

The Protégé System and *Berath* 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 analyzes a particular facet of legal pluralism; the sale of exemption licenses called *berats* 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 assess four hypotheses regarding the incentives for these purchases. I show that *berat* prices cannot be explained by the tax exemptions they provide. By illustrating these merchants' businesses, having access to European trade networks was not a concern for acquiring *berats*. Documenting systematic variation in *berat* prices across countries and relying on disputes and litigations, I provide evidence that agents acquired *berats* in order to have access to European legal institutions and engage in forum shopping. I argue that this advantage allowed *berat* holders to dominate the Ottoman commerce by the end of the 18th century.

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1 Introduction

The literature has largely left the Ottoman Empire out of the “Great Divergence” debate. However, this large, multi-ethnic empire deserves attention by economic historians interested in the long-run trajectory of European and other economies. In the seventeenth century, the Ottoman state was a major economic power; by the nineteenth century it had fallen behind even the more peripheral European powers. Regardless, despite severe economic and fiscal crises, the Ottoman Empire managed to survive into the modern age with most of its institutions intact. The literature so far has focused on the Ottoman economic institutions as a way of explaining both its stagnation and persistence.¹ Kuran, for example, identifies Islamic legal institutions as the culprit in the Ottoman Empire’s economic stagnation.² He argues that the egalitarian Islamic inheritance law and the corporate form’s unavailability prevented the capital accumulation necessary to facilitate growth and kept partnerships ephemeral. This paper is part of a broader project that uses theory and archival evidence to offer a complementary hypothesis: The multiplicity of legal systems in the Ottoman state was an important determinant of the empire’s divergence.

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 enforcing contract terms. This paper focuses on a particular facet of choice of law; namely, the sale of exemption licenses called *berats*, which granted their bearers, *berathls*, a variety of tax exemptions as well as access to European legal jurisdiction.³

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.⁴ 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 prominence in trade.⁵ These non-Muslims were distinct in their options of legal systems, thanks to their *berats*. How the *berathls*, a small class of non-Muslim merchants, became so predominant in the Levant trade is an open question in the Ottoman economic history.

¹See Kuran (2004b) and Pamuk (2004).

²See Kuran (2010) for details.

³*Berat* is the name of the patent. The word *berathl* refers to the person who holds a *berat*. Europeans also referred to the *berathls* as “honorary *dragomans*.” Throughout this paper, having access to European law/jurisdiction means agents have the option to use European law for contracting and dispute resolution.

⁴Kuran (2004a) pp. 475–476

⁵Masters (1992) pp. 580–1; Eldem (1999) p. 258. In 1768, three-fourths of the cargo loaded at Smyrna on Dutch ships bound for Amsterdam belonged to minorities, Panzac (1992) p. 194. There is also anecdotal evidence from archival sources that draw attention to this development. See the British Library (hereafter BL), IOR/G/17/5: ff. 383–7, Paper by George Baldwin about the Turkish Trade, 22 January 1785; *Centre des archives diplomatiques de Nantes* (hereafter CADN) 166PO/D84/15; the National Archives (UK) (hereafter TNA) SP 105/338: pp. 73–76, 15 July 1819. All these sources confirm that the foreign trade was dominated by *berathls*.

The existing literature does not tell us enough about eighteenth century Ottoman merchants in general, and *berat* holders in particular. The secondary literature has been limited to vague speculations on what *berats* really accomplished. Bağış suggests that a desire to acquire tax exemptions drove non-Muslim subjects to procure *berats*. Kuran, on the other hand, argues that minorities purchased them in order to move to a more “efficient” (that is, European) legal system. One example through which this efficiency manifests itself, Kuran explains, is the more productive enterprise forms like the joint-stock company and corporation which were not available in Ottoman law. Çizakça and Kenanoğlu dispute this hypothesis; they argue the jurisdictional shift was not a general phenomenon and the actual number of non-Muslim Ottomans who switched to European jurisdiction is quite modest. They also note that *berat* acquisitions predated general incorporation in Europe. The authors argue that Kuran’s hypothesis needs to address to what extent 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 consular courts in the Levant did not apply the laws of the nation they represented. Most cases were adjudicated through 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 consular courts did not have more sophisticated procedures (such as reliance on written evidence) compared to the Ottoman courts, and were not better equipped in dealing with more complex organizational forms such as joint-stock companies.⁶

This paper also contributes to a rich literature that emphasizes the role of legal institutions in economic performance. La Porta et al. (1998) argue that the primary source of variation in many central economic institutions is the legal system’s origin. Focusing on shareholder rights, the authors claim that common law is more conducive to growth. Guinnane et al. (2007) challenged this view, showing that access to some attractive organizational forms, such as the private limited liability company, was restricted in common law countries. Acemoglu et al. (2011) show that areas occupied by the French during the Napoleonic Era underwent radical institutional reform, including the adoption of the civil code, and experienced more rapid urbanization and economic growth, especially after 1850.

This paper makes three primary contributions. First, it resolves the motivations underlying *berat* acquisitions. Second, I will attempt to evaluate the relative attractiveness of various European legal-economic institutions by tracing the demand for each European power’s protection. The commercialization of access to European legal institutions provides an unusual setting through which we can compare each European legal system’s relative expediency. Finally, the results will provide insight into the impact of legal pluralism and forum shopping on contracts, trade and investment.

⁶See Bağış (1983), Kuran (2004a), Çizakça and Kenanoğlu (2008) and Boogert (2009) for details; 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.

Besides the jurisdictional shift, there are three other hypotheses regarding *berat* purchases. The first hypothesis states that non-Muslims purchased *berats* exclusively to acquire tax exemptions. The second hypothesis asserts that *berats* actually provided 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 *ex post*. In other words, agents would like to hedge risk by acquiring access to multiple legal systems and courts in order to pick the most advantageous verdict on their disputes. This paper assesses the validity of each of these competing theories, and finds strong evidence for jurisdictional shift and forum shopping.

