The Protégé System and Beratlı Merchants in the Ottoman Empire: The Price of Legal Institutions

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Abstract

The Ottoman Empire offered its subjects a menu of legal systems for contracting and litigation. This is puzzling for economists; contract theory assumes a single legal authority that enforces the terms of a contract. This paper is part of a larger project that studies the impact of legal pluralism on economic outcomes. This paper analyzes a particular facet of legal pluralism; the sale of licenses that gave non-Muslim Ottoman subjects access to European law in the 18th century. I use archival evidence from the UK National Archives, the British Library, Archives nationales, and Centre des archives diplomatiques de Nantes to show that Ottoman subjects were willing to pay large sums for this access. I show that the prices for these patents cannot be explained by the tax exemptions they provide. I use primary data on partnerships and disputes to argue that this class of patentees was able to drive out their competitors thanks to their richer legal choice set and ability to engage in forum-shopping.

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1 Introduction

The Ottoman economy had a long period of economic expansion and prosperity during the sixteenth century, but faced severe fiscal crises during the seventeenth century. The Ottoman Empire saw a period of recovery and stability in the eighteenth century and managed to survive into the modern age with most of its central institutions intact, while its contemporaries in Asia failed. The literature so far has focused on the Ottoman economic institutions as a way of explaining both its stagnation and partial recovery. Kuran, for example, identifies Islamic legal institutions as the culprit of the Empire’s economic stagnation, arguing that the egalitarian nature of the Islamic inheritance law and the unavailability of the corporate form prevented the necessary capital accumulation to facilitate growth. I offer an alternative hypothesis: It was the multiplicity of legal systems that contributed to the Empire’s divergence as opposed to the relative inefficiency of the Ottoman legal system.

This paper is part of a larger project that uses both theory and archival evidence to study the impact of legal pluralism on the Ottoman Empire’s development path. It focuses on a particular facet of choice of law; namely, the sale of exemption licenses called *berats*, which granted their bearers, *beratlıs*, a variety of tax exemptions as well as access to European jurisprudence.

No particular religious group dominated the commerce in the Ottoman Empire until the early eighteenth century. However, by the nineteenth century, various communities, particularly Greeks and Armenians, constituted a large part of the empire’s commercial and financial life. There is a clear trend that shows Muslims were eclipsed in various industries by minorities during this period. Not only were they able to drive out Muslims, but also European traders as well. Towards the end of the eighteenth century, they had completely replaced the Dutch. At the beginning of the nineteenth century, the French and the British both noted this group’s monopoly on trade. How the *beratlıs*, a small class of non-Muslim merchants, became so predominant in the Levant trade is an open question in the Ottoman economic history.

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1 See Kuran (2004b) and Pamuk (2004).
2 See Kuran (2010) for details.
3 Berat is the name of the patent. The word beratlı refers to the person who holds a berat. Europeans also referred to the beratlıs as “honorary dragomans.”
4 Throughout this paper, having access to European law/jurisdiction means agents have the option to use European law for contracting and dispute resolution.
5 Kuran (2004a) pp. 475–476
These non-Muslims were distinct in their richer legal choice set, thanks to their berats. The literature attributed the success of Christian communities to Western favoritism, Muslims’ attitudes towards trade, or legal privileges the minorities received.\(^7\) Kuran gives a striking explanation by articulating the “jurisdictional shift hypothesis.”\(^8\) He argues that non-Muslim subjects of the Empire moved away from the Islamic judicial system which involved higher transaction costs towards European ones where these costs were lower. The grant of patents of protection, or berats, made this jurisdictional shift possible. Çizakça and Kenanoğlu dispute this hypothesis by questioning the actual number of non-Muslims under European protection and the generality of the jurisdictional shift. They also note that the acquisition of these patents predate the availability of the general corporate form, which plays a central role in Kuran’s arguments.\(^9\) The authors argue that Kuran’s hypothesis needs to address to what extent these non-Muslim protégés made use of the organizational forms introduced by the foreign legal system and to what extent the introduction of similar privileges by the Ottoman government actually reduced the demand for foreign protection. Boogert also challenges the jurisdictional shift theory on several points. First, he argues that the consular courts in the Levant did not apply the laws of the nation they represented. Most cases were adjudicated with arbitration which followed “local commercial customs.” These customs could show variation from one city to another, and many times reflected the Islamic legal system. Furthermore, he points out that the consular courts did not have more sophisticated procedures (such as reliance on written evidence) relative to the Ottoman courts, and were not better equipped in dealing with more complex organizational forms such as joint-stock companies.\(^10\)

Besides the jurisdictional shift, there are three other hypotheses regarding the acquisition of berats. The first hypothesis states that non-Muslims purchased berats solely to acquire tax exemptions. The second hypothesis asserts that berats actually bought access to European trade networks. The third, introduced in this paper, is the forum-shopping hypothesis, which suggests that agents prefer to have access to multiple legal jurisdictions in order to obtain favorable outcomes if the contract is disputed \textit{ex post}. This paper assesses the validity of each of these competing theories, and finds strong evidence for jurisdictional shift and forum-

\(^7\)Kuran (2004a) p. 483
\(^8\)Kuran himself does not give a name to his hypothesis. Çizakça and Kenanoğlu (2008) refer to it as “jurisprudential shift” although it should be more correctly called “jurisdictional shift.” See Boogert (2009)
\(^9\)See Çizakça and Kenanoğlu (2008) for the details of their argument. See Kuran (2003), Kuran (2005) and Kuran (2010) for a discussion on the significance of the lack of corporate form in Islamic law and how it contributed to Middle East’s divergence
shopping.

In evaluating these four hypotheses, this paper offers three potential contributions to the rich literature on the role of legal institutions in economic performance. First, by analyzing the validity of the jurisdictional shift hypothesis, it will contribute to the larger debate on the efficiency of Ottoman legal-economic institutions relative to European ones. Second, this paper contributes to the literature on legal origins by providing a comparative analysis on the demand for British and French legal systems and institutions through berat sales. Finally, the results will provide insight into the impact of legal pluralism and forum shopping on contracts, trade and investment.

In order to test these hypotheses, I use primary data from the National Archives, UK (TNA), the British Library (BL), Archives nationales (AE), Centres des archives diplomatiques de Nantes (CADN), and the Başkanlık Osmanlı Arşivi (BOA). These sources provide extensive information on berat prices, as well as data on the beratlıs’ occupations, transactions, partnerships, and disputes. I calculate the present discounted value of tax exemptions and show that it cannot explain the price of a berat. Using the cross-sectional variation of berat prices, especially between Britain and France, and the anecdotal data on berat purchases from the archives, I provide evidence to support both the jurisdictional shift and forum shopping hypotheses.

Section 2 describes the general legal framework as well as the evolution of this protection system in the Ottoman Empire. Section 3 gives a discussion of the data. Section 4 provides the main analysis and results. Section 5 summarizes the paper, discusses the possible extensions and further work.

