iade-i mücrimin muahedesi akd edilmesine dair…"
[546] Yorgis, who was arrested in Strumica, was expatriated as it was realized that he went to Greece and obtained Greek nationality without the official imperial decree: BOA HR.TH. 91/42, Jul. 1889. Christakis, who committed a crime in Manastir and escaped to Greece while under judicial prosecution, was expatriated with his mother from Ottoman subjecthood: BOA DH.MKT. 2276/130, 1902. In most other cases, however, the asylum of these subjects to Greece without informing the Ottoman state was enough reason for their expatriation. Especially the conscription to the Greek army was a strong motive behind the expatriation process: BOA BEO 925/69316, 1897; BOA MV 110/90, 1905; BOA İ.HR. 427/34, 1911.

issue of extradition.[547] After the war, a clerk of the Foreign Ministry, Nuri Bey, and the legal advisors Hakkı Bey and Gabriel Noradunghian were delegated to a joint committee to formulate a series of pacts on consular convention, extradition, brigandage, and nationality.[548] However, the nationality question was suspended when unrest among Macedonian rebels escalated. The Macedonian Revolutionary Organization (MRO), which had been supported by Greek forces during the war, took the debate on extradition to an international, political stage. *The Illustrated London News* argued that the Ottoman insistence on abolishing capitulations and signing an extradition treaty responded to the issue of Ottoman Greek subjects, but that the abolition of capitulations would prompt a massacre similar to that of the Armenians, whereas the extradition treaty meant that "every Macedonian insurgent who fled to Greece would have to be surrendered to the Turkish butchers."[549] In this respect, the 1897 War and the aftermath, which left the issue of extradition unresolved, demonstrated the triumph of politics over diplomacy. Eventually, the Ottoman Empire was compelled to expel many Ottoman Greeks to end the long-lasting dispute.[550]

The border regime in the Balkan frontiers was characterized by an amalgam of surveillance systems and security provisions that were ad hoc or at the mercy of fickle political relations. The criminal mobility of criminals in border zones should

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[547] After the Greco-Ottoman War, Crete was officially recognized as an autonomous state.
[548] BOA BEO. 1060/79447, 29 Dec. 1897: "Yunan Hükümeti ile akd olunacak eşkiyâ takibi, iade-i mücrimin, tâbiiyet ve konsolosluk mukavelelerinin Yunan delegeleriyle müzakeresine Divan-ı Muhasebat Reisi Hasan Fehmi Paşa'nın riyaseti tahtında Tahrirat-ı Hariciye Kâtibi Nuri ve Hukuk Müşavirleri Hakkı beyler ile Gabriel Efendi'nin memuriyetleri hakkında."
[549] "The Greco-Turkish War," *The Illustrated London News,* 22 May 1897. The work of Garabet Moumdjian analyzes the historical context of the relations of Macedonian and Armenian revolutionaries while focusing on the common political ideals they shared in their actions: Moumdjian, "Rebels with a Cause: Armenian-Macedonian Relations and Their Bulgarian Connection, 1895-1913," 132-175.
[550] The expulsion process was closely monitored by French, English, and Russian legations: BOA HR.SYS. 1742/137, Ap. 1897. The Russian embassy submitted a list of the Ottoman Greeks that they requested to stay in the empire: BOA HR.SYS. 1742/134, Apr. 1897.

be closely evaluated vis-à-vis the difficulty of formal extradition. While security concerns promoted a diplomatic discourse in communications among the states, the scale of political crises obliged more immediate solutions that were often far from diplomacy. This notwithstanding, recent Ottoman judicial reforms were generally effective. The concept of legal sovereignty had a firm foothold in the procedural codes, the restructured court system resonated profoundly in Ottoman foreign politics, and the capitulation system suffered a severe blow. These novel practices in the legal field brought about sweeping changes in the nature of relations between the Ottoman state and European powers.

5.3.1 Consular Reactions to the Ottoman Code of Criminal Procedure

As the new procedural codes elaborated upon every step of prosecutions, the presence of consular representatives in Ottoman court hearings and their signature on judgments were no longer deemed necessary. Public prosecutors brought eyewitnesses to the tribunals, instead. Lawyers for the indicted were assigned from among court members, and the chief justice appointed interpreters. 24-hour preventive confinement in an Ottoman jail (*kabl'el-hükm habs*) prior to a court trial was authorized, so police forces often avoided surrendering criminals to their consulates until the day of prosecution.[551] These adjustments bypassed traditional privileges of the consulates in the operation of criminal prosecutions; an official decree issued in 1881 further curbed the reach of consular jurisdiction. The Ottoman tribunals were endowed with judicial authority over criminal cases involving foreign nationals that had been heard by consulates up until then. The new policy was justified, the Sublime Porte asserted, because the capitulations only granted

[551] See Articles 71, 224, 250 and 286 of the Ottoman Code of Criminal Procedure: Gökçen, "1296 (1879) Tarihli Usul-i Muhakemat-ı Cezaiye Kanun-ı Muvakkatı," 203-288.

consulates to try *niza* (dispute) among European powers that pertained to civil affairs. Offenses of a criminal nature, on the other hand, were subject to Ottoman justice.[552]

The new ordinances drew an immediate rebuff from the consulates. On February 1881, they requested a commission of consular authorities and officials from the Ottoman Ministry of Justice and Foreign Affairs. The English, Italian, German and Russian embassies worked in unison, as their official correspondence echoed identical demands. The proposals they outlined addressed both the civil and criminal procedural codes as well as the precepts of criminal sentencing. On April 1881, the commission met to discuss modifications to the provisions of the new legislation. A councilor from the Ministry of Justice presided over the assembly. They rejected the paragraphs declaring that the signatures of the investigative magistrate and public prosecutor on judicial decisions was sufficient. Instead, consular authorities reclaimed their right to be present as official deputies during court hearing as well as the obligation to obtain their signatures on judgments lest they be considered null and void (*keenlemyekûn).* They further insisted that foreign suspects could be released on bail procured by another foreigner. Ultimately, they demanded that the official summons to court be delivered to indicted individuals by consul authorities and that the official waiting period be predicated on the time of this summons.[553]

The negotiation of these issues, which took place among the Office of the Grand Viziership (*baş vekâlet dairesi*), the Ministry of Justice, the ministry of Interior Affairs, and the Office of Legal Counsel, illustrated how different state agencies reckoned critical matters that touched on the capitulations and Ottoman

[552] Brown, *Foreigners in Turkey: Their Juridical Status,* 68.
[553] BOA HR. HMŞ.İŞO. 166/36; and BOA HR. HMŞ.İŞO. 165/54.

legal sovereignty. The opinions proffered by each office also reveal a noticeable clash of ideas. The points regarding bail and the summons to court were brushed off for future discussion. Regarding the other issues, Grand Vizier Mehmed Said Pasha reacted strongly to the consular demands, which he argued would result in a multi-headed legal system that was not a part of capitulatory statutes. In his reports to the Ministry of Justice and the Ministry of Interior Affairs, he stated that these traditional practices encroached on territorial and jurisdictional autonomy. He awaited a resolution that would neither wholly disavow the traditional practices nor, at the expense of legal sovereignty.[554]

Both ministers, in response, conveyed similar opinions on the presence of consular representatives in tribunal hearings. For years, they had been preoccupied with this uneasy situation.[555] Mahmud Nedim Pasha, the Minister of Interior Affairs, remarked that they had attempted to abolish these procedures a few years before but had shelved the plans in the face of the consular pushback. In fact, the idea had been on the agenda since the institution of Nizamiye courts when the judicial system in Istanbul and provinces was still chaotic. However, they backed off to preserve the status quo hearing that the backlash could interrupt the administration of justice. Before making an ultimate decision, he suggested conferring with the Office of Legal Counsel. [556]

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[554] BOA HR. HMŞ.İŞO. 166/36: "tercümanlar yalnız usul-u muhâkemâtın süferan memurları muavenetiyle icra olunmasını ve aksi takdirde de kemayenbagi sonrasında tutulmasını ve müstantikleriyle müddei-i umumilerin ve heyet-i ihtiyarın tebaa-yı ecnebiye aid muamelatında hazır bulunanlarını ve kararın zirine imza eylemeleri mukavelatını almak istememiş oldukları anlaşılub bunlar ise uhud-u kadimede münderic olmayan bin başlı ve istiklal-i muhâkemeye bir takım imtiyazâtı gayet kolaylıkla rabıt ettirmek demek olub kabul olamayacağı…"

[555] BOA HR. HMŞ.İŞO. 166/36: "bu misüllü taassül kabilinden olan usul-ü hazıranın lüzumu çok zamanlardan berü devletçe anlaşılmış ise de buna hal ve zaman müsaid olmadığından evvela usul cereyan etmekde olub ancak bunlardan en çirkini ki sefarin tercümanlarının muhakeme-yi müzakerat hikayesinde hazır bulunduğu hususudur," August 1882.

[556] BOA HR. HMŞ.İŞO. 166/36: Teşkilat-ı mezkurenin ecnebiler tarafından gördüğü şekle mebni dersaadetin ve taşraların umur-u adliyesi bir hayal-i medet tarifi kabul etmiş mertebede karışık halde bulunduğu sürede mahkeme-yi nizamiyenin temininden şimdiye kadar cereyan edüb o emri sami ile teakküd etmiş ve asaf-ı çakeri tarafından men edilememiş olan teamül ve adatların devletin gavial-i

The opinions of the Office of Legal Counsel departed from the views articulated by these state departments. The hesitancy of the ministries and the Grand Vizier to settle the subject compelled them to submit the issue to legal advisors. The officials were right to hesitate; legal advisors pointed out the problems that could emerge if established practices were quickly waved off.[557] Mehmed Said Pasha had stressed that the privileges granted to the consulates were not binding, the Office of Legal Counsel confuted this argument with reference to the relevant clauses in the capitulations. These clauses clearly prescribed the presence of consular authorities during Ottoman trials, but this was not the real issue since they were all aware of what the capitulations contained. The legal advisors feared that any radical stance on the part of the Ottomans could result in the forfeit of the right to try foreign nationals altogether. The jurisdictional claims of the United States and Belgium, which relied on conflicting interpretations of their capitulations, could serve as a model for other consulates.[558]

The ministries and the grand vizierate maintained their resolve despite the warning by the Office of Legal Counsel to proceed cautiously. In 1883, the consuls reworded their earlier requests, and the meantime, they instigated a similar debate on preventive confinement.[559] Increasing complaints filed in the Ottoman courts, in which foreigners charged with crimes where it remanded to custody, stirred another

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hazırasına bir gaile daha açmamak ve bu halde sefaretlerin vukubulacak itiraz ve muhalefetlerine mebni umur-u adliyenin ihlaline sebebiyet verilmemek mütaalasıyla zikr olunan teamül ve adatlara göre şimdilik muamele olunması zaruri görünmüşdür."

[557] BOA HR. HMŞ.İŞO. 166/36: "Esbab-ı meşruiyemizi adliye dairesinde 1881 tarihinde vukubulan ictima-yı marülbeyan mazbatası muhteviyatına muvafakat etmekde hiçbir beis olmayacağı reyindeyiz. Muhtevayı halin neticeyi zaruriyesi olarak adaletin cereyanı ve müsalemenin tesviyesi dahi tehire düçar olmuş olur."

[558] These were Article 4 of the 1830 Ottoman-US Treaty and Article 9 of 1838 Ottoman-Belgian Treaty. BOA HR. HMŞ.İŞO. 166/36: ahkâm-ı mezkureye maznun-u tebeyyüs olanlara mana verilür ise mahkeme-yi osmaniyenin mevad-ı cezaiyede tebaa-yı ecnebiye üzerindeki hukukiyeti tamamilen izale etmekden başka bir şeye hasıl olamaz."

[559] BOA HR. HMŞ.İŞO. 165/54, 1883.

round of conversation between the Ministry of Justice and the Foreign Ministry. In this debate, the Office of Legal Counsel, which maintained the same position, expressed resentment at being portrayed as if it were denigrating the competency of the Ottoman legal system.[560] To the contrary, they unconditionally acknowledged that the power to arbitrate belonged to the respective courts of law and that the traditional regulations were inimical to Ottoman executive power over its jurisdictions. It was precisely this legal principle of independence that encouraged the judicial authorities to defend the capacity of Ottoman law. They were in no way suggested that the consuls be authorized to detain their nationals; they were merely calling attention to potential outcomes lest the Ottoman state adopt an inflexible position as the embassies were not yet ready to accept recent developments.[561]

The fears of these legal advisors were not unfounded. In 1893, the Grand Vizierate complained that ongoing consular actions were hampering the smooth operations of the courts. However, the courts in the provinces, whose judicial procedures were directed by the hardline Council of Ministers (*Meclis-i Mahsusa-yı Vükela)*, did not back off with respect to the practice of preventive confinement.[562] The Council of Ministers was an important state body that was instituted during the Tanzimat. Vested with administrative and judicial functions, this executive body was directly responsible to the sultan. It was usually presided over by the Grand Vizier,

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[560] BOA HR.TH. 77/40, 1884: "Bab-ı ali hukuk müşavirliğinin memurin-i osmaniyenin tebaa-yı ecnebiyye hakkında tertib olunan mücazat-ı icraya hak ve salahiyetleri olduğu bit-teyid adeta inkar-ı hukukiyet eylemekde oldukları edâ olunur."

[561] BOA HR.TH. 77/40, 1884: "Çakerlerini o yolda beyan-ı mütalaaya sevk iden şey memurin-i Osmaniyenin kuvve-yi adliyeyi icra mahsusunda caiz oldukları istiklal nam kaidesini mevki-i icraya vaz ile beraber…" "herkesin malumu olduğu vechle mücazatın memurin-i Osmaniye tarafından icrası kaidesi henüz temasil kabul olunmayub Bab-ı Ali ile bazı sefaretlerinde daimi ihtilaf olmakdadır." "Mamafih mütalaa name-yi acizanemizde canib-i hükümet-i seniyyeden bu babda süfera-yı ecnebiyeye sarahaten bir müsaade icrasını asla teklif etmeden maksad-ı acizanemizce tebaa-yı ecnebiyenin kabl'el-muhakeme habs ve tevkif meselesine pek şiddetlü tavır alınır ise böyle bir hareketden husul-ü melhuz olan tahziri Bab-ı Ali'nin beyninde nazarı dikkatine vaz eylemekden ibaret idi."

[562] BOA Y.PRK.AZN.7/8, 1893.

and those in the highest echelons of Ottoman bureaucracy such as the Shayk al-Islam, the Head Soldier (*serasker*), the Grand Admiral and others attended the meetings. This body of senior bureaucrats contributed to many legislative decisions in the empire. [563] In 1895, the Council of Ministers convened to review the notices sent by the embassies to the Foreign Ministry in which they protested the acceptance of foreign testimony in the Ottoman courts without the presence of dragomans. Rather than annulling the practice, the Council of Ministers called for Ottoman authorities to respectfully seek the consent of the consular legations (*istihsal-i muvafakatlerine sarf-ı mesai olunması*).[564] Ultimately, in 1907, the Ministry of Justice officially announced that this regulation was being into effect as efforts to convince the legations had not worked.[565]

The opinions of the Office of Legal Counsel, on the other hand, were the frank expression of legal experts and state officials who were personally acquainted with the assorted foreign affairs of consular authorities. Confident of the advances made in the Ottoman legal system, they merely wished to highlight one crucial caveat: the need to patiently prepare the groundwork for these procedures to be implemented. Otherwise, the discourse of these legal advisors was determined, and they defended the Ottoman interests in their conversations with consular legations. For example, unlike earlier statements citing the articles of the capitulations as proof of the right for consular representatives to be present in the courts, the Office of Legal Counsel advocated the opposite in a notice sent to the legations in 1911. It argued that none of these articles explicitly stated the obligation to allow dragomans to be present in Ottoman tribunals. The insistence of the consulates only contributed

[563] Shaw, *History of the Ottoman Empire and Modern Turkey,* Vol. II, 81-82.
[564] BOA BEO 593/44469, 1895. The protests came from the legations of Italy, Austria, Holland, Belgium, and Greece.
[565] BOA HR.ID. 2037/71, 26 Apr. 1907.

to the impunity of crime, as the new organization of the judicial system had already abolished the earlier regulations.[566]

In brief, the 1879 judicial reforms and the Ottoman Code of Criminal Procedure brought about major amendments to judicial practices. It was a gradual process that suffered numerous setbacks as the Ottoman state had to frequently confront consular authorities and apply provisional procedures to satisfy capitulatory powers. Indeed, power politics often overshadowed the headway made by the Ottomans in legal formalization as European legations did not readily welcome the reforms. This, in turn, prompted debates among the empire's various state agencies. Whereas Ottoman officials all eagerly endorsed the new judicial structure, their disputes revealed a tension between the decisions of veteran bureaucrats, for whom it was a matter of pride, and the discretion of legal advisors who were more familiar with the behavior of the European consuls vis-à-vis jurisdictional matters. However, the ultimate success of this chapter of Ottoman legal history was to showcase the progress made in the rule of law, regardless of the various obstacles.

5.4 Crime, Surveillance and Extradition at the Russian Borders

Like the Balkan frontiers, the eastern frontiers after the 1877-78 War and the Congress of Berlin required a new form of border regime to establish effective surveillance. This section focuses only on the Russian border; the Iranian border requires a separate analysis due to sui-generis geopolitical conditions resulting from

[566] BOA HR. HMŞ.İŞO. 182/62, 17 Aug. 1911: "Gerek mahkemede gerek devair-i istintakiyede şuhudun istimainda bir tercümanın hazır bulunması uhud olmadığından bu hususda ısrar ve sebat ile beraber bir takım erbab-ı ceraimin de cezadan verasete kalmalarını meydan verilmemesi elzem bulunduğu, halbuki muahedat-ı meriyyede bu hususa dair bir sarahat olmadığı gibi nizamname-yi mezkurede veyahud diğer bir takım namede bir kayıd olsa bile teşkilat-ı cedide-yi adliyye ile bu nizamnameler mefsuhdur." The Office of Legal Counsel made similar statements in the following years: BOA HR. HMŞ.İŞO. 182/45, 1912; and 182/57, 1912; and BOA HR. HMŞ.İŞO. 182/65, 1914.

state-tribe relations in the frontier zone. It is sufficient to note that border commissariats controlled the border security in the Iran-Ottoman zones. Joint jurisdiction was implemented for crime, and extradition, like with Russia, relied on reciprocity.[567] In 1913, a committee within the Ministry of War declared that the border commissariat would continue to maintain law and order along the Iranian frontier.[568]

As interstate relations with Russia had been governed by capitulations and consular jurisdiction, this section first discusses the border security with respect to criminal mobility in the first half of the nineteenth century. Then it proceeds to the period after the 1877-78 War.

5.4.1 Mobility Control, Domestic Security and the Criminal Exchange before the 1877-78 War

Ottoman control over border mobility cannot be evaluated without considering the state's empire-wide security policies, which would evolve during the late nineteenth century. During the reign of Mahmud II, the Ottoman Empire introduced a set of state measures to control mobility within the empire and across its borders. The position of *Ihtisap Nazırı* or *Ihtisab Ağası* (city mayor), who was mainly responsible for controlling market prices, was created in 1826. This office was also responsible for monitoring people entering and leaving Istanbul. In 1854, this title was replaced by the *şehir emini,* the authority responsible for the municipal affairs of cities.[569] This office issued regulations (*Ihtisab Ağalığı Nizamnamesi)* which for the first-time introduce an Ottoman proto-passport model known as the *mürûr tezkeresi*. It further

[567] BOA MV. 52/7, Mar. 1890; and MV. 72/41, Dec. 1892.
[568] BOA BEO 4140/310444, Jan. 1913. For the dialogues for an extradition treaty; BOA HR.SYS. 696/2, Apr. 1914.
[569] Shaw, *History of the Ottoman Empire and Modern Turkey,* Vol. II, 46.

issued a regulation to prevent unauthorized mobility (*men-i mürûr nizamnamesi*) in 1841. Christopher Herzog explains that "a valid passport was required to state the name of the traveler, the name of his (or her) father, the destination and the purpose of travel and a rough description of the traveler's physical appearance."[570]

Initially valid for domestic use, this paper document and the requirements to obtain it were elaborated upon in subsequent years. After passport regulations entered into force in 1867, this document could stand in for passports for travel abroad provided that they did not bear the stamp "reserved for the interior" (*dahiliyeye mahsustur).*[571] Along with the mürur tezkeresi, an official certificate known as the *ilm-ü haber* needed to be obtained, as well. Ultimately, an imperial decree (*firman*) or an official document known as *buyuruldu* was sometimes sufficient.[572] Thus, evolving practices to document one's identity gradually became a safeguard against uncontrolled mobility within the empire.

Meanwhile, domestic security policies underwent a systematic evolution in the early nineteenth century. The police unit (*zabtiye*) was founded in 1840. Prior to this, the chief of the Janissaries (*Yeniçeri Ağası*) was the head of local security, particularly for the protection of Istanbul. The authority that the Janissaries assumed as a quasi-police force suited its role as a prominent military branch that vigilantly maintained safety in the empire.[573] On the other hand, towns and villages were mainly under the watch of the *subaşı*s*,* a traditional title given to what would evolve into a modern chief of police.[574]

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[570] Herzog, "Migration and the state: On Ottoman regulations concerning migration since the age of Mahmud II," 119-120.
[571] Karpat, "The Ottoman Emigration to America, 1860-1914," 187; and for the 1867 Passport Regulation see, *Düstur,* Tertip I, Cilt 5, 861-865.
[572] Yılmaz, *Serseri, Anarşist ve Fesadın Peşinde,* 180.
[573] Swanson, "Ottoman Police," 246.
[574] İlgürel, "Subaşı," 447-448.

Inspired by the French model, the first Ottoman police institution, established in 1840, was paramilitary force stationed in crucial locations throughout the cities that maintained public order with the support of provincial leaders and local army units. In this respect, the operations of the police force resembled those of the Janissaries in practice. As Lévy-Aksu argues, however, the abolition of Janissary corps should be taken as a major step for the formation of modern police organization. Already by 1830s, the police stations known as *karakul* were built in many places.[575] In 1846, the establishment of the Police Marshall (*Zabtiye Müşiriyeti*) brought about a notable transformation of the function of the police as a modern state apparatus, reducing the administrative tasks of officers. The mission of the police was redefined, and its official duties designated; executive functions were disconnected from judicial operations and military command. This development enabled police to concentrate on a singular mission. [576]

Before the Tanzimat period, the operation of law concerning the security measures targeted primarily the maintenance of public order, rather than seeking after the reasons of crime or control the daily lives of the people.[577] Previously, police forces had directed the process of adjudication at the scene of the crime; this gave way to close investigation of the scene of the crime, which was carried out to uncover evidence. While the evolution of the police was most apparent in Istanbul, other cities also incorporated new forms of organization which operated jointly with traditional systems of surveillance.[578]

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[575] Lévy-Aksu, "The State and the City, the State in the City: Another look at Citadinite," 150-152.
[576] Sönmez, "Zaptiye Teşkilatı'nın Düzenlenmesi (1840-1869)," 202.
[577] Ergut, *Modern Devlet ve Polis,* 101.
[578] Schull, "Ottoman Criminal Justice and the Transformation of Islamic Criminal Law and Punishment in the Age of Modernity, 1839-1922," 23-24. In his travel accounts, the English politician John Cam Hobhouse describes the Ottoman policing system in 1817, in the following words: "There is no preventive police in the place; and, in the punishment of offenders, those who are caught suffer for those who escape. A severe beating of bastinade is inflicted without any previous enquiries upon the first person, whom, in any disturbance, the patrol happens to seize." Hobhouse, *A Journey*

In time, the Police Marshall gradually developed into the Ministry of Police (*Zaptiye Nezareti*). By 1879, Ottoman officials honed in on the problems still present in its operations. In 1850, at the request of the Military Council (*Dar-ı Şura-yı Askeriye),* the Council of Judicial Ordinances (*Meclis-i Vala)* drafted a regulation to improve security conditions in the provinces. The military council had suggested forming a commission composed of the district governor, the head of the provincial treasury, and delegates from among the police in each village, but this official request was not successful.[579] Additional appeals for the organization of a special commission were reiterated in 1857 to deal with security conditions in both the provinces and the capital.[580] A year later, it was decided that a meeting would be organized at the headquarters of the Chief of Staff of the Military (*Bab-ı Vala-yı Seraskeriye*) with the participation of delegates from that department, the Sublime Porte, the leaders of military units, the Imperial Arsenal (*Tersane-yi Amire*), the police, quarantine officers, and European embassies.[581]

The commission for the improvement of the police system (*ıslahât-ı umur-ı zabtiye komisyonu*), which convened in December, discussed a number of concerns including, among others, the issues of foreign nationals, particularly those in Istanbul. One was police investigation – without consular assistance – of public

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Through Albania and Other Provinces of Turkey in Europe and Asia to Constantinople during the years 1809-1810, Vol.II, 240.

[579] BOA İ.MVL. 183/5481, Sep. 1850.

[580] BOA A.) AMD. 70/5, Aug. 1856.

[581] BOA HR.MKT. 191/80, and 192/28, Jun 1857. The ongoing problems in the operation of police forces still attracted the attentions of travels as of earlier. In 1854, the English poet and historian Julia Pardoe described the lack of security in Istanbul in a literary manner: "Constantinople, with a population of six hundred thousand souls, has a police of one hundred and fifty men. No street-riots rouse the quiet citizens from their evening cogitations – no gaming house vomits forth its throng of despairing or of exulting votaries – no murders frighten slumber from the pillows of the timid, no ruined speculator terminate his losses and his life at the same instant, and thus bequeaths a double misery to his survivors, no inebriated mechanic reels homeward to wreak his drunken temper on his trembling wife the police of the capital, are rather for show then use." Pardoe, *The City of the Sultan and Domestic Manners of the Turks with a Steam Voyage to the Danube,* 33.

places that were reportedly harboring foreign fugitives. If any protest or resistance was encountered, police forces were obliged to take coercive measures. The commission also proposed to deport foreign criminals whom the Ottoman police had detained but who were not protected by their consular legations. They could be taken out of the empire by their own legations provided that they would never return. The same procedure was to be applied to foreigners with criminal records who had been previously released but still posed a threat to security in the empire. Ultimately, a few requests for minor modifications aside, all consular delegates accepted the proposals. Each underscored that treatment of suspects in police custody should keep the capitulatory principles in mind.[582]

The establishment of the Police Tribunal (*Divan-ı Zaptiye*) and Investigative Tribunal (*Meclis-i Tahkik*) in 1858 influenced the commission's decisions to an extent. These courts started exercising jurisdiction in criminal cases of a varied nature. While the Police Tribunal handled cases involving up to three months of incarceration and expenses amounting to between 10 medjidie (*mecidiye)* and 100 piastres (*kuruş*), the Investigative Tribunal took care of criminal cases. The *Meclis-i Kebir*, which was concerned with crimes of a more severe nature, had the authority to transfer cases to the Court of Appeals when necessary.[583] Thus, the Ottoman police played not only a vital role in the domestic security in the empire. In the early decades of the century, the institution became one of the realms of authority with which the Ottoman state addressed criminal jurisdiction vis-à-vis its foreign politics. The reports of the Police Marshall illustrate that the department heard cases against

[582] BOA HR.MKT. 235/51, Dec. 1857. The delegates from the consulates of Netherlands, Greece, Belgium, the Hanseatic States, Spain, Sweden, Norway, France, Napoli, Sardines, and Russia participated in the commission. Only Russia and Napoli demanded some modifications.
[583] Paz, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-late 1860s)," 99-100.

foreign and fugitive suspects. These foreigners accused of various offenses were first taken into custody, then interrogated, and later tried by the Court of the Police Marshall. In the end, those convicted were handed over to consular prisons where they would complete their sentences, in conformance with the customary practice. The Police Tribunal of Istanbul set out the jurisdictional regulations of these courts, which were discussed in weekly meetings. Consular officers, local administrators, and two court members attended these meetings.[584]

These were the procedures to which Russian criminal suspects were subject, as the archives demonstrate.[585] Between 1863 and 1875, many were surrendered to their consular authorities by the Police Marshall without any serious issue. As Table 8 shows, the Police Marshall sent Russian convicts to their legations after they had been tried and sentenced, whereas the Russian state deported Ottoman convicts on the condition that they be delivered directly to the Ottoman empire. On some occasions, Russia volunteered to ship criminals back without even an official request from the Ottoman state; they only asked for the Ottomans to consent to receiving the fugitives.[586]

The exchange of criminals between the Ottoman Empire and Russia, as Table 8 demonstrates, indicates the success of the policies formulated by the commission and wielded by the courts under the Police Marshall. The Ottoman state and the Russian legation closely oversaw the regulations regarding court jurisdictions. For

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[584] Testa, *Recueil de Traités de la Porte Ottoman avec Les Puissance Etrangéres,* Tome Cinqueme, 150-155.

[585] BOA HR.MKT. 578/20, Jun. 1867: "Rusya devleti tebasından Hamparson İstepanof'un bir töhmete mebni bab-ı zaptiyede istintak ve muhakemesi, cezası tayin olunmuş, emsali misüllü cezayı mahkumun kançılaryası marifetiyle ceza olunmak üzere icrayı keyfiyeti…,"; and BOA HR.MKT. 561/52, Oct. 1866: "bir davadan dolayı zabtiyede mahbus Rusyalı Anadaryas Papof'un, kançılaryada habs ve tevkif ettirilmek üzere teslimi…"

[586] BOA MKT. 853/90, 29 Oc. 1874: "Pasaportu hasıl olduğu halde bir sirkat maddesinden dolayı evvelce tutulmayıb nazar edilmiş olan Dimitri Hacı Brofirin bizim taraftan kabul olunup olunmayacağı ve kabul olunduğu halde hududun kangi cihetinde teslim olunmak lazım geleceğinin Rusya umur-ı hariciyesi nezaret-i canibinden ba-takrir …"

Ottoman criminals in Russia, the Russian government sought to maintain good relations by taking heed of the reciprocity principle laid out in the terms of the Küçük Kaynarca Treaty. Intended to ensure peace after the Russo-Turkish War (1768-1774), this treaty included an article on the surrender of criminals. Article 2 stated that if Ottoman or Russian subjects, whether Muslim or Christian, perpetrated an offense and then sought refuge in the other state they would be immediately returned if their home state so requested.[587]

This treaty also reflects the particular identity politics of the two states at the time. Article 25, concerning prisoners of war, stated that all people in that category imprint with the exception of Muslims who had converted to Christianity and Christians who had converted to Islam, would be exchanged after the enactment of the convention without any ransom or payment of redemption.[588] In place of subjecthood, the religious aspect of imperial identity was the primary criterion by which to include or exclude prisoners of war. The article served this purpose for both empires. The policy corresponded to the empire's Hanafi School of Islamic law as well as to the legitimization of Russian subjecthood in the doctrines of Orthodox Christianity. In this respect, the article in question reflected the identity politics of two distinctly different imperial systems simultaneously. Will Smiley argues that the identity framework formulated by the two states diverged from the European capitulatory tradition in the way in addressed the legal status of foreign nationals: "where those agreements sought to fit outsiders into Ottoman society, the Russo-Ottoman project aimed to pull them out."[589]

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[587] Article 2: "Tarafeyn reayasından olub gerek ahaliyi İslam ve gerek Hristiyan zümresinden bir kimse bir dürlü taksirat idüb her ne mülahaza ile bir devletten evvel bir devlete iltica ederse bu misüllüler talep olundukça bittehir-i red olunulur." See, HAT 1429/58503.
[588] HAT 1429/58503.
[589] Smiley, "The Burdens of Subjecthood: The Ottoman State, Russian Fugitives, and Interimperial Law, 1774-1869," 80 and 87. For the impact of religion on the Ottoman subjecthood and legal status:

Therefore, the 1774 treaty became an early model of criminal exchange that was a reference point in similar situations in the early nineteenth century. While the recent regulation of police institutions influenced the political course of exchange practices, the reciprocity principle and the focus on religion in the Küçük Kaynarca Treaty were equally determinant.[590] Even though the nature of diplomatic negotiations on the extradition of criminals drastically changed after the 1877-78 War – to counteract uncontrolled mobility and civil unrest – the reciprocity principle and even religion remained a dominant discourse cited by both states.

Table 8. The Exchange of Criminals Between the Years 1863-1875[591]

Date	**Criminal**	**Crime**	**Result**
6 Jul. 1863	Russian Vasiliki	Political sedition	Expulsion to Russia
7 Jun. 1864	Ottoman subjects (Names not identified)	Arms smuggling in Russia	Expulsion to the Ottoman Empire via the Russian ship 'Alexander'
21 Apr. 1864	Russian Hacı Sava	Theft	Handed over to the Russian Embassy
4 Aug. 1866	Ottoman Berskobra Şenayan	Vagabondage	Expulsion to the Ottoman Empire via sea route
4. Aug. 1866	Ottoman Andre Demkin	Fake passport	Expulsion to the Ottoman Empire
3 Sep. 1866	Aron Maisi, Abraham Mikhailov, Gregoire Karabeton	Theft and vagabondage	Expulsion to the Ottoman Empire

see Deringil, *Conversion and Apostasy in the Late Ottoman Empire.* For a comparative perspective on Russian identity politics, the work of Eric Lohr analyses the state policies in the Russian Empire to formulate ideal citizenship. Lohr discusses the intricate relation between the traditional subjecthood notion and the emerging citizenship concept. Lohr, "The Ideal Citizen and Real Subject in Late Imperial Russia," 173-194.

[590] BOA HR.MKT. 537/58, Jan. 1866; and 552/19, Jul. 1866; and 591/53, Oct. 1867; and 861/10, Jan. 1875: "Ahıskalı Petro Baliçe nam kimesnenin kabul-ü islamiyet eylediği halde erbab-ı cinayetden olsa bile ber-muceb-i muahede tarafa red ve teslimi olunmamak lazım geleceğinden burasının tahkiki halinde konsolosa cevab itası iktiza edeceği bu babda cevaben emr-ü ferman buyurulmuş olmakdan naşi merkuma telhid-i dini mübeyyen olunmak içün meclis kararıyla keyfiyet havale ile suret-i irade Rusya devletinin Trabzon makamı konsolosluğuna ba-tezkere-yi resmiye bildirilmişdi."

[591] This data demonstrates the exchange of criminals by Istanbul. The data enlisted here follows the sequence of the list illustrated in Table 8: BOA HR.MKT. 443/56, 6 Jul. 1863: 484/28, 7 Jun.1864; 478/24, 21 Apr. 1864; 458/34, 26 Jan. 1864; 552/19, 10 May. 1866; 553/17, 4 Aug. 1866 ; 553/25, 4 Aug. 1866; 559/42, 2 Oc. 1866; 561/52, 24 Oct. 1866; 565/47, 3 Sep. 1866, 29 Nov. 1866, 24 Oct. 1866; 578/20, 15 Jun. 1867; 592/81, 24 Oct. 1867; 592/94, 27 Oct. 1867; 603/84, 25 Feb. 1868; 650/48, 14 Ap. 1869; 694/43, 16 Aug. 1870; 814/41, 22 Dec. 1873; 824/17, 16 Mar. 1874; 853/90, 29 Oct. 1874; 859/9, 14 Dec. 1874; 858/30, 9 Dec. 1874; 872/66, 10 Apr. 1875; 859/27, 15 Dec. 1874; 890/51, 10 Sep. 1875; 900/21, 7 Dec. 1875.

2 Oc. 1866	Ibrahim Efendi	Embezzlement	Expulsion to the Ottoman Empire
24 Oct. 1866	Jacob Leisner, Jacob Weisberry, Adolphe Leckrone	Vagabondage	Expulsion to the Ottoman Empire
24 Oc. 1866	Russian Anadaryas Popoff	Crime unspecified	Handed over to Russian Embassy
29 Nov. 1866	Yorgi Costandi	Vagabondage	Expulsion to the Ottoman Empire
15 Jun. 1867	Russian Hamparson Istepanof	Crime unspecified	Delivered to Russian Embassy
24 Oc. 1867	Ottoman Efram Zapor and Kirkor	Theft	Expulsion to the Ottoman Empire
22 Oc. 1867	Ottoman David Aglar	Theft	Expulsion request of Russia made to the Ottoman Empire
25 Feb. 1868	Ottoman Emin Abdullah	Crime unspecified	Expulsion to the Ottoman Empire
30 Dec. 1868[592]	Hacı Haçador Agopyan (Dubious nationality)	Theft	Russia refused to extradite him
14 Apr. 1869	Ottoman Vasil Manayof	Theft	Expulsion to the Ottoman Empire via a Russian ship
16 Aug. 1870	Ottoman Aleksandri	Misdemeanor and vagrancy	Expulsion to the Ottoman Empire via a Russian ship
22 Dec. 1873	Russian Açıkgözoğlu	Crime unspecified	Delivered to Russian Embassy
16 Mar. 1874	Ottoman Şakir Saraç Ali	Theft	Expulsion to the Ottoman Empire
29 Oc. 1874	Russian Dimitri Hacı Brofir	Theft	Expulsion request of Russia to the Ottoman Empire
9 Dec. 1874	Ottoman Mamed Ahmetov	Murder and no passport	Handed over to the Ottoman Empire
15 Dec. 1874	Russian doctor Karakonofski	Involvement of anarchic activities	Handed over to Russian Embassy
10 Sep. 1875	Ottoman Isak Rozen	Theft	Expulsion to the Ottoman Empire
7 Dec. 1875	Ottoman Abraham Hristofobski	Crime Unspecified	Expulsion to the Ottoman Empire

5.4.2 The Aftermath of 1877-78 War: New Borders and New Security Concerns

After the 1870 Russo-Ottoman War, the Ottoman Empire conceded the eastern provinces of Kars, Batumi, and Ardahan (*elviye-yi selâse)* to Russia as declared in

[592] BOA HR.H. 155/14, 30 Dec. 1868.

Article 58 of the Treaty of Berlin.[593] The decision was part of the agreement on indemnity for the war, but the new map soon wrought havoc on geopolitical conditions in the frontier zones. As consequence of the developments, the region witnessed massive, erratic movements of diverse ethnic groups and tribes, mainly but not limited to Circassians, Kurds, Tatars, and Armenians.[594]

The border commission delegated with demarcate the new borders gathered twice – in Istanbul and in Karakilise, located in the Alashkerd Valley – in May and August 1880. Even though Article 58 of the Treaty of Berlin broadly described the new borders, the committee was unable to make progress on drawing the borders precisely. In time, most of the borders that were created fell out of use mainly due to the destruction of the survey markers. Other meetings held to demarcate borders in 1908 and 1912 achieved little more than to revive earlier debates.[595] Gözde Cörüt comments that the failure of the joint efforts indicated the weakness of Ottoman territorial sovereignty. She notes that the decisive factors underlying this failure were human mobility and property disputes in frontier regions. [596] However, the lack of a successful mapping system does not minimize the difficulties of overcoming the real conditions and historical factors in the frontier zones. The Treaty of Constantinople, signed by the Ottoman and Russian governments on 8 February 1879, was formulated to resolve the problems regarding mobility and property issues.

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[593] The district Kağızman and the towns of Artvin and Oltu were also left for Russia. See, "Treaty Between Great Britain, Germany, Austria, France, Italy, Russia, and Turkey for the Settlement of Affairs in the East: Signed at Berlin, July 13, 1878."

[594] Reynolds, *Shattering Empires: The Clash and Collapse of the Ottoman and Russian Empires, 1908-1918,* 14 and 46.

[595] The commission convened at Karakilise, Alashkerd Valley was composed of Ottoman, Russian, and British delegates. Cörüt, "Ambivalent Loyalties and Imperial Citizenship on the Russo-Ottoman Border between 1878 and 1914: An Analysis of the Ottoman Perspective," 57 and 77. The Russo-Ottoman border was a political question since the 1812 Treaty of Bucharest. Similar debates were revived by the 1826 Convention of Akkerman, the 1856 Paris Treaty, the 1878 San Stefano Treat and the 1878 Berlin Treaty, and the 1880 Treaty of Constantinople. See Rahul, "Russia's Other Boundaries," 23-26

[596] Cörüt, "Ambivalent Loyalties and Imperial Citizenship on the Russo-Ottoman Border between 1878 and 1914: An Analysis of the Ottoman Perspective," 67 and 85.

Figure 9. The borderlines described by Article 58 of the 1878 Treaty of Berlin[597]

5.4.3 The 1879 Treaty of Constantinople and the Nationality Question

The twelve articles of the Treaty of Constantinople regulated the settlement of emigrants and the status of their immoveable belongings; it also restored commercial and legal relations and revisited the question of war indemnity.[598] Article 7 of the treaty stated that the residents from the ceded territories could resettle in the Ottoman Empire by selling their homes and immovable properties within three years. If they failed to do so, they would formally remain Russian subjects.[599] As the regulations

[597] BOA HR.SYS. 1248/1, Jul. 1878.
[598] *Muahedat Mecmuası,* C.4, 202-205; and BOA HR.SYS. 1281/1, 22 Nov. 1881. For the French version of the treaty, see "The Definitive Treaty of Peace between Russia and the Porte: Signed at Constantinople on 8th February, 1879," 424-426.
[599] "Yedinci Madde: Rusya'ya terk olunan mahaller ahalisi bu ilkeler haricinde ikamet etmek istedikleri halde emlaklarını satub çıkılmakda muhtardırlar. Bunun içün kendilerine muahede-yi

for resettlement were being clarified, the Ottoman Refugee Commission was refashioned in 1878 into a general directorate (*İdare-yi Umumiye-yi Muhacirin Komisyonu*) to control the massive flow of people from territories lost in the aftermath of the war.[600]

The Refugee Commission had initially been established in 1860 to administer the migration and settlement of Crimean, Caucasian, and Noyan populations that left territories under Russian control after the Crimean War out of fear of being exiled to Siberia. [601] While Russia was creating obstacles for emigrants, the Ottoman state was easing the bureaucracy for the newly arrived immigrants to obtain Ottoman subjecthood and a *tezkere-yi osmaniye* (identity document). They were excluded from military service and given arable land. As James Meyer explains, this situation fomented a political conflict around double citizenship; Muslim immigrants still profited from the consular privileges granted to Russia.[602] The Russian government, initially satisfied with the emigration policy, started to resettle the abandoned lands with people who best benefited the state, thereby guaranteeing border security. However, the emigration continued for a few years, exceeding the numbers envisioned. Thus, Russian officials reversed their policy and sought to prevent the

hazıranın tasdiki tarihinden itibaren üç sene mühlet verilmişdir. Mühleti mezkurenin inkızasında emlâklarını satub memleketden çıkılmış bulunanlar Rusya tabiiyetinde kalacaklardır." *Muahedat Mecmuası,* C.4, 203, and Noradunghian, *Recueil d'Actes Internationaux de l'Empire Ottoman,* 207.

[600] See the following work on the Muhacirun Komisyonu; Cuthell, "The Muhacirun Komisyonu: An agent in the transformation of Ottoman Anatolia, 1860-1866."

[601] On 1 January 1860, the Refugee Commission was established, and it was refashioned in 1878. In 1893, the commission was renamed as the Islamic Refugee Commission (*Muhacirin-i Islamiye Komisyonu)* in 1893. See Saydam, "Muhacir," 286-288; and for an exhaustive study on the Muslim refugees from Russia, Hamed-Troyansky, "Imperial Refuge: Resettlement of Muslims from Russia in the Ottoman Empire, 1860-1914."

[602] Meyer, "Migration, Return, and the Politics of Citizenship: Russian Muslims in the Ottoman Empire, 1860-1914," 16.

increasing human flows. They established legal barriers to prevent the Muslim population from switching to Ottoman subjecthood.[603]

Little changed in the attitudes of the two empires towards the refugee question after the 1877-78 War. Article 7 of the Treaty of Constantinople was not effectively implemented as each side instituted arbitrary policies regarding the issue of subjecthood. Even if refugees strictly followed the procedures to leave for the Ottoman Empire, Russia sometimes created bureaucratic obstacles. For example, in 1882, the General Directorate of the Refugee Commission reported that the Trebizond Government had welcomed a group of refugees who had arrived from Russia by sea. The refugees were taken directly to the Russian consulate upon their arrival where they were kept waiting until the Russian embassy in Istanbul confirmed and approved their journey.[604]

On the one hand, the Ottoman Empire continued to accept people even after the three-year period had expired so long as they had no criminal record.[605] The Office of Legal Counsel had emphasized the question of crime in 1881. Gabriel Noradunghian noted that it was unacceptable to cover up crimes and leave criminals unpunished just because they took refuge in Ottoman territories in the three-year window. According to international law, these people were to be extradited only if they were Russian subjects, otherwise, the Ottoman government was obliged to prosecute their crimes.[606] The Ottoman state subsequently reined in the resettlement procedures and amended the passport regulations in the Ottoman Nationality Law on 13 February 1884. Accordingly, any foreigner who came to the empire had to have a

[603] Fisher estimates the number changing between 50.000 and 90.000. Fisher, "Emigration of Muslims from the Russian Empire in the Years After the Crimean War," 356 and 364.
[604] BOA HR. HMŞ.İŞO. 165/59, 7 Jan. 1882
[605] BOA HR. HMŞ.İŞO. 218/16, 31 Dec. 1886.
[606] HR.SYS. 1281/1, Feb. 1881.

passport approved by an Ottoman consulate abroad. Within six months of their arrival, they had to report to the Turkish police to inform them of the duration and place of their stay in return for which they would receive an official residence permit. The new regulation aggravated the foreign consuls; nevertheless, the procedures were strictly observed with no regard for rank or title. In March 1884, for example, Olga Dmitrievna Nelidov, the wife of Alexander Nelidov,[607] the councilor of the Russian embassy, was humiliated on a return trip to the Ottoman Empire. Ottoman customs officers encircled her boat and prevented the crew from unloading her luggage before verifying her official documents – despite the fact that the Russian flag was flying from the mast. In the face of the protests of crew members, the customs officers ultimately yielded. However, the incident resulted in a stern response from the Russian Embassy to the Sublime Porte demanding an apology and even reparations for the insult to Lady Nelidov.[608]

Apart from these developments, the ambiguous legal status of Ottomans who chose not to leave their homes in the territories conceded to Russia caused another debate. In 1886, Gabriel Noradunghian complained that Russia had still not authorized the registration of the population of Kars to Russian nationality, which contradicted the international norm. The procedures required that these populations receive identity certificates in exchange for their original passports.[609] In response to repeated Ottoman protests, Russia issued a new passport regulation in 1893 obliging

[607] Aleksandr Nelidov was an important diplomatic figure who was active during the Russo-Turkish War and the formulation of the Treaty of Berlin.
[608] "La Guerre Aux Capitulations," *Les Nouvelles D'Orient,* 4 May 1895. By considering the incident, this newspaper comments that the Ottoman bureaucracy should heed capitulations to safeguard Europeans' security in the empire.
[609] BOA HR. HMŞ.İŞO. 158/96, Nov. 1886.

Ottoman subjects settled in newly Russian territories to obtain residence certificates.[610]

Considered state policies resulted from the daily practice of politics. The legal and procedural barriers erected on both sides notwithstanding, the controversies over nationality sparked by Article 7 of the Treaty of Constantinople were reoriented by diplomacy conducted over the specific issue of criminal mobility in frontier regions.

