Shared Solutions to Common Problems: A comparative study of Byzantine treaties and English treaties, c. 900-1200

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Abstract

The study of medieval diplomacy has been divided into two schools, one focused on the Greek-speaking world of Byzantium, and the other on the Latinized powers of Western Europe. While this linguistic divide existed in the Middle Ages, it is frustrating that it persists in scholarship, Jenny Benham having shown that a linguistic division does not usually indicate different diplomatic practice. Furthermore, the study of medieval diplomacy has often focused on the rituals surrounding treaties, with little work analysing the treaty clauses. As treaties reflect how polities saw a shared problem and a shared solution, they provide the best evidence for studying diplomacy and its connection to surrounding laws and customs. This project will re-align the disparity in the historiography, by analysing and comparing the treaties of two of the most bureaucratic entities of the medieval world, being the Byzantine Empire and the Kingdom of England, at the earliest point from which there are enough treaties for comparison, c. 900-1200. This comparison allows me to answer three vital questions: which clauses were essential to treaty-making; which were unique to each power; and which were common responses to particular circumstance? In order to answer these questions, I have highlighted six prominent themes that recur in the treaties of this period, each being a chapter of my thesis, including ecclesiastical authority, the movement of military service, and the movement of goods. This project highlights similarities and differences in the pragmatic approaches that these entities took to particular issues, while also shedding light on the legislative infrastructure that each of these powers had access to. For instance, Chapter 1 examines the role of hybrid legal culture in making redress clauses in treaties accessible, something both peoples utilised in common. While there were differences in approach, particularly to trade and ecclesiastical authority, ultimately, this thesis demonstrates significant similarities in the issues approached and methods used by each of these powers within their treaties.

Contents

Acknowledgements

Abbreviations

Abels, 'Paying the Danegeld'	Richard Abels, 'Paying the Danegeld: Anglo-Saxon Peacemaking with Vikings', ed. Philip de Souza and John France, in *War and Peace in Ancient and Medieval History* (Cambridge: CUP, 2008), 173-192.
The Acts of Welsh Rulers 1120-1283	Huw Pryce, *The Acts of Welsh Rulers* (Cardiff: University of Wales Press, 2005).
The Alexiad	Anna Comnena, *The Alexiad*, ed. and trans. E.A.S. Dawes (Cambridge, ON: Parentheses Publications, 2000).
Alexiade	Anne Comnène, Alexiade, 4 vols., ed. and tr. Bernard Leib (Paris: 1937–1976).
Anglo-Scottish Relations	*Anglo-Scottish Relations, 1174-1328: Some Selected Documents*, ed. E.L.G. Stones (Oxford: Clarendon Press, 1965; repr. 1970).
ANS	*Anglo-Norman Studies*
ASC	*The Anglo-Saxon Chronicle: A Collaborative Edition*, eds. D. N. Dumville, Simon Keynes, Janet M. Bately, et al., 17 vols (1983-2004).
Benham, *ILE*	Jenny Benham, *International Law in Europe, 700-1200*, (Manchester: MUP, 2022).
Benham, *PMA*	Jenny Benham, *Peacemaking in the Middle Ages: Principles and Practice* (Manchester: MUP, 2011).
Caffaro, Genoa and the Twelfth-Century	*Caffaro, Genoa and the Twelfth-Century Crusades*, tr. Martin Hall and Jonathan Phillips (Farnham: Routledge, 2013).
CDRG	*Codice diplomatico della repubblica di Genova*, ed. C. Imperiale di Santangelo, 4 vols (Genoa Tipografia del Senato, 1936-1942).
Chaplais, *English Diplomatic Practice*	Pierre Chaplais, *English Diplomatic Practice In the Middle Ages* (London: Hambledon, 2003).
Chronica	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co, 1868-1871).
Codex of Justinian	*The Codex of Justinian*, ed. and trans. Fred Blume, Bruce W. Frier, Paul Kreuger, et. al., 3 vols (Cambridge: CUP, 2016).

De Administrando	*De Administrando Imperio*, ed. Gyula Moravicsk, trans. R.J.H. Jenkins (Washington: Dumbarton Oaks Centre for Byzantine Studies, 1967).
DGA	*Die Gesetze der Angelsachsen,* ed. Felix Liebermann, 3 vols (Halle, 1903–1916).
Diceto	*The Historical Works of Master Ralph de Diceto*, ed. W. Stubbs, 2 vols (New York: CUP, 1876; repr. 2012).
Digest of Justinian	*The Digest of Justinian,* ed. and trans. Alan Watson, 4 vols (Philadelphia: University of Pennsylvania Press, 1985).
EHD, I.	*English Historical Documents. Volume I, c.500 -1042,* ed. D. Whitelock, 2nd edn (London: Routledge, 1979; repr. 1996).
EHD, II.	*English Historical Documents. Volume II, 1042 -1189*, ed. David C. Douglas (London: Eyre and Spottiswoode, 1953).
Nicol, *Byzantium and Venice*	Donald M. Nicol, *Byzantium and Venice: A Study in Diplomatic and Cultural Relations* (Cambridge: CUP, 1988).
Penna, *The Byzantine Imperial Acts*	Daphne Penna, *The Byzantine Imperial Acts to Venice, Pisa and Genoa, 10th-12th centuries, A Comparative Legal Study* (Groningen: Eleven International Publishing, 2012).
Emendationes	*Codice Diplomatico della Repubblica di Genova dal MCLXIIII al MCLXXXXX*, ed. C. Imperiale di Sant'Angelo, 4 vols (Rome: Tipografia del Senato, 1936-1942), II, 114 (fn. 1), No. 50).
Gesta	Roger of Howden, *Gesta Regis Henrici Secundi Benedicti Abbatis*, ed. W. Stubbs, 2 vols (London: Longmans, Green, Reader, and Dye, 1867).
Leo the Deacon	*Leonis Diaconi Caloënsis Historiae libridecem. Et Liber de velitatione bellica Nicephori Augusti*, ed. C.B. Hase (Bonn: Ed. Weberi, 1828).
LIRG	*I libri iurium della repubblica di Genova*, eds. Dino Puncuh, Antonella Rovere, et al., 11 vols (Rome: Ministero per i Beni Culturali e Ambientali, 1992 –2011).
MGH	*Monumenta Germaniae Historica.*
RPC	*The Russian Primary Chronicle. The Laurentian Text*, eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953).

Shepard, 'Byzantine Diplomacy 800-1204'   Jonathan Shepard, 'Byzantine Diplomacy 800-1204',
                                            *Byzantine Diplomacy: papers from the Twenty
                                            -fourth Spring Symposium of Byzantine Studies*
                                            (Aldershot: Variorum, 1992), 41-71.

Skylitzes   Ioannis Scylitzae, *Synopsis Historiarum*, ed. Ioannis
                                            Thurn (Berlin: De Gruyter, 1973).

Stenton, *Anglo-Saxon England*   Frank Stenton, *Anglo-Saxon England*, 2nd edn
                                            (Oxford: Clarendon Press, 1947).

Treaty list

Below is a list of the treaties used for the project, along with where they can be found in print in their original language, and where possible, a modern language translation. Throughout this project, I have endeavoured to use the original languages of the treaties. However due to linguistic limitations, I have had to rely on translations of some treaties, particularly treaties surviving in Old East Slavic and Arabic. It should also be noted that while translations exist for some treaties, some of these are quite dated, such as those translated in H.T. Riley's work. As such, while I have listed available translations to aid future researchers, we must be aware of the limitations of using such translations, and I have often given my own translations of these throughout the thesis.

The below list also refers to the treaty copy which I use most frequently. When I do refer to alternate treaty copies, I indicate this either in the main text or in the footnotes. In this list I have referenced where these treaties and their translations can be found in full, so that future readers will not have to go back and forth between my list of abbreviations, and the treaty list. I have also noted which language the original manuscripts are in.

Alfred-Guthrum Treaty/AGu	*Die Gesetze der Angelsachsen*, ed. Felix Liebermann, 3 vols (Halle: Niemeyer, 1903–1916), I, 126–128.
Original language:	Latin and Old English.
Participants:	Alfred, king of the West Saxons and Guthrum, king of the East Anglians, date unknown likely 878-890.
English translation available:	*English Historical Documents. Volume I, c.500 -1042,* ed. D. Whitelock, 2nd edn (London: Routledge, 1979; repr. 1996), 380-381.
Ordinance of Messina	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), III, 58-60.
Original language:	Latin.
Participants:	Richard I, king of England, Philip Augustus, King of France, and Tancred, king of Sicily, 1190.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 160-163.

Ordinance of the Dunsæte/Duns   *Die Gesetze der Angelsachsen*, ed. Felix Liebermann, 3 vols (Halle: Niemeyer, 1903–1916), I, 374-378.

Original language: Old English.

Participants: The witan of the English and councillors of the Welsh of the Dunsæte, likely late tenth or early eleventh century.

English translation available: Frank Noble, *Offa's Dyke Reviewed*, ed. M. Gelling (Oxford: British Archaeological Reports, 1983), 105 -109.

Treaty of Acre (**1191**)   *I Libri Iurium della Repubblica di Genova*, 6 vols, ed. Maria Bibolino (Rome: Società ligure di storia patria, 2000), I, 16-17.

Original language: Latin.

Participants: Richard I, king of England and the consuls of Genoa, 1191.

English translation available: *The Conquest of Jerusalem and the Third Crusade Sources in Translation*, ed. Peter W. Edbury (Aldershot: Ashgate Publishing, 1998), 181-182.

Treaty of Acre (**1192**)   *Documenti sulle relazioni delle citta Toscane coll' oriente Cristiano e coi Turchi fino all' anno MDXXXI,* ed. G. Müller (Florence: M. Cellinie, 1879; repr. Rome, 1966), 58-59.

Original language: Latin.

Participants: Richard I, king of England, and the consuls of Pisa, 1192.

Treaty of Adrianople   *Historia de expeditione Friderici imperatoris*, in *Quellen zur Geschichte des Kreuzzuges Kaiser*

Friedrichs I, MGH Scriptores rerum Germanicarum in usum scholarum separatim editi, ed. Anton Chroust, 5 (Berlin: Weidmann, 1928), 64-66.

Original language:	Latin.
Participants:	Isaac II Angelos, emperor of Byzantium, and Frederick I Barbarossa, Western emperor, 1190.
English translation available:	*The Crusade of Frederick Barbarossa: The History of the Expedition of the emperor Frederick and Related Texts*, trans. G.A. Loud (Farnham: Ashgate, 2010), 90-92.

Treaty of Aleppo — Kamal al Din, *The Truce of Safar A.H. 359: December-January 969- 970*, ed. Wesam Farag (Birmingham: University of Birmingham, 1977), 1-5.

Original language:	Arabic.
Participants:	Nikephorus Phokas, emperor of Byzantium, and Qarghwaih, emir of Aleppo, 969.
English translation available:	Kamal al Din, *The Truce of Safar A.H. 359: December-January 969- 970*, ed. Wesam Farag (Birmingham: University of Birmingham, 1977), 1-5.

Treaty of Andeli (1197) — *English Medieval Diplomatic Practice*, ed. P. Chaplais, 2 vols (London: Public Record Office, 1982), II, 466-467.

Original language:	Latin.
Participants:	Richard I, king of England, Baldwin IX, count of Flanders, 1197.

Treaty of Andeli (1199) — *Fœdera, Conventiones, Litteræ, et Cujuscunque Acta Publica, Inter Reges Anglicæ et alios quosvis Imperatores, Reges, Pontifices, Principes, vel*

Communitates, eds Thomas Rymer and Robert
Sanderson, 4 vols (London: John Neulme, 1816
-1869), I, 77.

Original language:	Latin.

Participants:	John, king of England, and Renaud de Dammartin, count of Boulogne, 1199.

Treaty of Andover   *Die Gesetze der Angelsachsen*, ed. Felix Liebermann, 3 vols (Halle: Niemeyer, 1903–1916), I, 220–224.

Original language:	Latin and Old English.

Participants:	Æthelred II, king of the English, and the leaders of the army, Olaf, Jostein and Guthmund, 994.
English translation available:	*English Historical Documents. Volume I, c.500 -1042,* ed. D. Whitelock, 2nd edn (London: Routledge, 1979; repr. 1996), 401-402.

Treaty of Azay   *Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 365-366.

Original language:	Latin.

Participants:	Henry II, king of England, and Philip Augustus, king of France, 1189.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 109-110.

Treaty of Baghdad   Marius Canard, 'Deux documents arabes sur Bardas Skleros', *Studi Bizantini e Neoellenici*, 5 (1939), 65-68.

Original language:	Arabic.

Participants:	Bardas Skleros, a Byzantine rebel claiming to be emperor of Byzantium, and Samsam al-Dawla, Buyid emir, 986.
French translation available:	Marius Canard, 'Deux documents arabes sur Bardas Skleros', *Studi Bizantini e Neoellenici*, 5 (1939), 65-68.

Treaty of Caen *Fœdera, Conventiones, Litteræ, et Cujuscunque Acta Publica, Inter Reges Anglicæ et alios quosvis Imperatores, Reges, Pontifices, Principes, vel Communitates*, eds Thomas Rymer and Robert Sanderson, 4 vols (London: John Neulme, 1816-1869), I, 79.

Original language:	Latin.

Participants:	John, king of England, and Hugh, count of La Marche, 1200.

Treaty of Canterbury *Anglo-Scottish Relations, 1174-1328: Some Selected Documents*, ed. E.L.G. Stones (Oxford: Clarendon Press, 1965; repr. 1970), 12-17.

Original language:	Latin.

Participants:	Richard I, king of England, and William the Lion, king of Scotland, 1189.
English translation available:	*Anglo-Scottish Relations, 1174-1328: Some Selected Documents*, ed. E.L.G. Stones (Oxford: Clarendon Press, 1965; repr. 1970), 12-17.

Treaty of Chinon *Fœdera, Conventiones, Litteræ, et Cujuscunque Acta Publica, Inter Reges Anglicæ et alios quosvis Imperatores, Reges, Pontifices, Principes, vel Communitates*, eds Thomas Rymer and Robert Sanderson, 4 vols (London: John Neulme, 1816-1869), I, 85.

Original language:	Latin.

Participants:	John I, king of England, and Sancho VII, king of Navarre, 1201.
***Treaty of Constantinople* (911)**	*The Russian Primary Chronicle. The Laurentian Text*, eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953), 65-68.
Original language:	Old East Slavic.
Participants:	Leo VI, emperor of Byzantium, and Oleg, prince of the Rus', 911.
English translation available:	*The Russian Primary Chronicle. The Laurentian Text*, eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953), 65-68.
***Treaty of Constantinople* (945)**	*The Russian Primary Chronicle. The Laurentian Text*, eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953), 73-78.
Original language:	Old East Slavic.
Participants:	Constantine VII, emperor of Byzantium, and Igor, prince of the Rus', 945.
English translation available:	*The Russian Primary Chronicle. The Laurentian Text*, eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953), 73-78.
***Treaty of Constantinople* (992)**	*I trattati con Bisanzio 992-1198*, eds. M. Pozza and G. Ravegnani (Venice: Il Cardo, 1993), 22-24.
Original language:	Latin.
Participants:	Basil II, emperor of Byzantium, and the doge of the Venetians, 992.

***Treaty of Constantinople* (1074)**	'Chrisovul imperatora Michaila VII Duki', ed, P. Bezobrazov*, Vizantijskij Vremennik*, 6 (1899), 140-143.
Original language:	Greek.
Participants:	Michael VII Doukas, emperor of Byzantium, and Robert Guiscard, duke of Sicily, 1074.
French translation available:	Hélène Bibicou, 'Une page d'histoire diplomatique de byzance au XIe siècle: Michel VII Doukas, Robert Guiscard et la pension des dignitaries', *Byzantion*, 29-30 (1960), 44-48.
***Treaty of Constantinople* (1082)**	*Urkunden zur älteren Handels- und Staatsgeschichte der Republik Venedig* eds. G. L. F. Tafel and G.M. Thomas, 3 vols (Cambridge: CUP, 1856-1857; repr. 2012), I, 51-54.
Original language:	Latin.
Participants:	Alexios I Komnenos, emperor of Byzantium, and the Doge of the Venetians, 1082.
***Treaty of Constantinople* (1111)**	*Documenti sulle relazioni delle citta Toscane coll' oriente Cristiano e coi Turchi fino all' anno MDXXXI,* ed. G. Müller (Florence: M. Cellinie, 1879; repr. Rome, 1966), 43-45 (Greek) and 52-54 (Latin).
Original language:	Greek and Latin.
Participants:	Alexios I Komnenos, emperor of Byzantium, and the consuls of the Pisans, 1111.
***Treaty of Constantinople* (1126)**	*Urkunden zur älteren Handels- und Staatsgeschicht der Republik Venedig* eds. G. L. F. Tafel and G.M. Thomas, 3 vols (Cambridge: CUP, 1856-1857; repr. 2012), I, 96-98.

Original language:	Latin.
Participants:	John II Komnenos, emperor of Byzantium and the Doge of the Venetians, 1126.
***Treaty of Constantinople* (1147)**	*I trattati con Bisanzio 992-1198*, eds. M. Pozza and G. Ravegnani (Venice: Il Cardo, 1993), 60-65.
Original language:	Latin.
Participants:	Manuel I Komnenos, emperor of Byzantium, and the doge of the Venetians, 1147.
***Treaty of Constantinople* (1148)**	*Urkunden zur älteren Handels- und Staatsgeschicht der Republik Venedig* eds. G. L. F. Tafel and G.M. Thomas, 3 vols (Cambridge: CUP, 1856-1857; repr. 2012), I, 109-113.
Original language:	Latin.
Participants:	Manuel I Komnenos, emperor of Byzantium, and the doge of the Venetians, 1148.
***Treaty of Constantinople* I (1170)**	*Codice diplomatico della repubblica di Genova*, ed. C. Imperiale di Santangelo, 4 vols (Genoa: Tipografia del Senato, 1936-1942), II, 117-121.
Original language:	Latin.
Participants:	Manuel I Komnenons, emperor of Byzantium, and the consuls of the Genoese, 1170.
***Treaty of Constantinople* II (1170)**	*Codice diplomatico della repubblica di Genova*, ed. C. Imperiale di Santangelo, 4 vols (Genoa: Tipografia del Senato, 1936-1942), II, 121-123.
Original language:	Latin.

Participants: Manuel I Komnenos, emperor of Byzantium, and the
                                           consuls of the Genoese, 1170.

***Treaty of Constantinople* III (1170)**   *Documenti sulle relazioni delle citta Toscane coll'*
                                           oriente Cristiano e coi Turchi fino all' anno
                                           MDXXXI, ed. G. Müller (Florence: M. Cellinie,
                                           1879; repr. Rome, 1966), 45-49 (Greek) and 54-58
                                           (Latin).

Original language: Greek and Latin.

Participants: Manuel I Komnenos, emperor of Byzantium, and the
                                           consuls of the Pisans, 1170.

***Treaty of Constantinople* (1187)**   *Urkunden zur älteren Handels- und Staatsgeschicht*
                                           der Republik Venedig eds. G. L. F. Tafel and G.M.
                                           Thomas, 3 vols (Cambridge: CUP, 1856-1857; repr.
                                           2012), I, 178-203.

Original language: Latin.

Participants: Isaac II Angelos, emperor of Byzantium and the
                                           doge of the Venetians, 1187.

***Treaty of Constantinople* (1189)**   *I trattati con Bisanzio 992-1198*, eds. M. Pozza and
                                           G. Ravegnani (Venice: Il Cardo, 1993), 105-110.

Original language: Latin.

Participants: Isaac II Angelos, emperor of Byzantium and the
                                           doge of the Venetians, 1189.

***Treaty of Constantinople* I (1192)**   *Documenti sulle relazioni delle citta Toscane coll'*
                                           oriente Cristiano e coi Turchi fino all' anno
                                           MDXXXI, ed. G. Müller (Florence: M. Cellinie,
                                           1879; repr. 1966), 49-58.

Original language: Greek.

Participants: Isaac II Angelos, emperor of Byzantium and the consuls of the Pisans, 1192.

Treaty of Constantinople II (1192) *Codice diplomatico della repubblica di Genova*, ed. C. Imperiale di Santangelo, 4 vols (Genoa: Tipografia del Senato, 1936-1942), III, 51-62.

Original language: Greek and Latin.

Participants: Isaac II Angelos, emperor of Byzantium and the consuls of the Genoese, 1192.

Treaty of Constantinople (1193) *Codice diplomatico della repubblica di Genova*, ed. C. Imperiale di Santangelo, 4 vols (Genoa: Tipografia del Senato, 1936-1942), III, 101-107.

Original language: Greek and Latin.

Participants: Isaac II Angelos, emperor of Byzantium and the consuls of the Genoese.