2 Background

2.1 The Evolution of Berat Sales

The Ottoman Empire (and the Islamic world, in general), had always been characterized by legal pluralism. The society was organized into different millets, literally “nations,” along religious lines such as Muslim, Orthodox, Catholic, Maronite, Jewish etc. Each community retained its own distinct body of law and courts. While Muslim subjects had no option outside Islamic law and courts, non-Muslim subjects could choose either jurisdiction of the parties involved or Islamic law in commercial and civil matters. However, any dispute involving a Muslim had to be litigated in an Islamic court. In addition, even when no Muslims were involved, one could unilaterally impose Islamic law over the other parties in the dispute.
The millet system provided a natural framework to incorporate the European communities established in the Levant. Each European country in the Ottoman Empire was recognized as a separate millet, with the ambassador acting as that millet's leader and supreme judge.\textsuperscript{11} Foreign merchants in the Ottoman Empire long enjoyed certain privileges thanks to the grant of the Capitulations, concessionary agreements the Sublime Porte—or the Porte, the Ottoman government—had made with European powers. The legal pluralism engrained in the Ottoman legal framework allowed them to use consular jurisdiction over Islamic courts in any dispute not involving Muslims. They were also unrestricted in the article of dress, whereas the Ottoman non-Muslim subjects were confined to plain clothes of darker colors. They were exempted from a variety of taxes local non-Muslims had to pay. Moreover, they only needed to pay 3 per cent duty on customs, unlike all other non-Muslim Ottomans, who were subject to a 5 per cent tariff.\textsuperscript{12}

An important privilege granted to ambassadors and consuls of European powers through the Capitulations was the right to employ anybody they chose as dragoman, or interpreter.\textsuperscript{13} The practice was not unrestricted, however. The choice of dragomans was confined to non-Muslims and the Porte fixed the number of dragomans that embassies could recruit. The number depended on the influence a particular ambassador enjoyed with the Porte. Throughout the eighteenth century, Great Britain, France, Russia and Austria each had about 40.\textsuperscript{14}

Each berat was accompanied by two ferman (or nefer ferman) assigned to the servants employed by the dragoman. A berat secured its bearer, his sons, and two servants several tax exemptions, the option to use European legal jurisdiction and immunities from dress restriction.\textsuperscript{15} The actual content of a berat lists these tax exemptions as haraç, avarız, kassabiye akçesi and tekalif-i örfiyye.\textsuperscript{16} Another tax privilege that the second literature claims berats granted is the lower custom duties of 3 per cent.\textsuperscript{17} There is actually conflicting evidence that the protégés did get this exemption, which will be discussed in Section 4.

As the affairs of foreign missions in the Ottoman Empire became more important, each

\textsuperscript{11} Ambassadors and consuls were agents of the national organization that regulated the Levant trade. For the British, this was the Levant Company and for the French, the Chambre de commerce de Marseille. Both of these bodies also had a monopoly over trade. In contrast, the Dutch Republic followed the principle of free trade despite having a similar government body (Boogert (2003) p. 618–9).

\textsuperscript{12} Boogert (2005) p. 66, 78; TNA FO 78/16: f. 87 Sir Robert Liston [ambassador] to Lord Grenville [secretary of state], 25 April 1795.

\textsuperscript{13} The word dragoman or drogman is the Latinized form of the Arabic tarjuman, literally interpreter (Boogert (2005) p. 8)

\textsuperscript{14} TNA FO 78/16: f. 87; FO 78/50: f. 15 Report on Barats, 24 April 1806

\textsuperscript{15} Ibid. f. 15

\textsuperscript{16} TNA FO 78/50: f. 53 Traduction d’un Barat du Drogman

\textsuperscript{17} Bağış (1983) p. 28
European country began to cultivate its own interpreters and thus had no need of employing subjects of the Porte. Thus, the ambassadors began to dispose of these berats at fairly high prices to non-Muslim subjects who sought them with great demand. We do not know when this commercialization started. John Murray, British ambassador to the Ottoman Empire between 1767 and 1775, writes that the sale of vacant berats was a “perquisite that had belonged to [the] Embassy from its first institution,”18 which was in 1583.19 British chancery registers show disputes involving “honorary dragomans” as early as 1732, which suggests that the practice had been well underway by then.20 At the end of eighteenth century, British sold berats for about 5,000 to 6,000 kuruş each.

The berat sales led to gross abuses. The honorary dragomans did not reside in the region under the purview of the consul from whom they obtained their berats, and did not even know the language of the European power whose berat they possessed. The fermans attached to the berat were sold separately so that a dragoman’s “servant” could be living thousands of miles from him. Ambassadors even appointed fictitious consuls to places where their country had no trade or establishment in an attempt to increase the number of berats.21

By the end of the eighteenth century, the Porte became aware of these abuses and made several attempts to eliminate them. In 1786, the Ottoman government sent a memorandum to all foreign missions in Istanbul as well as instituted drastic changes in the regulation of berats. The new regulation compelled the honorary dragomans to only engage the functions of their office, take residence in their place of appointment and not engage in any kind of trade or artisanship. The government also prohibited them from participating or interfering in the business of the guilds and becoming tax farmers.22 This attempt to revert the practice of berats back to its original purpose seems to have failed. Protégés worked around the new regulations by conducting their trade in the name of other people and having ambassadors obtain for them what was referred to as traveling commands (yol emri), which authorized them to leave their place of appointment on the pretext of executing consular orders.23

In 1806, the Porte reiterated its intention to rein in the abuses and this time enforced the reform with full force. Each beratlı was ordered to give up his patent or return to the place

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19 Wood (1925) p. 533
20 TNA, SP 110/182: f. 162
21 TNA FO 78/16: f. 88, 89 Sir Robert Liston [ambassador] to Lord Grenville [secretary of state], 25 April 1795, FO 78/50 f. 15 Report on Barats, 24 April 1806, Rey (1899) p. 256
23 TNA FO 78/16: f. 90 Sir Robert Liston [ambassador] to Lord Grenville [secretary of state], 25 April 1795
of residence specified in his berat. About thirty protégés under Russian, French and Austrian protection followed this order out of fear of reprisal and had to pay the haraç and other taxes that had accumulated from the date they obtained their berats. Others petitioned for naturalization by the government that protected them. The government’s reforms were juxtaposed by the formation of the Porte’s own competing protection system called “Europe merchants” (Avrupa tüccarı) the first of which were issued in 1806. As far as British berats were concerned, the abuses were abolished with the Treaty of the Dardanelles in 1809. Other countries followed suit with similar clauses.

3 Data

This paper uses primary data obtained from the National Archives (UK), the British Library, Archives nationales, Centres des archives diplomatiques de Nantes, and Başbakanlık Osmanlı Arşivi. Most of the data comes from diplomatic correspondence, especially consular correspondence between the ambassadors and their consuls; chancery registers, factor and merchant letter-books, and correspondence with the Levant Company. Other sources include commands, registers and surveys done by the Ottoman courts. This data includes a large number of bills of exchange, receipts and references to berat sales, registrations of beratlıs in chanceries and the Ottoman court, as well as disputes, litigations and arbitrations.

3.1 Benefits and the Demand Side

The berat granted its bearer a number of important exemptions and privileges. It gave exemptions from the capitation tax (haraç), extra-ordinary taxes (avarız), the butchery tax (kassabiye) and non-canonical taxes (tekalif-i örfiyye). Furthermore, it provided a further tax reduction on the customs duty from 5 per cent to 3 per cent, at least in theory. Besides tax exemptions, the berat placed the beratlı out of the reach of the local courts, gave him access to consular jurisdiction for dispute resolution and arbitration services, and finally access to the law and legal/economic institutions of the country that disposed the berat. The berat secured these privileges for the lifetime of the honorary dragoman and included all his

24 TNA FO 78/16: f. 9-10 Charles Arbuthnot [ambassador] to Charles James Fox [secretary of state], 5 May 1806.
27 Rey (1899) pp. 279-80.
sons and also two servants. Similar to the beratlî, the “servants” had a patent called nefer ferman.  
Later, the ambassadors began selling the fermans separately from the berats. When an honorary dragoman died, his berat and the associated two fermans returned to the embassy. Furthermore, berats and fermans had to be renewed each time a new Sultan acceded to the throne.