5.4.4 Reciprocal Extradition of Criminals

The human flow across the borders after the 1877-78 War fomented an agitated state of affairs on the Russian frontier which precipitated the security crisis. The absence of official borders due to long-lasting controversy over their exact locations further contributed to the turmoil. Shortly after the Treaty of Constantinople, Istanbul and Moscow corresponded about the revival of the old principle of the Küçük Kaynarca Treaty to reciprocally (*mükabele-i bil-misl*) extradite criminals. First, on 16 December 1879, Russian officials in Kars requested that the Governor of Erzurum surrender fugitives charged with fraud and murder. Though the governor was initially reluctant, the offer was accepted to avoid impunity with the condition that full reciprocity be respected in the future. In a response on 8 May 1880, the Russian state assured that it would conform to this principle in its extradition practices.[611]

For years, however, the issue of reciprocity remained up in the air. Both governments reproached the other for violating the amity expected from the Küçük Kaynarca Treaty.[612] Russia often portrayed the populations living in border regions as undisciplined if not dangerous criminals who posed a menace to public order and

[610] BOA HR. HMŞ.İŞO. 235/40, Mar. 1894
[611] BOA HR.SYS. 1282/1; and Noradunghian, *Recueil d'Actes Internationaux de l'Empire Ottoman,* Tome 4, 254-255.
[612] BOA HR.SYS. 1281/1, 20 Feb. 1882, 10 Aug. 1887, 2. Jun. 1890, 9 Jul. 1891; and 6 Jul. 1892.

peace.[613] Thus, they held the Ottomans accountable for not taking the necessary precautions to punish them. They claimed that Ottoman authorities deviated from the friendly line vis-à-vis extradition and criticized that the arbitrary governance of local rulers exacerbated criminal impunity. In 1881, for example, the Russian Embassy complained about Ali and Osman Pashas, the directors of the refugee commission, who whitewashed criminal activities near Batum.[614] A similar complaint was issued in 1894 against the Governor of Erzurum, Hakkı Pasha, for the obstacles he created to the extradition of criminals sought for brigandage and pillage.[615]

The unpredictable nature of the eastern frontiers, particularly in the late nineteenth century, exposed the vulnerability of the empire. Elke Hartmann argues that "a constantly widening gap opened between the postulated ideal of a modern central state exercising exclusive control over its provinces and guaranteeing public order on the one hand, and the real political desiderata and the applied practice on the other."[616] Thus, provincial administrations in border regions relied on the ad-hoc policies of the governors, which in turn were subject to local politics, complicating the execution of directives from the center. Governors sometimes resorted to locally flavored provisory agreements. This was an option first negotiated in 1883 by the Batumi and Trebizond governorships.[617]

In most cases, extradition was overshadowed by the conflict over the issue of subjecthood among the authorities. When Hakkı Pasha, the Governor of Erzurum,

[613] BOA HR.SYS. 1282/1, 13 Jun. 1891, 7 Jun. 1897, and 24 Jan. 1907.
[614] BOA HR.SYS. 1281/1,16 Dec. 1881.
[615] BOA HR.SYS. 1281/1, 2 Sep. 1894.
[616] Hartmann, "The Central State in the Borderlands: Ottoman Eastern Anatolia in the Late Nineteenth Century," 172.
[617] HR.SYS. 1281/1, Ap. And 4 Jun. 1883. Forestier-Peyrat, « Une autre histoire des relations russo-ottomans : Trois moments de la frontière caucasienne (1900-1918)," 6-7. The author further adds that that cooperation was not restricted to criminal cases but also covered the civil affairs such as going after the spouses that left their wives and children on the other side of the borders.

ignored the advice of the Foreign Ministry and refused to extradite a criminal in 1894, it was not about conceit or hostility towards Russian authorities. On the contrary, it was a reasoned stance. The person being sought had been a resident of Erzurum since the 1877-78 War and was being treated as an Ottoman subject. In response, Russian authorities claimed that the offender had been in the cadaster register since 1882 and the family register since 1886. They added that people living in the Caucasian village of Nijniy-Peneskert (?), where he supposedly lived, knew him well. Up to then, the Russian police had not pursued him since they knew neither his location nor his current identity.[618] As it is clear, the absence of systematic, coordinated system of registering identity as well as the inability to control mobility on both sides of the borders turned these regions into promised lands for those exploiting these legal loopholes and the ability to freely move across borders.

The reason the Ottoman and Russian empires preferred not to close these loopholes directly concerned state politics. Individual cases usually reveal that the Ottoman Empire exercised a form of political patronage over former subjects. In 1881, the Russian embassy demanded the extradition of individuals who were accused of murdering someone in Batum but then escaped to Istanbul. They claimed that these suspects were Russian; they had not resettled in the Ottoman Empire after the war but rather arrived later as criminal fugitives. Nevertheless, Carl Gerscher and Parnis Efendi upheld Article 7 of the Treaty of Constantinople in their arguments. Since the right of emigration was absolute and legitimate, they considered these criminals to be Ottomans so long as they did not renounce that original identity.[619] In other words, the legal advisors contradicted the earlier Ottoman stance concerning

[618] BOA HR.SYS. 1281/1, Sep. 1894.
[619] BOA HR.SYS. 1281/1, Jan.1881.

fugitive criminals, and their arguments could only be explained as politically motivated.

Religion was another strong motive for the Ottomans to retain fugitives. Deserters from the Russian military, for instance, were protected by the legally legitimate basis of having converted to Islam.[620] In 1899, the Governor of Erzurum urged caution in the case of a Russian demand for the extradition of three criminals. Even if the Ottoman state accepted signing a treaty, the treaty should neither cover deserters from the Russian Islamic army nor newly converted fugitives as this would upend long-established custom. Moreover, almost 250 runaways had come to the empire since 1883 compared to almost no escapees to Russia in the same category; thus, they could not be evaluated on equivalent terms as extradition practice necessitated.[621] As noted, disputes over ambiguous identities were often politically motivated, and these disputes variously affected the surveillance of criminal mobility along the borders. This confrontation came to a head with regard to the legal belonging of Armenian populations following the 1894 Sasun rebellion.

5.4.5 Persona Non-Grata: The Legal Belonging of Armenians After the Sasun Rebellion

> To be governed is to be kept in sight, inspected, spied upon, directed, law-driven, numbered, enrolled, indoctrinated, preached at, controlled, estimated, valued, censured, commanded, by creatures who have neither the right, nor the wisdom, nor the virtue to do so…[622]

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[620] BOA HR.SYS. 1281/1, 17 Jun. 1892, 6 Jul. 1892, 2 Dec. 1892, 18 Oct. 1893, 23 Dec. 1893, 17 Jul. 1895.

[621] BOA Y.PRK.UM. 48/59, Oct. 1899: "kayda düşülmüş olan 3 kişinin iadesi ve teslim edilmiş olduğu yazılmış ise de bundan istidlal olunan mezkure eğer hükümet-i müşarünileyhaca iade-i mücrimin hakkında bir mukavele akdi arzu olunursa öyle bir mukavele akdinden beis olmayub ancak Rusya asker-i İslamiyesinden firarla iltica veya ihtida edenlerin dahi iadesi gibi ahiren mevcud olan bir hukukun ihlaline tasaddi olunursa şimdiye kadar bir ferdin Rusya'ya firar ve ilticası mesbuk olmadığı halde 300 tarihinden berü kaydı bulunabilinen iki yüz elli mikdarı Müslim ve gayrimüslim Rusyalının iltica ve ihtida tarikiyle hükümet-i seniyyeye dahalet etmiş ve peyderpey gelmekte bulunmuş olmalarına karşu bu cihetle ehl-i islamiye muceb-i tesir olacağını arz-ı cüret eylerim."

[622] Proudhon, *General Idea of the Revolution in the Nineteenth Century,* 294.

After the 1877-78 War, the numerous Armenian settlements in Eastern Anatolia became a pretext for European's to challenge Ottoman sovereignty and criticize the imperial line with respect to the Armenian population. Article 61 of the Treaty of Berlin prescribed reforms in the eastern regions of the empire to protect Armenians from Kurdish tribes living there. European states indicated that they would otherwise meddle in the reform issue directly. Escalating tensions would occupy Ottoman politics for years.[623]

Atrocities committed in the 1890s, to which Armenian populations in Eastern Anatolia were systematically exposed, ultimately ended in the mass migration of some 30 thousand Armenians to the Russian border after the 1894 Sasun rebellion.[624] The incident earned Abdulhamid II the notorious title of Red Sultan (*Kızıl Sultan),* and the context of the violence in the region has been revisited by many historians taking many different perspectives. Stringent state measures taken in the region and the establishment of the Hamidian Light Cavalry, composed of Kurdish irregulars, were deemed by the Ottomans to be a precaution against the activities of Armenian revolutionaries and the possibility of a future conflict with Russia. Stephen Duguid argues that the required reforms and the Russian negotiation with Britain to bolster control in the region by establishing an independent Armenian state became the legitimatization for direct Ottoman action in the region.[625]

Apart from grand foreign politics, however, local tensions were equally determinant in the upcoming violence. The rape and kidnapping of the Armenian

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[623] Reynolds, *Shattering Empires: The Clash and Collapse of the Ottoman and Russian Empires, 1908-1918,* 15.
[624] The archival document İlkay Yılmaz used in her work, which dated the year1899 gives the number 30.000 whereas another document states that 40.000 Armenians escaped to Caucasia by 1901. They went to Tiflis, Erivan, Kars, Batum and Bakü. BOA Y.PRK. HR. 27/38, 1899; and BOA HR.SYS. 2774/29, Dec. 1901.
[625] Duguid, "The Politics of Unity: Hamidian Policy in Eastern Anatolia," 144-145.

Gülizar by Musa Bey, the Kurdish tribe leader in Muş, in 1889 was considered the trigger of the rebellion. Though Musa Bey was summoned to trial in Istanbul, his full acquittal provoked the reactions of Armenian population. Beyond strife between Musa Bey's tribe and local Armenian residents in Muş, protesters and activists organized a demonstration at Kum Kapı in Istanbul in 1890. Around the same time, the newly appointed governor-general of Bitlis, Tahsin Pasha, commenced organizing Kurdish tribes in the region. Owen Miller revisits the 1894 events in a critical comparative analysis of various sources and claims that there is little evidence that the agitations were the result of Armenian revolts. He states that the revolutionary Hunchakian party had few supporters in the Sasun mountains. Acknowledging the diverse allegations in the sources, he points out that all underscore one common point: Tahsin Pasha escalated the violence by portraying the situation differently to Istanbul in order to legitimize state action.[626]

In this respect, Miller's arguments are in line with those of Janet Klein, who similarly implicates the active role of the state in acts of violence. She notes that Zeki Pasha, the founder of the Hamidiye Cavalry, played a large part in what happened.[627] On the other side, the recent article by Toygun Altıntaş, who offered a new light on the issue with meticulous archival analysis, argues that the Sasun region was the first location where the revolutionaries planned their counteractions. In that respect, he underlines the importance of Sasun massacres "in the articulation of Ottoman policies of ethnic exclusion and hierarchization" targeted against the Armenians.[628]

[626] Miller, "Rethinking the violence in the Sasun Mountains (1893-1894)," 98 and 107. Miller also argues that the work, *Sasun:*
[627] Klein, *The Margins of the Empire: Kurdish Militias in the Ottoman Tribal Zone,* 80.
[628] Altıntaş, "The Abode of Sedition: Resistance, Repression and Revolution in Sasun, 1891-1904," 180 and 183.

These analyses diverge from the arguments of Duguid who claims that Kurdish agitation was provoked by Muslim feelings against the Armenian residence in the region. He adds that Zeki Pasha successfully applied state directives, as confirmed in consular reports, through which state control and governance was gradually exerted via delegation of power to local administrators.[629] The co-authored work, *Sasun: The History of an 1890s Armenian Revolt* likewise states that Armenian witnesses testified to the role of Zeki Pasha in reinstating public order in the region. At the same time, this work attributes the events to Armenian attacks targeting Kurdish tribes.[630]

The history of the 1894 Sasun rebellion is a controversial topic of debate. Reports by missionaries, allegations in the foreign press at the time, and the testimony of local inhabitants reveal clashing viewpoints among the state, the Kurds, and the Armenians. The reasons for the agitations in Eastern Anatolia aside, one point is crucial for the subject at hand: developments in the 1890s compelled the Ottoman state to reregulate security measures on the Russian border once again. An official decree dated in the year of the rebellion stated that all Armenians arriving from Russia to visit had to surrender their guns, if they had any, to police stationed at the borders; otherwise they would be seized by force.[631] Meanwhile, they tightened passport and visa controls for Ottomans traveling to Russia and Iran.[632] The Russian consulate complained about plunder and brigandage committed by the Hamidiye forces against both Muslim and Christian populations as well as about the fact that they sometimes disregarded the borders.[633] On the other hand, Ottoman officials

[629] Duguid, "The Politics of Unity: Hamidian Policy in Eastern Anatolia," 146 and 149.
[630] Mccarty, Turan, Taşkıran, *Sasun: The History of an 1890s Armenian Revolt,* 32 and 37.
[631] BOA DH.MKT. 1756/12, Aug. 1890.
[632] BOA DH.MKT. 1620/104, Apr. 1889; and 1834/87 May 1891.
[633] BOA HR.SYS. 1951/100, Aug. 1893; and HR.SYS. 1359/6, Sep. 1894.

blamed the Russian state for supplying Armenian rebels settled in villages on the Russian side of the border with weapons and guns.[634] In 1894, the Ottoman state ordered the construction of buildings along the frontier zone for the deployment of auxiliary military units and employment of passport officers.[635] Ottoman police were relocated close to Erivan to prevent violations by Russian officers when tracing Armenian criminals.[636] A year later, the Russian Tsar issued a provisional imperial decree authorizing officers in police stations near the Ottoman and Iranian borders to discharge their weapons in emergency situations.[637]

The unrest between 1890 and 1895 lingered in the collective memory of the states and sporadic disturbances would continue to occupy the time and efforts of the states in the following years. In 1900, the Ottoman Empire once more revised the border regime, appointing the general commander of the brigades, Tevfik Pasha, as the commissariat. Tevfik Pasha was charged with maintaining public order on the Russian and Iranian borders from the Black Sea to Bayezid.[638] Watch towers were built and attached with telegraph wires that spanned the border and connected to those of the Russians for efficient communication.[639]

Given their political and social aspects, the incidents of the 1890s positioned the Armenian populations as persona non-grata in the eyes of both governments. Russia neither wanted to control such a large population in the Caucasian border zone nor could it risk the threat of future sedition by the Armenians. As the next chapter demonstrates, increasing anarchic activities by Armenian revolutionaries also contributed to these feelings of unease. Thus, the Tsarist government resorted to

[634] BOA HR.SYS. 1342/92, Jan. 1894; and HR.SYS. 1342/94, Mar. 1894.
[635] BOA HR.ID. 40/8 Jul. 1894; and HR.ID. 40/14, Aug. 1894.
[636] BOA HR.SYS. 1359/2, Apr. 1894.
[637] BOA HR.SYS. 1359/9, Mar. 1895.
[638] BOA HR.SYS. 1274/2, Sep. 1900, and HR.TH. 246/61, Sep. 1900.
[639] BOA HR.TH. 244/60, Jul. 1900, and YPRK. BŞK. 63/2, Sep.1900.

several measures for their deportation, even though the Ottoman state was reluctant to accept them given recent events. The legal belonging of Armenians remained in abeyance until Russia consented to grant Armenian refugees subjecthood in 1902. As İlkay Yılmaz argues, Russia accepted welcoming the Armenians from Anatolia by using the concession of railway construction in the Black Sea region as a trump card.[640] However, this Russian policy did not facilitate the negotiation of collaboration in judicial issues with respect to the Armenians, even in cases of sundry crimes. In 1903, an exchange of Armenian criminals was proposed, to which the Ottoman Council of Ministers delivered the opinion that the standard regulations for ordinary crimes should be applied to the cases of Armenians, as well.[641] Neither side's proposals were actually candid. In 1905, the Ottoman government declared that they would accept no Armenians, criminal or not, who were deported from Russia, which ultimately drove the Russian government to follow suit.[642]

The surveillance of criminal mobility across the Russo-Ottoman borders, like in the Balkan frontier regions, was never definitively addressed in bilateral treaties as most European states did. Instead, it was subject to many factors. Notwithstanding unequal relations due to the capitulatory system, frontier security produced its own geopolitical conditions. Both Istanbul and Moscow positioned their arguments concerning the extradition of criminals on the principle of reciprocity. In practice, however, they rarely applied it. The political crisis that erupted from the Armenian

[640] In her article, İlkay Yılmaz analyses the Armenian question in Eastern Anatolia through passport regulations; see Yılmaz, "Governing the Armenian question through passports in the late Ottoman empire (1876-1908)," 10; also see Badem, "Güney Kafkasya'da Rus Politikaları ve Ermeniler 1828-1918," 409.
[641] BOA HR.SYS. 2775-76, May 1903.
[642] BOA HR.SYS. 2775/75, 23 Sep. 1905: "Rusya'da îkâ etdikleri cerâimden dolayı tardları karargîr olan ve tebaa-i Devlet-i Aliyye'den bulunan Ermenilerin Memâlik-i Şahane'ye kabul olunmaları hakkında Petersburg Sefâret-i Seniyyesi nezdinde edilen teşebbüsât semeredâr olamadığından memurîn-i Osmaniyye tarafından iade kılınan Ermenilerin dahi Rusyaca kabul edilemeyeceği bildirilmesi üzerine…"

question, especially after the 1894 Sasun rebellion, illustrated an extreme complication in the practice of extradition. As Table 9 illustrates, the exchange of criminals convicted of sundry offenses was already nonuniform by 1879. Most extradition requests came from Russia, as criminals were usually manipulating the loopholes caused by conflicts over nationality. Some extradition cases were dismissed due to a lack of official documentation or because the whereabouts of the convicts was ambiguous. Others were rejected as the criminals were considered the subjects of the empire in which they were already being held. For the few criminals that the states agreed to extradite, the crux was whether the offense did or did not constitute an ordinary crime. In such circumstances, the genuine concern – in keeping with the norms of international law – was to prevent impunity for the offenses that directly threatened public order. Sometimes people sought their own justice by appealing to the Ottoman state for the extradition of relatives.[643]

The question of conflicting subjecthood formed the core of the controversies in other ways, as well. After the 1877-78 War, the new border regime created a problem of ambiguous legal belonging in both countries, impeding the operation of justice in many cases. However, at the outset of the twentieth century, debates over extradition were reformulated in the context of a solid legal framework. While archival materials do not expand on this rapid shift in the discourse, recent political tensions experienced at the borders and the influence of legal advisors who stressed

[643] Ali Agha, who set off to travel Batum for his nephew imprisoned there, was arrested at the Russian frontier, and his animals were seized. He applied to the Ottoman state for himself and for the release of his nephew, BOA HR.H. 159/11, Feb. 1881. Dellal Ismail appealed to the Ottoman state for the extradition of his brother, whom the Russian state incarcerated in Sevastopol. His brother Ibrahim was a naturalized Ottoman, but he was arrested because of allegedly escaping from the Russian military; BOA HR.H. 300/71, Oct. 1886. Armağan Hatun, the mother of Bedros, who was convicted at Baku, wrote a petition to the Ottoman state requesting the extradition according to the treaty principles; BOA HR.SYS. 2776/58, May 1909. In the same year, the mother of Ardaş, who was similarly arrested in Baku, wrote a petition for his extradition; BOA HR.SYS. 2776/57, May 1909.

the need for an official extradition treaty to replace the principle of reciprocity, formed the main reasons that reframed the diplomatic arguments.[644]

5.4.6 Negotiations of an Official Extradition Treaty

In 1904, the Russian ambassador Ivan Zivoniev asked the Ottoman Foreign Ministry for Ottoman courts to try a fugitive Ottoman convicted of robbery in the Russian territory of Karakilise.[645] The 1880 Russian Penal Code included a particular regulation addressing this issue, which prompted Russia to expect the same from the Ottomans. Article 184 stated that Russian subjects accused of crimes against either Russian or foreign subjects, if they were handed over or returned to Russia on their own consent, would be tried in Russia according to the punitive regulations of both countries.[646]

The case remained in abeyance until 1907. Ultimately, the Ottoman court dismissed the lawsuit asserting that the 1879 Code of Criminal Procedure had no provisions for crimes committed by Ottomans abroad. The only clause related to the issue was Article 7, which upheld the right of Ottoman courts to try Ottomans

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[644] BOA HR.SYS. 1281/2, 1904: "Vakıa 1188 tarihli Küçük Kaynarca muahedenamesinin 2. Maddesi fıkra-yı saniyesi mücrimin talep vukuatında red ve iadesi esasını dahi hudud üzerinde bazı erbab-ı ceraimden firarilerin mütekabilen iadesi içün 1879 ve 1880 senelerinde nezaret-i hariciye ile sefaret arasında taalluk edilmiş olduğu halde memalik-i şahaneden Rusya'ya firar eden mücrimin bizzat hükümet-i müşarünileyhaca iadesi vechine gidilmemesine ve Rusyadan memalik-i mahrusa-yı şahaneye iltica ve tebaa-yı osmaniyeye ihraz eden ve ancak devlet-i müşarünileyha nezaretinde Rusyada kalan müslim ve gayri müslim eşhasın dahi hükümet-i mezkurece taleb ve iadesinde tereddüd edilerek bu gibi bazı mütaalebenin neticesiz kalınmasından dolayı…'

[645] BOA HR. SYS. 1282/1, 29 Jun. 1907, from Ivan Zivoniev, the Russian Ambassador, to Tevfik Pasha, the Ottoman Foreign Minister. In his report, Zivoniev added that this attitude was against the 1899 Iğdır Protocol signed for the security of borders.

[646] BOA HR. HMŞ.İŞO. 6/24, 30 Nov. 1909; "Madde 184: Rusya tebaasından olub memâlik-i ecnebiyede bulunan ve bulundukları memleketin hükümetiyle tebaasından birini veya bir kaçına veyahut o memlekette bulunan diğer bir ecnebiye karşı bir cürmü ika etdiklerinden dolayı mahkemeleri icra edilmek üzere ikâ-yı cürm edilmesi memleket hükümet meclisinin emriyle birine terfiken Rusya'ya sevk ve izam olunan veyahut kendi hüsn-ü rızalarıyla vatanlarına avdet eden mücrimler iş bu ceza kanunnamesi ahkamına tevfiken Rusya'da taht-ı mahkemeye alınırlar, yalnız bu gibi mücrimin irtikab-ı cürm etmiş oldukları memleketin kavanin-i cezaiyesinde muayyen cezaiyesinde daha şedid ceza ile mahkum edildikleri takdirde cezaları memleketleri kavaininde muayyen nisbetinde tahfif edilecektir."

charged with an offense in a foreign territory against another Ottoman. Article 7 further explained that such cases could be brought to the court only on the condition that the host state had not already tried the accused.[647] Zivoniev, displeased with the response, warned that the Ottoman stance would result in impunity for the crime and flagrantly contradicted diplomatic customs that regulated interstate relations between neighboring states. [648] For the first time, both governments were reckoning with their penal codes in an extradition case. Nevertheless, the resort to the legislation was unsuccessful as the two penal codes were incompatible and a reciprocal extradition was no longer an option. Thus, the two sides eventually opted for an official extradition treaty.

By 1905, the vizierate had already assigned a committee to work on an extradition treaty in accordance with the request of the Russian Embassy. After a series of exchanges, the committee resolved that criminals would no longer be extradited out of reciprocity. The Ottoman Office of Legal Counsel claimed that the 1879 treaty on the reciprocal exchange of criminals had never been applied on equal terms and was no longer valid due to the passage of time (*mürur-u zaman ile meriyetten sakıt eylemiş olan*). For this reason, they recommended an official bilateral treaty be signed. The office further noted, with reference to local, provisional agreements such as between the governors of Batumi and Trebizond, that provincial authorities had no mandate to order the extradition of criminals or veto the request of another state. Instead, this process would be carried out using diplomatic

[647] "Tebea-yı Devlet-i Aliyye'den biri memâlik-i Osmaniye haricinde tebea-yı Devlet-i Aliyye'den diğeri aleyhinde bir cinayete mütecasir olduğu halde Memalik-i Osmaniye'ye avdet eder ve mürtekip olduğu cinayetten dolayı memâlik-i ecnebiyede mücazat-ı kanuniyesini görmediği tahakkuk eyler ise hakkında muamele-yi kanuniye icra olunur." See, *Düstur,* C.4, 136-137. For the French version, Young, *Corps de Droit Ottoman,* Vol. VII, 227-228, and Gökçen, "1296 (1879) Tarihli Usul-ü Muhakemât-ı Cezaiyye Kanun-ı Muvakkatı," 204.
[648] BOA HR. SYS. 1282/1, Jul. 1907.

channels as was practiced by European states in accordance with international law.[649] That same year, the Council of Ministers issued an official statement to conclusively resolve the subjecthood issue and stop criminals still manipulating the Treaty of Constantinople and Article 7 of the procedural code to evade punishment. The council declared that the Ottoman state would treat such people as Ottomans if they spent a year in the empire or if an official document from the Russian government could be obtained renouncing their nationality.[650]

In the meantime, the Office of Legal Counsel advised the amendment of Article 7 of the Ottoman Code of Procedural Crimes to address the jurisdiction of Ottoman subjects accused of crimes against foreigners abroad. For this reason, extraditable violations classified as ordinary crimes needed to be carefully identified, and the new regulation had to conform to the stipulations of the official extradition treaty. The supplement to Article 7 of the Ottoman Code of Procedural Crime was introduced to the Council of Ministers and the Ministry of Justice in 1910. It stated that jurisdictional rights would be resolved according to the writ of summons and orders received from the Ministry of Justice.[651] Additionally, legal advisors offered a solution in Article 5 of a 1905 draft penal code, which was still under preparation. If enacted, Article 5 would allow Ottoman courts to try Ottomans convicted abroad.[652] However, neither the draft penal code nor the amended Article 7 was approved. The Ottoman state thus redirected its attention to a bilateral extradition treaty.

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[649] BOA HR.SYS. 1281/1, Aug. 1905.
[650] BOA HR.SYS. 1282/1, 1905.
[651] BOA HR. HMŞ.İŞO. 6/34, 26 May 1908; and BOA HR. HMŞ.İŞO. 6/24, 30 Nov. 1909. 7. Maddeye Zeyl: "Tebea-yı Devleti Aliyye'den biri tebea-yı ecnebiyyeden bir diğeri hakkında memalik-i ecnebiyede bir cürm-ü şahsi irtikâb eylediği halde bunlar hakkında takibat-ı kanuniye icrası tazarrik şikayetine ve adliye nezaretinin emr-i tahririne mütevafıkdır."
[652] 1910 Ceza Kanunname-yi lahiyası, Madde 5: "Memalik-i ecnebiyede bir ecnebi aleyhine ika olunan ceraimden dolayı hakkında mahkeme-yi Osmaniye tarafından icra-yı takibat ve muhakemata müsaid olunur." BOA HR.SYS. 1282/1, 21 Jun. 1910. The report of Ahmed Bey and Hrand Bey, the Office of Legal Counsel.

In 1911, the legal advisor Hrand Abro Bey presented the final draft of the treaty project to the grand vizierate and the Council of Ministers. Composed of 6 articles, the project resembled the standard format of extradition treaties except for a few distinct points arising from Russo-Ottoman interstate relations. Article 5 articulated that fugitives who had obtained a host state's nationality or religion could not be extradited, underscoring the importance attached to the principles of the Küçük Kaynarca Treaty on religion. Article 6 touched on the question of a third state. If a third state demanded the extradition of an Ottoman from Russian territories or a Russian from Ottoman territories for a crime committed in the third state, the extradition could proceed.[653] Though this clause seems irrelevant, Hrand Abro Bey explained that it safeguards Ottoman subjects from arbitrary jurisdiction. If the Russian state reacted to its inclusion, the draft could be revisited. He reiterated earlier agreements concerning Ottoman subjects who took refuge in the empire after committing a crime against a Russian in Russia, suggesting that the additional clause was complementary in practice.[654]

The Grand Vizierate, the Council of Ministers, and the Ministries of Justice and of Interior Affairs approved the general framework, but the Council of Ministers also voted to reinstate the principle of reciprocity. Unlike the Office of Legal Counsel, they remained cautious about relying on a treaty and wished to maintain older methods of diplomatic reconciliation. They further suggested wrapping up two treaties, as Hrand Abro Bey had also suggested, into one. The proposal concerning the jurisdiction of the Ottomans convicted abroad was not urgent in their eyes, but it could be inserted into the main extradition treaty.[655]

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[653] BOA HR.SYS.1282/1, 28 May 1911. For the Ottoman-Turkish of the draft treaty see Appendix D.
[654] BOA HR.SYS.1282/1, May 1911.
[655] BOA MV. 154/4, Jul. 1911 and BOA BEO 3914/293519, Jul. 1911. "Tezkere-yi mütaalânâmeye ithafen tezkere-yi mezkûrede dahi dermeyan olunduğu vechle mukabele-yi bilmisil kaidesi olunmak

Unfortunately, the archival documents fall silent at this point. In 1913, the Ambassador to St. Petersburg, Fahreddin Bey, wrote to Grand Vizier Said Halim Pasha that Prince Troubetzkoy,[656] the director of the Oriental Department of the Russian Foreign Ministry, had asked in passing about progress on the extradition project. Fahreddin Bey submitted the draft documents, which he said found favor with the prince who then transferred them to the Ministry of Justice.[657] There is no record of what happened next; war was at the doorstep and efforts to approve such a treaty probably fell by the wayside. During the war, after all, it was not diplomacy but a political state of emergency that determined security policies.

The inconclusiveness of the project notwithstanding, the measures undertaken by both empires to secure the borders and limit criminal mobility after the 1877-78 War provides a new, broader perspective on Russo-Ottoman diplomacy. The border regime had to accommodate day-to-day local politics alongside stringent state measures and sometimes violent clashes. On the other hand, the Ottoman Empire availed itself of its recent legal reforms to undermine the hold of the capitulations; meanwhile, Russia was undergoing its own legal restructuring in line with international law. Their dialogues on extradition demonstrate that both empires merged the diplomacy of reciprocity and its two-centuries-long history with the new legal discourse and new recourse to legislated penal codes.

şartıyla iade-i mücrimin hakkında tecdid-i itilaf münasib olub ancak gerek Memalik-i Omaniye'de bir Osmanlı gerek Rusya'da bir Rusyalı aleyhinde irtikâb-ı cinayet ile kendi memleketlerine firar eden ve tarafeyn tebalarından bulunan canilerin cezasız kalmamalarını temin içün dahi bir ittilâf vücuda getirilmesi kaideden hali değil ise de iki meselenin bir itilâfnâmeye derci müzakeratı tasyir edeceğinden evvel emirde iade-i mücrimin hakkındaki ittilâfın tecdidi için salif'ül-zikr mütaalanâmede muharres ita dairesinde müzekkerâta ibtidar olunması hakkında nezareti müşarünileyhaya mezuniyet verilmesi kararlaştırıldı."

[656] I am not sure which prince he was from this family as they were many and most of them lived in different countries of Europe. I think he was Evgenii Nikolayevich Troubetzkoy (1863-1920), a lawyer who lived in Russia.

[657] BOA HR.SYS. 1282/1, Mar. 1914. BOA HR. HMŞ.İŞO. 6/20, Nov. 1914.

Table 9. Extradition Negotiations After the 1877-78 War [658]

Date	Criminal	Crime	Escaped to	Request from	Result
Oct. 1879	A couple of individuals	Murder and theft in Kars	Erzurum	The Russian Embassy to the Vali of Erzurum	Not extradited
Jan. 1881	A couple of individuals	Murder of Russian Bassi Sanadje in Batum	Istanbul	The Russian Embassy to the Ottoman Foreign Ministry	Not extradited, identity question
Sep. 1882	Kamil and his brigands	Theft of livestock in Oltu	Hod	The Russian Embassy to the Ottoman Foreign Ministry	Arrested, not extradited
Apr.1883	Brigand Baltaoğlu Mehmed Ali	Brigandage in Oltu	Trebizond	The Governor of Batum to the Governor of Trebizond	Not extradited
May 1883	Kurd Mantouri Hussein	Murder of two Ottomans in Sivas	Batum	The Sivas Province to the Batum Governorate	Arrested but not extradited
Sep. 1889[659]	Russian Gezki Zekeriya	Crime, unspecified, in Russia	Canik (he also committed murder there)	The Russian Embassy	Not extradited
Nov. 1889[660]	Kalfayan Mardiros	Murder of Huseyin in Van	Batum	The Ottoman Embassy of St. Petersburg to the Russian Government	_____
July 1890	Aibedzaroğlu Deli Hasan and brigand Kerim	Brigandage and other crimes in Tiflis	Erzurum	The Russian Consulate of Erzurum to the Vali of Erzurum	Judged and released by the Ottomans
Dec. 1890	Seven Ottoman subjects	Attack to a postilion on railway station in Kars	Ottoman side of the frontier	The Russian Embassy to the Ottoman Foreign Ministry	Local Ottoman police arrested them, not extradited
Nov. 1890	Russian Tevfik Atabekon	Incitation of a crime in Artvin	___	The Russian Embassy to the Ottoman Foreign Ministry	He changed his subjecthood, not extradited
June 1891	Russian subjects	No Ottoman visa on their passports, Erzurum	___	The Russian Embassy to the Governor General of Erzurum	Not extradited
Nov. 1891	Russian Nariman Kurbanoglu	Deported to Siberia because of murder in 1887	Istanbul	The Russian Embassy to the Ottoman Foreign Ministry	They decided to extradite but could not find her
Dec. 1891	Seven Kurds	Banditry in Caucasia	Bayazıd	Russian Embassy to the Ottoman Foreign Ministry	Not extradited

[658] BOA HR.SYS. 1281/1. Most of the correspondences on extradition, as illustrated in Table 9, are stored in this catalogue.
[659] BOA HR. HMŞ.İŞO. 173/2, 14 Sep. 1889.
[660] BOA HR.H. 161/11, 8 Nov.1889.

Jan. 1892	Six Ottoman subjects	Injuring Hasan and his daughter Cadidje, looting their goods in Lazistan	Tiflis	The Ottoman Foreign Ministry to the Russian Embassy	Not extradited
Mar. 1892	Russian Stefan Papazow	Murder of Lietunant Thomas Davidow in Tiflis	Çürüksu	The Russian Embassy to the Ottoman Foreign Ministry	They decided to extradite him
Mar. 1892	Aslan Mamioğlu	Attack to Aaron Halvassy in Caucasia	Izmid	The Russian Embassy to the Ottoman Foreign Ministry	They decided to extradite him
Jan. 1893	Ottoman Kurdoglu Hamid	Death penalty for a crime not identified	Lazistan	The Ottoman Foreign Ministry to the Russian Embassy	They accepted to extradite but could not find him
Feb. 1893	Russian Taimassan Atacheff	Theft of 3.000 ruble	Istanbul	The Russian Embassy to the Ottoman Foreign Ministry	They accepted to extradite him
Mar. 1893	Mustafa Ali and Mehmed	Assassination and smuggling in Rize	Batum	The Ottoman Consulate of Batum to the Governor of Batum	They accepted to extradite them
Jan. 1895	Mehmed bin Dursun	Crime not identified	Batum	The Ottoman Consulate of Batum demanded him for three years	They extradited him in the end
Apr. 1895	Küçük Islamoğlu Mehmed	Murder in Trebizond	Yalta	The Consul General of Trebizond to the Ottoman Consulate of Sevastopol	They could not find him
Apr. 1895	Ottoman subject Ali	Murder	Kars	The Ottoman Foreign Ministry to the Ottoman Embassy of St. Petersburg	They could not find him
Sept. 1895	Mehmed and Tefdji	Murder of nine Ottomans	Not specified	The Ottoman Foreign Ministry to the Ottoman Embassy of St. Petersburg	Lack of documents, not extradited
Jan. 1897	Ali Sultan Kobliansky	Brigandage and looting in Ardahan	Bursa	The Russian Embassy to the Ottoman Foreign Ministry	_____
Mar. 1898	Ismail bin Eminağa	Murder in Batum	Izmid	The Russian Embassy to the Ottoman Foreign Ministry	_____
Mar. 1898	Russian Ismail Karabayraktaroğlu	Murder in Batum	Sinop	The Russian Embassy to the Ottoman Foreign Ministry	They arrested and accepted to extradite him
Mar. 1899	Russian Emrullah and Köse Mehmed	Brigandage in Trebizond and Sivas	Çürüksu	The Ottoman Foreign Ministry to the Batum Governorate	Not extradited
Aug. 1899	Russian Molla Muhammad Loman	Murder	Bursa	The Russian Embassy to the Ottoman Foreign Ministry	_____

Sep. 1899	Ottoman Şakir	Crime in Sürmene	Kertch	The Ottoman Foreign Ministry to the Ottoman Consulate of St. Petersburg	Extradited
Apr. 1901	Mehmed Memişoğlu	Murder	Sinop	The Russian Embassy to the Ottoman Foreign Ministry	Arrested but not extradited
Oct. 1902	Russian Osman, Cabbar, Merdan and Selim	Brigandage	Bayazıd	The Russian Embassy to the Ottoman Foreign Ministry	Not extradited
Jan. 1905	Russian Mustafa Hamitoff	Crime unspecified in Kazan	Istanbul	The Russian Embassy to the Ottoman Foreign Ministry	Identity question, lack of documents, not extradited
Oct. 1906	Russian Şevket bin Demicioğlu	Murder in Batum	Adapazarı	The Consulate General of Batum to the Ottoman Foreign Ministry	_____
Mar. 1908	Şahinzade Tahsin	Brigandage in Lazistan	Batum	The Ottoman Consulate of Batum	Extradited
Dec. 1908[661]	Imamoğlu Şaban	Murder in Erzurum	Novorossik	The Ottoman Consulate of Novorossik to the local authorities	They accepted to extradite him
Feb. 1910[662]	Russian Krigor Kaprilof	Crime unspecified	In prison in Erzurum	_____	His extradition would depend on his punishment in the Ottoman Empire
Feb. 1910[663]	Henkamoğlu Ali	Crime unspecified	In prison in Sohumkale	The Governor of Trebizond	His extradition would depend on his punishment in Russia
May 1910[664]	Tekbıyıkoglu Bodos and his son	Murder of Kirkor in Konya	Kars	The Ottoman Embassy of St. Petersburg	Not extradited
Jun. 1913[665]	Ahmed and his accomplices	Murder of three Ottomans in Rize	Batum	The Ottoman Consulate of Batum	Extradited
Oct. 1913[666]	Çakı Topaloğlu Edhem ibni Mustafa	Crime unspecified in Rize	Rostow	The Ottoman Embassy of St. Petersburg	_____

[661] BOA HR.SYS. 1282/2, Dec. 1908.
[662] BOA HR. HMŞ.İŞO. 6/22, Jan. 1910.
[663] BOA HR. HMŞ.İŞO. 6/25, Feb. 1910.
[664] BOA HR.SYS. 1282/2, May 1910.
[665] BOA HR.H. 163/8, Jun. 1913.
[666] BOA HR.SYS. 1282/3, Oc. 1913

5.4.7 The Ottoman Empire and Russia: The Adoption of Legal Formalism in Two States

Like the Ottoman Empire, Russia undertook a wide range of legal reforms in the nineteenth century, reshaping its judicial system. Since 1812, state officials with diverse political visions had labored on codification projects that reflect the empire's legal trajectory.[667] The 1864 reforms, like the 1856 Tanzimat Edict, was the milestone that established the equality of all subjects before the law. These reforms instituted a motto of law as being "the spirit of people."[668]

Most of the attempts at reform, however, remained on paper, even as they awakened public awareness of law and justice in time. Western legal systems inspired the Russian judicial system in many respects. The Russian state reasoned that the participation of lawyers in court tribunals, a jury system, and delegation to local courts, as were the practices in Europe, would elevate the competency of jurisprudence throughout the empire. Accordingly, officials endeavored to create solidarity among judicial organs by ensuring effective communication between plaintiffs and defendants. Nevertheless, these goals were not fully realized, the new judicial system was not so easily implemented in every corner of the empire. Furthermore, the peasant population had difficulties availing itself of the new judicial procedures. Most insisted on preserving customary practices in court operations, so the state was compelled to seek a compromise with local people for a long time.[669]

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[667] Adrian Brisku vividly narrates the political frictions in the state for those codification attempts. The power struggle Michael Speransky, the advisor to Emperor Alexander I, had with opponents shows the tension between the rule of law and the power of the autocratic regime. This work of Brisku is a comparative study focusing on the reform process of both the Russian and Ottoman Empires.Brisku, *Political Reform in the Ottoman and Russian Empires: A Comparative Approach,* 17-61.

[668] Baberowski, "Law, the judicial system and the legal profession," 346.

[669] Baberowski argues that the incomprehensible legal discourse at the court vis-a-vis the conventional definition of crime that the peasants were used to set a barrier among the state officials and local populations. While local elders and the people insisted on their customary laws, the new enforcements by the reforms created a plurality of law. See Baberowski, "Law, the judicial system and the legal profession," 349-351; and Dussel, "Russian Judicial Reforms and Counter Reforms (1864-1914)."

It was not so great a sacrifice. After all, for the imperial autocracy, the primary concern was neither justice for Russian subjects nor the promotion of the rule of law. Instead, they desired that new legislation prioritize the privileges of bureaucratic elites and state administrators.[670] Thus, the legal digest, *Fundamental Laws of the Russian Empire,* which entered into official use in 1832 and remained in force until 1906, largely reinforced the monarchy.[671]

This state of affairs was closely tied to the imperial vision projected onto Russian subjects. The notion of citizenship in Russia was, to an extent, similar to Ottoman subjecthood: a framework of obligation prevailed over the civic rights and duties common in Europe. Legal belonging of Russian subjects was regulated by social categories rather than race, ethnicity, or confession.[672] Jane Burbank explains what she calls as an imperial rights as follows: "the state kept for itself the authority to assign, reassign, and take away rights, duties, and privileges from the groups that comprised the empire's population."[673] Eric Lohr similarly attributes Russia's success and longevity to this imperial system that offered Russian society limited rights and made them dependent on the institutions that the state gradually dominated.[674]

Notwithstanding its autocratic regime, the Russian government transformed the empire's legal framework from the 1870s up until 1917. In his analysis of this paradox, Peter Holquist points to the role of international law. After the 1877-78 War, international law opened a path for Russians to restore diplomatic relations in foreign politics.[675] Friedrich Martens, the director of the international law department

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[670] Borisova, "Russian National Legal Tradition: *Svod versus Ulozhenie* in Nineteenth-century Russia,". 297-298; and Borisova, "Legislation as a Source of Law in late Imperial Russia," 304.
[671] Holquist, "The Russian Empire as a 'Civilized State': International Law as Principle and Practice in Imperial Russia, 174-1878," 1-37.
[672] Lohr, "The Ideal Citizen and Real Subject in Late Imperial Russia," 176.
[673] Burbank, "An Imperial Right's Regime: Law and Citizenship in the Russian Empire," 403.
[674] Lohr, "The Ideal Citizen and Real Subject in Late Imperial Russia," 180-181.
[675] Holquist, "The Russian Empire as a 'Civilized State': International Law as Principle and Practice in Imperial Russia, 174-1878," 15.

at St. Petersburg University, was a leading figure that introduced international law into the Russian legal system. Having worked for the Russian Foreign Ministry since 1868, Martens' arguments on international law earned him worldwide fame.[676] On his account, Russia appeared more frequently at international forums such as the 1868 Petersburg Declaration and 1874 Brussels Declaration, two critical conventions at which delegates regulated the methods of war and the employment of weapons in the state of war. In 1899, Russia was the most influential state in the organization of the first Hague Conference that addressed armaments and military expansionism.[677]

The Ottoman Empire, which similarly started employing international law after the Crimean War, closely monitored Martens' work. In 1887, the legal advisors Carl Gerscher and Gabriel Noradunghian appealed to Grand Vizier Said Pasha to buy the collection of Martens' works on the law of nations. They wished to print an edited translation of his published works as excerpts that had occasionally appeared in the newspapers were full of errors. Describing his works as the most important publications of the epoch, the legal advisors stated that their publication would greatly assist politicians and legal scholars; all European states and the United States were taking heed of these valuable volumes. Said Pasha requested that the Ottoman Embassy in Berlin buy the whole collection,[678] and it eventually acquired the last of Martens' thirty-five volumes in 1912.[679]

Martens, an expert on international law, did not uphold the universal notion of internal law for countries identified as oriental. He was an ardent supporter of the

[676] Holquist, "The Russian Empire as a 'Civilized State': International Law as Principle and Practice in Imperial Russia, 174-1878," 8 and 15.
[677] Holquist, "The Russian Empire as a 'Civilized State': International Law as Principle and Practice in Imperial Russia, 174-1878," 1-3.
[678] BOA HR. HMŞ.İŞO. 156/22, Jul. 1887; and BOA HR.ID. 1902/36, Jan. 1888.
[679] BOA HR.ID. 1902/37, Sep. 1890; HR.ID. 1902/43, Sep. 1893; and BOA HR.ID. 1902/58, Mar. 1912.

capitulatory system. His protégé, Andre Mandelstam, who was another important figure in Russian foreign politics, had also worked as the expert on the Ottoman Empire.[680] In the words of Andreas Müller:

> Martens insists that consular officers should have the most extensive powers in relation to the unequal oriental states and derives from this the presumed existence of a casual nexus between the scope of the consular powers and the cultural level of a state, but in an inversely proportional sense.[681]

Given this point of view, the scale of the Russian reaction to the 1879 Ottoman reforms was predictable. The dialectic between the importance attached to the principles of international law and the favor strongly towards the capitulatory system is also reflected in the 1880 Russian Penal Code. Article 185 of the code guaranteed consular jurisdiction in the Ottoman Empire and Iran. The article stated that the crimes Russians committed against a Russian or foreign subject in these countries would be tried and punished by the Russian consul or Russian political authorities.[682] Thus, new court regulations regarding the presence and signature of consular representatives as well as preventive confinement became a source of ongoing remonstrance from Russian legations, just as for other consuls. The Russian Embassy frequently reacted to the practice of preventive confinement by quoting Article 6 of the 1783 capitulations. The Ottoman state, in return, responded that the

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[680] Holquist, "The Russian Empire as a 'Civilized State': International Law as Principle and Practice in Imperial Russia, 174-1878," 9.
[681] Müller, "Friedrich F. Martens on 'The Office of Consul and Consular Jurisdiction in the East,'"877.
[682] BOA HR. HMŞ.İŞO. 6/24, Nov. 1909 : "Madde 185: Gerek Memalik-i Osmaniye'de ve gerek İran toprağında bulunan Rusya tebaasından biri o memleketlerde mukim Rusya tebaasından birinin hukukuna taarruz etdiği veyahut hükümet-i Osmaniye ile İran hükümetine ve mezkur memleketlerde bulunan tebaa-yı ecnebiyeden birine karşı bir cürm irtikab eylediği ve cürm-ü mezkûr kanunnamesinin (madde 30 kısım 5) de gösterildiği vechle habs ve tevkifi muceb olacak dereceden revan olduğu takdirde şahs-ı merkumun icra-yı muhakemesi rusya süferasıyla siyasi memurlarının veyahut konsoloslarına aid olacakdır. Cürmü vaki maddeyi sabıkada beyan olunduğu üzere habs ve tevkif gibi ağır bir ceza ile icabet edebildiği takdirde cürme aid mazbata-yı istintakiye tanzim olundukdan sonra mütehhem iş bu nizamnamede münderic mevad-ı kanuniyenin mahkemece tatbiki icrası zımmında evrak-ı deva-i ile maaen mahall-i hadiseye yakin olan Rusya hududu dahilindeki merkez eyalet riyasetine sevk ve izâm olunur."

recently enacted judicial procedures and the improved conditions of prisons aptly provided the safety of foreign subjects. The capitulations, which had been revoked during the 1877-78 War, were reinstated. Although they did not include the phrase "most favored nation" before or afterward, established practices were observed.[683]

Therefore, the reliance of the new Ottoman legal stance on the procedural codes stood in firm opposition to earlier practices that were shielded by the capitulatory system. As such, protest regarding preventive confinement was ignored with the excuse that custom did not constitute a rule.[684] In such cases, Russian legations responded by refusing to send dragomans trials, nullifying the decisions of the tribunal.[685] However, the absence of dragomans did not hamper the courts. They assigned deputies of their own choosing who were considered sufficient for the prosecution to proceed.[686] These regulations initiated another round of conflict regarding consular representation in the courts. This, in turn, contributed to the increasing backlash against capitulatory authority.[687] In brief, Ottoman extradition practices and measures to limit criminal mobility cannot be evaluated on the international stage without observing the evolving legal discourse and stronger legal

[683] BOA HR. HMŞ.İŞO. 218/49, Mar. 1887; and 156/17, Jan. 1889.
[684] BOA HR. HMŞ.İŞO. 174/20, Sep. 1889 and Apr. 1890: "Bab-ı Ali işbu mezkurede Andon isimli Rus tebaasının Osmanlı habishanelerinde kabl'el-hükm habs ve tevkifi meselesini bittekrar ortaya koymuş ve bunun ne muahedat-ı atike ne de ecnebiler hakkında mer'i olan usül ve adata mugayir olmadığı atikadan da bulunmuşdur. Bab-ı Ali'nin tahdidat-ı düveliyesine ve teamülü kadime muhalif olarak ahiren faaliyatca tervice çalışdığı "usül ve adat" ı mezkure asla bir hak vücuda getirmez…"
[685] Russian Kolozof, who was previously imprisoned by the Ottoman state but given to his consulate due to the increasing protests, was not brought to the court. The interpreter did not attend the trial, either: BOA HR.TH. 77/40, Dec. 1878.
[686] In September 1908, a dispute between an Ottoman and a Russian subject was heard by an Ottomantribunal in Jerusalem without the consular authorities. The judicial authorities reproached the ongoing Russian protests as they suspended the operation of justice: BOA HR. HMŞ.İŞO. 182/5, Sep.1908; and 182/7, Oct. 1908. In January 1910, Russians complained again in Jerusalem about another judicial case heard without a consular authority: BOA HR. HMŞ.İŞO.,15/28, Jan. 1910. A year later, the investigating magistrate of Pera refused the consular dragoman during a Russian witness's testimony in one of the court hearings: BOA HR. SYS. 2953/59, Jun. 1911.
[687] BOA HR. HMŞ.İŞO. 182/41 Dec. 1911; and 182/47, Jan. 1912; 182/55, Mar. 1912; 182/60, Jan. 1913; and 182/52; Mar. 1912.

structures in the empire, which butt against the capitulatory system in general and consular jurisdiction in particular.