2 Data

This paper uses primary data obtained from the National Archives (UK), the British Library, *Archives nationales*, *Centre des archives diplomatiques de Nantes*, and *Başbakanlık Osmanlı Arşivi*. My sources primarily consist of 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 by the Ottoman officials. These data include a large number of bills of exchange, receipts and references to *berat* sales, registrations of *beraths* in chanceries and the Ottoman court, as well as disputes, litigations and arbitrations.

The literature so far reported *berat* prices from secondary sources which are unverifiable and communicate no sense of variation across time and countries. Mine is the first large-scale sample of *berat* prices drawn from primary sources. Consular correspondence was absolutely invaluable for constructing this sample. Ambassadors relied on their consuls for *berat* applications and prospective buyers. Indeed, for example, an agent in Smyrna would have to apply to the French consul there for a *berat*. The consul would then nominate his name and the offered price to the ambassador. The ambassador received such applications from all his consuls (and also directly from applicants in Constantinople) and simply granted the *berat* to the highest bidder. Thus, the sale practically functioned like an auction. Correspondence between consuls and ambassadors gives many examples of such sales and applications. When I constructed my data, I went through the correspondence between the ambassadors on the one hand and the consuls of Aleppo, Smyrna, and Salonica on the other, identifying each sale contained in these large volumes. Since there was a great deal of haggling between ambassador and prospective buyers, I only included prices that I could verify with a receipt, confirmation of funds, or a bill of exchange. Thus, my sample represents actual transactions; they are not averages or estimations made by contemporary observers after the fact.

3 Background

3.1 *Berat* Sales

Legal pluralism had always characterized The Ottoman Empire’s legal setting, much like the Islamic states it succeeded. The Ottoman legal framework arranged the empire’s subjects into different communities based on their religious affiliation. In civil and commercial matters, non-Muslim subjects could choose between the religious legal system of the parties in question or the Islamic law. Muslim subjects, however, had to use Islamic legal jurisprudence until the advent of secular courts in 1850. Furthermore, in the eighteenth century, Ottoman minorities could access European law through the purchase of exemption licenses called *berats*.

This system provided a natural framework to incorporate the European communities established in the Levant. The Ottoman government recognized each European country’s residents in the empire as a separate community, with the ambassador acting as the leader and supreme judge.⁷ 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 exempt 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.⁸

The Capitulations granted European ambassadors and consuls another important privilege: The right to employ anybody they chose as *dragoman*, or interpreter.⁹ 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 at the Sultan’s court. Throughout the eighteenth century, Great Britain, France, Russia and Austria each had about 40.¹⁰

As the affairs of foreign missions in the Ottoman Empire became more important, each European country began to cultivate its own interpreters and thus had no need of employing the Sultan’s subjects. Thus, ambassadors began to dispose of these “surplus” *berats* at fairly high prices to non-Muslim subjects who sought them with great demand. We do not know when this commercial-

⁷Ambassadors 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).

⁸Boogert (2005) p. 66, 78; TNA FO 78/16: f. 87 Sir Robert Liston [ambassador] to Lord Grenville [secretary of state], 25 April 1795.

⁹The word *dragoman* or *drogman* is the Latinized form of the Arabic *tarjuman*, literally interpreter (Boogert (2005) p. 8)

¹⁰TNA FO 78/16: f. 87; FO 78/50: f. 15 Report on Barats, 24 April 1806.

ization started. John Murray, British ambassador to the Ottoman Empire between 1767 and 1775, wrote that selling vacant *berats* was a “perquisite that had belonged to [the] Embassy from its first institution,” which was in 1583.¹¹ The French consulate chancery in Salonica displays a *berat* registration for a Greek honorary *dragoman* Anastasio Maruchy in 1718.¹² The correspondence between the Levant Company and the British consul in Smyrna reveals that as early as 1706, the Levant Company was making an effort to stop disbursing *berats* to agents who were engaged in trade but were not interpreters. This policy was in response to Armenian merchants, partners and brothers Antoon di Giorgio in London, Serchis di Giorgio in Smyrna and Serchis’s brother-in-law Zachariah in Leghorn, who were undercutting British merchants’ profits. Antoon di Giorgio and Serchis di Giorgio had British *berats* but were not *dragomans*. Furthermore, British chancery registers show disputes involving “honorary *dragomans*” in 1732. Thus *berat* sales must have been well underway by 1720s.¹³

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. Ambassadors even appointed fictitious consuls to places where their country had no trade or establishment in an attempt to increase the number of *berats*.¹⁴

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 Constantinople and instituted drastic changes in *berat* regulation. The new regulation compelled the honorary *dragomans* to only engage in the functions of their office, withdraw from any kind of trade or artisanship, and take residence in their place of appointment. The government also prohibited them from participating or interfering in the business of the guilds and becoming tax farmers.¹⁵ The 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 under non-*beraths*’ names, and having ambassadors obtain for them traveling commands (*yol emri*). These documents authorized *beraths* to leave their place of appointment on the pretext of executing consular orders.¹⁶

In 1806, the Porte reiterated its intention to rein in the abuses and this time carried out the reform with full force. The government ordered each *berathli* to give up his patent or return to the place of residence specified in his *berat*. About thirty protégés under Russian, French and Austrian protection followed this order fearing reprisal and had to pay all taxes that had accumulated

¹¹TNA SP 110/87: John Murray [ambassador] to the Levant Company, 15 May 1767.;Wood (1925) p. 533

¹²AN AE/B1/997: *La Protection de France accordée aux Juifs, et autres Etrangeres*.

¹³TNA SP 105/115: Levant Co. to Consul Sherard, 18 July 1706; SP 110/182: f. 162.

