

Ottoman Empire Maritime Jurisdiction In the Light of the Ahidnames Given to Venice in the Period Between the 16th and the 17th Century: A Guiding Note For the Prospective Researches

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ABSTRACT

International regulations in connection with the law of the sea have been considered by various researchers in terms of different perspectives so far. However, with this study, we are planning to recommend a new ground for the prospective researchers and provide basis for a deeper thinking regarding the contemporary challenges. In other words, opening a new gate in this context might shed some light on more comprehensive studies for the prospective researchers. To this end, by writing a guiding note on the Ottoman Empire Maritime Jurisdiction, we would like to make an attempt at taking the first step to draw the attention of researchers and contribute to their prospective researches accordingly. In a nutshell, it is our contention that this note might bring a new perspective for some of the prospective researchers on the law of the sea.

Key words: Ottoman Empire Maritime Law, Ottoman Empire Maritime Jurisdiction, Ahidname, Consular Jurisdiction.

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INTRODUCTION

Ottoman Empire has been founded by Osman Bey in 1299 in the heart of Anatolia and soon became the center of civilization with its location on the heart of three continents. Having the authority over 10 million *km*² of territory, which makes more than the surface area of whole European continent, Ottoman Empire was ruling countless nations with justice and peace once upon a time. Moreover, today, the archives of Ottoman Empire is a main source for *39 nations in the area of law, diplomacy, history, art and so forth* as these nations' territories were a part of the Empire once a upon a time in their history. The aim of this note is to pave the way for further researches on the law of the sea in the light of Ottoman Maritime Law. Given that the researches in the area of Ottoman Maritime Law in the 21st Century is not suffice, we would like to take the first step and write some recommendations on this specific topic in order to lead the way. The aim here is not to conduct a deep research on this specific topic but to set ground for future researches. In other words, this study needs to be considered as an *introductory research* in order to shed some light for the prospective researchers on this specific topic. In addition, it is our intention that this study can also be used as a key for researching other topics related to Ottoman Maritime Law.

Having given due consideration to what have been pointed out above, it needs to be indicated that introducing *the scope and content of Ahidname in Islamic Law and Ottoman Diplomacy* is crucial for the first part of this study. Afterwards, *Ottoman Empire jurisdiction over foreign vessels in the Ahidnames* might be another matter of deep research within the context of second part. Having pointed out various crucial points under this part, drawing some *conclusions* about the whole research would be recommendable.

PART I- THE SCOPE AND CONTENT OF AHIDNAME

With regard to first part of this study, it is recommended to examine the Ahidnames in terms of Islamic Law and Ottoman Diplomacy as a first step. Afterwards, Ottoman Empire Practice in connection with Ahidnames in the 16th and 17th Century might be examined.

A- Ahidname in Islamic Law and Ottoman Diplomacy

It is highly recommended to make an introduction to this subject by examining *the scope and content of the Ahidnames* throughly as the examinations on the Ahidnames open an enlightening gate for all the extensive researches intended to be done regarding the Ottoman Empire Ahidnames.

It is an undeniable fact that the Ottoman Empire was an Islamic State with its related systems and institutions. Therefore, *explaining and describing the Ahidnames based on the related Islamic Law and Ottoman Law sources* needs to be one of the other priority within the context of this part. To this end, Ahidnames in Islamic Law and Ottoman Law must also be elaborately addressed, and some cornerstones of the issue should be stated explicitly by using the reliable sources.

We need to additionally refer here that not only “ahidname”, but also the expressions such as, “*ahd*”, “*muâhede*”, “*eman*”, “*sulh*”, “*musâlaha*”, “*mukavele*”, “*hüdne*”, “*mutabakat*”, and “*mütareke*”, “*Name-i Hümayun*”, “*Fetihname*”, “*Sevgendname*” are used in Ottoman Law. Therefore, mentioning the definition similarities and differences between these expressions might be another key for understanding the expression of ahidname.