Treaty of Constantinople (1198) *I trattati con Bisanzio 992-1198*, eds. M. Pozza and G. Ravegnani (Venice: Il Cardo, 1993), 119-137.

Original language: Latin.

Participants: Alexios III Angelos, emperor of Byzantium and doge of the Venetians, 1198.

Treaty of Devol Anne Comnène, *Alexiade*, 4 vols., ed. and tr. Bernard Leib (Paris: 1937–1976), III, 125-139.

Original language: Greek.

Participants:	Alexios I Komnenons, emperor of Byzantium, and Bohemond, prince of Antioch, 1108.
English translation available:	Anna Comnena, *The Alexiad*, ed. and trans. E.A.S. Dawes (Cambridge, ON: Parentheses Publications 2000), 247-253.

***Treaty of Dover* (1101)**	*Diplomatic Documents Preserved in the Public Record Office, I: 1101−1272*, ed. P. Chaplais (London: Public Record Office, 1964), 1-4.
Original language:	Latin.
Participants:	Henry I, king of England, and Robert II, count of Flanders, 1101.
English translation available:	E. van Houts, 'The Anglo-Flemish treaty of 1101', *Anglo-Norman Studies*, 21 (1998), 169–174.

***Treaty of Dover* (1110)**	*Diplomatic Documents Preserved in the Public Record Office, I: 1101 - 1272*, ed. P. Chaplais (London: Public Record Office, 1964), 5-7.
Original language:	Latin.
Participants:	Henry I, king of England, Robert II, count of Flanders, 1110.

***Treaty of Dover* (1163)**	*Diplomatic Documents Preserved in the Public Record Office, I: 1101 - 1272*, ed. P. Chaplais, (London: Public Record Office, 1964), 8-13.
Original language:	Latin.
Participants:	Henry II, king of England, Thierry, count of Flanders, 1163.
English translation available:	Eljas Oksanen, *Flanders and the Anglo-Norman World, 1066–1216* (Cambridge: CUP, 2012), 264-269.

Treaty of Falaise	*Anglo-Scottish Relations, 1174-1328: Some Selected Documents*, ed. E.L.G. Stones (Oxford: Clarendon Press, 1965; repr. 1970), 1-13.
Original language:	Latin.
Participants:	Henry II, king of England, and William the Lion, king of Scotland, 1174.
English translation available:	*Anglo-Scottish Relations, 1174-1328: Some Selected Documents*, ed. E.L.G. Stones (Oxford: Clarendon Press, 1965; repr. 1970), 1-13.
Treaty of Genoa **(1155)**	*I Libri Iurium della Repubblica di Genova*, 6 vols, ed. Maria Bibolino (Rome: Società ligure di storia patria, 2000), I, 262-265.
Original language:	Latin.
Participants:	Manuel I Komnenos, emperor of Byzantium, and the consuls of the Genoese, 1155.
English translation available:	*Caffaro, Genoa and the Twelfth-Century Crusades*, ed. Martin Hall and Johnathan Phillips (Ashgate: Farnham, 2013), 195-196.
Treaty of Genoa (1169)	*I Libri Iurium della Repubblica di Genova*, 6 vols, ed. Maria Bibolino (Rome: Società ligure di storia patria, 2000), II, 183-189.
Original language:	Latin.
Participants:	Manuel I Komnenos, emperor of Byzantium, and the consuls of the Genoese, 1169.
English translation available:	*Caffaro, Genoa and the Twelfth-Century Crusades*, ed. Martin Hall and Johnathan Phillips (Ashgate: Farnham, 2013), 205-207.

Treaty of Gerberoy	Gerald of Wales*, Instruction for a Ruler: De Principis Instructione*, ed. Robert Bartlett (Oxford: Clarendon Press, 2018), 500-503.
Original language:	Latin.
Participants:	Philip Augustus, king of France, and Philip I, count of Flanders, arbitrated by Henry II, king of England, 1180.
English translation available:	Gerald of Wales*, Instruction for a Ruler: De Principis Instructione*, ed. Robert Bartlett (Oxford: Clarendon Press, 2018), 500-503.
***Treaty of Gisors* (1160)**	*The Itinerary of King Richard I*, ed. L. Landon (London: J.W. Ruddock, 1935), 221-222.
Original language:	Latin.
Participants:	Henry II, king of England, and Louis VII, king of France, 1160.
***Treaty of Gisors* (1180)**	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 198-200.
Original language:	Latin.
Participants:	Henry II, king of England, and Philip Augustus, king of France, 1180.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), I, 521-523.
Treaty of Le Goulet	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), IV, 148-151.

Original language:	Latin.
Participants:	John, king of England, and Philip Augustus, king of France, 1200.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 508-512.
Treaty of Ivry	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 144-146.
Original language:	Latin.
Participants:	Henry II, king of England, and Louis VII, king of France, 1177.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), I, 464-466.
Treaty of London	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 129-131.
Original language:	Latin.
Participants:	Henry II, king of England (arbitrator), Alphonso VIII, king of Castille, Sancho VI, king of Navarre, 1177.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), I, 449-452.
Treaty of Louviers	*Diplomatic Documents Preserved in the Public Record Office, I: 1101 - 1272*, ed. P. Chaplais, (London: Public Record Office, 1964), 16-18.
Original language:	Latin.
Participants:	Richard I, king of England, and Philip Augustus, king of France, 1196.

Treaty of Mantes	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), III, 217-220.
Original language:	Latin.
Participants:	Richard I, king of England, and Philip Augustus, king of France, 1193.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 298-301.
***Treaty of Messina* (1190)**	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), III, 61-65.
Original language:	Latin.
Participants:	Richard I, king of England, and Tancred, king of Sicily, 1190.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 164-167.
Treaty of Messina (1191)	*Diplomatic Documents Preserved in the Public Record Office, I: 1101−1272*, ed. P. Chaplais (London: Public Record Office, 1964), 14-15.
Original language:	Latin.
Participants:	Richard I, king of England, and Philip Augustus, king of France, 1191.
Treaty of Montferrand	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 42-44.
Original language:	Latin.

Participants:	Henry II, king of England, and Humbert III, count of Maurienne, 1174.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 363-365.
Treaty of Montlouis	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 67-69.
Original language:	Latin.
Participants:	Henry II, king of England, Henry the Young King, king of England, Richard, and Geoffrey, 1174.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 385-388.
Treaty of Najac	Richard Benjamin, 'A Forty Years War: Toulouse and the Plantagenets, 1156–96', *Historical Research*, 61 (1988), 283-285.
Original language:	Latin.
Participants:	Richard, count of Poitiers and son of the king of England, and Alphonso II, king of Aragon, 1185.
Treaty of Paris	*The Letters and Charters of John Lord of Ireland and Count of Mortain*, ed. N. Vincent (forthcoming).
Original language:	Latin.
Participants:	John, count of Mortain, and Philip Augustus, king of France, 1193.
Treaty of Rouen	Pierre Chaplais, *English Diplomatic Practice In the Middle Ages* (London: Hambledon, 2003), 37-38.

Participants:	Æthelred II, king of the English, and Richard I, duke of the Normans, 991.
Original language:	Latin.
English translation available:	*English Historical Documents. Volume I, c.500 1042,* ed. D. Whitelock, 2nd edn (London, 1979; repr. 1996), 928-929.
Treaty of Silistra	*The Russian Primary Chronicle. The Laurentian Text,* eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953), 89-90.
Original language:	Old East Slavic.
Participants:	John I Tzimiskes, emperor of Byzantium, and Svyatoslav, prince of the Rus', 971.
English translations available:	*The Russian Primary Chronicle. The Laurentian Text,* eds. S. H. Cross and O.P. Sherbowitz-Wetzor (Cambridge, MA: Medieval Academy of America, 1953), 89-90.
Treaty of Winchester	*Recueil des actes de Henri II, roi d'Angleterre et duc de Normandie, concernant les provinces françaises et les affaires de France*, ed. Elie Berger, 3 vols (Paris: Imprimerie Nationale, 1916-1927), I, 62-65.
Original language:	Latin.
Participants:	Stephen, king of England, Henry, duke of Normandy, 1153.
English translation available:	*English Historical Documents. Volume II, 1042 -1189,* ed. David C. Douglas and G.W. Greenaway (London: Eyre and Spottiswoode, 1968), 404-405.
Treaty of Windsor	*Chronica magistri Rogeri de Houedene*, ed. W. Stubbs, 4 vols (London: Longman, Green and Co., 1868-1871), II, 84-85.

Original language:	Latin.
Participants:	Henry II, king of England, and Ruaidhrí, king of Connacht, 1175.
English translation available:	*The annals of Roger de Hoveden*, 2 vols, ed. H.T. Riley (London: H.G. Bonn, 1853), II, 402-404.
Treaty with Baldwin	*Fœdera, Conventiones, Litteræ, et Cujuscunque Acta Publica, Inter Reges Anglicæ et alios quosvis Imperatores, Reges, Pontifices, Principes, vel Communitates*, eds Thomas Rymer and Robert Sanderson, 4 vols (London: John Neulme, 1816-1869), I, 77.
Original language:	Latin.
Participants:	John, king of England, and king of England, Baldwin IX, count of Flanders, 1199.
Treaty with Llywelyn	Huw Pryce, *The Acts of Welsh Rulers* (Cardiff: The University of Wales Press, 2005), no. 221, 371-374.
Original language:	Latin.
Participants:	John, king of England, and Llywelyn, prince of Gwynedd, 1201.
English translation available:	Huw Pryce, *The Acts of Welsh Rulers* (Cardiff: The University of Wales Press, 2005), no. 221, 371-374.

<u>Introduction</u>

The fundamental contention of this project is that the treaties of the medieval era were pragmatic, implementable documents. While it is true that international institutions that play an important role in enforcing treaties in the modern period simply did not exist in the medieval world, the fact remains that treaties were intrinsically linked to the customs, laws, and institutions which fundamentally shaped peacemaking relations between peoples.[1] The peoples of the medieval world were capable of articulating and addressing diplomatic issues via treaty. These treaties could protect goods and peoples within foreign lands, expand rulers' authority and jurisdiction beyond their realm, and deter potential violence, both domestically and from abroad. Importantly, while peacemaking theory was shaped by theological and philosophical models of peace, treaties often resulted in both parties finding a pragmatic shared solution to a common problem.

In order to explore the treaties of the period, I have chosen to use two case studies, being Byzantium and England, and the earliest time period from which enough treaties survive for any comparison to be made, being c. 900-1200. The legal culture of both Byzantium and England, which of course encompasses treaties as they are essentially legal documents, was characterised by the ideology of emperorship and kingship. Byzantium, the continuation of the Roman Empire in the medieval period, has long been acknowledged to have had a distinct Imperial ideology, that saw the emperor as God's earthly representative.[2] While this meant that the emperor's subjects held a divine duty to their ruler, the emperor was also responsible to work tirelessly for the betterment of the empire and its subjects. After all, the empire was seen as an earthly instrument of God's will.[3] Indeed, Anthony Kaldellis has noted that the

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[1] Benham, *ILE*, 1-13.
[2] George Ostrogorsky, 'The Byzantine Emperor and the Hierarchical World Order', *The Slavonic and East European Review*, 35 (1956), 1-14.
[3] Ostrogorsky, 'The Byzantine Emperor and the Hierarchical World Order', 3-5.

emperors had a duty to act in the best interests of their subjects, particularly in administering justice.[4] As such, the emperor's duties were intertwined with his role as a law maker, both domestically through law codes, and through foreign relations via treaty. Byzantium saw itself as at the head of a hierarchy of peoples, and as such, it is clear Byzantine foreign relations, and thus treaties, were still highly intertwined with Byzantine Imperial ideology.[5] Similarly scholars of medieval England have long seen the imagery and symbolism that English kings wished to project as intertwined with their legislative activity. Patrick Wormald, for example, has argued that English kings legislated in order to project their own imperialistic ideology, at times actively mirroring their Carolingian neighbours, and even drawing inspiration from Byzantium.[6] Again, Wormald emphasises that an English king's duty to their subjects, particularly in distributing justice, was an essential aspect of holding power.[7] Other scholars, such as Richard Abels, have further seen English kings' ideological role as law maker as synonymous with the symbolism of English kings as peacemakers when making treaties.[8] While treaties certainly had symbolic and ideological importance, this has at times overshadowed that treaties were fundamentally pragmatic documents, that were implemented and enforced between the two parties involved. Thus, this project primarily focuses on the treaty documents to shed light on the legislative mechanics implemented via treaties, which rulers used to pursue particular goals through these documents.

Before we go further, it is important to define what a treaty is. The exact definition of a treaty is somewhat controversial. As Jenny Benham has noted, various definitions of the word

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[4] Anthony Kaldellis, *The Byzantine Republic: People and Power in New Rome* (Cambridge, MA: Harverd University Press, 2014), 62-64.
[5] For more on this, see Ostrogorsky, 'The Byzantine Emperor and the Hierarchical World Order', 10-12.
[6] Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century* (Oxford: Blackwell Publishers, 1999), 430-449 (particularly 444-445).
[7] Wormald, *The Making of English Law*, 447-448.
[8] Abels, 'Paying the Danegeld', 186.

'treaty' simply are not suited to treaties as they existed in the Middle Ages.[9] For example, the *Oxford English Dictionary* states a treaty is 'an agreement arrived at by negotiation', further clarifying that it can be 'a contract between two or more states relating to peace, truce, alliance, commerce, or other international relation'.[10] However, given that 'international' here is effectively short hand for 'between nation-states', and given that there were no nation-states in the period of this study, it is difficult to utilise this definition in relation to medieval peacemaking and treaties. Although there were no nation-states *per se* in the medieval world, it is important that we recognize that international law, and treaties, did exist in this period. Medieval treaties were essentially between individuals representing a wider community, often, but not always, being two rulers entering into a binding agreement, the work of Benham in particular illustrating this effectively.[11] In the modern world various powers have increasingly had to deal with organisations, terrorist and otherwise, that do not fit neatly into the 'nation-state' model of international diplomacy. Indeed, given that there are a number of city-states that continue to make treaties and international agreements in the modern world, despite not being nation-states themselves, it is not surprising that an era without nation-states approached shared issues via treaty. Thus, historians of international relations must not be confined by the 'nation-state' label. Medievalists generally, particularly those studying diplomatic relations in the period, must recognise that the political organisations of peoples varied significantly across time and space, and that these entities were still able to conduct what would now be recognized as 'international' relations. As such, 'international' peacemaking in this project is synonymous with 'inter-ruler', or at times 'inter-people', peacemaking, rather than strictly referring to treaties made between two nation-states. This

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[9] Jenny Benham, 'Law or Treaty? Defining the Edge of Legal Studies in the Early and High Medieval Periods', *Historical Research*, 86 (2013), 488-490.
[10] 'Treaty', n. 3a-3b, *Oxford English Dictionary*, <https://www.oed.com/view/Entry/205395?rskey=oaujbz&result=1#eid, Accessed: 30/05/2022.
[11] Benham, *ILE*, 19-20.

project also generally avoids the term 'nation-state', instead opting to focus on the parties involved (being the rulers or peoples), or at times uses other labels, such as 'powers'.

The 'inter-ruler' nature of medieval treaties is often explicitly recognised within these documents. A leader's authority to rule and negotiate on their people's behalf is articulated particularly well in the *Treaty of Andover*, which states:

'Firstly, that a general peace be established between King Æthelred with all his people and all the army to which the king gave tribute, according to the terms which Archbishop Sigeric, Ealdorman Æthelweard and Ealdorman Ælfric made, when they obtained permission from the king to purchase peace for the areas which they had rule over, under the king'.[12]

Here, the wording of the treaty places emphasis on the ruler, Æthelred, and his immediate followers, such as Archbishop Sigeric and Ealdorman Ælfric, who had made past agreements with the other party for their own territory. However, the treaty still emphasises that they held this land from the king. Similarly, the 1155 *Treaty of Genoa*, although made by a Byzantine envoy, emphasises repeatedly that the envoy was acting on behalf of the Emperor Manuel, and entering into this agreement with the holders of authority over Genoa, being the consuls of the commune:

'…I, Demetrios Mekropolites, envoy of the most Holy Emperor of Constantinople, my Lord Manuel Pohyrogenitos Komnenos, promise to you the consuls of Genoa, Guglielmo Porco, Oberto Cancelliere, Giovanni Malocello and Guglielmo Lusio, and to the people of Genoa, on behalf of my Lord himself, peace and good will'.[13]

While the consuls here are not 'rulers' in the same sense that the emperor was, or even the English king, in the treaty-making arena they were treated as such. It is worth emphasising

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[12] *Treaty of Andover*, c. 1. Translation from *EHD*, I, 401.
[13] *Treaty of Genoa* (1155), 263. Translation from *Caffaro, Genoa and the Twelfth-Century Crusades*, 195.

this point, as at times scholarship has misread the 'inter-ruler' nature of medieval treaties to indicate that these treaties were less binding. For instance, Professor R.R. Davies has emphasised that the *Treaty of Falaise*, which has Henry II become the liege lord of King William of Scotland, as 'essentially personal: it was not a treaty between states'.[14] While this is true, this implies the treaty is atypical, when in fact, the vast majority of treaties from this period were inter-ruler agreements, and this did not make the treaty less binding between those involved. Of course, this is not to say inter-ruler treaties were more binding either, but, as Benham has shown, inter-ruler treaties were just as binding as their modern counterparts.[15] Indeed, of the treaties examined in this project, only one is not between two rulers, being the *Ordinance of the Dunsæte*. Instead, this treaty is made between two communities, stating 'This is the agreement which the English Witan and the counsellors of the Welsh people have established among the Dunsæte'.[16] Even the *Ordinance of the Dunsæte* still recognises the importance of the king's rule, implying towards the end of the document that it will subsequently be put forth for review by the anonymous English king of the time.[17] Effectively, this emphasises the importance of both the Byzantine emperors' and English kings' authority, as well as the personal nature of treaty-making in this period.

This project is strictly looking at written treaties, rather than their oral equivalents. The latter certainly existed, and we seem to have ample references to these in narrative evidence.[18] For instance, the *ASC* records an oral treaty being made between Alfred the Great and his

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[14] Rees Davies, "'Keeping the natives in order': the English king and the 'Celtic' rulers 1066-1216", *Peritia*, 10 (1996), 223. This sentiment is echoed in Dauvit Broun, 'The Church and the Origins of Scottish Independence in the Twelfth Century', *Records of the Scottish Church History Society*, 31 (2002), 8.
[15] Benham, *ILE*, 28.
[16] *Duns*, Prol. Translation from Noble, *Offa's Dyke Reviewed*, 105.
[17] *Duns*, c. 9.1.
[18] For more on oral treaties in the period see, Steiger, Heinhard, *Die Ordnung der Welt. Eine Völkerrechtsgeschichte des karolingischen Zeitalters (741–840)* (Cologne: Böhlau-Verlag, 2010), 379-406; Christopher Holdsworth, 'Peacemaking in the Twelfth Century', *ANS*, 19 (1998), 3.

Scandinavian adversaries in 876.[19] Similarly, Anna Komnene records Alexios I making an oral agreement with the Serbian ruler Bolkanus.[20] However, as the narrative evidence is only a description of such agreements, it would be difficult to make these the cornerstone of this project. Additionally, these descriptions, while of interest, rarely contain the in-depth detail which make their written counterparts so useful. We do have occasional references to oral treaties which were then built upon by written treaties. For example, the *Treaty of Andover* refers to a series of prior agreements that may have been made orally.[21] While such agreements were certainly a vital way of making peace, due to them only surviving into modernity as narrative descriptions that lack detail, they can only be used by this project as supporting evidence.