Berat was not a property. It was a deed of appointment of a specific person by the Sultan. A beratlî could not sell, transfer or bequeath his patent. As a result, there was not a secondary market of berats. Strictly speaking, it could not be sequestered and counted as collateral either, but embassies and consuls regularly sequestered berats and auctioned them off to settle the debts of beratlîs. Furthermore, the fermans also returned to the embassy when their holders died or otherwise relinquished them, so it was impossible for a beratlî to re-sell these servant fermans. Thus, there was no speculation motive to holding a berat.

### 3.2 The Supply of Berats

The Ottoman government fixed the number of berats for each embassy. This number depended on the influence the ambassador enjoyed at the Sultan’s court, as well as the power of the country. Great Britain and France had the largest number of berats, which was between 40–50. The Dutch could dispose a bit more than 30. Other countries had about 20. The ambassadors disposed them as they wished, and the returns were their personal emolument. Revenues from berat sales constituted the largest part of an ambassador’s income. A British ambassador’s annual salary amounted to 8,000 kurus whereas the average revenue per year

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28The Western sources refer to these servant or agents as neferli or fermanti.
29For instance, in 1758, the berat of an Austrian protégé, Nasrallah Arkash, was auctioned off to settle his debt to the Levant Company physician Patrick Russell, TNA, SP 110/62: f. 4, 11 September 1758. In 1776, Ainslie ordered George Lazzaro’s berat to be taken away if he failed to pay his debt to Murray’s heirs, FO 261/3: Ainslie to Olifer [consul at Salonica], 30 December 1776. ibid. Ainslie to Olifer, 8 March 1777, ibid. Ainslie to Olifer, 29 May 1777. In 1782, Stano, an Austrian beratlı, had his berat taken away by Rathkeal, the Austrian internuncio, to pay Stano’s debt to Gutta, a British dragoman. Ainslie requested Stano’s berat, worth 250–300 sterling pounds, to be sold or transferred to settle the debt, FO 78/3: ff. 54-58, Ainslie to the Earl of Hillsborough [secretary of state], 26 March 1782; FO 261/4: pp. 199-201, Ainslie to Sir Robert Murray Keith, 26 March 1782. In 1793, Ainslie told Strane to divest Anagnosti Theorapulo of his berat if he didn’t pay his debt of 2,500 kurus on his bond, FO 261/7: p. 315-316, Ainslie to Strane [consul at Patras], 6 May 1793.
30A request by an Aleppine beratlî for two fermans after the two attached to his berat were vacated by their holders’ decease was strongly rejected by the ambassador, who claimed that such a practice was unprecedented and would in fact give the beratlî four fermans instead two, making the berat “an excellent speculation as well as protection.” TNA, FO 261/6: p. 323 Ainslie to DeVezin [consul at Aleppo], 12 May 1789.
31TNA, SP 97/52: ff. 103–113, Ainslie to Lord Viscount Weymouth, 4 November 1776
accruing to the ambassador from the sale of berats and fermanls was about 12,000 kurus. Thus, ambassadors were eager to distribute them despite admitting them to be a "scandalous emolument." European merchants, and the Levant Company in the case of Britain, were far less enthusiastic about the prospect of sharing their privileges with Ottoman subjects. Indeed, the Levant Company attempted to control and curb the distribution of berats several times. In 1746, upon the complaints regarding the exaction of haraç duty on several beratlis, the Company advised to stop further distribution of berats, attributing the British trading post’s disputes with the magistrates at Aleppo to the conduct of honorary dragomans. In 1748, it tried to limit the number of berats which was rejected by the ambassador James Porter. In 1760, again in response to complaints from Ottoman officials, the Company sent a circulatory note to each consul in the Empire, requesting a list of beratlis and fermanls, a translation of these patents and an order to be informed on every new berat registration. Despite these and many more attempts, the Levant Company could not bring the issue under its control and in the end yielded to the ambassadors.

European merchants opposed berats on two grounds. First of all, the expanding size of protégés seemed to have drawn the attention of the various Ottoman officials, who made efforts to infringe on the privileges granted to European merchants and protégés alike. Similarly, in an instance where the Porte attempted to raise custom duties across all European powers, a British merchant in Constantinople, Humphrys, blamed the beratlis, claiming that this privilege enriched ambassadors and a few interpreters to the detriment of British trade.

Although no mention of it is made in the British archives, an equally important factor in foreign merchants opposing berats must be the competition they faced from beratlis. Beaujour

32TNA, FO 78/16: f. 86, 89 Liston to Lord Grenville, 25 April 1795
33TNA, SP 110/87: Murray to Hayes, 14 August 1767
35On an account of the decrease of the British trade in Aleppo, the British factory blames transgressions on their privileges by the Porte, the chief cause of which they claim is the “great number of Honorary Druggomen [...] many of whom are known to be Merchants or Manufacturers, who create many Embroils, & cause more Trouble to the Consul [...] than the whole of the Affairs of our own Nation.” TNA, SP 110/29: f. 107, The British Factory at Aleppo to the Earl of Halifax, 30 July 1765.
36TNA, SP 105/189: pp. 473-475, Humphrys, 17 November 1792
points out that the chief reason why *berats* needed to be abolished was that the protégés who procure them enjoy the same privileges as the French and make much more formidable competitors to French merchants:

But the principal reason why the *berats* have to be outlawed is that the *beratlus* enjoy the same exemptions as the French; are the real competitors to our traders, and competitors all the more dangerous since they carry on commerce with less expense than we do.\(^{37}\)

Thus, the increasing number of *beratlus*, as maintained by the ambassadors, was to the injury of European merchants. Indeed, by the nineteenth century, almost the whole export trade was taken over by a small number of *beratlus* who had severely undercut the profits of European merchants.\(^{38}\)

The *berat* sales were basically auctions, although there was a degree of haggling in a given transaction. Since the embassies could transfer *berats* from one city to another, there was a single market of *berats* across the Ottoman Empire. There was so much demand for *berats* that generally one would not be available at the time of application. Instead, prospective buyers would notify the ambassador to be placed in the queue for the first vacant one, sometimes even depositing the money in advance as credit.\(^{39}\)

### 3.3 Number of *Beratlus*

The *beratlus* constituted a select, small class of non-Muslims in the Ottoman economy. As noted before, the Porte fixed the number for each country. A survey by the Ottoman government in 1793–4 finds 253 *berats* in circulation, which is displayed in Table 5. Note that this survey underestimates Austrian *beratlus* and does not list those of Russian tenure at all, since the Porte was at war with both of them at the time and had their *berats* annulled. Furthermore, it does not seem to list the *berats* of Spain and the Republic of Ragusa. Correcting for those, we can estimate about 340 *berats* in circulation. Each *berat* protects its holder, two *nefer* agents and adult sons, say two.\(^{40}\) Thus, under the *beratlus* system, there were about 1,700 people under protection in the entirety of the Ottoman Empire. Evidently,

\(^{37}\)“Mais la principale raison qui doit faire proscrire les barats, c’est que les barataires jouissant des mêmes exemptions que les Français, sont pour nos négocians de véritables concurrens; et des concurrens d’autant plus dangereux, qu’il font le commerce avec moins de frais que nous.” Beaujour (1800) p. 288

\(^{38}\)Masters (1992) pp. 580-581


\(^{40}\)There is no available data on the demographics of the Empire in the eighteenth century. However, archival sources suggest that *beratlus* had about 1–2 sons on average. See below.
this number is very modest and in striking contrast to the previous citations of protégés on
the order of hundreds of thousands.41

4 Discussion

4.1 Prices

There are four possible motives for purchasing a berat: Tax exemptions, gaining access to
the European trade networks, gaining access to better law (jurisdictional shift), or having
the option to shop judges in disputes (forum-shopping). In order to tackle these hypotheses,
it is necessary to look at the price data over time and across countries which are displayed
in Table 1.