5.5 Conclusion

This chapter presented Ottoman surveillance and security policies along the Balkan and Russian borders after the 1877-78 Russo-Ottoman War. The shifting political maps of each region compelled novel geopolitical questions that mandated a set of specific security measures for frontier zones.

The first section of the chapter described daily tensions in the Balkan frontier zones. Many Balkan states gained either independence or limited autonomy via the 1878 Treaty of Berlin, and the subsequent wave of emigration prompted questions over legal belonging and property transfer. The history of violence in the Balkan regions means that diplomatic negotiations after the 1877-1878 War cannot be evaluated independent of a still fresh, collective memory. For that reason, the course of day-to-day security politics vis-à-vis Balkan states was erratic. There was predictable tension between states that had only recently had suzerainty relations and were now striving to establish a diplomatic dialogue on equal terms. The process was never smooth as the Ottoman and Balkan states frequently questioned whether to pursue diplomatic solutions or adopt tit-for-tat policies for border security. This chapter showed the various strategies employed to preserve order and negotiate extraditions in the meantime. It also showed how the power politics articulated in the conversations was shaped by a legal discourse that relied on territorial sovereignty and legislated penal codes.

Secondly, this chapter introduced the 1879 judicial reforms in the Ottoman Empire and demonstrated its impact on the changing state discourse of diplomacy.

New procedural regulations comprised a second phase of the Tanzimat reforms in the legal arena and equally broad in scope. The Ottoman Procedural Code restructured the operations of the courts, eliminating the customary privileges of the consular system. Public prosecutors and investigating magistrates – legal professions theretofore unknown in the Ottoman system of justice – were to administer prosecutions from beginning to end. The presence and signature of consular representatives were no longer considered necessary; meanwhile, the preventive confinement of suspects in Ottoman prisons was a further blow to consular oversight over the trials of their nationals. Though it encountered criticism from capitulatory states, the evolution of legal formalism in the empire demonstrated growing Ottoman confidence in the rule of law. Therefore, this chapter also cited discussions among the state departments of the Sublime Porte. The clashing views among such officials is the best evidence of the painfulness of the transformation from an empire into a legalist state.

The last section of this chapter discussed the Ottoman border regime with Russia after the 1877-78 War. The account of the evolution of Ottoman security measures and policing in the nineteenth century provided a comparative analysis of criminal exchange with Russia before and after the war. Interstate collaboration relied on the reciprocity principle, which was referenced in the 1774 Küçük Kaynarca Treaty. Under the capitulatory system, Russian subjects were heard and tried by the court of the Ottoman Police Marshall; they were later surrendered to consular authorities to serve their sentences. In return, Russia usually extradited Ottoman subjects. However, the nature of security politics drastically changed after the war. Istanbul and Moscow were still eager to cite the principle of reciprocity, but novel border crises stemming from the nationality question impeded efforts to

formalize extradition. The populations of territories that had been conceded to Russia manipulated the lax control of mobility and the failure of both states to establish an effective identity registration system. Thus, they enjoyed double citizenship, a situation that the two states variously used to support their own political purposes. The escalation of violence among Kurdish tribes and Armenian rebels, which provoked the 1894 Sasun rebellion, expanded the security vacuum at the borders by labeling Armenians as persona non-grata. Taken altogether, these developments contributed to an overall failure to suppress criminal mobility and develop a smooth process of extradition.

Even as the Ottoman Empire and Russia worked on an official extradition treaty, their incompatible penal codes posed an obstacle. Thus, the 1879 procedural regulations were another implicit reason for the failure to reconcile on diplomatic terms. Russian consular authorities frequently objected to the new judicial measures that restricted their influence in Ottoman tribunals. However, the determined stance of the Ottomans brushed the Russian (and European) protests off, indicating that Ottoman-Russian interstate relations were no longer subject to the capitulatory system but rather to diplomacy on equal footing. Extradition practices cannot be understood without considering all these backstage social, political, and legal developments.

CHAPTER 6

POLITICAL CRIME AND EXTRADITION IN THE AGE OF REVOLUTION

This chapter analyzes political crime and how it relates to extradition practices in the international arena. It adopts a comparative lens by providing an overview of political crime as a concept, and act, in and throughout history. The chapter shows that the nationalist upsurge and rise of anarchism in the Ottoman Empire cannot be read as independent to similar happenings in other parts of the world, especially in Europe.

The fervor inspired by the French Revolution marked a century that transformed state politics and instigated the active participation of citizens in political matters. This chapter shows that the concept of political crime was revisited following various new codifications of law and political ideology. It was then further reconsidered in the light of the rise of anarchism and violence. In particular, the obsession with security called the very matter of extradition into question. Extradition practices had formerly excluded political crime, which was otherwise addressed under asylum rights.

This chapter further reveals that political crime was distinct from ordinary crime, chiefly because it was motivated by a desire for social change and was fed by antagonists' antipathies towards existing regimes. Thus, the legal and diplomatic regulations formed amidst this context included a range of measures—among which the matter of extradition practices was arguably the most polemical and futile.

6.1 Historical Overview of Political Crime

> Oedipus, who killed his father without knowing it, cannot be accused of parricide. The ancient penal codes, however, attached less weight to the subjective side of action, to imputability, than we do nowadays. That is why sanctuaries were instituted in ancient times for harboring and protecting the fugitive from vengeance.[688]

Political crime, which mainly denotes defiance against authority, institutions, and their rulers, has a history as old as that of human civilization itself. However, it has undergone many transformations as a legal concept and practice, similar to how other concepts of crime and penal regulations have been revisited in different forms and under different guises over time. The Italian diplomat Gustavo Tosti defines political crime as "actions against persons or things representative of collective authority, with the aim of bringing about, directly or indirectly, violent change in the framework of social institutions according to a certain plan of reform, in opposition to the opinions of the community's ruling majority."[689] This definition perfectly fits the nature of political crime. Moreover, though, it is emblematic of nineteenth-century culture of public protest, which foregrounded the very notion of civil society. Tosti accepts political crime as a violent act, save for the claim that it was instigated by a strong desire for social change.[690]

Tosti's words could not readily be applied to earlier periods. Political crime in the age of revolution was typically linked to *lèse-majesté*, which referred above all to attempts against the lives of the monarch, of members of the monarch's family, or of well-known state officials that were motivated by a desire for personal vengeance. *Lèse-majesté* had long been portrayed as a legitimate and honorable act against

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[688] Hegel, *Outlines of the Philosophy of Right,* 508.
[689] Tosti, "Anarchic Crimes," 405-406. Tosti was a prominent Italian diplomat who was employed as the Consul-General in New York and also participated as a delegate to the 1919 Paris Peace Conference.
[690] Tosti, "Anarchic Crimes," 407.

tyranny, wielded and invoked by and against the competing factions of the ruling regimes.[691]

Paradoxically, given its popularity, *lèse-majesté* equally entailed inflicting draconian punishments on its perpetrators. Not only those convicted of the crime but also their descendants received their share of retribution, largely enacted through enforced exile and property seizures. Principally, this was because authorities viewed state security and public order as one and the same before the late eighteenth century. In this respect, political crime was not considered to be distinct from ordinary crime. Roman law was applied unwaveringly; it prescribed the harshest measures against such offenses, despite the gradual overhaul of penal systems over the course of the nineteenth century in favor of more moderate castigation. The French Revolution, along with the ensuing socio-political upheavals that endured until the 1850s, especially in Europe, drastically transformed the attitudes of states towards political crime and how to penalize perpetrators, who engaged in a range of violent acts under the guise of political motives.[692]

The 1789 French Revolution, a watershed event that lasted a decade yet began a period longer than a century, ushered in an age of evolution on ideological grounds. Eric Hobsbawm argued that while the United Kingdom shaped the nineteenth-century economy, it was France that fashioned the world of ideologies and politics:

> France made its revolutions and gave them their ideas, to the point where a tricolor of some kind became the emblem of virtually every emerging nation, and European (or indeed world) politics between 1789 and 1917 were largely the struggle for and against the principles of 1789, or the even more incendiary ones of 1793. France provided the vocabulary and the issues of

[691] Proal, *Political Crime,* 29-30 and 36.
[692] Szabo, "Political Crimes: A Historical Perspective," 10-13. The Romans sometimes opted for extradition as well. For example, the Roman justice once deported a domestic worker to Greece who planned to poison the Greek king Pyrrhus of Epirus. See Angell, Curtis, and Cooley, "The Extradition of Dynamite Criminals," 49.

> liberal and radical-democratic politics for most of the world. France provided the first great example, the concept and the vocabulary of nationalism… The ideology of the modern world first penetrated the ancient civilizations which had hitherto resisted European ideas through French influence. This was the work of the French Revolution.[693]

The Age of Revolution, which Hobsbawm analyzes as comprising three main waves over the course of the period 1815-1848, championed the rise of the bourgeoisie and toppled the ruins of feudalism and the nobility. Working-class movements were likewise a long-term product of this socio-political context. Furthermore, the Age of Revolution was not only a time of shifting power and new class identities but also of populations' growing demands for democracy, increased participation in active politics, and what we might term a "liberal air", with widespread protests and nationalist movements springing up throughout the nineteenth century. In particular, the last phase of these uprisings, culminating in the 1848, known as "the springtime of peoples", altered the character of the age forever.[694]

The momentous events of the Age of Revolution became a turning point in the history of political crime as a concept and its treatment by states. While regicide and similar acts were strictly punished up until that point, the right to asylum, or the right of sanctuary, as it was once called, had previously been accorded only to criminals who committed offenses against the state on religious grounds. In the aftermath of the French Revolution, however, the right of asylum was extended to include political criminals as well. The development of liberal political thought reinforced the notion that these people needed shelter and protection, lest any

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[693] Hobsbawm, *The Age of Revolution,* 53.

[694] The first wave of revolutions, as Hobsbawm categorized, took place in the Mediterranean countries of Greece, Naples, and Spain between the years 1820-1824. The second wave was the 1830 Revolution that affected Russia, Belgium, Holland, Poland, and the United States. The last phase was the 1848 Revolution which wrought havoc on Europe. Hobsbawm argues that the whole European continent that stood at the west edge of Russia and Turkey and the south of Scandinavia felt the repercussions of French Revolution that spread everywhere by the succeeding uprisings. Hobsbawm, *The Age of Revolution,* 90 and 109-112.

injustice be inflicted upon them by their enemies. Ordinary and political crimes were then reframed more clearly due to the formulation of public law in modern penal codes.[695]

In 1815, and for the first time, England declared that it would not extradite political criminals. France and Belgium followed suit in the 1830s, arguing that political crime should be punished differently from other crimes. On the other hand, Austria, Russia, and Prussia, who persisted in extraditing political criminals, favored a non-extradition policy from the 1860s onwards. The bilateral treaties, formulated around the same period and gradually employed in extradition negotiations, ultimately created consensus and codified political crime as a non-extraditable offense.[696]

Most European states, including the monarchic regimes, adopted the bilateral treaty principles on political crime. Nevertheless, these protective measures around the issue of asylum did not endure. It should be emphasized that the French Revolution did not end with the "Declaration of the Rights of Man"; its legacy was its long-term ramifications for, and contributions to, world political culture. The Third Estate of the *ancien régime*, composed of everyone other than the clergy, gentry, and aristocracy, owed their revolutionary spirit as much to the Enlightenment ideas of philosophers as to the power of armed revolts, which frequently were accompanied by ensuing upsurges of violent crime.[697] Thus, the historical legacy of the Revolution remained ever-present throughout subsequent decades and the

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[695] Szabo, "Political Crimes: A Historical Perspective," 14 and 17.
[696] Soldan, *L'extradition des criminels politiques,* 7; Daly, "Political Crime in Late Imperial Russia," 66; Fiore, *Traite Droit Pénal International et de L'Extradition,* Vol. II, 585.
[697] Both Georges Lefebvre and Robert Darnton laid stress on the daily reality of the French Revolution in their writings, pointing out the fact that this reality was mainly shaped by violence, which had a significant impact paving the way for the legislative actions and, ultimately, the enactment of the "Declaration of the Rights of Man and the Citizen." See Lefebvre, *The Coming of the French Revolution,* 47-48 and 208; and Darnton, "What Was Revolutionary about the French Revolution."

revolutionary spirit was frequently revived under similar forms, though for diverse motives, which would eventually go on to breed anarchism in the nineteenth century.

Anarchism entered political terminology via the writings of the French economist and politician Pierre-Joseph Proudhon, who coined the term "anarchist" in reference to himself. The ideas of other prominent figures, like Russians Mikhail Bakunin and Peter Kropotkin or the Italians Errico Malatesta and Carlo Pisacane, all of whom actively participated in revolutionary struggles in different parts of Europe, influenced the anarchist movement and accounted for a large part of its advancement. The intellectual developments behind the uprisings ushered in a new political culture, empowered by the discourse of its precursors. In the meantime, more and more violent forms of anarchism emerged over time, becoming a pressing issue for states and their rulers.[698]

With the rise of anarchism, what did or did not constitute a political crime was once more called into consideration. At that point, the involvement of states in the evolution and implications of these movements require analysis, so as to understand the lodestar of revolutions and their cost to state security. As Theda Skocpol argues, states endorsed a "Janus faced" policy in their handling of the crises caused by revolutionary waves, or otherwise occasioned the outbreak of such events by their own doings. She states that:

> If our aim is to understand the breakdown and building-up of state organizations in revolutions, we must look not only at the activities of social

[698] Pierre-Joseph Proudhon (1809-1865) supported the idea that the revolution could be achieved only by the actions of the people, whereas Mikhail Bakunin (1814-1876) and Errico Malatesta (1853-1932) encouraged the rise of collective action behind international anarchism. On the other hand, Carlo Pisacane (1818-1857) was known for his ideas that formulated *propaganda by deed* for the anarchist activities. However, the influence of these people could not be reduced to a few words as the form of their actions and thoughts also transformed in time. On the other side, the difference in opinions with many of their contemporaries generated heated controversies on the ideas of revolution, anarchism, socialism, and working-class movements. For a general survey on anarchism through the works of the reputed activists behind the anarchic movement see, *Anarchism: A Documentary History of Libertarian Ideas.* For the historical evolution of anarchism see Jensen, *the Battle Against Anarchist-Terrorism: An International History, 1878-1934.*

> groups. We must also focus upon the points of intersection between international conditions and pressures, on the one hand, and class-structured economies and politically organized interests, on the other hand. State executives and their followers will be found maneuvering to extract resources and build administrative and coercive organizations precisely at this intersection.[699]

In that respect, an "infernal machine", uncovered on a railway track between Lille and Calais in 1854, became a crucial milestone that reoriented state politics and the international policing of anarchism. The machine was placed there to blow up the train that transported Napoleon III and his convoy to Tournai. The infernal machine was a multi-barreled weapon first built by Joseph Fieschi, who employed it to assassinate Louis Phillippe I on 28 July 1835. Fieschi was a Corsican national and he planned this attacked as part of the nationalist uprisings to get rid of the French rule. That day was the anniversary day of the revolution, celebrated for the king's achievements overseeing the Paris National Guard. The occasion was symbolized by him parading the streets of Paris, escorted by the Paris National Guard. The machinery set up on the Boulevard du Temple on his way resulted in a death toll of eighteen people with twenty-two wounded, while the king escaped the incident with a severe injury to his head. After a lengthy trial process that interrogated other accomplices, Fieschi was executed by guillotine.[700]

Considering the scale of punishment Fieschi suffered, the two conspirators in the 1854 incident, Jules and Celestin Jacquin, who were French, might have expected to meet the same fate. Nevertheless, the same punishment could not so easily be applied in their case as it had been for the Belgian citizens, whose extradition the

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[699] Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia, and China,* 32.
[700] Jill Harsin argues that there was a feeling for vendetta and the sense of honor in his actions, which was unique to Mediterranean culture. This was one of the common theme characteristics to anarchic actions. For the comprehensive analysis of this assassination attempt and the ensuing court prosecution, see Harsin, Barricades: The War of the Streets in Revolutionary Paris, 1830-1848, 147-167.

Belgian government initially refused. However, the insistence of France drove Belgium ultimately to sign the 1856 extradition treaty. It inserted the famous clause *attentat*, which would act as a model for subsequent dialogues on the extradition issue. Accordingly, "attacks against the personage of a foreign monarch or against the members of his family shall not be deemed a political offense, nor an act connected with a similar offense, when this attack is murder, assassination, or poisoning."[701]

Violent plots such as these served as models for later assassination attempts using more modern technologies and weapons. Along with the rise of collective violence, such as the case of the 1871 Paris Commune, the successive murder of political figures redirected some of these anarchist activities towards individual actions in Europe. They now adopted the motto *propaganda by deed*. Articulated first by the anarchist Cesare Pisacane so as to encourage direct action in civil protests, propaganda by deed was soon characterized by violent conspiracies that especially targeted state rulers.[702]

Therefore, the redefinition of political crime re-cast the question of extradition in new light. Experts in the fields of criminology and law presented diverse arguments regarding whether extradition should be invoked as a punishment for political crime and under what circumstances it should not be applied. In the world of criminology, the writings of criminologist Cesare Lombroso and of sociologist Rodolfo Laschi are pre-eminent. Both argue that political crime, in its purest incarnation, did not require harsh measures, but rather mandated the exclusion

[701] Jensen, "The International Anti-Anarchist Conference of 1898 and the Origins of Interpol," 330; and Soldan, *L'extradition des criminels politiques,* 8.
[702] This new anarchist wave of the propaganda by the deed accompanied the propaganda of the words that came to life in the struggle and political cause of workers' movements. For a historical sketch over the propaganda by the deed see Fleming, "Propaganda by the deed: Terrorism and anarchist theory in the late nineteenth-century Europe," 1-23.

of its perpetrators from society through exile. This included a stipulation that preventing them from returning to their homelands and forcing them to forsake their social networks was considered sufficient punishment. Lombroso and Laschi only singled out the insane and people they labeled "born criminals", whose offenses, disguised as political crimes, had no motive and as such constituted a threat to society. Hence, they included the anthropology of criminals in their consideration of cases, insisting on inspecting their motivations. For these scholars, it was essential to ascertain whether such crimes formed part of collective action, initiated for the purpose of for social transformation, or whether they were mere gratuitous acts, committed by people bereft of reason and lacking any political motive. [703]

On the other hand, Franz von Holtzendorff, the German jurist of criminal and international law, addressed the issue with a new theory of law. He stressed the importance of investigating a political crime in terms of how it was perceived by each state. He argued that ordinary crime had a standard of meaning everywhere and that, as such, it was likely that states cooperated to combat offenses in that category, despite the nuances in their definitions of political crime per their respective penal codes. However, the states' political regimes and values informed how they treated political crime. Thus, the right to asylum and the matter of extradition were seen as pertinent in these debates.[704]

Beyond the scholarly arguments, which could be expanded upon from various viewpoints, public opinion, judicial operations, and the states' different attitudes to

[703] Lombroso, Laschi, *Il Delitto Politico e le Rivoluzioni in Rapporto al Diritto, all'Antropologia Criminale ed alla Scienza di Governo,* 465.
[704] For the arguments of Holtzendorff, I relied on the analysis of Hansjörg Walther, who reviewed and analyzed the work of the jurist published in German, *Die Auslieferung der Verbrecher und das Asylrecht* (The Extradition of Criminals and the Right to Asylum). This work has no translation in English. Walther, "The Right to Asylum in the 19th Century," https://openborders.info/blog/asylum-19th-century/

diplomacy and foreign politics were equally decisive in delineating political crime and defining its place in national law. As we have established, France was the pioneer that demarcated the limits between anarchism and softer political offenses by crafting a legal base for it in that century. The 1810 Napoleonic Code established harsh punishments for regicide long before propaganda by deed. It could not be denied that the country's recent past contributed greatly towards these measures.[705]

However, France could not reach the same success when it came to be encouraging international cooperation against anarchist conspirators, as the following British case exemplifies. The Italian Felice Orsini, supported by a number of English revolutionaries, plotted against Napoleon III in Paris in 1858. When France discovered that the device had been designed in England, they registered a diplomatic note of protest. The bitter resentment voiced in the letter of Alexandre Colonna-Waleski, the Minister of Foreign Affairs, compelled the British government to formulate the draft of "Conspiracy-to-Murder." The draft redefined such activities under common law, according to which they were punished as ordinary crimes. However, the project scheduled by the cabinet of Prime Minister Lord Palmerstone was viewed as a privilege too great for France and was consequently abandoned. The project unleased a chain of events that led to the downfall of the Palmerston cabinet.[706]

In fact, the British government did not generally tolerate violent crimes against state rulers. In the Orsini case, they charged Orsini's accomplice, Simon Bernard, for murder in court. By virtue of a lack of evidence, Bernard saved himself

[705] Daly, "Political Crime in Late Imperial Russia," 65.
[706] Waleski blamed the British attitude as follows: "it is assassination reduced to a doctrine, preached openly, practiced in repeated attempts, the most recent of which has struck Europe with stupefaction. Ought, then, the right of asylum to protect such a state of things? Shall English legislation serve to favor designs and their maneuvers? And can it continue to protect persons who place themselves by flagrant acts without the pale of the common law?" See Rogers, "Harboring Conspiracy," 522-23.

from indictment. The country treated similar occurrences with court proceedings in subsequent years as well.[707] However, the general British policy was in favor of political dissenters. They welcomed anyone, migrants and anarchists alike, until 1905, when the government issued the Aliens Act to control immigration.[708] Especially, London was a hub for agitators and revolutionaries for decades. For instance, the underground networks of the Italian anarchists in London that developed in the late 1890s obliged the Italian authorities to deploy their own surveillance systems in the city. The Secret Police of Scotland Yard was in close touch with their Italian colleagues. However, the Italian government quibbled about these efforts, as the British police acted in ways that in practice made detecting traces of anarchism all the more challenging.[709] Henry Wade Rogers argued that this state policy was not merely confined to the need to provide shelter for political refugees and tolerating their conspirations in England, but that it was also developed in order to finance the political cause of revolt in other parts of Europe. The 1821 Greek revolution against the Ottoman Empire and the uprisings against liberation led by Garibaldi in Italy were among such occasions when the English government lent their support backstage.[710]

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[707] In 1881, a German journalist was also sentenced in England for his writings that caused suspicion about a possible complot against the Russian Emperor Alexander II. See Rogers, "Harboring Conspiracy," 526. In 1892, French Jean-Pierre François was extradited to France for his part in an explosion in Paris. See Bantman, The French Anarchists in London, 1880-1914, 144.
[708] Bantman, *The French Anarchists in London, 1880-1914,* 153.
[709] Di Paola, "The Spies Who Came in From the Heat: The International Surveillance of the Anarchists in London," 190 and 196.
[710] Rogers, "Harboring Conspiracy," 523. However, the British financial support for the revolutionary movements abroad could not be only confined to the sympathy felt for the nationalist insurgents. They were sometimes heavily invested in economic policies. This was especially the case for the 1821 Greek Independence. The Greek government could not pay back the 1824-25 bonds they contracted from London to finance their revolt against the Ottoman Empire, as the latter gradually held control over the uprising. Realizing that the Greek progress was at hazard, and so were their contracts, the British government leashed their military navy that led to the Battle of Navarino and doomed the victorious independent Greek Republic to years-long debt. See Mazower, *The Greek Revolution: 1821 and the Making of Modern Europe*, 243-274.

In the case of the United States, on the other hand, public opinion was arguably conservative when it came to the matter of political asylum. The US Congress was the authority on legitimate crimes and their penalties, in view of its legislative power. However, it did not formulate statutes to resolve the dilemma of the crimes that propelled anarchist violence. Instead, judicial and executive forces addressed the question without being able to resort to many legal sanctions.[711] John Westlake, a prominent legal scholar, concluded in his official statement concerning the assassination of Abraham Lincoln that United States jurisprudence should feature in the list of motives that could transmute ordinary crime into the category of political crime. He drew attention to the importance of considering the nature of crime when considering the option of extradition. The act of the murderer John Wilkes Booth was purely political in motive, as he was frustrated by the abolition of slavery. Notwithstanding, it was not reflected in the action itself. The way Lincoln lost his life resulted from an act that was a premeditated murder and, as such, could be punished by extradition.[712]

In its general policy, the United States did not set strict rules about the extradition of political criminals, with the exception of its regulations regarding diplomatic matters. An American ex-attaché, whose letter was published anonymously in a newspaper in 1899, argues that the US should extradite political criminals exclusively to "civilized" countries.[713] This was already a tenet of the 1887 convention with Russia, which endured for years by virtue of one particular article (Article 3). As with the 1856 French-Belgium treaty, Russia wanted to insert a special clause regarding extradition for regicide; this was never ratified by the US

[711] Rogers, "Harboring Conspiracy," 529-530; and Clark, Coudert, and Mack, "The Nature Definition of Political Offense in International Extradition," 95.
[712] *Liverpool Mercury,* 13 Oct. 1876.
[713] "Refugees in Many Lands," *The Chicago Tribunal,* 1899.

Senate officially as they were indeed reluctant to enter such an agreement with Russia, an autocratic regime in the minds of the American people.[714]

As a matter of fact, Russia was known for having some of the lowest levels of capital punishment, relative to many states in Europe, at the beginning of the twentieth century. Torture for the purposes of interrogation was banned and penal institutions underwent reform and innovations. In contrast to judicial reforms, however, treason and anarchism still faced extreme punishment under the Russian penal codes, despite the fact that they were not clearly framed as a "crime".[715] A civil association of the era, calling itself "the Society of American Friends of Russian Freedom", reacted to the 1887 project with similar humanitarian concerns. As they saw it, the absence of juridical prosecution against such cases in Russia risked the lives of the people who had a commitment to a political cause. They blamed the US government not being transparent in the discussions over Article 3, claiming that "it is unworthy of the government and the people of the United States to aid in the barbarous practices of the Russian autocracy, which we maintain to be morally incompetent to try the revolutionists whom its own despotism has created."[716]

Due to the continual plots against state leaders, which unfolded serially at this time, political crime soon became a crucial topic in nineteenth-century political debate. It was addressed not only on a national level but on international platforms, at the same time. Most state delegates found common ground, treating regicide as

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[714] Bayard, Struve and Rosen, "Text of the Russian Extradition Treaty," *American Advocate of Peace (1892-1893),* 149. Art 3: … the murder and manslaughter comprising the willful or negligent killing of the sovereign or the chief magistrate of the State or of any member of his family, as well as an attempt to commit or participate in the said crimes, shall not be considered an offense of political character." (From the original Russian text inserted in this document). The Ottoman officials also closely monitored the extradition negotiations between Russia and the United States. Especially, Alexandros Mavroyeni followed the debates in the Senate and through the American press. See, BOA HR. HMŞ.İŞO. 170/9, Apr. 1887; and 174/9, Jan. 1890.

[715] Daly, "Political Crime in Late Imperial Russia," 62 and 73.

[716] Howe, Mead, Wyman, Dillingham, Garrison, Noble, Hobart, "Society of American Friends of Russian Freedom. Protest Against the Russian Extradition Treaty," 103.

ordinary crime; embezzlement and homicide were for them moot points that cast doubt upon the "revolutionary causes" invoked by perpetrators of such offenses.[717] In 1881, The Federal Tribunal of Switzerland came up with the two terms *délit connexe* (related offense) and *délit complexe* (complex offense) to clarify matters. Hence, embezzlement of the state treasury for the advancement of a political group, with the aim of toppling the existing regime, became a mix of political and ordinary crimes; thus, it could be termed a "related offense". A "complex offense", on the other hand, referred to assassination attempts against state leaders; this, according to the Swiss courts, could be presented as a political or an ordinary crime.[718] In the same year, the Institute of International Law held an annual meeting in Oxford. The distinguished scholars of the field who gathered there voted by majority that political crime should not punished by extradition. However, they acknowledged that the matter of intent often complicated the decision-making process, trusting governments to decide on the true nature of crime in such cases.[719]

Individual states' efforts against anarchist violence and reciprocal communications between states provided only limited answers to the problem. On March 1881, the Russian Tsar was assassinated. In the meantime, as Mathieu Deflem points out, sixty people died because of regicidal plots in the 1890s alone.[720] Thus, the International Anti-Anarchist Conference of 1898 was organized in November to advocate for international collaboration in combatting the phenomenon of regicidal assassination attempts. The conference was well-attended, with many states sending representatives, and was most broad in terms of the scope of the discussions that took

[717] Clark, Coudert and Mack, "The nature definition of political offense in international extradition", 105; and Tosti, "Anarchic Crimes," 414.
[718] Deere, "Political Offenses in the Law and Practice of Extradition," 248.
[719] Angell, Curtis, and Cooley, "The Extradition of Dynamite Criminals," 49-50.
[720] Deflem, "Wild Beasts Without Nationality," 277-278.

place regarding the matter of anarchy. The conference was held in Rome; fifty-four representatives from twenty-five countries were present during the meetings, one of which was the Ottoman Empire. Debate centered on the character of political crime, the definition of anarchism, and the matter extradition. The occasion was a landmark in interstate judicial policing and the close collaboration of nations and states. Controversies revolved primarily around a reevaluation of the *attentat* question, first raised by Belgium in 1856, and around extradition practices. Each state agreed to introduce the Bertillon method, *portrait parlé*, which was utilized to describe the physical traits of a person in anthropometric terms. They promoted its widespread use in the identification the criminals.[721]

Anarchism was the subject of lengthy analysis throughout the meeting. The ideas of the lawyer Hector de Rolland, representing Monaco, were ultimately agreed upon as a norm for defining anarchist activities. Therefore, anarchism was clarified as any activity that intended harm to social institutions and state rulers through violence. Anarchic activities under this definition were accepted as extraditable crimes; the death penalty for regicide remained, but only on paper. The principles established by the conference were accepted by most of the powers present, with a little discordance over the detail. Only England was reluctant to vote in favor of the representatives' decisions on anarchism.[722]

Despite these strenuous efforts, the 1898 conference did not meet expectations in the long run. For this reason, the murder of the US President William McKinley in 1901 gave Russia a pretext to call for another international conference to revisit the question. The Anti-Anarchist Protocol of St. Petersburg was signed in

[721] Jensen, "The International Anti-Anarchist Conference of 1898 and the Origins of Interpol," 324.
[722] Jensen, "The International Anti-Anarchist Conference of 1898 and the Origins of Interpol," 327-330.

1904 by the participants, who were less in number compared to the conference of 1898.[723] The agenda of the 1898 conference was once more addressed, with further consideration given to the protocols it had established. Russia was determined to find a collaborative venture against the anarchist wave. However, neither conference succeeded in establishing definite standards for the deportation of anarchists to other countries on demand, due to the differing political stance of each state. Therefore, extradition practices remained largely in limbo, while anarchism went on to pose less and less powerful threat to states and their rules over the ensuing years. This was mainly because socialist movements and syndication efforts, had by the twentieth century, gradually replaced earlier and more violent forms of anarchism.[724]

6.2 Political Crime, Anarchism and Extradition in the Ottoman Empire

The historical overview of political crime, revolutions, and their place in the debates around extradition practices in Europe and the United States, as presented so far, provide a helpful frame of reference for the Ottoman case. Similar incidents that took place in the empire did not stem merely from domestic problems; rather, they were informed by the circulation abroad of new political ideas and the anarchist wave. It would be impossible to grasp this historical context, were the rise of anarchism and the Ottoman struggle against it to be taken *sui generis*.

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[723] The Ottoman Empire, Germany, Austria-Hungary, Denmark, Sweden, Norway, Russia, Romania, Serbia, and Bulgaria were the powers that signed the 1904 protocol. Deflem, "Wild Beasts Without Nationality," 278-279. Likewise, the assassination of McKinley brought about a Pan-American Conference. "The Committee on Extradition and Protection Against Anarchy" was signed among Argentine, Bolivia, Costa Rica, Ecuador, Honduras, Nicaragua, Paraguay, Peru, and Venezuela. The United States, Haiti, Colombia, Chile, Dominican Republic, El Salvador, Mexico, and Uruguay did not approve the committee's proposals. This meeting held similar principles as discussed in the 1898 Conference of Rome. In brief, anarchism was declared an ordinary crime that could be subject to extradition practice. See Maxey, "Extradition and Protection Against Anarchy," 376-389.

[724] Jensen, "The International Anti-Anarchist Conference of 1898 and the Origins of Interpol," 337-340. The 1898 Conference of Rome and the 1904 St. Petersburg Protocol were both considered the forerunners of Interpol (the International Criminal Police Organization), which was established in 1923.

Hungarian revolutionaries who found refuge in the Ottoman states after the 1848 revolutions caused the first major crisis and raised the question of political crime in the Ottoman Empire. The international context dragged the Empire into European political affairs. For the first time, the Ottoman Empire was forced to question how to address political crime and asylum rights in its international relations.

6.2.1 The 1848 Hungarian Refugee Crisis

The Hungarian Revolution of 1848 had important repercussions for Ottoman transnational diplomacy. Under Austrian control since the sixteenth century, Hungary proclaimed the establishment of parliamentary democracy during the 1848 revolutions, which would pave the way for the rise of a nation-state. Known as the April Laws, the reforms aimed to transform the centuries-long feudal regime into a modern constitutional system. The Hungarian nobleman and politician Lajos Kossuth, the main protagonist of the refugee crisis in the Ottoman Empire, was the leading figure behind the Hungarian liberation movement. The February Revolution in Paris, which terminated the July Monarchy, was the fundamental source of inspiration and encouragement for the uprisings in Hungary. The mass demonstrations at Pest and the outbreak of a civil war waged against Austria towards the last months of 1848 pressed the pace of that revolutionary wave.[725]

Even though the April Laws were initially embraced by the Austrian Emperor Ferdinand I (r.1835-1848), the political environment soon reversed after Lajos Kossuth declared himself Minister of Finance, which was considered unacceptable by the imperial throne. When Francis Joseph I (r.1848-1916) acceded to the throne in

[725] Gango, "1848-1849 in Hungary," 39.

December, he set against the Hungarian revolutionaries as the first item in agenda for state policy. With the help of the Russian Tsar Nicholas I, they suppressed the Hungarian National Guard in a short while, thus compelling Lajos Kossuth and his entourage in their exodus to the Ottoman Empire as political refugees.[726]

Hungarian and Polish refugees in the Ottoman Empire have already been widely studied.[727] In that respect, my focus is limited to revisiting the political crisis the Ottoman state had to face while addressing the refugee crisis via diplomatic and legal frameworks. I particularly rely on the reports of Foreign Office, as the existing literature mostly refers to Ottoman and Hungarian sources.

The extradition question of these populations evolved into an international problem, entangling not just the Ottoman Empire, Austria, and Russia, but England and France as well. This period of diplomatic turmoil was typified by the Ottoman struggle against the extradition demands of the Russo-Austrian coalition and by its attempts to satisfy English pleas to provide asylum for refugees outside of these nations. In these two core challenges, we can deduce the Ottoman attitude towards political crime and asylum right.[728]

At the beginning, the Ottoman Empire was unwavering in providing shelter to the refugees despite the threats and remonstrances from the Austrian and Russian sides. An official record dating back to 1849 explicitly stated that "since these soldiers have taken refuge under the noble wings of the exalted Sultan, their extradition and surrender from here will not accord with established tradition (*usulce*

[726] Gango, "1848-1849 in Hungary," 41- 44.
[727] For some of these works see Karpat, "Kossuth in Turkey: The Impact of Hungarian Refugees in the Ottoman Empire, 1849-1851," 169-184; Csorba, "Hungarian Emigrants of 1848-49 in the Ottoman Empire," 224-232.
[728] See Nagy, "La Turcophilie en Hongrie au Temps des Crises d'Orient," 22. The following work gives a comprehensive chronology of the Hungarian refugee crisis by using the Ottoman archives. See Saydam, "Osmanlıların Siyasi İlticacılara Bakışı ya da 1849 Macar-Leh Mültecileri Meselesi," 339-386.

münasip olmayacağından), but they shall be taken away from the frontier and kept in a secure place."[729] According to the reports of the Foreign Office, 3.400 Hungarian, 630 Polish, and 429 Italian refugees had already settled in Vidin by the end of 1849. These people would be gradually transported to Shumen in Bulgaria and then Kütahya in Anatolia in the following months.[730]

Despite the firm Ottoman stance reflected in the earlier report, the Ottoman state struck a careful balance in order to seek a lasting solution to the refugee question. The issue became a serious concern, as they had to establish a diplomatic equilibrium in foreign politics while also calculating the economic means required to cater to such high numbers.[731] They sought counsel from England and France to guarantee the latter's support, lest the threat of war come from the Russo-Austrian coalition. England and France sided with the Ottomans, as the Russian advance towards Moldovia and Wallachia sparked concern over the political balance in Europe. However, the Ottoman state was careful not to break peace with Austria, too, since the frontier of Ottoman Bosnia was in a similar state of chaos at the time. Besides, the concerns of the English and French were not unfounded. Russian troops quashed the mutiny in Wallachia amidst the Hungarian revolt; they could advance on their way to the frontiers without any great impediment. Thus, the Ottoman state was reluctant to adopt a harsh tone in their diplomatic dialogues regarding the matter of Russia. On the other hand, the feeble settlement policies of the local governors and the lack of supplies of food and lodging for refugees compelled the state to accept only a limited number of emigrants and send the others back by persuasion. This

[729] Karpat, "Kossuth in Turkey: The Impact of Hungarian Refugees in the Ottoman Empire, 1849-1851," 171.
[730] FO 424/5, List of Refugees at Vidin, 1849.
[731] As related to the balance of diplomacy in foreign politics, see the recent article: Morris, "Locating the Wallachian Revolution of 1848," 606-625.

behavior gave rise to various rumors that the Ottoman state was hesitant in protecting refugees and that they threatened them with forced conversion to Islam. Furthermore, the state could not expel refugees due to the Treaty of Belgrade (1739) and the Treaty of Küçük Kaynarca (1774).[732]

The ongoing political tensions and ambiguities regarding the legal status and future of refugees meant that European nations and the international press retained a negative impression of the Empire's stance on the matter. The statements of Lajos Kossuth played a large role in bolstering this negative image. Despite the official orders forbidding the local rulers to impose conversion by force,[733] Kossuth seemed to be confirming these allegations. In response to his demands for protection, the French and British embassies mandated that Kossuth should not be compelled to convert to Islam in any situation. However, Kossuth replied that if extradition to Austria was put forward as a last resort, he would have no option other than becoming Muslim, despite his ardent Christian faith. The perturbation of Kossuth stemmed from the empty promises of the Sultan, who initially promise to "sacrifice fifty thousand men, before any harm come". Kossuth complained that nothing satisfactory had come out of these promises so far. Despite his uneasiness, he still did not want to forsake the protection of the Sultan altogether. Otherwise, as he made clear, he had a passport that could facilitate his transportation to another country.[734] However, Kossuth changed his mind a few years later and opted for leaving. He stated that the hospitality initially offered by the empire changed to detention conditions after a time. [735]

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[732] Saydam, "Osmanlıların Siyasi İlticalara Bakışı ya da 1849 Macar-Leh Mültecileri Meselesi," 343, 349, and 351.
[733] Karpat, "Kossuth in Turkey: The Impact of Hungarian Refugees in the Ottoman Empire, 1849-1851," 178.
[734] FO 424/5, The Letter of Kossuth, 20 Sep. 1849.
[735] *New York Daily Times,* 27 Oct. 1851

Similar remarks over Ottoman hospitality and the rumors about conversion were also underlined by the political figures of the time. In a notice of October 1849, the French diplomat Victor Fontanier (1796-1857) portrayed Ottoman hospitality as unstable in administering the settlement of the refugees. He claimed that if someone of prominence crossed the borders as a refugee, the local government in charge there took them under his guardianship or sent them to Constantinople to assure that they were in good hands. However, this protection was a purchased one, as was visible in the case of the Pasha of Vidin. The Pasha got hold of wealthy Hungarians under the pretext of security. Fontanier blamed the Ottoman governors for propelling the poor Hungarians to convert to Islam, claiming that they had intimidated them by threatening to sell them to French and English officials. As he considered the Ottomans to be barbarians, his explicit criticism was against British policy, which supported the Ottoman state over the Russo-Austrian coalition. He particularly blamed the British diplomat Stratford Canning for hampering the power of capitulations by overlooking the privileges granted to them, which otherwise required that those people be handed over to the consulate.[736]

The remarks of Fontanier resonated with those of Stratford Canning, whom Fontanier fervently criticized. Canning informed the Prime Ministry that famous figures of the revolution were kept at Vidin, while the rest of the refugees were left on their own. However, his account differed from Fontanier's in the insistence upon non-extradition, which Fontanier had already confirmed in his words above. Canning conveyed his views to the Porte as well, advising them to hold firm against the unwavering Austrian and Russian protests for an Ottoman rejection of extradition.[737]

[736] AMAE 50 – Memoires et documents (MD) 45, "Note sur l'Extradition en Turquie," 04.10.1849. I would like to thank my supervisor Edhem Eldem for providing me with that document.
[737] FO 424/5, Stratford Canning to Viscount Palmerstone, 03.09.1849. The British press also rumored for an upcoming war between the parties; *Lancaster Intelligence,* 1 Jan. 1850.

Extradition demands from Austria were grounded in fears that the Bosnian insurgents, motivated by Ottoman protection over the Hungarians, might escape to Austria in the future to evade punishment. They masked that fear under a diplomatic cloak by maintaining Article 18 of the Treaty of Belgrade (1739) as a legitimate motive, which stated that "from now on, we will no longer give asylum and retirement to the wicked, to rebellious and discontented subjects, but each of the contracting parties will be obliged to punish these kinds of people, as well as all thieves and brigands, even if they are the nationals of other party."[738]

In his conversation with the Minister-President Prince Schwarzenberg, Musurus Kostaki Pasha, who was the Ottoman delegate present in Vienna at the time, stressed the impossibility of extradition in terms of both politics and law. Musurus Pasha had suspicions about how reasonable it was to apply the old treaties to the present circumstances. His criticism of a policy that relied on customary regulations was a warning to redirect attention towards the matters of conspiracy and regicide, two novel threats they should seek to address. Questioning in his report whether he himself would prefer internment or expulsion in the absence of extradition, he underscored his choice of internment. Otherwise, it would be no time before these refugees would enter into new conspiracies in Vienna. He further added that if the Ottoman Empire were to expel the Hungarians, the reciprocity principle between the two governments would be damaged. He expressed concern that a similar situation might arise if the Ottomans were expelled. Accordingly, he argued, they would go to Greece and hatch political schemes against the Empire at once.[739] The concerns of Musurus Pasha in fact related to recent experiences he had endured. It had not been long since Musurus Pasha had arrived in Vienna, as he was

[738] FO 424/5, Prince Felix of Schwarzenberg to Count Barthelemy von Stürmer, 14 Aug. 1849.
[739] BOA HR.TO. 570/20, 18.09.1849.

previously the ambassador to Greece between 1840 and 1848. His redeployment to Austria was due to an assassination plot against him by one of his domestics, Nadir, who was also called Rodin. Although there is not much information about that tentative complot, we might well imagine Musurus's fears were doubled after that failed attempt.[740]

In a similar vein, Ali Pasha voiced his ideas to the Russian ambassador Vladimir Pavlovic Titov on extradition by pointing to other issues. Russia was targeting the few Russian subjects who had participated in the Hungarian uprising. In his letter, Ali Pasha said that even if these people were *bona fide* Russian subjects, the Ottoman state could not extradite them merely by invoking Article 2 of the Treaty of Küçük Kaynarca. This was because that treaty prescribed that in expulsion matters, "no coldness or frivolous discussion should ensue between the two governments on account of such evil-disposed persons." He noted that they were not preventing anyone from departing, but that if the refugees opted to stay then the state's duty was to host them, considering their amicable relations with Russia. They trusted the efficacy of the Ottoman police force. At this point, Ali Pasha reminded his colleague of their earlier admonition, against "the Turkish territory being made the theatre of trouble in any way whatsoever by revolutionary partisans seeking refuge within it." They preferred a clear, firm stance, so as to secure control without foreign interference. After sharing his considerations, Ali Pasha concluded his remarks by underscoring the regulations adopted throughout Europe regarding

[740] The Ottoman state demanded the extradition of Nadir regarding his nationality, the importance of Musurus' diplomatic agency, and the circumstances of the crime. Musurus was injured by him. However, the Hellenic government initially refuted the demands with the fears that Nadir could be sentenced to death penalty. At this point, the British government interfered as they did in the case of Hungarian refugees. They advised Greece not to reject the demands by considering the future of Greek subjects in the Ottoman Empire. They ensured that Nadir would be put under fair court trial, and he would not be tortured and exposed to illegal procedures. Nadir was ultimately extradited to the Ottoman Empire. See BOA HR.TO. 285/4, Jul. 1848; 569/2, Aug. 1848; 569/6, Sep. 1848; and 569/7, Sep. 1848; *The Illustrated London News,* 24 Jun. 1848.

asylum rights. Rather than treating the Hungarian population as criminal fugitives, he advocated addressing them as political refugees who should be protected, in line with the principle of international duty. As a result, the Ottoman government refrained from going against these established practices.[741]

The letter of Ali Pasha addressed to Titov was a well-versed assertion, previously rehearsed with England and France. Even though Ali Pasha mentioned the obligation of political asylum under international law, this part of his letter appeared to be a rhetorical device inserted to empower his statements on the imminent political concerns of the day, rather than a genuine diplomatic stance. In September 1849, Ali Pasha prepared a questionnaire regarding resorting to the measures taken by England and France on the extradition issue. He asked, in a nutshell, if it ought to be mandatory to send back refugees in the wake of the treaties of Belgrade and Küçük Kaynarca. He was anxious to be sure whether, were Russia to wage war in response to the negative stance adopted by the Ottomans against Russian demands, these two powers would support the Empire or else accept the role of diplomatic mediator. The gist of his letter to Russia was in accord with England and France's responses. Thus, the Ottoman view towards asylum rights and political crime evident in this episode provides us with little basis from which to understand to what extent the state seriously evaluated such critical questions under the principles of international law, or whether it merely improvised.[742]

Even after a year-long internment in the Ottoman Empire, nothing had changed for these refugees. England was pressing the Porte to expel them, while the latter wanted to make sure that Austria would not resent this, as already explained

[741] FO 424/5, Draft Note of Ali Pasha to Titov, date not specified.
[742] FO 424/5, "Queries put by Ali Pasha to the Representatives of England and France, and their Answers", September 1849.

above. The Ottoman state played for time and appointed Aarifi Efendi as the new ambassador to Vienna in 1850 to deal with the issue personally. As the Ottoman state was firm in its stance against extradition, Baron Klezl, Austrian ambassador to Constantinople, gave a list of the refugees who should be released and the ones that the Ottoman Empire should continue to detain. Lajos Kossuth and his companies were among the latter group.[743] However, England was not content with the list from Austria and resumed its insistence on releasing all the refugees. Palmerston alerted the Porte that the sovereignty of the empire was at stake. He stated that "it will certainly not be consistent with his (the Sultan's) dignity as an independent sovereign to become the gaoler for a foreign power and to continue to act as such, as long as it might please that foreign Power to require him to remain in that unbecoming condition." Canning encouraged France to formulate a similar message to the Porte as well.[744]

The Ottoman Council of Ministers concluded in favor of releasing all the refugees, thus leaving the last word to the Sultan who was still hesitating over his decision. In a confidential memorandum sent to Stratford Canning in April 1851, the Sultan stated that they gave careful consideration to reports from England and France. However, the Sultan was still worried about the security conditions at the borders of Bosnia-Herzegovina and Vidin. He also wanted peace to be restored in Hungary. He asked Canning whether these ideals could be guaranteed and achieved in the near future. In the meantime, they would consider hosting the refugees up to the end of 1851.[745]

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[743] 424/6, Canning to Palmerston, 18.11.1850; Baron Klezl to Ali Pasha, 09.02.1851; and Aliprantis, "Transnational Policing After the 1848-1849 Revolutions: The Habsburg Empire in the Mediterranean," 420.
[744] 424/6, Palmerston to Canning, 15.03.1851.
[745] FO 424/6, the Sultan's confidential memorandum (date not identified, but it probably arrived in the midst of April 1851).

