

Maritime Insurance Fraud and Diplomatic Corruption: The Caroline Case as Preserved in Ottoman Legal Literature and Overlooked in American Diplomatic History

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Abstract: Almost all significant events in the history of international law are recorded, but some, regardless of their importance, are not included in the records. One of these neglected events is the “Caroline Case”, which took place in the port of Santa Catarina, Brazil, and touched upon various areas of international law, from maritime law to diplomatic law and ship insurance fraud. Although this event is not mentioned in almost any modern international law sources, it was meticulously documented by an Ottoman statesman, Hasan Fehmi Pasha, who was far from the American continent. Hasan Fehmi Pasha documented the event in such detail that there is almost no other source that covers the subject more extensively. Pasha's interest in this matter was not a coincidence. During the 19th century, the Ottoman Empire was in a process of modernization, closely examining Western legal systems and following international legal developments. This situation clearly demonstrates how closely 19th-century Ottoman intellectuals and statesmen followed developments in international law, their deep interest in global legal matters, and their competence in this field. This example also reveals the international dimension of Ottoman legal literature, the capacity of Ottoman jurists operating in a multilingual academic environment, and their original contributions to contemporary legal debates. This also proves that 19th-century Ottoman intellectuals were an active part of the global legal network. In this context, this work aims to introduce into modern international law literature an event that is almost non-existent in 21st-century English literature and has been overlooked by modern jurists. It achieves this by using a comparative methodology to evaluate how the event was detailed in a work written in Ottoman Turkish and comparing the similarities and differences in other contemporary works that touch upon the subject.

Keywords: Hasan Fehmi, Caroline Case, Santa Catarina, Brazil U.S. Relations, Maritime Insurance Fraud.

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Deniz Sigortası Dolandırıcılığı ve Diplomatik Yolsuzluk: Osmanlı Hukuk Literatüründe Kayıtlı, Amerikan Diplomasi Tarihinde İhmal Edilmiş Caroline Davası

Özet: Uluslararası hukuk tarihinde önemli olaylar neredeyse eksiksiz olarak kaydedilir ancak kimi olaylar ne kadar önemli olursa olsun kayıtlarda yer almaz. Bu ihmal edilen olaylardan biri de Brezilya'nın Santa Catarina limanında yaşanan ve gemi sigortası dolandırıcılığından diplomasi hukukuna ve deniz hukukuna kadar geniş bir düzlemde uluslararası hukukun farklı alanlarına temas eden "Caroline Davası"dır. Bu olay neredeyse modern uluslararası hukuk kaynaklarının hiçbirinde yer almamasına rağmen Amerika kıtasından çok uzakta bir Osmanlı devlet adamı Hasan Fehmi Paşa tarafından titizlikle kaleme alınmıştır. Hasan Fehmi Paşa olayı o kadar detaylı ve geniş biçimde kaleme almıştır ki konunun daha detaylı ele alındığı neredeyse başka kaynak yoktur. Paşa'nın bu meseleye olan ilgisi tesadüfi değildir; 19. yüzyılda Osmanlı İmparatorluğu modernleşme sürecinde Batı hukuk sistemlerini yakından incelemekte ve uluslararası hukuki gelişmeleri takip etmekteydi. Bu durum özellikle 19. yüzyılda Osmanlı entelektüellerinin ve devlet adamlarının uluslararası hukuka dair gelişmeleri ne kadar yakından takip ettiklerini, küresel hukuki meselelere olan derin ilgilerini ve bu alandaki yetkinliklerini açıkça göstermektedir. Ayrıca, bu örnek Osmanlı hukuk literatürünün uluslararası boyutunu, çok dilli akademik ortamda faaliyet gösteren Osmanlı hukukçularının kapasitesini ve çağdaş hukuki tartışmalara özgün katkılarını ortaya koymaktadır. Bu durum aynı zamanda 19. yüzyıl Osmanlı aydınlarının küresel hukuki ağına aktif bir parçası olduklarını da kanıtlamaktadır. Bu bağlamda bu çalışma, 21. yüzyılda İngilizce literatürde neredeyse hiç yer almayan ve modern hukukçular tarafından gözden kaçırılmış bir olayın Osmanlı Türkçesiyle kaleme alınmış bir eserde nasıl detaylı biçimde yer aldığını, konuya temas eden diğer dönem eserlerindeki benzerlikler ve farklılıkları karşılaştırmalı metodoloji kullanarak değerlendirerek modern uluslararası hukuk literatürüne kazandırılması amacını taşır.