Both of the chosen case studies have ample written treaties for analysis, unlike many other contemporary powers, thus making them particularly apt for comparison. Byzantium is well known for its centralised and bureaucratic nature, and we have good evidence indicating that making multiple copies of various documents, including treaties, was the norm for the administration of the empire. For instance, the 911 Byzantine-Rus' treaty explicitly comments on this, and we have multiple copies of other Byzantine treaties, such as the 1169 *Treaty of Genoa* made with the Genoese.[22] In total, twenty-five treaties have survived from Byzantium for this period, with six in the tenth century, only two in the eleventh century, and the majority surviving from the latter half of the twelfth century. Similarly, England was one of the more centralised and bureaucratic powers of the medieval west already prior to the Norman conquest, a position which solidified after William the Conqueror's invasion. In total, there are thirty-five treaties from England, four surviving copies of treaties from the

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[19] ASC, [MS A], S.A. 876.
[20] *Alexiade*, II, 164-167.
[21] *Treaty of Andover*, c. 1.
[22] *Treaty of Constantinople* (911), 68; *Treaty of Genoa* (1169), 184-189; *CDRG*, II, 105-116. Also see, Rosemary Morris, 'Dispute Settlement in the Byzantine Provinces in the Tenth Century', in *The Settlement of Disputes in Early Medieval Europe*, eds. Wendy Davies and Paul Fouracre (Cambridge: CUP, 1992), 125.

pre-conquest period (specifically from the late ninth to the tenth century), none surviving from the eleventh century, and the majority surviving from the latter half of the twelfth century. The dearth of treaties from the eleventh century for both powers is particularly interesting, but difficult to explain. The boom in material from the later twelfth century perhaps reflects a wider trend from the period, material from the twelfth century onwards having a much higher survival rate than material from preceding eras more generally. As with Byzantium, we also have English treaties with multiple versions, such as the *Treaty of Andover* and the *Treaty of Falaise*.[23] The majority of English treaties have survived within English chronicles, and document the relationships of the kings of England with various peoples around them.[24] There are some exceptions to this, for instance, the *Treaty of Acre* (1191) survives in the Genoese archives, and the *Treaty of Najac* survives in the archive of the Crown of Aragon.[25] By contrast, only one Byzantine treaty, the *Treaty of Devol*, seems to have survived within a Byzantine chronicle. This sole example only survives due to the diligence of Anna Komnene, the famed chronicler and daughter of Emperor Alexios I copying the treaty into her work, *The Alexiad*.[26] The vast majority of Byzantium's treaties have been preserved in a variety of other peoples' chronicles, such as the *Russian Primary Chronicle*, a history of the early Rus' which seemingly combines a plethora of earlier annals, as well as in several archives connected to the various Italian cities.[27] The latter point is particularly interesting, as sixteen of the total surviving Byzantine treaties survive in the

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[23] *Treaty of Andover*, c. 1-7.2. Both the Old English and Latin of the *Treaty of Andover* are included in *DGA*, I, 220-224; *Treaty of Falaise*, 2-10. For the various copies of the *Treaty of Falaise* see, *Anglo-Scottish Relations*, 1.

[24] On the boom of twelfth century material, please see M. T. Clanchy, *From Memory to Written Record: England 1066-1307*, 2nd edn (Oxford: Blackwell Publishers, 1993), 54-68.

[25] *Treaty of Acre* (1191), 16; *Treaty of Najac*, 283.

[26] *Treaty of Devol*, 125-139.

[27] For more on the authorship of the *Russian Primary Chronicle* see, RPC, 3-6; For examples of treaties from the Rus', Islamic, and Italian cities' worlds see, *Treaty of Constantinople* (945), 73-78; Marius Canard, "Deux documents arabes sur Bardas Skleros", *Studi Bizantini e Neoellenici*, 5 (1939), 55-56; G. Müller, *Documenti sulle Relationi delle citta Toscane coll' Oriente Christiano e coi Turchi* (Firenze: M. Cellinie, 1879; repr. 1966), 40.

archives of the Italian cities, more than half of the total Byzantine body of agreements. While the interactions with Byzantium and these cities were numerous, it is likely that the majority of Byzantine treaties from this period were not with the Italian communes, and that most of these simply have not survived. This is perhaps reflective of these cities still to this day having impressive archival collections, which have survived into the modern period. Byzantium, simply no longer existing, and Constantinople having been host to a number of particularly destructive sieges (such as that of the Fourth Crusade), has resulted in relatively few Byzantine copies of treaties, as well as other documents, surviving.[28] Indeed, this perhaps explains the discrepancy between England's treaty corpus having more agreements than its Byzantine counterpart, England's treaties and chronicles largely surviving within England and English archives, and England having continued to survive into modernity. As such, it is difficult to emphasise just how impressive the Byzantine corpus is, being a true testament to the active diplomacy of the medieval Roman Empire.

Byzantium's treaty corpus certainly over-represents the role of the Italian cities, and under-represents a plethora of medieval entities that we know must have had significant treaty-making interactions with the empire. For instance, only two treaties with Sicilian leaders have survived into modernity, a people who repeatedly posed a threat to Byzantium in the eleventh and twelfth centuries, and conflict between the two peoples often resulted in treaty-making interactions.[29] While ample narrative and letter evidence exists suggesting extensive diplomacy between Byzantium and its Arabic and Persian neighbours, only two treaties from the period have survived documenting such interactions.[30] One of the most notable absences from the treaty record is that of any treaty whatsoever with the Bulgars, one of Byzantium's

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[28] Morris, 'Dispute Settlement in the Byzantine Provinces in the Tenth Century', 125.
[29] *Treaty of Constantinople* (1074); *Treaty of Devol*. The latter is with Bohemond of Antioch, who is not strictly a Sicilian leader, but certainly led Sicilians in his army. Regardless of this, the point stands that Sicily is underrepresented in the Byzantine treaties.
[30] *Treaty of Aleppo*; *Treaty of Baghdad*.

most prominent neighbours, whom we know must have made multiple treaties with the empire.[31] If one relied solely on the treaty corpus, one would not know of any conflict between the two peoples, apart from one solitary clause in the 945 *Treaty of Constantinople* with the Rus', referring to Rus' aid to be given to Byzantium against the Bulgars.[32] This is not to say that the English corpus perfectly reflects English treaty-making from the period either. While treaties with the kings of France and the counts of Flanders are reflected relatively well in the treaty corpus, a plethora of relations with other rulers are well documented in narrative evidence, but barely represented in the English treaties. For instance, only two treaties with the kings of Scotland have survived, and only one with a Welsh prince, as well as one with an Irish king.[33] Of particular interest in the early period is that only two treaties with Scandinavian powers have survived, despite both narrative and domestic legal evidence referring to a plethora of other treaties having been made between English kings and their Scandinavian rivals.[34] Although the treaty corpus certainly has its uses, we must take account of its limitations, and not expect a wholly accurate account of each power's peacemaking activity to be portrayed by the surviving treaties. Indeed, Benham has noted more generally that between the various chronicles of the medieval period, there are more than a thousand narrative mentions and accounts of treaties being made, but only a fraction of these have survived in written form.[35] We must be aware of how the treaty evidence has survived, and where it does not, as left unchecked this could shape our notions of Byzantium's and England's relations with other peoples in ways which simply are not accurate.

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[31] For instance, we have documents surrounding the 927 Byzantine Bulgar treaty. Ivan Dujčev, 'On the Treaty of 927 with the Bulgarians', *Dumbarton Oaks Papers*, 32 (1978), 219-295.
[32] *Treaty of Constantinople* (945), 76.
[33] *Treaty of Falaise*; *Treaty of Canterbury*; *Treaty with Llywelyn*; *Treaty of Windsor*.
[34] For instance see, *ASC* [MS D], s.a. 943.
[35] Benham, *ILE*, 24.

While it is common knowledge that much evidence from this period has been lost, and that medievalists are dealing with a fraction of the evidence that was produced by the various peoples of this period, treaties seem to have a particularly poor survival rate. This might be explained by various rulers demanding the surrender of outdated treaties, for which there is some narrative evidence. For instance, in 1174 after Henry II defeated a rebellion led in part by his son, Henry the Young King, demanded that the count of Flanders (one of Henry II's traditional allies who had aided Henry the Younger) surrender the treaty that the count of Flanders had made with the Young King.[36] While the fate of this document is not explicitly revealed, a similar event occurred later between King John and Llywelyn Fawr, prince of Gwynydd, with the former 'annulling' a treaty with the latter, likely destroying the document.[37] It is difficult to say whether this was also a practice carried out by the Byzantine emperors, but this might explain (in addition to the destruction of Byzantine archives) why an entity, well known for its administrative capacity and keeping multiple copies of documents, only has twenty-five surviving treaties across three centuries.[38]

The survival rate of these treaties is a key aspect of this project, and shapes the project in interesting ways. One of these, already touched on somewhat, is the absence of treaties with some powers altogether, such as the privation of surviving Byzantine-Bulgar treaties. Another point of interest, is how some rulers are almost absent from the project, largely due to their treaties simply not surviving. For instance, no treaties have survived from staple names amongst historians of medieval England, such as Æthelstan and William I, 'the Conqueror'. Similarly, some of Byzantium's most famous names from the period, including Constantine X Doukas and Empress Theodora, simply have no surviving treaties attributed to

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[36] *Chronica*, II, 72.
[37] J. Beverley Smith, 'Magna Carta and the Charters of the Welsh Princes', *English Historical Research*, 99 (1984), 351.
[38] Morris, 'Dispute Settlement in the Byzantine Provinces in the Tenth Century', 125.

them. While this project certainly uses supporting evidence from these rulers' reigns, the simple lack of treaties from these rulers necessitates that less focus is given to them, in favour of rulers from whom we have more treaties. This is not necessarily an issue, the project after all largely focusing on the treaties themselves rather than the rulers who made them. However, it is worth being aware of how various rulers' reigns are reflected in the surviving treaties, as it can warp perceptions of wider peacemaking activity if not considered. It is also worth noting that the surviving treaty corpus largely exists in Latin. This is expected for the English treaties, but even the treaties that survive in Old English often survive as a Latin copy as well. This might be surprising for the Byzantine corpus, but is reasonable when one accounts for the Byzantine treaties often surviving in the archives of the Italian cities. However, we do have several treaties that solely survive in Greek, such as the *Treaty of Devol* and the *Treaty of Constantinople* (1074), as well as several treaties with the Italian cities surviving in both Latin and Greek copies. As such, this project often consults multiple copies of a particular treaty, noting differences between the Latin and Old English or Greek. It is also worth noting that this project does utilise several modern translations of treaties that only survive in a language other than Latin or Greek due to linguistic limitations. Namely the Rus' treaties that survive in Old East Slavic, and treaties from the Islamic world that survive in Arabic. While using modern translations does allow the project access to more treaty material, it must be acknowledged that a work that would be able to deal with these treaties in their original language would be more satisfactory.

An issue that goes hand in hand with how the treaties have survived is which are the original documents, and which are copies, and whether or not we can trust those documents which are copies of a much earlier original. For instance, the *Alfred-Guthrum Treaty* is the oldest English treaty looked at by this thesis, purportedly documenting a treaty made in the late

ninth century.[39] However, it is in fact a twelfth century copy of the original document. As such, one can quite reasonably be cynical that this is an accurate copy of the original document at all, and perhaps only reflects twelfth century values superimposed on an imagined ninth century past. While this is a concern, it seems unlikely that this is a forgery. *AGu* clearly has parallels with other ninth century law codes, and in particular its use of compensation mirrors that contained within Anglo-Saxon domestic laws.[40] As such, any hypothetical fraudulent twelfth century copyist would have to have had an impressive grasp of Anglo-Saxon law, making it unlikely this copyist was simply making up the clauses of *AGu*. Furthermore, the use of the term *liesengum* (freedman), a Norse legal term, and a word one would expect to find in a document made between an Anglo-Saxon king and a Scandinavian neighbour, makes it seem unlikely this document was made by a twelfth century author.[41] Similarly, the earliest Byzantine treaties are made with the Rus', and preserved in the fourteenth century *RPC*. Scholarship has rightly noted that the *RPC* is a difficult source to utilise, at times portraying a mythologised version of events, misdating events, or even documenting events which simply are not documented in other sources.[42] The latter is of particular importance here, as all two of the Byzantine-Rus' treaties (911, 945) simply are not referred to in any Byzantine sources. However, once again the detail of these treaties is revealing. The 911 treaty for instance seems to have inspired Constantine VII's domestic laws dealing with exiles and their property.[43] Similarly, the 945 treaty's clause allowing Rus merchants limited access to silk reflects the well known fact that Byzantium

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[39] For more information on the treaty and its manuscripts see Chaplais, *English Diplomatic Practice*, 36. The earliest original copies for each entity is the 1101 *Treaty of Dover* for England, and the *1147 Treaty of Constantinople* for Byzantium.

[40] *AGu*, c. 2-3; Tom Lambert, 'Frontier Law in Anglo-Saxon England', in *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain*, eds. Sara M. Butler and K. J. Kesselring (Leiden: Brill, 2018), 20-40.

[41] *AGu*, c. 2.

[42] Horace G. Lunt, 'On Interpreting the Russian Primary Chronicle: The Year 1037', *The Slavic and East European Journal*, 32 (1988), 251-261.

[43] See Chapter 1, particularly comments on Constantine VII's domestic laws.

largely controlled the sale of silk in this period, and that the access given would have been a significant boon for Rus' merchants. [44] Once again, the detail of these treaties indicates that these are accurate copies of the original documents, rather than forgeries.

To go through the entire treaty corpus pointing out the particulars of different treaties would be unnecessary, and not add much to the conclusions of this project. However, one particular treaty has received scholarly attention as to whether it is an accurate copy, and as such I will also discuss this example, despite it being copied relatively closely to the original treaty being made. The *Treaty of Devol* (1108) was made between Emperor Alexios I and Bohemond of Antioch, and preserved in Anna Komnene's *Alexiad*. The *Alexiad* itself was written by Anna Komnene, daughter of the Emperor Alexios, in the mid-twelfth century, thus sometime after the events surrounding the *Treaty of Devol*.[45] Penelope Buckley has even suggested that Anna has altered parts of the treaty, if not the document in its entirety, some elements of the treaty having her 'imprint'.[46] A more cynical historian might even argue that the treaty is largely crafted by Anna, specifically to cast her brother John II in a bad light, as he had made his own treaty with an Antiochene ruler in 1137, shortly before Anna wrote her history.[47] Despite these objections, the 1108 treaty very clearly deals with staple issues of medieval treaties, and is comparable to other treaties looked at in this thesis. In particular, the treaty deals with issues such as ecclesiastical authority, exiles and military service, all of which are approached in other treaties using similar methods.[48] Indeed, as Johnathan Harris has noted, the emphasis on Bohemond recognising the Emperor as his superior bears a striking resemblance to the

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[44] *Treaty of Constantinople* (945), 75. Also see comments in Chapter 6.
[45] Penelope Buckley, *The Alexiad of Anna Komnene: Artistic Strategy in the Making of a Myth*, (Cambridge: CUP, 2017), 1-3.
[46] Buckley, *The Alexiad of Anna Komnene*, 243 (and fn 136).
[47] For more on the events of 1137 see Jonathan Harris, *Byzantium and the Crusades*, 2nd edn (London: Bloomsbury, 2014), 80-85.
[48] See chapters 3, 4 and 5.

1074 treaty made between Emperor Michael VII and Robert Guiscard, Bohemond's father.[49]

As I comment later, it is also worth emphasising the monetary payment made, in both the *Treaty of Devol* and the 1074 treaty, is the same, being 200 pounds of the coinage of the Emperor Michael.[50] Of course, it is ultimately difficult to say definitively whether the *Treaty of Devol* is a complete or partial forgery, just as it is difficult to prove the treaty is wholly accurate. However, the issues covered, and the details recorded in the treaty, particularly when compared to other treaties which are not considered forgeries, inclines me to believe this copy is more accurate than it is fraudulent.

At times the project utilises examples, and supporting evidence, from slightly beyond the project's formal date range. This is often as these treaties are sole examples that help to explore the relations of either Byzantium or England with a particular power. For instance, while the *Alfred-Guthrum Treaty* has no formal date, and was seemingly made at least ten years prior to the start of this project's period, it is the sole English treaty with a landed Scandinavian ruler, and also the sole English treaty from before 900.[51] The *Treaty with Llywelyn*, is the only example of a treaty made with a Welsh ruler, and was only made one year after the end point of this project's date range, and is thus also considered.[52] Similarly, to help shed light on how ecclesiastical authority was dealt with in treaties between Byzantium and Venice, the project has used evidence from the 1268 Byzantine-Venetian treaty, as this is one of the few agreements that sheds light onto whether the Venetian churches in the empire used the Latin rite, and it refers to other treaties from the period of this study.[53] Effectively, this project has at times drawn upon evidence from beyond this time frame, in order to address exceptional treaty examples, being the sole examples of treaties made with a

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[49] Harris, *Byzantium and the Crusades*, 79-80.
[50] *Treaty of Constantinople* (1074), 142. For my comments, see Chapter 5.
[51] For the dating of *AGu*, see Chapter 2.
[52] *Treaty with Llywelyn*, 371-374.
[53] Gottlieb Tafel and Georg Thomas, *Urkunden zur älteren Handels- und Staatsgeschichte der Republik Venedig*, 3 vols (Vienna: Hof- und Staatsdruckerei, 1857), III, 96.

particular people slightly beyond the chosen date range, or evidence that helps in analysing treaties that fall within the chosen time period.

While both peoples have a comparable surviving treaty corpus, it must be asked why the treaties of Byzantium and England are particularly apt for any comparison. Indeed, such a comparison may at first seem odd, given that each of these powers were on the geographical periphery of what would go on to become Europe. However, both the bureaucratic nature and the state of the surviving treaty corpus for each power allows for an effective comparison to be made. The bureaucratic nature of each people is well known amongst medievalists, but both powers were also particularly centralised.[54] This is apparent when looking to each power's neighbours. The empire of the Ottonian, Salian, and Hohenstaufen dynasties has little in the way of treaties for most of this period. While, the German empire has an explosion of treaties from the later twelfth century, indeed having more than either England or Byzantium in the closing years of this study, the uneven spread of treaties makes the Western empire a difficult comparison with either Byzantium or England, whose treaty corpuses are spread more evenly across the era.[55] Furthermore, the German empire was far less centralised than its Byzantine and English counterparts, making any potential comparative study challenging. Other entities, such as Genoa, have an extensive treaty corpus, but comparing a mercantile focused city state with the respective realms of Byzantium and England is problematic. Genoa's agreements are largely characterised by mercantile trade, while this is but one issue amongst many for both England and

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[54] The administrative capacity of both peoples is widely accepted. For further information, see Demetrius Argyriades, 'Rome and Byzantium: an Administrative Overview', *Public Administration Quarterly*, 26 (2003), 373-392; George Ostrogorsky, 'Observations on the Aristocracy in Byzantium', *Dumbarton Oaks Papers*, 25 (1971), 1-32 (particularly 7-8); James Campbell, 'Observations on English Government from the Tenth to the Twelfth Century', *Transactions of the Royal Historical Society*, 25 (1975), 39-54; Nick Barrett, 'Finance and the Economy in the Reign of Henry II', Henry II: New Interpretations, ed. Christopher Harper-Bill and Nicholas Vincent (Woodbridge: The Boydell Press, 2007), 242-256.
[55] Benham, *ILE*, 7-8.

Byzantium.[56] Other peoples also make for a difficult comparison with either Byzantium or England due to their lack of treaties across this chosen time span, which allows the project to analyse treaties from the earliest point at which any comparison is possible. Most Western powers, such as France, as well as the various Islamic empires during this period, such as Egypt, unfortunately have few surviving treaties.[57] As such, comparing the treaties of Byzantium and England allows for analysis to be done on the treaties of two of the most bureaucratic and centralised entities of the era, from the earliest point that such a comparison can be made. This allows the project to show which goals were pursued via treaties by each power, which approaches were utilised by rulers to achieve these goals, and which goals and approaches were unique to either Byzantium or England, across the period.

As Stefan Berger has noted, history is naturally a comparative subject, but this may be more true of the history of international peacemaking, which is by definition between two parties, necessitating it be a comparative endeavour.[58] Comparison is certainly a useful tool in the historian's toolbox, however there is a tendency of comparative historians to often universalise their findings, emphasising similarities over differences.[59] While Byzantium and England are particularly apt for a comparative study from the perspective of the treaties, the project cannot simply sweep apparent differences aside while emphasising points of similarity in the treaty corpus. Of course, these peoples each had different cultures, customs and institutions, perhaps the most blatant difference being the churches of each people, a difference we know that contemporaries keenly felt.[60] Indeed it might also be argued that

[56] This extensive corpus of Genoese treaties is apparent when reading through any volume of *CDRG* and *LIRG*.
[57] On the survival of Western European treaties, see comments in Benham, *ILE*, 6-8. For the treaties of the Islamic world see, Catherine Holmes, 'Treaties between Byzantium and the Islamic World', in *War and Peace in Ancient and Medieval History*, ed. Philip de Souza and John France (Cambridge: CUP, 2008), 142-143.
[58] Stefan Berger, 'Comparative History', in Stefan Berger, Heiko Feldner and Kevin Passmore (eds), *Writing History: Theory and Practice* (London: Bloomsbury, 2003), 292.
[59] Berger, 'Comparative History', 293-294.
[60] For the later point see Romilly Jenkins, *Byzantium: The Imperial Centuries AD 610-1071* (Toronto: University of Toronto Press, 2001), 348-360.

each of these societies was structured profoundly differently, and thus any comparison between the two if impossible. For instance, the manorial structure of English society is simply not reflected in Byzantium, which had its own elite families and wealthy administrators, which were embedded in a very different society.[61] However, regardless of these differences in religious practice and societies, it is clear that treaty making practice is comparable between peoples of vastly different cultures, languages, and religious affiliations.[62] In fact, that treaties can be made at all between peoples which held radically different cultures and customs reflects that the majority of peoples still held enough in common to make peace, and are thus comparable.[63] This is not to say that there are no differences between the two case studies, even when it comes to their treaties. This project will highlight the similarities in approach taken to specific issues through each powers' treaties, but will also highlight significant differences in goals pursued and methods used by each power. As such, this project hopes to avoid the common comparative pitfall of over universalising findings, while still highlighting points of similarity.