Subsequent communications demonstrate that Canning and the Foreign Office shared the opinions of the Sultan as voiced in his memorandum. The Ottoman state expedited procedures and the refugees' departures started in May, in contrary to the previous plan. They also informed the Austrian embassy about Kossuth and his companions, who would be released by September 1st. Despite the Austrian remonstrances, they set off for liberty in an American steamship named "Mississippi" that left the harbor of İzmir for England on September 1st, just as promised.[746] When Kossuth made a public speech in Southampton in October, Sultan Abdülmecid I received many praises for having, according to the city's mayor, both maintained his position and liberated the refugees, despite the threat of Austrian and Russian despotism.[747]

The Hungarian refugee crisis was settled successfully, bringing fame and glory to the Ottoman Empire in the international arena. However, it also demonstrated that the Ottoman state was still devoid of a legal discourse to formulate a stern diplomatic policy while addressing issues of international law and foreign politics. In this episode, the Ottoman state instead leaned on the advice of England and France and maintained its famous diplomatic balance. In that respect, the need for the Office of Legal Counsel, not yet installed, come to the fore all the more clearly.

The Kostza affair, which erupted two years later, further confirms the fact that the Ottoman state favored an ad-hoc diplomatic approach in its day-to-day political dealings. This was a diplomatic crisis between the United States of America and Austria, originating from the ambiguous legal status of a Hungarian refugee named Martin Koszta. Koszta was similar to Lajos Kossuth, who had fled from the

[746] FO 426/6, Baron Klezl to Ali Pasha 18.08.1851; and Canning to Palmerston, 10.09.1851.
[747] BOA İ. DUİT. 150/14, Nov. 1851.

Empire never to return. He sought refuge in the United States and became a naturalized American in July 1852. Nevertheless, Koszta returned to İzmir as an American to conduct private business under an official license (*tezkere*) in 1853, where he was abducted by Greek ruffians hired by the Austrian consulate. The consulate accepted Koszta as Austrian subject and took him by force to the Austrian brig, "Hussar", which would soon depart for Austria. He would soon be put under trial for his part in the 1848 Revolution and would go on to receive a harsh sentence. US consuls strongly criticized the incident, as they also claimed Koszta as their own citizen and threatened Austria with a confrontation at sea, anchoring the American ship *USS St. Louis* at İzmir.[748]

After long-lasting tensions between the two governments and a series of diplomatic negotiations, Austria freed Koszta. What is striking in this affair, though, is the neutral Ottoman stance throughout, despite the crisis having taken place within its territories and having involved a person who was amongst the numbers of the political refugees they endeavored so laboriously to safeguard just a few years before. The Ottoman state did nothing other than view the affair from an outsider's perspective at this time. The US Legation at Pera appealed for Ottoman help to negotiate with Austria. Otherwise, they stated, the Sultan would lose the glory previously gained from his achievements in the refugee crisis. Austria had attacked the empire's sovereignty by kidnapping a person at will on foreign soil, and only the Ottoman Empire had the right to arrest this person and expel him out from the country. He added that it was a duty to interfere in person so as to maintain the territorial integrity of the empire.[749] Even though Şekib Efendi had been appointed to

[748] Howell, "The Effect of the Martin Koszta Affair on American Foreign Policy," 40-50; and *New York Daily Times,* 09.30.1853; and *Martin Koszta – Correspondence;* and Aliprantis, "Transnational Policing After the 1848-1849 Revolutions: The Habsburg Empire in the Mediterranean," 430-431.
[749] BOA HR.TO. 146/12, 27.06.1853.

İzmir as a commissioner to keep abreast of developments, the Grand Vizier Mehmed Ali Pasha (1852-1853) had warned him not to interfere in the matter under any circumstances. He stated that they had to avoid interfering, as the Ottoman state had no stake in the crisis which concerned only those two European powers. He believed that the Ottomans' meddling with the Koszta affair would create more problems than it would remedy.[750]

The US Legation blamed the Ottoman Empire for having "abdicated her sovereign right to determine the question of the legality or illegality of the seizure, and even neglected to insist on the ordinary powers and privileges of a neutral territory."[751] Nevertheless, the words of Mehmed Ali Pasha hint at a poised state policy that aimed to obviate another crisis of international character at the expense of the sovereignty rights at stake. They might have thought that the crisis did not have any direct relevance to Ottoman politics as Martin Koszta was no longer a refugee or political criminal, but an officially titled American citizen affiliated with a business enterprise. Even if he was an Austrian subject, regulations regarding different foreign nationals were to be left to consular authorities to decide. Further to that, the clamor surrounding the humanitarian issue of the Hungarian refugees had calmed somewhat, and the expulsion of any returning refugees could cause diplomatic complications because of Koszta's ambiguous nationality.[752]

In summary, the 1848 Hungarian crisis clearly shows that the Ottoman state tried to find a middle way throughout the refugee crisis, and even after it was no

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[750] "Bizim daireden çıkarak iki devlet-i ecnebiye meyanına girmiş iken buna müdahâle suretinde bulunmamız dağdağaya davet etmek olacağından bu meseleye müdahâleden ictinab olunması hususu…," BOA A.MKT.UM. 139/43, 20. 07. 1853.
[751] BOA HR.TO. 146/12.
[752] The Ottoman state ordered that the Hungarian and Polis refugees be prevented from turning back the empire and be sent to other countries. The state warned the police forces and the Admiral in Constantinople to arrest the refugees. BOA HR.SYS. 1798/29, 25.03.1852; and HR.SYS. 1798/40, 18.03.1853.

longer a hot topic for political debate. The law regarding the refugee question and the matter of their extradition was haphazardly set out and applied. It would take a decade or so before the Ottoman state adopted an elaborate, legally based diplomacy to handle a similar crisis of international dimension. As a matter of fact, Lajos Kossuth and his entourage constitute one of the rare occasions in Ottoman history where political asylum was granted under international law.[753]

6.2.2 Revolutionary Fervor in the Ottoman Empire

In the decades following the 1848 crisis, revolutionary fervor was all the more intense and wide-ranging throughout the states comprising Ottoman Empire and Europe alike. By the second half of the nineteenth century, this fervor was visible in different forms and was led by various actors. Besides, it was a transnational wave that could not be treated independently from events taking place in other geographies.[754] Nationalism was one important facet of that wave. Since the Greek War of Independence (1821), the nationalist uprisings in the Balkans had a domino effect in the region that came to a climax with the 1877-78 Russo-Ottoman War. Many resistance movements, known as *comitadjis*, emerged, such as secret societies and underground networks that frequently resorted to violence in the guerilla warfare

[753] Another exception was Jamaladdin Afghani, whom Abdulhamid II protected as a guest for many years and resisted his extradition. However, his asylum turned into long-term confinement as the Sultan developed a trust issue with him and did not allow Afghani to leave Istanbul. See Özcan, "Jamaladdin Afghani's honorable confinement in Istanbul and Iran's demands for his extradition," 285-291.

[754] Recently, there is a rise in the scholarship that focused on the connected histories of the revolutions in different geographies that affected each other one way or another. In a similar vein, the history of anarchism and revolutionary movements in the Ottoman Empire were analyzed under this comparative framework. See Sohrabi, "Global Waves, Local Actors: What the Young Turks Knew about Other Revolutions and Why It Mattered," 45-79; Çorlu, "Anarchist and Anarchism in the Ottoman Empire,"553-583; Zürcher, "The Young Turk Revolution: Comparisons and Connections," 481-498. Berberian, *Roving Revolutionaries.* For a comparative study, see Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia, and China.* There were also some others which cautions us not to forget the local dynamics and the push factors that framed the evolution of revolutionary events beyond the shared ideologies of revolutionary spirit. See Hill, "How Global Was the Age of Revolutions? The Case of Mount Lebanon, 1821," 65-84.

against the Ottoman empire. These revolutionary figures were influenced by their European counterparts in many respects. One dimension of that interplay manifested itself in easy access to more technologically advanced weaponry used throughout Europe, which Ramazan Hakkı Öztan defines as "the global marketplace of the revolution." [755]

On the other hand, the Armenian Revolutionary Federation (Dashnaksutyun) (1890) and Social Democrat Hunchakian Party (1887) were two newly formed groups representing anarchist and intellectual cliques of political exiles in Europe, who played leading roles in the many armed insurrections across the empire. As initially small factions, the two parties primarily gathered around political aspirations, most of which chimed with the general objectives of the Balkan and European revolutionaries. From the 1890s onwards, they established themselves more firmly and more formally, and armed resistance became more frequent and prominent. Their actions soon sparked the course of state violence led by the Hamidian regime against the Armenian population in Eastern Anatolia and culminated in the 1915 forced deportation by the Committee of Union and Progress (CUP).[756]

There were other groups of political dissenters whose impact relied on the mightiness of the pen, rather than that of the sword. Indeed, they were not confined

[755] Öztan, "Tools of Revolution: Global Military Surplus, Arms Dealers and Smugglers in the Late Ottoman Balkans, 1878-1908," 170.

[756] The Armenian Revolutionary Federation was founded in Tiflis and had an active role in the insurrections in Eastern Anatolia, particularly those in Sasun and Van. They were also behind the occupation of the Ottoman Bank in August 1896 and the 1905 assassination attempt against Abdulhamid II. The Social Democrat Hunchakian Party was founded in Geneva, and similar to ARF, they participated in the 1895-96 Zeytun events in the Eastern Anatolia and the 1890 Kumkapı incident in Istanbul. For more detail on these two organizations, their political aspirations and allegiances, see Moumdijian, "From Millet-i Sadıka to Millet-i Asiya: Abdulhamid II and Armenians 1878-1909," 24-29; Eldem, "'Banka Vakası' ve 1896 İstanbul Katliamı," 172; Deringil, "Abdülhamid Döneminde Ermeni Meselesi," 103; Dündar, "Savaş ve Ermeni Nüfus Meselesinin Halli, 1915-1923," 419; and Berberian, *Roving Revolutionaries,* 8.

to a few journalists and intellectuals, but rather constituted a large range of people from across the spectrum of Ottoman society. From former state and military officials, students, to Ottoman intellectuals, members of these opposition groups lived in exile, mostly in Paris and Geneva. They stood up against the Hamidian regime through different channels and expressed their concern about the absence of a constitutional parliamentary system and representative democracy. The CUP (1889), which was founded in Salonica, but which had branches in Macedonia and Paris, provided a common ground for most of these groups who united under it and shared common interests. The conferences that the CUP held in 1902 and 1905 in Paris equally hosted members of the Armenian Revolutionary Federation.[757]

All of these groups symbolize the collective violence and civic protest that manifested itself in various forms against the Ottoman political regime, while regicidal attempts formed another facet of anarchism in the Empire. The 1905 Yıldız Attack against Abdulhamid II was one such notorious occasion, given the scale of its organization and the various actors behind it, as well as the furor it created throughout the international arena.[758]

However, there had been other failed attempts long before that incident. In 1868, for example, thirty conspirators, led by Konduri, a Russsian, and Altuncu, a citizen of Greece, were arrested while preparing for the conspiracy against Abdülaziz. Details of the investigations were kept confidential by the state, despite the news received by the Havas Agency that was immediately published by the press in England and France. The news came to the attention of Ottoman public via the "Young Ottomans", who wrote reams of remonstrances about it in *Hürriyet* for

[757] Until the 1909 Adana Massacre against the Armenian populations, the CUP and the revolutionary parties were on good terms. Berberian, *Roving Revolutionaries,* 29-32.
[758] See, Alloul, Eldem, Smaele, eds., *To Kill a Sultan.*

weeks on end, as they had been accused of taking part in the plot.[759] After refuting such claims, their harshest criticisms targeted the state itself, mainly, since Konduri and Altuncu were handed over to their consulates without any serious charges.

The Young Ottomans were surprised to see the case laid to rest in that way, because killing the sultan equated to destroying the state, in their opinion. [760] The confusion regarding how to address complot attempts under the legal framework, in the absence of solid evidence confirming their crime, seemed an apparent excuse for their release. Over the course of the next two decades, similar plots went on to pass, almost unnoticed, as ordinary crimes, since they too lacked any apparent political motive that might qualify them as enactments of anarchism.[761]

6.2.2.1 Vigilance Against Political Crime and Anarchism in the Late 19th Century

With the rising insurrections and increase in anarchism, which was typified by violence, Ottoman state policies changed accordingly in the second half of the century. The Hamidian regime was compelled to adopt a wide array of strategies and security measures to monitor and prevent the anarchist threats. A vast team of

[759] *Hürriyet,* N.16, 12 Oct. 1868; N.17, 19 Oct. 1868; N.18, 26 Oct. 1868. I would like to thank Alperen Topal for calling my attention to these documents.
[760] "Biz derdik ki böyle şeyler hazmolunabilir lakin hiç me'mûl etmezdik ki padişaha suikast etti denilenler de hakkın, ahdin hilafında olarak kendi sefaretlerine teslim olunabilsin. Babıali'nin sâye-i dirayetinde padişahı öldürmek, ki devleti bitirmekle beraberdir, pek kolaylaştı." *Hürriyet,* N.18
[761] Another group of many nationalities underwent a similar organization in Egypt by the instigation of Russia. Their traces were discovered at Pera and the leader of the organization, Giroux de Beaumount, was a member of a secret society active in France and Italy. Nevertheless, the clear motives behind their actions were never found out: BOA HR.SYS. 1822/3, 12.05.1870. There were also individual attempts that were usually absolved from the charges because of the excuse that the perpetrators had mental health issues. The Greek Constantin Carayanopoulo attempted entering the Yıldız Palace while the sultan was on his way to the Yıldız Mosque for bairam occasion. He injured four officers while he was also shot and died later on. They blanketed the case by pointing out that he was insane: BOA 1825/15, 20.09.1879. Similarly, John Papadopoulo, the Greek subject under British protection, organized a bombed attack against Abdulhamid in 1880 and was sent to exile to Konya. The British legation repeatedly complained about his penalty, underscoring that he was mentally unstable: BOA HR.SYS. 1822/7, 1825/16, and 1825/17.

people, comprising informal agents, Ottoman diplomats, private detectives abroad, and police corps and gendarmeries at home, united to combat the anarchist wave.[762]

The strict surveillance measures were partially the outcome of a changing policing system, and at the same time reflected the strain and fears of Abdulhamid II. The police forces that emerged from the 1845 Police Marshall were restructured in 1879. The newly founded Ministry of Police, which acted independently of the Ministry of the Interior, was more elaborate in structure, as it achieved a modern state apparatus by augmenting the number of employed officers and expanding its force of influence spatially into different parts of the empire. However, that institution was equally characterized by overbearing state policies aimed at hunting down political foes of the regime. The 1907 Police regulations, which refashioned the operational design of the ministry, delegated its functions to the police forces that performed administrative and judicial policing, separating them into two units from that point on. While the administrative branch was responsible for preventative measures and for the management of order and security empire-wide, its main objective was to spy on political dissenters, which far outweighed the tasks of the judicial branch that usually handled ordinary crimes that occurred daily. As Noémi Lévy-Aksu underlines, the deployment of political police (*siyasi polis*) along with private detectives (*hafiye*) from the Yıldız Palace further confirms the emblematic significance the regime attached to increasing police surveillance.[763]

Given the security measures operating in the Empire, an accelerating number of legal scholars who graduated from the recently founded schools of law advanced a legal framework for state discourse while addressing similar issues in the

[762] Çorlu, "Anarchist and Anarchism in the Ottoman Empire," 555.
[763] Lévy-Aksu, "Institutional Cooperation and Substitution: *The Ottoman Police and Justice System at the Turn of the 19th and 20th Centuries*," 149 and 152.

international arena. Their opinions, deducible from scholarly works or else directly conveyed to the state through official notes, gradually formed a large corpus of legal opinion and direct sources of reference. As one of the crucial questions of the age, political crime was addressed by these scholars at length. Were political criminals acting out of socio-economic concern, or were they just ordinary criminals affiliated with anarchist activities that aimed to topple down the existing regimes? Accordingly, the Ottoman legal scholars sought to find a legitimate answer concerning the correct course of action for Ottoman jurisdiction and extradition practices.

Servet Bey, an expert in criminal law, argued that the reasons as well as the outcomes of ordinary crime became highly crucial if it was committed for affairs of a political character such as an insurrection or civil revolution, or if it evolved as natural part of these incidents. If the ordinary crimes of plunder, massacre, arson arose out of an outcry for political change, they were addressed under the category of political crime, but with the only difference that their perpetrators could be subjected to extradition. This is because these crimes were treated as ordinary offenses.[764] On the other hand, Kirkor Zohrab maintained that it was vital to start by defining the character of crimes as political or ordinary, since only after that categorization could the possibility of extradition be considered. As an Armenian scholar all too familiar with the political stigma attached to his community at the time, Zohrab did not forget to underscore the importance of clemency, occasionally issued by states to pardon

[764] Servet, *Hukuk-u Ceza,* 35: "Cürm-ü adi isyan ve ihtilâl-i dahili gibi hadisât-ı siyasiye esnasında vuku bulub o hadisâta merbut olunursa tayin-i fiilde bu esbâb ve muesserâtın ehemmiyeti vardır. Şöyle ki, yağma, katl, ihrâk gibi hukuk-u adiyye cerâim-i siyasinin mukteziyât ve avarızından ise onları cürm-ü siyasi ad eder, yani cürm-ü siyasi gerek iade-i mücrimin ve gerek Fransa'da olduğu gibi idam cezasının tatbik-i nokta-yı nazarından cerâim-i adiye-yi mezkure üretir."

political criminals. In his view, political crime in the Ottoman context should be re-evaluated to include the option of clemency.[765]

The 1898 report by the legal advisor Hakkı Bey (the future grand vizier Hakkı Pasha) addressed the subject in a detailed way that mirrored the state policies already in application. Hakkı Bey commenced his work with a reproach of those in the official cadres of the state who were on the *lam*. According to him, they took for granted the value of their services to the Empire and the honor they held as being Ottoman subjects (*nâil oldukları şeref-i tabiyyet ve hıdmet-i seniyyenin kadr- ü kıymet-i uzmasını takdir edemeyerek Avrupa'ya firâr eden eşhas*). For their extradition, he first called attention to the places where these people refuged: to the consulates in the Empire, to the European ships that were close to the Ottoman harbors, and abroad. If they were on board at a foreign ship anchored away from the Ottoman harbor, and if the judicial procedures for extradition were still in progress, expulsion could not be a solution. On the contrary, if the fugitives who were under judicial proceedings hid at their consulates, the consular authorities were obliged to surrender them to Ottoman justice.

Hakkı Bey emphasized that it was imperative not to use force if consular authorities resisted handing them over in such situations; instead, they should mutually resort to political dialogue. At this point, the nature of crime, political or ordinary, was decisive in determining whether these dialogues would be maintained with ease or with difficulty (*suhulet ve suubet irae eder*). If they were political criminals and escaped to Europe, the art of diplomacy, the principle of reciprocity, and further attempts for reconciliation could be at stake as the extradition of political

[765] Zohrab, *Hukuk-u Ceza,* 70: "Bizde bir cürmün adi yahud siyasi olmasının bilinmesi evvela iade-yi mücrimin olub olmadığının saniyen ara sıra ceraim-i siyasi hakkında afvlar sadır olduğundan bu afvların o cürme şümulu bulunup bulunmadığının tayin edilmesi için iktiza eder.

criminals was usually not a given option. Admonition and expulsion (*tedib ve tard*) were last resorts adopted to prevent these people from going after evil pursuits. However, some of them were fit under no circumstances for judicial charges despite the visible criminal motives behind their actions, which clearly risked public order and state security. For those, punitive measures could be taken by either leaving them bereft of official ranks or by garnisheeing the salaries of the ones who still held official posts.[766]

It emerges, then, that Hakkı Bey established a determinant state policy while also addressing political crime and anarchic activities. Even so, the deliberation was not over whether or not to quarrel with consular powers; rather, it concerned whether they should negotiate in such affairs. Above all, the shift away from diplomacy, which the Ottoman Empire adopted during the 1849 refugee crisis, leaves no doubt about the legal advancement of Ottoman state policies.

6.2.2.2 General Amnesty (*Umumi Afv)*

Abdulhamid II occasionally granted full pardon (*afv-ı umumî, afv-ı alî)* to the people accused of a wide spectrum of crimes that were considered political in nature. The first one of these decrees was issued in 1889, which approved the release of all political criminals with his mercy and grace (*bil-cümle politika müttehimleri zat-ı hazret-i şehriyârinin eser-i lütf ve atıfeti ile)*, even though the existing archival documents were silent about how effectively it was in force.[767] The 1903 general amnesty, on the other hand, was more specific in terms of its application. The official statement explicitly argued in favor of the political criminals who were already

[766] BOA Y.EE. 10/9, 1898.
[767] BOA Y.PRK.AZN. 3/65, Jun. 1889: "Zat-ı hazret-i şehriyarinin eser-i lütf ve atıfeti ve Halil Paşa'nın vesâteti ile bil-cümle politika müttehimleri bu gün tahliye edilmiş …"

convicted but were still undergoing court prosecution. The regulations covered all Muslim and non-Muslim subjects of the Empire, while Bulgarian conspirators became the focal point for discussion. It was particularly emphasized that they should be remitted, except for those who had European connections and might plot against the Sultan.[768]

The political trajectories apparently determined the formulation of amnesty policies at large, though they were never totally exempt from external factors. The request of the Committee of Union and Progress (CUP) for a general amnesty from the Sultan specifically addressing political criminals is a good example of this. The petition was dated July 23rd, 1908, the onset of the Second Constitutional Era, and the CUP commenced their petition with expressions of their joy upon receiving the news that parliament had been reestablished and that the constitution had once again come into force. The petition underscored the position that these developments symbolized advances in the welfare and prosperity of the homeland and the people living in it. This was by virtue of the equality accorded to each ethnic group and religious denomination.[769] After the long oratory in the preamble, elaborating upon their gratitude for the developments in progress, the CUP demanded forgiveness in the name of all loyal people (*millet-i sadıka)* for the political criminals who were already convicted or under interrogation.[770]

Thanks to the 1908 amnesty, numerous criminals who were in prisons were acquitted and the state officers previously dismissed from their official posts and

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[768] BOA BEO 2012/150895, Mar. 1903; BEO 2014/150992, Mar. 1903; and TFR.I.SL. 5/466, Mar. 1903.

[769] BOA Y.PRK.AZJ. 54/36, 23 Jul. 1908: "Kanun-u esasi suret-i teşkili beyân olunan meclis-i mebusanın ictimâ'-i ru'un olunması hususuna irade-i seniyye-yi cenab-i şehriyarileri şeref müteallik buyrulduğu kemâl-i meserret ile istibşâr eyledi. Aksâ-yı maksad haber-i mersad bit-tefrîk cins ve mezâhib-i millet ve vatanın selâmet ve saadetini te'minden ibâret bulunduğuna bir delil teşkil eder."

[770] BOA Y.PRK. AZJ. 54/36, 23 Jul. 1908: "Cerâim-i siyasiyeden dolayı mahkumen mahbus ve maznunen mevkûf olanlar ile mevcûd-u müsellem ve gayr-ı müsellem mücrimin-i siyasiyenin afv ve ıtlakı…"

exiled to other provinces of the empire were called back to resume their former occupations. The Ministry of Justice proclaimed that only the Armenians suspected of anarchic activities could be subject to different treatment, depending on the nature of crime they were accused of.[771] The violence in Eastern Anatolia, along with the events that were largely incited by Armenian revolutionary groups in the capital, had already positioned them as persona non-grata by 1908. Even though the Sultan had issued a general amnesty in 1895 for all Armenians accused of, or charged with, political crime or sedition, amidst the atrocities committed, the decision was an unintentional one that largely stemmed from European pressures. The violence echoing throughout the international press propelled European states to push the Empire for reform, already envisaged by the Treaty of Berlin. The imperial ordinance primarily applied to specific groups, chiefly the Armenian clergy. Even though approximately three thousand Armenians were pardoned in the first instance, the state acted selectively by overlooking international calls for clemency. Seven hundred of the Armenians liberated were rearrested after a just short while. Notwithstanding, the objections of European consulates to this development transformed the decision into a general amnesty by the end of the year. The amnesty excluded only those who partook in the insurrections abroad.[772]

To summarize, state policies on amnesty were internal regulations that aimed to safeguard domestic peace and order. Thus, none of those regulations were effective for dealing with the matter of political fugitives in Europe. The latter were sometimes pardoned only if they personally petitioned to the Sultan, expressing their

[771] BOA DH.MKT. 1272/82, Jul. 1908.
[772] On August, the English Embassy insisted for the release of the Armenian revolutionaries that engaged in the Sasun Events, while the similar demands were made by the German consulate for Zeytun perpetrators in 1896. See, BOA HR.SYS. 2755/34, Mar.1895; 2836/15, Aug. 1895; 2858/16, Dec. 1895; Y. EE.KP. 7/612, Dec. 1895; I.HUS. 45/143, Feb. 1896.

remorse and asking for clemency. In such cases, a thorough investigation was carried out by diplomatic agents before an ultimate decision was declared.[773]

6.2.2.3 Monitoring the Ottoman Intellectuals in Exile

Official extradition was rarely an option, or else was only the last resort, for political criminals. In the late nineteenth century, the Ottoman state usually tried to track down political fugitives by its own means. The Foreign Ministry sent missives everywhere to locate their whereabouts. A detailed description of the suspect was usually attached to the search warrant. The officers employed in these missions monitored the arriving ships in the harbors of many foreign cities, to see if the suspects were on board. For example, the prominent intellectuals, those with a strong pen such as Ali Kemal Bey (Ali Kemali Efendi) and Mizancı Murad (Murad Bey), were sought after almost in every region of Europe, and their activities were closely monitored if their locations were detected. The primary objective of the Ottoman state was not to persecute but to persuade (*ikna)* or admonish (*nasihat)* these figures, in order to win them back. The diplomatic agents engaged in dialogues with them in person so as to smooth the negotiation process. However, this Hamidian state strategy was not a soft defense policy; rather, it was grounded in a retribution system by which everlasting fidelity to the Sultan was required in exchange for a full pardoning from, and repatriation to, the Empire.[774]

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[773] BOA Y.A.HUS. 384/55,1896; Y.MTV. 243/71, 1903; HR.TH. 313/92, 1905.

[774] The Ottoman diplomats and detectives traced Ali Kemali Efendi (the famous journalist and politician Ali Kemal Bey), a student of *Mekteb-i Mülkiye,* in Vienna, Antwerp, Berlin, Rome, Petersburg, Athens, Bucharest, Belgrade, Brussels, Washington, London, Paris. When they found him in Paris, the Ottoman consulate made a couple of efforts to convince him to return to the empire. To be more persuasive, they sought ways to cut off his communication with his wife. BOA HR.MKT. 439/3, 1895; HR.SYS. 1809/79; 1809/80; 1809/81; and 1809/88, Sept./Oct. 1895; and HR.H. 754/10, 1895. Likewise, they tried to persuade Murad Bey (Mizancı Murad) to give up publishing to the detriment of the empire and return back; thus, he would be fully pardoned. However, these attempts were mostly of no avail in the cases of Ottoman intelligentsia abroad. BOA HR. SYS. 1809/85, 1895; 1809/94, 1895; 1810/39, 1898; and Y.PRK. HR. 21/51, 1894.

The writings of these intellectuals were a thorny issue for the Ottoman government. This era of public opinion gauged public opinion via the press. "Image management", as Selim Deringil terms it, had been a highly influential Ottoman diplomatic policy ever since Tanzimat, but it became all the more prominent during the Hamidian reign. This policy was achieved primarily by collecting news articles from the foreign press and manipulating public image abroad in favor of the Empire, through enticing journalists or paying them off.[775] It was a painstaking process that required time, effort, and resources, which usually beguiled the foreign agents; but alas, not so for the Ottoman intellectuals. The state responded with even stricter punitive measures. In 1901, the official note sent to the Ottoman embassies in London, Paris, and Rome instructed that the publications of figures such as Ahmed Rıza, Çerkes İsmail Kemal, and many others would either be censured or else the journals they were working for would be banned altogether. Their wages would be garnisheed, and they would be punished under the strictest iterations of the law if arrested. In the worst-case scenario, expatriation was also suggested as part of the negotiation process.[776]

These stringent measures were not much of a success. Thus, the Ottoman Empire had frequent cause to seek assistance from European governments. They often asked for the expulsion of these political figures, before resorting to the extradition option. Expulsion was an international practice systematically applied by many states in Europe. It had been deployed since the early modern period to eliminate security threats, via police forces and the administrative apparatuses of states. The Ottoman Empire had been known for this practice ever since the eighteenth century; it was mainly used to leverage mobility across the country. In

[775] Deringil, *The Well-Protected Domains,* 137.
[776] BOA Y.MRZ. D. 9317, Feb. 1901.

1792, one of the earliest examples, the state sent instructions to the provinces that unwanted individuals, unemployed migrants, and vagabonds who were heretofore sent to Anatolia and Rumelia were to be either banished to other regions in the Empire or else expelled out of the country, if they attempted to flood into the big cities, especially Istanbul; in these cases, further strict measures were imposed.[777]

Similar regulations were enacted in the ensuing decades, but sedition and revolutionary insurrection gradually became one major premise for expulsion and forced exiles, which was applied empire-wide throughout the early nineteenth century. In the Ottoman context, Greek suspects who were labeled as infidels because they had taken part in the 1821 Greek War of Independence and because they allegedly provoked the Greek community in Istanbul, formed a well-known pretext for this, as they were banished from Istanbul for Anatolia.[778]

The state officials were in fact cautious to choose whom to expel and whom to retain when it came to major capitulatory powers. A report of the Ministry of Police, addressed to the Grand Vizierate in 1891, clearly stated that they could expel Greek or Iranian nationals, or even Italians who violated public order and peace, without resorting to the opinions of their respective consulates. However, they had to be in possession of concrete evidence when it came to charges against other European nationals, in which cases the consent of the consulates was of primary importance. If consular authorities did not accept an accusation, diplomatic negotiations were the only option to resolve the case amicably, albeit with the weight of capitulations.[779]

[777] BOA AE. SSLM. III 186/11219, 1792; and C.ZB. 19/941, 1792.
[778] Ilıcak, "*Those Infidel Greeks": The Greek War of Independence Through Ottoman Archival Documents,* 31 and 53.
[779] BOA Y.PRK. ZB. 9/61, 1891.

At the beginning of the century, however, it appears that expulsion was more systematically applied as a state practice. European journalists, in particular, whose publications were considered detrimental to the Ottoman public, along with many others, were expelled from the empire under allegations of misconduct or anarchic plots.[780] Especially during the Balkan Wars and WWI, expulsion was considered a legitimate practice for a sovereign state in order to deport anyone whom they did not trust under a state of emergency. As supported by the opinions of Ottoman legal scholars, it was claimed that expulsion was a natural right ascribed by international law to each state and that there was no established rule in customary laws restricting their ability to enact this policy.[781]

Therefore, unlike in earlier periods, throughout the second half of the nineteenth century expulsion was largely preferred to extradition as a means of expelling undesirable foreigners. This was not unique to the Ottoman Empire but was a widespread practice all over Europe at the time. This was mainly because it saved states from great expenditure and lengthy extradition proceedings. The practice also provided a feasible and swift solution to cope with the anarchist wave, because the extradition of political criminals was not a popular option. On the other hand, whether anarchism was part of political crime or not was still a hotly debated

[780] Constantin Spadarian, who attempted against the life of a Russian ex-governor of Caucasia and escaped to the Ottoman Empire, was expulsed due the security threats his anarchic action created; BOA HR.SYS. 2775/38, 1904. the Argentinian journalist Carlos Guzman was expulsed as he was publishing a journal in Italian in Tripoli which was anti-religious and immoral in content. Even though the government attempted to expulse him according to vagabondage law, the lack of a legal arrest warrant redirected the blames on his seditious writings. BOA HR.SYS. 1547/5, 1910 and HR.ID. 183/35, 1910.

[781] "Her devletin kendi memleketinde haiz olduğu hakimiyete icabet olmağla salim olmayan ecanibi hudud haricine tard ve tebid hak ve salahiyetine müsellemdir. Hükümet-i seniyyede hukuk-u umumiye-yi düvelin tececddüd eylediği bu hak ve salahiyete istinaden osmaniyede ikameti menafı-i hayatiyesine ve huzur ve asayiş-i dahiliyesine mazarri-i kurundan olan eşhası tebid eder. Uhud-u kadimede hükümet-i seniyyenin bu hakkını tahdid etdiği bir fıkra mevcud değildir." BOA HR. HMŞ.İŞO. 6/17, 1912. For the expulsion of journalists during the Balkan Wars; see BOA HR. ID. 175/45, 1912; and 175/46, 1912. During WWI, many Europeans were expulsed without any clear statement officially made; see, BOA HR.ID. 175/89, and 175/92, 1917.

international question, upon which there was still no consensus. Extradition and expulsion practices as interrelated matters were taken quite seriously for judicial cooperation globally. In that respect, Tianna Hannappel sees expulsion as a sort of 'state of exception', by which nations detached from the formal definitions designated in the field of international law, practicing expulsion via the international collaboration of police forces.[782]

The *Institut de Droit International* reframed expulsion as a new security policy, and one that should receive treatment under international law. The institute was established in September 1873 in Ghent, under the initiative of the Belgian legal scholar Gustave Rolin-Jaequemyns; it brought together various scholars of law, state officials, and political figures, all of whom with expertise in the field of international law. Their mission was to advance the deployment of international law in the field of foreign politics, chiefly in order to respond to urgent problems that were treated on humanitarian grounds and addressed via the rule of law and the application of the principle of equal treatment.[783] During the meetings that were held successively in Hamburg in 1891 and Geneva in 1892, the question of expulsion was discussed at length and in relation to extradition. While the anarchists were another matter for them, they reserved the right of political asylum for criminals who could be categorized as political and thus be exempted from expulsion.[784]

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[782] Hannappel, "Extradition and Expulsion as Instruments of Transnational Security Regimes against Anarchism in the Late Nineteenth Century," 72-73 and 94-95.
[783] However, the super-secular, intellectual and egalitarian stance of these people should be addressed in caution, by taking together their support for the colonization of Africa and advocating Leopold's *mission civilisatrice* in Kongo. Most of their ideals and projections expressed for the advanvement of international law were deliberately confined to the countries they esteemed as civilized. See, Rygiel, "Does International Law Matter? The Institute de Droit International and the Regulation of Migrations before the First World War," 9-11; and Calvo, *Le Droit International Théorique et Pratique,* 506.
[784] Hannappel, "Extradition and Expulsion as Instruments of Transnational Security Regimes against Anarchism in the Late Nineteenth Century," 75-77.

However, the policy of expulsion, which was usually free of bureaucratic impediment and relied upon states consenting, placed the lives of those expelled in jeopardy. The political criminals who were expelled could be easily tracked anywhere, arrested and punished by the government in search of them without any protective measurements as in the case of extradition treaties. Therefore, it became a common practice in some European countries, such as Germany and the Netherlands, to banish political criminals only to their homelands, in return they accepted citizens seeking asylum.[785] Others, as in the case of Belgium, France, and Switzerland, allowed people who were banished to go to the countries they preferred. On rare occasions, bilateral treaties were signed among the states to regulate the conditions of expulsion process.[786]

These were the countries that most of the Ottoman intellectual refugees chose, and the Ottoman state frequently called for their expulsion. Publications criticizing the Ottoman state was the primary motive in this. Amongst other powers, such as France and Belgium, they issued official requests, mostly to the Swiss government, asking them to expel such figures, who were numerous. Switzerland was one of the European countries that was amenable, as it considered that disruptive actions against any state could cause similar problems for peace and order anywhere in Europe.[787] For example, the leading figures of the Young Turks, Ali Fahri and Abdullah Cevdet, were expelled from the country under similar pretexts. The Swiss public prosecutor, the court of law, and the police forces worked closely during the

[785] Rygiel, "Does International Law Matter? The Institute de Droit International and the Regulation of Migrations before the First World War," 18-19.
[786] Hannappel, "Extradition and Expulsion as Instruments of Transnational Security Regimes against Anarchism in the Late Nineteenth Century," 72.
[787] *Pro Armenia,* 25 July 1901. The newspaper condemned the Swiss government for dishonoring itself by granting the expulsion of the Young Turks under not well-grounded justifications.

whole expulsion process, which proceeded largely under police escort.[788] Even though the Ottoman state had for a long time pursued Mahmud Pasha (Mahmud Celaleddin Asaf or Damad Mahmud Pasha), following him from Cairo to Marseille, from Italy to England, before asking them to send him back to the Empire, it was the Swiss government that warned Mahmud Pasha to reform or else face expulsion from Switzerland.[789]

6.3 Armenian Anarchists and the Extradition Question

Like the exiled Ottoman intelligentsia, an expanding communication network between Ottoman state agents and other states was established to keep an eye on anarchist suspects. In the 1890s, the Ottoman stance on anarchism became harsher in tone, lest political rage and violence break out during an already turbulent epoch. The emergence of the Armenian Revolutionary Federation (1890) and the Internal Macedonian Revolutionary Organization (1893) were two well-known organizations engaged in anarchic actions and violence. State officials amassed information and frequently contrived to exert diplomatic influence on other states to encourage them to expel revolutionists belonging to such organizations or else to advocate for their extradition to the Empire.[790] The Ottoman consulates received notification that Armenian suspects on the checklist should not be given subjecthood certificates (*tabiiyet şehadetnamesi)* to grant them free passage and mobility from one country to another, by availing themselves of double citizenship (as Ottoman subjects and

[788] BOA HR.SYS. 1763/24, 1901; 1802/26, 1901; and Y.A.HUS. 482/27, 1904.
[789] Damad Mahmud Pasha was the son-in-law of the Sultan Abdülmecid and the father of princes Sabahattin and Lütfullah. Together with his sons he first escaped to Europe and Egypt because of their opposition to the Hamidian rule. During their long stay there, he became an influential figure among the Young Turks opposition groups. BOA Y.EE. 87/59, 1901; Y.EE. 87/62, 1901; Y.A.HUS. 431/43, 1902; İ.HUS. 94/54, 1902; HR.SFR. 3 513/1, 1902.
[790] For some of the examples see: BOA HR.SYS. 2764/20, 1890; 2785/3, 1894; 2856/80, 1895 and 2858/21, 1895.

naturalized Europeans).[791] The state employed Swiss officers who would physically hold positions in Ottoman train routes in order to track down Armenian anarchists. [792] They dispatched official notes to each consulate seeking help and consent for research warrants in the European ships docked at Ottoman harbors. Even though the consulates did not condone taking responsibility in that matter, they reasoned that the Ottoman police had the right to search their ships and apprehend suspects if they could detect their location.[793]

However, the absence of extradition treaties and the difficulty of extraditing political criminals, even if you had an official treaty, blocked the empire from retaining control of anarchism and making legal accusations against anarchists. The case of Serkis Mosesyan is illustrative in understanding the Ottoman state's difficulties in this matter. A native of Trebizond, Serkis Mosesyan was an Armenian agitator (*Ermeni müfsidlerinden)* and a revolutionary, as a series of official notes portrayed him. Accused of being entangled in an Armenian secret society (*Ermeni cemiyet-i hafiyesi*), he was running a hotel in Batum, where other Armenian revolutionaries frequently gathered for seditious plans. Mosesyan was usually continually travelling between Caucasia to Nahcivan, in order to meet his companions in those provinces. He had an authorized Ottoman nationality certificate and received a permit to travel to Russia from the Ottoman Consulate General of Tiflis. The authorities had been in pursuit of him ever since 1892.[794] Repeated extradition requests from the Ottoman Consulate General of Batum Subhi Bey made were refused by Count Tatischtcheff, the Governor of Caucasia, due to the absence of any treaty. The Ottoman officials protested the reply in vain, putting forth the

[791] BOA HR.SYS. 2764/19, 1890; 2770/43, and 1894; 2829/23, 1894.
[792] BOA HR.TO. 355/94, 1898.
[793] BOA HR.SYS. 2801/1, 1896.
[794] BOA HR.SYS. 2769/33, 1892; Y.PRK.TKM. 31/3, Mar. 1894, and HR.SYS. 2769/67, Feb. 1894.

assertion that they had previously sent back several Russian political suspects to their homeland. Meanwhile, Mosesyan had already penned a petition to the Caucasian Governorate to obtain Russian naturalization, further complicating the diplomatic process.[795]

As the previous chapter has indicated, diplomatic negotiations with Russia to deport criminals were always a matter of debate, due to enduring tension at the borders. Thus, the case of Mosesyan can be easily read in that light too. However, setting forth a justification for political crime was the burning question that thwarted all attempts to resolve anarchism. This view usually obscures power politics, however. Russia offered similar excuses as explanations, even though they were enthusiastic supporters of the extradition of political criminals. The Russian government argued that the practice of reciprocity (*mükabele-i bil-misl*), unique to their diplomatic relations with the Ottoman Empire, had no validity in the case of Mosesyan, as the Russian authorities treated him as a political criminal, and there was a lack of official proof for the accusation. Thus, the Ottoman proposition to exchange Mosesyan with Şimavend, a Russian criminal under custody in Merzifon, became out of the question, what with the procedural difficulties generated by Russia in order to prove Mosesyan's guilt.[796]

This decision was in fact the outcome of pure state politics. On the other hand, though, political crime also presented many groups who could serve as scapegoats. In the case of Mosesyan, these were the ecclesiastical community and renowned Armenians whom Subhi Bey condemned for cultivating such ventures. He claimed that their interventions and venal attempts to guard the Armenian population

[795] BOA Y.PRK. HR.19/14, Apr. 1894; and Y.PR.TKM. 30/68, Mar. 1894.
[796] BOA HR.SYS. 2770/13, May 1894; HR.TH. 146/97, Sep. 1894, and 139/40, Mar. 1894; and A.) MKTM.MHM.718/5, Sep. 1894.

exacerbated the endeavors to seize and extradite them.[797] The implications of Suphi Bey reveal a general concern of the Ottoman state, which signaled mistrust against the high echelons of Armenian clergy at the time. Matthew II İzmirliyan (Mateos Izmirliyan), who was recently elected as the Patriarch in 1894, was reproached for his part in the major Armenian incidents. İzmirliyan held that position until 1896, when he was exiled to Jerusalem due to growing anger and resentment towards his policies.[798] Thus, the selection of his successor, Malachia Ormanian (Mağatya Ormanyan), seemed to be an aforethought, as Ormanian was considered a political ally of the Hamidian regime, whose pro-state policies among the circles of the Armenian community functioned to.[799]

The Patriarch Ormanian was instructed to bring down the economic power of Armenian anarchists abroad. The report of a certain Zare Beşiryan, who called himself the loyal servant of the Sultan, reported this mission of Ormanian in detail. Ormanian would warn the well-off Armenian community in Russia and Europe not to hand over their money to the committee members who claimed it on regular basis. In this respect, he would closely oversee and prevent transfers of money to the revolutionary parties under the guise of donations. He would likewise inspect the accounts of Armenian schools, hospitals, and churches, and select personnel according to their loyalty to the Ottoman state.[800]

These policies were piecemeal solutions for the problem of anarchism. It was an international question that required international cooperation. The International Anti-Anarchist Conference of 1898 was the first occasion when the Ottoman state was part of the dialogue between states. Ivan Zinoviev, Russian ambassador to

[797] Y.MTV. 96/109, Jun.1894.
[798] Cankara, "Patrik Mateos İzmirliyan'a Göre II. Abdülhamid'in Politikaları," 5.
[799] Önal, *The Tsar's Armenians: A Minority in Late Imperial Russia,* 93.
[800] BOA Y.PRK.AZJ. 55/106.

Istanbul, conferred a special request to Abdülhamid II, asking to send Ottoman delegates to the conference in Rome. In his letter, Zinoviev stressed the significance of the conference in resolving the matter of anarchism. Legal advisors Reşid and Nuri Hakkı Bey were sent to Rome to attend the meetings.[801]

As already stated, the conference was decisive in identifying the anarchism that targeted state leaders and utilized explosive weapons; it established this as an ordinary crime that should be redressed accordingly. Whereas talks over the extradition of anarchists did not reach a common consensus, the Ottoman Empire was among the states that supported Russian and German projects that favored the extradition and expulsion of anarchists. Reşid and Nuri Hakkı Bey were tenacious in their demands, to the extent that they further advocated the extradition of criminals who did not attempt regicide but whose schemes of conspiration were unearthed before they were put into action. Because the majority did not endorse those proposals during the conference, the Ottoman Empire later crafted legislation against anarchism in 1902. Although the Council of Ministers approved the project, the Grand Vizierate renounced it, invoking the leitmotif that Ottoman criminal law would be sufficient to sanction anarchism. The reasoning behind this was that they did not encounter such a wide-scale wave of anarchism in comparison to other parts of the world.[802] In the same year the state refused to attend a similar conference that was to be held in the United States, espousing similar views. Richard Sylvester, the

[801] BOA BEO 1242/93092, Dec. 1898, 1245/93344, Dec.1898; and BOA İ.HUS. 71/4, Dec. 1898. The tone of his letter revealed the hope of support from the Ottoman Empire on that particular issue: " İade-i mücrimin komisyonunun içtima-yı ahirinde Rusya sefirinin hükümdaran-ı akdem ile azayı hanedanlarının hayat ve serbestileri hakkındaki suikasdin cerayim-i siyasi gibi ad olunmaması ve erbabının iadelerine müsaade olunmak içün işbu ceraimin anarşikliğe müteallik ceraime tatbik edilmesini teklif eylediğinden bahisle bu babdaki talimat-ı luzumenin sürati itası lüzumuna havi Roma'da münakıd konferansa memur Reşid ve Nuri Hakkı bey efendiler"

[802] Yılmaz, "Conspiracy, International Police Cooperation and the Fight Against Anarchism in the Late Ottoman Empire, 1878-1908," 220-221. On the Ottoman participation to the 1898 conference see, Baktıaya, "19. yy. Sonlarında Anarşist Terör, Toplumun Anarşistlere Karşı Korunması Konferansı (1898) ve Osmanlı Devleti," 43-55.

President of the National Association of the Chief Police, invited the Ottoman Empire and many European states to the conference for international cooperation against anarchism. The Ottoman Empire again stated that anarchism did not have an international character in their eyes.[803]

The statement that anarchism was not an international issue in the case of the Ottoman Empire did not reflect the reality; the Ottoman state was, indeed, well aware of that fact. Otherwise, they could not have borne the pain of adopting various measures, which we have seen, and of attending the Rome Conference. Alternatively, the Consul of New York, Aziz Bey, would not have been given a special mission to report on Armenian revolutionary groups and secret societies at around the same time in 1902.[804] Thus, there was an apparent contradiction in state discourse and the policies adopted in practice. İlkay Yılmaz sees this attitude as a calculated move, signaling a cautious intention to portray anarchism as a matter that was not of concern to the Ottoman state, by defining it under the category of political crime.[805] However, the reluctance shown by some factions to formulate anti-anarchist legislation should not be overlooked, since the absence of bilateral extradition treaties posed additional problems for the judicial treatment of anarchist crimes. The murder case of Apik Uncuyan best sheds light on this.

6.3.1 The Murder of Apik Uncuyan

Apik Uncuyan's murder by the Hunchakian Party gives us cause to reflect on some crucial points. In the first place, it is another illustrative case, like the assassination attempt against the Patriarch Khoren Ashakian, and that against Maksudzade Simon

[803] Russia and Italy also did not accept the US invitation. BOA HR.SYS. 56/1, 1902.
[804] BOA Y.MTV. 225/81, Jan. 1902.
[805] Yılmaz, "Anti-Anarchism and Security Perceptions during the Hamidian Era."