Anahtar Kelimeler: Hasan Fehmi, Caroline Davası, Santa Catarina, Brezilya A.B.D İlişkileri, Deniz Sigorta Dolandırıcılığı

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Introduction

The Caroline case is a striking example of how little-known diplomatic incidents can persist in unexpected places while remaining virtually absent from mainstream sources. This 19th-century episode of US–Brazil diplomatic relations, involving maritime insurance fraud, judicial corruption and diplomatic malfeasance, appears to have been overlooked by contemporary international relations historians. However, it is given extraordinary detail in an Ottoman Turkish legal text, showing how diplomatic knowledge circulated globally and challenging conventional assumptions about historical documentation.

This research note examines two accounts of the same case. The first is a detailed narrative from the Ottoman legal scholar *Hasan Fehmi Pasha's Telhis-i Hukuk-ı Düvel* (1910/1326 AH), which devotes almost five pages to the incident. The second is a shorter but substantial account from Lawrence F. Hill's *Diplomatic Relations Between the United States and Brazil* (1932). The significant difference between the detailed Ottoman documentation and the lack of information in American diplomatic historiography raises important questions about how historical knowledge is preserved and transmitted across different scholarly and linguistic traditions.

1. The Ottoman Documentation: An Unexpected Archive

The most remarkable aspect of the Caroline Case is perhaps the extraordinary level of detail with which it is recorded in Hasan Fehmi Pasha's Ottoman Turkish legal book¹. As demonstrated in the following analysis, the account in question is of a more detailed nature than that of most Western diplomatic histories of the period, as evidenced by its coverage of pages 78–82 of *Telhis-i Hukuk-ı Düvel*. The Ottoman text provides a factual account of the case, as well as the Brazilian commission's examination of the vessel. Additionally, it addresses the judicial corruption and insurance company transactions that ensued².

¹ This work is considered one of the most important works of Turkish international law literature. Written in Ottoman Turkish, it is the first international law textbook in the literature. The work summarizes the international law courses taught by Hasan Fehmi Pasha at the School of Law. For more detailed information, see: Erozan, Boğaç. "Türkiye'de Uluslararası İlişkiler Disiplininin Uzak Tarihi: Hukuk-ı Düvel (1859-1945)". *Uluslararası İlişkiler Dergisi* 11, sy. 43 (Aralık 2014): 53-80. <https://doi.org/10.33458/uidergisi.552667>.

² Hasan Fehmi, *Telhis-i Hukuk-ı Düvel*, Tab'-ı sâni (Dersaadet: Mahmud Bey Matbaası, 1326 [1910]), pp.78-82.

It is particularly important that this incident is recorded in such detail in Ottoman legal literature, because it is virtually not mentioned in standard American diplomatic histories and international law casebooks. The fact that an Ottoman legal scholar thought this incident was important enough to write about so much suggests that it was seen as setting a legal precedent for how countries are responsible for the decisions made in their courts. This suggests that the diplomatic intelligence networks of the late 19th and early 20th centuries were more sophisticated and far-reaching than we usually think. We know this because Ottoman lawyers had access to detailed information about disagreements between American countries.

The Ottoman Empire and the U.S.A. were very different places, and this makes the documentation in this case even more extraordinary. The fact that Hasan Fehmi Pasha had access to such detailed information about a relatively minor US-Brazil diplomatic incident suggests that there are either extensive networks of diplomatic correspondence or that legal precedents are being circulated through international legal scholarship in ways that have not been studied enough by modern public international law scholars.

A commission was established with the purpose of examining the vessel's condition, as outlined in the Ottoman account. The commission ultimately declared the vessel irreparable and ordered its sale as wreckage. This was in accordance with local maritime commercial law. The captain, who had previously obtained insurance for the vessel in New York and Philadelphia, received a greater sum from the insurance company as a result of this decision. However, it was subsequently discovered by the insurance companies that the decision declaring the ship unsalvageable had been obtained through fraud. It has been alleged that the captain and the judge had colluded in this matter³.

The narrative then progresses to the involvement of Mr Wells (referred to as Wels in the Ottoman text), a former US consular official who was dismissed from service in 1849 for misconduct. He proceeded to purchase the insurance companies' claims and petition the Brazilian government, arguing that the corrupt judge's decision rendered the government liable for the resulting damages, as it had appointed the judge in question⁴.

³ Ibid., 78-82.

⁴ Ibid.

2. The American Historical Account

In his well-researched study *Diplomatic Relations Between the United States and Brazil*, Lawrence F. Hill backs up the main points of the Caroline case and adds more information about the wider picture of US diplomatic pressure on Brazil during the Paraguayan War (1864-1870)⁵. Hill's account places the Caroline case among several dubious claims pressed by US Minister James Watson Webb, including the Nebo, Edna, and Canada cases.