More generally, the historiography of treaties in the medieval period is complex, and, as John Watkins has noted, the study of premodern diplomacy has traditionally been one of the older and more conservative fields of historical study.[64] Work on medieval diplomacy, both focusing on Byzantium and on England has often focused heavily on themes surrounding treaty-making, rather than on the treaties themselves. For instance, gift giving has become a staple area of study for historians of diplomacy, scholarship rightfully noting its importance in the diplomatic arena. As such, an ample corpus of works studying the gifts given and

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[61] Douglass C. North and Robert Paul Thomas, 'The Rise and Fall of the Manorial System: A Theoretical Model', *The Journal of Economic History*, 31 (1971), 777-803; Averil Cameron, *Byzantine Matters* (Princeton: PUP, 2014), 33-34.
[62] Benham, *ILE*, 1-8.
[63] See Chapter 2 on this in particular.
[64] J. Watkins, 'Toward a new diplomatic history of medieval and early modern Europe', *Journal of Medieval and Early Modern Studies*, 38 (2008), 1−14.

exchanged by Byzantine emperors, English kings, and a plethora of other rulers, is available for any curious scholar.[65] Similarly, the venue of peace conferences and diplomatic meetings, as well as the various rituals involved surrounding these meetings, has received extensive analysis.[66] Of course, there is likely more to be written on these topics, but this has left a relative dearth of studies on the treaties themselves, and there is ample room for novel research based upon the treaties.

When scholars have focused on particular treaty-making incidents, focus is often given to narrative descriptions of treaties, rather than analysing actual recorded treaties. For instance, Pierre Bauduin has given an extensive analysis of a described treaty-making interaction between King Cnut and Duke Richard of Normandy.[67] Similarly, Daniele Morossi has given the description of the *Treaty of Thessalonica*, between the Western Emperor Conrad III and Emperor Manuel I Komnenos, much analysis.[68] However, as Morossi has noted, scholars are divided over whether the description of the treaty can be regarded as accurate, Conrad apparently ceding his claims of Italy to his Byzantine counterpart, an issue that had been contentious between the two powers even prior to this project's period.[69] This effectively

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[65] For instance see, I. Voss, *Herrschertreffen im frühen und hohen Mittelalter* (Cologne: Böhlau, 1987); W. Kolb, *Herrscherbegegnungen in Mittelalter* (Frankfurt: Peter Lang, 1988); Benham, *PMA*, 71-85; Shepard, 'Byzantine Diplomacy 800-1204', 47-55; Samuel Ottewill-Soulsby, 'The Camels of Charles the Bald', *Medieval Encounters*, 25 (2019), 263-292; Anthony Cutler, 'Gifts and Gift Exchange as Aspects of the Byzantine, Arab, and Related Economies', *Dumbarton Oaks Papers*, 55 (2001), 247-278; Lars Kjaer, *The Medieval Gift and the Classical Tradition: Ideas and the Practice of Generosity in Medieval England, 1100-1300* (Cambridge: Cambridge University Press, 2019).

[66] Benham, *PMA*, 21-37 and 44-62; Shepard, 'Byzantine Diplomacy 800-1204', 48-51; Nicholas Drocourt, 'Christian-Muslim diplomatic relations. An overview of the main sources and themes of encounter (600-1000)', in *Christian-Muslim Relations. A Bibliographical History. Volume 2 (900-1050)*, eds. David Thomas and Alexander Mallett (Leiden: Brill, 2010), 62-66.

[67] Interestingly Bauduin himself notes that more scholarship has been written on this incident's date rather than analysing the described content, which is consistent with comments below on treaty scholarship generally; Pierre Bauduin, 'Quasi in domo propria sub Securitate sanaretur: a peace agreement between King Swein Forkbeard and Duke Richard II of Normandy', *Early Medieval Europe*, 29 (2021), 395-397.

[68] Daniele Morossi, 'Political and economic relations between Venice, Byzantium and Southern Italy (1081-1197)' (unpublished doctoral thesis, University of Leeds, 2018), 124-126.

[69] For instance, see Liudprand's comments regarding the Capuan and the Beneventan vassals that had changed their allegiance from Byzantium to the Ottonian Empire. *The Complete Works of Liudprand of Cremona*, trans. Paolo Squatriti (Washington D.C: The Catholic University of America Press, 2007), 254-260 (henceforth, Liudprand, *Embassy*).

sums up the issue of relying upon descriptions of treaties, rather than utilising treaties themselves. Ultimately, these descriptions are just that, descriptions, not the actual treaties.

Often, when studies have focused on actual treaties, the treaties are seen as peripheral events to particular rulers' reigns. The status of treaties as documents made between two powers often leads to them falling down a historiographical crevice, with historians who focus particularly on one of the involved parties seeing them as a footnote to the ruler of their interests' reign. With this in mind, treaty analysis, when it does occur, is often done through the narrative lens of a particular leader's rule. An excellent example of this is the *Alfred-Guthrum Treaty*. There is ample scholarship written on this document, but the vast majority of this is dedicated to dating the treaty, in order to place it within the narrative of Alfred's reign, and perhaps touch upon a conflict between Alfred and Guthrum that is largely undocumented by any of the surrounding narrative evidence.[70] Other scholarship on the treaty has touched upon the border clause, which commonly appears within maps from the period, depicting the land under each rulers' influence.[71] This is not to say that scholarship discussing the dating of the treaty, or indeed the border clause, is not valuable, but it does show that treaties are often studied to shed light on other issues, such as recreating the narrative of a ruler's life or indicating the spheres of influence of different peoples. This has resulted in relatively little scholarship being written on the other aspects of the treaty, including redress, exiles, and the movement of goods.[72] The 1082 *Treaty of Constantinople*, between Venice and Byzantium, also has a large volume of scholarship written on its date, with suggested dates including 1082, 1084, and 1092.[73] Although this is essential scholarship that helps us

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[70] Stenton, *Anglo-Saxon England,* 258.

[71] David N. Dumville, 'The Treaty of Alfred and Guthrum', in *Wessex and England from Alfred to Edgar* (Woodbridge: Boydell Press, 1992), 1-27; R.H.C. Davis, 'Alfred and Guthrum's Frontier', *The English Historical Review*, 97 (1982), 803-810.

[72] *AGu*, c. 1-5.

[73] For a good summary of the scholarship on this see, Peter Frankopan, 'Byzantine Trade Privileges to Venice in the Eleventh Century: the Chrysobull of 1092', *Journal of Medieval History*, 30 (2004), 135-144; O. Tůma,

clarify the context of the treaty, the point remains that scholars are often more concerned with how treaties relate to rulers' reigns than the content of the treaties themselves.

Of course, this is not to say that scholarship from either fields has not been written about treaties more generally. Historians working on the treaties of Italian cities with Byzantium have long used comparative methods, with David Abulafia, Gerald Day, and Donald Nicol often drawing on the agreements between Byzantium and the various Italian cities, as well as Sicily, to describe a complex web of obligations and alliances between these various powers.[74] It must be noted that each of these scholars still approach those agreements largely by building a narrative of Byzantium's relations with these powers rather than necessarily focusing on the treaties. However, their work is nonetheless essential for any aspiring historian studying Byzantine diplomacy. More recently, Catherine Holmes has also written convincing work on Byzantine treaties and peacemaking with Islamic powers.[75] In the last twenty years scholarship of medieval England has, likewise, increasingly taken a comparative approach to treaties. Both Richard Abels and Tom Lambert have admirably compared the *Alfred-Guthrum Treaty* with other pre-conquest treaties noting similarities in themes and approaches, particularly concerning redress.[76] Despite this, it is only in the last ten years that scholarship has started to cast a wider net to analyse treaties between the various entities of the medieval world. Daphne Penna has written what must be acknowledged as the most in-depth and thorough work on Byzantine treaties, focusing on Byzantium and the Italian cities, but also at times drawing upon Byzantium's agreements with other entities, such as the

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'The dating of Alexius' Chrysobull to the Venetians: 1082, 1084 or 1092?', *Byzantinoslavica*, 42 (1981), 171-185; Nicol, *Byzantium and Venice*, 59-60. I continue to use the traditional dating of 1082 as Frankopan's dating of 1092 remains controversial. Even if I were to use the 1092 dating, this would change little of the analysis of this project, as the dating of the treaty has little effect on the primary aims of the project.

[74] David Abulafia, *The Two Italies: Economic Relations Between the Norman Kingdom and the Northern Communes* (London: CUP, 1977); Gerald W. Day, *Genoa's Response to Byzantium 1155-1204* (Chicago: University of Illinois Press, 1988); Nicol, *Byzantium and Venice*.

[75] Holmes, 'Treaties between Byzantium and the Islamic World', 141-157.

[76] Abels, 'Paying the Danegeld', 173-192; Lambert, 'Frontier Law in Anglo-Saxon England', 20-40.

Rus'.[77] This approach has allowed Penna to reveal common approaches and goals within Byzantium's treaties, but also comment on atypical methods, such as noting some western influences on the methods used in the 1193 treaty with the Genoese.[78] While this work is thorough, it remains limited in scope, focus almost exclusively being given to the treaties with the Italian cities, and limited analysis being given to treaties with other entities. This restricts her conclusions to solely the Italian cities, obscuring wider trends in treaties more generally. Of course, the most recent, and comprehensive, approach to the treaties of the medieval world is Benham's *International Law in Europe, 700-1200*, exploring some 200 treaties from across Europe, as well as the Mediterranean, the Steppe, and the Islamic world.[79] However, Benham's work largely uses treaties to demonstrate features of international law, rather than focusing on the legislative mechanics of treaties. Furthermore, the wider scope of Benham's study risks obscuring particular themes and goals specific to the treaties of individual powers. My current project then fills these historiographical gaps, and has a broader focus than Penna, but a more limited focus than Benham. This thesis will reveal which goals and methods were common in treaties outside of Byzantium, something Penna's work comments on but does not approach in depth, as well as England, and shed light on aims and approaches which were specific to each power, something which is not drawn out by Benham's larger-scale work.

More generally, as touched on above, this project contends that treaties were not simply symbolic documents indicating rulers' intentions, but were legislative enactments grounded in pragmatism. The idea that treaties were impractical is grounded in broader ideas of authority within the medieval period, a time when the 'state' and authority in general was

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[77] Penna, *The Byzantine Imperial Acts*, 251.
[78] Daphne Penna, 'Piracy and Reprisal in Byzantine Waters: Resolving a Maritime Conflict Between Byzantines and Genoese at the End of the Twelfth Century', *Comparative Legal History*, 5 (2017), 36–52 and 45-49.
[79] Benham, *ILE*.

much less centralised, and thus, one would think, it was much more difficult to assert authority when a ruler was absent. This point is articulated well, albeit in a non-treaty-making context, by C.R. Cheney on the authority of the papacy in the Christian West:

'Doctrine and logic required the pope to write as though all Christians would rush to obey or submit at once when censured. To many this seemed exorbitant. Christians did not always carry compliance so far, and the pope knew it'.[80]

Similarly, one can imagine that rulers, both Byzantine and English, effectively had to legislate domestically as if their authority would be acknowledged and heeded throughout their entire realm. Given that modern states, which are typically more centralised, at times struggle to enforce particular laws, it seems reasonable to assume that the less centralised 'states' of the medieval era would also struggle to enforce their authority over particular issues via legislation. This same criticism can be applied to treaties, treaties being a form of law that extended between rulers' authority and territory, and were effectively a form of international law in the period. However, we have ample surrounding evidence indicating that the obligations, rights, and claims set out in treaties were in fact carried out.[81] Indeed, to continue the comparison between modern and medieval entities, while modern entities do at times struggle to enforce a particular law or international treaty, few would claim all modern laws are thus impractical due to this, and this same logic applies for medieval entities. I will not overly labour this point, as it is addressed throughout this project, but the fact remains that both medieval domestic law and international treaties were often implemented and adhered to by those that made them, and were thus pragmatic.

A relatively common criticism of treaties from legal scholars is that treaties are often based on 'soft' law. This notion, that treaties can often be more symbolic than practical is relatively

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[80] C.R. Cheney, *Pope Innocent III and England* (Stuttgart: Hiersemann, 1976), 271-272.
[81] For instance, we know rulers actively returned one another's exiles if required to via treaty. See Chapter 4.

common in modern historiography, is intimately tied to the concepts of 'soft' and 'hard' law. The latter is commonly legislation which describes precise, and often definitive, legal obligations and effects within a legal framework.[82] For instance, domestic legislation from Byzantium and England commonly has such 'hard law' clauses relating to redress, the laws of Justinian stating a murderer will themselves be killed if found guilty, and various English law codes issuing fines for murder, assault, and theft.[83] Such clauses are also found within treaties. For instance, the 945 Rus' treaty has hard law clauses on murder and assault, as does the *Treaty of Andover*.[84] However, soft law clauses are also common in the treaty corpus. Soft law here is effectively legislation that is weakened, often in terms of the legal obligations of the parties involved, or in terms of precision and delegation, soft law clauses often being vague. Redress clauses themselves can even be examples of soft law. For instance, the 1169 *Treaty of Genoa* asks that any wrong inflicted by the Genoese on the empire be punished accounting for the emperor's honour.[85] The 991 *Treaty of Rouen* has each party commit to give compensation for any wrongs done to the other.[86] In both of these examples, the clauses are vague and do not outline specifically what the redress will consist of. As a consequence, soft law has often been criticised as effectively amounting to nothing, the clauses being so weak in terms of legal obligations that a party can take little action but still claim to have fulfilled the obligations of a particular law.[87] While not all clauses within treaties are 'soft laws', many are, and this extends well beyond the issue of redress, which, as we have seen, is contained in both 'soft' and 'hard' law clauses. As such, exploring the practical nature of the treaty documents and how they were implemented is a major theme of this project. For

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[82] For further comments on this differentiation see, Kenneth W. Abbott and Duncan Snidal, 'Hard and Soft Law in International Governance', *International Organization*, 54 (2000), 421-423.
[83] *Codex of Justinian,* III, 2318-2319; *DGA*, I, 5 (c. 30).
[84] *Treaty of Constantinople* (945), 76; *Treaty of Andover*, c. 5.
[85] *Treaty of Genoa* (1169) [MS B], 188.
[86] *Treaty of Rouen*, 38.
[87] Martin Dixon, *Textbook on International*, 7th edn (Oxford: OUP, 2013), 52. Also note, this criticism also applies to modern treaties.

instance, as will be touched on in Chapter 3, ecclesiastical authority is often referred to in treaties vaguely, one party subduing the Church of the other, with little information on the actual practicalities of this being contained within the treaty.[88] Similarly, multiple clauses concerning alliances within treaties are unspecific concerning the actual support that would be given, or how the support was to be provided.[89] With this in mind, one can see why scholarship has often seen treaties as either purely symbolic, or as a mixture of both symbolic and pragmatic law. For instance, Lambert has primarily written about pre-Conquest English treaties as reflecting the ideological claims of rulers, as well as indicating certain legal issues which were necessary to legislate on, effectively stating treaties reflect both symbolic and pragmatic legal issues.[90] Lambert even suspects that the *Alfred-Guthrum Treaty* was made as a purely theoretical document, and other scholars have seen the treaty's border clause in particular as evidencing that the treaty was designed to be short term.[91] Despite this, the treaty's own prologue sets out that it is between the two rulers, their subjects, and '…both for the living and those yet unborn', undermining the notion that it was a short term treaty, and the clauses on compensation and exile have clear parallels in much of England's domestic laws.[92] As such, seeing this treaty as a purely theoretical document, designed only to be short term, is not supported by the treaty itself. Similarly, Nicol has commented that the 1198 Byzantine-Venetian treaty, made shortly before Venice's involvement in the Fourth Crusade, which comments on the friendship between the Venetians and Byzantium, was simply perpetuating an outdated myth.[93] However, while such language was symbolic, it also refers

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[88] *Treaty of Falaise*, 2-5; *Treaty of Devol*, 134.

[89] *Treaty of Silistra*, 89-90.

[90] Lambert, 'Frontier Law in Anglo-Saxon England', 20-40.

[91] Lambert, 'Frontier Law in Anglo-Saxon England', 23; Dumville, 'The Treaty of Alfred and Guthrum', 19; Davis, 'Alfred and Guthrum's Frontier', 806.

[92] *AGu*, prol; 'Leges Edwardi Confessoris (ECf1)', *Early English Laws*, ed. and trans. Bruce O'Brien, Available: https://earlyenglishlaws.ac.uk/laws/texts/ecf1/view/#edition/translation-20. Accessed: 21/04/2022 (specifically, see c. 20-20.6).

[93] *Treaty of Constantinople* (1198), 120; 'genus Veneticorum plurimum amicabile ac servile circa Romaniam per tempora iam multa…'; Nicol, *Byzantium and Venice*, 123.

to practical assistance Venice had given in the past due to similar treaties, and to dismiss it simply due to a souring of relations and the future events of 1204 is to interpret the treaty solely through the lens of hindsight.[94] Given that the two powers had even attacked one another in the early eleventh century, and that later treaties still resulted in substantial aid being given, there is no reason to see the 1198 treaty as a symbolic but empty gesture.[95] The practicalities of the treaty documents will be addressed in depth in the following chapters, and the pragmatism that rulers utilised in making treaties is an overarching theme of this work.

This project is by its very nature comparative. The objective of this thesis, as stated above, is to primarily analyse the treaty material. The project is not focused on defining and outlining the historical context of these documents, or the relationship between the involved parties. Some treaties, as noted above, are subject to extensive scholarship dedicated to these aspects, and this has been noted where relevant. As mentioned earlier, many of these studies tend to focus on particular individuals or events, and often only focus on one particular treaty, thus disguising wider trends that become apparent when comparing a larger variety of treaty documents. This is not to say that the project does not touch on the contexts of these agreements, but rather that they are not the main issue of discussion. Instead, this project sets out to answer three questions: which goals were commonly pursued within treaties by Byzantium and England, which approaches did these rulers use within treaties to achieve these goals, and which goals and approaches were unique to each power. In order to explore these questions, this project has highlighted six prominent issues (described below) that are often depicted as vital diplomatic problems for both Byzantium and England. More generally, these issues are intimately tied to the legislative apparatus and frameworks that these rulers

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[94] For instance, the treaty specifically recalls past service given by the Venetians, and the treaty made and privileges awarded for this. *Treaty of Constantinople* (1198), 122.
[95] For instance, see the circumstances surrounding the 1126 treaty. Nicol, *Byzantium and Venice*, 78-80.

had access to, and the treaties often shed light on the mechanisms of these, in conjunction with supporting evidence, such as letters, manuals, and narrative accounts.

The project's first thematic chapter is focused on redress, one of the most common problems dealt with in medieval treaties more generally. This is something which has been touched upon by a variety of scholarship, Abels, Lambert, Benham, Nicol, Penna, and others having commented on various aspects of redress in different treaties.[96] This chapter starts by providing a framework by which future research can distinguish between redress, gifts, and tribute, the terminology of each effectively being interchangeable in both treaties and surrounding evidence. It goes on to focus on the practicalities of treaties, specifically in their use of both parties' legal culture. These 'hybrid' redress clauses seemingly use legal elements from the domestic laws of both parties. Hybrid laws allowed the subjects of both parties to navigate the redress framework of the treaty, each party being familiar with particular aspects of the redress legislation enacted via these inter-ruler agreements. This is less prominent in the latter period, likely due to the spread of Roman law in the twelfth century, both in England itself, and amongst the entities that Byzantium dealt with. However, redress clauses remained localised, often treaties giving vague references to the law or custom of a particular place. Redress could also be utilised to subtly punish a particular party, and the treaties of both Byzantium and England contain clauses on this. This chapter also comments on the traditional division between symbolic and material redress. All of these topics are touched on primarily using the treaties, but narrative accounts and other supporting evidence are utilised to cement the chapter's conclusions. Redress is a particularly important issue to explore, as it is one of the most common issues that appears within treaties, and seems to have been a

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[96] Abels, 'Paying the Danegeld', 173-192; Lambert, 'Frontier Law in Anglo-Saxon England', 20-40; Benham, *ILE*, 92-126; Nicol, *Byzantium and Venice*, 101-102; Penna, 'Piracy and Reprisal in Byzantine Waters', 36-52.

fundamental aspect of making a treaty in this period.[97] Exploring redress within the treaties evidences that it was an issue that both Byzantium and England pursued in common via these documents, and that the rulers of both peoples were concerned with ensuring redress to be paid to their subjects and themselves was accessible. This was a vital aspect of preserving peace between communities, and this is reflected in how common this issue is within the treaties.