Bey (the president of the Armenian Political Assembly) by the Hunchakian Party in 1894. Like Apik Efendi, these two prominent Armenians became targets of the party due to the diverging interests of the latter, which, as Varak Ketsemanian argues, "provides a viable framework for deconstructing the notion of the "Armenian millet" as a monolithic community.[806] The Armenian revolutionary organizations were not only the foes of the existing regime, but equally represented a faction among their own people. In the second place, it shows the power of daily politics regarding the extradition practice.

Apik Uncuyan was a rich Armenian artisan who owned a flour factory at Göksu and supplied a large portion of Istanbul's flour and bread production. He and his brother Matheos were well-known figures who funded the construction of some Armenian schools and churches in the empire. Apik Efendi was likewise distinguished among the Armenian community, as he was a member of the committee that gathered to discuss the affairs related to the Armenian Catholic community. When he was murdered in 1905, Uncuyan was known for being a member of the closest circle of Abdulhamid II's entourage.[807] On the other hand, he was also a controversial character when it came to his political stance. In 1892, Uncuyan advised the Ottoman state to lure Armenian revolutionaries and win their loyalty. He suggested pacifying them with money and proposed a general amnesty for Armenian criminals.[808] However, Uncuyan was arrested immediately after the occupation of the Ottoman Bank in 1896. According to rumors that circulated, he

[806] As Ketsemanian shows, there was primarily the aversion the Hunchakian felt towards the Church policies in this early assassination attempt. On the other hand, Simon Bey's close relations with the palace, as similar to Apikian, further motivated their action. Ketsemanian, "The Hunchakian Revolutionary Party and The Assassination Attempts Against Patriarch Khoren Ashekian and Maksudzade Simon Bey in 1894," 736, 739, and

[807] See, BOA Y.PRK.ZB. 15/56, 1895; İ.HUS. 16/80, 1893; and Dabağyan, *Sultan Abdülhamit ve Ermeniler,* 2001.

[808] BOA Y.PRK.ZB 11/75, 1892.

was affiliated with the Armenian Revolutionary Federation. Due to the indictments brought against him for stashing weapons in a church and school under his administration, in order to supply them during the raid, Uncuyan was condemned to three years' imprisonment. This judgment was soon to be abated, but only by dint of his deteriorating state of health.[809]

The shifting alliance of Uncuyan to the Hamidian regime in the aftermath of this incident gives the strong impression that his conviction following the events of 1896 obliged him to support Abdulhamid II for good. This was exactly the reason why he was killed by the order of Hunchakian Party, for he was refusing to provide the party with financial aid for their cause. Ohannes Avreyan spied upon the house of Uncuyan at Kadıkoy for a couple of weeks; he eventually killed him at Galata. Soon arrested by the Ottoman police, he was sentenced to death and summarily executed. However, this was not a common crime case; rather, it was an organized conspiracy in which Avreyan had acted as a hitman, fulfilling orders coming from above. There were other accomplices, Karabet Vartanyan, Stepan Serope, and Levon Kirişciyan, all of whom receiving the same penalty as Avreyan. As with the debates explored in Chapter 4, the US legation claimed that they were all naturalized Americans. Since there was no progress on this issue yet, both the US and Ottoman governments stuck with their earlier position regarding the 1874 Treaty, which excluded political criminals, remaining silent on the matter of anarchism.[810]

These are debates I will not delve into all over again. Suffice to say, the agitation and fear palpable by dint of anarchic fervor drove the Ottoman state to resort to every diplomatic means possible, in order to track down anarchists and

[809] BOA Y.A.RES. 83/18, Sep. 1896; A.MKT.MHM. 630/5, Sep. 1896; and Y.PRK.AZN. 17/2, Nov. 1896.
[810] BOA Y.MTV. 278/73, Sep. 1905; Y.A.HUS. 493/1, Sep. 1905; HR.SYS. 2841/35, Dec. 1905.

enact their deportation. Rumors abounded, namely that they were plotting an assassination against the Sultan too. Karabet Vartanyan and Stepan Serope were soon arrested, whereas the journalist Levon Kirişciyan was still on the *lam*; Ottoman agents chased him from Egypt to New York and Paris until late 1908. Ottoman diplomacy was such a success that the US authorities had to acknowledge the case as a common threat on a global scale. The New York Police Department officially assured the Ottoman consulate, stating that they had "set to work to blow the whole community by extraditing them."[811] They intended to arrest and extradite Kirişçiyan, as they ultimately found out his whereabouts. However, he somehow managed to escape to Paris, and the case was soon dropped when the Ottoman justice acquitted him of all charges due to lack of evidence.[812]

[811] BOA HR.TH. 365/70, May 1908.
[812] BOA HR. SYS. 2787/7, Nov. 1907; DH.MKT. 1251/59, May 1908; DH.TMIK.M. 269/7, May 1908; and HR.TH. 364/99, Jun. 1908.

Figure 10. Levon Kirişçiyan (Leon Larents), left, and his brother, right.[813]

On the other hand, the efforts of the US Police Department were of no surprise in that respect; the death of President McKinley in 1901 was still present in popular memory, similar to the failed 1905 attempt at the Yıldız Palace. However, this murder case testifies to Abdulhamid II's deep fears of complots, which quickly became a matter of international security. Despite the differences in opinion among state authorities regarding how to develop a legislative base to deal with anarchism, the Sultan's obsession ultimately dragooned the Foreign Ministry into bilateral treaties so as to find a more immediate remedy. In March 1908, the Office of Legal Counsel, working on a tentative extradition project with the European states, speculated on how to frame political crimes under that treaty. Mainly speaking of the

[813] BOA HR. SYS. 2787/7, Nov. 1907.

Ottoman journalists accused of defamatory publications *(neşriyât-ı muzırra çıkaran*), and of the others engaged in plot and treachery (*ihânete cüret eden*) abroad, legal advisors reasoned that ad-hoc diplomacy based on mutual trust should be applied in such cases. Otherwise, the matter would effectively lead to a dead end of sorts, since political crime could not be included in bilateral extradition treaties.[814]

Under those principles, the Ottoman Empire and Russia drafted regulations against anarchism and revolutionary action in the following month. What is most striking about that project was that it manifested the shared fears of Abdulhamid II and the Russian Emperor. Anarchism already characterized the political agenda of the time, on a global scale. It was even more so in the case of Russia, which had valid cause for concern, as the ARF (Armenian Revolutionary Federation) had its origins there. Being composed of six articles, the gist of the draft was mainly about preventing and punishing assassination attempts against the state leaders and extraditing their perpetrators. In that respect, it differed from other extradition treaties. That project planned to establish of special bureaus inside the Ministry of Interior of each state, which would be responsible for the flow of communication conducted in secrecy. This communication would be enacted directly and without delay. The border authorities, military, police forces, and civilians would be all ready to control these people and the transfer of explosives.[815]

As a final point, Uncuyan's case once more proves that political crime, whether anarchic and violent or purely political, if working against the detriment of the state's prestige in the international arena, was in essence an issue of friends versus foes. The foes of the Hamidian regime became the allies of the CUP administration, soon after the 1908 Young Turk Revolution. Though already

[814] BOA HR. HMŞ.İŞO. 7/40, Mar. 1908.
[815] BOA Y.PRK. HR. 36/12, Apr. 1908.

absolved of all charges just a month previously, Levon Kirişciyan's return to Istanbul and his pursual of a journalistic career resulted from that policy.[816] This was the continuation of the Hamidian strategy, but under different motives. Abdulhamid II set out to win its foes via system of rewards, essentially, whereas the CUP provided them with the political environment they had longed for and inspired a sense of belonging. However, it should not be forgotten that foes and friends can switch places in a moment. Thus, the CUP regime did not hesitate to reconsider its allegiance to the foes of the *ancien régime*.

[816] Leon Kirişçiyan (1875-1915) was a graduate of the Robert College who went to the United States for political reasons and became naturalized American there as Levon Larents. Active member of the Hunchakian Party, he lived in Egypt and Athens for a while before returning to Istanbul. Kiriçiyan was also known with his translation of Quran into Armenian from an English edition among other translations on French Revolution. He worked as the editor of the journal *Tsayn Hayreneats* (Voice of the Fatherland) in Istanbul until 1910. The friend of the new political stystem, he was soon labeled as among its foes and killed during the 1915 deportation. See Matiossian, "Armenian Printing in America (1857-1912), 26; and Koptaş, "1915'in Robert Kolejli Kurbanları," https://www.agos.com.tr/tr/yazi/4908/1915in-robert-kolejli-kurbanlari

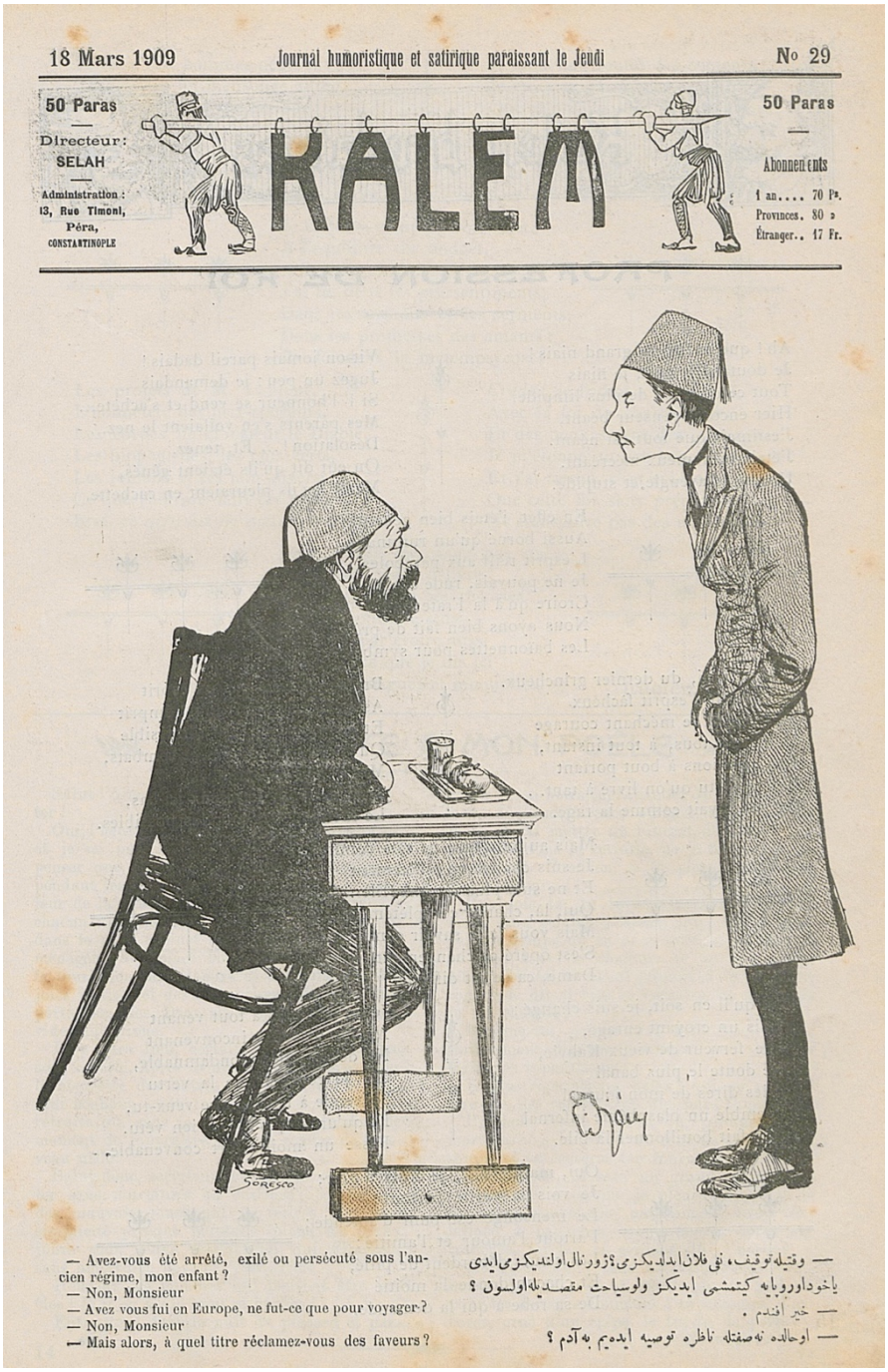

Figure 11. The CUP cadre evaluating suitable candidates for the new regime:
"-Were you arrested, exiled, or executed under the *ancien régime*, my child?
-No, sir.
-Did you escape to Europe, even if it was for travel?
-No, sir.
-Then, with what title I will promote you?"[817]

[817] *Kalem,* 18 Mar. 1909: "-Vaktiyle tevkif, nefy filan edildiniz mi? Jurnal olundunuz mu idi yahud Avrupa'ya gitmiş mi idiniz velev seyahat maksadıyla olsun? -Hayır efendim. -O halde ne sıfatla nazıra tavsiye edeyim be adam?"

6.4 1919-1920 Istanbul Trials and the Extradition of the CUP Leaders

The Committee of Union and Progress (CUP) was sanguine about their mission when the party claimed its place on the Ottoman political stage during the 1908 Young Turk Revolution. Their message was clear and firm: assemble the parliament and reintroduce the 1876 Constitution. In 1907, the party united with the Ottoman Freedom Society (*Osmanlı Hürriyet Cemiyeti)* that was largely formed by the state officials new in their careers and civil servants of middle rank. They worked in cooperation and loudly proclaimed the party manifesto to their public, especially in parts of Macedonia and Albania. They preached to Muslims, Christians, and to the whole population in the Empire, with a discourse uniquely tailored to each.[818] They heralded a political system that uprooted anything reminiscent of the autocracy of Abdulhamid II, instigating a representative democracy supported by the emblematic slogans of the French Revolution. As Eric J. Zürcher recounts:

> The popular reaction was euphoric. There was a strong feeling that something quite fundamental had changed – that it was, in fact, a revolution. Masses of people filled the streets in the towns and cities of European Turkey and Western Anatolia. There was public fraternization between members of the different religious communities and armed Bulgarian, Albanian and Serb bands came down from the hills to take part in the celebrations. The main Armenian organizations took an active part in the celebrations. The slogan that was propagated by the CUP and that was visible everywhere in these days, was 'Liberty, Equality, Fraternity and Justice'. [819]

Nevertheless, the buoyant mood of the time would soon revert to a political atmosphere no different to that under Hamidian rule, an authoritarian tendency

[818] Hanioğlu argues that the messages they addressed to each audience were incompatible. Hanioğlu, *Preparation for a Revolution: The Young Turks, 1902-1908,* 237 and 240-242; Çiçek, "Myth of the Unionist triumvirate: the formation of the CUP factions and their impact in Syria during the Great War," 8-10. There is an entangled historical context of how the CUP rose in power. However, here is not the place to introduce that background.
[819] Zürcher, "The Young Turk revolution: comparisons and connections," 484.

visible in the warring factions of leading party members and in the party policy, which was gradually fed by ethnic nationalism. These factions were represented mainly by a triumvirate of members of the party: namely, Enver, Cemal, and Talat Pashas. After the 1913 *coup d'état*, also known as the "Raid on the Sublime Porte" (*Bab-ı Ali Baskını*), the CUP took control over the government and clung to a more militaristic line of vision in state policies. They never managed to separate party politics from government administration fully; this emerged due to the ongoing war campaigns in the Balkans, Italy, and lastly in the Great War. The difference was that the CUP now united around shared ideals but opted for these at the cost of violent repression.[820]

In this light, the 1915 Armenian genocide, marked by forced deportations and the killings of many, was the climax of calculated state policies that had been operating for quite some while.[821] The Armenian revolutionaries who walked arm in arm with the CUP celebrated their 1908 victory together and were welcomed back from exile or underground, as in the case of Kirişçiyan. Nevertheless, they were now the prime target of social engineering; the CUP's actions were not limited to that, either. They were blamed for causing unrest in different parts of the Empire and faced various charges of corruption. When the Central Powers were defeated and the CUP was held responsible for the cost of war, the party was abolished in November 1918 and the party leaders escaped from the country. The propaganda campaign orchestrated by the Istanbul press put the party organization under scrutiny. The

[820] Ahmad, *The Young Turks,* 160-163.
[821] The CUP planned a similar deportation plan against the Greek population in late 1914 and partially implemented it into action. Only the harsh criticism by the Europeans, especially France, forced them to step back to pursue that policy. The death toll and deportation were/are a matter of speculation among many people, ranging from 200.000 to 500.000. On the other hand, Akçam evaluates the Armenian genocide as the offshoot of WWI in operation, whereas the seeds of those policies were planted long before. See Akçam, *From Empire to Republic: Turkish Nationalism & the Armenian Genocide,* 144-147 and 150.

horrible face of systematic deportation and regional violence starkly came to light with military court trials that started in December 1918 and lasted until the first months of 1920.[822]

It was during the same period that the occupation of Istanbul by the allied powers took place, after the Moundros Armistice was signed in October. The allied powers were equally influential in determining the trials' direction. In the 1919 Paris Peace Conference in January, the delegates described the 1915 events as a "crime against humanity." Raymond Kévorkian indicates that this was the first time this notion had entered judicial terminology. The accusation had a legitimate basis, as was established by their arguments regarding the 1907 Hague Convention, which inspected the armed conflicts from various vantage points.[823] Although the major European powers, particularly England, demanded a joint trial presided over by their own officials, the Ottoman government remained firm in its demands for an independent court proceeding. [824] However, the Ottoman military court likewise adopted a particular discourse during the prosecutions and underlined the atrocities committed, labeling the CUP's actions as crimes against humanity.[825]

The CUP was condemned for carrying out massacres on Armenian and Greek populations in the empire, undermining constitutional principles, and unjust profit-making during the war. In late 1919, many were penalized with imprisonment, while

[822] More than 60 trials were held in Istanbul and lasted even during the first years of the Republican period. See Turan, Öztan, "Mütareke Dönemi'nde İlk Tehcir Tartışmaları ve Divân-ı Harb-i Örfî Yargılamaları," 473-75 and 480; Kevorkian, *The Armenian Genocide: A Complete History,* 775-798. For the court proceedings of the trials; see Dadrian and Akçam, *Tehcir ve Taktil: Divan-ı Harb-i Örfi Zabıtları.*
[823] Kevorkian, *The Armenian Genocide: A Complete History,* 775-798, 763-764.
[824] England ultimately managed to transfer many accused whom the Ottoman courts released under pending trial to Malta. They were afraid that those people would be acquitted of all charges. Thus, their deportation to Malta would give the British court to try them as it should be. Kevorkian, *The Armenian Genocide: A Complete History, 770-771.*
[825] "Kanun-u insaniyete karşı ikâ edilen cerâim." Dadrian, Akçam, "*Techir ve Taktil": Divan-ı Örf-i Harbi Zabıtları,* 5.

eighteen were sentenced to death. The Minister of War Enver Pasha, the Minister of Marine Cemal Pasha, the Grand Vizier Talat Pasha, the Minister of Education Doctor Nazım, the governors Cemal Azmi and Bedri Bey, and a prominent member of the party, Doctor Bahaeddin Şakir, were among the last group for whom the court judgment was proclaimed *in absentia*, as they had already fled to Germany. They were denounced for misfeasance in public office and for forming a micropower in the government that acted independently of the state administration. Further to that, their property was confiscated, and they were expatriated from the Ottoman nationality.[826]

Before these judgments were issued, the Ottoman state spent months calling for the extradition of the CUP leaders from Germany. The two governments signed a bilateral extradition treaty that entered into force on 10 July 1918. Composed of thirty articles, the treaty was full of procedural details, mainly mirroring the 1879 Code of Criminal Procedure. This contract was the result of wartime alliances and amities in both states' diplomatic relations. Besides the extradition treaty, they also signed nine other agreements covering the consular institutions, the colonies of both powers, sea and border security regulations, and so on.[827]

In November 1918, the Ottoman state demanded the extradition of the CUP leaders per Articles 10 and 12 of the treaty, which all concerned the procedural steps regarding arrest warrants and the legal verdicts of the Ottoman penal codes, which the judgments of Istanbul military court established. From the outset, Germany agreed to their extradition, weighing the severity of their crimes, but stipulated that

[826] "Hükümet içinde bir hükümet vaziyeti ihtisab ederek kuvve-i vasiasına istinaden fecai-yi azime irtikabâtında bulunan İttihad ve Terakki Cemiyetinin Merkez-i Umumi azasından oldukları iddiasıyla…" 4. Muhakeme, 12 Haziran 1335 (12 Jun. 1919). Dadrian, Akçam, "*Techir ve Taktil": Divan-ı Örf-i Harbi Zabıtları,* 530 and 596.
[827] For the Ottoman and French version of the treaty, see BOA HR.HMŞ.İŞO. 155/10.

the crimes must be documented by solid evidence proving their guilt and supported by testimonies from witnesses.[828]

However, Germany soon sidestepped the extradition issue with the case of Talat Pasha. The Ottoman state condemned Talat Pasha as the main perpetrator behind the deportation and abuse of power against Armenians and Greeks, whose offenses were not limited to that but included exploitation and accumulation of state wealth.[829] They referred to Article 3 of the treaty which stated that the person who was charged with crimes that dishonored their country and acted against moral standards should be extradited under the penal regulations of the demanding country. Nevertheless, the German government did not believe that Talat Pasha encouraged "such brutal savagery." Neither did they believe the accusations regarding the embezzlement of treasury. Even if the last point had some truth in it, they would consider it a political crime. This had no legal reasoning at all.[830]

On the other hand, Cemal Azmi Bey, the former government of Trebizond, and Doctor Bahaeddin Shakir should, according to Article 5, be extradited, as it underscored the extradition of the people who infringed on state security and damaged the fiscal prestige of the Empire. Cemal Azmi Bey was further accused of providing machine guns, pillaging the Armenian properties, and carrying out deportation policies. On the other hand, Doctor Bahaeddin Shakir was similarly charged for attacking the Armenian villages and organizing these raids with the aid of the Kurdish population in the region. All those were serious crimes, clearly stated in the Ottoman penal codes and corresponding to German criminal law at the same

[828] BOA HR.SYS. 2320/7, Nov. 1918.
[829] Akçam, *A Shameful Act,* 186-187.
[830] BOA HR.SYS. 2321/1, Nov. 1918.

time. Similar accusations against Cemal Pasha, Bedri Bey, and Doctor Nazım were also reported in the relevant extradition documents.[831]

Rıfat Bey, the diplomatic agent employed in Berlin Embassy of the Ottoman Empire, regularly reported on the whereabouts of these fugitives. For instance, Doctor Nazım and Bahaeddin Shakir occasionally frequented a restaurant near Munich, while Cemal Pasha lived close to a place famous for its cherry gardens under the pseudonym Halid. All of them carried fake passports, which allowed the German police and authorities to claim that they could not trace the CUP leaders. Rıfat Bey concluded that the fugitives met with sympathy among some German authorities, who were not willing to betray their former allies.[832] Thus, none of them were extradited to the Ottoman government, diplomatic failure and hypocrisy remaining ever prevalent in international relations. At a time when organized state violence and massacres were articulated as crimes against humanity for the first time, Germany, the war-ally of the Ottoman Empire, deviated from new norms of international law under the implausible pretext of political crime. Whereas the anarchist actions could be legitimated under the argument that they had a manifesto and cause, essentially that of an ideal state system, the massacres of a population could not be justified as crime instigated by political motives. Daily politics once more overshadowed the extradition practice. In the meantime, England, as the rival power, strived for the punishment of CUP organization at full force. These fugitives who escaped the Ottoman justice in Berlin became targets of vengeance. They were all assassinated by the Armenian Revolutionary Federation in the following years, except for Enver Pasha.[833] The latter was killed in August 1922 during the Basmachi

[831] BOA HR.SYS. 2320/7, 12 March 1919.
[832] BOA HR.SYS. 2320/7, Apr. 1919.
[833] See Bogossian, *Operation Nemesis: The Assassination Plot that Avenged the Armenian Genocide.*

Revolt that was organized by the Muslim populations to protest against Russian rule.[834]

6.5 Conclusion

This chapter gave a brief synopsis of political crime and its place in the international extradition practice. It adopted a comparative lens that focused chiefly on nineteenth-century Europe and the Ottoman Empire, so as to grasp the conceptual and historical evolution of political crime. In that respect, the Ottoman context for this subject has been placed within an analytical framework.

Before the nineteenth century, political crime was associated with *lèse-majesté*, namely the murder of rulers, which was the method most commonly used by factions within the ruling system in order to avenge their enemies. Back then, political asylum was a right granted to people who escaped to other states for fear of persecution on religious grounds. Political crime was not treated differently from ordinary crimes in terms of punishment; harsh measures were taken against its perpetrators. Extradition was among the practices deployed if the criminal escaped to another state and was not put under trial there.

By the nineteenth century, political crime was revisited due to crucial historical developments. The French Revolution was the milestone event that directly raised the question of political crime and re-cast it into the arena of state politics. The revolutionary spirit, which manifested itself in the rise of liberal political thought, resulted in a culture of public protest and the pre-eminence of the notion of civil society. The ensuing revolutionary waves encouraged states to provide political asylum to those who participated in public protests and nationalist movements. The

[834] Yılmaz, "An Ottoman Warrior Abroad: Enver Pasha as an expatriate," 61.

idea behind that motive was that they were reacting against state authorities to achieve social transformation. Thus, political crime was held as a non-extraditable offense. European states gradually followed one another, signing bilateral extradition treaties that excluded political crime.

Nevertheless, the tendency of anarchism towards violence as another long-term facet of the French Revolution compelled the same powers to step back and take coercive measures, conduct surveillance, and establish interstate judicial policing against the anarchists. The explosives weapon that the anarchists employed for their successive regicide attempts and their motto "propaganda by deed" generated endless debates on how to distinguish between political crime and anarchism. The motives behind the crime as an action were evaluated by anthropologists, criminals, and legal scholars, all at length. The 1898 Rome Conference and 1904 St. Petersburg Protocol were outcomes of the efforts to establish a common consensus on political crime, anarchism, and extradition. The Ottoman Empire was a participant in this too. It turned out that each state positioned itself according to its own public opinion, juridical operations, and political culture on asylum rights, whilst also seriously considering the matter of the extradition of anarchists. As states did not come to an accord on the terms surrounding extradition, they favored expulsion and ad-hoc negotiations in urgent cases.

The second part of this chapter addressed the Ottoman part in this episode of history. The 1848 Hungarian refugee crisis was the first truly transnational problem, dragging the Empire into foreign politics. That incident revealed the ineptitude of the Ottoman state in utilizing international law to formulate diplomatic policy on asylum rights, particularly in the case of the extradition of Lajos Kossuth and his entourage.

They instead took counsel from England and France while maintaining a policy of balance with Russia and Austria.

In the second half of the century, the assassination attempts against the Sultans and the anarchic wave compelled the state to follow established policies. The establishment of law schools and the emergence of legal scholars advanced this, and elaborate arguments were articulated on these issues. At the same time, the Hamidian regime maintained strict surveillance of Armenian and Macedonian revolutionaries and closely monitored exiled Ottoman intellectuals. State officials tried to pacify these groups with admonitions, threats, and pay-offs, to guarantee a general amnesty at home. All these policies were granted in return for complete obedience and loyalty to the Sultan. On the other hand, the Ottoman state occasionally resorted to foreign collaboration in the expulsion and extradition of these people. They were eager to legitimize and officialize the extradition of anarchists in the 1898 conference. Besides, the state went to great length to extradite anarchists, especially in applying bilateral negotiations. The murder case of Apik Uncuyan and the Russo-Ottoman accord against anarchists are exemplars.

This chapter demonstrated that the policies toward anarchic activities were closely relevant to security concerns. Even though the states upheld their positions according to judicial operation and political culture in the international arena, extradition and expulsion were opted for at will if they felt their power of control was at stake. The failures of international conferences showed that diplomacy was all about power politics. However, the states always favored practical solutions to anarchism that achieved international collaboration.

This chapter also shows that political crime, whether related to anarchism or nationalist uprisings or social protests, was always about friends and foes. The

shifting allegiances turned foes into friends, and vice versa, over time. The rise in power of the CUP and their changing policies regarding the Armenian population are illustrative of this. The outcry for representative democracy ended in an autocratic regime whose “crime against humanity” became the leitmotiv underlying the extradition demands from Germany.

CHAPTER 7

EPILOGUE

> The Turkish nation, continually deprived of the benefits of peace, realized the inadequacy and fruitlessness of its ceaseless peaceful efforts to obtain equity and justice, and understanding that no other hope of salvation remained to it, it has succeeded in defending its existence by its own moral and material resources. In this course it has endured sufferings and has made innumerable sacrifices which have been sympathetically witnessed by free nations.[835]

> States necessarily stand at the intersections between domestic sociopolitical orders and the transnational relations within which they must maneuver for survival and advantage in relation to other states. The modern state as we know it, has always been, since its birth in European history, part of a system of competing and mutually involved states.[836]

This dissertation explored the issue of extradition in the international legal practice of the Ottoman Empire. As such, it contributes to the existing literature on the Ottoman legal studies with a diplomatically legal subject not investigated before. This practice, regulating the rendition of the criminals between the states, introduced a new dimension to the nature of Ottoman international relations that have been treated under different lights in recent years. Addressing transnational crime and criminal mobility in the rapidly changing nineteenth-century world politics is equally worthy of analysis in the Ottoman context with respect to wars waged and frequently arising conflicts, changing borders, and constant population movements in its last century. The atmosphere under change required new security measures and resulted in shifting legal allegiances in Ottoman territories. The dialogues of/on extradition among the Ottoman bureaucracy showed how a single legal concept and diplomatic practice became a protean question in Ottoman politics.

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[835] The statement of İsmet Pasha during the initial session of Lausanne Conference held on November 20, 1922. *Lausanne Conference on Near Eastern Affairs 1922-1923,* 4.
[836] Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," 8.

For these reasons, this dissertation approached the practice of extradition through a comprehensive account of the Ottoman political background. It followed a chronological and thematic outline, with each chapter focusing on a particular historical episode concerning the practice of extradition. By using a comparative framework, this study enabled me to illustrate better how the political and social milieu of the time directly influenced the course of extradition negotiations. Chapter 1 explored the historical evolution of the practice of criminal exchange by focusing on the European account of the issue. As extradition could not be treated outside of foreign relations, the rest of this study is contextualized within the axis of Ottoman-European/American relations.

Even though bilateral diplomatic treaties usually guaranteed extradition in the context of international law, judicial incompatibility and contest of power on the international political stage frequently suspended the success of efficient communication. The treatment of extradition in the Ottoman example becomes further complicated since the capitulations hampered the possibility of a treaty agreement from the very outset. The consular system in the empire already warded off the principle of territorial jurisdiction, thus overlooking the need to ask for foreign fugitives. Conversely, the state had to resort to diplomatic medium for the Ottomans that had fled the country. Therefore, this dissertation made another valuable contribution to the Ottoman legal and diplomatic studies by exploring the territoriality of law and sovereignty issues in light of the question of extradition. In the absence of treaties, the issue of extradition was always confronted to the question of the Empire's jurisdictional rights and legal autonomy. In this way, this dissertation revisited the capitulations and the myth of extraterritoriality by inquiring its application in daily politics and its resonance in Ottoman state discourse. An

archeology of the reports produced by the Foreign Ministry and its Office of Legal Counsel provided invaluable material, most of which still awaits to be explored.

Accordingly, this study propounded the argument that Ottoman legal studies could be read beyond the predicaments of the capitulation in many ways. I argued that the capitulations lost their power proportionally to the rise of Ottoman domestic legislative efforts. Chapter 2 showed how the Ottoman and Italian states successfully collaborated against a transnational network of kaime forgers without extradition treaties. The increasing power of Ottoman penal codes and engagement in international law became decisive to assert a determinant political stance in foreign relations. The enactment of the 1879 Procedural codes, as encapsulated in Chapter 5, further revealed the unease the European consulates felt due to these developments, which restrained the jurisdictional privileges they had enjoyed so far.

The Ottoman law in the making was an interactive process that witnessed the interplay of many actors, as this study illustrated. Ottoman diplomatic agents and legal advisors had as much impact on this process as the European influence on codification efforts. If we are to speak of a figure of the *Tanzimat* statesman, the portrayal of Ottoman officials, such as Rüstem Pasha, Aristarchi Bey, İbrahim Hakkı Pasha, Gabriel Noradunghian Efendi, who were equally competent in law, diplomacy, and various state matters, could represent them best. Their tact and diplomacy in international disputes of a legal character formed the backbone of this study, as becomes evident in their poise and arguments revealed in each chapter. In this respect, this study also showed, particularly in Chapter 4, how law as a written code emblematic of the rule of law could not be interpreted independently of the agency of such figures.

Can what we call modern be considered Western at the same time? This study's answer is no, especially regarding the evolution of legal practice in the Empire. It showed how modernization does not have to be restrictedly related to Westernization and can succeed on its own means with equal competency. As narrated so far, the Ottoman legal reforms and advancement of international law were as much the outcome of appropriation from Europe as of domestic policies. Inasmuch that the pace of legal transformation frequently attracted reactions from Europe while it steadily continued to move on its own path, despite serious setbacks faced in the meantime. The capitulations were always present, frequently as an obstacle to Ottoman legal autonomy. However, the gains and achievements in legislative efforts and diplomatic missions were a long way off from undervaluing them.

The time frame of this dissertation ends in the 1910s. It is a deliberate choice as the escalating tensions among the states on the brink of war suspended all negotiations on extradition. In July 1914, the advent of war altered the balance in diplomacy as well. The machtpolitik of WWI changed the rules of the game in foreign relations for a while; the states' sovereignty was at stake as the destructive force of war reigned over. The terms of the Treaties of Paris and Berlin were officially annulled.[837] Then how can we probe into the post-Ottoman world considering the Ottoman legacy, as regards the achievements and experiences for jurisdictional rights and the idea of sovereignty?

The concept of sovereignty is founded on the notion that the states in the past, or the nation-states in the contemporary world, stand in equality to one another, which, in turn, justifies their claims of sovereignty on the international stage.

[837] The Office of Legal Counsel prepared a lengthy report speculating on the cost and gains of these treaty relations in nineteenth-century Ottoman politics. See BOA HR. HMŞ.İŞO. 65/11.

Therefore, the set of rules that formulated international law become legitimate only if they are confided in the consent of each sovereign state.[838] Foreign policy and how it is conducted through diplomacy are the components of this international game. In the words of Robert Jackson, "sovereignty is the right to sail the metaphorical ship of state on the open oceans regulated by international law without being told where to head but only how to proceed."[839]

In the midst of ongoing turmoil, however, international law was put aside everywhere, as in the Ottoman Empire. The discipline itself had to undergo a paradigmatic shift by adopting a pragmatic line of discourse that suited the political needs of the time. The states tried to reconcile on the international arena, where solid nationalist incentives rather than international collaboration prevailed.[840] Genell argues that "war had achieved what law ultimately failed to do, namely preserve the state."[841]

Meanwhile, the CUP government sent a memorandum to the consulates declaring that they would unilaterally abrogate the capitulations and privileges that accompanied this system by October 1914. The consulates lost no time protesting against the decision and repudiating it as they were not consulted to nullify the centuries-long structure established on mutual grounds.[842] As a response, the Office of Legal Counsel crafted an official report upholding their rights to denounce such a "menace" to their system. The report sent to the Grand Vizier Said Halim Pasha laid stress on the exceptional character of the capitulations as standing in stark contrast to the notion of territorial sovereignty. They claimed that the jurisdictional clauses were

[838] Jackson, "Sovereignty – Modern: A New Approach to an Outdated Concept," 782.
[839] Jackson, *Quasi States: Sovereignty, International Relations and the Third World,* 39.
[840] Özsu, *Formalizing Displacement: International Law and Population Transfers,* 35.
[841] Genell, "The Well-Defended Domains: Eurocentric International Law and the Making of the Ottoman Office of Legal Counsel," 258.
[842] BOA HR. HMŞ.İŞO. 5/27; 72/11; 72/15; and HR.SYS. 2276/50.

restrictedly interpreted until now. The denial of the consulates to respect the Ottoman state's resolution on this occasion portrayed the empire as a power that did not hold the same rights as the others to abolish international acts on their own initiative. It was not an acceptable stance, as they underscored, considering the notable progress in the Ottoman commercial, administrative, and judicial system.[843]

Even though Germany and Austria were among the powers that rejected the abrogation of the capitulations initially, they soon renounced those concessions as wartime allies.[844] A series of treaties on amity, on the consular system, and on extradition were signed with them in 1917 and 1918.[845] In the meantime, Germany guaranteed to protect the interests of Ottoman subjects in Venezuela, whose rights formerly were under French care since 1913. Likewise, Holland took care of Ottoman interests in China and Greece, and the Swiss government did the same in Australia.[846]

Nevertheless, worse was to come. WWI ended with the defeat of the Central Powers, one of which was the Ottoman Empire. The Ottoman government was put into a vulnerable position in the aftermath of the war, with European plans to partition the Empire's territories and the gradual wane of the imperial power. Istanbul remained under Allied occupation until 1923.[847] During the occupation, the Allied powers reopened the consular courts. The ongoing pressure from the latter compelled the Ottoman government to temporarily establish a Mixed Council of

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[843] BOA HR. SYS. 2276/22.
[844] Thayer, "The Capitulations of the Ottoman Empire and the Question of their Abrogation as it Affects the United States," 228.
[845] For the treaty with Austria, See: BOA HR.SYS. 2282/4. For the treaty with Germany, See: BOA HR.HMŞ.İŞO. 155/10. For the treaty text in Ottoman Turkish, see: Appendix A.
[846] BOA HR. SYS. 77/35; 2092/10; and 2208/11.
[847] For a historical account of the Ottoman and Turkish politics covering the decade after the end of WWI see Zürcher, "The Ottoman Empire and the Armistice of Moudros," 266-275; Karčić, "Sèvres at 100: The Peace Treaty that Partitioned the Ottoman Empire," 470-479; and Criss, *Istanbul Under Allied Occupation, 1918-1923.*

Justice (*Muvakkat Muhtelit Encümen-i Adliyye*).[848] At first, this development could be seen as a bounce back from a century-long Ottoman struggle against jurisdictional constraints. However, Joseph MacArthur-Seal argued that this process was not a complete success for the occupying powers, as the new legal structure in operation was a combination of "sophisticated Ottoman legal system combining continental and Islamic law."[849]

On the other hand, similar politics played over non-Muslim Ottoman communities continued with a different phase. The political phrasing of minority rights was the legacy of the 1919 Paris Peace Conference organized to settle the disputes in the aftermath of the war. The dialogues started in complete bona fide to prevent rage and bias toward religious denominations and ethnic communities in the post-war nation-states that were carved out of the old imperial powers. However, the political agenda of the League of Nations was transmuted into a similar course to the capitulatory system soon.[850] Laura Robson shows how the new dynamics of intervention worked for the remapped Anatolia and Eastern Europe under the pretext of minority protection. She argues that this stance, especially the policies adopted by British and French states, resembled the capitulatory system in the application with the slight difference that "the capitulations had operated in a context of potential (and often actual) military action" whereas "the minority treaties could normally threaten little more than a strongly worded letter."[851]

However, Heather Sharkey, who likewise focuses on minority construction in the post-war Ottoman regions, evaluates the role of the League of Nations in that

[848] MacArthur-Seal, "Resurrecting Legal Extraterritoriality in Occupied Istanbul, 1918-1929," 777.
[849] MacArthur-Seal, "Resurrecting Legal Extraterritoriality in Occupied Istanbul, 1918-1929," 770.
[850] Robson, "Capitulations Redux: The Imperial Genealogy of the Post-World War I 'Minority' Regimes," 979-980.
[851] Robson, "Capitulations Redux: The Imperial Genealogy of the Post-World War I 'Minority' Regimes," 996.

process as exaggerated. She acknowledges that a minority regime came out of the legacy of the Ottoman millet system, albeit in a distinct form. Whereas the concept of millet designated the state relations toward the non-Muslim communities of the empire, predominantly the Christian and Jewish populations, the minority regime of the 1920s encapsulated diverse Muslim and non-Muslim groups alike, which were classified according to their numbers in the territories they settled and their political status in the eyes of the Turkish state. She asserts that the minority regime was as much the outcome of the local dynamics as it also pertained to foreign considerations.[852]

The questions of legal belonging and all the international disputes concomitant to this issue pursued a similar track only in the course of changing political trajectories of the time. Whereas similar rights of the capitulatory system were claimed over minority groups as in the case of Ottoman Armenians a few decades ago, this was only to the extent of where the states' interest in question stood. For example, Sarah Stein, who defines the European humanitarian policies as forming a "symbiosis with colonialism" in her *Extraterritorial Dreams*; reveals another side of this story. According to her account, the Ottoman Jewish population, former official subjects of the empire, had to contest to obtain citizenship rights in different parts of Europe. Unlike the European stance that fostered a caring attitude for the minorities in the post-Ottoman regions, Stein shows how the Jews had to undergo unpleasant experiences and hardship to receive a similar treatment in Europe, thus posing critical questions on the meaning of official belonging and citizenship.[853]

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[852] Sharkey, "History Rymes? Late Ottoman Millets and Post-Ottoman Minorities in the Middle East," 761-764.
[853] Stein, *Extraterritorial Dreams: Citizenship, Sephardi Jews, and the Ottoman Twentieth Century,* 95.

Therefore, if we turn back to the words of İsmet İnönü at the beginning of this Epilogue,[854] we can quickly realize that the tone of remonstration in İnönü's statement was still intrinsic to the Ottoman experience. It is highly reminiscent of the Ottoman state's constant struggles against capitulations and what they cost the empire in its sovereign rights and unequal relations. In his following statement a month later, İnönü directly aimed at the capitulatory system by underlining the problems encountered in commercial relations and the legal cases pending with the impunity of criminals because of the interference in territorial jurisdiction. He elaborated on this observation by claiming that the capitulations, "far from assuring any advantage to foreign nationals, give rise to innumerable difficulties in business and prejudice the interests of Turks and foreigners alike."[855] İnönü aimed to withstand the call of the delegates to appoint representatives to look out for the rights of minorities in Turkey. Opposing any form of foreign intervention envisioned, he supported the reciprocal exchange of minorities and civil prisoners, which prompted the population exchange between Turkey and Greece a year later.[856]

As the Lausanne experience and the interwar politics shows, the dissolution of the Empire and the emergence of a republican regime could not immediately eliminate the old problems the Turkish Republic had to address concerning territorial sovereignty and jurisdictional autonomy. Notwithstanding, the newly founded Turkish Republic was determined to take a militaristic and diplomatic stance against foreign encroachments on post-Ottoman territories. The legal scholars of the Turkish

[854] This conference was organized to outplace and reformulate the heavy sanctions imposed on Turkey by the Treaty of Sevres in 1920, which the Grand National Assembly of Turkey renounced. On the Lausanne Conference and its outcomes; see Demirci, *Strategies and Struggles -British Rhetoric and Turkish Response: The Lausanne Conference 1922-1923*; and Özsu, *Formalizing Displacement: International Law and Population Transfers.*
[855] *Lausanne Conference on Near Eastern Affairs 1922-1923,* 474-475.
[856] *Lausanne Conference on Near Eastern Affairs 1922-1923*, 204.

Republic soon started working on the adaptation of international law to their new politics. As Cemil Bilsel stressed, a *raison d'être* could no longer be maintained by resorting to tact and skills in traditional state diplomacy. After all the turmoil of the last decade, as he stated, international law should and would lead the direction of political affairs and international relations more than ever in the future.[857]

This study illustrates well that the roots of what Bilsel termed a novelty in employing international law in state affairs were already well rooted in the previous century. Even though the Turkish government consented to accept foreign legal advisors to oversee the legal conflicts that arose due to the arrest and detention of foreign nationals,[858] İsmet İnönü's accomplishment as a representative of the Turkish Republic undoubtedly carried the legacy of Ottoman diplomacy, based on similar experiences as Ottoman agents. The phase involving the Ottoman dissolution and the rise of a new nation state cannot be treated as a rupture but rather as a continuity that faced common problems in different forms. The Ottoman contest for sovereignty and legal autonomy could not be erased in one blow; instead, it could be understood much better if considered in light of political circumstances and other contingencies that emerged on the world stage. To this end, a close reading over the legal process in their political framework vis-à-vis the textual analysis of written codes become a prerequisite to shed light on the legal history of the post-Ottoman era and the first years of the Turkish Republic.

[857] "Eski devlet adamlarının hep tekrarladıkları ve her işi onunla haklı göstermek istedikleri devlet maslahatı veya menfaati, devlet selameti bugün artık mutlak hâkim değildir. Beynelmilel münasebetlerin düzenlenmesinde hukuk payını istemektedir. İhtirasları haklı göstermek için evvelce ileri sürülen devlet maslahatı değil, artık hakiki hukuk, beynelmilel işleri düzeltmektedir ve daha çok düzenleyecektir. Bu dünya tarihinde ilk görülen bir şeydir." Bilsel, *Hukuk-u Düvel,* II, 49.
[858] Gordon, "Turkish-American Treaty Relations," 715.

When the French liner *Lotus* collided with the Turkish vessel *Bozkurt* just north of Mytilene, the Greek island of Lesbos, in August 1926, eight Turkish subjects on board of the *Bozkurt* died as the ship sank deep into the water. When the case was brought to the Permanent Court of International Justice, long-lasting sessions took place as to who should claim jurisdiction on such a case that occurred in the open seas. To make a long story short, this case was resolved to the advantage of the Turkish government as the casualties were on its side and the legal loopholes complicating such cases that concerned jurisdictional rights at sea overlooked the French protests against the Turkish trial of their national, Mr. Demons, the captain of the *Lotus*. Demons, who was captured immediately after the incident along with the Turkish crew, was not extradited to France and underwent a judicial process in Turkish courts. Entering the terminology as "the Lotus Principle" as part of Public International Law, this approach stated that "sovereign states may act in any way they wish so long as they do not contravene an explicit prohibition."[859]

Time shows that justice sometimes follows its own course. However, we could not underestimate the fact that you ultimately reap the harvest if there is a real contest and struggle. This dissertation shows that Ottoman legal history could be interpreted in different venues. There are still many gray areas that await their researchers. I hope this study opens a new lens and perspective into future studies on the Ottoman legal arena.

[859] "The Lotus Principle," https://www.spacelegalissues.com/the-lotus-principle/ ; and Blakesley, "A Conceptual Framework for Extradition and Jurisdiction over Extraterritorial Crimes," 698-699.

APPENDIX A

OTTOMAN-GERMAN EXTRADITION TREATY

(BOA HR. HMŞ. İŞO. 155-10)

Iade-i Mücrimin Maddenamesinin Suret-i Tetkiki Hakkında Talimât
İade-i Mücrimin Muahadenamesinin Muhtac-ı Izah Görülen Bazı Mevadının Suret-i Tetkiki Hakkında Talimat

Osmanlı Padişahlığı ile Almanya Devleti yedinde 11 Kanun-ı Sani 1333/1917 tarihinde akd olunan ve 10 Temmuz 1334/1918 tarihinde iktisab-ı meriyyet edecek olan iade-i mücrimin muahedenamesinin muhtac-ı izah görülen bazı mevadının memurin-i adliye-yi Osmaniyece suret-i tetkiki ber-vech-i zîr beyan olunur:

Ahkâm-ı Umumiyye

Madde 1- İade-i mücrimin, muahedenin ikinci maddesinde taadad olunan ifâl içün vaki olabilir. Bu taadad tahdidi olmağla haricinde kalan ifâlden dolayı iade-i mücrimin talebi tervic olunmaz. Fakat yirmi sekizinci maddede beyan kılındığı üzere sair ifâl içün de iade-i mücrimin cihedine gidilmesi hususunda hükümetîn ileride akd-i itilâf edebilir.

Madde 2- İade-i mücrimin cihetinde kaide-i esasiye, iadeye sebeb olacak faalin her iki devlet kavaninine nazaren müstelzem mücazat bulunmasıdır. Yalnız bir tarafın kanunlarınca muceb ceza olan faalden dolayı iade-i mücrimin muamelesi cereyan etmez. İşbu kaide-i muahedenamenin sekizinci maddesinin birinci fıkrasının birinci sayısında ve izah-ı protokolün ânı mufasser (müfesser) olan dördüncü numerosunda sarahaten tesbit edilmişdir.

Gerçi ikinci maddeye kavanin-i osmaniyece henüz müstelzem icazat ad olunmayan bazı ifâl derc ve idhal olunmuş ise de – maddenin ikinci numerosunda münderic faal gibi- bu hâl-i muahedenin hîn-i akdinde hükümet-i seniyyece osmanlı ceza kanunnamesinin nevakıs hasırasıyle mukid bulunması muvafık görülmemesinden inbâs etmiş ve binaenaleyh ifâl-i mezkureden dolayı iade-i mücrimin muamelesinin cereyanı bil-tab' kanun-ı cezanın ikmâl-i nevakısına muallak bulunmuşdur.