¹⁴TNA 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

¹⁵Boogert (2005) pp. 107–108; TNA FO 78/6: f. 312-313 Traduzione d’un Comandamento diretto a S. Eccellenza il Reis Efendi, 29 October 1786

¹⁶TNA FO 78/16: f. 90 Sir Robert Liston [ambassador] to Lord Grenville [secretary of state], 25 April 1795

from the date they acquired their *berats*.¹⁷ Others petitioned for naturalization by the government that protected them.¹⁸ The government's reforms accompanied the formation of the Porte's own competing protection system called "Europe merchants" (*Avrupa tüccarı*), the first patents for which were issued in 1806.¹⁹ 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, marking the end of this particular form of foreign protection.²⁰

3.2 Demand

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, a *berat* placed the *berath* out of the reach of 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 sons and also two "servants." Similar to the *berath*, these two agents each had a patent called *nefer ferman*.²¹ 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 by the Sultan for the interpreter's office in an embassy or consul. A *berath* 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 *berath*'s debts.²² Furthermore, *nefer ferman*s also returned to the embassy when their holders died or otherwise relinquished them, so it was impossible for a *berath* to re-sell these servant

¹⁷TNA FO 78/16: f. 9-10 Charles Arbutnot [ambassador] to Charles James Fox [secretary of state], 5 May 1806.

¹⁸Rey (1899) pp. 276–7.

¹⁹TNA, FO 78/50: f. 19-20 Report on Barats, 24 April 1806, Bağış (1983), Boogert (2005) pp. 110–111, The Imperial protections will be discussed in more detail in the following sections.

²⁰Rey (1899) pp. 279–80.

²¹The Western sources refer to these servant or agents as *neferli* or *fermanlı*.

²²For instance, in 1758, an Austrian protégé Nasrallah Arkash's *berat* 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 *berath*, 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 *kuruş* on his bond, FO 261/7: p. 315–316, Ainslie to Strane [consul at Patras], 6 May 1793.

fermans.²³ Thus, there was no speculation motive to holding a *berat*.

3.3 Supply

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 he represented. 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.²⁴ Revenues from *berat* sales constituted the largest part of an ambassador's income. A British ambassador's annual salary amounted to 8,000 *kuruş* whereas the average revenue per year accruing to the ambassador from *berats* sales was about 12,000 *kuruş*.²⁵ Thus, ambassadors were eager to distribute them despite admitting them to be a "scandalous emolument."²⁶

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, attributing the British trading post's disputes with the magistrates in Aleppo to the conduct of honorary *dragomans*, the Company advised to stop further *berat* sales. In 1748, it tried to limit the number of *berats* but the ambassador James Porter rejected the Company's demand. In 1760, in response Ottoman officials' complaints, the Company sent a circulatory note to each consul in the empire, requesting a list of *beraths* and *fermanhs*, a translation of these patents and ordered the consuls to inform the Company about 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.²⁷

European merchants opposed *berats* on two grounds. First, the expanding number of protégés seemed to have drawn various Ottoman officials' attention, who made efforts to infringe on the privileges granted to European merchants and protégés alike.²⁸ Similarly, in an instance where

²³A request by an Aleppine *berath* 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 *berath* 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.

²⁴TNA, SP 97/52: ff. 103–113, Ainslie to Lord Viscount Weymouth, 4 November 1776

²⁵TNA, FO 78/16: f. 86, 89 Liston to Lord Grenville, 25 April 1795

²⁶TNA, SP 110/87: Murray to Hayes, 14 August 1767

²⁷Boogert describes this sequence of events in detail, see Boogert (2005) pp. 97–101. For primary sources regarding the Levant Company's attempts to wrest control from the embassy, see TNA, SP 105/118: p. 32, The Levant Company to Pollard [consul at Aleppo], 14 November 1746, *ibid.* p. 98, The Levant Company to Porter, 19 January 1748, SP 105/119: pp. 64–65, The Levant Company to Porter, 12 September 1760, *ibid.* p. 66, The Levant Company to Consul Crawley, Smirna & to Consul Kinloch, Aleppo, 12 September 1760, *ibid.* p. 67, [same letters to Consul Turner, Cyprus, and Consul Abbott, Tripoli], 12 September 1760, *ibid.* p. 126: The Levant Company to Kinloch, 25 March 1763, *ibid.* pp. 177–178, The Levant Company to Kinloch, 10 December 1765, *ibid.* pp. 197–198, The Levant Company to Kinloch, 1 July 1766

²⁸On 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

the Porte attempted to raise custom duties across all European powers, a British merchant in Constantinople, Humphrys, blamed *beraths*, claiming that *berat* sales enriched ambassadors and a few interpreters to the detriment of British trade.²⁹

An equally important factor is the competition they faced from *beraths*. Beaujour 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.³⁰ Thus, the increasing number of *beraths* 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 *beraths* who had severely undercut European merchants' profits.³¹

As I discussed in Section 2, *berat* sales were essentially auctions, although there was a degree of haggling in a given transaction. Since 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 line for the first vacant one, sometimes even depositing the money in advance as credit.³²

3.4 Prices

Table 1 reports a sample of *berat* prices I constructed using primary evidence. I provided details of this construction in Section 2. With the same method, I was also able to verify that Dutch *berats* fetched 2,500 *kuruş* in 1759 and Neapolitan *berats* 4,000 *kuruş* in 1784.³³ In addition, there is a variety of scattered anecdotal 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*.³⁴ Beaujour wrote in 1799 that both British and French *berats* went for around 10,000 *kuruş*.³⁵ 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 1803.³⁶

A prospective applicant had to make several more payments, which I did not represent in Table 1. For instance, a *berath* 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* [...] then 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.

²⁹TNA, SP 105/189: pp. 473–475, Humphrys, 17 November 1792.

³⁰"But the principal reason why the *berats* have to be outlawed is that the *beraths* 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." "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 concurrents; et des concurrents d'autant plus dangereux, qu'il font le commerce avec moins de frais que nous." Beaujour (1800) p. 288.

³¹Masters (1992) pp. 580–581.

³²TNA, FO 261/3: Ainslie to Abbott, 12 May 1777, *Ibid.* Ainslie to Vernon, 9 August 1777.

³³CADN 166PO/D84/4 and TNA SP 110/46, respectively.