Table 1 reports only those prices that I was able to verify with acknowledgments, receipts
or bills of exchange. Using this method, I was also able to verify that Dutch berats were sold
for 2,500 kuruş in 1759 and Neapolitan berats for 4,000 kuruş in 1784.42 In addition, there
is a variety of scattered evidence on other berat prices. Robert Liston noted that the British
berats were sold for up to 6,000 kuruş and Russian berats for 10,000 kuruş.43 Beaujour wrote
in 1799 that both British and French berats went for around 10,000 kuruş.44 Boogert, using
primary evidence from Dutch archives, shows that Dutch berats fetched 2,500–3,000 in the
18th century, and as high as 4,500 kuruş by 1803.45 A prospective applicant had to make
several more payments. For instance, a beratlı of France paid the French consul 150–300 kuruş
in addition to the payment made to the ambassador, 300 kuruş every time a new ambassador
was appointed, and 100 kuruş every time a new consul was appointed. Similar payments
existed for other beratlıs of Britain and the Dutch Republic, as well.46 The payments made
to the consuls at the purchase of a berat would increase to 600 kuruş by 1781.47 Furthermore,

41 At some point, Russians apparently protected 120,000 natural-born Ottoman subjects, and Austria
501–2. These numbers are unsubstantiated and unverified. Furthermore, the literature on protégés seems
to have confused beratlıs with other forms of protection. These numbers refer to the consular protections
distributed by Russia and Austria, who disposed consular patents of protection and passports for free and
indiscriminately. Some non-Muslim subjects claimed to be naturalized Russian citizens after a short visit to
Russia. For details, see Rey (1899) pp. 280–281; Bağiş (1983) p. 35; TNA, FO 78/50: f. 25, Secret Remarks
upon the Present Conduct of the Porte.
42 CADN 166PO/D84/4 and TNA SP 110/46, respectively.
43 TNA, FO 78/16: f. 88, Liston to Grenville, 25 April 1795
44 Beaujour (1800) p. 285
45 Boogert (2005) pp. 80–81
46 CADN 166PO/D84/3: 8 November 1758, 166PO/D1/12: 1770, 166PO/D1/20: 30 December 1779
47 CADN 166PO/D1/21: Amé to St. Priest, 8 November 1781
at the accession of each Sultan, all beratlıs had to pay a renewal fee, which ranged from 300 to 500 kurus. Thus, a prospective buyer of a French berat in Smyrna in 1750, say, had to disburse at least 3,150–3,300 kurus, with strictly positive expected payments in the future depending on the likelihood of having a new ambassador, consul, and Sultan. Furthermore, the beratlıs were willing to make other voluntary payments to ensure the continuation of this protection. In 1739, when the Dutch authorities of Levant Trade decided to abandon the post in Aleppo, the beratlıs offered to compensate the consulate’s expenses in excess of its revenues in order to prevent the loss of their status.

One can see from Table 1 that the berat prices in real terms were generally stable over time. There seems to be a degree of stickiness as prices were slow to respond to devaluations of the kurus. Another striking feature of the price data is the cross-sectional variation: French berats were the most expensive followed closely by Britain. Dutch and especially Austrian berats were substantially cheaper in comparison.

These data show that berats were very expensive purchases. I have also quoted the British berats in pounds sterling to give the reader a reference point. Similarly, consider the per annum wages of unskilled and skilled labor in Constantinople in the eighteenth century. Between 1780–1789, the per annum wage of an unskilled worker was 142 kurus, whereas that of a skilled worker was 284 kurus. At the same time, a French berat was sold for 5,000 kurus and a British berat for 4,000. Boogert puts these figures into perspective, assuming a price of 2,000 kurus in 1763. In the first half of the eighteenth century, the annual expenses of the Dutch consulate in Aleppo were not much higher than the price of a single berat whereas in the second half of the eighteenth century, the sale of a single berat could cover its expenses for a period of six months. Another illustration on the cost of the berats is to use wage deflators and average earnings to get a sense of their worth now. For instance, a British berat sold for 425 pounds sterling in 1780. In 2010, this is worth 893,000 US dollars using average earnings. Finally, we can also give an estimate of the price a berat fetched relative to the GDP/capita of the Ottoman Empire: In 1794, a British berat had a price roughly 55 times the Ottoman GDP/capita at the time.

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48 CADN 166PO/D1/16: 20 June 1774; TNA, FO 78/16: f. 88, Liston to Grenville, 25 April 1795
49 Boogert (2003) p. 626
50 See Özmucur and Şevket Pamuk (2002) p. 301 for data on daily wages. I assumed 300 work days per year.
51 Boogert (2005) p. 81
52 Measuring Worth, http://www.measuringworth.com; Pamuk (2006) p. 815. I used the GDP/capita estimate for the year 1820. Similarly, assuming a constant growth rate and estimating the Ottoman GDP/capita in 1794, I find that the price of a British berat was 63 times the Ottoman GDP/capita.
4.2 Tax Exemptions

In this section, I show that the berat price cannot be explained by the tax exemptions they provide. The cross-sectional price variation itself is very strong evidence against this hypothesis. Since all berats are homogeneous in the tax privileges they grant, we would expect the prices to converge unless there is a value to the berat beyond tax evasion.

As mentioned earlier, the berat grants exemption from haraç, avariz, tekalif-i örfiyye and kassabiye. The haraç tax was imposed on all adult males and its rate depended on the subject’s income. Since the berat was very expensive and could only be afforded by the rich, I am going to assume the highest rate for this period, which was 11 kuruş per annum per male. The other taxes were imposed on hane, which was an Ottoman tax unit larger than a household. Their rates vary but in total stabilized around 8 kuruş per hane per annum. In order to be conservative with my estimate, I assume that these are imposed on the household. Demographic and household data in the eighteenth century are scarce. However, my archival data gives an estimate on the number of children protected under berats, which is about 2.53

Again, I am going to be conservative with my estimate and assume that the beratlı has two sons at the time of the purchase. Since the berat also grants tax exemptions to two servants in addition to the beratlı and his sons, I estimate the total value of tax exemptions to be 63 kuruş per annum.

In order to calculate the present discounted value of these tax exemptions, I use the probability of death to derive the discount factor, assuming away interest rates and inflation. The probability of death is a natural base for the discount factor since the berat was granted for the lifetime of its holder and could not be bequeathed to his heirs—unless they paid the market price. Having no interest rates and inflation only helps my argument since their inclusion would make the future taxes worth less. Since the tax rate was nominally stable throughout the entire eighteenth century, discarding changes in the tax rate is an innocuous assumption. With this method, I estimate a very conservative upper bound for the present discounted value of tax exemptions at 660 kuruş for a prospective buyer at the age of 25 with two adult sons. It is evident that even such a relaxed upper bound is substantially lower than the market price of a berat at 3,000 kuruş.54 At this point we should note that the Porte charged 600–1,000 kuruş on each registered berat, effectively extracting the expected

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53 Number of children under protection (probably male) per beratlı in Aleppo c.1768 is 1.2 (CADN 166PO/D1/10), number of children (male and female) per beratlı in Smyrna c.1782 was 2.2 (AN AE/BI/1066: Barataires de France, 31 December 1782).