Chapter 2 focuses on religious rituals, such as baptism and confirmation, in treaties and in surrounding diplomatic events. This chapter is more historiographical in nature, as while religious rituals had their place within medieval diplomacy, they are not contained within the Byzantine or English treaties themselves. Some scholarship on this subject has entangled the events surrounding treaties with actual treaty documents, particularly when describing interfaith diplomacy. As such, this has perpetuated the view that treaties between peoples of different faiths were often very different from those between Christian peoples. Some scholars have even gone so far as to say that peace between peoples of different faiths was impermanent by design. However, as this chapter will show, this reflects more theological and philosophical ideals surrounding interfaith peacemaking, and is not reflected in the treaty documents, which are fundamentally pragmatic in nature. This develops into a more general discussion of how treaties worked, examining the 'inter-ruler' aspect of these agreements, and how this tied into treaties' longevity, ultimately showing that the longevity of a treaty was not related to the religious identities of those involved.

Chapter 3 follows with an exploration of another issue intertwined with religion within the treaties of both Byzantium and England, namely ecclesiastical authority. The control of particular clerical titles and offices, as well as specific churches, was intimately tied to the

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[97] For more on this see Benham, *ILE*, 92-98.

administrations of both peoples in this period. Indeed, in both the Byzantine Empire and the Kingdom of England, bishops often held considerable power, and played important roles within the courts of each people. As such, controlling the churches, bishops, and clergy of another people could expand a rulers' power, and result in extensive legal privileges for particular groups of people living abroad. As one may expect, due to Byzantium's and England's respective relationship with the Papacy, there were significant differences in approach to ecclesiastical authority. In particular, Byzantium has treaties concerning this issue with each of the Italian cities, as well as with the Emirate of Aleppo and the Principality of Antioch. There are significantly fewer English treaties concerning ecclesiastical authority, and one of these, the *Treaty of Canterbury*, only does so via omission. This seemingly reflects that English rulers had to pursue this theme subtly, in order to avoid infringing upon Papal authority, and risking a Papal response. For the rulers of Byzantium, this simply was not the case. Examining the evidence of ecclesiastical authority in treaties hence tells us that both peoples had different approaches to this theme, but ultimately both still concerned themselves with it via treaties. This evidences that these rulers had to concern themselves with the authority of the Church, an entity that simply had too much power to be ignored.

Chapter 4 touches on a common issue legislated on via treaties, that of the movement of slaves and exiles. The movement of exiles has received significant attention by Benham, who specifically points out the relationship between exiles and mercenaries.[98] As such, the crux of this chapter deals with aspects of the movement of people and exiles that Benham, and other scholars, have not analysed in depth, such as the movement of slaves. As slaves were a vital source of labour in the period, rulers consistently acted to ensure that their runaway slaves were not accepted by the other party. This is particularly interesting when the treaties that explicitly touch upon slaves were often made in the aftermath of a conflict between the two

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[98] Benham, *ILE*, 56-79.

parties. This implies that by accepting such a clause, rulers may well have accepted that they had to reject any of their own enslaved subjects fleeing home after having been captured in warfare. This chapter also differentiates between, and explores, the ways rulers were not only required to 'passively' reject exiles that presented themselves to a ruler, but also 'actively' create barriers to exiles migrating between different polities. This shows significant concern on behalf of both Byzantine and English leaders, perhaps reflecting that exiles were well known for fleeing abroad, and returning home with foreign backing. The chapter then explores an in-depth comparison between two Byzantine and English treaties that were made with exiles, being the *Treaty of Andover* and the *Treaty of Baghdad*. This is particularly enlightening as each treaty highlights exiles providing an additional military force for a ruler. Of course, an important aspect of exile was also exiles eventually returning home peacefully, and we have clear approaches in common for each power at times offering amnesty to their former exiles, allowing their people to move forward from a conflict. Narrative evidence is used in this chapter, particularly in discussing the case studies of the treaties of Andover and Baghdad, in addition to domestic laws and letter evidence to shed light on the legislative mechanisms rulers used to control the movement of slaves and exiles. The rulers of each people largely approached this theme similarly, utilising active approaches to the barring of exiles, and offering amnesty to particular exiles to move on from a conflict. However, the Byzantine emperors seem to have been much more concerned with the safe return of their subjects taken as slaves during conflicts, something simply not touched on by English rulers, at least in their treaties.

The movement of military services is perhaps one of the most dynamic issues touched on in these treaties, and is the focus of Chapter 5. This chapter engages with historiographical discussions surrounding the term 'mercenary' utilising the treaties, and highlights that there is no consistent terminology within the treaty corpus to specifically describe hired foreign

troops. This chapter then goes on to discuss two specific methods that rulers utilised to make use of foreign troops within treaties, either utilising a foreign community living domestically, or hiring them from abroad. Both Byzantium and England utilised these methods, highlighting that the rulers of both peoples dealt with the practicalities of hiring manpower in similar ways. Each entity also seems to have used foreign rulers as 'recruitment officers' to augment their military recruitment pool. However, only Byzantium seems to have sent their own 'domestic' recruitment officers abroad. These treaties touch on the practicalities of this service, including the transport of troops, how they were to be paid, and what exemptions providers had from performing military service. This latter point is particularly interesting, as it shows clear awareness of the obligations each party had to other, third party, rulers. Each ruler had to navigate vast diplomatic networks to enlist military support, which seems to show that both Byzantium and England had particular rulers they appealed to in order to deal with specific threats. Although there are some differences in approach each people used when dealing with this issue, the overall goals and majority of approaches utilised by each people were similar. Examining this issue is particularly important, as it touches on the foresight and administrative capacity of these rulers. This issue in particular highlights that the capability and planning that underpinned military service, obtained by the Byzantine emperors and English kings, far surpassed that which medieval rulers are often credited.

Finally, Chapter 6 focuses on the movement of goods within the treaties. Trade is a well-discussed issue by Byzantinists of the period, and there is a large volume of scholarship that analyses trade within Byzantine treaties and other sources.[99] By contrast, English trade is typically touched on utilising a handful of domestic laws and supporting narrative and

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[99] For an example see, Robert Sabatino Lopez, 'Silk Industry in the Byzantine Empire', *Speculum*, 20 (1945), 1-42.

archaeological evidence, with little analysis given to the English treaties.[100] This might reflect that English treaties are less concerned with trade than their Byzantine counterparts. However, there are treaties from England that touch on trade, particularly in the early period regarding where merchants were to enter a territory, presumably to allow these traders to pay particular tolls and taxes. This approach is mirrored in Byzantine treaties. Of the later English treaties, only one seems to concern trade taxation, being the *Treaty of Windsor*, and this seems to have gone largely unnoticed by scholarship.[101] By contrast, most of Byzantium's twelfth century treaties touch on taxation, often giving tax exemption to the Italian cities. This evidences a difference in approach between the two, and may also evidence English rulers' preference for legislating on trade via domestic law and grants to local trade hubs, and Byzantium's status as a source of long-distance trade. Despite these differences, there are also clauses in common, particularly regarding the movement of goods for armed forces, which are analysed in depth by this project. This chapter then discusses the movement of landownership, particularly with regard to assets pertinent to the movement of goods. Again, while there are noticeable differences in approach to trade between the two powers, there are still similarities. It is also worth emphasising that despite any differences, the treaties made concerning trade are steeped in pragmatism, being shaped by how each power dealt with the movement of goods, and each power legislating on this via treaties accordingly. Ultimately, analysing this issue within treaties is particularly important, as it evidences the active efforts that rulers made to control the movement of goods through their peacemaking relations, and that these rulers were not simply passive concerning trade. There are clear parallels to be drawn between how modern states approach the movement of goods and the methods used by their medieval counterparts.

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[100] For instance see, Francesca Tinti, *Europe and the Anglo-Saxons* (Cambridge: CUP, 2021), 38-50.
[101] *Treaty of Windsor*, 84.

Although approaching these issues within treaties using a comparative approach reveals similarities and differences in the diplomatic methods used by each power, comparative methodology also has its limitations. For instance, comparing these entities across a span of three centuries means it is difficult to note every difference between these societies, cultures, and historical contexts that they were surrounded by. If this project was solely concerned with either Byzantium or England, it may well be plausible to note not only every treaty, but every supporting narrative example, domestic law, letter, and manual to support exploration of a particular issue within the treaties. This project has endeavoured to show the historical nuances surrounding each people, as well as specific treaty examples. Despite this, even the terminology used has been difficult to pinpoint at times, scholars from both fields utilising a variety of terms for what often amounts to a synonymous concept. For instance, the terms 'exile', 'outlaw', or 'those banished' are often used interchangeably by scholarship. It is also important to emphasise the extensive histories of both entities, and the in-depth scholarship written surrounding each people. While preparing this project required an in-depth understanding of both peoples, the comparative nature of the project necessitated less focus being given to either Byzantium or England compared to projects focusing solely on either power. This allows the project to focus on treaties to give novel insights into rulers' diplomatic goals and methods. Although the issues of comparative history are challenging, the comparative element of this study is essential, in order to fulfil the project's goals, and highlight similarities and differences in the goals and approaches each power utilised within treaties. The very nature of medieval sources, being documents that have a low survivability, necessitates that looking at treaties individually, or at a small group of treaties from one entity or from a small time period, can only lead to limited conclusions. Such conclusions might overlook wider trends within inter-ruler peacemaking and diplomacy. As such, comparing the treaties from two 'state-like' entities in the medieval world, which were some of the most

bureaucratic of the time, allows a historian insight into the aims and approaches utilised by these powers. It also allows us to appreciate the in-depth and complex legislative framework rulers utilised to reach out to one another and address particular issues. Fundamentally, this project evidences that despite the vast differences between Byzantium and England, when it came to treaty-making, these powers had more in common than not.

Chapter 1: Redress

Redress, the act of paying compensation for a wrong or perceived wrong, is a complex and recurrent issue in the treaties of the period 900-1200. Indeed, the majority of treaties from this period set out some form of framework by which redress for damages, injuries, and/or general losses can be claimed.[102] Jenny Benham has even argued that redress is a fundamental aspect of peace, and that peace is effectively the state in which one can petition another for redress.[103] Although this is certainly one of the most common themes within the treaty corpus, the framework of redress varies significantly from treaty to treaty. Some treaties have a vague framework with little detail regarding what form any redress will take. For example, the *Treaty of Adrianople* (1190) has the Byzantine Emperor Isaac II promise to '…make reparations for the loss of goods suffered at Constantinople by the Bishop of Munster… in accordance with the advice of the Lord Emperor of the Romans', being the crusading Frederick Barbarossa.[104] Presumably, in this instance at least, the redress offered here was to be settled outside of the treaty, this being implied by the 'in accordance with the advice of the Lord Emperor of the Romans' part of the clause. By contrast, other treaties are quite specific regarding how redress was to be claimed, and what form this redress would take. For example, the *Treaty of Andover* (994), between Æthelred II and a Viking army, is quite specific in its claims. Clause 4 states that 'If a man is robbed of his goods, and he knows by which ship, the steersman is to give back the goods, or to go with four others, being himself the fifth, and deny [the charge, swearing] that he took it lawfully, as it was agreed upon above'.[105] As Benham has highlighted, the difference here lies in the *Treaty of Adrianople* dealing with a crime that has taken place, while the *Treaty of Andover* deals with

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[102] For instance, see *Treaty of Aleppo*, c. 12; *Treaty of Andover*, c. 5; *Treaty of Genoa* (1169) [MS B], 187; *Treaty of Montlouis*, 69.
[103] Benham, *ILE*, 92-97.
[104] *Treaty of Adrianople*, c. 11.
[105] *Treaty of Andover*, c. 4. Translation from *EHD*, I, 402.

hypothetical, future, crimes.[106] This notion is reinforced by the 991 *Treaty of Rouen*, which makes peace between Æthelred II and Richard I Duke of Normandy, and vaguely states 'that if any of their people, or they themselves, were to commit any wrong against the other, it should be atoned for with a fitting compensation'.[107] Of the few scholars that have written on redress in the treaty-making arena, only Benham has noted the difference in clauses dealing with past wrongs and clauses dealing with hypothetical future wrongs.[108] This distinction is useful, as the differences in treaty-making practice shed light on rulers' intentions in particular circumstances, i.e. whether rulers were specifically concerning themselves with past wrongs or were setting out a framework for any future crimes that might be committed. Although much has been written on redress in a domestic setting, particularly in the Anglo-Saxon law codes, the treaties offer a fresh perspective on redress and its role in peace-making. Indeed, although Benham's work on redress within treaties is ground-breaking, there are several areas where novel scholarship can be written. For instance, the use of 'hybrid' legal cultures in redress clauses has been noted in particular instances, but not seen as a wider effort by rulers to ensure their subjects were familiar with the mechanisms of redress in relations with other peoples. By ensuring the subjects of each people were familiar with the relevant redress clauses, communities could avoid potential friction which might escalate into conflict. Rulers also reached out to one another to gain redress from exiles, taking a collaborative approach to the issue, and even at times utilised redress to inadvertently punish those affected by the treaty. While these will be key points of this chapter's discussion, there are also historiographical issues that need clarifying. One such issue is that the terminology surrounding redress in both the narrative evidence and the treaties is muddied, leading to confusion in scholarship on the topic. A separate point of contention is the divide between

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[106] Benham, *ILE*, 111-112.
[107] *Treaty of Rouen*, 37-38. Translation from *EHD*, I, 824.
[108] Benham, *ILE*, 93-96.

material and symbolic redress, which is difficult to see in the treaties themselves. Ultimately, redress within treaties offers insight into the mechanics of conflict resolution between rulers and communities, revealing the pragmatic approaches each party took to ensure their subjects could receive compensation for a perceived wrong. This is true for treaties across the medieval world, and apparent in the treaties of both Byzantium and England.

Accounts of treaties, as well as treaties themselves, often detail transmissions of material goods, cash, lands, and titles. Scholarship on the transmission of goods and cash in particular is extensive, and contains a plethora of different views as to what these things are, some seeing it as a part of tribute, redress or just a 'no strings attached' gift.[109] Marcel Mauss has famously argued that the giving of gifts is an important, ceremonial, aspect of many societies.[110] In fact, in this view, the subject society contains three important obligations: the obligation to give; the obligation to receive; and the obligation to reciprocate. Mauss saw this as an effective way for rulers to maintain relationships with their subjects, as well as other rulers, gifts indicating that one's wealth was caused by the favour of deities, and thus cementing one's status as a successful ruler. By contrast, William Miller has seen gift giving as a way of defining, rather than maintaining one's relationship, focusing on competitive shows of gift giving in Icelandic Sagas.[111] However, for both Miller and Mauss, the aim of gift giving is to bring the recipient into the debt of the giver. To prevent this, the recipient will often attempt to redefine this event as a commercial transaction, where the gift is exchanged with something as valuable. This sharp distinction, between gift and trade, is

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[109] For a more in depth discussion of the historiography of gift giving see, Florin Curta, 'Merovingian and Carolingian Gift Giving', *Speculum*, 81 (2006), 671-676; Lars Kjær, *The Medieval Gift and the Classical Tradition: Ideals and the Performance of Generosity in Medieval England, 1100–1300* (Cambridge: CUP, 2019), 42-65; Wendy Davies, 'When Gift is Sale: Reciprocities and Commodities in Tenth-Century Christian Iberia', in *The Languages of Gift in the Early Middle Ages*, eds. Wendy Davies and Paul Fouracre (Cambridge: CUP, 2010), 217-237.

[110] Marcel Mauss, 'Essai sur le don: Forme et raison de l'échange dans les sociétés archaïques', *Année sociologique,* 1 (1923-24), 30-186.

[111] William Ian Miller, 'Gift, Sale, Payment, Raid: Case Studies in the Negotiation and Classification of Exchange in Medieval Iceland', *Speculum* 61 (1986), 18-50.

further developed by Georges Duby. Duby stresses the nature of gift giving as an obligation, following Mauss, but sees gift giving as an intrinsic part of the medieval economy.[112] This economy was driven by pillaging, gift giving and largesse, while trade steadily increased across the period. In this view, the movement of land ownership, lump sums of money, and other valuables are often seen in light of the dynamics of gift giving. As such, transferring these things via treaty would not be seen as redress.

Byzantinists have also studied the role of gift-giving. Anna Muthesius has argued that Byzantium used its monopoly over silk as a political tool, indicating Imperial favour and standing to recipients.[113] As silk was such a precious material, it also allowed Byzantium to attract allies, seeking both the material and Imperial favour, showcasing that silk's economic and political worth was fundamentally linked.[114] Similarly, Anthony Cutler sees the exchanging of gifts as 'inciting exchange' by which both the ruler's status is enhanced and the recipient receives a taste of the wares made by the gift giver's people, potentially fuelling future trade.[115] Interestingly, he touches on how gifts, tribute, loot and trade could be seen as synonymous, arguing that this reflects the values of the elites involved in the exchange.[116] Cutler's argument, as well as scholarship on gift giving in general, touches on a fundamental problem in the sources, that there is no consistent terminology separating redress, gifts and tribute. This problem was highlighted by Timothy Reuter in 1985, who pointed out that in the Carolingian Empire there seems to have been little difference between tribute, plunder, and

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[112] Georges Duby, *Guerriers et paysans, VIIe-XIIe siecle: Premier essor de l'economie européenne* (Paris: Gallimard, 1973), 62-63.
[113] Anna Maria Muthesius, 'Silk, Power and Diplomacy in Byzantium', in *Textile Society of America Symposium Proceedings* (Earleville, MD: Textile Society of America, 1993), 103-104.
[114] Muthesius, 'Silk, Power and Diplomacy in Byzantium', 102.
[115] Anthony Cutler, 'Gifts and Gift Exchange as Aspects of the Byzantine, Arab, and Related Economies', *Dumbarton Oaks Papers*, 55 (2001), 270.
[116] Cutler, 'Gifts and Gift Exchange', 275-278.

gifts.[117] For example, in 798 Alphonso II of Asturias sent Charlemagne *loricae*, being coats of mail, mules and Moorish prisoners after taking Lisbon.[118] The Frankish annals imply that this was expected behaviour, that one should send trophies of victory to one's lord. Despite this, Charlemagne himself had sent Offa, the king of Mercia, similar gifts only a few years earlier, and even the most one-sided portrayal of Offa's and Charlemagne's relationship would hesitate to infer from this that Offa was Charlemagne's superior. Reuter effectively recognises that the sources themselves are not consistent in how they portray these transactions.

An illuminating case study that demonstrates the 'muddied' terminology regarding these transactions is a narrative account of a diplomatic mission sent to Genoa in 1170 by the Emperor Manuel. Byzantine envoys arrived in Genoa with a gift of 56,000 *hyperperi*, 'of the emperor's good will' (*ex gratia imperatoris*), which the envoys were to give (*dare*) to the Genoese, and a treaty which the Genoese envoy, Amico di Murta, had apparently agreed to.[119] The Genoese hesitated in accepting either the money or the agreement, as Amico had yet to return from his mission to Constantinople, and as such, it was not clear what Amico had agreed to. Eventually Amico returned safely, but it soon became apparent that the envoys of the emperor and the Genoese envoy had very different ideas concerning what had been agreed. The chronicle recording this emphasises that the commune of Genoa preferred not to accept a supposed 'gift' as this could bring unhelpful consequences due to a lack of prudence (*igitur maluit Comune nostrum milia perparorum predicta respuere quam ad aliquod*

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[117] Timothy Reuter, 'Plunder and Tribute in the Carolingian Empire', *Transmissions of the Royal Historical Society*, 5 (1985), 76-85.

[118] Reuter, 'Plunder and Tribute in the Carolingian Empire', 85-87.

[119] 'Oberti Cancellarii Annales', *MGH, Scriptores (in folio)*, ed. Georg Heinrich Pertz, 39 vols (Hannover: MGH, 1863), XVIII, 86. Translation available here, *Caffaro, Genoa and the Twelfth Century Crusades*, 171. The *hyperpyron* was a form of gold Byzantine coinage, introduced by Alexios I Komenenos in 1092. For more on this, see Alexander Kazhdan et al, *The Oxford Dictionary of Byzantium*, 3 vols (Oxford University Press, 1991), II, 964–965.

inconveniens incaute voluissent devenire).[120] The implication here, is that the gift had strings attached, which had presumably been imparted to the envoy of the emperor, sums of money being staples of Byzantium's agreements with Genoa.[121] If the other agreements are anything to go by, this could have been payment for military service or redress, perhaps for lost goods.[122] Indeed, this took place in July 1170, very shortly after the *Treaty of Constantinople I* (1170) was made in April that same year.[123] Perhaps this payment was to make up for some terms Genoa had pursued but failed to attain in negotiations, or for something that the emperor had agreed to, but had in hindsight been unable to grant. Unfortunately, this is just speculation without the treaty the Byzantine envoys attempted to get Genoa to agree to. The issue remains that the offered money is a mystery. The language used, *ex gratia imperatoris* and *dare* imply it is a gift. The Genoese refusing the money due to unforeseen requirements, implies a payment. That other treaties were soon negotiated after this might even indicate it was redress.