Madde 3- Mar-ül-zikr kaide-i esasiyenin, muahedenameye nazaran müstesniyâtı:

1- Taadad-ı zevcât (izah-ı protokol, ilave 1. fıkra-i ahire) kavanin-i Osmaniyece asla müstelzem mücazât olmayan taadad zevcâtından dolayı iade-i mücrimin talebinin tervici, ancak ikinci kadınla akd-ı nikahın Almanya'da veya taadad-ı zevcatı men eden diğer bir memleketde vukuuna vasıtadır. Şu kadar var ki devlet-i Osmaniye ile Alman müstemlekâtı arasındaki münasâbatda ikinci defa izdivâc eden bir müslümanın iadesi mümkün olamayacağı ol babdaki muahedenamenin izahı protokolün "mülahaza-ı mahsusasında" tasrih kılınmışdır.
2- Irz ve ahlâka mütaallik cerâimde anife maddesi münhasıran taleb eden tarafın kavanin ve nizamatına tabiidir. Binaenaleyh bir senede bulunan şahsa bilâ cebr ve tahdid-i icrâ olmasa bile iade-i mücrimin talebi red olunmaz.

Madde 4- İkinci maddeye istinaden iade-i mücrimin talebine esas ittihaz edilen faal, diğer taraf-ı kavaninde mahiyet itibariyle müstelzem ceza olmakla beraber başka bir nam altında olduğu takdirde iade talebi red olunamaz. Mesela emniyeti suistimal diye tasvir edilen faal-i matlub-ı men-i kavanine göre ihtilas ise.

Madde 5- İadesi taleb olunabilecek eşhas şunlardır:

1- Memalik-i Osmaniyede ikinci maddede münderic ceraimden birini irtikab edüb de Almanya veya müstemlekâtında bulunduğu anlaşılan tebaa-yı Osmaniye ile Almanya veya müstemlekatı tebaasının gayr-i tebaayı ecnebiyesi.
2- Memalik-i Osmaniye haricinde devletin emniyetini ihlal veya itibar-ı maliyesini sektedar edecek ceraimi ikâ' eyleyen tebaa-ı Osmaniye ve ecnebiyye (Usul-u Muhakemat-ı Cezaiye madde- 5 ve 6)
3- Bunların hem faal veya feraen zeyl-i medhal sıfatıyla şerikleri.

Madde 6- Atıyül-zikr eşhas iade olunamaz:

Elif- Tebaa-i Osmaniye
Be- Cerâim-i siyasiye mürtekebleri (muahede: madde 3, fıkra 1)

Madde 7- Muahedenamenin sekizince maddesiyle dokuzuncu maddesinin birinci ve ikinci fıkratında protokolün ol babdaki fıkrat-ı izahiyesinde münderic ahvalde iade-i mücrimin talebi red olunabilir.

Muahedenamenin onuncu maddesiyle on ikinci maddesinin birinci fıkrasında gösterilen ahvalde iade-i mücrimin talebinin tervici tehir edilebilir.

Madde 8- Memalik-i Osmaniyede bulunan bir şahs-ı ecnebiyenin iadesine müteallik varid olacak talebnameler üzerine iadeye muvafakat kararı nazarınca ita ve led'el-arz irade-i seniye hazret-i Padişahi şeref sadır olduğu takdirde şahs-ı mezbur teslim ve iade olunur.

Fasl-ı Evvel

Hükümet-i Osmaniye Tarafından Vuku' Bulucak İade Taleblerine Müteallik Muamelat

Madde 9- Devair ve Mehakeme-i Osmaniyece takib ve mahkemesi icab eden bir şahsın Almanya veya müstemlekatı arazisinde bulunduğu istihbar kılındık da eğer cürm memalik-i Osmaniye dahilinde vuku bulmuşsa o mahal veya ikametgah ahir Bidayet Müddei-i Umumiyesi ve Usul-ı Muhakemat-ı Cezaiye Kanunu'nun beşinci maddesinde mevzu' bahs olan ceraim içünde faal cürmün evvelce mukim olduğu veya ikametgah-ı ahirinin bulunduğu mahal-i bidayet müddei-i umumiyesi ve eğer Memalik-i Osmaniyede ikametgahı yoksa Dersaadet Bidayet Müddei-i Umumiyesi tarafından iade-i mücrimin mütaalatına tevessül olunur.

Cürmün vukuuna mutla' olanlar fıkra-i atide taadad olunan müddei-i umumileri Usul-ü Muhakemat-ı Cezaiye Kanununun yirmi altıncı maddesine tevfiken cebirdar iderler.

Madde 10- Bir şahsın iadesine ibtidar olunabilmek içün makam-ı iadından verilmiş bir tevkif veya ahz-ı mezkuresinin veyahud bir hükm-i ilamının vücudı elzemdir.

Madde 11- Takibat ve tahkikat hayli ilerleyerek nev'i cürm-i tayin ve delâil-i kafiye tahassül eylemiş bulunduğu veya bir hükm-i lâhak olduğu ve meselede mahiyet-i müstecele görülmediği takdirde iadesine lüzum görülen şahsın istirdadına tevessül olunmak üzere madde-i atide zikr ve taadad olunan evrak müddei-i umumilerce ahzar ve İstinaf Müddei-i Umumiyeliği vesatetiyle nazareten tesyar olunur.

Madde 12- Muahedenamenin beşinci maddesine göre vücud-ı muktezi evrak şunlardır:

Evvela- Şahs-ı matlubun tayin hüviyetine ve derdest olunmasını teshir ve tasri'e madar olucak malumat ve izahatı havi yani ismini ve pederinin ismini, şöhret, zanaat, mahal veladeti ve her halde memleket-i ecnebiyedeki mahal ikametini (mahal ikameti mutazammın idaresinin aynı zamanda latin harufatıyla yazılması meşruttur) ve eşgal-ı mahsusasını mabeyn-i varaka mevcud ise fotoğrafiyesi.

Saniyen- İade talebi tevkif müzekkeresine müstenid ise müzekkerenin aslı ve mahkûma ilamına mübteni ise ilamın suret-i musaddıkası

Salisen- İsnad olunan faal ile ahval ve keyfiyatı evrak-ı müzekkere mündericatından anlaşılmadığı takdirde izahat ve tafsilat-ı lazımeyi havi bir varaka

Rabien- Kanun-ı cezanın tatbiki icab eden maddesinin aslına mutabakatı musaddık bir sureti. Balada zikr olunan varakadan tevkif müzekkereleri- alelade yapıldığı üzere- matbu' varakaların imlası suretiyle tanzim edilmeyerek ayrıca bir varakaya bizzat müstantikin hatt-ı destiyle ve tahrir-i zirine mühr-ü resmi ile temhir ve imza etmesi lazım gelir. Diğer evrakın zîrini müddei-i umumi mühr resmi ile temhir ve imza eyler.

Madde 13- Aynı faalden dolayı müteadad eşhasın iadesi matlub olduğu takdirde hüviyete müteallik varaka ile tevfik müzekkeresi aded-i eşhasa göre tadaad eder.

Kezalik ifal-i muhtelifeden dolayı iadesi taleb olunan şahıs içün her bir faal hakkındaki evrak ve vesaikin rabtı iktiza eder.

Madde 14- Müddei-i umumi evrak-ı müzekkireyi devai-yi evrakının leffiyle ve muamele-yi mukteziyenin icrası talebiyle merbut olduğu istinaf müddei-i umumiyesine irsal eyler. İstinaf-ı mudde-i umumiyesi evrak-ı mevcude-i vürudundan itibaren nihayet üç gün zarfında tedkik eder ve muahedename ile iş bu talimat ahkamına nazaran navakıs var ise ikmal etdirdikden sonra iadenin derece-i makbuliyeti hakkındaki mütalaa müdahelesiyle birlikte nezarete gönderir.

Madde 15- Almanya veya müstemlekatında bulunduğu haber olunan şahıs hakkında takibat ve tahkikata henüz başlamış ve aleyhinde hiç olmazsa muvakkat bir tevkif müzekkeresi isdar edilmiş veya bir ilam mevcud bulunmuş olduğu ve mevad-ı sabıkada tafsil olunduğu vechle iade-i mücrimin talebnamesinin itasıyla neticesine intizar dâi'yi muhazir olacak derce-i meselede müsteciliyet bulunduğu takdirde muahedenamenin yedinci maddesi mucebince iade muamelatına tevsilden mukaddem şahs-ı mezburun ol- emrde muvakkaten tevkifi taleb olunabilir.

(Muahedename madde 7 fıkra 1) işbu talep diploması tarikiyle dermeyan edileceğinden müddei-i umumi tevkif olunacak şahsın mevzuhen hüviyetini, bulunduğu veya bulunabileceği mahali, kendisine istinad olunan olunan fiil ile ahval ve keyfiyatı hakkında isdar edilmiş tevkif-i mezkuresi veya hükm-i ilamı mevcud bulunduğunu ve bilahere ve iade muamelatına tevessül edilmek üzere evvel emirde tevkif ettirilmesi talebini muhtevi olmak üzere nezarete mufassal bir telgrafname ile müracaat eyler.

Fevkalade müstecel olan ahvalda – ki tatbikatda pek nadir olacakdır- işbu tevkif-i muvakkat talebi nezaretin tavassutuyla diplomasi tarikine tevessül edilmeksizin, Almanya veya müstemlekatında ifa-yı vezaife edilen ve takib olunan şahsın ikametgahı veya cürmün mahal-i ikası itibariyle salahiyatdar olan hükümet-i seniyye şehbenderine müddei-i umuminin fıkra-i anifede beyan olunan tafsilatı havi bir telgrafname keşide etmesi suretiyle dahi vaki olabilir. Bu takdirde müddei-i umuminin keyfiyeti derhal istinaf-ı müddei-i umumiyeliği ile nezarete telgrafla ihbar etmesi muktezidir. (Almanyadaki Osmanlı şehbenderliğinin daire-i memuriyetleri ileride sildirilecekdir).

Madde 16- Tevkif-i muvakkat talebinin gerek diplomasi tarikiyle ve gerek doğrudan doğruya vukuu üzerine cihet-i adliyece meznun olan şahsa ve kendisine isnad olunan fiile aid muamelat-ı tahkike asla tehir edilmeyerek delail ve emaratın cem' ve telfikine bir kat daha ihtimam olunur.

Madde 17- Müddei-i umumi muvakkaten tevkifi talebiyle müracaat eylediği tarihinden itibaren nihayet 15 gün zarfında işbu talimatnamenin on ikinci maddesinde tadaad olunan evrak vesaik-i tehiyye ve ahzar ve muamele-i tevkifin icraasından haberdar edilmesi akabinde bila-emhal evrak-ı devai ile beraber İstinaf i-i umumiliğine tesyar ve istinaf müddei-i umumiyesi dahi on dördüncü maddede beyan olunduğu vechle mütalaasıyla birlikde nihayet üç gün zarfında nezarete irsal eyler.

Muahedenamenin yedinci maddesinin son fıkrasında tasrih kılındığı vechle tevkif tarihinden itibaren nihayet iki ay zarfında iade talebnamesi Almanya hükümetine iade edilmediği takdirde şahs-ı mevkuf tahliye edileceğinden fıkra-i anifede beyan olunan muamelatın tehiri asla tecavüz olunamaz.

Madde 18- Hakkında ahz-u girift mezkuresi mevcud bulunan bir şahsın Almanya veya müstemlekatında olduğu malum ve fakat oradaki mahal ikameti mechul bulunduğu takdirde derdestiyle muvakkaten tevkifi cihetine gidilebilmek üzere mezkûr ahz-u girift emrinin ve – muahedenamenin beşinci maddesi üçüncü fıkrasında bir protokolde beyan kılındığı vechle – musaddık Fransızca tercümesinin ratbıyla Almanya ceride-i resmiyesinde derc-i bitttalebname istenilebilir. (Talebnamenin Almanca lisanıyla muharrer olması muktezi bulunduğundan bu babda ileride kâfi mikdarda ve yeknesak bir şekilde evrak-ı matbua gönderilecekdir.)

Bu suretle aranılan şahsın tevkif edildiği ilan olunduğu günden itibaren nihayet iki ay zarfında iade talebnamesinin âdem-i itası halinde mevkufun tahliyesi icab edeceğinden buna meydan verilmemek üzere ihbar-ı mezkûr tarihinden itibaren madde-i sabıkada beyan olunan müddet zarfında evrak-ı lazıme ahzar ve nezarete tesyar kılınır.

Kezalik mahal-i ikameti mechul olmakla beraber Almanya veya müstemlekatında bulunduğu anlaşılan bir şahıs hakkında lazım-ül-tenfiz bir hükm-ü kati mevcud olduğu takdirde derdesti temin edilebilmek üzere ol babda tanzim kılınacak mezkurenin Almanya ceride-i resmiyesine derci ve muvakkaten tevkifi üzerine iade muamelesi fıkrat-ı anefe ahkamı dairesinde cereyan eyler.

Memalik-i Osmaniyeye İade Edilmiş Olan Şahsın Suret-i Takib ve Muhakemesi

Madde 19- Memalik-i Osmaniyeye iadesine muavafakat edilen ve hududun muayyen noktasında memurin-i zabıta-yı Osmaniye tarafından tesellüm olunan şahıs- eğer birlikde verilmiş ise- iş bu cürmiyye ile beraber iade talebinde bulunmuş olan müddei-i umumiye tesellüm olunur.

Madde 20- Müddei-i umumi evvel emirde şahs-ı mezburun hüviyetini tahkik yani iadesi taleb olunan şahıs olub olmadığını tayin eyler. Bu babda- nezaretce kendisine iade edilmiş olan- evrak-ı deavi ile iade eden devlet memurini tarafından hîn-i teslimde ita edilen evrakdan ve iadeye muvafakatı ve şerait ve teferruatını mübeyyen nezaretten vuku bulacak tebligattan istina eyler.

Hüviyetin ancak bu suretle tayin etmesi üzerine muamelat-ı lazıme-i kanuniyeye devam olunabilir.

Madde 21- İade olunan şahıs mesela istinad olunan fiilin kavanin-i Osmaniyeye göre müruru zamana uğramış bulunduğu, tevkifi mezkuresinin usülüne muvafık olmadığı yolunda kavanin-i Osmaniyeye müsteniden itirazat-ı dermeyan eylediği takdirde eğer şahs-ı mezbur hakkında henüz bir hükm-i lahık olmamış ise itirazat vaka-ı daire veya muhakeme-i aidesince halledilir. Ve eğer şahs-ı mezbur mukaddemen hakkında verilmiş olan bir hükmün tenfizi zımmında iade olunmuş ise müddei-i umumi itirazat-ı mezkurey-i salahiyeti ve usul-u mevzuu dairesinde bir tedkik neticeye rabt eyler.

Madde 22- Devair ve muhakeme-i adliyyede muahedename tefsirinden memnudur. Bu gibi ahvalde nezaretden istilam-ı keyfiyet edilmek lazımdır.

Madde 23- Bir şahsın hîn-i iadesinde iade eden devletce mevzuu-ı kuyud ve şuruta riayet-i kavaid-i esasiyeden olmağla bu babda nezaretce vuku bulacak tebligata tevfik-i harekât olunmak muktezidir.

Madde 24- İade olunan şahıs hakkında cereyan eden tahkikat ve muhakemat esnasında iadeye sebeb olan fiilin mahiyet-i hukukiyesi tebeddül etdiği ve mesela sirkatden dolayı iade edilen şahsın sirkatı ifa içün bir cürm fiilini de irtikab etmesi gibi aynı fiile mürettebat olarak başka bir fiil daha işlediği veyahud sırkat-i adiyyeden dolayı iade olunan şahsın fiil-i sirkat-i mevsufa şeklinde görülmek gibi fiilin mahiyeti müşedidesi tezahür eylediği takdirde muahedenamenin on altıncı maddesinin fıkra-i saniye ve salisesine tevfik-i muamele olunmakla beraber keyfiyet bila-tehir evrak ve vesaik-i lazıme ile birlikde nezarete işar ve vürud edecek talimata intizaren tahkikat veya muhakemat-ı tehir olunur. Şimdiye kadarki sebeb-i iade olan fiilin mahiyetini tagyir eden keyfiyetin tefriki mümkün olduğu takdirde nezaretden cevab vüruduna değin, delailin ziyadan vekayesi zımmında ve yalnız iadeye sebeb

olan fiiile münhasır olmak üzere tahkikat veya muhakemat devam olunarak karar derecesine getirilir.

Madde 25- Fiilin derecatı veya vasfen tenezzülünü veya esbab-ı mahfufeye iktirarını muceb ahvaldan dolayı iadenin makbulatına halel gelmez.
Madde 26- İade edilen şahıs ancak sebeb-i iade olan fiilden dolayı takib veya düçar-ı ceza edilebilir. Şayed şahs-ı mezbur iadeden evvel ve iadeye sebeb olan fiilin gayri bir veya birkaç filli dahi mürettekeb olduğu anlaşılır ve takibine lüzum görülür ise muahedenamenin on altıncı maddesi ahkamına tevkifi muamele olunmak lüzum gelir. Ma haza madde-i mezkurede münderic muamelatın icra ve ikmaline intizaren şahs-ı mezburun ifal-i mezkure hakkında ta'van ita edeceği izahat istima' olunmak üzere daire veya mahkemeye celbi caiz olduğu gibi cebr-i tazammın etmeyecek muamelat-ı tahkikiyeye dahi tevessül edilebilir.

Fasl-ı Sani

Almanya Tarafından Vuku Bulacak İade Taleblerine Müteallik Muamelat

Madde 27- Memalik-i Osmaniyede bulunan bir şahsın iadesine müteallik talebname ve hille-i evlada gayr-i kabul görüldüğü takdirde nezaret-i İstinaf müddei-i umumiliği vasıtasıyla ol şahsın bulunduğu ve bulunabileceği mahal-i müddei-i umumiyesine keyfiyeti ve muamelat-ı lazımeye tevessül olunması lüzumunu bildirir.

Müddei-i umumi taleb olunan şahsın derdestini temin zımmınında derhal zabıtaya bir derdest müzekkeresi verir. Müzekkereye şahs-ı mezburun hüviyeti, esbab-ı derdesti ve nezaretin ol babdaki emrinin tarihi ve numerosu derc olunur. Bazı hususat hakkında nezaretten istizana lüzum görülmesi derdest müzekkeresinin ita ve infasına katiyyen mâni olamaz.

Madde 28- Muahedenamenin yedinci maddesinin birinci fıkrasına tevfiken iade talebnamesinin itasından mukaddem iade olunacak şahsın olm emrde muvakkaten tevkifi diplomasi tarikiyle taleb edilmiş ise keyfiyet nezaretce bittelgraf müddei-i umumiye tebliğ olunduğu veyahud madde-i mezkurenin birinci fıkrasının son cümlesine tevfiken tevkif-i muvakkat talebnamesi Almanyanın mahalen salahiyetdar olan şehbenderi tarafından doğrudan doğruya ita kılınmış ise iade olunacak şahsın teba-ı Osmaniyeden olması gibi ve hille-i evlada mani iade bir hal bulunmadığı ve kezalik madde-i mezkurenin ikinci fıkrası mucebince ceride-i resmiyeye derc ve ilan olunan tahrirat talebnamesinde mevzu bahs olan şahs-ı zahire ihrac edildiği takdirde müddei-i umumi bila-ifaten zaman nezdinde bulunan müstantike bittalebname müracaatla vuku bulan talebe ve ahkam-ı muahedeye müsteniden ve reisin tasdikine hacet kalmaksızın şahs-ı mezbur hakkında gayr-ı muvakkat bir tevkif müzekkeresi istihsal ederek infaz eyler. Ve cereyan hali derhal telgrafla nezarete işar ile beraber istinaf müddei-i umumiyesine bildirir. Tevkif eğer şehbenderin talebine mübteni ise ona ve eğer ceride-i resmiyedeki ilana müstenid ise onu taleb eden daireye dahi bil-tehir malumat verir.

Madde 29- İadesi veya muvakkaten tevkifi taleb olunan şahsın zahire ihracıyla derdest ve tevkifini temin zımmında müddei-i umumi kavanin-i Osmaniye ile ahkam-ı muahedenamenin bahs eylediği salahiyet-i dairesinde taharriyat icrasına ve

şahs-ı mezbura aid posta ve telgraf irsalatının müstantikden bu babda bir karar-ı mahsus istihsal edildikden sonra tedkik ve zabtına tevessül eder.

Kezalik şahs-ı mezburun nezdinde zuhur eden ve cürme taallük eyleyen eşya dahi-hakk-ı gayri mâni olmadıkca – usulüne tevfiken zabt ve olbabda bir müfredat defteri tanzim olunur.

Madde 30- Müddei-i umumi işbu talimatnamenin 27.ci maddesine tevfiken hakkında derdest müzekkeresi verilen veyahud 28. Maddesi mucebince ol emrde muvakkaten tevkifi taleb edilmiş olan şahsın derhal hüviyeti tahkik ve aranılan şahıs olduğu tayin ile ol babda bir zabt varakası tanzim etdikden sonra evrak ve eşya-ı mevcude ile beraber şahs-ı mezburu bil-tehir ve doğrudan doğruya İstinaf-ı müddei-i umumiyesi nezdine sevk eyler.

APPENDIX B

THE 1874 OTTOMAN-US EXTRADITION TREATY

(BOA İ. HR. 264-15815)

Saltanat-ı Seniyye ile Hükûmât-ı Müctemia-yı Amerika beyninde iade-i mücrimîn hakkında akdolunacak mukâvelenâmenin sureti tercümesidir.

Zât-ı şevket-simât-ı hazret-i Padişahî ile Amerika Hükûmât-ı Müctemi‘ası kalem-rev-i hükûmetleri olan memâlikde kavânîn-i adliyeleri ahkâmının bir kat daha hüsn-i cereyânını te’min ve cerâim ve cinayâtın vuku‘unu men‘ etmek maksadıyla âtîde beyân ve ta‘dâd olunan cinayâtdan biriyle müttehem veya mahkum olup pençe-i kanundan tahlîs-i girîbân edecek olan eşhâsın bazı ahvâl-i muayyenede mukabeleten iade ve teslimini bi't-tensîb bu bâbda bir mukâvelenâme akdine karar vererek taraf-ı eşref-i hazret-i Padişahî'den Hariciye Nâzırı Arifî Paşa ve Amerika Cumhuriyeti Reisi tarafından dahi nezd-i Saltanat-ı Seniyye'de hükûmât-ı müşârunileyhimin sefiri bulunan George Boker murahhas tayin olunmuş olduklarından müşârunileyhimâ yolunda ve muntazam bulunan ruhsatnâmelerini yekdiğere irâe eyledikden sonra mevâdd-ı âtiyeyi tanzim ve imza etmişlerdir. Şöyle ki:

Birinci Madde: Tarafeyn-i muâhideynden birinin memâlikinde ikinci maddede tayin olunan cinayâtdan biriyle müttehem veya mahkum olan eşhâs diğerinin memâlikinde bulunacak veyahud oraya iltica edecek olur ise firarî veya müttehem olan şahsın bulunacakları memleketin kavânîni mûcebince vuku‘-ı cinayeti müeyyid olan delâil cinayetin orada vuku bulmuşcasına o firarî veya şahsın tevkif ve muhakeme-i cezaiyesini icab etdirecek suretde olmadıkça o makûleler redd ü teslim olunmayacaklardır.

İkinci Madde: Teslimi iktizâ eden eşhâs işbu mukâvelenâme ile muayyen şerâite tevfîkan zîrde muharrer cinayâtın biriyle mahkûm veya müttehem olanlardır.

Birincisi: Ebeveyni veya çocuğunu veyahud bir adamı katl ve tesmîm gibi taammüden vuku bulacak bir katl cinayeti

İkincisi: Katl-i nefse kasdetmeklik

Üçüncüsü: Kız kaçırmak ve kundakçılık ve korsanlık etmek veyahud derûn-ı sefînede bulunan tayfanın cümlesi veya bir kısmı bir hile veya kaptanı aleyhinde muamele-i cebriye ile sefîneyi zabteylemek

Dördüncüsü: Leylen hırsızlık, yani irtikâb-ı cinayât maksadıyla derûnunda adam bulunan hâneye leylen bir yeri kırıp girmek ve sirkat yani zor ve cebr ve ihâfe ile âhardan eşya veya akçe almak

Beşincisi: Sahtekârlık yani sahte olan evrak ve senedâtı neşretmek ve bir hükümdar veya bir hükûmete ve halka müte‘allik evrak ve senedât-ı resmiyeyi taklîd eylemek

Altıncısı: Gerek meskûkât ve gerek kâğıd olsun akçe veyahud eshâm-ı hükûmet ile bank kâimesi ve sair tahvilâtı ve ale'l-umum akçeye müte‘allik olan her nev‘ evrakı

neşr ve imal eylemek ve devlet ve devâir-i umumiyesinin mühür ve sikke ve damga ve alâmetlerini taklîd ve neşr eylemek

Yedincisi: Tarafeyn memâlikinden birinde memurîn tarafından emvâl-i mîriye sirkat olunmak

Sekizincisi: Ücret ile istihdam olunan şahıs veya eşhâs tarafından kendilerini istihdam edenlerin zararına olarak irtikâb olunan ve cinayete mahsus cezaları icab eden sirkat

Üçüncü Madde: İşbu mukâvelenâme ahkâmının politika töhmetlerine şümûlü olmayıp madde-i sâbıkada ta‘dâd olunan cinayâtdan birinin irtikâbından dolayı iade ve teslim olunacak eşhâsın o cinayâtdan evvelce irtikâb etmiş olduğu diğer bir adi cinayet için hiçbir vechile muhakemesi caiz olmayacakdır.

Dördüncü Madde: İşbu mukâvelenâme ahkâmına tevfîkan teslimi taleb olunan şahsın iltica eylediği memâlikde bir cünhadan dolayı tevkif olunacak veyahud mahkûm olacak olur ise tebriye-i zimmet veyahud mahkûm olduğu mahbusiyet müddetini ikmâl edinceye kadar teslimi te’hir olunacakdır.

Beşinci Madde: Pençe-i kanundan tahlîs-i girîbân edecek olan eşhâsın teslimi için vâki olacak taleb tarafeyn-i muâhideyn sefâretleri ma‘rifetiyle ve sefâret bulunmadığı hâlde konsülatoları vasıtasıyla icra olunacakdır. İade ve teslimi taleb olunan şahıs hakkında bir cinayetden dolayı hüküm lâhık olmuş ise o hükmü i‘tâ eden mahkemenin mührüyle memhûr ve musaddak ilâm suretiyle hâkimin sıfat-ı resmiyesinin aid olduğu icra memurları tarafından ve onun dahi Devlet-i Aliyye veya Amerika Hükûmât-ı Müctemi‘ası sefir veya konsolosları tarafından tasdikini hâvî iktizâ eden varakanın ve fakat firarî-i merkûm mahkum olmayıp da yalnız müttehem ise cinayetin vuku bulduğu memleketde kendisinin ahz ve tevkifini mutazammın olan ihzârnâmenin veyahud bunun müstenid olduğu şehâdet ve ifadâtı hâvî bulunan varaka suretinin dahi eşhâs-ı merkûmenin mutâlebesi sırasında irsâli lâzım gelir. Saltanat-ı Seniyye icra memurları veyahud Amerika Hükûmât-ı Müctemi‘ası Reisi tarafından firarînin li-ecli'l-muhakeme iktizâ eden mahkemeye getirilmesi için ahz ü giriftine dair olan ihzârnâme tastîr olundukdan sonra işbu mukâvelenâme mûcebince kavânîn ve delâil-i vâkı‘aya göre iade ve teslimine karar verilir ise ahvâl-i mümâsilede muayyen olan şerâite tevfîkan teslimi icra olunacakdır.

Altıncı Madde: İade ve teslimi taleb olunan eşhâsın ahz ve tevkif ve nakli masârıfı, taleb eden hükûmet tarafından tesviye olunacakdır.

Yedinci Madde: Tarafeyn-i muâhideynden hiçbiri kendi tebaa ve ahalisinden bulunan eşhâsı bu mukâvelenâme şerâiti tahtında olarak teslime mecbur olmayacakdır.

Sekizinci Madde: İşbu mukâvelenâme tasdik ve teâtisi tarihinden itibaren beş sene müddet mer ‘iyyü'l-icra olacak ve fakat bunun feshine dair hükûmeteynin hiçbiri tarafından altı ay evvel bir gûne tebligât vâki olmayacak olur ise beş sene daha ve'l-hâsıl her defasında tebligât icra olunmadıkça beşer sene daha mer ‘î tutulacakdır.

İşbu mukâvelenâme tasdik olunacak ve tasdiknâmeleri bir sene zarfında ve mümkün ise daha evvel Dersaâdet'de teâti ve mübâdele kılınacakdır.

Binâberîn işbu mukâvelenâme Dersaâdet'de iki nüsha olarak tanzim ve tarafeyn murahhasları tarafından imza ve temhîr kılınmışdır.

APPENDIX C

THE 1869 OTTOMAN NATIONALITY LAW

(BOA Y.EE 41/133)

Madde 1- Vâlideyni veyahut yalnız vâlidi tabiiyet-i Devlet-i Aliyye'de bulunduğu hâlde tevellüt eden eşhâs Devlet-i Aliyye tebaasından maduttur.

Madde 2- Vâlideyni ecnebî olduğu hâlde Memâlik-i Şahanede mütevellit olan şahıs sin-i rüşde vusûlü tarihinden bade ile üç sene zarfında tâbiiyyeti Devlet-i Aliyye'yi bi-hakk talep edebilir.

Madde 3- Sin-i rüşde vâsıl olan bir ecnebî Memâlik-i Osmaniyyede beş sene ikamet eylediği hâlde bizzat veya bil vâsıta hariciye nezaret-i celilesine bir istida takdimiyle tâbiiyeti Devlet-i Aliyye'yi istihsâl edebilir.

Madde 4- Saltanat-ı seniyye bend-i sâbıkda muharrer şerâiti i'fâ etmiş olan ecnebîleri dahi müsaade-i istisnaiyeye şayeste gördüğü surette fevkalâde olarak tâbiiyetine kabul eder.

Madde 5- Tebaa-i saltanat-ı seniyyeden me'zûnen tâbiiyet-i ecnebiyyeye giren eşhâs tebdil-i tâbiiyet ettikleri tarihten itibaren ecnebî sıfatında tutulup haklarında ol vecihle muamele olunur fakat Devlet-i Aliyye'den me'zûn olmaksızın tâbiiyet-i ecnebiyyeye girer ise işbu tâbiiyet-i cedidesi keen lem yekûn ve kendisi kemâkân tâbiiyet-i Devlet-i Aliyye'den addolunup kâffe-i hususâtta tebaa-i Devlet-i Aliyye hakkında olunan muamelenin aynı icra kılınacaktır. Her hâlde tebaa-i Devlet-i Aliyye'den bir şahsın terk-i tabiiyyet etmesi mutlaka irade-i seniyye üzerine verilecek bir senede muallak olacaktır.

Madde 6- Saltanat-ı seniyye tarafında me'zûn olmaksızın diyâr-ı ecnebiyyede tebdil-i tâbiiyet eden veyahut bir ecnebî devletin hizmet-i askeriyyesine giren şahsı Devlet-i Aliyye ister ise tâbiiyetinden ıskat edebilir ve bu makûle tâbiiyeti ıskat olunan eşhâsın Memâlik-i Şâhaneye avdeti memnu olur.

Madde 7- Tebaa-i Devlet-i Aliyye'den iken ecnebi ile tezevvüc eden kadın zevcinin vefatı tarihinden itibaren üç sene zarfında istida ederse tâbiiyet-i asliyyesine ricat edebilir bu maddenin hükmü şahsa şâmildir tasarruf-u emlâk ve arazi maddesi nizamât ve kavânin-i umumiyyesine tâbidir.

Madde 8- Tâbiiyet-i Devlet-i Aliyye'den çıkmış veyahut mahrum olmuş olan eşhâsın evlâdı sabî dahi olsa pederlerinin sıfat-ı tâbiiyetine tâbi olmayarak saltanat-ı seniyyenin tâbiiyetinde kalır ve Devlet-i Aliyye tâbiiyetine girmiş olan ecnebinin evladı sabî bile olsa pederinin sıfat-ı tâbiiyesine tâbi olmayıp ecnebî addolunur.

Madde 9- Memâlik-i mahrusa-i padişahî'de ikamet eden her bir şahıs tebaa-i Devlet-i Aliyye'den madut olup hakkında Devlet-i Aliyye'ye tâbi muamelesi icra olunur ki kendisi tebaa-i ecnebiyyeden ise tâbiiyetini usulen isbat etmesi lâzım gelir**.**

APPENDIX D

THE RUSSO-OTTOMAN EXTRADITION TREATY PROJECT

(BOA HR.SYS.1282/1)

1.Tarafeyn-i akdiye memalikinde mer'i kanunlarda muayyen müruru zamanların hiç birine uğramamış olan hukuk-u umumiyeye aid yani ceraim-i siyasiyeden gayri cinayet failleri mütekabilen istirdad olunacakdır. Yani akdiyenin taleb edeceği şahsın cürm-ü vaki akdi mezburun kendi kavanini hükümetce müruru zaman uğramamış cinayeti adiyeden olacakdır.

2.Sebebi taleb olunacak olan cürm tarafeyn-i akdiye memalikinde aynı derecede cürm bazı cinayeti itibar olunarak o mahiyetle muceb-i ceza olmalıdır.

3.İadeyi mücrimin talebi devleteynin yek diğeri nezdindeki süferası vasıtasıyla vuku bulacak ve mücrimin ve mücrimin cürmünü isbat eden ve derece-yi ahirede sadır olmuş bulunan ilamat veyahud heyet-i ithamiye mazbatasında sureti müsveddesiyle Fransızca tercümesi ve meşhur isticvapnâmesi ve sair delâil-i subutiye mazbatanâmeleri talebnameye rabıt edilecektir.

4. Taleb olunan mahkum-u aliyye veya mütehhem hangi maddeyi kanuniyeye tevkifen mahkum olmuş veya olacak ise veya itham edilmiş ise mezkur maddenin bir suret-i musaddıkası ve tercümeyi resmiyesi ve mütehhemin eşgal ve ilamat-ı sabıka ve farikasını varaka-yı resmiye dahi mümkün ise bir fotoğrafı hükümet talebi tarafından matlubumuz olan devlete tevdi olunacakdır.

5.Mücrim firar etdiği memleketde tabiiyetini iktisab veya din-i resmiyesini kabul eylemiş veyahud memleketin hükümetinden müaadesiyle oraya hicret etmiş ise hakkında istirdad muamelesi cari olmayacakdır. (İşbu kabulü din vesilesiyle istirdadın cari olmaması kaidesi Kaynarca muahedesinde dahi mündericdir.)

6. Bir devlet-i salise Rusya'da bulunan bir Osmanlıyı veya Memaliki Osmaniye'de bulunan bir Rusyalıyı devlet-i mezbura memalikinde bir cinayet ika etmiş olmakdan naşi merkumun sakin bulunduğu memleket hükümetinden taleb edecek olur ise şahs-ı mezkurun hükümet matbuası canibinden taleb edildiği takdirde devletii mezkureye iadesi mümkün olacakdır.

REFERENCES

ARCHIVES

Ottoman Archives (BOA), Istanbul

BOA, A.) AMD. 70/5

BOA, A.) DVN. 161/100

BOA, A.) DVN. NMH. 21/8, 21/10

BOA, A.) MKT. MHM. 208/97,497/7, 630/5, 718/5

BOA, A.) MKT. MVL. 123/38

BOA, A.) MKT. NZD. 342/48

BOA, A.) MKT. UM. 139/43, 156/47

BOA, A.) MTZ (04) 75/46, 92/59, 124/9, 141/3, 159/13

BOA, AE. SSLM.III 186/11219

BOA, BEO 302/22579, 319/3872, 493/36957, 593/44469, 925/9316, 1060/ 79447, 1087/81467, 1242/93092, 1245/93344, 1653/73744, 1696/127182, 2012/150895, 2014/150992, 2772/207833, 2878/215794, 3461/259502, 3654/274004, 3699/ 277415, 3760/281932, 3843/288189, 3914/293519, 4140/310444, 4300/ 322450

BOA, C.DRB. 42/2070

BOA, C. HR. 151/7530

BOA, C.ZB. 19/941

BOA, DH. EUM. KADL. 4/9

BOA, DH. HMŞ. 18/109

BOA, DH. KMS. 65/49

BOA, DH. MKT. 1272/82, 1347/15, 1434/42, 1452/111, 1499/81, 1576/20, 1620/104, 1642/40, 1756/12, 1792/63, 1912/71, 2276/130

BOA, DH. SAİDd. 4/176, 47/401, 81/473, 100/481, 112/179, 113/51, 183/100, 193/343

BOA, DH. SYS. 39/50

BOA, FTG. f. 269

BOA, HAT 488/23965, 1429/58503

BOA, HR.H. 50/15, 114/2, 135/15, 155/14, 159/11, 161/11, 163/8, 164/20, 164/48, 165/13, 169/2, 169/3, 169/4, 169/5, 170/2, 170/5, 170/11, 191/42, 211/2, 212/5, 232/4, 259/17, 285/5, 300/71, 311/63, 346/2, 346/19, 347/1, 349/1, 349/8, 350/2, 380/23, 382/11, 426/28, 494/2, 511/52, 511/62, 512/28, 512/35, 513/35, 513/44, 513/54, 514/3, 561/8, 637/7, 689/20, 754/10

BOA, HR. HMŞ.İŞO. 5/3, 5/16, 5/40, 5/53, 6/4, 6/6, 6/7, 6/8, 6/17, 6/20, 6/22, 6/24, 6/25, 6/34, 7/5, 7/6, 7/22, 7/24, 7/31, 7/40, 90/21, 15/28, 65/11, 72/11, 72/15, 75/26, 90/21, 101/24, 101/34, 107/29, 108/55, 109/10, 126/12, 145/1, 145/3, 155/10, 156/17, 156/22, 157/41, 157/42, 158/23, 158/96, 164/19, 165/54, 165/59, 165/70, 166/4, 166/36, 168/5, 170/9, 171/12, 173/2, 174/9, 174/20, 175/53, 182/5, 182/7, 182/41, 182/45, 182/47, 182/52, 182/55, 182/57, 182/60, 182/62, 182/65, 183/17, 183/46, 185/19, 188/44, 188/49, 218/16, 218/49, 219/34, 235/40

BOA, HR.İD. 40/8, 40/14, 139/2, 139/3, 139/6, 139/7, 139/8, 139/11, 139/13, 139/15, 139/16, 139/17, 139/24, 139/26, 139/29, 139/33, 139/35, 139/59, 140/3, 140/4, 140/8, 140/9, 140/10, 140/11, 140/12, 140/14, 140/15, 140/16, 140/17, 140/19, 140/23, 140/26, 140/29, 140/46, 175/45, 175/46, 175/89, 175/92, 183/35, 1828/52, 1902/36, 1902/37, 1902/43, 1902/58, 2037/71, 2100/40

BOA, HR. İM. 193/89

BOA, HR. MKT. 12/23, 41/55, 191/80, 192/28, 241/21, 234/73, 235/26, 235/51, 252/15, 254/59, 258/69, 272/32, 275/60, 279/14, 281/15, 282/95, 283/41, 283/84, 284/69, 285/73, 325/9, 328/79, 329/1, 336/6, 343/81, 367/63, 379/29, 381/15, 329/1, 443/56, 458/34, 478/24, 484/28, 537/58, 552/19, 553/17, 553/25, 559/42, 561/52, 565/47, 578/20, 591/53, 592/81, 592/94, 603/84, 650/48, 694/43, 814/41, 824/17, 853/90, 858/30, 859/9, 859/27, 861/10, 872/66, 890/51, 900/21

BOA, HR. SAİD. 2/1020, 4/12, 11/30

BOA, HR.SFR.3 4/14, 4/28, 48/13, 59/2, 191/75, 225/72, 280/20, 290/37, 513/1

BOA, HR.SFR (04) 416/76, 862/21

BOA, HR.SYS. 56/1, 77/35, 138/14, 323/2, 346/4, 587/25, 696/2, 822/3, 1055/3, 1248/1, 1274/2, 1281/1, 1282/1, 1282/2, 1282/3, 1342/92, 1342/94, 1359/2, 1359/6, 1359/9, 1430/70, 1438/25, 1439/91, 1444/30, 1445/6, 1547/5, 1628/2, 1664/2, 1730/61, 1742/134, 1742/137, 1763/24, 1798/29, 1798/40, 1802/26, 1809/79, 1809/80, 1809/81, 1809/85, 1809/88, 1809/94, 1810/39, 1881/18, 1822/3, 1822/7, 825/16, 1825/17, 1825/15, 1951/100, 2092/10, 2208/11, 2276/22, 2276/50, 2282/4, 2320/7, 2755/34, 2764/19, 2764/20, 2769/33, 2769/67, 2770/13, 2270/43, 2321/1, 2774/29, 2775/38, 2775/75, 2775/76, 2776/57, 2776/58, 2785/3, 2787/7, 2793/6, 2801/1, 2829/23, 2836/15, 2841/35, 2856/80, 2858/16, 2858/21, 2942/75, 2953/59

BOA, HR.TH. 3/16, 26/44, 30/18, 30/72, 33/51, 37/18, 77/40, 91/42, 139/40, 144/53, 146/97, 149/37, 212/46, 244/60, 246/61, 259/82, 272/69, 313/92

BOA, HR.TO. 19/19, 99/31, 146/12, 285/4, 299/23, 355/94, 479/8, 512/23, 512/31, 569/2, 569/6, 569/7, 570/20

BOA, HR.UHM. 98/43, 127/42

BOA, İ. AZN. 29/11

BOA, İ.DH. 391/25893, 832/66943, 931/73744, 1164/91031, 1237/96891

BOA, İ. DUİT. 150/14

BOA, İ.HR. 177/9725, 264/15815, 289/18150, 422/40, 423/1, 427/34, 5799/5

BOA, İ.HUS. 16/80, 30/38, 45/143, 71/4, 94/54

BOA, İ.MTZ (01) 18/735

BOA, İ.MVL. 183/5481

BOA, İ.ŞD. 87/5164, 81/4781

BOA, MF. İBT. 20/94, 266/98, 266/110

BOA, MF. MKT. 188/143, 232/46, 1036/73, 1102/48

BOA, MHD. 265, 268, 269

BOA, MV. 38/6, 51/49, 52/7, 71/47, 72/41, 110/90, 154/54

BOA, MVL. 224/3, 241/134, 830/105, 844/40, 845/75, 846/49

BOA, ŞD. 2092/19

BOA, TFR.I.SL. 5/466, 16/1594

BOA, TFR. I. ŞKT. 128/12720

BOA, Y.A.HUS. 281/108, 293/28, 385/55, 431/43, 482/27, 493/1

BOA, Y.A.RES. 50/42, 83/18

BOA, Y. EE. 10/9, 37/54, 41/133, 83/17, 87/59, 87/62,

BOA, Y. EE. KP. 7/612

BOA, Y. MRZ. D. 9317

BOA, Y.MTV. 96/109, 225/81, 236/151, 243/71, 278/73

BOA, Y.PRK.AZN. 3/65, 7/8, 17/2

BOA, Y.PRK. AZJ. 54/36, 55/106

BOA, Y.PRK. BŞK. 63/2

BOA, Y.PRK.DH. 1/44

BOA, Y.PRK. HR. 19/14, 21/51, 27/38, 30/35, 36/12

BOA, Y.PRK.TKM. 30/68, 31/3

BOA, Y.PRK.UM. 48/59, 64/44

BOA, Y.PRK.ZB. 9/61, 11/75, 15/56

National Archives (NARA), Washington

NARA 5505, 5084, 8778/10, 8778/40

Foreign Office (FO), London

FO 424/5, 424/6

Archives du ministère des Affaires étrangères et de l'Europe (AMAE), Paris

AMAE 50 – Mémoires et documents (MD) 45

NEWSPAPER / JOURNALS

Daily Levant Herald

Deutscher Reichsanzeiger und Preußischer Staatsanzeiger

Diyojen

Hürriyet

Journal de Constantinople Echo de L'Orient

Kalem

La Turquie

Lancaster Intelligence

Le Droit : Journal des Tribunaux

Les Nouvelles D'Orient

Leeds Mercury

Liverpool Mercury

Pro Armenia

Servet-i Fünûn

The Chicago Tribunal

The Guardian

The Illustrated London News

The Times

The New York Daily Times

The New York Times

PRINTED PRIMARY SOURCES

Ahmed Cevdet. (1986). *Tezakir, I-II*. Ankara: Türk Tarih Kurumu.

Ahmed Selahaddin. (1912/1331). *Hukuk-ı Beyne'd-düvelin Mukâddemat-ı Nazariye ve Safahât-ı Tekâmüliyesi.* Istanbul: Kanaat Kütüphanesi.

Ahmet Lütfi. (1887). *Mirât-ı Adalet yahut Tarihçe-yi Adliye-yi Devlet-i Aliyye*. Istanbul: Kitapçı Ohannes.

Ahmet Şuayb. (1912). *Hukuk-ı Umumiye-yi Düvel.* Istanbul: Matbaa-ı İkbal.

Aristarchi Grégoire Bey. (1873/74/1878/1881). *Législation Ottomane ; ou Recueil des lois, règlements, ordonnances, traités, capitulations et autres documents officiels de l'Empire Ottoman*. Constantinople : Imprimerie Frères Nicolaïdes.

Arminjon, P. (1903). *Étrangers et Protégés dans l'Empire Ottoman.* Paris : Librairie Maresco.

Asadur, H., Halil Cemaleddin. (1915). *Ecânibin Memâlik-i Osmaniye'de Haiz Oldukları İmtiyaz-ı Adliye*. Istanbul: Hukuk Matbaası.

Bazancourt, L. B. (1855). *Cinq Mois au Camp Devant Sébastopol.* Paris : Amyot.

Bentham, J. (1894). *Theory of Legislation.* Trans. by R. Hildreth. Trübne: London.

Bernard, P. (1883). *Traite Théorique et Pratique de l'Extradition Comprenant L'Exposition d'un Projet de Loi Universelle sur l'Extradition.* Deuxième Partie. Paris : Librairie Nouvelle de Droit et de Jurisprudence.

Billot, A. (1874). *Traite de L'Extradition,* Paris : Plon.

Bilsel, C. (1934). *Hukuk-u Düvel,* II. Istanbul : Ahmet İhsan Matbaası.

Calani, A. (1855). *Scene Della Vita Militare in Crimea.* Napoli: Stabilimento Tipografico.

Calvo, C. (1887). *Le Droit International Théorique et Pratique*. Tome Second. Paris : Guillaumin.

Cardaillac, F. (1878). *De l'Extradition.* Tarbes.

Clarke, E. (1874). *A Treatise upon the Law of Extradition.* London: Stevens and Haynes.

Code Pénale. (1812). Paris : De L'Imperimerie de A. Belin.

Codice penale per gli stati di s.m.il re di Sardegna. (1859). Torino: Stamperia Reale.

Cornewall Lewis, G. (1859). *On Foreign Jurisdiction and the Extradition of the Criminals.* J.W. Parker and Son.

De Ribes, A.C. (1870). Les Capitulations ou La Reforme dans Les Échelles du Levant. *Le Droit : Journal des Tribunaux.* 4 Mai.

Devlet-i Aliye ile Düvel-i Mütehabbe Beynlerinde Teyemmüna Mün'akid olan Muahedât-ı Atika ve Cedideden Memurîn-i Saltanat-ı Seniyyeye Müracaatı Lâzım Gelen Fukarat-ı Ahdiyeye MutazammınRisaledir. (1867). *Resail-i Ahdiye Mecmuası*. Istanbul: Matbaa-i Âmire.

Duvergier, J.B. (1833). *Code Pénal Annoté : Edition de 1832,* Paris : A. Guot et Scribe.

Düstur. (1289). Tertib 1, Cilt 1, 4, 5. Matbaa-yı Amire.

Eren, A.A. (1872/1311). *Lahey Konferansı Yahud Taknin-i Hukuk-u Düvel*. Matbaa-i Ebülziya, Konstantiniyye.