54 The probability of death is calculated using the figures from the “West” Model Life Table, Level 5, males, Coale et al. (1983) p. 44. This is the model life table for a stable population with the life expectancy level closest to the estimates in the Ottoman Empire. See de Laet et al. (1999) p. 232.
tax revenues it lost.\textsuperscript{55}

One could also argue that agents wanted to purchase \textit{berats} to acquire a tariff reduction. In the Ottoman Empire, non-Muslim Ottoman subjects paid an \textit{ad valorem} customs of 5\%, Muslims 4\%, and Europeans 3\%, thanks to the concessions obtained with the Capitulations. The second literature emphasizes the role of this tax privilege in the acquisition of \textit{berats}.\textsuperscript{56} The primary evidence is very confounded on this subject. The \textit{berat} document itself does not list lower customs as a privilege its bearer gets (as opposed all other taxes listed above). It seems that the \textit{beratlis} did not get this tax privilege by default except the Swedish and the Dutch.\textsuperscript{57} The British and French ambassadors did manage to get lower customs commands from the Porte on a per \textit{berath} basis, but these had to be renewed almost annually every time a new customs officer was appointed to the customs house. Furthermore, they could be subject to restrictions. For instance, the reduced customs command that the British obtained for their \textit{beratlis} only applied to the trade the \textit{beratlis} did with Britain.\textsuperscript{58} The \textit{beratlis} also had to make substantial payments and bribes each time to obtain these commands, costing as much as 1,056 \textit{kuruş}.\textsuperscript{59} Thus, the \textit{beratlis} paid more than 3\% customs even if they did get this command. Clearly, the French and the British could not secure this privilege effectively. The fact that their \textit{berats} cost more than those of the Dutch suggests there were considerations beyond customs payments when an agent purchased a \textit{berat}. Tariff payments also depended on the city and the particular customs officer who operated there. For British and French \textit{beratlis} alike, the demand for lower customs exclusively came from those established in Smyrna. In Aleppo, the first mention of a customs privilege was made in

\textsuperscript{55}TNA SP 110/87: Murray to the Earl of Shelburne, 17 August 1767. These charges were quoted in the \textit{berat} price.

\textsuperscript{56}Bağış (1983) p. 28

\textsuperscript{57}[. . . ] That since some years these Commands are uniformly refused except to the Sweeds [sic], because they having no Merchants in Turkey their Baratlees are supposed to act in their stead & to the Dutch because the trade with Holland being open to all the raya’s are by this means put upon a par with the subjects of Holland [. . .]” (TNA, FO 261/4: p. 259, Ainslie to Hayes, 3 May 1782.) Sweden and the Dutch Republic seem to have obtained this privilege for their \textit{beratlis} in 1777 (CADN 166PO/D84/14: Peyssonnel to St. Priest, 8 June 1777).

\textsuperscript{58}The following letters list a few \textit{separate} examples of many repeated requests for lower customs. Sometimes one \textit{berath} makes another request in a year as the previous command becomes invalid due to the appointment of a new customs officer. CADN 166PO/D84/3: 10 September 1758, Panaiolti [French \textit{beratlis}] to Thomas [Consul of France in Smyrna] no date, 17 September 1758; 166PO/D84/4: 2 August 1759, 23 October 1759, 15 September 1760; 166PO/D84/7: 7 January 1765, 20 November 1767; 166PO/D84/8: 16 February 1768, 10 September 1768. A letter by Smyrniot \textit{beratlis} states that the change in customs officers leads to a pretension of double customs, making the old privileges invalid. \textit{Ibid.} Smyrniot \textit{beratlis} to St. Priest, 16 September 1769. For the lower customs requests made by \textit{beratlis} of Britain, see TNA, SP 110/87: Murray to Hayes, 25 September 1766; FO 261/4: Ainslie to Hayes, 3 May 1782; FO 261/6: Ainslie to Hayes, 15 April 1790.

\textsuperscript{59}This sum was partitioned between the four \textit{beratlis} of France in Smyrna. (166PO/D84/8 Thomas to St. Priest, 16 September 1769, and Smyrniot \textit{beratlis} to St. Priest, 16 September 1769).
Furthermore, customs officers in some cities (e.g. Salonica) lowers the tariff in order to divert trade to their cities.\footnote{The Consul of France in Aleppo noted if the beraths of Russia pay lower customs, then beraths of France must have this privilege as well, CADN 166PO/D1/29: 29 fructidor XI.}

Regardless, we can replicate the exercise done earlier in order to infer an upper bound on the present discounted value of switching from paying 5% to 3% \textit{ad valorem} taxes on imports and exports. Assuming the agent’s trade incentives do not change when he pays lower tariffs—that is, he has the same trade volume under both tax regimes—a 25-year-old agent with two adult sons has to be importing and exporting a total of 11,156 \textit{kurus} worth of goods in 1750 in order to justify paying 3,000 \textit{kurus} for a berat; or 20,694 \textit{kurus} in 1780 for a berat costing 5,000 \textit{kurus}.\footnote{CADN 166PO/D84/3: 18 October 1758}

Unfortunately, I am not aware of any data on how much trade the beratlıs did. The closest approximation I was able to obtain was the Smyrna customs registers in 1771–2.\footnote{CADN 166PO/D84/4: 10 February 1760} Throughout this period, the average customs payment over European merchants was 89 \textit{kurus}, implying a trade volume of about 3,000 \textit{kurus} per year. Trade volume per berath should not be orders of magnitude greater than this estimate. In the year 1759, a berath of France in Smyrna paid 100–120 \textit{kurus} of customs at the higher tariff of 5 per cent, suggesting his total of exports and imports were worth about 2,000–2,400 \textit{kurus}.\footnote{CADN 166PO/D84/4: 10 February 1760} Similarly, Yanaki Cana, a berath of France in Smyrna, paid 500 \textit{kurus} in the year 1767, also at 5 per cent, implying a trade volume of 10,000 \textit{kurus} in 1767, which is worth 7,931 \textit{kurus} in 1750. Finally, multiple berat purchases within a partnership casts further doubt on the customs duty motive; especially in partnerships involving fathers and sons.

### 4.3 Access to Trade Networks

A possible hypothesis regarding the incentives to purchase a berat is that its acquisition might grant its bearer access to trade networks and markets that would otherwise be unavailable.\footnote{I am grateful to Francesca Trivellato for drawing attention to this possibility.} The only real channel that Europeans of a particular country would not include an Ottoman subject in their trade is due to an aversion towards potentially subjecting the businesses to the Ottoman law. This was a real concern for the British.\footnote{TNA, FO 352/1: p. 400, Memorandum, 5 January 1811. An extract of this document is displayed later.} Indeed, we might expect
agents to have a preference to transact business only with parties who have a smaller set of jurisdiction choices. However, that would imply that the British would not want to trade with British beratlıs either, since the latter still had access to Ottoman law in addition to the British law.67 A comprehensive reading of factor letter books and chancery registers suggests that the British did not use beratlıs even as agents, except one case where a British merchant bought a British berat for his warehouseman.68 In addition, the British made a concerted effort to keep the beratlıs out of the British trade. Preventive measures included charging 20 per cent consulage fees on all beratlıs who use British ships. Clearly, buying the British (or any) berat did not grant access to the British trade.69

On the other hand, the French or the Dutch seemed to have imposed no such restriction. The Dutch had a free trade policy and beratlı partners would regularly open establishments in Amsterdam and participate in that trade without involving any Dutch merchants. In fact, by the late eighteenth century, the beratlıs had replaced the Dutch trading houses in Smyrna almost completely. While the French might have imposed restrictions on who could trade to or from Marseilles, they did not appear to show preference towards French beratlıs as brokers or trading partners. There is a variety of scattered anecdotal evidence that shows many examples of French merchants having Swedish beratlıs as brokers or British beratlıs as partners, suggesting that the French did not trade or have partnerships with French beratlıs more frequently than other beratlıs.70

The archival evidence suggests that beratlıs mostly formed partnerships with other beratlı or non-Muslim Ottomans who later went on to purchase berats. One needs to be cautious about drawing definitive conclusions from this data since there is no record of their transactions or partnership registrations. However, anecdotal descriptions in the archival material about the affairs of beratlıs suggest that especially Smyrniot beratlıs participated in the European and Levant trade by sending partners to Amsterdam and Livorno.71