English peace-making examples have also led to confusion amongst scholars, with no consistent terminology being used in the primary sources for exchanges of lands, payments of cash, or transferral of other goods in peacemaking contexts. In 1173, during the initial part of The Great Revolt against Henry II, Henry attempted to make peace with his rebellious sons,

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[120] 'Oberti Cancellarii Annales', 86.
[121] 'Oberti Cancellarii Annales', 86.
[122] For instance, payments of land are made in the 1155 treaty, as well as lump sums of cash, in return for military service. *Treaty of Genoa* (1155), 263.
[123] Franz Dölger and Cesare Imperiale disagree on the dating of the treaty, Dölger stating it dates to May of that year, Imperiale stating it was made in April. Imperiale's date seems more plausible as the treaty states 'Mense aprili decima'. There is a second 1170 treaty made between Byzantium and Genoa, and again both Dölger and Imperiale disagree on its dating (Dölger once again saying it was made in May and Imperiale stating it might have been made in August). I will not discuss this in-depth as ultimately it does not contribute to the wider thesis. For the purposes of the project, I agree with Imperiale's dating, i.e., that the first treaty was made in April, and the second August. *Treaty of Constantinople I* (1170), 119; *Regesten der Kaiserurkunden des oströmishen Reiches von 565–1453*, ed. Franz Dölger rev. by Peter Wirth , 3 vols (Munich: C.H. Beck, 1995), I, 258-259.

offering them various lands, revenues and castles.[124] Additionally, Henry offered to submit

himself to the judgement of a papal legate. His sons had been turned against their father by

the king of the French, Louis VII, if we are to believe Roger of Howden's account. However,

Roger maintained that many of the concerns of Henry's sons were centred around the lands

they controlled, and the belief that they deserved more.[125] John Hosler has seen the

hypothetical agreement offered by Henry to his sons in 1173 less as a gift and more as a

transactional offer of lands, revenues, and castles in return for peace.[126] This can certainly be

justified, as the term used by Roger to describe the terms of the agreement is *obtulit*. This

phrase can be translated as 'offered', 'presented', or 'bestowed'. However, each of these can

be interpreted in various ways, to the benefit of the different parties involved. If we see the

land and other things offered as a gift, this would be to the benefit of Henry, as if accepted it

either cements or re-establishes the relationship between himself and his sons, depending on

whether one subscribes to Mauss' or Miller's model.[127] If we see it as a tribute, given that

Henry offered these lands for peace, this clearly benefits Henry's sons, implying they have

the upper hand in the negotiations and have forced their father to offer them tribute to end the

conflict. Or, given the context that Henry's sons felt wronged by their father, perhaps we

should see this as redress. Certainly, this is somewhat supported by the condition that Henry

submits himself to a third party for judgement, essentially recognising that Henry's sons may

have valid cause for complaint. The muddied terminology surrounding these interactions may

reflect that contemporaries themselves did not know how to categorise them. The grey area

surrounding whether something was a gift, or whether something was a tribute, may even

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[124] *Chronica*, II, 53. Louis seems to have been well aware that this 'gift' would undermine the rebellion, as Roger implies Louis played a significant part in Henry's sons declining the offer. Roger does not give details as to how Louis actually influenced their decision.

[125] *Chronica*, II, 45-46.

[126] John D. Hosler, *Henry II: A Medieval Soldier at War, 1147-1189* (Leiden: Brill, 2008), 207-208.

[127] Mauss, 'Essai sur le don: Forme et raison de l'echange dans les societes archaeques', 145-279; Miller, 'Gift, Sale, Payment, Raid: Case Studies in the Negotiation and Classification of Exchange in Medieval Iceland', 18-50.

have been intentional. This would allow the various parties involved in these transactions to portray them in a positive manner, regardless of whether they gave tribute, a gift, or redress. For example, the Byzantine practice of giving elaborate and expensive gifts is well documented, Constantine VII famously stating in *De Administrando* that one must shower the Pechenegs with gifts to win their favour, and to entice them to make war on the enemies of Byzantium.[128] The Pechenegs themselves almost certainly will have seen this as tribute, enhancing a specific Pecheneg ruler's reputation as a war leader, while Constantine VII saw this as a gift verging on a payment to win the Pecheneg's favour. Indeed, knowing that Byzantium consistently paid for military aid from the Italian cities, one could even see this as a payment for military service. For instance, the 1155 *Treaty of Genoa* states that two *pallia* were given to the Genoese, with the Genoese later promising to provide military support to the empire.[129] This is not to say that the Pechenegs were necessarily being paid for military service, but rather that such transactions could be interpreted in a variety of ways.

Although these narrative accounts of diplomatic transactions are of interest, treaties offer a unique perspective on rulers' actions in a peace-making context, being documents made between two powers, although not always preserved as such, rather than the commentary of one chronicler often affiliated with one of the parties. One would think that this allows for greater clarity regarding what is a gift and what is redress, at least within treaties. However, as Benham has highlighted, even within treaties there is no consistent terminology regarding tribute, plunder, gifts, and redress.[130] While this is certainly true, we can infer which clauses were redress, and which were not, using a combination of the treaties and the surrounding context. An excellent case study to demonstrate this framework is the 1082 *Treaty of Constantinople*, between Byzantium and Venice. The treaty states that in return for Venetian

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[128] *De Administrando*, 50-51.
[129] *Treaty of Genoa* (1155), 263.
[130] Benham, *ILE*, 120-121.

naval service, Emperor Alexios gave the Venetians '20 pounds annually… in order that they may be distributed among their own churches according to their wishes'.[131] Additionally, Alexios 'also honoured their noble duke with the most venerable office of *Protosebastos* and also its fullest wage (*roge*)'.[132] The Venetian Patriarch also received a title and wage, Alexios honouring them with the title 'Hypertimon, i.e. most honoured, with a wage of twenty pounds'.[133] Additionally, Alexios sought to gather three *numismata* a year 'from anyone also in the great city, and in all Romania, holding workshops of all the Amalfitans, who are under [Alexios's] power', to be given to the Church of Saint Mark in Venice.[134] Finally, Alexios grants the Venetians a number of landing stages and warehouses in the wider Empire and Constantinople, as well as a number of trade privileges.[135] Nicol sees these titles, sums of money, and grants of land as a reward for Venetian loyalty, in particular for serving against the Normans at Durazzo.[136] However, Nicol also sees the payment made by the Amalfitans of the empire to the Church of St. Mark as a humiliating tribute to the Venetians, rather than payment, a gift, or redress.[137] Despite this, when taking into account the context of the treaty, as well as the definition of redress, it is clear that this clause concerning the Amalfitans is a form of redress. While the Venetians had fought the Sicilians at sea, they ultimately lost this particular battle, and their losses were likely considerable.[138] The Amalfitans had been made

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[131] 'Unde et in remuneratione huiusmodi ipsorum servitiorum bene uoluit Imperium meum per presens chrysobullion sermonem, accipere eos annue in tempore roge solempnium librarum XX et ut distribuantur hec in proprias ecclesias secundum ipsorum uelle'; *Treaty of Constantinople* (1082), 52.

[132] 'Honorauit autem et nobilem Ducem eorum uenerabilissima Protosebasti dignitate cum roga etiam sua plenissima'; *Treaty of Constantinople* (1082), 52.

[133] 'Honorauit et patriarcham eorum Hypertimon, i.e. superhonorabilem, cum roga librarum uiginti'; *Treaty of Constantinople* (1082), 52.

[134] 'Constituit uero Imperium meum, et santissimam ecclesiam sancti apostoli et evangeliste Marci, qui est in Uenetia, ab uno quoque in magna civitate et omni Romania tenentium ergasteria Amalphitanorum omnium, qui sunt sub potestate eius… accipere per unumquemque annum numismata tria'; *Treaty of Constantinople* (1082), 52. It is worth noting the term 'Romania' is effectively synonymous with Byzantium here, the latter being a term modern historiography has coined to describe the medieval Roman Empire.

[135] *Treaty of Constantinople* (1082), 52-53. This is discussed in depth in Chapter 6.

[136] Nicol, *Byzantium and Venice,* 60-61.

[137] Nicol, *Byzantium and Venice*, 61-62. Interestingly, Penna does not comment on the Amalfitan clause. Penna, *The Byzantine Imperial Acts*, 26-34.

[138] *Alexiade*, I, 56-61 and 145-163; Nicol, *Byzantium and Venice*, 57.

subject to the Normans only five years prior to the treaty being made. As such, the Amalfitans of the empire being made to pay a sum to the Venetians was effectively taking money from the subjects of the Venetians' recent opponents. This context clearly highlights that the Amalfitans, by proxy of their status as Norman subjects, had committed a wrong or at least a perceived wrong, in the eyes of the Venetians. Bearing this in mind, and knowing that the Amalfitan subjects of the Normans were forced to send money not only to Venice, but the church of the patron Saint of the city, highlights that this payment was redress for the Venetians' losses at the hands of the Normans. Clearly, by exploring the context surrounding treaties, we can infer which clauses are redress clauses, and which are not. While the clause on the Amalfitan compensation given to Venice is redress, we cannot say this of the other clauses of the 1082 *Treaty of Constantinople*. This is as the titles and associated wages, as well as the grants of land, are directly given for the service of the Venetians. Indeed, the treaty emphasises the service given by the Venetians as the main reason for Alexios's grants.[139] Thus the granted titles and lands read more like a payment for military service rather than redress given for a perceived wrong.

This framework can also be used to clarify relevant redress clauses in other treaties. For instance, the 969 *Treaty of Aleppo* has two particular clauses that transfer large amounts of wealth within the treaty, and which could potentially be seen as a form of redress, a gift, or a tribute. The *Treaty of Aleppo* states that the Emirate of Aleppo was to make:

 'Payment [to the Byzantines] of a capitation tax of one Dinar, to the value of 16 Islamic Dirhams, by all inhabitants old and young, of the localities comprised in the truce.

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[139] *Treaty of Constantinople* (1082), 51. For more on this see Chapter 5.

Payment [to the Byzantines] of 700,000 Dirhams annually for the regions comprised in the truce'.[140]

Holmes has argued that the initial capitation tax was an annual tribute to Byzantium, saying that taking tribute and holding a loose influence over smaller powers on Byzantium's eastern frontier was characteristic of multiple emperors' eastern policies in the late tenth and early eleventh centuries.[141] This is a valid and useful point, but it is difficult to see how this is any different to any form of taxation. Furthermore, Holmes is completely silent concerning the 700,000 Dirhams mentioned in the treaty.[142] Other scholars have also ignored the issue of redress within the treaty. Farag, for example, focuses on the *Treaty of Aleppo* when explaining both Byzantium's and the Fatimid Caliphate's policies in Syria, explaining that neither power could afford to ignore Aleppo due to its strategic position, but also does not mention the 700,000 Dirhams at all.[143] The former payment seems to be a tax the people of Aleppo were to pay, having now been brought into Byzantium's sphere of influence, and is comparable to the Byzantine *kapnikon*, or 'hearth tax', itself a modification of the former capitation tax of early Byzantium.[144] As such, this is not a payment of redress or a tribute, as it is not compensation for a wrong or perceived wrong. The 700,000 Dirhams is more problematic, but I believe it is a redress payment. The treaty was made when the Byzantine general Peter Phokas was besieging Aleppo, and contains other clauses allowing the Byzantine emperor to appoint the future ruler of Aleppo once the current emir and his son had died. Given this one-sided nature of the treaty, and that the emir of Aleppo retained control of the city, this clause seems to be redress given to compensate the emperor, having

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[140] *Treaty of Aleppo*, cc. 1-2. A capitation tax, as the term suggests, is a tax for every individual in an area, or 'per head'. For more on the context of this, see Angeliki E. Laiou, *The Byzantine Economy* (Cambridge: CUP, 2007), 51.
[141] Holmes, 'Byzantine Treaties with the Islamic World', 149-153.
[142] Holmes, 'Byzantine Treaties with the Islamic World', 141-157.
[143] Farag, 'The Aleppo Question', 44-59.
[144] Laiou, *The Byzantine Economy*, 51.

postponed his right to appoint the emir as soon as the treaty was made. This is ultimately supported by the wording of the clause, the payment being made 'for the regions comprised in the truce'.[145] Thus, while the capitation tax is not compensation, the lump sum of 700,000 Dirhams was, likely being paid to offset Byzantium's loss of direct control over Aleppo.

This framework can also be applied to the *Treaty of Andover*, which also has a lump sum of cash paid within the treaty, and much scholarship has been dedicated to dissecting exactly what this payment was for. The final clause reads 'Twenty-two thousand pounds in gold and silver were paid from England to the army for this truce'.[146] Although it is tempting to read this as a payment of redress, ultimately this is clearly a payment for military service, not redress. This may seem surprising, as many of the clauses within this treaty concern redress in one way or another. Indeed, almost half the clauses in the treaty concern individual redress, either for killing, theft or clarifying that those who committed crimes prior to the treaty were to be offered amnesty, i.e. no redress was to be owed. It could be argued that redress in this scenario is paid to the army to make up for expenses and lost opportunity for looting the English. The payment here is perhaps comparable to later examples which have been seen as redress. For instance, in the *Treaty of Azay* Henry II agreed to pay Philip Augustus 20,000 marks of silver, and when Richard I shortly afterwards succeeded his father and renewed this agreement, he promised to pay Philip Augustus 4,000 marks explicitly for Philip's expenses.[147] However, as mentioned above, ultimately the view that the payment in the *Treaty of Andover* is concerned with redress is flawed, this payment being more concerned with military service than redress.[148] This is intrinsically linked with one of the opening clauses of the treaty, which states '…that if any fleet harry England, we (the English) are to

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[145] *Treaty of Aleppo*, c. 2.
[146] *Treaty of Andover,* c. 7.2. Translation from *EHD*, I, 402.
[147] *Treaty of Azay*, 365; 'In eodem colloquio Richardus dux Normanniae promisit se daturum regi Franciae quatuor millia marcarum esterlingorum pro expensis suis, et praeterea illas viginti millia marcarum quas pater ejus promisit'; *Gesta*, II. 74.
[148] For more on this see Chapter 5.

have the help of them all (the Viking army); and we must supply them with food as long as they are with us'.[149]

Much has been made of the payment and military service clauses by scholars of pre-Conquest England. I will not analyse this in much depth here, as this is done in Chapters 5 and 6. However, it is necessary to discuss the historiography here to demonstrate how we can differentiate between redress and payments for other services. For instance, Abels sees this sum as payment by Æthelred II to the leaders of the Viking army, both to serve the English king in the defence of his realm, and to fund Olaf's expedition to Norway, which would eventually see Olaf become king.[150] This is supported by Olaf leaving England soon after the treaty (and never returning), and his astounding success at becoming king of Norway, as well as his missionary activities. Abels suspects that the missionary activities, in particular, were funded by Æthelred. While this is certainly a possibility, we have very little evidence of English-backed missionary activity in Norway under Olaf, and the evidence that supports this claim is suspect.[151] As such, this ultimately seems to be speculation. However, Abels's initial supposition, that Æthelred bought off the Viking army, is echoed by Roach. For Roach, this was 'a last-ditch attempt to bring an intractable foe to heel', Roach seeing Æthelred as realising that if beating the raiders in battle was not an option, perhaps employing them to fight for him would work.[152] These conclusions seem reasonable, but while Abels and Roach agree on this, neither of them has made satisfactory comparison with other treaties to cement this conclusion. Benham, however, has explicitly compared the *Treaty of Andover* to the 1101 *Treaty of Dover*, between Henry I and Count Robert II of Flanders.[153] This comparison is

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[149] 'gif ænig sciphere on Englaland hergie, þæt we habban heora ealra fultum; ond we him sculon mete findon, ða hwile ðe hy mid us beoð'; *Treaty of Andover*, c. 1.1. Translation from *EHD*, I, 401.
[150] Abels, 'Paying the Danegeld', 190-191.
[151] Abels refers to much later accounts of English missionary activity in Norway. Alone, this account seems unreliable. Abels, 'Paying the Danegeld', 190.
[152] Levi Roach, *Æthelred the Unready* (Padstow: YUP, 2016), 176-177.
[153] Benham, 'Law or Treaty?', 490-494.

particularly helpful, as the *Treaty of Dover* is largely concerned with the count supplying military aid in return for payment. While there are certainly differences in the treaties, Benham highlighting that the 994 treaty does not specify any enemy while the 1101 treaty specifies the French king or any English baron or magnate, they both ultimately concern payments in return for soldiers. Although the language used in these treaties is different, the *Treaty of Andover* stating that the payment was made 'for this truce' (*pro pace*/*wið friðe*), and the *Treaty of Dover* states that £500 will be paid 'on account of the aforesaid peace and the aforesaid service' (*propter praedictas conventiones et praedictum servitium*), the structure of the treaty, particularly when it comes to the payment for military service, is very similar.[154] Both have the opening clauses which state that one party will defend the other, and both have the payments for this given towards the end of the treaty. Given the similarities between these two treaties, and that the *Treaty of Dover* is a treaty focused on military aid, it seems fair to say that the payment in the *Treaty of Andover* is also concerned with military aid, and not redress.

To continue to go through the entire treaty corpus of this thesis treaty by treaty, denoting which payments refer to redress and which do not, would only lead to the utility of this framework being overemphasised. However, this framework, of redress having to be paid for a wrong or perceived wrong, will clearly help scholars in evaluating redress clauses within treaties. Indeed, it has relevance to narrative episodes as well. For instance, with this framework in mind, the 1173 example concerning Henry II and his sons referred to earlier is an act of redress, Henry's sons perceiving a wrong, and Henry acting to rectify this wrong.[155] However, there are limits to this framework's uses. The Genoese example of the enigmatic offer of 56,000 *hyperpyra* by the Byzantines remains something of an enigma, as we simply

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[154] Treaty of Andover, c. 7.2; *Treaty of Dover* (1101), c. 18.
[155] *Chronica*, II, 45-46 and 53.

do not have enough documentary evidence surrounding this event.[156] As such, I believe we can utilise this reasoning to categorise certain actions as redress, while others remain in the grey area of gift or tribute.

While the lump sums of cash, grants of land, and various other gifts are at times difficult to interpret as forms of redress, gifts, or tribute, multiple treaties have clauses that are undoubtedly concerned with compensation, being personal redress clauses. For instance, the 911 *Treaty of Constantinople*, between Emperor Leo VI and the Rus' Prince Oleg, states:

'Whatsoever Rus' kills a Christian, or whatsoever Christian kills a Rus', shall die. If any man flee after committing a murder… the nearest relatives shall receive a legal portion of the culprit's property, while the wife of the murderer will receive a like amount…'.[157]

Such clauses are clearly a form of redress, often concerning assault, murder, or theft, being blatant wrongs, and setting strict fines to make up for the crime. Stein-Wilkeshuis however has argued that the above clause is likely from the Scandinavian legal tradition, highlighting similar clauses within Swedish domestic law codes.[158] Specifically, she notes that killing the perpetrator of a homicide as compensation for the victim's family is utilised in both the Rus' treaty and the later Swedish law codes. However, one should not be overeager to point out the different elements only being from one party's legal culture, particularly when the Swedish law codes date to at least the thirteenth century, and the majority are from the fourteenth and fifteenth centuries.[159] Stein-Wilkeshuis has further argued the 911 clause on assault, which had the culprit pay five pounds of silver in compensation, is echoed in the later Scandinavian

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[156] 'Oberti Cancellarii Annales', 86.

[157] *Treaty of Constantinople* (911), 66.

[158] Martina Stein-Wilkeshuis, 'Scandinavian Law in a Tenth-Century Rus' -Greek Commercial Treaty?', in *International Medieval Research 4: The Community, the Family and the Saint Patterns of Power in Early Medieval Europe*, eds. J.M. Hill and M. Swan (Turnhout: Brepolis, 1998), 315.