Fiore, P. (1880). *Traite Droit Pénal International et de L'Extradition,* Vol. I and II. Charles Antoine (Trans.) A. Durand et Pedone-Lauriel.

Gatteschi, D. (1865). *Manuale di Diritto Pubblico e Privato Ottomano.* Tipografia della Posta Europea di V. Minasi e C.

Hasan, Sırrı. (1910). *Hukuk-ı Hususiye-yi Düvel.* Dersaadet: Mahmud Bey Matbaası.

Heath, S. L. G. (1897). *Letters from the Black Sea During the Crimean War, 1854-1855.* London: Richard Bentley and Son.

Heidborn, A. (1908). *Manuel de Droit Public et Administratif de l'Empire Ottoman.* Leipzig: C. W. Stern Editeur.

Hobhouse, J.C. (1817). *A Journey Through Albania and Other Provinces of Turkey in Europe and Asia to Constantinople during the years 1809-1810,* Vol.II, Philadelphia: M. Carey and Son.

Hornby, L. (1863). *Constantinople During the Crimean War.* London: Richard Bentley.

Hozier, H. M. (1880). *The Russo-Turkish War.* London: William McKenzie.

Hüsrevyan, H. (1913). *Hukuk-u Hususiye-i Düvel.* Istanbul: Edeb Matbaa ve Kütüphanesi.

International Law. (1861). *The Times* (Nov.4).

İbrahim Hakkı. (1885/1303). *Tarih-i Hukuk-u Beyneddüvel.* Karabet ve Kasbar Matbaası.

Jenkins, M.P. E. (1877). *The Russo-Turkish War: Janus or the Double-Faced Ministry.* London: William Mullan and Son.

Keçecizade İzzet Fuat. (1907/1325). *1293 Osmanlı-Rus Seferi.* Ahmet İhsan Matbaası.

Kemalpaşazade Said and Cebrail Gregor. (1882). *Hukuk-ı Düvel.* Konstantiniyye: Kitabcı Karabet, Matbaa-i Ebuzziya.

Lausanne Conference on Near Eastern Affairs 1922-1923: records of proceedings and draft terms of peace. (1923). London: H.M.S.O.

Lawrence, W. B. (1880). *Études sur la Juridiction Consulaire en Pays Chrétiens et en Pays non-Chrétien et sur l'Extradition.* Leipzig: F.A. Brochaus.

Locke, J. (1773). *An Essay Concerning the True Original Extent and End of Civil Government.* Boston: Edes and Gill.

Lombroso, C., Laschi, R. (1890). *Il Delitto Politico e le Rivoluzioni in Rapporto al Diritto, all'Antropologia Criminale ed alla Scienza di Governo.* Fratelli Bocca.

Martens, F. G. (1864). *Précis du droit des gens moderne de l'Europe*. Paris: Guillaumin et Cie.

Martin Koszta – Correspondences. (1854). United States Department of State, Washington: A.O.P. Nicholson.

Mittermaier, K.J.A. (1863). Il progetto di revisione del Codice 1859 pel regno d'Italia, presentato al Senato in Torino nel 9 gennaio 1862. *Monitore dei Tribunali. Giornale di legislazione e giurisprudenza civile e penale e del contenzioso amministrativo,* anno IV, n.3, 49-52.

Moore, J. B. (1906). *A Digest of International Law.* Vol. III. Washington Government Printing Press.

Muahedat Mecmuası (1880/1298). C.4, Ceride-yi Askeriye Matbaası.

Namık Kemal. (1871). Kapitülasyonlar. *Diyojen,* No. 166.

Ngai, M.M. (2014). *Impossible Subjects: Illegal Aliens and the Making of Modern America.* Princeton and Oxford: Princeton University Press.

Noradunghian, G.E. (1903). *Recueil d'Actes Internationaux de l'Empire Ottoman.* Tome 4, Paris : Libraire Cothilon.

Nusret Bey. (1927). *Hukuk-u Hususiye-yi Düvel*. Ankara: Ankara Hukuk Mektebi.

Olivier, G.A. (1801). *Travels in the Ottoman Empire, Egypt, and Persia,* Vol.1. London: Guillaume Antoine.

Ostrorog, C. L. (1912). *Pour la Réforme de la Justice Ottomane : rapports, exposés des motifs, avant-projets de lois.* Paris : A. Pedone.

Papers Relating to the Foreign Relations of the United States, Transmitted to Congress, With the Annual Message of the President, December 6, 1880. (1880). Washington: United States Government Printing Office.

Pardoe, J. (1854). *The City of the Sultan and Domestic Manners of the Turks with a Steam Voyage to the Danube.* London: Routledge.

Polyvios, P. (1913). *La Condition Légale de Sociétés Étrangères Dans L'Empire Ottoman. Paris: A. Rousseau*.

Porter, S.J. (1854). *Turkey, Its History and Progress, Vol. I.* London: Hurst and Blackett Publishers.

Proal, L. (1898). *Political Crime.* London: T. Fisher Unwin.

Raussaus, G. P. (1902). *La Régime des Capitulations dans l'Empire Ottoman*. Paris: A. Rousseau.

Regolamento sui Delitti e Sulle Pene del 20 Settembre 1832. (1862). Bologna: Tipi di Giuseppe Vitali Alle Scienze.

Reid, D.A. (1911). *Memories of Crimean War, January 1855 to June 1856.* London: Murray.

Report of Edward A. Van Dyck, Consulate Clerk of the United States at Cairo, upon the Capitulations of the Ottoman Empire since the Year 1150, part I. (1881). Washington: Government Printing Office.

Reuss, R. (1918). L'Affaire des Faussaires de Vienne Arrêtes à Huningue et L'Assemblée Nationale (1790-1792) d'Après Quelques Documents Inédits. *Revue Historique,* T. 127, Fasc. 2, Editions Belin, 297-303.

Rivier, A. (1883). *Note sur La Literature du Droit de Gens Avant la Publication du Jus Belli Ac Pacis de Grotius (1625).* Bruxelles: F. Hayez.

Robinson, F. (1856). *Diary of the Crimean War.* London: Richard Bentley.

Salname-yi Nezaret-i Hariciye. (1883/1302). Konstantiniyye: Matbaa-yı Ebül Ziya.

Senate: Report of the Commissioner of Patents for the Year 1857. (1858). Volume II. Washington: William A. Harris.

Servet. (1909/1327). *Hukuk-ı Ceza: Malumat-ı Umumiye ve Kısm-ı Cürm.* Dersaadet: İkdam Matbaası.

Slade, S. A. (1867). *Turkey and the Crimean War: A Narrative of Historical Events.* London: Smith-Elder.

Soldan, C. (1882). *L'extradition des criminels politiques.* Paris : E. Thorin.

Testa, B. (1864). *Recueil de traités de la Porte ottomane avec les puissances Étrangères, Tome Cinquième*. Paris: Amyot.

Tosti, G. (1899). Anarchic Crimes. *Political Science Quarterly,* Vol. 14, No.3, (Sept.), 404-417.

Twiss, T. (1861). *The Law of Nations Considered as Independent Political Communities.* Oxford: Oxford University Press.

Young, G. (1906). *Corps de Droit Ottoman,* Vol. VII. Oxford: Clarendon Press.

Van den Steen de Jehay, F. (1906). *De la Situation Légale des Sujets Ottomans non-Musulmans.* Société Belge de Libraire : Bruxelles.

Vattel, Emer. (1853) *The Law of Nations or Principles of the Law of Nature Applied to the Conduct and Affairs of Nations and Sovereigns.* Philadelphia: T.&J.W. Johnson, Law Booksellers, Chestnut Street.

Vazelhes, E. (1877) *Étude Sur L'Extradition : suive du texte des traites franco-belge de 1874 et franco-anglais de 1843 et 1876.* Paris : P. Pichon, Libraire-éditeur.

White, C. (1845). *Three years in Constantinople or Domestic Manners of the Turks in 1844.* Vol. I. London: Henry Colburn Publisher.

Zohrab, K.(1909). *Hukuk-u Ceza.* Istanbul: Ahmed Şaki Bey Matbaası.

SECONDARY SOURCES

A, J.C. (1914). Criminal Law: Interstate Extradition. *California Law Review,* Vol.3, No.1 (Nov.), 63-64.

Age of Rogues: Rebels, Revolutionaries and Racketeers at the Frontiers of the Empire. (2021). Ed. by Ramazan Hakkı Öztan and Alp Yenen. Edinburgh University Press.

Agmon, I. (2006). *Family Court: Legal Culture and Modernity in Late Ottoman Palestine.* Syracuse University Press: New York.

Ahmad, F. (2000). Ottoman Perceptions of Capitulations. *Journal of Islamic Studies,* Vol. 11, No.1, 1-20.

Ahmad, F. (1969). *The Young Turks: The Committee of Union and Progress in Turkish Politics, 1908-1914.* Oxford: Clarendon Press.

Akarlı, E. D. (1993). *The Long Peace: Ottoman Lebanon, 1861-1920.* California: University of California Press.

Akçam, T. (2006). *A Shameful Act.* New York City: Holt & Co.

Akçam, T. (2004). *From Empire to Republic: Turkish Nationalism and the Armenian Genocide.* London & New York: Zed Books.

Akçasu, E. (2016). Migrants to Citizens: An Evaluation of the Expansionist Features of Hamidian Ottomanism, 1876-1909. *Die Welt des Islam,* 56, 388-414.

Akçasu, E. (2021). Nation and Migration in Late-Ottoman Spheres of (Legal) Belonging: A Comparative Look at Laws on Nationality. *Nationalities Papers,* Vol. 49, Issue 6, 1-19.

Akgündüz, A. (1987). 1274/1858 Tarihli Osmanlı Ceza Kanunnâmesinin Hukukî Kaynakları, Tatbik Şekli ve Men'-i İrtikâb Kanunnâmesi". Belleten, 199, 153-173.

Akiba, J. (2003). A New School for Qadis: Education of Sharia Judges in the Late Ottoman Empire. *Turcica,* 35, 125-163.

Akiba, J. (2005). From Kadı to Naib: Reorganization of the Ottoman Sharia Judiciary in the Tanzimat Period. In *Frontiers of Ottoman Studies: State, Province, and the West.* Editors Colin Imber and Keiko Kiyotaki. London: I.B. Tauris, 43-60.

Akiba, J. (2021). Muallimhane-yi Nüvvabtan Mekteb-i Kuzata Osmanlı Kadı Okulunun Yarım Yüzyıllık Serüveni. *Sahn-ı Semandan Darülfünuna: Osmanlı'da İlim ve Fikir Dünyas.* Istanbul: Zeytinburnu Belediyesi Kültür Yayınları, 13-29.

Akiba, J. (2009). The Local Councils as the Origin of the Parliamentary System in the Ottoman Empire. *Development of Parliamentarism in the Modern Islamic World* 11, 176-204.

Akgündüz, A. (1986). *Mukayeseli İslam ve Osmanlı Hukuku Külliyatı.* Diyarbakır: Dicle Üniversitesi Hukuk Fakültesi.

Akif Paşa. (2004). *Tabsıra.* Istanbul: IQ Kültür Sanat Yayıncılık.

Akyıldız, A. (2003). *Para Pul Oldu: Osmanlı'da Kâğıt Para, Maliye ve Toplum.* İletişim Yayınları.

Al-Qattan, N. (1999). Dhimmis in the Muslim Court: Legal autonomy and religious discrimination. *IJMES*, 31, 429-444.

Alexander, G. G. (1923). International Criminal Law. *Journal of Comparative Legislation and International Law,* Vol.5, No. 1, 90-98.

Alexander, R.S. (2012). *Europe's Uncertain Path, 1814-1914: State Formation and Civil Society.* Malden: Wiley.

Aliprantis, C. (2020). Transnational Policing After the 1848-1849 Revolutions: The Habsburg Empire in the Mediterranean. *European History Quarterly,* Vol. 50, 412-437.

Alloul H. and Michael Anwers. (2018). What is (New in) New Diplomatic History. *Journal of Belgian History,* XLVIII, 4, 112-122.

Altıntaş, T. (2021). The Abode of Sedition: Resistance, Repression and Revolution in Sasun, 1891–1904. In *Age of Rogues: Rebels, Revolutionaries and Racketeers at the Frontiers of the Empire.* Edited by Ramazan Hakkı Öztan and Alp Yenen. Edinburgh University Press, 178-207.

Anarchism: A Documentary History of Libertarian Ideas. (2005). Ed. by Robert Graham. Montreal: Black Rose Books.

Anastasopoulos, A. (2013). Non-Muslims and Ottoman Justice(s?). Ed. by Jeroen Duindam, Jill Harries, Caroline Humfress and Nimrod Hurvitz. In *Law and Empire: Ideas, Practices, Actors*. Leiden: Brill, 275–292.

Angell, J. B., Curtis, G. T., and Cooley, T. M. (1885). The Extradition of Dynamite Criminals. *The North American Review,* Vol. 141, No. 344 (Jul.), 47-59.

Angell, J. B. (1901). The Turkish Capitulations. *The American Historical Review,* Vol. 6, No. 2 (Jan.), 254-259.

Anghie, A. (2016). Imperialism and International Legal Theory. In *The Oxford Handbook of the Theory of International Law.* Edited by Anne Orford and Florian Hoffmann. Oxford University Press, 156-172.

Anscombe, F. (2012). The Balkan Revolutionary Age. *Journal of Modern History* 84 (3), 572–606.

Aral, B. (2016). The Ottoman 'School' of International Law as Featured in Textbooks. *Journal of the History of International Law,* Vol.18, 70–97.

Ardelenau, C. (2010). Russian-British Rivalry Regarding Danube Navigation and the Origins of the Crimean War (1846-1853). *Journal of Mediterranean Studies,* Vol. 19, No.2, 165-186.

Ardıç, N. (2010). Islam, Modernity and the 1876 Constitution. In *The First Ottoman Experiment in Democracy.* Christoph Herzog, and Malek Sharif (eds.). Istanbul: Orient-Institut, 89-107.

Ashcraft, R. (1992). The Radical Dimensions of Locke's Political Thought: A Dialogic Essay on Some Problems of Interpretation. *History of Political Thought,* Vol. 13, No.4, 703 – 772.

Aslan, Y. M. (2009). Transformation of Turkish Criminal Law from the Ottoman-Islamic Law to the Civil Law Tradition. *Ankara Bar Review,* No.2, 92-98.

Ateş, S. (2013). *The Ottoman-Iranian Borderlands: Making a Boundary, 1843-1914.* Cambridge University Press.

Augusti, E. (2011). From Capitulations to Unequal Treaties: The Matter of an Extraterritorial Jurisdiction in the Ottoman Empire. *Journal of Civil Law Studies,* Vol.4, No.2, Mediterranean Legal Hybridity: Mixtures and Movements, the Relationship between the Legal and Normative Traditions of the Region, (Dec.), 285-307.

Auslin, M. R. (2004). *Negotiating with Imperialism: The Unequal Treaties and the Culture of Japanese Diplomacy.* Harvard University Press.

Aykut, E. (2016). Toxic Murder, Female Poisoners, and the Question of Agency at the Late Ottoman Law Courts, 1840-1908. *Journal of Women's History,* Vol. 28, Number 3, 114-137.

Aymes, M. (2019). *Les Faux-Monnayeurs d'Istanbul.* Anacharsis: Toulouse.

Aytekin, A. E. (2009). Agrarian Relations, Property and Law: An Analysis of the Land Code of 1858 in the Ottoman Empire. *Middle Eastern Studies*, vol. 45. No.6, 935-951.

Babaoğlu, R. (2017). Osmanlı'dan Cumhuriyet'e Mekteb-i Mülkiye. Ankara Üniversitesi, Basılmamış Doktora Tezi.

Baberowski, J. (2006). Law, the judicial system and the legal profession. *The Cambridge History of Russia,* Vol. 2, ed.by Dominic Lieven. Cambridge University Press, 344-368.

Badem, C. (2015). Güney Kafkasya'da Rus Politikaları ve Ermeniler 1828-1918. *1915: Siyaset, Tehcir, Soykırım.* Haz. Fikret Adanır, Oktay Özel. Tarih Vakfı Yurt Yayınları, 408-420.

Badem, C. (2005). Kırım Savaşı'nn Osmanlı Toplumsal Yaşamına Etkileri. *Toplumsal Tarih,* 133. 64-71.

Baer, G. (1977). The Transition from Traditional to Western Criminal Law in Turkey and Egypt. *Studia Islamica.* No. 45, 139-158.

Baktıaya, A. (2007). 19. Yy. Sonlarında Anarşist Terör, Toplumun Anarşistlere Karşı Korunması Konferansı (1898) ve Osmanlı Devleti. *Bilgi ve Bellek,* 8, 43-55.

Bantman, C. (2013). *The French Anarchists in London, 1880-1914: Exile and Transnationalism in the First Globalisation.* Liverpool University Press.

Barkey, K. (2013). Aspects of Legal Pluralism in the Ottoman Empire. In Lauren Benton and Richard J.Ross. (Eds.). *Legal Pluralism and Empires, 1500-1850.* NYU Press, 83-108.

Barkey, K. (2008). *Empire of Difference: The Ottomans in Comparative Perspective.* Cambridge University Press.

Barkey K, Gavrilis, G. (2016). The Ottoman Millet System: Non-Territorial Autonomy and Its Contemporary Legacy. *Ethnopolitics,* Vol. 15, No.1, 24-42.

Barosky, T. (2012). Legal and Illegal Moneymaking: Colonial American Counterfeiters and the Novelization of Eighteenth-Century Crime. *Early American Literature,* Vol.47, No.3, 531-560.

Bayard, T.F., Struve, C. and Rosen. Text of the Russian Extradition Treaty. *American Advocate of Peace (1892-1893),* Vol. 55, No.7, (July 1893), 148-149.

Bayly, C.A., Beckert, S., Connelly, M., Hofmeyr, I., Kozol, W., Seed, P. (2006). Conversation: On Transnational History. *The American Historical Review,* 111 (5), 1441-1464.

Baytimur, S. O. (2016). Osmanlı Devleti'nde Kalpazanlık Faaliyetleri ve Uygulanan Cezalar (1789-1808). *Journal of Bitlis Eren University,* Vol.5, No:2 (Dec.), 249-256.

Beccaria, C. (1963). *On Crimes and Punishments.* Indianapolis: Bobs Merrill.

Bedir, M. (2004). Fikih to Law: Secularization through Curriculum. *Islamic Law and Society,* Vol. 11, no.3, 387-401.

Bektaş, Y. (2017). The Crimean War as a Technological Enterprise. *The Royal Society Publishing,* 71(3), (Sep.), 233-261.

Bektaş, Y. (2000). The Sultan's Messenger: Cultural Constructions of Ottoman Telegraphy, 1847-1880. *Technology and Culture,* Vol. 41, No. 4, (Oct.), 669-696.

Bender, T. (2006). *A Nation Among Nations: America's Place in World History*. New York: Hill and Wang.

Benton, L. (2002). *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900.* Cambridge: Cambridge University Press.

Berman, P. S. (2014). From Legal Pluralism to Global Legal Pluralism. In *Law, Society and Community: Socio-Legal Essays in Honour of Roger Cotterrell.* Edited by Richard Nobles and David Schiff. Ashgate, 255-271.

Legal Pluralism and Empires, 1500-1850. (2013). Lauren Benton and Richard Ross (eds.). New York: New York University Press.

Berberian, R. (2019). *Roving Revolutionaries: Armenians and the Connected Revolutions in the Russian, Iranian, and Ottoman Worlds.* University of California Press.

Bevans, C. I. (1968). Commerce and Navigation. In *Treaties and Other International Agreements of the United States of America, 1776-1949.* Washington DC: United States Government Printing Office.

Beyhan, M. A. (2008). Said Bey, Lastik (1848–1921). İstanbul: *TDV İslâm Ansiklopedisi,* C.35, 549–551.

Bingöl, S. Tanzimat Sonrası Taşra ve Merkezde Yargı Reformu. *Osmanlı,* C.6 (1999), 533-545.

Blakesley, C. (1984). A Conceptual Frame for Extradition and Jurisdiction Over Extraterritorial Crime. *Utah Law Review,* 685.

Blakesley, C. (1981). The Practice of Extradition from Antiquity to Modern France and the United States: A Brief History. *Boston College International and Comparative Law Review,* Volume 4, Issue 1, 39-60.

Blomley, N. (2003). Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid. *Annals of the Association of American Geographers*, Vol. 93, No.1, 121-141.

Bloomberg, A. (1990). *A Carefully Planned Accident: The Italian War of 1859.* Associated University Press.

Blumi, I. (2003). Capitulations in the Late Ottoman Empire: The Shifting Parameters of Russian and Austrian Interests in Ottoman Albania, 1878-1912. *Oriente Moderno,* Anno 22 (83), Nr.3, 635-647.

Blumi, I. (2011). *Reinstating the Ottomans: Alternative Balkan Modernities, 1800-1912.* Palgrave Macmillan.

Blumi, I. (2013). *Ottoman Refugees, 1878–1939: Migration in a Post-Imperial World.* London: Bloomsbury.

Bogossian, E. (2015). *Operation Nemesis: The Assassination Plot that Avenged the Armenian Genocide.* Little, Brown & Company.

Borisova, T. (2013). Legislation as a Source of Law in late Imperial Russia. *Comparative Studies in Continental and Anglo-American Legal History,* Vol. 31, 295-315.

Borisova, T. (2008). Russian National Legal Tradition: *Svod versus Ulozhenie* in Nineteenth-century Russia. *Review of Central and East European Law 33,* 295-341.

Bostan, Z. (2021). *Osmanlı Hariciyesinin Modern Temelleri: II. Abdülhamid Döneminde Diplomasi.* Kitap Yayınevi.

Burbank, J. (2006). An Imperial Rights Regime: Law and Citizenship in the Russian Empire. *Kritika: Explorations in Russian and Eurasian History,* Vol. 7, No.3, 397-431.

Bozkurt, G. (1996). *Batı Hukukunun Türkiye'de Benimsenmesi: Osmanlı Devleti'nde Türkiye Cumhuriyeti'ne Resepsiyon Süreci (1839-1939)*. Ankara: Türk Tarih Kurumu Basımevi.

Bozkurt, G. (1992). Review of the Ottoman Legal System. *OTAM,* 3, 115-128.

Brisku, A. (2017). *Political Reform in the Ottoman and Russian Empires: A Comparative Approach.* Bloomsbury Academic: London, New York.

Brown, P.M. (1914). *Foreigners in Turkey: Their Juridical Status.* Princeton University Press.

Brubaker R., F. C. (2000). Beyond 'Identity'. *Theory and Society.* Vol.29, No.1 (Feb.), 1-47.

Bryne, A. (2020). *The Monroe Doctrine and United States National Security in the Early Twentieth Century.* Palgrave Macmillan.

Camera Ottomana: Photography and Modernity in the Ottoman Empire 1840-1914. (2015). Ed. by Zeynep Çelik, Edhem Eldem. Istanbul: Koç Üniversitesi Yayınları.

Can, L. (2016). The Protection Question: Central Asians and Extraterritoriality in the Late Ottoman Empire. *IJMES* 48, 679-699.

Cankara, M. (2019). Patrik Mateos İzmirliyan'a Göre II. Abdülhamid'in Politikaları. *Toplumsal Tarih,* 302, 4-7.

Cassel, P. C. (2012). *Grounds of Judgment: Extraterritoriality and Imperial Power in Nineteenth-Century China and Japan.* Oxford University Press.

Cervati, R. *L'Indicateur Constantinopolitain: Guide Commercial, Premier Année 1868-1869.* Imprimerie G. B. Pagano, 1868.

Chabot, M. E. (1928). Un Cas d'Extradition en 1446 entre la Principauté d'Orange et l'État Pontifical D'Avignon. *Revue historique de droit français et étranger*, Quatrième série, Vol. 7, 104-110.

Chambre des conseillers légistes de la Sublime Porte : Rapports, avis et consultations sur la condition juridique des ressortissants étrangers, le statut des communautés non musulmanes et les relations internationales de l'Empire Ottoman. (2012) Edited by Sinan Kuneralp and Emre Öktem. Istanbul : The Isis Press.

Charlton Extradition Case (Charlton vs Kelly). (1913). *The American Journal of International Law,* Vol. 7, No.3, (Jul.), 637-653.

Chen, L. (2016). *Chinese Law in Imperial Eyes: Sovereignty, Justice & Transcultural Politics.* Colombia University Press: New York.

Chen, L. (2010). Law, Empire and Historiography of Modern Sino-Western Relations: A Case Study of Lady Hughes Controversy in 1784. *Law and History Review,* Vol.27, Issue 1, 1-54.

Chen, L. (2011). Universalism and Equal Sovereignty as Contested Myths of International Law in the Sino-Western Encounter. *Journal of the History of the International Law,* 13, 75-116.

Cheta, O. Y. (2018). A Prehistory of the Modern Legal Profession in Egypt, 1840s-1870s. *International Journal of Middle East Studies,* Vol. 50, Issue 4, 649-668.

Chinese Extradition Ordinance. (1964). *Laws of Hong Kong,* Hong Kong Government.

Clark, J. R. Frederick R. Coudert and Julian W. Mack. (1909). "The nature definition of political offense in international extradition", *The Proceedings of the American Society of International Law at Its Annual Meeting (1907-1917),* Vol.3 (April 23 and 24), 95-165.

Clifford, H. (1956). *Letters and Sketches from the Crimea.* London: Michael Joseph.

Coates, B. A. (2016). *Legalist Empire: International Law and American Foreign Relations in the Early Twentieth Century*. Oxford: Oxford University Press.

Cobbing, A. (2018). A Victorian Embarrassment: Consular Jurisdiction and the Evils of Extraterritoriality. *The International History Review,* 40:2, 273-291.

Cole, S. (2001). *Suspect Identities: A History of Fingerprinting and Criminal Identification.* Cambridge: Harvard University Press.

Compte Rendus de la Conférence Internationale pour l'Adoption d'une Convention Pour la Répression du Faux Monnayage : Genève, du 9 au 20 avril 1929. (1929). (Série de Publications de la Société des Nations.

Conway, A. and J.O. B. (1968). *Soldier-Surgeon: The Crimean War Letters of Dr. Douglas A. Reid, 1855-1856.* Knoxville: University of Tennessee Press.

Csorba, G. (2002). Hungarian Emigrants of 1848-49 in the Ottoman Empire. In *The Turks, Vol. 4.* Edited by Hasan Celal Güzel, C.Cem Oğuz. Ankara: Yeni Türkiye Yayınları.

Cörüt, İ. (2005). Social Rationality of Lower-Class Criminal Practices in the Nineteenth Century Istanbul. MA Thesis. Boğaziçi University.

Cuthell, D.C. (2005). The Muhacirun Komisyonu: An agent in the transformation of Ottoman Anatolia, 1860-1866. Unpublished Phd, Columbia University.

Criss, N. B. (1999). *Istanbul Under Allied Occupation, 1918-1923.* Brill.

Çankaya, A. (1968). *Yeni Mülkiye Tarihi ve Mülkiyeliler II, III.* Ankara: Mars Matbaası.

Çiçek, T.M. (2016). Myth of the Unionist triumvirate: the formation of the CUP factions and their impact in Syria during the Great War. In *Syria in World War I: Politics, economy, and society.* Ed. by. M.Talha Çiçek. Routledge: London, New York, 8-32.

Çorlu, A. (2016). Anarchist and Anarchism in the Ottoman Empire, 1850-1917. In *History From Below: A Tribute in Memory of Donald Quataert,* Istanbul: Bilgi University Press, 553-583.

Dabağyan, L.P. (2001). *Sultan Abdülhamit ve Ermeniler.* Istanbul: Kum Saati Yayınları.

Daly, J. (2002). Political Crime in Late Imperial Russia. *The Journal of Modern History,* Vol.74, No.1, (Mar.), 62-100.

Darnton, R. (1989). What Was Revolutionary about the French Revolution. *The New York Review of Books.*

De Haan I., Van Zanten J. (2019). Constructing an International Conspiracy Revolutionary Concertation and Police Networks in the European Restoration. In *Securing Europe after Napoleon 1815 and the New European Security Culture.* Edited by Beatrice de Graaf. Cambridge University Press. 171-192.

Deal, A. R. (2010). *Crimes of Honor, Drunken Brawls and Murder – Violence in Istanbul Under Abdulhamid II.* Libra.

Deal, A. R. (2013). War Refugees and Violence in Hamidian Istanbul. *Middle Eastern Studies,* Vol. 49, No.2, 179-190.

Deere, L.L. (1933). Political Offenses in the Law and Practice of Extradition. *The American Journal of International Law,* Vol. 27, No. 2, 247-270.

Deflem, M. (2005). Wild Beasts Without Nationality: The Uncertain Origins of Interpol, 1898-1910. In *Handbook of Transnational Crime and Justice.* Edited by Philip Reichel. Thousand Oaks, CA: Sage Publications, 275-285.

Demirci, S. (2005). *Strategies and Struggles: British Rhetoric and Turkish Response: The Lausanne Conference 1922-1923.* Istanbul: The ISIS Press.

Demirel, F. (2007). *Adliye Nezareti; Kuruluşu ve Faaliyetleri (1876-1914).* İstanbul: Boğaziçi Üniversitesi Yayınevi.

Deringil, S. (2015). Abdülhamid Döneminde Ermeni Meselesi. Haz. Fikret Adanır, Oktay Özel. *1915: Siyaset, Tehcir ve Soykırım,* İstanbul: Tarih Vakfı Yurt Yayınları, 99-111.

Deringil, S. (2012). *Conversion and Apostasy in Late Ottoman Empire.* Cambridge: Cambridge University Press.

Deringil, S. (2011). *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909,* I.B. Tauris.

Derri, A. (2020). Imperial Creditors, 'Doubtful' Nationalities and Financial Obligations in Late Ottoman Syria: Rethinking Ottoman Subjecthood and Consular Protection. *The International History Review,* Vol. 43, Issue 5, 1060-1079.

Di Paola, P. (2007). The Spies Who Came in from the Heat: The International Surveillance of the Anarchists in London. *European History Quarterly,* 37, 189-215.

Dirlik, A. (1999). Is There History After Eurocentrism? : Globalism, Postcolonialism, and the Disavowal of History. *Cultural Critique,* No. 42, 1-34.

Duguid, S. (1973). The Politics of Unity: Hamidian Policy in Eastern Anatolia. *Middle Eastern Studies,* 9(2), 139-155.

Dupriez, L. H. (1929). La Répression Internationale du Faux-Monnayage", *Revue de Droit Internationale et de Législation Comparée,* 511-530.

Dussel, D.C. (1981). Russian Judicial Reforms and Counter Reforms (1864-1914). Unpublished PhD. Thesis, Columbia University of Missouri.

Dündar, F. (2015). Savaş ve Ermeni Nüfus Meselesinin Halli, 1915-1923. Haz. Fikret Adanır, Oktay Özel. *1915: Siyaset, Tehcir ve Soykırım,* İstanbul: Tarih Vakfı Yurt Yayınları, 418-25.

Ekinci, E. B. (2004). *Osmanlı Mahkemeleri: Tanzimat ve Sonrası.* İstanbul: Arı Sanat.

Eldem, E. (2015). "Banka Vakası" ve 1896 İstanbul Katliamı. Haz. Fikret Adanır, Oktay Özel. *1915: Siyaset, Tehcir ve Soykırım,* İstanbul: Tarih Vakfı Yurt Yayınları, 169-190.

Eldem, E. (2006). Capitulations and Western Trade. In *the Cambridge History of Turkey (Volume 3): The Later Ottoman Empire, 1603-1839*. Edited by Suraiya Faroqhi. Cambridge: Cambridge University Press, 281-335.

Eldem, E. (2011). Chaos and Half Measures: The Ottoman Monetary 'System' of the Nineteenth Century. In E.Eldem and S.Petmezas (Eds.). *The Economic Development of South-Eastern Europe (1830-1914).* Athens: Alpha Bank Historical Archives, 251-305.

Edhem E. (2007). Foreigners at the Threshold of Felicity: The Reception of Foreigners in Ottoman Istanbul. In *Cultural Exchange in Early Modern Europe: Cities and Cultural Exchange in Europe, 1400-1700.* Edited by Donatella Calabi, Stephen Turk Christensen. Cambridge: Cambridge University Press, 114-31.

Eldem, E. (2013). Istanbul as a Cosmopolitan City: Myths and Realities. In *A Companion to Diaspora and Transnationalism.* Edited by Ato Quayson and Girish Daswani. Wiley-Blackwell, 212-230.

Eldem, E. (1999). Istanbul: from Imperial to Peripheralized Capital. In *The Ottoman City Between East and West: Aleppo, Izmir and Istanbul.* Edited by Edhem Eldem, Daniel Goffman and Bruce Masters. Cambridge: Cambridge University Press, 135-206.

Eldem, E. (2005). Ottoman financial integration with Europe: foreign loans, the Ottoman Bank and the Ottoman public debt. *European Review,* Vol.13, No.3, 431-445.

Eldem, E. (2018). The Search for an Ottoman Vernacular Photography. In *The Indigenous Lens: Early Photography in the Near and Middle East.* Ed. by Ritter M. and S.G. Scheiwiller. De Gruyter, 29-56.

Erdoğdu, A.T. (2016). The Administrative and Judicial Status of the First Ottoman Parliament According to the 1876 Constitution. *The First Ottoman Experiment in Democracy.* Ed. by Christoph Herzog and Malek Sharif. Würzberg: Ergon Verlag in Kommission, 67-87.

Ergene, B. (2004). Pursuing Justice in an Islamic Context: Dispute Resolution in Ottoman Courts of Law. *Political and Legal Anthropology Review,* Vol. 27, No. 1, 51-71.

Ergut, F. (2004). *Modern Devlet ve Polis.* İstanbul: İletişim Yayınları.

Ergül, E. (2013). *Avrupa İnsan Hakları Sözleşmesi ve Türk Hukuku'nda Sınır Dışı Etme, Geri Gönderme ve Geri Verme.* Yargı Yayınevi.

Erickson, E.J. (2011). Template for Destruction: The Congress of Berlin and the Evolution of Ottoman Counterinsurgency Practices. In *War and Diplomacy: The Russo-Turkish War of 1877-1878 and the Treaty of Berlin.* Ed.by M.Hakan Yavuz and Peter Sluglett. University of Utah Press, 351-381.

Erozan, B. (2014). Türkiye'de Uluslararası İlişkiler Disiplininin Uzak Tarihi: Hukuk-u Düvel. *Uluslararası İlişkiler,* Vol. 11, No. 43, 53-80.

Ersoy, A. (2016). Ottomans and the Kodak Galaxy: Archiving Everyday Life and Historical Space in Ottoman Illustrated Journals. *History of Photography,* 40:3, 330-357.

Extradition. Fugitives from Justice. Necessity for Physical Presence at Time of Commission of Crime. (1924). *The Yale Law Journal,* Vol.33, No.7 (May), 784.

Extradition in the Absence of Treaties. (1901). *Harvard Law Review,* Vol.14, No.8, (Apr.), 607-608.

Evelyn, G.P. (1954). *A Diary of Crimea.* London: Gerald Duckworth.

Fahmy, K. (1999). The Anatomy of Justice: Forensic Medicine and Criminal Law in Nineteenth Century Egypt. *Islamic Law and Society,* Vol.6, no.2, 224-271.

Fahmy, Z. (2013). Jurisdictional Borderlands: Extraterritoriality and "Legal Chameleons" in Precolonial Alexandria, 1840-1870. *Comparative Studies in Society and History,* Vol.55, Iss.2, (April), 305-329.

Féraud-Giraud, L. J. D. (1855). De La Juridiction Française Dans Les Échelles Du Levant. *Revue Historique De Droit Français et Étranger*, Vol.1. Paris : Edition Dalloz, 579-608.

Ferrara, A., Pianciola N. (2019). The dark side of connectedness: forced migrations and mass violence between the late Tsarist and Ottoman empires (1853-1920). *Historical Research,* Vol. 92, No. 257. 608-631.

Findley, C. V. (1989) *Ottoman Civil Officialdom: A Social History.* New Jersey: Princeton University Press.

Findley, C. (1972). The Foundation of the Ottoman Foreign Ministry: The Beginnings of Bureaucratic Reform under Selim III and Mahmud II. *International Journal of Middle East Studies,* Vol. 3, No.4 (Oct.), 388-416.

Fisher, A.W. (1987). Emigration of Muslims from the Russian Empire in the Years After the Crimean War. *Jahrbücher für Geschichte Osteuropas*. Neue Folge, Bd. 35, H. 3.

Fisk, C. L., Gordon R. W. (2011). Foreword: "Law As …": Theory and Method in Legal History. *UC Irvine Law Review,* 1(3), 519-541.

Flaherty, D. E. (2013). *Public Law, Private Practice: Politics, Profit, and the Legal Profession in Nineteenth-Century Japan. Harvard East Asian Monographs,* 348.

Fleming, M. (1980). Propaganda by the deed: Terrorism and anarchist theory in late nineteenth-century Europe. *Terrorism,* Vol. 4, 1-23.

Forestier-Peyrat, E. (2016). Une autre histoire des relations russo-ottomanes : Trois moments de la frontière caucasienne (1900-1918). *European Journal of Turkish Studies,* 22, 1-20.

Fugitive Criminals in International Extradition. (1923). *Columbia Law Review,* Vol.23, No. 2, Feb. 176-179.

Fujinami, N. (2019). Law for Tanzimat: Islam and Sovereignty in Kemalpaşazade Sait's Legal Thought. *Die Welt des Islams,* 59, 171-188.

Fujinami, N. (2017). The First Ottoman History of International Law. *Turcica,* Vol. 48, Edition Peeters, 245-270.

Gadal, S., Jeansoulin, R. (2000). Borders, Frontiers and Limits: Some Computational Concepts Beyond Words. *European Journal of Geography,* 125, 1-16.

Gango, G. (2001). 1848-1849 in Hungary. *Hungarian Studies,* 15/1, 39-47.

Gavrilis, G. (2008). The Greek – Ottoman Boundary as an Institution, Locality, and Process, 1832-1882. *American Behavioral Scientist,* Vol. 51, No. 10, 1516-1537.

Genell, A. (2016). Autonomous Provinces and the Problem of 'Semi-Sovereignty' in European International Law. *Journal of Balkan and Near Eastern Studies,* Vol. 18, No.6, 533-549.

Genell, A. (2016). The Well-Defended Domains: Eurocentric International Law and the Making of the Ottoman Office of Legal Counsel. *Journal of the Ottoman and the Turkish Studies Association,* Vol.3, No.2, November, 255-275.

Georgeon, F. (2003). *Abdülhamid II. Le sultan calife.* Paris: Fayard.

Gerber, H. (1994). *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective.* Albany: SUNY Press.

Gernsheim A. and H. G. (1954). *Roger Fenton, Photographer of the Crimean War.* London: Secker and Warburg.

Geyikdağı, N. (2008). *Osmanlı Devleti'nde Yabancı Sermaye.* İstanbul: Hill.

Ghobrial, J.A. (2019). Introduction: Seeing the World like a Microhistorian. *Past and Present,* Vol. 242, Issue Supplement 14, 1-22.

Gomez, H. R. (2017). Migrazione Italiani in Nuova Russia e Crimea: Tracce, Fonti, Contesti in la Crimea tra Russia, Italia e Impero Ottomano. *Eurasiatica,* Vol.8, pp.117-144.

Gordon, L. J. (1928). Turkish-American Treaty Relations. *The American Political Science Review,* Vol. 22, No. 3, 711-721.

Gorky, M. (1913). *Chelkash and Other Stories.* New York: A.A. Knopf.

Gökçen, A. (1994). 1296 (1879) Tarihli Usul-ü Muhakemât-ı Cezaiyye Kanun-ı Muvakkatı. *Selçuk Üniversitesi Hukuk Fakültesi Dergisi,* 4, 203-288.

Gölen, Z. (2014). Karadağ Devleti'nin Doğuşu: Osmanlı-Karadağ Sınır Tespiti (1858-1860). *Belleten,* Cilt 78, Sayı 282, 659-698.

Grassi, F. L. (2006). Sardinya Krallığı'nın Kırım Savaşı'na Katılması. *Toplumsal Tarih,* 151. 80-86.

Grey, F. T. (1928). Extradition: A Draft Convention. *Transactions of the Grotius Society*, Vol. 14, Problems of Peace and War, Papers Read before the Society in the Year 1928, 103-112.

Groot, A. H. (2003). The Historical Development of the Capitulatory Regime in the Ottoman Middle East from the Fifteenth to the Nineteenth Centuries. *Oriente Moderno.* Nuovo Serie, Anno 22, (83), Nr. 3, 575-604.

Grotius, H. (1925). *De Jure Belli Ac Pacis Libri Tres* (*The rights of war and peace, including the law of nature and of nations).* Oxford: Clarendon Press.

Gutman, D. (2019). *The Politics of Armenian Migration to North America, 1885-1915.* Edinburgh University Press.

Gutman, D. (2016). Travel Documents, Mobility Control, and the Ottoman State in the Age of Global Migration, 1880-1915. *JOTSA,* Vol.3, No.2 (November), 347-368.

Güler, Ü. (2010). Türk Ceza Hukuku'nda Geri Verme.

Günay, B. (2009). The Crimean War and Its Effects on Ottoman Social Life. *Güneydoğu Avrupa Araştırmaları Dergisi,* 16. 105-128.

Gürpınar, D. (2013). *Ottoman Imperial Diplomacy: A Political, Social and Cultural History.* I.B. Tauris.

Gürsoy, G. (2019). Osmanlı İmparatorluğu'nda Sikke Kalpazanlığı. Basılmamış Yüksek Lisans Tezi. İstanbul Üniversitesi.

Hamed-Troyansky, V. (2018). Imperial Refuge: Resettlement of Muslims from Russia in the Ottoman Empire, 1860-1914. PhD Thesis. Stanford University.

Haney, C. (1982). Criminal Justice and the Nineteenth Century Paradigm: The Triumph of Psychological Individualism in the 'Formative Era.' *Law and Behavior* Vol.6, No. ¾, 191-235.

Hanioğlu, Ş. M. (2001). *Preparation for A Revolution: The Young Turks, 1902-1908.* Oxford University Press.

Hanley, W. (2018). Extraterritorial Prosecution, the Late Capitulations, and the New International Lawyers. In *To Kill a Sultan: A Transnational History of the Attempt on Abdülhamid II (1905).* Ed. by Houssine Alloul, Edhem Eldem and Henk de Smaele. London: Palgrave, 163-192.

Hanley, W. (2016). International Lawyers without Public International Law: the Case of the Late Ottoman Egypt. *Journal of the History of International Law 18,* 98-119.

Hanley, W. (2016). What Ottoman Nationality Was and Was Not? *Journal of the Ottoman and Turkish Studies Association,* Vol. 3, No. 2, 277-298.

Hanley, W. (2013). When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study. In *Multilevel Citizenship.* Ed. by Willem Maas. University of Pennsylvania Press. 89-109.

Hannappel, T. (2019). Extradition and Expulsion as Instruments of Transnational Security Regimes Against Anarchism in the Late Nineteenth Century. In *The Transnationalisation of Criminal Law in the Nineteenth and Twentieth Century: Political Crime, Police Cooperation, Security Regimes and Normative Orders.* Ed. by Karl Härter, Tina Hannappel, and Jean Conrad Tyrichter. Verlag Vittorio Klostermann, 65-97.

Hannavy, J. (1974). *The Camera Goes to War: Photographs from the Crimean War.* Edinburgh: Scottish Arts Council.

Harsin, J. (2002). *Barricades: The War of the Streets in Revolutionary Paris, 1830-1848.* Palgrave: Macmillan.

Hartmann, E. (2013). The Central State in the Borderlands: Ottoman Eastern Anatolia in the Late Nineteenth Century. In *Shatterzone of Empires: Coexistence and Violence in the German, Habsburg, Russian and Ottoman Borderlands.* Ed. by Omer Bartov and Eric D. Weitz. Indiana University Press: Bloomington and Indianapolis, 172-192.

Hatton, T. (2001). The Age of Mass Migration: What We Can and Can't Explain. In *Migration and Mobility: the European Context.* Ed. by Ghatak S. and Sassoon A.S. Palgrave: Macmillan.

Hegel, G.W.F. (2008). *The Outlines of the Philosophy of Right.* Translated by T. M. Knox, edited by Stephen Houlgate. Oxford University Press.

Heinzelman, T. (2014). The Ruler's Monologue: The Rhetoric of the Ottoman Penal Code of 1858. *Die Welt des Islams,* Vol.54, Issue 3-4, Special Thematic Section: Competing Notions of Order in the Later Ottoman Empire (18th -20th Centuries), 292-321.

Heiss, M.A. (2002). The Evolution of the Imperial Idea and U.S. National Identity. *Diplomatic History,* Vol. 26, No. 4, 511-540.

Herlihy, D. (2011) *The Lost Cyclist: The Epic Tale of an American Adventurer and His Mysterious Disappearance.* Mariner Books.

Herzog, C. (2011). Migration and the state: On Ottoman regulations concerning migration since the age of Mahmud II. In *the City in the Ottoman Empire: Migration and the making of urban modernity,* ed. by Ulrike Freitag, Malte Fuhrmann, Nora Lafi and Florian Riedler. Routledge: London and New York, 117-134.

Hill, P. (2021). How Global Was the Age of Revolutions? The Case of Mount Lebanon, 1821. *Journal of Global History,* 16, 65-84.

Hobsbawm, E. (2003). *The Age of Capital: 1848-1875.* London: Abacus, 2003.

Hobsbawm, E. (1996). *The Age of Revolution: 1789-1848.* Vintage Books.

Holquist, P. (2004). The Russian Empire as a "Civilized State: International Law as Principle and Practice in Imperial Russia, 174-1878. *The National Council for Eurasian and East European Research.* Washington D.C., 1-37.

Horowitz, R. (2005). International Law and State Formation in China, Siam and the Ottoman Empire during the 19th Century. In *Journal of World History* 445, 445-486.

Howard, H.N. (1976). The Bicentennial American-Turkish Relations. *Middle East Journal,* Vol. 30, No. 3, 291-310.

Howe, J. W., Mead E.D., Wyman L.B.C., Dillingham P., Garrison F.J., Noble E., Hobart A. (1893). Society of American Friends of Russian Freedom. *American Advocate of Peace,* Vol. 55, No. 5, 103-104.

Howell, R. (2003). The Effect of the Martin Koszta Affair on American Foreign Policy. *Fairmount Folio: Journal of History,* Vol. 5, 40-50.

Hughes, C. S. (1994). *Crime, Disorder and the Risorgimento: The Politics of Policing in Bologna.* Cambridge: Cambridge University Press.

Hunt, C. (2015). Changing Identities at the Fringes of the Late Ottoman Empire: The Muslims of Dobruja, 1839-1914. Unpublished Ph.D. Dissertation. The Ohio State University.

Hyde, C.C. (1914). Notes on Extradition Treaties of the United States. *The American Journal of International Law* 8, no.3 (July), 487–514.

Ilıcak, Ş. (2021). "Those Infidel Greeks": The Greek War of Independence Through Ottoman Archival Documents. Leiden: Brill.

Immig, N. (2009). The "New" Muslim Minorities in Greece: Between Emigration and Political Participation, 1881–1886. *Journal of Muslim Minority Affairs,* Vol. 29, No. 4 (Dec.), 511–522.

International Convention for the Suppression of Counterfeiting Currency and Protocol. Signed at Geneva, April 20, 1929. (1931) *League of Nation Treaty Series 45.*

Ispahani, M. (2018). Building Sovereignty in the Late Ottoman World: Imperial Subjects, Consular Networks and Documentation of Individual Identities. Unpublished PhD Thesis, Columbia University.

İleri, N. (2015). A Nocturnal History of Fin de Siècle Istanbul. PhD Thesis, Binghamton University.

İlgürel, M. (2009). Subaşı. *TDV Islâm Ansiklopedisi,* S.37, 447-448.

Jackson, J. H. (1991). *Quasi States: Sovereignty, International Relations, and the Third World.* Cambridge University Press.

Jackson, J. H. (2003). Sovereignty – Modern: A New Approach to an Outdated Concept. *American Journal of International Law,* 97, 782-802.

Jacobson, S. (2009). *Catalonia's Advocates: Lawyers, Society, and Politics in Barcelona, 1759-1900.* The University of North Carolina Press.

Jagodic, M. (1998). The Emigration of Muslims from the New Serbian Regions 1877/1878. *Balkanologie: Revue d'études pluridisciplinaires,* Vol. II, No.2, 1-21.