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67 In fact, the British could always use Turkish courts as well, no matter how reluctant they are to do so.
68 BL Add MS 46933: f. 217, Consul of Britain in Aleppo to James Porter, 3 October 1754.
69 TNA SP 105/122: pp. 369–370, The Levant Company to Alexander Straton, 10 June 1803.
70 The French merchant Taupin in Aleppo had British beratlı warehouseman, Saad, BL Add MS 45933: f. 123, Drummond to Porter, 5 April 1753 and CADN 166PO/D1/1: Drummond to Thomas. French merchants Pons and Vailhen had Yusuf Karali, a protégé of Sweden and later a beratlı of Spain, as agent, broker and warehouseman, CADN 166PO/D1/21: St. Priest to Amé, 28 October 1782, 22: Vailhen to the ambassador, 8 June 1785. Samuel Yomtov Moliano, beratlı of Sweden was the broker of the Consul of Denmark in Salonica c.1763, CADN 166PO/D71/3: The minutes from the Chancery of the Consulate of France.
71 As an example, see CADN 166PO/D84/8: 1 February 1769. Also see BL IOR/G/17/5: ff. 383—387, Paper by George Baldwin about the Turkish trade, 22 January 1785; and Boogert (2006).
4.4 Jurisdictional Shift Hypothesis

Kuran first articulated the jurisdictional shift hypothesis.\(^{72}\) This theory argues that agents switched from an inefficient legal system to a more efficient one, much like Tiebout sorting. Efficiency of a legal system refers to the level of aggregate welfare. Inefficiencies in a legal system arise from transaction and contracting costs, legal costs such as litigation and verification, and distortion of incentives. One could in fact use Tiebout sorting to state the theory more concretely: Assume there are two legal systems differentiated along costs they induce on commerce and trade. A given legal system, say the British common law, might be more efficient than the Ottoman/Islamic law due to more secure property rights, more flexible inheritance laws etc. Then, agents who have large expected gains from better law would be willing to pay a certain sum to do this jurisdictional shift. In a market with a fixed supply of these positions, they would bid the price up, and people with relatively smaller expected gains would stay in the original jurisdiction. Now, suppose there are a finite number of legal systems available to which one could buy access. Then, Tiebout sorting would have the implication that those agents with the highest expected benefits would place themselves in the most efficient legal jurisdiction. Since the supply is fixed and positions are auctioned off, agents with relatively smaller expected benefits would place themselves in the second-best, and so on. This theory implies an ordering of legal systems in their efficiency reflected by the berat prices. Furthermore, by revealed preference, those who could afford the access but did not purchase it do not benefit from this extra law.

Indeed, even though all berats granted the same tax exemptions (with the possible exception of tariff payments discussed above), the cross-sectional price variation implies that berats were not homogenous objects. The archival evidence makes this revealed preference argument explicit. There are cases where a prospective buyer would positively reject the berat of one country to have another.\(^{73}\)

In order to pin down the impact of “better law” on prices, we need to be careful about control variables that might induce price divergence. The price of a berat is, potentially, a function of a discount factor which depends on mortality and prevailing interest rates, the value of tax exemptions, the probability that the Sultan annuls the berat, the quality of arbitration and protection services which depend on the competence or willingness of the

\(^{72}\)See Kuran (2004a).

\(^{73}\)Dimitraki Vidalé, a Greek merchant in Smyrna, turned down a Dutch berat at 2,500 kurus and purchased a French berat at 3,000 instead, CADN 166PO/D84/4: 1 March 1759. A prospective beratlı in Latakia turned down an Austrian berat to wait for a British one to become available, TNA SP 110/46: pp. 126–7, [?] to Henry Shaw, 2 March 1784.
particular ambassador and consul, and finally the value of the legal system itself. Given this formulation, there are three possible sources of variation: the probability of berat annulment, ambassador and consul effects, and the legal system.

Recall that berats of a given country became invalid if that country went to war with the Ottoman Empire. The revocation of berats might involve more than the loss of future benefits. When Napoleon invaded Egypt, the Porte revoked all French berats and there was a chain of confiscation of the estates of French beratlins in Aleppo. They either had to leave the city or buy the berats of other countries to shield themselves. In this sense we would expect the prices of Austria and Russia to be quite low, and the prices of almost all other countries to be quite high.

The value of a berat also depended on the ambassador and the consul who did the actual representation. Whenever local magistrates harassed beratlins or an Ottoman subject sued them in the Turkish court, the consul represented the beratlins at the local court, and the ambassador at the higher court. Getting the necessary commands from the Porte to stop the abuses against the beratlins or to protect them from suits by other subjects depended on the ambassador’s influence at the Sultan’s court.

For these reasons, a comparison of British and French berats is especially revealing. These two countries had comparable power, had about equal influence at the Sublime Porte, and were historically on friendly terms with the Ottoman Empire. However, their berats still show non-trivial variation, suggesting that agents displayed preference for the French law over the British law. We need to have a more precise calculation of these benefits in order to pin down the value of efficient law.

Finally, the occupations of beratlins also shed some light on the value of European law. The scattered data on the identity of applicants show that they are predominantly merchants, sarrafs (bankers and moneychangers), shopkeepers and brokers. Thus, European law had value precisely for those involved in trade, commerce, and finance.

Kuran argues that the main source of inefficiency of the Ottoman law is the egalitarian inheritance law and the lack of legal personhood. The latter is very unlikely. In this period, there were no general incorporation laws in Europe. They were obtained with special per-

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74 Out of the beratlins and fermandins of France in Aleppo, Hanna Andréa lost 10,000 kurūsh to confiscation and passed under the protection of Sweden; Yussuf Ferra lost about 200,000 kurūsh and obtained protection from Ragusa, Giabra Azouz lost 15,000 kurūsh and passed under the protection of an unspecified country, CADN 166PO/D1/29: 5 Vendémiaire XI.

75 Each sale noted in the French archives notes the occupation, CADN 166PO/D1/1, 5, 7, 10, 18, 23; 166PO/D84/3, 4, 7, 15. Choiseul described the beratlins as “almost all rich sarrafs, or bankers,” cited in Eldem (1999) p. 282.
missions or charters. Thus, such organizational forms were not available to the beratlis and so could not be an incentive to buy berats. Another argument is that the beratlis might be able to join or form joint-stock companies. The archival evidence suggests that they did not. First, they were barred from entering the Levant Company, which is the only candidate for a joint-stock company in the Levant. In fact, the Levant Company was not even a joint-stock company: It had no stock. Each member traded on his own account and paid fees to the Company. Essentially, it operated like a merchant guild by imposing a restriction on people who could trade in the Levant using British ships. Thus, European merchants did not form these allegedly superior organizational forms, either.

Having access to more flexible inheritance laws is a good possibility, however. The privileges that beratlis had did not end with their demise, but rather after their estate was partitioned among the heirs. Whenever a berath passed away, the consul would seal up the berath’s estate, including his house, warehouse, and all his merchandise. The berat would be returned to the embassy or the Porte only after the heirs agreed on a division. This division was made according to the deceased’s will if one existed or through an arbitration process otherwise. However, sometimes one of the inheritors could threaten to go to the Turkish court. Regardless, this allowed the partition to be arranged according to the laws of the country from which the berat emanated. However, Boogert shows that this is not necessarily the case. He cites an example from the archives where the partition the consul followed was in fact the Islamic law. Another possibility is secure property rights. When a subject passed away, the local magistrates could arbitrarily confiscate parts of his estate. The berat essentially secured the estate from such arbitrary confiscations. In order to disentangle the two effects, we need more data on how binding the Islamic legal inheritance law was on non-Muslims subjects.