According to Hill, the Caroline claim "had less basis in justice than either of the preceding cases" and had been "purchased from insurance companies which had given up hope of an adjustment"⁶. The purchaser, who has been described as an individual "who had been let out of the consular service of the United States because of irregularities", corresponds to the description given in the Ottoman account of Wells's background. Hill observes that this individual "had previously offered to accept a significantly lower amount for his claim than the amount ultimately secured from the Brazilian government"⁷.

The American account places particular emphasis on Webb's assertive diplomatic strategy, which included the use of threats to sever diplomatic relations during Brazil's vulnerable period while engaged in the Paraguayan War. Hill's account asserts that Webb conducted an interview with a prominent member of the opposition party, thereby securing their support. Furthermore, he states that the imperial government, largely due to the embarrassments arising from the war, made a reluctant decision to concede to the claim⁸.

3. Discrepancies and Comparative Analysis

There are a number of important differences between the two accounts. The biggest difference is when we look at the time the incident happened. The Ottoman source says 1842, but Hill's account suggests the 1850s. The Ottoman text specifically identifies Santa Catarina as the port of refuge, a detail that is missing from Hill's more general reference

⁵ Lawrence F. Hill, *Diplomatic Relations Between the United States and Brazil* (Durham, N.C.: Duke University Press, 1932), pp. 207-210.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

to Brazil. What's more, the Ottoman account gives a lot of detail about the supposed legal corruption and the exact situation of the shipwreck. But Hill's main focus is on the diplomatic actions taken to solve the problem.

A close look at the financial data shows that it is quite consistent, even though it comes from different sources. The Ottoman account says that the amount was about fourteen thousand British pounds. Hill's records show that Webb received three bills for a total of fourteen thousand one hundred and fifty-two pounds. This level of precision suggests that both accounts come from real diplomatic records, even though they refer to different periods of time.

4. The Resolution and Its Aftermath

It is clear from both sources that the US eventually admitted that the compensation had been obtained incorrectly. The Ottoman account says that in 1872, the US government, after looking at the case with its legal advisors, decided that Brazil was not responsible for any legal mistakes unless there was proof that the government had deliberately done something wrong. It was observed by the advisers that in the US judicial system, "foreigners and natives are treated equally" and that "the government cannot guarantee either the intelligence and competence of judges or the correctness of their decisions to foreigners any more than to natives⁹."

Hill's account provides greater detail about the aftermath, revealing Webb's personal appropriation of most of the compensation. In the process of ascertaining the rightful recipient of a £5,000 bill of exchange, it came to light that Webb had received a sum in excess of £14,000. This led to the allocation of Congressional appropriations in 1874 for the return of approximately \$70,000 to Brazil, along with interest, and the initiation of legal proceedings against Webb that seemingly never materialised.

Conclusion

The Caroline case shows how you can find out about history in places you wouldn't expect, even if the people who study that history don't know about it. The amazing level of detail in Hasan Fehmi Pasha's Ottoman Turkish legal text, compared to the lack of information about this case in American diplomatic history, makes us question long-

⁹ Hasan Fehmi, *Telhis-i Hukuk-ı Düvel*, 78-82.

held ideas about where knowledge of the past can be found. It is very interesting that a late legal scholar from the Ottoman Empire had more detailed information about this US-Brazil diplomatic incident than appears in most modern American diplomatic histories.

The case shows how people tried to trick the insurance company, how judges were bribed, and how some people used their power to get what they wanted. It also shows how international legal precedents are shared through academic networks. The documents from the Ottoman Empire show that this case was seen as an important example for questions of state responsibility. This is something that Western legal scholars have forgotten.

The differences between the sources, especially when it comes to timing and details, highlight two things. Firstly, they talk about how tricky it is to recreate what happened in historical diplomatic incidents. Secondly, they emphasise how important it is to consult sources from different linguistic and cultural traditions. The financial details and story structure in both the Ottoman and American accounts are very similar, which provides strong evidence from history that this diplomatic event was important.

This case led to important legal decisions about what countries are responsible for their courts' decisions, how diplomats can't be sued, and how they should behave. These ideas were important in different legal traditions, from Istanbul to Washington. It is interesting that while it was kept in the law books of the Ottoman Empire, it is not often mentioned in American books about international relations. This shows that in the 19th century, knowledge was shared in ways that we now find surprising, and that we can still learn a lot about public international law from this.

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