B- Ottoman Empire Practice in connection with Ahidnames in the 16th and 17th Century

Having examined all the sufficient issues above, some comprehensive descriptions and explanations needs to be made in connection with the *Ahidnames in Ottoman Practice*. In particular, the Ottoman Empire-Venice relations of that time needs to be pointed out as comprehensive as possible for the reason that the Ahidnames given to Venice at that time have got a rich content in terms of maritime affairs.

In this regard, we would like to mention that examining the Ottoman Ahidnames as regards to their preparation and their context is also recommendable as it might pave the way for the researchers to be more familiar with these outstanding documents.

Having made some extensive examinations regarding the Ottoman Empire Ahidnames, giving some general information on the maritime affairs of Ottoman Empire in the light of the related Ahidnames is also recommended. Providing some common provisions with regard to Ottoman Empire maritime affairs by examining the relevant Ahidnames might be another contribution in this regard.

PART II- OTTOMAN EMPIRE JURISDICTION OVER FOREIGN VESSELS IN THE LIGHT OF THE AHIDNAMES (15TH-17TH CENTURY)

First and foremost, as the text of Ahidnames are mostly found in different domestic and overseas resources, we need to point out the undeniable fact that it might not be possible for the researchers to reach the texts of the Ahidnames all together in one resource. Therefore, one needs to bear in mind that bringing the related Ahidnames together might sometimes need an independent research.

However, it is possible to reach the “*consistent and persistent practice*” of the Ottoman Empire by analysing *some chosen fundamental Ahidnames* among the various ones given *in the period between 1500 and 1700*. This is possible for the very reason that the aforementioned timeframe is long enough to examine the consistent and persistent practice and draw some conclusions accordingly. In addition, we must also point out the fact that the related centuries consist most of the golden age of Ottoman Empire, and that makes it more valuable and reliable to follow the

provisions of these ahidnames as they have been given with the sufficient political power of that time.

Another reminder needs to be made here is that the available ahidnames are not recommended to be discriminated according to their headings. To the opposite, the intention might be to refer to each related ahidname under each relevant topic even if the relevant provisions of the different Ahidnames' are the same. In other words, the categorization and the table of contents in the related research needs to be done according to the selected topics, and different ahidnames related to each topic needs to be referred under the same topic. This can be done for the reason that it will pave the way for showing the consistent and persistent practice of the Empire in the long run. To this end, all the relevant knowledge needs to be conveyed after analysing the related parts of the Ahidnames set out herein:

a- 1481 Ahidname to Venice; b- 1503 Ahidname to Venice; c- 1513 Ahidname to Venice; d- 1517 Ahidname to Venice; e- 1521 Ahidname to Venice; f- 1540 Ahidname to Venice; g- 1567 Ahidname to Venice; h-1573 Ahidname to Venice; i- 1575 Ahidname to Venice; j- 1595 Ahidname to Venice; k- 1604 Ahidname to Venice; l- 1619 Ahidname to Venice; m-1625 Ahidname to Venice; n-1669 Ahidname to Venice; o- 1670 Ahidname to Venice; p- 1670 Tarihli Korsanlar için Verilen Nişan; r- 1700 Ahidname to Venice.

Last but not the least, *the related provisions of some of the Ahidnames given to France, Netherlands and England* in the related centuries might also be referred occasionally. In this way, it would be possible to draw some comparisons and to *revise* the aforementioned provisions of the Ahidnames given to Venice. However, necessary references to these Ahidnames can also be made whenever there is the possibility that they might be essential to complete the background of any issue in the study.

Having made the observations aforementioned, for the prospective researchers, we would like to recommend three different headings under this part. The first heading would be about the *consular jurisdiction in connection with the ships in the ports*. Afterwards, *Ottoman Empire jurisdiction over the foreign ships and safety of navigation* might be examined. Lastly, some observations and analyses can be made in connection with *today's international regulations*.