A final piece of evidence is revealed by taking the berats sold by the Porte itself into consideration. In 1802, the Porte formed its own corps of berath merchants, which was referred to as Avrupa Tüccarı, literally “merchant who trades with Europe” and started issuing

\footnote{General incorporation laws were introduced in France in 1867, Germany in 1860s–1870 varying by state, the UK in 1844 without limited liability and in 1855–56 with limited liability. See Guinnane et al. (2007) p. 692, Table 1.}

\footnote{Walsh and of Merchants of England Trading to the Levant (1825) p. 6, also see BL Add MS 38229: ff. 145—71, a dissertation by F. Daniel on the Turkey trade, 23 March 1794}

\footnote{Boogert (2009) p. 378}

\footnote{A letter written by the beratlis of France and dated 1777 states that the consuls have sole jurisdiction over the inheritance of their beratlis. This was in response to the appropriations by the local judge and other Ottoman officers made on the estate of Stefan Mardiros, a berath of the Kingdom of Two Sicilies, after his death. The total amount of confiscation was 7,535 kurus and 107 Venetian sequins. CADN 166PO/D1/18: Beratlus of France to Deperdriau [Consul of France in Aleppo], 19 December 1777.}
associated patents in 1806. Its inception juxtaposed with the Porte’s rigorous attempts to suspend berats and other consular protections. Later, a similar protection was offered to the Muslim subjects of the Empire as well, under the moniker Hayriye Tüccarı, literally “merchant of goodness.” Both groups had the same exemptions as the other beratlıs, including the payment of 3 per cent customs. Furthermore, they were also placed out of the local courts; their litigations followed the arbitration procedures of European courts closely. They could also have two agents, like the two nefers attached to berats.

The Porte priced its berats competitively. Bağış mentions a price of 1,500–2,000 kurus, which is evidently lower than the prevailing prices of European berats in the late eighteenth century. By 1806, five or six of these patents were already sold. In 1810, imperial beratlıs numbered around 80. In 1815, 151 such patentees existed. By 1835, the number had increased to 521, with another 453 procuring them between 1839 and 1861.

These figures should not be overestimated as they indicate the total number of people registered under these berats rather than the number of imperial beratlıs at a given time. They are in fact fairly modest compared to the corps of European beratlıs. Although the imperial berats had some initial success in some places, namely in Aleppo, the reform failed to inspire confidence in non-Muslims, who might have found the Ottoman’s promise to respect the privileges granted by the imperial berats non-credible. Since the Porte simultaneously started the suppression of European berats, we cannot determine the extent to which the introduction of Sultan’s beratlıs depressed the demand for European berats, if at all. Still, this episode of Porte’s attempt at selling berats and its apparent failure further suggests that the beratlıs put value in the European legal institutions beyond tax exemptions, arbitration services and representation by other merchants. Indeed, Baron de Tott, during his inspection of the Levant wrote that the greatest privilege a berat provided was not the lower customs but the French tribunal and French arbitration.

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80 Avrupa Tüccarıs were not exempt from the haraç duty, but the amount was very modest and meant to emphasize that they were Ottoman subjects.
81 Bağış (1983) pp. 65–70, see Masters (1992) for a comprehensive discussion on the subject of Avrupa Tüccarıs and Hayriye Tüccarıs.
82 TNA, FO 78/50: f. 19-20, Report on Barats, 24 April 1806
83 Çizakça (1996) p. 206
84 Masters (1992) p. 581
85 Rey (1899) p. 282
4.5 Forum Shopping

One final motive for buying a *berat* could be forum-shopping. Forum-shopping refers to a litigant choosing the most favorable judge to hear or defend his case over a set of possible courts. This hypothesis states that there is an option value of having access to a court that systematically differs from the others. This could be due to the underlying law itself, or simply court bias. For this hypothesis to hold, the agent should be able to use the other courts in his choice set as a credible threat of defection. This hypothesis has a natural testable implication: Agents would have incentives to purchase multiple *berats*.

Table 6 displays the availability of each court for a particular pair of disputing agents. Indeed, the *beratlis* had the richest choice set for contracting and dispute resolution. Archival sources are abundant with examples of forum-shopping. This evidence comes from both anecdotes and actual litigations. The French ambassador Vergennes noted the defections of French *beratlis* in his correspondence. Later, Sir Robert Liston, the British ambassador in Constantinople, revealed the extent of forum shopping with the following:

> Men of profligate character procured Berats, to skreen [*sic*] them from the punishment of the Law, to enable them to avoid the payment of their just debts, or perhaps to oppress an innocent neighbour. It but too often happened that a foreign minister placed a mistaken pride and point of honour in defending, whether right or wrong, the client whom he had once granted his protection. And there are instances, not infrequent, that when one minister, tired of the chicanery or ashamed of the infamous conduct of his Patentee, has determined to withdraw his patronage, and to deliver him over to the Tribunals of the Country, there has been found another minister ready to frustrate the good intention, by an adoption of the criminal. While Ambassadors thus wasted their time, quarrelled with their Brethren, and lowered their publick [*sic*] character, by the attack or defence of unworthy men, who were engaged in never-ceasing Law-suits, they, on the other hand threw away their influence & lost their respectability at the Ottoman Porte by improper interference and dirty jobs, to the real injury of the political interests of their courts.

87*If the law of France harms and ruins them, they will resort to Turkish law* (Archives de la Chambre de Commerce de Marseille, J 168, Vergennes to the Chamber of Commerce, 22 January 1768, cited in Eldem (1999) pp. 282–3.

88TNA FO 78/16: ff. 90-91, Liston to Grenville, 25 April 1795
even when they were under the protection of a European country already through the berat of their father. There are also a multitude of examples where the beratlıs applied to the Turkish court when the European court did not favor them. There are still other examples where a beratlı or a beratlı’s son would renounce his berat and buy the berat of another country. For instance, Yussuf Karahı, a merchant and an agent of the French merchant Pons in Aleppo, during a dispute about a debt payment, renounced the Swedish protection he had in virtue of his father’s (Petros Karahı) berat, applied to the Turkish tribunal, only to buy a berat from Spain later. A beratlı could also get the berat of another country when his original berat was revoked by the ambassador. Furthermore, we see clear diversification of berats within partnerships. For instance, it was not uncommon to have a family business of one father and two sons, or three–four brothers, with each one of them having a different berat. A good example is the partnership of three brothers Sader and Anton Diab, who had berats from Britain and the Dutch Republic. The Karahı family in Aleppo were under the protection of several powers: The father Petros Karahı had a berat of Sweden. His son Yussuf, as noted earlier, had a berat of Spain, and his other son Yeperi a Venetian berat. Petros had a brother İlyas who had a berat of the Dutch Republic. Nasrallah Kassab’s three sons each had berats of Denmark. Two of them were established in Aleppo, the other in Salonica. Two other Kassabs established in Aleppo were British and Prussian beratlıs but we cannot say for certain they were the same family. Anton Diab and his son Petros had a British and a Swedish berat, respectively. These cases are especially revealing, since the sons’ berats would

89 In Aleppo, c.1755, a bankrupt Dutch fermanlı solicited a Venetian berat or ferman to ensure himself against possible sequestration of his patent, TNA SP 110/32: f. 128: 10 October 1755. In an instant when some beratlıs were discovered to have patents from two different countries, they were ordered to relinquish one of them by the ambassador, TNA, FO 261/6: Ainslie to Moore, 5 March 1790. Two examples of the latter is Shiudiac and A’ida, both Dutch dragomans in Aleppo, with sons under Austrian and British protection with berats, respectively.