³⁴TNA, FO 78/16: f. 88, Liston to Grenville, 25 April 1795

³⁵Beaujour (1800) p. 285

³⁶Boogert (2005) pp. 80–81

every time a new consul was appointed. Similar payments existed for other *beraths* of Britain and the Dutch Republic, as well.³⁷ The payments consuls received at the purchase of a *berat* would increase to 600 *kurus* by 1781.³⁸ Furthermore, at the accession of each Sultan, all *beraths* had to pay a renewal fee, which ranged from 300 to 500 *kurus*.³⁹ 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 *beraths* 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, their *beraths* offered to compensate the consulate’s expenses in excess of its revenues in order to prevent the loss of their status.⁴⁰

One can see from Table 1 that *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.

Most of the revenue *berat* sales generated was a personal emolument for the ambassador. For instance, in 1760s, a French *berat* cost 3,000 *kurus*. Out of this sum, the ambassador remitted about 500 *kurus* to the Ottoman government for registration fees and retained the remaining amount for himself.

These data show that *berats* were very expensive objects. I have also reported British *berats* in pounds sterling for comparison. 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 in Constantinople was 142 *kurus*, whereas that of a skilled worker was 284 *kurus*.⁴¹ 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.⁴² 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.⁴³

³⁷CADN 166PO/D84/3: 8 November 1758, 166PO/D1/12: 1770, 166PO/D1/20: 30 December 1779

³⁸CADN 166PO/D1/21: Amé to St. Priest, 8 November 1781

³⁹CADN 166PO/D1/16: 20 June 1774; TNA, FO 78/16: f. 88, Liston to Grenville, 25 April 1795

⁴⁰Boogert (2003) p. 626

⁴¹See Özmucur and Şevket Pamuk (2002) p. 301 for data on daily wages. I assumed 300 work days per year.

⁴²Boogert (2005) p. 81

⁴³Measuring Worth, <http://www.measuringworth.com>; Pamuk (2006) p. 815. I used the GDP/capita estimate for

3.5 Number of *Beraths*

Beraths constituted a select, small class of non-Muslims in the Ottoman economy. As noted before, the Porte fixed the number for each country. Tables 2–4 give estimates of *berat* numbers of Britain, France and the Dutch Republic for select years. Table 5 shows a survey by the Ottoman government in 1793–4, which found 253 *berats* in circulation. Note that this survey underestimates Austrian *beraths* and does not list those of Russian tenure at all. The Porte was at war with both of them at the time and had their *berats* annulled. Furthermore, it does not seem to report the *berats* of Spain. Correcting for those, we can estimate about 340 *berats* in circulation. Each *berat* protects its holder, two *nefer* agents and adult sons, say two.⁴⁴ Thus, under this system, there were about 1,700 people under protection in the entirety of the Ottoman Empire. Evidently, this number is rather modest and in striking contrast to the previous citations of protégés on the order of hundreds of thousands.⁴⁵

4 Hypotheses

4.1 Tax Exemptions

In this section, I show that tax exemptions a *berat* provides cannot explain its price. 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 give an estimate on the number of children protected

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.

⁴⁴There is no available data on the demographics of the Empire in the eighteenth century. However, archival sources suggest that *beraths* had about 1–2 sons on average. See below.

⁴⁵At some point, Russians apparently protected 120,000 natural-born Ottoman subjects, and Austria 200,000. TNA FO 78/16: ff. 9–10, Arbuthnot to Fox, 5 May 1806; Bağış (1983) p. 35, Kuran (2004a) pp. 501–2. These numbers are unsubstantiated and unverified. Furthermore, the literature on protégés seems to have confused *beraths* 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; Bağış (1983) p. 35; TNA, FO 78/50: f. 25, Secret Remarks upon the Present Conduct of the Porte.

under *berats*, which is about 2.⁴⁶ Again, I am going to be conservative with my estimate and assume that the *berath* has two *sons* at the time of the purchase. Since the *berat* also grants tax exemptions to two agents in addition to the *berath* and his sons, I estimate the total value of tax exemptions per year to be 63 *kuruş*.

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 as 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*.⁴⁷ At this point we should note that the Porte charged 500–1,000 *kuruş* on each registered *berat*, effectively extracting the expected tax revenues it lost.⁴⁸

One could also argue that agents wanted to purchase *berats* to acquire a tariff reduction. In the Ottoman Empire, non-Muslim Ottoman subjects paid an *ad valorem* customs of 5%, Muslims 4%, and Europeans 3%, thanks to the concessions Europeans obtained with the Capitulations. The secondary literature emphasizes the role of this tax privilege in *berat* acquisitions.⁴⁹ The primary evidence is very confounded on this subject. The *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 *beraths* did not get this tax privilege by default except the Swedish and the Dutch.⁵⁰ The British and French ambassadors did manage to get 3% customs by making separate applications to the Ottoman government on an individual basis. However, these privileges 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 that the British obtained for their *beraths* only applied to the trade their *beraths* did with Britain.⁵¹ *Beraths* also had to make substantial payments

⁴⁶Number of children under protection (probably male) per *berath* in Aleppo *c.*1768 is 1.2 (CADN 166PO/D1/10), number of children (male and female) per *berath* in Smyrna *c.*1782 was 2.2 (AN AE/BI/1066: *Barataires de France*, 31 December 1782).

⁴⁷I calculated the probability of death 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 and Quataert (2005) p. 112.

⁴⁸TNA SP 110/87: Murray to the Earl of Shelburne, 17 August 1767. These charges were quoted in the *berat* price.

⁴⁹Bağış (1983) p. 28

⁵⁰“[...] 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 *beraths* in 1777 (CADN 166PO/D84/14: Peyssonnel to St. Priest, 8 June 1777).