A- Consular Jurisdiction in connection with the Ships in the Ports

Since this study aims to scrutinize the *maritime jurisdiction* in connection with the related Ahidnames, it springs to ones mind that *ships and ports* are the major elements here to be dealt with. Regarding the ships and ports, the authority of the consuls should be referred and explained initially for the reason that consuls have an *extraterritorial jurisdiction* in the Ottoman Empire lands. Expressing the scope and limits of this jurisdiction will help to comprehend the content of Ottoman Empire jurisdiction over the ships and ports accordingly. Therefore, it is our contention that this part shall begin with comprehensive explanations regarding *the authority and functions of the consuls*.

Actually, it is crucial to observe and explain the various functions of the consuls in Ottoman Law. These observations and explanations also give the opportunity to indicate the outstanding difference from the consuls designed by the international regulations of 21st century. By means of explaining both of the consuls *in terms of the authority and function*, we are of the opinion that the heart of the matter relating to port and ship jurisdiction is going to be built on a solid foundation.

In the mean time, it needs to be recalled and highlighted that the authority and the functions of the consuls need to be extensively mentioned here mostly *within the framework of maritime affairs*. Therefore, the main aim here would be to go into more detail in terms of consul jurisdictions related to ships.

Having made the necessary explanations and clarifications aforementioned, the Consuls of Venice in the Ottoman Empire needs to be introduced and examined from various perspectives. Afterwards, consuls should be examined solely within the scope of the Ahidnames. After all, we suppose that an important part of the framework regarding the maritime jurisdiction referred in Ahidnames might be crystal clear, and a solid ground for the belowmentioned parts can be provided.

B- Ottoman Empire Jurisdiction over the Foreign Ships and Safety of Navigation

As it is well known, Ahidnames are crucial international documents that might contain some economic rights for the subjects of the other states in the Ottoman Empire territory. These documents might also regulate how to deal with the ships of the Ahidname given-states. The related provisions in the Ahidnames should be examined as they might lead the researcher to various conclusions regarding the power exercised over the ships.

In addition to this, the power exercised over the ships' crew of the ahidname given-states in the Ottoman Empire territories also needs to be explained in detail here. To paraphrase, the authority of the Ottoman Empire over the Ahidname given-states ships and over the Ahidname given states ships' crew might be the two main points to express in this part.

So far as the issues of *accession to ports* and *ships in distress* concerned, it might be indicated that they need to be seriously examined in connection with Ahidnames and relevant conclusions should be drawn. As a matter of fact, today's international organizations and states are still trying to find solutions regarding the ships in distress and accession/sheltering to ports.¹ In this regard, due consideration needs to be given to Ahidnames and relevant differences should be stated explicitly.

Lastly, we would like to recommend another point regarding the methodology: Although *Part A* and *Part B* seems to have some overlapping issues at first glance, they can complete each other if it is planned to be mentioned only within the framework of their own part. This way can also be followed with the intention to be more efficient in addressing the topic to the researchers.

¹ See, (Online) <http://www.imo.org/en/OurWork/Safety/Navigation/Pages/PlacesOfRefuge.aspx>, 17.07.2015.

C- Observations and Analyses over Today's International Regulations

The next part of the study is recommended to be on the international regulations in the 20th and 21st century, and initially two conventions needs to be overviewed within this context. The related provisions of *Vienna Convention on Diplomatic Relations (1961)* and *Vienna Convention on Consular Relations (1963)*² in connection with what has been examined in the previous parts might be referred herewith. In addition, it must be highlighted that *European Convention on Consular Functions* has entered into force starting from the 9/6/2011 for Georgia, Greece, Norway, Portugal, and Spain. This convention has been opened for signature by the member states of *European Council*. The convention contains various articles that needs to be observed and discussed regarding ***the authority of the sending state consulates over the sending state vessels in the receiver countries ports.***³ In addition, it needs to be noted that some states are entering into ***bilateral treaties regarding the authority of their consulates over the vessels that they send to the receiver parties port.***⁴ They include various provisions relating to extraterritorial rights or jurisdiction when it comes to vessels in the ports.