90 The British ambassador Ainslie advised one of his nefer fermanlı to cast off his ferman or at least have it suspended for a time in order to use the Ottoman jurisprudence, TNA, FO 261/6: Ainslie to DeVezin, 11 April 1789.

91 CADN 166PO/D1/22: Amé to the Ambassador, 19 April 1784, 17 June 1784; 166PO/D1/23: 1 June 1786. Another example is Antonio Zingrilara. He was an Ottoman Greek who settled in Amsterdam and obtained Dutch citizenship in 1759, but fell into a dispute with the Dutch later. He applied to the Turkish court and in the end his Dutch citizenship was revoked in 1768 (Boogert (2006) pp. 131–2). During this process he purchased a French berat (CADN 166PO/D84/7: 8 March 1767). It seems that while he was enjoying French protection, he also solicited a British berat but decided not to obtain one (TNA SP 110/87: Murray to Hayes, 9 June 1768).

92 In 1782, when the British ambassador Ainslie withdrew his berat from a British protégé who had been found guilty of treason by the Porte, the subject in question placed himself under Austrian protection instead, TNA, FO 78/3: f. 247-248 Ainslie to Lord Grantham, 10 October 1782.

93 CADN 166PO/D1/1.
be totally redundant from a tax exemption point of view.94

This is very strong evidence that forum shopping was a very real implication and motivation of berat purchases. A formal discussion of the implications of forum-shopping on partnerships, trade and investment is beyond the scope of this paper. My larger project tackles these question in a formal framework. One of the implications of this model is that agents have strong incentives to divert resources from investment in order to expand their legal choice set. Agents desired a richer legal choice set precisely in order to have a credible threat of defection to another court on the chance that the transaction is disputed. Ex ante, this leads to having transactions only between agents with similar legal choice sets. Thus, the fact that the beratlıs could engage in ex post forum-shopping allowed them to drive every non-beratlı out of business in the European-Ottoman trade. The British Consul in Smyrna, Werry, points out their reluctance to trade with local non-Muslims due to their opportunity to use Turkis courts:

It is well known, that there exists a wide difference between the Code of Turkish Laws, and the Laws & usages of Europe. It is also a fact, that all Subjects of Turky [sic], Greeks, Armenians, Jews, &c, are always amenable to the Turkish Tribunals in all Cares by any one; & that they, on the other hand, enjoy the exclusive privilege of appealing to the Turkish Courts, in all Cases & transactions wherein they find it their interest to do so, and which occurs in all suits where some clause or quible [sic], arising from the difference above alluded to, makes the Turkish procedure preferable, & more conducive to their views. From this principle a great inconvenience accrues to the European Factories in Turky [sic], chiefly in [Constantinople], upon all Affairs transacted between them, & the People of the Country. No writen [sic] engagement under their head—no act past in a foreign Cancellaria or before a European Magistrate, is binding for them & the people of the Country / the instant they take it into their head to appeal to the Turkish Law. To obviate this, it would be highly useful & beneficial (for what regards at least the English Trade) to have a fundamental rule established, by which the Turkish Government should consent and engage, that all Subjects of Turky [sic] entering, of their own accord, into an Engagement, transaction, or Contract

94BOA HAT 196 B, C, D, E, G, H, J, K. Other examples: Two members of the Frangopoulos family in Salonica, possibly brothers or father-and-son had berats from France and Austria, c.1761, IAM K. 94 33/34. Brothers Iakov and Abraham Frances, established in Salonica, had berats of Austria and Ragusa, respectively, c.1761, Ibid. The partnerships between beratlıs of different European countries are too numerous to list exhaustively. A few examples beyond that are referenced so far are: Yusuf Dwek Cohen and Minas Uskan, Dutch and British beratlıs in a partnership in 1780s, Boogert (2005) p. 267.
whatever in matters of Trade, with any of the European Factories & under the
Sanction & influence of the Laws of the Nation to which that Factory belongs,
shall be obliged to abide by that engagement, transaction, or Consent, be ever
the issue of what nature soever it may; without being at liberty to appeal, or have
recourse to the help of the Turkish Law, in order to elude the consequences of
such Engagement for when likely to prove inconsonant with their own advantage,
& profit.  

5 Conclusion

This paper analyzed a particular facet of legal pluralism in the eighteenth century Ottoman
Empire: the sale of exemption licenses called berats by the European embassies and consuls.
These patents provided their purchasers a variety of tax exemptions as well as access to
European institutions and jurisprudence. The price data collected from primary sources yield
two strong results: First, tax exemptions cannot explain the high price. Second, the price
variation across countries suggests that the market ranks the quality of services and privileges
these berats granted. There can be many sources of heterogeneity of berats, namely the
influence of the ambassador at the Sultan’s court, the probability that the country will go to
war with the Ottoman Empire, and the efficiency of the legal system and institutions to which
they grant access. A comparison of Great Britain, France and the Dutch Republic is especially
revealing, since these countries enjoyed similar levels of influence and were very unlikely to
go to war with the Ottomans. However, the prices of their berats were still significantly
different. This evidence suggest that the difference in their legal/economic institutions led
to the price wedge between them.

The data also show that the beratlis exploited their legal choice set extensively. Both
anecdotal evidence from the archives and actual litigation documents show that they switched
courts during disputes very often. This switch was not systematically in one direction, either;
a beratl was just as likely to defect from a British court to an Austrian as to a Turkish court.
I argue that this led a distortion of incentives, resulting in higher demand for berats and the
exit of non-beratlis from trade.

Further analysis of the evidence will provide statistics on the disputes and litigations of
beraths, document the frequency of forum-shopping within and across disputes, as well as
attempt pin down precisely the value of legal/economic institutions.

95TNA, FO 352/1: p. 400, Memorandum, 5 January 1811.
Archival Sources

- The National Archives, Kew (TNA)
  - SP 105/104–343
  - SP 110/23–88
  - SP 97/21–60
  - FO 78/1–33, 50, 52
  - FO 261/1–7

- The British Library, London (BL)

- Archives nationales, Paris (AN)
  - AE/BI/84–97, 422–448, 991–1004, 1048–1069
  - AE/BIII/233, 241, 243

- Centres des archives diplomatiques de Nantes (CADN)
  - 18PO/B/1, 40
  - 166PO/A/59
  - 166PO/D1/1–30
  - 166PO/D71/1–3, 11
  - 166PO/D84/1–23

- Başkanlık Osmanlı Arşivi, Istanbul (BOA)

- Historical Archives of Macedonia, Salonica (IAM)
References


Table 1: The Price of Berats

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Reported entries are either the actual price of a berat, or the mean whenever there is more than one observation for a given year. The median is displayed within parentheses, and the standard deviation in brackets. Real prices and the nominal prices in pounds sterling are calculated using the silver content data and the exchange rate figures from Pamuk (2000) p. 163, 168.

Source: TNA FO 261/3–7, SP 97/52, SP 110/87, SP 110/45–6; BL Add MS 38229, 45933; CADN 166PO/D1/1, 5, 7, 10, 18, 23, 166PO/D84/3, 4, 7, 15; AN AE/BI/998.
Table 2: The Total Number of *Berats* in Circulation

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Table 3: The Number of *Berats* in Istanbul, Izmir, and Aleppo

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*Source:* Boogert (2005) p. 88. Cited primary sources are BOA, ED 27/2 (France), 35/1 (Great Britain), 22/1 (Dutch Republic).
Table 4: An Account of Protégés in Aleppo c.1768

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Protégés of France include those of Sweden and the Kingdom of Two Sicilies, Great Britain includes those of Austria.

Source: CADN 166PO/D1/10

Table 5: The Number of Berats in Circulation c.1797

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M denotes Muslim, C denotes non-Muslim, B denotes *beratlı*