⁵¹The following letters list a few *separate* examples of many repeated requests for lower customs. Sometimes

and bribes each time to obtain these commands, costing as much as 1,056 *kuruş*.⁵² Thus, the *beraths* paid more than 3% customs even if they did get the Ottoman government’s confirmation. Clearly, the French and the British could not secure this privilege effectively. The fact that their *berats* cost more than those of the Dutch suggests there were considerations beyond customs payments when an agent purchased a *berat*. Tariff payments also depended on the city and the particular customs officer who operated there. For British and French *beraths* 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 1803.⁵³ Furthermore, customs officers in some cities (e.g. Salonica) lowered the tariff on their own in order to divert trade.⁵⁴

Regardless, we can replicate the exercise above in order to infer an upper bound on the present discounted value of switching from paying 5% to 3% *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 *kuruş* worth of goods in 1750 in order to justify paying 3,000 *kuruş* for a *berat*; or 20,694 *kuruş* in 1780 for a *berat* costing 5,000 *kuruş*.⁵⁵

Unfortunately, I am not aware of any data on how much trade the *beraths* did. The closest approximation I was able to obtain was the Smyrna customs registers in 1771–2.⁵⁶ Throughout this period, the average customs payment of European merchants was 89 *kuruş*, implying a trade volume of about 3,000 *kuruş* per year. Trade volume per *berath* is unlikely to be orders of magnitude greater than this estimate. In the year 1759, a *berath* of France in Smyrna paid 100–120 *kuruş* of customs at the higher tariff of 5 per cent, suggesting his total of exports and imports were worth about 2,000–2,400 *kuruş*.⁵⁷ Similarly, Yanaki Cana, a *berath* of France in Smyrna, paid 500 *kuruş* in the year 1767, also at 5 per cent, implying a trade volume of 10,000 *kuruş* in 1767, which is worth 7,931 *kuruş* in 1750. Finally, multiple *berat* purchases within a partnership casts further doubt on the customs duty motive; especially in partnerships involving fathers and sons.

one *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 *berath*] 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 *beraths* states that the change in customs officers leads to a pretension of double customs, making the old privileges invalid. *Ibid.* Smyrniot *beraths* to St. Priest, 16 September 1769. For the lower customs requests made by *beraths* 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.

⁵²This sum was partitioned between the four *beraths* of France in Smyrna. (166PO/D84/8 Thomas to St. Priest, 16 September 1769, and Smyrniot *beraths* to St. Priest, 16 September 1769).

⁵³The 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.

⁵⁴CADN 166PO/D84/3: 18 October 1758

⁵⁵Alternatively, we can let incentives change under both tax regimes. Using a simple model of dynamic programming, I get a lower bound of 21,540 *kuruş* on trade volume in order to explain the price of a *berat* costing 5,000 *kuruş*.

⁵⁶See Küçükcalay and Elibol (2006) for details

⁵⁷CADN 166PO/D84/4: 10 February 1760

4.2 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.⁵⁸ 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 their firms to the Ottoman law. This was a real concern for the British.⁵⁹ Indeed, we might expect agents to have a preference to transact business only with parties who have smaller jurisdiction options. However, that would imply that the British would not want to trade with British *beraths* either, since the latter still had access to Ottoman law in addition to the British law.⁶⁰ A comprehensive reading of factor letter books and chancery registers suggests that the British did not use *beraths* even as agents, except one case where a British merchant bought a British *berat* for his warehouseman.⁶¹ In addition, the British made a concerted effort to keep the *beraths* out of the British trade. Preventive measures included charging 20 per cent consulage fees on all *beraths* who use British ships. Clearly, buying the British (or any) *berat* did not grant access to the British trade.⁶²

On the other hand, the French or the Dutch seemed to have imposed no such restriction. The Dutch had a free trade policy and *berath* partners would regularly open establishments in Amsterdam and participate in that trade without involving any Dutch merchants. In fact, by the late eighteenth century, *beraths* had replaced the Dutch commercial houses in Smyrna almost completely. While the French might have imposed restrictions on who could trade to or from Marseille, they did not appear to show preference towards French *beraths* as brokers or trading partners. There is a variety of scattered anecdotal evidence that shows many examples of French merchants having Swedish *beraths* as brokers or British *beraths* as partners, suggesting that the French did not trade or have partnerships with French *beraths* more frequently than other *beraths*.⁶³

The archival evidence suggests that *beraths* mostly formed partnerships with other *beraths* or non-Muslim Ottomans who later went on to purchase *berats*. Thanks to Kadi's recent work, we now have a good sense of the prominent Smyrniot merchants who traded with the Dutch Republic.⁶⁴ Cross-checking his findings with my sample, I was able to identify these non-Muslim traders as *beraths*. Arakel d'Ovanez (Arachiel di Ovannes), an Armenian merchant and *berath* of France, did business for Simon di Ovannes in Amsterdam. Zingrilara, a Greek trader who had obtained

⁵⁸I am grateful to Francesca Trivellato for drawing attention to this possibility.

⁵⁹TNA, FO 352/1: p. 400, Memorandum, 5 January 1811. An extract of this document is displayed later.

⁶⁰In fact, the British could always use Turkish courts as well, no matter how reluctant they are to do so.

⁶¹BL Add MS 46933: f. 217, Consul of Britain in Aleppo to James Porter, 3 October 1754.

⁶²TNA SP 105/122: pp. 369–370, The Levant Company to Alexander Straton, 10 June 1803.

⁶³The French merchant Taupin in Aleppo had British *berath* 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 Karah, a protégé of Sweden and later a *berath* 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 Yomtol Moliano, *berath* 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.

⁶⁴See Kadi (2012)