[159] Ditlev Tamm and Helle Vogt, 'Creating a Danish Legal Language: Legal Terminology in the Medieval Law of Scania', *Historical Research*, 86 (2013), 505-514.

law codes, which also asks for a redress in the form of precious metals.[160] However, given how common redress is in both domestic laws and treaties it is hardly surprising that redress appears in the Scandinavian law codes and the 911 treaty. Indeed, given the close contact between the English, Scandinavian, and Rus' worlds, one could more reasonably argue that the 911 clause reflects similar clauses within the *Alfred-Guthrum Treaty*.[161] This treaty was made with a Scandinavian party, and has 'eight and a half marks of refined gold' paid for subjects of either ruler killing those of the other, mirroring the 911 treaties payment of five pounds of silver for assault.[162] Furthermore, it is unnecessary to speculate that this is inspired by Rus' law. Treaties often combine different elements of each party's legal culture, and we can see many elements of Byzantine law in these clauses on redress. For instance, the *Codex of Justinian* specifies that in the case of homicide the perpetrator is not to suffer relegation or be deported to an island, but shall be put to death.[163] This clearly mirrors the initial part of the clause, 'Whatsoever Rus' kills a Christian, or whatsoever Christian kills a Rus', shall die'.[164] Interestingly, the rest of the clause, stating that if the perpetrator flees and is wealthy, their wealth will be split between the victim's family and the perpetrator's, is reflected in Byzantine domestic law. Specifically, if a murderer chose exile into a monastery, one third of their property went to the victim's family, another third to the culprit's children, and the final third to the monastery the culprit enrolled in.[165] This undated domestic law was issued by Constantine VII, and thus the earliest date for its origin is 913, perhaps hinting at Constantine taking inspiration from the treaty with the Rus'. Regardless, the treaty certainly has elements

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[160] *Treaty of Constantinople* (911), 66-67.

[161] For instance, on the close contact between these areas in regards to the slave trade see, David Wyatt, 'Reading Between the Lines: Tracking Slaves and Slavery in the Early Middle Ages', in *Viking-Age Trade*, eds. Jacek Gruszczyński, Marek Jankowiak and Jonathan Shepard (London: Routledge, 2020), 17-32.

[162] *AGu*, c. 2. Translation from *EHD*, I, 381. On the dating of this document, see Chapter 2. I am not arguing that AGu necessarily inspired the 911 Rus' treaty, but rather, it is a better comparison that much later Scandinavian laws due to its close temporal proximity.

[163] *Codex of Justinian,* III, 2318-2319.

[164] *Treaty of Constantinople* (911), 66.

[165] *Jus Graecoromanum*, ed. J. Zepos and P. Zepos, 8 vols. ([n. pub.], Athens, 1931; repr. 1962), I, 230-231. For further discussion of exile, see Chapter 4.

of Rus' law within it. Specifically, the clause on assault that Stein-Wilkeshuis singles out and compares to much later Scandinavian law explicitly states it draws inspiration from Rus' domestic law, 'If any man strike another with a sword or assault him with any other sort of weapon, he shall, **according to Rus' law**, pay five pounds of silver for such blow or assault'.[166] As such, it is unnecessary to make further comparison to later Scandinavian law codes, when the 911 treaty provides evidence of using Rus' law in and of itself. Effectively, by appealing to the legal traditions of each of the respective parties, the rulers involved ensured that personal redress clauses respected the cultures of each people, helping avoid potential friction that could lead to future conflict.

When looking more broadly at the treaty corpus of both Byzantium and England, it is hardly surprising that the 911 *Treaty of Constantinople* utilised a hybrid legal culture, combining the legal culture of both parties involved. Another good example of hybrid legal culture being used in redress is the *Ordinance of the Dunsæte*. For instance, if someone's cattle are stolen and they trace the tracks to the river dividing the English and Welsh community, the victim is to task whoever owns the land the cattle are tracked to with taking charge of locating the cattle within that land.[167] The treaty then states:

'The man who owns that land must take up the search himself and within nine days he must compensate for the cattle, or deposit on that day a pledge worth half as much again as the cattle. Within nine days from then he must redeem that pledge with the right compensation'.[168]

The paying of compensation was by no means alien to Anglo-Saxon domestic law codes, and is consistently discussed and compared to English domestic law when it appears in Anglo-

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[166] *Treaty of Constantinople* (911), 66-67. Emphasis my own.
[167] *Duns*, c. 1.
[168] *Duns*, c. 1.1. Translation from Noble, *Offa's Dyke Reviewed*, 105.

Saxon treaties.[169] Additionally, the responsibility of the owner of an area of land to follow the track of wandering cattle is also well established in pre-conquest English law, clause four of *II Edward* stating that any estate owner will have men explicitly for this purpose, and even linking this to specifically stolen cattle, 'nor shall they (those responsible for tracking cattle) anywhere shield crime, nor willingly and deliberately harbour [a criminal]'.[170] Interestingly, while Hough has seen such clauses as a common feature of Germanic law, rightly noting several comparable clauses on cattle theft in continental law codes, she does not discuss those in the *Ordinance of the Dunsæte*.[171] This might be due to the document being a treaty, and thus having several peculiar aspects, which are not mirrored in English domestic law. For instance, the repeated use of the number nine is odd as a legal unit, it not appearing in any Anglo-Saxon domestic code.[172] However, as both Liebermann and Molyneux have noted, when one appeals to the Welsh legal tradition, it is clear the number nine has legal significance, the number dominating the Gwentian Code of the *Laws of Hywel Dda*.[173] This use of hybrid legal culture emphasised the legal equality of the parties involved and their legal traditions (at least within this treaty), and this is emphasised throughout the treaty, multiple clauses making it clear that both the English and Welsh involved had an equal right to claim the same amount of redress for various different offences. For instance, the fifth clause of the treaty states 'If a Welshman kills an Englishman he need not pay over to this side more than half the man-price; no more than an Englishman for a Welshman to the other

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169 Lambert, 'Frontier Law in Anglo-Saxon England', 29-31.
170 Translation taken from *The Laws of the Earliest English Kings*, ed. F. L. Attenborough (Cambridge: CUP, 1922), 121. On this topic, see Carole Hough, 'Cattle-Tracking in the Fonthill Letter', *English Historical Review*, 115 (2000), 864-892.
171 Hough, 'Cattle-Tracking in the Fonthill Letter', 864-892.
172 None of the following Anglo-Saxon law codes seem to have a reference to a nine day period involved in legal procedure: (*Æthelstan's Grately Code*) DGA, I, 150–166; (*Æthelstan's Exeter Code*) DGA, I, 166-168; (*Edmund's Bloodfeud Laws*) DGA, 186-190; (Edgar's Whitbordesstan code) DGA, I, 206-214.
173 *Ancient Laws and Institutes of Wales*, ed. and trans. A. Owen, 2 vols (London: The Commissioners of the Public Record of the Kingdom, 1841), II, 345-348. Felix Liebermann, 'Die angelsächsische Verordnung über die Dunsæte', *Archiv für das Studium der neueren Sprachen und Literaturen*, 102 (1899), 273-275; George Molyneux, 'The Ordinance Concerning the Dunsæte and the Anglo-Welsh Frontier in the Late Tenth and Eleventh Centuries', *Anglo-Saxon England*, 40 (2011), 270.

side, whether he be thane-born or churl-born; half the wergild falls away'.[174] The treaty even appoints an arbitration panel, of six Welshmen, and six Englishmen, 'to declare what is just'.[175] Thus, the use of hybrid legal culture with regard to redress clauses was not unique to the 911 Rus' treaty, and it allowed these cultures with different legal traditions to create legislation on redress which was easy to navigate for the subjects of both parties involved.

While the use of both parties' legal culture is not unique to any particular treaty, it is more difficult to show the use of both parties' law in some treaties than others. For instance, the *Alfred-Guthrum Treaty* has a clause of interest regarding personal redress:

'if a man is slain, all of us estimate Englishman and Dane at the same amount, at eight half-marks of refined gold, except the ceorl who occupies rented land, and their [the Danes'] freedmen; these also are estimated at the same amount, both at 200 shillings'.[176]

Such clauses on redress are well established in the English legal tradition. For instance, Lambert has argued that 'eight half marks of refined gold' is likely equivalent to an English noble's price in other English domestic laws, being equivalent to 1200 shillings.[177] Thus the price of killing an English or Danish freeman is particularly expensive, being equivalent to killing a noble. While this clearly draws on English domestic law, it is difficult to show that the *Alfred-Guthrum Treaty* draws on any source of law from the party of Guthrum, due to the lack of written culture from Guthrum's East Anglia and Scandinavia from the period. It would not be unreasonable to believe that such redress clauses were common in contemporary Scandinavian domestic law. However, to speculate on this would be unproductive and unnecessary, as there are certainly parallels to be drawn with the *Treaty of*

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[174] *Duns*, c. 5. Translation from Noble, *Offa's Dyke Reviewed*, 107.
[175] *Duns*, c. 3.2. Translation from Noble, *Offa's Dyke Reviewed*, 107.
[176] *AGu*, c. 2; Translation from *EHD*, I, 381.
[177] Lambert estimates the eight and a half marks of gold as 1280 shillings, but still sees this as roughly equivalent of the domestic price. Lambert, 'Law and Order in Anglo-Saxon England', 31.

Andover, made a century later, which also has extensive clauses on redress. For instance the fifth clause of the treaty states 'If an Englishman slays a Dane, a freeman a freeman, he is to pay for him with 25 pounds, or the actual slayer is to be surrendered; and the Dane is to do the same for an Englishman, if he slays one'.[178] Lambert again has highlighted that the sum of 25 pounds is likely equivalent of 1200 shillings, the standard price for killing a nobleman under English domestic law.[179] While there are still no Scandinavian law codes from the tenth century, linguistic evidence suggests that the payment of compensation for killing an individual was not foreign to Scandinavian culture. For instance, *baugr* rings are often used to indicate material compensation specifically for killing an individual in the saga evidence.[180] While the saga evidence was produced later in the period, there is clear archaeological evidence from the 'Viking Age' that supports that *baugr* rings were given as payments of compensation in this way.[181] Furthermore, the second law code of Edward the Elder specifically states redress is to be paid in line with the treaties, likely in reference to various agreements made with the West Saxon king's Scandinavian neighbours in the northern part of what would become England.[182] Thus, the redress clauses in the *Alfred-Guthrum Treaty* and the *Treaty of Andover* were not the sole examples of Anglo-Scandinavian treaties approaching redress in this way. It seems likely redress in Scandinavian societies was similar to that within English treaties, perhaps reflecting that each society used 'Germanic' law. Indeed, given that the *Alfred-Guthrum* Treaty explicitly refers to the freedmen under Guthrum as *liesing*, a Norse term, it is probable that the shared culture of redress in these examples meant any hybridisation of the respective party's legal culture was

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[178] *Treaty of Andover*, c. 5. Translation from *EHD*, I, 402.
[179] Lambert, 'Law and Order in Anglo-Saxon England', 31.
[180] *A concise dictionary of old Icelandic*, ed. Geir T. Zoëga (Oxford: Clarendon Press, 1910), 55.
[181] For instance, see Dagfinn Skre, 'Monetary Practices in Early Medieval Western Scandinavia (5th–10th Centuries AD)', *Medieval Archaeology*, 61 (2017), 288-290. This thesis uses the term 'Viking' cautiously, effectively as shorthand for Scandinavian settlers and adventurers, between c. 790-1066.
[182] *DGA*, I, 144 (c. 5.2).

obsolete, as they were already very similar. Bearing in mind the 911 Rus' treaty, and the *Ordinance of the Dunsæte*, it is clear that utilising the legal culture of each party regarding personal redress clauses helped respect both parties' legal culture, allowing subjects from each people to be familiar with aspects of the redress clauses, and ensuring that each party could navigate the legal framework to claim said redress. In cases where the legal cultures were already similar, as in the *Alfred-Guthrum Treaty* and the *Treaty of Andover,* the similar legal traditions made hybridisation unnecessary. However, both hybrid clauses in treaties, and treaties between peoples with similar redress legal cultures, helped avoid potential friction between these communities, by allowing the subjects of each party to be familiar with the redress framework, and thus stopping crimes such as homicide, assault, and theft from escalating into a larger conflict.

The role of hybrid law in treaties touches on the legal divide between England and Byzantium, at least early in the Middle Ages. Traditionally, legal scholars have seen England's preconquest laws as 'Germanic', and Byzantium as continuing its use of 'Roman' law throughout the period. This distinction is important, as in Roman law crimes were not a matter of private law, that is to say relations between individuals, but a matter of public law, as crimes were seen as being against the public 'state'. This separation is articulated well by the late antique Roman lawyer Ulpian, who stated that public law concerns the state, while private law concerns citizens.[183] Traditionally, scholarship has seen private law as the primary focus of Roman law, and as such, has not seen redress for crimes as its defining feature.[184] While this may not seem immediately relevant to the issue of redress, Germanic law has traditionally seen crimes as a matter of private law, as opposed to public law as is the

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[183] Preserved in the *Digest of Justinian*, I, 1.
[184] *The Laws of the Salian Franks: Translated with an Introduction*, trans. Katherine Fischer Drew (Philadelphia: University of Pennsylvania Press, 1991), 12.

case in the Roman legal tradition.[185] That is to say, in Germanic law crimes are a matter to be settled between individuals, at least in the early part of the period. However, after the Norman conquest, and particularly in the twelfth century, England has been seen to increasingly adopt Roman law in domestic legislation, and this is demonstrable in the treaties. A good comparison to demonstrate this point is the *Ordinance of the Dunsæte*, and the *Treaty with Llywellyn* (1201), with the Welsh prince of Gwynedd. The *Ordinance of the Dunsæte* states that if a Welsh or English victim of theft tracks their goods, specifically cattle, to the land of a subject of the other party, the perpetrator must compensate for the cattle.[186] By contrast, the *Treaty with Llywellyn* states 'If those who cause damage in the king's land come to Llywelyn's land, and the victims of the damage or others pursue them... Llywelyn shall restore the lost property (*dampna*) and do justice to the malefactors'.[187] Initially, both clauses seem very similar, in that if the victim of theft knows who from the other party has stolen their goods, they can pursue this via the legal framework set out in the treaty. However, the difference is that in *the Treaty with Llywellyn*, the ruler is responsible for the redistribution of redress, while in the *Ordinance of the Dunsæte*, the burden lies with the individual. This effectively sums up the difference between Roman and Germanic law with regards to redress.

Of course, it must be noted that this change also reflects the centralisation of power that both the kings of England and their neighbours experienced throughout the period.[188] While this is certainly a factor, the growth of Roman law in the medieval West was significant, particularly in how rulers approached redress. Indeed, it seems likely that the centralisation of power

[185] John Hudson, *The formation of the English common law: law and society in England from King Alfred to Magna Carta*, 2nd edn (Oxon: Routledge, 2018), 44.

[186] Duns, c. 1.1. Note here that the requirement for such compensation is clearly mirroring English domestic law. See Molyneux, 'The Ordinance concerning the Dunsæte', 257-258.

[187] *Treaty of Llywellyn*, c. 10. Translation from *The Acts of Welsh Rulers*, 372. I have largely used Pryce's translation here, but amended his translation of *dampna*, which he translates as 'plunder', a very loaded term in this context. As such, I have translated it more literally as 'lost property'.

[188] For an overview on the centralisation of power in England, see Nicolas Karn, 'Centralism and Local Government in Medieval England: Constitutional History and Assembly Politics, 950–1300', *History Compass*, 10 (2012), 742-748.

across the period coincided, and even benefited from, the growth of Roman law. However, we must not emphasise this too much, as the specifics of the *Treaty with Llywellyn* demonstrate that although power was increasingly centralised across the period, rulers were still ultimately reliant on networks of their own followers, nobles and clergy, to enforce their power and rule effectively. This is particularly relevant here, as Llywellyn made the treaty not with John, but with Hubert Walter, archbishop of Canterbury and Chief Justiciar. Walter was such an important part of royal power in England that Matthew Paris reports John saying 'now for the first time I am king of England' upon Walter's death.[189] Although it might seem unlikely John actually said this, this is clear evidence that Walter's contemporaries were aware of his power. While we do not know if the *Treaty with Llywellyn* was ever ratified by John, given Walter's status, it seems likely this was at least a draft copy of a potential final agreement. Furthermore, John's reliance on Walter evidences that we should not over emphasise the centralisation of power. What is most pertinent to the current discussion is that with the rise of Roman law, the burden of enforcing redress lay increasingly with the ruler, while the burden of claiming redress remained with the victim in Germanic law.

As we have seen, at times when two peoples with different legal cultures made a treaty, such as the 911 Rus' treaty and the *Ordinance of the Dunsæte*, personal redress seems to amalgamate the legal cultures of both peoples, at least in the early period. However, as seen with the *Alfred-Guthrum Treaty* and the *Treaty of Andover*, when the legal culture was similar there was no need for redress clauses to be legislated on utilising a hybrid legal framework. This same principle can be applied later in the period, with Roman law spreading in England, and Byzantium's neighbours further utilising or already being familiar with Roman law. For instance, the 1198 *Treaty of Constantinople* between Emperor Alexios III

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[189] Matthew Paris, *Historia Anglorum*, 3 vols, ed. F. Madden (London: Longmans, Green, Reader and Dyer, 1866-1869), ii, 104.

and the Venetians states that if a fight breaks out between an Imperial citizen and a Venetian, and the Venetian 'has suffered a mild wound or injury, he will bring the complaint before the *logothetes tou dromou*, and he [the Venetian accuser] will receive retribution according to the laws'.[190] The phrase 'according to the laws', *secundum leges*, is a clear reference to utilising Byzantine domestic law, i.e. Roman law, to which Venetians were no strangers.[191] We have similar clauses in English treaties, explicitly referencing the domestic law of a particular area. For instance, the *Treaty of Montlouis*, between Henry II and his rebellious sons, states 'concerning death, or betrayal, or the destruction of any limb, they (Henry II's rebellious subjects that sided with his sons) may answer according to the court and custom of the land'.[192] While there is no hybridisation of differing legal cultures here, it is clear that later in the period redress clauses remain 'hyper-local' in focus, utilising the domestic laws of the parties involved when their subjects were familiar with a particular style of law. Whether both parties used Germanic law, Roman law, or a hybridisation of both within treaties, the fact remains that throughout the period, rulers relied heavily upon local customs and laws familiar to each party to allow redress, amalgamating these laws when necessary, and enforcing them via treaty.

While redress was an essential aspect of making peace, not all redress clauses are necessarily about claiming compensation. As one might expect, there are also many clauses advocating that all crimes prior to the peace be forgotten, and waiving the right for redress. For instance, the *Treaty of Andover* states:

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[190] *Treaty of Constantinople* (1198), 135. Translation from Penna, *The Byzantine Imperial Acts*, 84-85.
[191] For a discussion of this, see Penna, *The Byzantine Imperial Acts*, 5-7.
[192] 'de morte vero vel proditione vel perditione alicujus membri respondeant secundum judicium et consuetudinem terrae'; *Treaty of Montlouis*, 69.

'Concerning all the slaughter and all the harrying and all the injuries which were committed before the truce was established, all of them are to be dismissed, and no one is to avenge it or ask for compensation'.[193]

These amnesty clauses are quite common within treaties, and Benham has written extensively on how they function.[194] Typically, amnesty is offered for crimes committed during a conflict, and this allowed the parties involved to move on from an indecisive war with no clear victor, or a civil conflict. Despite this, while amnesty was often offered for crimes committed during a particular war, it is rare for treaties to offer amnesty for crimes committed before the conflict arose. Specifically, many treaties from both Byzantium and England have clauses on the returning of criminals and exiles from either people, presumably so that law can be enforced and redress claimed.[195] However, there are clear examples where these clauses concern redress, and specifically state that no amnesty is offered to these individuals as their crimes were committed prior to the conflict. For instance, the *Treaty of Montlouis* states:

'Also, those who fled before the war for whatever reason, and came to the service of his (Henry II's) son, for the love of his son [may] be returned to peace, if they will have given pledge and surety that they will be stood for the trial of those [crimes] which they forfeited before the war. Also, those who were in plea (i.e., in a lawsuit) when they withdrew to his son, may be returned to peace, so that they may be in that same state of their plea, in which they were when they withdrew'.[196]

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[193] *Treaty of Andover*, c. 6.1. Translation from *EHD*, I, 402.
[194] Benham, *ILE*, 103-112.
[195] I will not discuss them in too much depth here as they are analysed further in Chapter 4.
[196] 'Qui autem aute werram quacunque de cause aufugerunt, et ad servitium filii sui venerunt, pro amore filii sui ad pacem revertantur, si vagium et plegium dederint standi judicio de his quae ante werram forisfecerunt. Illi autem qui in placito erant quando recesserunt ad filium suum, ad pacem revertantur, ita quod in eo statu placiti sui sint, in quo erant quando recesserunt.'; *Treaty of Montlouis*, 69.