Afterwards, as far as *accession to ports* and *ships in distress* concerned, ***the related provisions of the following international regulations might be analysed:*** 1923 *Convention on the International Regime of Marine Ports*, *International Convention for the Safety of Life at Sea (SOLAS) of 1974*, *International Convention on Maritime Search and Rescue (SAR) of 1979*, *International Convention on Oil Pollution Preparedness, Response and Co-operation of 1990 (HNS Protocol)*, *Salvage Convention 1989*, *IMO Guidelines on Places of Refuge for Ships in Need of Assistance (Resolution A. 949 (23))*, *IMO Maritime Assistance Services Resolution (A. 950 (23))* and *1982 UNCLOS Article 218/1*.

As far as Turkey is concerned, in addition to the multilateral agreements aforementioned, ***bilateral maritime agreements*** and ***the agreements relating to consulates*** might be examined and some conclusions needs to be drawn in this context. This needs to be done on the ground that ***these agreements include provisions with regard to vessels and the extraterritorial jurisdiction.***⁵ In

² See, articles 5/k-1, 37/c, 43/b.

³ See, (Online) <http://www.conventions.coe.int/Treaty/EN/Treaties/Html/061.htm> , articles 1, from 28 to 41 (Chapter IV-Shipping), 17.07.2015.

⁴ Agreement on Consular Relations Between the People's Republic of China And Australia, articles 1, 15, 17. See, (Online) http://www.legislation.gov.hk/bilateral/caaustralia_e.pdf, 17.07.2015. Agreement on Consular Relations Between Japan and the People's Republic of China, article 3/k. See, (Online) <http://www.mofa.go.jp/region/asia-paci/china/agree0810.pdf>, 17.07.2015.

⁵ In regards to ***bilateral maritime agreements*** and ***consulate agreements***, it is also possible to find provisions relating to ships, ports and the related functions of the consuls. In order to see some examples related to these points, some bilateral maritime agreements with some of the following states is recommended to be examined and analysed accordingly: Pakistan, Iraq, Yemen, Egypt, Ukraine, India. See, (Online), <http://ua.mfa.gov.tr/>, 19.07.2015. In addition, there are consulate agreements with various states and they might also contain provisions relating to ships.

addition, *the provisions related to ships in distress are available* in these agreements. To put it more specific, they might contain provisions regarding the ships in distress, shipwrecks, ships in the ports and their crews, and the relevant authority of the consulates over them.

CONCLUSION

This guiding note has been published with the purpose of shedding some light into the future studies regarding the Ottoman Empire Maritime Jurisdiction. What we have done was just an attempt to take the first step and provide some key points for the prospective researchers. In this regard, we would like to highlight the fact that further researches on the issue always needs to be done by only using the reliable resources.

To put it in a nutshell, for drawing various conclusions in regard to what has been overviewed so far, due consideration shall be given to each sensible point aforementioned and reliable resources must only be used during the whole study.

SELECTED BIBLIOGRAPHY

Some of the selected Ahidnames are as follows:

- 1481 Ahidname Given to Venice.*
- 1503 Ahidname Given to Venice.*
- 1513 Ahidname Given to Venice.*
- 1517 Ahidname Given to Venice.*
- 1521 Ahidname Given to Venice.*
- 1540 Ahidname Given to Venice.*
- 1567 Ahidname Given to Venice.*
- 1573 Ahidname Given to Venice.*
- 1575 Ahidname Given to Venice.*
- 1595 Ahidname Given to Venice.*
- 1604 Ahidname Given to Venice.*
- 1619 Ahidname Given to Venice.*
- 1625 Ahidname Given to Venice.*
- 1669 Ahidname Given to Venice.*
- 1670 Ahidname Given to Venice.*
- 1700 Ahidname Given to Venice.*

Some of the selected online resources are as follows:

(Online), <http://denizmevzuat.udhb.gov.tr/>, 17.07.2015.

(Online) http://www.legislation.gov.hk/bilateral/caaustralia_e.pdf, 17.07.2015.

(Online) <http://www.mofa.go.jp/region/asia-paci/china/agree0810.pdf>, 17.07.2015.

(Online) <http://www.imo.org/en/OurWork/Safety/Navigation/Pages/PlacesOfRefuge.aspx>, 17.07.2015.

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