Dutch citizenship before acquiring a French *berat*, operated a commercial house in Izmir and did a lot of ventures in Amsterdam. He was also in a partnership with Vidali, another Greek *berath* of France. Manuel Kiriaco de Panajoti (di Panaiotis), a *berath* of France in Izmir by 1758, operated a commercial house in Izmir, had formed a partnership with the Dutch trader Jacob de Vogel in 1760s and made consignments to another Dutch merchant De Bok as well as Stati Thoma, a Greek merchant in Amsterdam. Manuel Kiriaco's father Paniotis di Jossif had a *berat* from the Dutch Republic and had partnerships with several Dutch traders. Nicolo Patrichi and Antonio Bachatori, both *beraths* of Britain, were in a partnership and traded with Mireck d'Isay who also had a *berat* from Britain and did a lot business in Amsterdam. There are four Mavrogordatos mentioned in Kadi's work, possibly brothers, all of whom did business in Amsterdam. Yanni Mavrogordota was a *berath* of Sweden. An unnamed *berath* Mavrogordato had two *berath* partners in Izmir and merchant houses in Izmir, Chios and Amsterdam. These partners did "a quarter of trade of Holland in the quality of commissioners and a lot of business in other places of Italy." Gio Mavrogordato and Gio Anastasio were *berath* partners whose firm, Gio Mavrogordato, Gio Anastasi & Co., did business with a partnership of two *beraths* of Sweden, Petri Petrocokino and Catansino, and had signed consignments to the Dutch merchant De Bok for their merchandize in Amsterdam. Pietro Cokino and Paolo Rodocanaky (Petro Cochino and Rodocanachi), had *nefer fermans* of France and did trading with Mireck d'Isay, a *berath* of Britain in Amsterdam as noted earlier. A firm of British *beraths*, Demetrio & Nicola Bachatori & Co. did business in Amsterdam to the extent that they empowered a Greek merchant, Stephano d'Isay, to collect their debt from the Dutch firm Gerard Staats & Zoon. Yenaki Kana, a *berath* of France in Izmir, did extensive trade with the Dutch to the frustration of French merchants, whose profits he seemed to have undercut.⁶⁵

Furthermore, anecdotal descriptions in the archival material about the affairs of *beraths* corroborate this evidence, suggesting that especially Smyrniot *beraths* participated in the European and Levant trade by sending partners to Amsterdam and Livorno.⁶⁶

4.3 Jurisdictional Shift Hypothesis

Kuran first articulated the jurisdictional shift hypothesis.⁶⁷ This theory argues that agents switched from an inefficient legal system to a more efficient one, much like Tiebout sorting. A legal system's efficiency refers to the level of aggregate welfare it induces. Inefficiencies in a legal system arise from transaction and contracting costs, legal costs such as litigation and verification, and distortion

⁶⁵Kadı (2012) p. 213, CADN 166PO/D84/1: 16 November 1741; Kadı (2012) p. 182, 212, 214–5, 226, 247–8, 262, CADN 166PO/D84/7: 8 March 1767; Kadı (2012) p. 78, 182, 191, 202, 225, 226, CADN 166PO/D84/3: 10 September 1758; Kadı (2012) p. 230, TNA SP 110/87: Murray to Hayes, 1 November 1766, SP 105/188: 21 June 1782; Kadı (2012) p. 190–191, 210, 223, 230, 295, BOA Hatt 196 C, CADN 166PO/D84/15: 8 January 1780, 166PO/D84/18; Kadı (2012) p. 202, TNA SP 105/186; AN AE/B3/233: *Mission du baron de Tott*, Smyrna, 1777-1779, Yenaki's *berat* was registered on 16 February 1780, BOA Hatt 196-9779 K.

⁶⁶As 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).

⁶⁷See Kuran (2004a).

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 go through 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. For instance, Dimitraki Vidalé, a Greek merchant in Smyrna, turned down a Dutch *berat* at 2,500 *kuruş* and purchased a French *berat* at 3,000 instead. A prospective *berath* in Latakia turned down an Austrian *berat* to wait for a British one to become available.⁶⁸

In order to pin down the impact of “better law” on prices, we need to be careful about alternative explanations for the systematic variation in *berat* prices across jurisdictions. 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 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 on French *beraths*' estates in Aleppo. They either had to leave the city or buy the *berats* of other countries to shield themselves.⁶⁹ Thus, we would expect the prices of Austrian and Russian *berats* to be quite

⁶⁸CADN 166PO/D84/4: 1 March 1759; TNA SP 110/46: pp. 126–7, [?] to Henry Shaw, 2 March 1784

⁶⁹Out of the *beraths* and *fermanhs* of France in Aleppo, Hanna Andréa lost 10,000 *kuruş* to confiscation and passed under the protection of Sweden; Yussuf Ferra lost about 200,000 *kuruş* and obtained protection from Ragusa, Giabra Azouz lost 15,000 *kuruş* and passed under the protection of an unspecified country, CADN 166PO/D1/29: 5 *Vendémiaire* XI.

low, since they were much more likely to go to war with the Ottoman Empire, 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 *beraths* or an Ottoman subject sued them in the Turkish court, the consul represented the *berath* at the local court, and the ambassador at the higher court. Getting the necessary commands from the Porte to stop the abuses against the *beraths* 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.

Finally, the occupations of *beraths* also shed some light on the value of European law. The scattered data on the identity of applicants show that they are predominantly merchants, followed by *sarrafs* (bankers and moneychangers), artisans or manufacturers, shopkeepers and brokers.⁷⁰ 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 permissions or charters.⁷¹ Thus, such organizational forms were not available to the *beraths* and so could not be an incentive to buy *berats*. Another argument is that the *beraths* 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.⁷²

Beraths did have access to a new enterprise form that might have been otherwise unavailable: the merchant (or commercial) house. Foreign merchants introduced commercial houses in the Levant in the eighteenth century and became a common way for *beraths* to organize their firms. Comprised of one or more partnerships, commercial houses were established for an indefinite period of time and were not tied to a single venture—as opposed to classic Ottoman firms. Kuran describes commercial houses as precursors to joint-stock companies since they could transform to joint-stock companies by

⁷⁰Each 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 *beraths* as “almost all rich *sarrafs*, or bankers,” cited in Eldem (1999) p. 282.

⁷¹General 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.