James, L. (1981). *Crimea, 1854-56: The War with Russia from Contemporary Photographs.* Oxford: Hayes Kennedy.

Jarrett, M. (2013). *The Congress of Vienna and Its Legacy: War and Great Power Diplomacy after Napoleon.* London-New York: I.B. Tauris.

Jasanoff, M. (2010). Revolutionary Exiles: The American Loyalist and French Émigré Diasporas. In *The Age of Revolutions in Global Context, c. 1760-1840.* Ed. by David Armitage and Sanjay Subrahamanyam. Basingstoke: Palgrave Macmillan, 37-58.

Jennings, R. (2011). *Studies on Ottoman Social History in the Sixteenth and Seventeenth Centuries: Women, Zimmis and Sharia Courts in Kayseri, Cyprus, and Trabzon.* Gorgias Press.

Jennings, R. C. (1975). The Office of Vekil (Wakil) in 17th Century Ottoman Sharia Courts. *Studia Islamica,* 42, 147-169.

Jensen, R. B. (2014). *The Battle Against Anarchist-Terrorism: An International History, 1878-1934.* Cambridge University Press.

Jensen, R. B. (1981). The International Anti-Anarchist Conference of 1898 and the Origins of Interpol. *Journal of Contemporary History,* Vol. 16, No. 2 (Apr. 1981), pp. 323-347.

Jianu, A. (2011). *A circle of friends: Romanian revolutionaries and political exile, 1840-1859.* Balkan Studies Library, 3. Leiden: Brill.

Jones, F. C. (1970). *Extraterritoriality in Japan and the Diplomatic Relations Resulting in Its Abolition, 1853-1899*. AMS Press.

Kahraman, O. (2020). Osmanlı İdari Modernleşmesinde Şura-yı Devlet. Basılmamış Doktora Tezi. Hacı Bayram Veli Üniversitesi.

Kale, B. (2014). Transforming an Empire: The Ottoman Empire's Immigration and Settlement Policies in the Nineteenth and Early Twentieth Centuries. *Middle Easterm Studies,* 50 (2), 252-271.

Kamay, B. (2021). The Ottoman Empire, the United States, and the legal battle over extradition: the "Kelly affair." *New Perspectives on Turkey,* Vol. 65, 78-99.

Karakaya, H. (2020). Osmanlı Ceza Hukukunda Parada Sahtecilik Suçu. Basılmamış Yüksek Lisans Tezi. Ankara Yıldırım Beyazıt Üniversitesi.

Karakoç, E. (2010). Osmanlı Hariciyesinde Bir Ermeni Nazır: Gabriel Noradunkyan Efendi. *Uluslararası İlişkiler,* Cilt 7, Sayı 25, 157-177.

Karčić, H. (2020). Sèvres at 100: The Peace Treaty that Partitioned the Ottoman Empire. *Journal of Muslim Minority Affairs,* Vol. 40, Issue 3, 470-479.

Karpat, K. (2002). Kossuth in Turkey: The Impact of Hungarian Refugees in the Ottoman Empire, 1849-1851. In *Studies on Ottoman Social and Political History.* Brill, 169-184.

Karpat, K. (1985). The Ottoman Emigration to America, 1860-1914. *International Journal of Middle East Studies*, Vol. 17, No. 2, 175-209.

Kasaba, R. (2011). *Moveable Empire: Ottoman Nomads, Migrants & Refugees.* University of Washington Press.

Kasaba, R. (1988). *The Ottoman Empire and the World Economy.* Albany: State University of New York Press.

Kayalı, H. (1995). Elections and the Electoral Process in the Ottoman Empire, 1876-1919," *International Journal of Middle East Studies,* Vol. 27, No. 3, 265-286.

Kayaoğlu, T. *(2014). Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China.* Cambridge: Cambridge University Press.

Keene, E. (2004). *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics.* Oxford: Cambridge University Press.

Kemal, Y. (2003). *Karıncanın Su İçtiği, Bir Ada Hikayesi 2.* Yapı Kredi Yayınları.

Keneally, T. (2008). *Abraham Lincoln: A Life.* London: Penguin Books.

Kern, K. (2011). *Imperial Citizen: Marriage and Citizenship in the Ottoman Frontier Provinces of Iraq.* Syracuse University Press.

Ketsemanian, V. (2018). The Hunchakian Revolutionary Party and the Assassination Attempts Against Patriarch Khoren Ashekian and Maksudzade Simon Bey in 1894. *International Journal of Middle East Studies,* 50, 735-755.

Kévorkian, R.H. (1995). Gabriel Noradunghian : Extraits des Mémoires recueillis par Aram Andonian. *Revue d'Histoire Arménienne Contemporaine,* TOME I, 1-37.

Kévorkian, R.H. (2011). *The Armenian Genocide : A Complete History.* London : New York. I.B. Tauris

Khair, A. A. (1973). *Le Moutaçarrifat du Mont-Liban.* Beyrouth : Publications de L'Université Libanaise.

Kılıç, O. (1999). XI. Yüzyılın ikinci yarısında Osmanlı Devleti'nde Kalpazanlık Faaliyetleri. *Osmanlı Ansiklopedisi,* C.3, 180-187.

Kılıç, S. (1992). 1876 Anayasası'nın Bilinmeyen İki Tasarısı. *A.Ü.Osmanlı Tarihi Araştırma Merkezi Dergisi (OTAM)*, no 4, 557- 635.

Kırımlı, H. (2008). Emigrations from the Crimea to the Ottoman Empire during the Crimean War. *Middle Eastern Studies,* Vol.44, No.5, 751-773.

Kırlı, C. (2019): Tanzimat: Düzen ve Kaos. *Toplumsal Tarih,* 311, Kasım, 80-85.

Kırlı, C. (2015). *Yolsuzluğun İcadı: 1840 Ceza Kanunu, İktidar ve Bürokrasi.* Istanbul: Verita.

Kimberly, L.A. (1965). Samoan Hurricane. *Naval Historical Foundation Publication,* August.

Klein, J. (2011). *The Margins of the Empire: Kurdish Militias in the Ottoman Tribal Zone.* Stanford University Press.

Knauf, D. and Moreno, B. (2010). *Leaving Home: Migration Yesterday and Today.* Edition Temmen.

Kocabaşoğlu, U. (2000). *Anadolu'daki Amerika: Kendi Belgeleriyle 19. Yüzyılda Osmanlı İmparatorluğu'ndaki Amerikan Misyoner Okulları.* İmge Yayınevi.

Koçunyan, A. (2014). The Transcultural Dimension of the Ottoman Constitution. In *Well-Connected Domains: Towards an Entangled Ottoman History.* Ed. by Pascal Firges, Tobias Graf, Christian Roth, and Gülay Tulasoğlu. BRILL, 235-258.

Kolbaş, B. T. (2021). Suçluların İadesi. *Basılmamış Yüksek Lisans Tezi.* Galatasaray Üniversitesi.

Koptaş, M. (2005). Armenian Political Thinking in the Second Institutional Period: The Case of Krikor Zohrab. Unpublished MA Thesis, Boğaziçi University.

Koskenniemi, M. (2001). *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960.* Cambridge University Press.

Krasner, S. (1999). *Sovereignty: Organized Hypocrisy*. New Jersey: Princeton University Press.

Kuhn, A. (1934). International Cooperation in the Suppression of Crime," *The American Journal of International Law,* Vol. 28, No.3 (Jul.), 541-544.

Kuneralp, S. (2002). Ottoman Diplomacy and the Controversy Over the Interpretation of Article 4 of the Turco-American Treaty of 1830. *The Turkish Yearbook of International Relations XXXI*, 7-20.

Kuneralp, S. (1999). *Son Dönem Osmanlı Erkân ve Ricali (1839-1922): Prosopografik Rehber.* Istanbul: İsis Press.

Kuneralp, S. (2008). The last of the Phanariotes: Grégoire d'Aristarchi Bey (1843-1914), an Ottoman diplomat and publicist in search of identity" *The Greek world under Ottoman and Western domination.* New York: Alexander S. Onassis Public Benefit Foundation: Benaki Museum.

Kurz, M. (2012). Gracious Sultan, Grateful Subjects: Spreading Ottoman Imperial "Ideology" throughout the Empire. *Studia Islamica 107*, 96-121.

Laine, J.P. (2021). Beyond Borders: Towards the Ethics of Unbounded Inclusiveness. *Journal of Borderland Studies,* 36:5, 745-763.

Lambert, F. (2005). *The Barbary Wars: American Independence in the Atlantic World*. New York: Hill and Wang.

Laver, J. (2002). *The Modernization of Russia, 1856-1985.* Oxford: Heinemann.

Latour, B. (2010). *The Making of Law: An Ethnography of the Conseil d'Etat.* Polity Press, Cambridge.

Lee, B. (1970). The Kingdom of Sardinia. *Historical Atlas of the World.* Edinburgh.

Lefebvre, G. (2015). *The Coming of the French Revolution.* Princeton University Press.

Legal Pluralism and Empires, 1500-1850 (2013). Ed. by Lauren Benton, Richard J. Ross. NYU Press.

Levi, G. (2019). Frail Frontiers? *Past and Present.* Vol. 242, Issue Supplement 14, November, 37-49.

Lévy-Aksu, N. (2015). A Capital Challenge: Managing Violence and Disorders in Late Ottoman Istanbul. In U.Freitag, N.Fuccaro, C.Ghrawi, N.Lafi. (Eds.), *Rethinking Urban Violence in the Middle East: Changing Cityscapes in the Transition from Empire to Nation State.* Oxford: Berghahn, 52-69.

Lévy-Aksu, N. (2016). An Ottoman variation on the state of siege: The invention of the *idare-i örfiyye* during the first constitutional period. *New Perspectives on Turkey,* no. 54, 1-24.

Lévy-Aksu, N. (2015). Institutional Cooperation and Substitution: The Ottoman Police and Justice System at the Turn of the 19th and 20th Centuries. In *Order and Compromise: Government Practices in Turkey from the Late Ottoman Empire to the Early 21st Century.* Ed. by Marc Aymes, Benjamin Gourisse, Elise Massicard. Leiden: Brill, 146-168.

Lévy-Aksu, N. *Osmanlı İstanbul'unda Asayiş, 1879-1909.* İletişim Yayınları.

Lévy-Aksu, N. (2018). The State and the City, the State in the City: Another Look at Citadinité. In *Ordinary Jerusalem, 1840-1940: Opening New Archives, Resisting a Global City.* Ed.by Angelos Dalachanis, Vincent Lemire. Leiden: Brill.

Liu, S. S. (1925). *Extraterritoriality: Its Rise and Decline.* New York: Columbia University Press.

Living in the Ottoman Realm: Empire and Identity: 13th to 20th Centuries. (2016). Christine Isom-Verhaaeren and Kent Schull. (Eds.). Bloomington and Indianapolis: Indiana University Press.

Lohr, E. (2006). The Ideal Citizen and Real Subject in Late Imperial Russia. *Kritika: Explorations in Russian and Eurasian History,* Vol. 7, No.2. Slavica Publishers, 173-194.

Lorca, A. B. (2010). Universal International Law: Nineteenth Century Histories of Imposition and Appropriation. *Harvard International Law Journal 51*, no.2, 475-552.

Low, M. C. (2016). Unfurling the Flag of Extraterritoriality: Autonomy, Foreign Muslims, and the Capitulations in the Ottoman Hijaz. *Journal of Ottoman and Turkish Studies Association,* Vol. 3, No. 2, 299-323.

MacArthur-Seal, D. J. (2018). Resurrecting Legal Extraterritoriality in Occupied Istanbul, 1918-1929. *Middle Eastern Studies,* Vol.54, No.5, 769-787.

Markovits, S. (2013). *The Crimean War in the British Imagination.* Cambridge University Press.

Martinez-Robles, D. (2016). Constructing Sovereignty in Nineteenth-Century China: the Negotiation of Reciprocity in the Sino-Spanish Treaty of 1864. *The International History Review.* Vol. 38, No.4, 719-740.

Martykánová, D. (2019). Public Debt After a Defeat: Negotiating the French image of the Ottoman Empire as debtor in the aftermath of Russo-Turkish War of 1877-78. *Journal of European Economic History,* 57-82.

Matiossian, V. (2012). Armenian Printing in America (1857-1912). *The Armenian Weekly,* Sep. 25-27.

Maxey, E. (1908). Extradition and Protection Against Anarchy. *The Yale Law Journal,* Vol.17, No. 5, 376-389.

Mazower, M (2021). *The Greek Revolution: 1821 and the Making of Modern Europe.* Penguin Press.

Mccarthy, J., Turan, Ö., Taşkıran, C. (2014). *Sasun: The History of an 1890s Armenian Revolt.* Salt Lake City: The University of Utah Press.

Melzer, N. (2022). *The Trial of Julian Assange: A Story of Persecution.* London: Verso Books.

Meray, S.L. (1976). *Lozan'ın Bir Öncüsü: Prof. Ahmet Selahattin Bey 1878-1920.* Ankara: Türk Tarih Kurumu.

Meyer, J.M. (2007). Migration, Return, and the Politics of Citizenship: Russian Muslims in the Ottoman Empire, 1860-1914. *International Journal of Middle East Studies,* Vol. 39, No. 1 (Feb.), 15-32.

Migrations and Borders: Practices and Politics of Inclusion and Exclusion in Europe from the Nineteenth to the Twenty-First Century. (2019). Margit Fauser, Anne Friedrichs, Levke Harders. *Journal of Border Land Studies.*

Mihm, S. (2007). *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the Unites States.* Cambridge: Harvard University Press.

Miller, B. (2016). *Borderline Crime: Fugitive Criminals and the Challenge of the Border, 1819-1914.* University of Toronto Press.

Miller, N. B. (2019). Trading Sovereignty and Labor: The Consular Network of Nineteenth Century Hawaii. *The International History Review,* 42:2, 260-277.

Miller, O. (2018). Rethinking the violence in the Sasun Mountains (1893-1894). *Études arméniennes contemporaines,* 10, 97-123.

Miller, R. (2005). *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey.* New York: Routledge.

Minawi, M. (2021). International Law and the Precarity of Ottoman Sovereignty in Africa at the End of the Nineteenth Century. *The International History Review,* Vol. 43, Issue 5, 1098-1121.

Minawi, M. (2016). *The Ottoman Scramble for Africa: Empire and Diplomacy in the Sahara and the Hijaz*. Stanford: Stanford University Press.

Mine, E. (1970). *Osmanlı İmparatorluğu'nda Kâğıt Para (Kaime).* Ankara: Türk Tarih Kurumu.

Miras, T. (1967). Le Tanzimat et Son Système Législatif. *Annales de la Faculté de Droit d'Istanbul.* Vol.17, 1-40.

Mirkova, A.M. (2013). 'Population Politics' at the End of Empire: Migration and Sovereignty in Ottoman Eastern Rumelia, 1877-1886. *Comparative Studies in Society and History,* 55 (4), 955-985.

Mitzen, J. (2013). *Power in Concert: The Nineteenth-Century Origins of Global Governance.* Chicago: University of Chicago Press.

Montesquieu. (1989). *The Spirit of Laws.* Trans. and edit. by Anne M. Cohler, Basia Carolyn Miller and Harold Samuel Stone. Cambridge: Cambridge University Press.

Morris, J. (2020). Locating the Wallachian Revolution of 1848. *The Historical Journal,* Vol. 64, Issue 3, 606-625.

Moumdjian, G. (2011). From Millet-i Sadika to Millet-i Asiya: Abdülhamid II and Armenians, 1878–1909." Edited by Yavuz, Hakan and Sluglett, Peter. *War and Diplomacy: The Russo-Turkish War of 1877-1878 and the Treaty of Berlin*. Salt Lake City: University of Utah Press.

Moumdjian, G. (2013). Rebels with a Cause: Armenian-Macedonian Relations and Their Bulgarian Connection, 1895-1913. In *War and Nationalism: The Balkan Wars, 1912–1913, and Their Sociopolitical Implications.* Ed. by Isa Blumi, M. Hakan Yavuz. University of Utah Press, 132-175.

Mughal, A. G and Sadiki, L. (2017). Shari'ah Law and Capitulations Governing the Non-Muslim Foreign Merchants in the Ottoman Empire. *Sociology of Islam.* Vol.5, Issue 2-3, Jun, 138–160.

Muslu, Z. (2020). Language and Power: The Dragoman as a Link in the Chain Between the Laws of Nations and the Ottoman Empire. *Journal of History of International Law, 22,* 50-74.

Müller, A.T. (2014). Friedrich F. Martens on 'The Office of Consul and Consular Jurisdiction in the East.'*The European Journal of International Law,* Vol. 25, No.3, 871-891.

Müşavir Paşa'nın Kırım Harbi Anıları, Sir Adolphus Slade. (2012). Candan Badem. (Haz.). Türkiye İş Bankası Yayınları.

Nagy, L.J. (1992). La Turcophilie en Hongrie au Temps des Crises D'orient. *Oriento Moderno,* 72 (7-12), 21-25.

Ottoman Borderlands: Issues, Personalities and Political Changes. (2004). Ed. by Kemal Karpat and Robert Zens. Center of Turkish Studies.

Önal, O. (2017). *The Tsar's Armenians: A Minority in Late Imperial Russia.* I.B. Tauris: Bloomsbury Publishing.

Özbek, N. (2008). Policing the Countryside: Gendarmes of the Late-Nineteenth-, Century Ottoman Empire (1876-1908). *IJMES* 40, no.1, 47-67.

Özcan, A. (1995). Jamaladdin Afghani's honorable confinement in Istanbul and Iran's demands for his extradition. *The Journal of Ottoman Studies*, XV, 285-291.

Özdemir, H. (2019). Osmanlı Ermenilerinin Göçünün Fotoğrafını Çekmek: Fotoğrafçılar, Arka Planları ve Terk-i Tabiiyet Fotoğrafları. *Toplumsal Tarih,* Sayı: 310, 48-59.

Özkan, D. (2020). The Final Phase of the Greek Revolution: Delimitation: Determination and Demarcation of the First Greek Borders in Ottoman Sources. In *European Revolutions and the Ottoman Balkans: Nationalism, Violence and Empire in the Long Nineteenth Century.* Ed. by Dimitris Stamatopoulos, Warren Dockter. I.B. Tauris, 111-138.

Özman, A. (2000). The Portrait of the Ottoman Attorney and Bar Associations: State, Secularization and Institutionalization of Professional Interests. *Der Islam; Zeitschrift für Geschicte und Kultur des Islamischen Orients,* Vol. 77, 319-337.

Özsu, U. (2015). *Formalizing Displacement: International Law and Population Transfers.* Oxford University Press.

Özsu, U. (2010). 'Receiving' the Swiss Civil Code: Translating Authority in Early Republican Turkey. *International Journal of Law in Context,* Vol.6, No.1. Cambridge University Press, 63-89.

Özsu, U. (2016). The Ottoman Empire, the Origins of Extraterritoriality, and International Legal Theory. In *the Oxford Handbook of the Theory of International Law.* Edited by Florian Hoffmann and Anne Orford. Oxford: Oxford University Press, 123–37.

Öztan, G.G., Turan, Ö. (2015). Mütareke Döneminde Tehcir Tartışmaları ve Divân-ı Örfî Yargılamaları. In 1915: Öncesi ve Sonrasıyla Ermeni Siyaseti, Tehcir ve Soykırım. Ed. by Oktay Özel, Fikret Adanır. İstanbul: Tarih Vakfı Yurt Yayınları, 505-525.

Öztan, R. H. (2021). Chemistry of Revolution: Naum Tyufekchiev and the Trajectories of Revolutionary Violence in Late Ottoman Europe. In *Age of Rogues: Rebels, Revolutionaries and Rackeeters at the Frontiers of the Empire.* Ed. by Ramazan Hakkı Öztan and Alp Yenen. Edinburgh University Press, 261-301.

Öztan, R. H. (2017). Tools of Revolution: Global Military Surplus, Arms Dealers, and Smugglers in the Late Ottoman Balkans, 1878–1908. *Past & Present* 237, 167– 95.

Öztel, M. (2018). Osmanlı Devleti'nde Kalpazanlık ve Sahte Para (1818-1914): Kalpazanlığın ve Tedavül eden Kalp Paraların Sosyo-Ekonomik Etkileri. *Akademik Araştırmalar ve Çalışmalar Dergisi, (*C.10), 304-317.

Öztel, M. (2019). Osmanlı Devleti'nde Madeni ve Kağıt Para Kalpazanlığında Yabancıların ve Yabancı Ülkelerin Rolü (1818-1923). *BELLETEN,* 174-175.

Palabıyık, M. S. (2015). International Law for Survival: Teaching International Law in the Late Ottoman Empire (1859-1922). *Bulletin of the School of Oriental and African Studies,* Vol. 78, Issue 2, 271-292.

Palabıyık, M. S. (2014). The Emergence of the Idea of 'International Law' in the Ottoman Empire before the Treaty of Paris (1856). *Middle Eastern Studies* 50:2, 233-251.

Pamuk, Ş. (1999). *Osmanlı İmparatorluğu'nda Paranın Tarihi.* Tarih Vakfı. Yurt Yayınları.

Payne, H. C., Grosshans, H. (1963). The Exiled Revolutionaries and the French Political Police in the 1850's. *The American Historical Review,* Vol. 68, No. 4, 954-973.

Paz, O. Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-late 1860s). (2014). *Islamic Law and Society,* Vol.21, No. ½, 81-113.

Peirce, L. (2003). *Morality Tales: Law and Gender in the Ottoman Court of Aintab.* Berkeley: University of California Press.

Perl-Rosenthal, N. (2015). *Citizen Sailors: Becoming American in the Age of Revolution.* Belknap Press.

Peters, R. (1997). Islamic and Secular Criminal Law in Nineteenth-Century Egypt: The Role and Function of Qadi. *Islamic Role and Society,* 4 (1), 70-90.

Petriccia, F. (2012). Filling the Void: *Shari'a* in Mixed Courts in Egypt: Jurisprudence (1876-1949). *Journal of the Economic and Social History of the Orient 55,* 718-745.

Petrov, M. (2004). Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864–1868. *Comparative Studies in Society and History 46, no. 4.* 730-759.

Pifferi, M. (2018). The Roots of Italian Penal Codification: Nation Building and the Claim for a Peculiar Identity in Criminal Law. In *the Western Codification of Criminal Law: A Revision of the Myths of its Predominant French Influence, eds. by Aniceto Masferrer,* Switzerland: Springer, 163-192.

Pitts, J. (2018). *Boundaries of the International: Law and Empire.* Cambridge/London: Cambridge University Press.

'Political Offense' in Extradition Treaties. (1909). *The American Journal of International Law,* Vol.3, No.2, (Apr.), 459-461.

Potter, P. B. (1926). The Expansion of International Jurisdiction. *Political Science Quarterly,* Vol. 41, No. 4 (Dec.,), 546-566.

Proudhon, P.J. (1969). *General Idea of the Revolution in The Nineteenth Century.* New York: Haskell House Publishers.

Putnam, L. (2006). To Study the Fragments/Whole: Microhistory and the Atlantic World. *Journal of Social History,* Vol. 39, No. 3, 615-630.

Pyle, C. H. (2001). *Extradition, Politics and Human Rights.* Philadelphia: Temple University Press.

Quataert, D. (1993). *Ottoman Manufacturing in the Age of the Industrial Revolution.* New York: Cambridge University Press.

Radzinsky, E. (2005). *Alexander II: The Last Great Tsar.* Antonina W.Bouis. (Trans.). New York: Free Press.

Rahul, R. (1965). Russia's Other Boundaries. *Australian Journal of Politics and History,* 23-40.

Rapport Faux Monnayage. (1930). *Troisième Conférence International d'Unification du Droit Pénal,* Bruxelles.

R.D. (1869). Review: Storia degli studi del diritto internazionale in Italia by Augusto Pierantoni. *Revue Historique de Droit Français et étranger* (1855-1869), Vol.15, 495-496.

Reid, D. M. (1981). *Lawyers and Politics in the Arab World, 1880-1960.* Bibliotheca Islamica.

Regimes of Mobility: Border and State Formation in the Middle East, 1918-1946. (2022) Ed. by Jordi Tejel, Ramazan Hakkı Öztan. Edinburgh University Press.

Reinkowski, M. (2005). The State's Security and the Subjects' prosperity: notions of order in Ottoman bureaucratic correspondence (19th century). In *Legitimizing the Order: The Ottoman Rhetoric of State Power.* Edited by Maurus Reinkowski and Hakan Karateke. Leiden/Boston: Brill, 195-212.

Revel, J. (1998). Microanalysis and the Construction of the Social. In *Histories: French Constructions of the Past.* Ed. by Revel J., and Hunt L. New Press, 492-502.

Reynolds, M. A. (2011). *Shattering Empires: The Clash and Collapse of the Ottoman and Russian Empires, 1908-1918.* Cambridge University Press.

Riall, L. (1994). *The Italian Risorgimento: State, Society and National Unification.* London: Routledge.

Robson, L. (2021). Capitulations Redux: The Imperial Genealogy of the Post-World War I "Minority" Regimes. *The American Historical Review,* Vol. 126, Issue 3, 978-1000.

Rodogno, D. (2012). *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815-1914*. Princeton: Princeton University Press.

Rodogno, D. (2016). European Legal Doctrines on Intervention and the Status of the Ottoman Empire within the 'Family of Nations' throughout the Nineteenth Century. *Journal of the History of International Law,* 18, 5-41.

Rogan, E. L. (1999). *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850– 1921.* Cambridge: Cambridge University Press.

Rogers, H.W. (1884). Harboring Conspiracy. *The North American Review,* Vol. 138, No. 331, 521-534.

Rogers, H.W. (1887). Supreme Court of the United States and Rauscher. *The American Law Register (1852-1891),* 35, no. 4 (April), 218–246.

Rosenthal, S.T. (1980). *The Politics of Dependency: Urban Reform in Istanbul.* London: Greenwood Press.

Royle, T. (2000). *The Great Crimean War 1854-56.* London: Abacus.

Rubin, A. (2012) From legal representation to advocacy: Attorneys and Clients in the Ottoman Nizamiye Courts. *IJMES*, 44, Issue 1, 111-127.

Rubin, A. (2011). *Ottoman Nizamiye Courts*. New York: Palgrave Macmillan.

Rubin, A. Legal borrowing and its impact on Ottoman legal culture in the late nineteenth century. *Continuity and Change,* Vol. 22, Issue 2, (August 2007), 279-303.

Rubin, A. (2012). The Trial of the Prosecutor Hamdi Bey: Inside and Out of the Ottoman "Nizamiye" Court. *Journal of Social History.* Vol.45, No.3, The Hidden History of Crime, Corruption, and States (Spring), 757-779.

Ruskola, T. (2002). Legal Orientalism. *Michigan Law Review* v. 101, n. 1, 179-234.

Russia's Great Reforms, 1855-1881. (1994). B. Ekloff, J.Bushnell and L. Zakharova. (Eds.). Indiana University Press.

Rygiel, P. (2015). Does International Law matter? The Institute de Droit International and the Regulation of Migrations before the First World War. *Journal of Migration History,* 1, 7-31.

Saydam, A. (2019). Muhacir. *TDV Islâm Ansiklopedisi,* Ek.2, 286-288.

Saydam, A. (1997). Osmanlıların Siyasi Mültecilere Bakışı ya da 1849 Macar-Leh Mültecileri Meselesi. *BELLETEN,* C. 61, Sayı 231, 339-386.

Scarfi, J. P. (2020). Denaturalizing the Monroe Doctrine: The rise of Latin American legal anti-imperialism in the face of the modern US and hemispheric redefinition of the Monroe Doctrine. *Leiden Journal of International Law,* Vol. 33, Issue 3, 541-555.

Schull, K. (2016). Criminal Codes, Crime, and the Transformation of Punishment in the Late Ottoman Empire. In *Law and Legality in the Ottoman Empire and Republic of Turkey.* Ed. by Kent Schull, M. Safa Saraçoğlu, and Robert Zens. Indiana University Press, 156-178.

Schull, K. (2014). *Prisons in the Late Ottoman Empire: Microcosms of Modernity.* Edinburgh University Press.

Scott, J.C. (1998). *Seeing Like a State: How Certain Scheme to Improve the Human Condition Have Failed.* Yale University Press: New Haven.

Seaton, A. (1977). *The Crimean War: A Russian Chronicle.* London: B.T. Batsford.

Serbestoğlu, İ. (2011). Zorunlu bir Modernleşme Örneği Olarak Osmanlı Tabiiyet Kanunu. *OTAM,* 29, 193-214.

Servières, G. (1907). Un Épisode de l'Expédition d'Irlande, l'Extradition et la Mise en Liberté de Napper Tandy (1798-1802). *Revue Historique,* T.93, Fasc. 1, 46-73.

Shahar, I. (2008). Legal Pluralism and the Study of Shari'a Courts. *Islamic Law and Society,* Vol. 15, No. 1, *Shifting Perspectives in the Study of Shari'a Courts: Methodologies and Paradigms,* 112-141.

Sharkey, H.J. (2018). History Rhymes? Late Ottoman Millets and Post-Ottoman Minorities in the Middle East. *International Journal of Middle East Studies,* 50, 760-764.

Shaw, J. S. (1970). The Central Legislative Councils in the Nineteenth Century Ottoman Reform Movement Before 1876. *International Journal of Middle East Studies,* Vol.1, No.1, 51-84.

Silverman, J.L. (1982). Imposition of a Western Judicial System in the Hawaiian Monarchy. *Hawaiian Journal of History,* 16, 48-64.

Skocpol, T. (1985). Bringing the State Back In: Strategies of Analysis in Current Research. In *Bringing the State Back In.* Edited by Peter B. Evans, Dietrich Rueschemeyer, Theda Skocpol. Cambridge University Press, 3-38.

Skocpol, T. (2015). *States and Social Revolutions: A Comparative Analysis of France, Russia, and China.* Cambridge University Press.

Slys, M. T. (2014). *Exporting Legality: The Rise and Fall of Extraterritorial Jurisdiction in the Ottoman Empire and China.* Geneva: Graduate Institute Publications.

Smiley, W. (2014). The Burden of Subjecthood: The Ottoman State, Russian Fugitives, and Interimperial Law, 1774-1869. *International Journal of Middle East Studies* 46, no.1, 73-93.

Sohrabi, N. (2002). Global Waves, Local Actors: What the Young Turks Knew About Other Revolutions and Why It Mattered. *Comparative Studies in Society and History,* Vol. 44, Issue 1, 45-79.

Somel, A. (2001). *The Modernization of Public Education in the Ottoman Empire 1839-1908.* Leiden: Brill.

Sousa, N. (1933). *The Capitulatory Regime of Turkey: In History, Origin and Nature*. Baltimore: The John Hopkins Press.

Sönmez, A. (2006). Zaptiye Teşkilatı'nın Düzenlenmesi (1840-1869). *Tarih Araştırmaları Dergisi,* Vol.25, Issue 39, 173-194.

Stein, S. A. (2016). *Extraterritorial Dreams: European Citizenship, Sephardi Jews, and the Ottoman Twentieth Century.* Chicago University Press.

Stordeur Pryor, E. (2016). *Colored Travelers: Mobility and the Fight for Citizenship Before the Civil War.* Chapel Hill, the University of Carolina Press.

Strauss, J. (2016). A Constitution for a Multilingual Empire: Translations of the *Kanuni Esasi* and Other Official Texts in Minority Languages." *The First Ottoman Experience in Democracy.* Ed.by Christoph Herzog and Malek Sharif. Orient Institute: Istanbul, 21-52.

Swanson, G. W. (1972). Ottoman Police. *Journal of Contemporary History.* Vol.7, No. 1/2 (Jan.-Apr.), 243-260.

Szabo, M. D. (1972). Political Crimes: A Historical Perspective. *Denver Journal of International Law and Policy,* Vol. 2, No.1, 7-22.

Taşkın, F. (2016). 1844 Tashih-i Sikke Sonrasında Para Düzeni ve Kalpazanlık. *Studies of the Ottoman Domain,* Cilt:6, Sayı: 11, 1-19.

"*Tehcir ve Taktil" Divan-ı Harb-i Örfî Zabıtları: İttihat ve Terakki'nin Yargılanması 1919-1922.* Der. Vahakn N. Dadrian, Taner Akçam. İstanbul Bilgi Üniversitesi Yayınları.

Terzibaşoğlu, Y. (2006). Eleni Hatun'un zeytin bahçeleri: 19. yüzyılda mülkiyet hakları nasıl inşa edildi? *Tarih ve Toplum: Yeni Yaklaşımlar,* Sayı 4, 121-147.

Thayer, L. E. (1923). The Capitulations of the Ottoman Empire and the Question of, Their Abrogation as it Affects the United States. *American Journal of International Law,* Volume 17, Issue 2, 207-233.

The Charlton Extradition Case. (1911). *The American Journal of International Law,* Vol.5, No.1 (Jun.), 182-192.

The Definitive Treaty of Peace between Russia and the Porte: Signed at Constantinople on 8th February 1879. (1908). *The American Journal of International Law,* Vol. 2, No. 4, 424-426.

The Frontiers of the Ottoman World. (2009). Edited by C.S. Peacock. Oxford: Oxford University Press.

The Habsburg–Ottoman Borderlands: New Insights for the Study of the Nineteenth-Century European Legal and Social Order. (2020). *Austrian History Yearbook* 51, 15–87.

The late Ottoman port-cities and their inhabitants: subjectivity, urbanity, and conflicting orders. (2009). *Mediterranean Historical Review,* Vol. 24.

The Subjects of Ottoman International Law. (2020). Lâle Can, Michael Christopher Low, Kent F. Schull, and Robert Zens (eds). Bloomington: Indiana University Press.

Tirelli, M. C. (2018). The Unification of Italy as Seen Through the Ottoman Diplomatic Correspondences (1848-1870). Basılmamış Doktora Tezi, Istanbul Üniversitesi.

To Kill a Sultan: A Transnational History of the Attempt on Abdülhamid II (1905). (2018). ed. Houssine Alloul, Edhem Eldem and Henk de Smaele. London: Palgrave Macmillan.

Todd, D. (2018). Beneath Sovereignty: Extraterritoriality and Imperial Internationalism in Nineteenth-Century Egypt. *Law and History Review*, Vol. 36, No. 1, 105-137.

Toprak, Z. (2007). From plurality to unity: Codification and jurisprudence in the late Ottoman Empire. *Ways to Modernity in Greece and Turkey – Encounters with Europe, 1850-1950.* Ed. by A. Frangoudaki, Ç. Keyder. London/New York: I.B. Tauris, 26-39.

Torunoğlu, B. (2021). The Neo-Hellenes in the Ottoman Empire, 1830-1869. *Journal of Modern Greek Studies,* Vol. 39, Number 1, 49-70.

Tuğ, B. (2014). Gendered Subjects in Ottoman Constitutional Agreements, ca. 1740-1860. *European Journal of Turkish Studies* (Online), 18.

Tuğ, B. (2017). *Politics of Honor in Ottoman Anatolia: sexual violence and socio-legal surveillance in the eighteenth-century.* Leiden: BRILL.

Trattato di Estradizione del 19 Giugno 1926 tra l'Italie e la Turchia. (1930). *Oriente Moderno,* anno 11, nr.2, Febbraio, 76-70.

Treaty between Great Britain, Germany, Austria, France, Italy, Russia, and Turkey for the Settlement of Affairs in the East: Signed at Berlin, July 13, 1878. (1908). *The American Journal of International Law,* Vol. 2, Issue 4, 401-424.

Tucker, E. (1996). The Peace Negotiations of 1736: A Conceptual Turning Point in Ottoman-Iranian Relations. *The Turkish Studies Association Bulletin,* Vol. 20, no.1, 16-37.

Turan, Ö., Öztan, G.G. (2015). Mütareke Dönemi'nde İlk Tehcir Tartışmaları ve Divân-ı Harb-i Örfî Yargılamaları. *1915: Siyaset, Tehcir, Soykırım.* Haz. Fikret Adanır, Oktay Özel. Tarih Vakfı Yurt Yayınları,473-491.

Turhan, F. (2019). 6706 Sayılı Cezai Konularda Uluslararası İş Birliği Kanunu'nun Kapsamı ve Genel Hükümleri Hakkında Bir Değerlendirme. *D.E.Ü. Hukuk Fakültesi Dergisi,* C. 21, 3067-3109.

Turner, F. J. (2008). *The Significance of the Frontier in American History.* London: Penguin Books.

Tzouvala, N. (2021). The Specter of Eurocentrism in International Legal History. *Yale Journal of Law & Humanities,* Vol. 32, Issue 2, 413-434.

Tzouvala, N. (2019). 'And the laws are rude... crude and uncertain' Extraterritoriality and the emergence of territorialised statehood in Siam. In *The Extraterritoriality of Law: History, Theory, Politics.* Edited by Daniel S. Margolies, Umut Özsu, Maïa Pal, and Ntina Tzouvala. Routledge, 134-150.

Tzouvala, N. (2018). 'These Ancient Arenas of Racial Struggles': International Law and the Balkans, 1878-1914. *The European Journal of International Law,* Vol. 29, No.4, 1149-1171.

Ulugöl, H. (2002). *Suçluların Geri Verilmesi ve Siyasi Suç.* Ankara: Adil Yayınevi.

Unterman, K. (April 2012). Boodle over the Border: Embezzlement and the Crisis of International Mobility, 1880-1890. *The Journal of the Gilded Age and Progressive Era,* Vol.11, No. 2, 151-189.

Unterman, K. (2015). *Uncle Sam's Policemen: The Pursuit of Fugitives Across Borders.* Harvard University Press.

War and Diplomacy: The Russo-Turkish War of 1877-1878 and the Treaty of Berlin. (2011). Ed.by M.Hakan Yavuz and Peter Sluglett. University of Utah Press.

Vakali, A. (2021). Conspiracy under Trial: Christian Brigands, Rebels and Activists in Bosnia during the Balkans. In *Age of Rogues: Rebels, Revolutionaries and Racketeers at the Frontiers of the Empire.* Edited by Ramazan Hakkı Öztan and Alp Yenen. Edinburgh University Press, 151-177.

Van den Steen de Jehay, F. M. J. G. (1906). *De la Situation Légale des Sujets Ottoman non-Musulmans.* O. Schepens.

Van der Boogert, M.H. (2005). *The Capitulations and the Ottoman Legal System: Qadis, Consuls, and Beraths in the 18th Century.* Leiden-Boston: Brill.

Van Ittersum, M.J. (2016). Hugo Grotius: The Making of a Founding Father of International Law. *The Oxford Handbook of the Theory of International Law.* Ed. by Anne Orford and Florian Hoffmann. Oxford: Oxford University Press, 83-106.

Veinstein, G. (2008). Les Fondements Juridiques De La Diplomatie En Europe. *Les Relations Diplomatiques entre le Monde Musulman et L'Occident Latin (XIIE-XVIE Siécle),* Nuova Serie, Anno 88, N.2, 509-522.

Vries, V. (2019). Playing with Scales: The Global and the Micro, the Macro and the Nano. *Past and Present.* Volume 242, Issue Supplement 14, November, 23-36.

Weisbrode, K. (2014). *Old Diplomacy Revisited-A Study in the Modern History of Diplomatic Transformations.* Palgrave Macmillan.

Yazıcı Cörüt, G. (2015). Ambivalent Loyalties and Imperial Citizenship on the Russo-Ottoman Border between 1878 and 1914: An Analysis of the Ottoman Perspective. PhD Thesis. University of Manchester.

Yenisey, F. (1988). *Milletlerarası Ceza Hukuku: Ceza Yargılarının Milletlerarası Değeri ve Mevzuat.* Istanbul: Beta Basım Yayın.

Yeşil, F. (2011). The Transformation of the Ottoman Diplomatic Mind: The Emergence of Licensed Espionage. *Wiener Zeitschrift für die Kunde des Morgenlandes,* Vol. 101, 467-479.

Yılmaz, H. (2008). Osmanlı Devleti'nde Batılılaşma Öncesi Meşrutiyetçi Gelişmeler. *Divan,* Vol. 13, no. 24, 1-30.

Yılmaz, İ. (2014). Anti-Anarchism and Security Perceptions during the Hamidian Era. *Zapruder World: An International Journal for the History of Social Conflict,* 1.

Yılmaz, İ. (2021). Conspiracy, International Police Cooperation and the Fight Against Anarchism in the Late Ottoman Empire, 1878-1908. In *Age of Rogues: Rebels, Revolutionaries and Racketeers at the Frontiers of the Empire.* Ed. by Ramazan Hakkı Öztan and Alp Yenen. Edinburgh University Press, 208-234.

Yılmaz, İ. (2019). Governing the Armenian Question Through Passports in the Late Ottoman Empire (1876-1908). *Journal of Historical Sociology,* 1-16.

Yılmaz, İ. (2017). Propaganda by Deed and Hotel Registration Regulations in the Late Ottoman Empire. *JOTSA,* Vol.4 No.1, 137-156.

Yılmaz, İ. (2014). *Serseri, Anarşist ve Fesadın Peşinde: II. Abdülhamid Dönemi Güvenlik Politikaları Ekseninde Mürur Tezkereleri, Pasaportlar ve Otel Kayıtları.* Tarih Vakfı Yurt Yayınları.

Yılmaz, Ş. (1999). An Ottoman Warrior abroad: Enver Paşa as an expatriate. *Middle Eastern Studies,* 35:4, 40-69.

Yılmaz, Ş. (2015). *Turkish-American Relations, 1800-1952: Between the Stars, Stripes and the Crescent.* Routledge.

Yosmaoğlu, İ. (2014). *Blood Ties: Religion, Violence, and the Politics of Nationhood in Ottoman Macedonia, 1878–1908.* Ithaca, NY: Cornell University Press.

Zanotti, I. (2006). *Extradition in Multilateral Treaties and Conventions.* Martinus Nijhoff Publishers, Leiden/ Boston.

Zarinebaf, F. (2010). *Crime and Punishment in Istanbul: 1700-1800.* University of California Press.

Zidar, A., Gauci, J.P. (Eds.). (2016). *The Role of Legal Advisors in International Law.* Brill: Leiden.

Zürcher, E.J. (1998). The Ottoman Empire and the Armistice of Moudros. In *At the Eleventh Hour: Reflections, Hopes, and Anxieties at the Closing of the Great War, 1918.* Ed. by Hugh Cecil and Peter H. Liddle. London: Leo Cooper.

Zürcher, E.J. (2019). The Young Turk revolution: comparisons and connections. *Middle Eastern Studies,* Vol. 55, 481-489.

ONLINE SOURCES

Andreopoulos, G.J. (2010). Extradition. *Encyclopedia Britannica.* Retrieved from: https://www.britannica.com/topic/extradition (Last date of access: 13 April 2022)

Extradition. 19 Stat. 572, *Treaty Series 270.*Retrieved from: https://tile.loc.gov/storage-services/service/ll/lltreaties//lltreaties-ustbv010/lltreaties-ustbv010.pdf (Last date of access: 20 February 2019)

Cezaî Konularda Uluslararası Adlî İş Birliği Kanunu (2016). Retrieved from: https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6706.pdf (Last date of access: 5 May 2022)

European Convention on Extradition. (1957). Retrieved from: https://rm.coe.int/1680064587 (Last date of access: 5 May 2022)

Gambino, M. (2010). The Unsolved Case of the "Lost Cyclist." Retrieved from: https://www.smithsonianmag.com/history/the-unsolved-case-of-the-lost-cyclist-57021309/ (Last date of access: 24 June 2021).

Gentile, P. (2017). SALMOUR, Ruggiero Gabaleone conte di. *Dizionario Biografico degli Italiani,* Vol. 89. Retrieved from https://www.treccani.it/enciclopedia/ruggiero-gabaleone-conte-di-salmour_%28Dizionario-Biografico%29/ (Last date of access: 26 November 2021).

Hatfield, S. (2015). Faking It: British Counterfeiting During the American Revolution. *Journal of the American Revolution,* (Oct.). Retrieved from: https://allthingsliberty.com/2015/10/faking-it-british-counterfeiting-during-the-american-revolution/ (Last date of access: 20 May 2020).

Hong Kong-China Extradition Plans Explained. *BBC News.* Retrieved from: https://www.bbc.com/news/world-asia-china-47810723 (Last date of access: 1 May 2022)

İkili Sözleşmeler. Retrieved from: https://diabgm.adalet.gov.tr/home/BilgiDetay/7#collapse1 (Last date of access: 5 May 2022)

Kanun-u Ceza'nın Bazı Mevaddı Makamına Kaim Kanun Lâyihası. Retrieved from: https://www5.tbmm.gov.tr/tutanaklar/TUTANAK/MECMEB/mmbd01ic03c005/mmbd01ic03c005ink079.pdf (Last date of access: 10 December 2018)

Koptaş, R. (2013). 1915'in Robert Kolejli Kurbanları. *Agos.* Retrieved from: https://www.agos.com.tr/tr/yazi/4908/1915in-robert-kolejli-kurbanlari (Last Date of access: 9 April 2022).

Manukyan, T. (2016). Christopher Ter-Seropyan, US Dollar. Retrieved from: https://www.mersoft.am/en/famous-armenians/christopher-ter-serobyan.html (Last date of access: 16 November 2021)

Martin, M. (2019). Hongkong's Proposed Extradition Law Amendments. Retrieved from: https://sgp.fas.org/crs/row/IF11248.pdf (Last date of access: 1 May 2022)

Ngai, M. M. (2012). The Future of the Discipline: Promises and Perils of Transnational History. Retrieved from: https://www.historians.org/publications-and-directories/perspectives-on-history/december-2012/promises-and-perils-of-transnational-history (Last date of access: 29 April 2022).

Request for businessperson Sezgin Baran Korkmaz's extradition to Turkey accepted. (2021). *Bianet.* Retrieved from: https://m.bianet.org/english/politics/249518-request-for- businessperson-sezgin-baran-korkmaz-s-extradition-to-turkey-accepted (Last date of access: 1 May 2022)

Sezgin Baran Korkmaz vakası. (2022). *Junshu.* Retrieved from: https://apos.to/s/608ebc106686bb0006226e61?utm_source=aposto (Last date of access: 4 May 2022)

Suçluların İadesine Dair Avrupa Sözleşmesi'ne Ek İkinci Protokol. Retrieved from: https://diabgm.adalet.gov.tr/arsiv/adli_yardimlasma/adli_isbirligi_ceza/suclularin_iadesi_ek/SİDAS%20EK%20İKİNCİ%20PROTOKOL,%20yürürlük%20%201992,%20No%2098.pdf

The Canadian Numismatic Company Auction. Retrieved from: https://www.numisbids.com/n.php?p=lot&sid=3649&lot=1560 (Last date of access: 16 November 2021)

The Lotus Principle. Retrieved from: https://www.spacelegalissues.com/the-lotus-principle/ (Last date of access: 10 June 2022)

Thirty-Sixth Congress. Retrieved from: https://www.loc.gov/item/llsl-v12/ (Last date of access: 5 April 2019)

Turkish Penal Code. Retrieved from: https://www.tbmm.gov.tr/kanunlar/k5237.html (Last date of access: 27 October 2018)

Türk Ceza Kanunu. (2004). Retrieved from: https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5237.pdf (Last date of access: 5 May 2022)

Türk Vatandaşları Hakkında Yabancı Ülke Mahkemelerinden ve Yabancılar Hakkında Türk Mahkemelerinden Verilen Ceza Mahkumiyetlerinin İnfazına Dair Kanun. (1984) Retrieved from: https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3002.pdf (Last date of access: 5 May 2022)

UK court approves extradition of Julian Assange to US. *The Guardian.* Retrieved from: https://www.theguardian.com/media/2022/apr/20/uk-court-approves-extradition-of-julian-assange-to-us (Last date of access: 30 April 2022)

U.S. and Turkey Caught in Extradition Fight for Businessman With Ties to Turkish Elite. (2021). *The Wall Street Journal.* Retrieved from: https://www.wsj.com/articles/u-s-and-turkey-caught-in-extradition-fight-for-businessman-with-ties-to-turkish-elite-11627905600 (Last date of access: 1 May 2022)

USS *Vandalia.* Retrieved from: https://www.ibiblio.org/hyperwar/OnlineLibrary/photos/sh-usn/usnsh-v/vandla2.htm (Last date of access: 12 February 2019)

Walther, H. (2016). The Right to Asylum in the 19th Century. Retrieved from: https://openborders.info/blog/asylum-19th-century/ (Last date of access: 9 February 2022)