⁷²Walsh 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

issuing tradeable shares. Although the Ottoman law did not specifically disallow such enterprises, Turkish tribunals had trouble adjudicating disputes arising from their function. Using European law would indeed involve lower transaction costs to operate merchant houses. There are many examples of *berath* merchant houses. For instance, Stefan & Abkar Nalbandoglu, Armenian *beraths* of France in Constantinople; Demetrio & Nicola Bachatari & Co.; Manuel Kiriaco de Panajoti; Mavrogordato had merchant houses in Izmir, Chios, and Amsterdam; Antonio Zingrilara; French *berath* George Vitale's merchant house Vitale brothers & Co.⁷³

Having access to more flexible inheritance laws is another good possibility. The privileges that *beraths* had did not end with their demise, but rather after their estate was partitioned among their 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 return to the embassy or the Porte only after the heirs agreed on a division. This division followed the deceased's will if one existed or an arbitration process among the inheritors otherwise. 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 several examples from the archives where the partition the consul followed was in fact the Islamic law.⁷⁴ Nevertheless, there are other cases that do hint at flexible division of the estate.⁷⁵

Furthermore, *berats* also conferred to their bearers more 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 response to the appropriations the local judge and other Ottoman officers made on a *berath*'s estate following his demise, *beraths* of France wrote a letter to the French ambassador stating that consuls have sole jurisdiction over the their *beraths*' inheritance.⁷⁶

An account of the *berats* the Porte sold itself reveals further evidence. In 1802, the Porte formed its own corps of *berath* merchants, which the government named *Avrupa Tüccarı*, literally "Europe merchant," and started issuing associated patents in 1806. Its inception coincided with the Porte's rigorous attempts to suspend *berats* and other consular protections. Later, the government offered a similar protection system to its Muslim subjects as well, under the moniker *Hayriye Tüccarı*, literally "merchant of goodness." Both groups had the same exemptions as the other *beraths*, including the payment of 3 per cent customs.⁷⁷ Furthermore, they were also placed out of the local courts; their

⁷³Kuran (2010) p. 202–204. TNA SP 110/43, p. 226: To Will Magee, 6 January 1775; SP 105/186; CADN 1666PO/D84/3: 10 September 1758; 166PO/D84/7: 8 March 1767; 166PO/D84/18: 3 March 1786; 166PO/D84/15: 8 January 1780.

⁷⁴Boogert (2005) p. 199, especially footnote 65; Boogert (2009) p. 378

⁷⁵[Discussion of these cases are forthcoming.]

⁷⁶The deceased, Stefan Mardiros, had a *berat* of the Kingdom of Two Sicilies. The total amount of confiscation was 7,535 *kuruş* and 107 Venetian sequins. CADN 166PO/D1/18: *Beraths* of France to Deperdriau [Consul of France in Aleppo], 19 December 1777.

⁷⁷*Avrupa Tüccarı*s were not exempt from the *haraç* duty, but the amount was very modest and meant to emphasize that they were Ottoman subjects.

litigations followed the arbitration procedures of European courts closely.⁷⁸ 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 *kuruş*, 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.⁷⁹ In 1810, *imperial beraths* numbered around 80.⁸⁰ In 1815, 151 such patentees existed. By 1835, the number had increased to 521, with another 453 procuring them between 1839 and 1861.⁸¹

We should not overestimate these figures as they indicate the total number of people registered under these *berats* rather than the number of imperial *beraths* at a given time. They are in fact fairly modest compared to the corps of European *beraths*. 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.⁸² Since the Porte simultaneously started the suppression of European *berats*, we cannot determine the extent to which the introduction of Sultan’s *beraths* depressed the demand for European *berats*, if at all. Still, the Porte’s attempt at selling *berats* and its apparent failure suggest that the *beraths* put value in the European legal institutions beyond tax exemptions, arbitration services and representation by other merchants.

Overall, the systematic price variation across countries shows that the market valued each country’s *berat* differently. The fact that alternative explanations cannot derive this variation reveals the crucial role of heterogeneity in European law. I discussed three possible aspects of law that agents might have found profitable to induce switching jurisdictions: Enterprise forms, inheritance law and secure property rights. I have shown that enterprise forms are unlikely, but there is mixed evidence on flexible inheritance law. Finally, risk of confiscation and insecure property rights could have led to jurisdictional shift. However, it is not evident how that could affect the price variation. We need detailed data about *beraths*’ contracts, firms, and estates in order to precisely answer these questions. Unfortunately, given to paucity of archival material or private collections of such merchants, these issues remain unresolved.

4.4 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

⁷⁸Bağış (1983) pp. 65–70, see Masters (1992) for a comprehensive discussion on the subject of *Avrupa Tüccarıs* and *Hayriye Tüccarıs*.

⁷⁹TNA, FO 78/50: f. 19-20, Report on Barats, 24 April 1806

⁸⁰Çizakça (1996) p. 206

⁸¹Masters (1992) p. 581

⁸²Rey (1899) p. 282

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 *beraths* 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 *beraths* in his correspondence.⁸³ Later, Sir Robert Liston, the British ambassador in Constantinople, revealed the extent of forum shopping in his report:

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. [...] And there are instances, not infrequent, that when one minister [...] 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.⁸⁴

There are many concrete examples of forum shopping among *beraths*. Essaid de Massé, who was a *berath* of the Dutch Republic and did extensive trade with them, declared himself an Ottoman subject during the handling of his bankruptcy despite the litigation having started in the European jurisdiction. In fact, he seems to have switched courts several times during the course of his bankruptcy.⁸⁵ 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 jurisdiction.⁸⁶

In addition, agents attempted to acquire multiple *berats* or *fermans*. In Aleppo, c.1755, a bankrupt Dutch *fermanlı* solicited a Venetian *berat* or *ferman* to ensure himself against possible sequestration of his patent. When the British ambassador discovered some of his *beraths* having acquired *berats* from other countries, he ordered them to relinquish either the British *berats* or the others. Similarly, other individuals purchased a *berat* even though they enjoyed protégé status through their fathers' *berats*. For instance, Shiudiac and A'ida were both Dutch *dragomans* in Aleppo, with their sons respectively under Austrian and British protection with *berats*.⁸⁷

There are also examples where a *berath* or a *berath*'s son would renounce his *berat* and purchase another country's *berat*. For instance, Yussuf Karalı, a merchant and French trader Pons's agent in Aleppo, had a dispute about a debt payment. During the adjudication process, he renounced the Swedish protection he had in virtue of his father's (Petros Karalı) *berat*, applied to the Turkish

⁸³“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.

⁸⁴TNA FO 78/16: ff. 90-91, Liston to Grenville, 25 April 1795

⁸⁵CADN 166PO/D84/8: 18 August 1768, 1 February 1769.

⁸⁶TNA, FO 261/6: Ainslie to DeVezin, 11 April 1789.

⁸⁷TNA SP 110/32: f. 128: 10 October 1755; FO 261/6: Ainslie to Moore, 5 March 1790.

tribunal, only to buy a *berat* from Spain later.⁸⁸ 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. During this process he purchased a French *berat* (in 1767). It seems that while he was enjoying French protection, he also solicited a British *berat* but decided not to obtain one (1768).⁸⁹

A *berath* could also get the *berat* of another country when the ambassador revoked the original one. In 1782, when the British ambassador Ainslie withdrew his *berat* from a British protégé who the Porte had found guilty of treason, the *berath* placed himself under Austrian protection instead.⁹⁰

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.⁹¹ The Karalı family in Aleppo was under the protection of several powers: The father Petros Karalı 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 *beraths* 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 be totally redundant from a tax exemption point of view. Two members of the Frangopoulos family in Salonica, possibly brothers or father-and-son had *berats* from France and Austria, c.1761. Brothers Iakov and Abraham Frances, established in Salonica, had *berats* of Austria and Ragusa, respectively, c.1761. The partnerships between *beraths* of different European countries are too numerous to list exhaustively, examples of which I have discussed in Section 4.2. One other example is Yusuf Dwek Cohen and Minas Uskan, Dutch and British *beraths* in a partnership in 1780s.⁹²

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 *beraths* could engage in *ex post* forum

⁸⁸CADN 166PO/D1/22: Amé to the Ambassador, 19 April 1784, 17 June 1784; 166PO/D1/23: 1 June 1786.

⁸⁹Boogert (2006) pp. 131–2, CADN 166PO/D84/7: 8 March 1767, TNA SP 110/87: Murray to Hayes, 9 June 1768.

⁹⁰TNA, FO 78/3: f. 247-248 Ainslie to Lord Grantham, 10 October 1782

⁹¹CADN 166PO/D1/1.

⁹²BOA HAT 196 B, C, D, E, G, H, J, K; IAM K. 94 33/34; Boogert (2005) p. 267.

shopping allowed them to drive non-*beraths* out of business in the European-Ottoman trade. The British Consul in Smyrna, Werry, simultaneously drew attention to the differences between Turkish and European laws, and explained British reluctance to trade with local non-Muslims (including *beraths*) in their lack of commitment to European law *ex ante*.

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 Turkey [*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 quibble [*sic*], arising from the difference above alluded to, makes the Turkish procedure preferable, & more conducive to their views. [...] No written [*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 [...] that all Subjects of Turkey [*sic*] entering, of their own accord, into an Engagement, transaction, or Contract 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, [...] 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.⁹³

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

⁹³TNA, FO 352/1: p. 400, Memorandum, 5 January 1811.

led to the price wedge between them.

The data also show that the *beraths* 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 *berath* was just as likely to defect from a British court to an Austrian tribunal 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-*beraths* 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.

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Table 1: The Price of *Berats*

	Great Britain		Nominal Sterling	France		Austria	
	Nominal (<i>kurus</i>)	Real (1751 <i>kurus</i>)		Nominal (<i>kurus</i>)	Real (1751 <i>kurus</i>)	Nominal (<i>kurus</i>)	Real (1751 <i>kurus</i>)
1751–53	2,750 (0)	2,750	393–550	3,000 (0)	3,000	2,300 (0)	2,300
1754–56	2,750 (0)	2,693	393–550	3,000 (0)	2,938	2,267 (208)	2,219
1757–65				3,000 (0)	2,359		
1766–73	2,550 (70)	2,022	319	3,000 (0)	2,379		
1774–79	3,236 (304)	2,433	324–360	4,000 (0)	3,007		
1780–87	4,000 (0)	2,759	425	5,000 (0)	3,448	3,000 (0)	2,069
1789–93	4,000 (324)	1,904	361				
1794	5,000 (0)	2,035	417				

Reported figures are means whenever there is more than one observation. Standard deviations are displayed in parentheses. 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

	1703	1730	1754	1757	1774	1789
France	35	41	48	46	51	46
Great Britain	15	34	45	43	43	43
Dutch Republic	24	28	26	30	29	34

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

	1703	1730	1754	1757	1774	1789
<i>France</i>						
Istanbul	11	17	12	15	9	14
Izmir	8	8	5	4	4	6
Aleppo	–	2	7	8	10	5
<i>Great Britain</i>						
Istanbul	10	14	16	11	11	10
Izmir	1	6	3	5	7	6
Aleppo	2	5	11	13	10	14
<i>Dutch Republic</i>						
Istanbul	15	16	7	3	5	5
Izmir	6	7	6	10	7	9
Aleppo	1	2	7	9	14	12

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

	<i>Beraths</i>	<i>Fermanhs</i>	Children	Total
France	18	36		
Great Britain	14	28		
The Dutch Republic	11	22		
Venice	5	10		
Total	48	96	58	202

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

	Istanbul	Izmir	Aleppo	Salonica	Other	Total
France	17	6	6	3	17	49
Great Britain	14	6	13	4	9	46
The Dutch Republic	5	9	9	6	2	31
Venice	1	1	6	1	1	10
Austria	—	1	—	2	5	8
Prussia	4	1	7	2	4	18
Denmark	4	1	2	1	5	13
Sweden	5	8	5	3	26	47
The Kingdom of Two Sicilies	3	4	5	5	14	31
Total	53	37	53	27	83	253

Source: BOA Hatt 196/9779 B, C, D, E, G, H, I, J, 196/2898; Historical Archives of Macedonia K. 172 22/24 (Basdrabellh, I. *Istorika Arxeia Makedonias*, 1952. pp. 352–3)

Table 6: Menu of Legal Systems

	Disputing Parties					
	MM	MC	MB	CC	CB	BB
Islamic	♦	♦	♦	♦	♦	♦
Denominational				♦	♦	♦
European					♦	♦

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