This clause stands in stark contrast to the rest of the treaty, which offers amnesty for those involved in the war. The main difference here is that the amnesty offered was for crimes committed during the conflict, while this particular clause offers peace to those who gave their services to the Young King to avoid their sentence, allowing exiles to return as long as they carried out their received sentence or returned to trial. In short, this clause returns the fugitives to their status prior to the beginning of the war. By doing this, Henry II not only dealt with potential exiles, but also allowed for his subjects to claim redress for some of the crimes that these fugitives had committed.[197]

Of course, there are also many Byzantine treaties where one or both parties agree to return the criminals and exiles of the other, or at least asking that they carry out the relevant sentence for the crime committed. For instance, in the *Treaty of Devol*, having accepted amnesty for his own prior actions, Bohemond states he 'will never receive any fugitives from [Alexios's] Empire, but will compel them to retrace their steps and return to [Alexios's] Empire'.[198] Clauses such as this are very common across the Byzantine and English treaty corpus, and beyond, being one of the most common themes in medieval treaties. While the redress element of such clauses is not obvious here, it seems likely rulers would want to force the return of exiles in order to enforce punishment and claim redress. This is emphasised more in those examples that explicitly highlight fugitive criminals being an issue for rulers, and where rulers reach out to other parties to enforce redress payments from absent exiles. For instance, the 1111 Byzantine-Pisan treaty states:

'if inhabitants of our (the Pisans') land and our men have made damage to your Majesty and they are in Romania and they are 'prosecuted' by your Majesty, that they themselves [out of their own pocket] will repair the damage done justly and by way of agreement, and that, if

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[197] For more on exiles see Chapter 4.
[198] *Treaty of Devol,* 130. Translation from *The Alexiad*, 249.

they are not in Romania and they have returned to Pisa, and this comes to our knowledge, <they will repair the damage>…'.[199]

There are clear differences between the *Treaty of Montlouis'* approach, that of the *Treaty of Devol*, and the Pisan *Treaty of Constantinople* (1111). However, all three effectively establish ways of claiming redress from criminals who have fled. The *Treaty of Devol* simply encourages the exile to return home to receive their judgement, likely incorporating redress into any punishment, while the *Treaty of Montlouis* details what the exile could expect when returning home. The 1111 Byzantine-Pisan treaty is a little more detailed, specifically targeting fugitives, and rather than asking for their return, asks that they be made to pay the relevant redress from abroad. Clearly, rulers did not simply legislate on how redress could be claimed by their faithful subjects, but actively collaborated with fellow leaders to ensure redress could be sought from those beyond their reach.

It is worth noting that the return of exiles is explicitly linked to redress in the available narrative evidence as well. For instance, Orderic Vitalis records Duke William of Normandy receiving the former exile Arnold of Echauffour at his court in 1064, having exiled him in 1058.[200] Arnold's return to the Norman court, however, was intrinsically linked to a gift, being a particularly extravagant mantle.[201] Scholars have often seen this as Arnold purchasing his return, but in the context of Arnold having previously wronged William, it seems likely this was a payment of redress, to offset the perceived wrong. Similarly, in the poem known as 'Ruodlieb' upon telling his adopted liege he will return home from exile at the king's court, the titular character is given plentiful gifts, including 'coins made of gold and sufficiently

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[199] *Treaty of Constantinople* (1111), 52. Translation adapted from Penna, *The Byzantine Imperial Acts*, 103.
[200] *The Ecclesiastical History of Orderic Vitalis*, ed. and trans. Marjorie Chibnall, 6 vols (Oxford: Clarendon Press, 1969), II, 90-93.
[201] Orderic Vitalis, *Ecclesiastical History*, II, 106-107.

tested in fire, to which they gave the name from the city of Byzantium'.[202] The poem

explicitly states that these gifts are to be redistributed upon his return home. This is reflected

in English domestic law as well, with clauses 20-20.6 of *Leges Edwardi Confessoris* setting

out how to deal with a fugitive criminal as well as how the criminal's neighbours should clear

themselves of any association with the exile.[203] Clause 20.6 explicitly states that if the

neighbours ever come across the exile again, the exile presumably having returned home, the

neighbours will take the exile to the justice, presumably so the appropriate sentence can be

carried out and redress given.[204] Interestingly, Justinian's *Digest* has similar stipulations,

stating that an exile can give *restitutio in integrum*, literally 'full restitution', seemingly

allowing the exile to return, within a certain unspecified time. Additionally, only the emperor

may allow an exile to return 'for special cause'.[205] Such a 'special cause' can be found in the

narrative evidence surrounding the rebellion of Bardas Skleros, which highlights that while

exiles often paid redress to return, at times rulers had to pay exiles redress for their return and

services. Specifically, Bardas Phokas was recalled from exile to fight Bardas Skleros, and the

Skylitzes records the *parakoimomenos* showering Phokas with gifts and wealth before Phokas

left to fight the rebel.[206] Presumably here, the 'special cause' was the service being offered by

a former exile to the emperor. The gifts offered to Phokas seemingly function as redress for

Phokas's forced exile, and for any other injuries to Phokas's honour and wealth that he had

suffered causing his initial rebellion. The narrative and legal evidence here showcases that at

times domestic exiles were able to return, either through paying redress to the ruler, as was

the case with Arnold of Echauffour, or by offering their services to a ruler in exchange for

redress and their own return, as was the case with Bardas Phokas. Ultimately, the return of

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[202] *The Ruodlieb,* trans. Gordon B. Ford (Leiden, 1965), 66-67.

[203] 'Leges Edwardi Confessoris (ECf1)', *Early English Laws*, ed. and trans. Bruce O'Brien, Available:
https://earlyenglishlaws.ac.uk/laws/texts/ecf1/view/#edition/translation-20. Accessed: 21/04/2022.

[204] *Digest of Justinian*, I, 132.

[205] *Digest of Justinian*, IV, 360.

[206] *Skylitzes*, 324.

exiles hinged upon either their ability to offer or to obtain redress. Certainly, rulers'
relationships with their own exiles revolved around their ability to pay or claim redress, and
the treaties highlight that they could, and did, collaborate with one another to ensure that
those who had committed a crime and been expelled paid redress.

While redress by definition means that the involved victim was compensated, this went hand
in hand with the implicated perpetrator being punished. Of course, often the redress given
was taken from the perpetrator's own property, this being a fundamental aspect of personal
redress. The 911 *Treaty of Constantinople* and the *Ordinance of the Dunsæte*, for example,
have clauses explicitly stating that any perpetrator was to pay redress themselves to the
victim.[207] However, it is also clear that rulers could utilise redress as a way of punishing
adversaries, without emphasising the damage that such a punishment might have to their
enemy's honour. The *Treaty of Montlouis* is perhaps the best treaty to illustrate this point,
with Henry II making peace with his rebellious sons, Henry the Young King, Richard, and
Geoffrey in 1174, stating:

'Moreover, it should be known that King Henry (the Young King), the son of the lord king
(Henry II), conceded to the lord the king his father, that he (the Young King) will firmly
observe all the gifts of alms, which he had given or he will give being from his lands, and the
gifts of the lands which he had given to his men, or he will give for his service'.[208]

The redress here works in two ways. Firstly, the redress is specifically framed as making up
for the promised payment Henry the Young King would have made to his followers if his
rebellion had been successful in return for their service to him. By forcing Henry the Younger

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[207] *Treaty of Constantinople* (911), 66-67; *Duns*, c. 5. Much has already been written on this in regards to
personal redress, and to repeat these arguments would not add any novel scholarship. For instance see, John
Hudson, *The Oxford History of the Laws of England* (Oxford: OUP, 2012), 171-175 and 177-180.
[208] 'Praeterea sciendum est, quod rex Henricus filius domini regis concessit domino regi patri suo, se quam
firmiter observaturum omnes donationes eleemosynarum, quas dederat vel daturus erat de terris suis et
donationes terrarum quas dederat hominibus suis, vel daturus erat pro servitio suo'; *Treaty of Montlouis*, 68.

to honour his promises to various nobles to sway them to his ultimately failed rebellion, Henry II allowed for his rebellious barons to be compensated for their losses from the war, ensuring that the barons did not feel neglected via the peace negotiations and rebel soon after. This also allowed Henry II to maintain the image of the 'magnanimous victor' while ensuring the Young King's own honour was not compromised, or risking the ire of the Young King's followers. However, earlier in the treaty all parties agree that the lands either side has taken from the other were to be returned to the original owner as the lands were fifteen days prior to the conflict.[209] This is effectively an amnesty clause, appeasing each side by recognising the original claim the other had over lands taken in the war, and as such offering no redress for the damage inflicted when those lands were taken. Being mindful of this, and the clause ensuring that Henry the Younger was to observe all promised gifts, the latter clause explicitly undermines the Young King's wealth. Henry the Younger is specifically to give the rebellious barons gifts promised from his own lands, '*de terris suis*', actively ceding the Young King's own property.[210] Indeed, as the rebellion had failed, Henry the Young King did not gain any additional lands directly from the conflict, further highlighting that these gifts would not come from the spoils of war. It is not clear what the value of these gifts would be, but it could be argued that they were offset by Henry II giving his son two castles in Normandy, and £15,000 worth of revenues.[211] However, the fact remains that Henry the Young King profited less from the treaty than he would have if he had not forced to honour his obligations to those he incited to rebel, and is essentially being punished via redress for his rebellion. With this in mind, we can also see redress as an important tool, both in compensating a victim's losses, and in punishing an adversary.

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[209] *Treaty of Montlouis*, 67.
[210] *Treaty of Montlouis*, 68.
[211] *Treaty of Montlouis*, 68.

Using redress to weaken, and punish, enemies was by no means foreign to the Byzantine emperors. Alexios I, for instance, utilised redress in a similar way in the *Treaty of Devol*. In the treaty, Bohemond submits to Alexios as his liegeman, 'λίζιον ἄνθρωπον', and Alexios grants Bohemond Antioch and its surrounding territories.[212] Additionally, the emperor promises not to hold any of Bohemond's former attacks on the empire against him.[213] This is effectively an amnesty clause.[214] However, Alexios, presumably weary of Bohemond who had long been a thorn in the side of the empire, also annexed several territories of Antioch into Byzantium.[215] As compensation, 'ἀντισηκῶσαί', for this, the treaty lists several territories given to Bohemond, again from the area surrounding Antioch.[216] These included:

'The province of the whole land of Casiotis, whose capital is Berrœa, called Chalepin in the barbarian tongue; the province of Lapara and all the small towns belonging to it, namely Plasta, the castle of Chonium, Romaïna, the castle Aramisus, the small town of Ameras, the castle of Sarbanus, the fort of Telchampson…'.[217]

The list of territories given to Bohemond as compensation is extensive, and one would think that this more than made up for the lands Alexios annexed into Byzantium. However, as Todt has highlighted, the territories granted to Bohemond were not a part of Byzantium in 1108.[218] As such, this was more of an allowance for Bohemond to conquer these territories, rather than have to defer to Alexios regarding their conquest, as stated earlier in the treaty.[219] With this in mind, Alexios weakened the realm that Bohemond controlled, the only compensation being territory that Bohemond would have to continue to fight for. Although one might see

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[212] *Treaty of Devol*, 125 and 133-134.
[213] *Treaty of Devol*, 125.
[214] For more on this, see Benham, *ILE*, 99-112.
[215] *Treaty of Devol*, 134-135.
[216] *Treaty of Devol*, 134-136.
[217] *Treaty of Devol*, 136. Translation from Dawes, *The Alexiad*, 252.
[218] K.P. Todt, 'Antioch and Edessa in the so-called Treaty of Deabolis (September 1108)', *ARAM*, 12 (2000), 496.
[219] *Treaties of Devol*, 128.

the giving of potential lands as more of a payment for military service than strictly compensation, that the term ἀντισηκῶσαί is used makes it difficult to see this as anything other than compensation. There are certainly differences between how redress was used in the *Treaty of Devol* and how it was used in the *Treaty of Montlouis*. In the former, Alexios weakened Bohemond by implementing redress which Bohemond himself is claiming, while in the latter Henry II weakened his son by implementing redress for a third party.[220] However, both treaties ultimately utilise redress as a way of weakening former adversaries in the aftermath of conflict. Clearly, rulers could utilise redress within treaties in a variety of ways, both to right particular wrongs, and to subtly weaken those who had opposed them.

The complexities in how redress was used within treaties extend to how scholarship has often seen redress. Traditionally, medievalists have divided redress into two forms, being either material or symbolic.[221] The general distinction is made by material redress being settled through courts and compensation being made through fines of cash, lands and goods. In this view, material redress is bound to legal procedure and court settlement. By contrast, symbolic redress is seen as having been settled outside of court. Althoff, in his seminal work on the rituals surrounding medieval conflict resolution, examines one ritual surrounding symbolic redress known as *deditio*.[222] This required the offending party to prostrate themselves before the victim, the dishonour of prostrating offsetting the dishonour the victim themselves had experienced. This was met with either full forgiveness of the culprit, the victim raising the culprit off of the ground and granting the 'kiss of peace', or the culprit's imprisonment if the

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[220] *Treaty of Devol*, 134-136; *Treaty of Montlouis*, 68.
[221] The literature on this is vast and complex, see Louis Halphen, 'La justice en France au XIᵉ siècle', in *A travers l'histoire du moyen âge* (Paris: Presses Universitaires de France, 1950), 175-202; F.L. Cheyette, 'Suum Cuique Tribuere', *French Historical Studies*, 6 (1970), 287-299; Stephen D. White, '"Pactum…Legem Vincit et Amor Judicium": The Settlement of Disputes by Compromise in Eleventh-Century Western France', *American Journal of Legal History*, 22 (1978), 281-308; Geoffrey Koziol, *Begging Pardon and Favor: Ritual and Political Order in Early Medieval France* (Ithaca: Cornell University Press, 1992), 16; Gerd Althoff, *Spielregeln der Politik im Mittelalter* (Darmstadt: Primus-Verlag, 1997); John Hudson, 'Court Cases and Legal Arguments in England, c. 1066-1166', *Transactions of the Royal Historical Society*, 10 (2000), 91-115.
[222] Althoff, *Rules and rituals in Medieval Power Games*, 49-51

dishonour was still too great. This division is not as clear cut in treaties. For instance, the 1111 *Treaty of Constantinople* with the Pisans states, 'If a Pisan suffers great dishonour or severe insult or his things are damaged by a Venetian or by any other subject of our Majesty, our Majesty will correct this, after proof has been made…'.[223] The terms used, *dedecus* (dishonour) and *iniuriam* (insult/wrong), are clearly very honour-focused, but could be interpreted as either symbolic or material wrongs, particularly given that the emperor would 'correct' them.

Benham has argued well that it is extremely difficult to separate material and symbolic redress within treaties.[224] Using a number of treaties as examples, Benham has highlighted that one simply cannot rely upon the language used within treaties to infer the material/symbolic distinction, as the language used often varies considerably. Comparing the *Treaty of Toul* (1171) with the *Partition of Benevento*, Benham highlights that some treaties seem quite clear in this separation, the *Treaty of Toul* stating any who employ particular mercenaries were to be excommunicated until they had provided redress estimated at the value of the damage caused.[225] By contrast, the terminology used in the *Partition of Benevento* is vague in nature. The treaty states that if any of Prince Radelchis' men had committed homicide in the area belonging to Prince Sikenolf, Radelchis was to hand over his men. If they were unwilling to give 'satisfaction', then they would have to pay a sum of 3000 gold *byzants* if they were *nobilius*, or pay according to the law if *rusticis*.[226] While this may initially read as material redress, with references to fines and legal pathways, Benham points out that the 'satisfaction' likely refers to the accused getting witnesses to defend them against

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[223] 'Si ab aliquo Veneticorum aut ab aliquo homine subia-cente imperio nostro passus fuerit Pisanus quispiam atrox dedecus vel turpem iniuriam aut de rebus suis damnum, faciet imperium nostrum emendationem, post-quam probatum fuerit, si nostre serenitati relatum fuerit infra tempus legale et conveniens, in omni continentia sua'; *Treaty of Constantinople* (1111), 53. Translation from Penna, *The Byzantine Imperial Acts,* 109.
[224] Benham, *ILE*, 121-123.
[225] Benham, *ILE*, 121-123.
[226] Benham, *ILE*, 121-123.

the accusation of homicide, this being clarified later in the treaty. As such, the 'satisfaction' owed is neither material or symbolic redress.

This framework is informative and helpful in interpreting other accounts of redress within treaties that scholars have solely seen through the lens of material redress. For instance, the 1169 *Treaty of Genoa* between Emperor Manuel I Komnenos and the Genoese, along with a later incident in 1192 described below, has been interpreted only in terms of the material redress awarded (or not awarded, in this particular case). The 1169 treaty states that if any Genoese plunder or harm the territory or subjects of the emperor, the emperor will notify the Genoese and they will:

'find the wrongdoers with no deceit or bad intent and to seek to impose a just penalty on them, taking full account of the Lord Emperor's dignity. If however the wrong-doer is not found, let action be taken in like fashion against his assets.'[227]

It is interesting to note here that the dignity, or honour, of the emperor, and the punishment of the perpetrators, seems to have been a higher priority than actually attaining any reimbursement for lost or damage property. This was highlighted in an incident in 1192 when a Genoese pirate, Gulielmo Grasso, pillaged Byzantine possessions in Rhodes and subsequently attacked a Venetian vessel containing gifts from the Egyptian Sultan Salah ad-Din for the Byzantine Emperor Isaac II Angelos, as well as ambassadors and merchants.[228] Both the emperor and the merchants of Byzantium were enraged, causing Isaac to write a letter to the Genoese in which he warned the commune that if the Genoese did not punish the pirate and pay reparations for the lost gift, the emperor would take redress from the Genoese

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[227] *Treaty of Genoa* (1169) [MS B], 188. Translation from *Caffaro, Genoa and the Twelfth-Century Crusades*, 207.
[228] For more on this, see Charles M. Brand, 'The Byzantines and Saladin, 1185-1192: Opponents of the Third Crusade', *Speculum*, 37 (1962), 167-181.

of Constantinople.[229] The phrasing used, particularly 'τήν τε ἐπὶ τοῖς ἀποκτανθεῖσιν ἐκδίκησιν καὶ τὴν τῶν πραγμάτων πάντων ἱκάνωσιν' (the punishment for the killed persons and the compensation for all the goods), emphasises the redress aspect of this, 'ἱκάνωσιν' being synonymous with 'satisfy' and 'appease'.[230] The 1193 treaty between Genoa and Byzantium reveals that Genoa took little action, the emperor writing that Byzantine merchants had become more irate and had resulted in the emperor seizing 20,000 *hyperpyra* from the Genoese of Constantinople as a deposit for future redress from Genoa.[231] In the same document, the Genoese envoys assure the emperor that the Genoese will pursue the pirate, and thus the emperor returns the 20,000 *hyperpyra* to the Genoese.

Cutler has argued the emperor's heated initial response indicates the economic value of the gifts.[232] While this may have been part of the emperor's motivations, that the emperor did not gain any material redress for the theft undermines this as the primary motive. Penna has argued that this incident highlights the weak position of the emperor; no redress being gained for either the emperor's lost possessions or for those of his Byzantine subjects.[233] This is plausible, as Byzantium seems very reliant on the naval aid of the Italian city states in the twelfth century.[234] However, it can also be seen to evidence how intrinsic honour is to redress. With the Genoese promising to punish the fugitive who harried the property of both the emperor and the emperor's subjects, the insult to the emperor's honour must have been significant. Bearing in mind that at least one member of Grasso's crew was related to one of

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[229] 'τήν τε ἐπὶ τοῖς ἀποκτανθεῖσιν ἐκδίκησιν καὶ τὴν τῶν πραγμάτων πάντων ἱκάνωσιν · εἰ δὲ μὴ ἱκανωθήσεται ταῦτα πάντα ἀπὸ τῶν ἐν τῇ Μεγαλοπόλει παρευρεθέντων Γεννουϊτῶν, οὓς ἐν ἐλευθερίᾳ μέχρι καὶ νῦν καὶ ἐν πάσῃ ἀδείᾳ διαφυλάττει ἡ βασιλεία μου καὶ ἐν κατασχέσει τῶν δεδωρημένων τῇ Γεννούᾳ ἀκινήτων ἐντὸς τῆς Μεγαλοπόλεως ὄντας, διατηρεῖ μόνας τὰς πραγματείας αὐτῶν ἐν ἀσφαλεῖ θεμένη'. Greek, translation, and useful discussion available in Penna, 'Piracy and Reprisal in Byzantine Waters', 36–52. For information and a summary of this document, see *Regesten der Kaiserurkunden des oströmishen Reiches*, II, 312–313.
[230] Translation from Penna, 'Piracy and Reprisal in Byzantine Waters', 38.
[231] See *Regesten der Kaiserurkunden des oströmisches Reiches*, II, 314-315.
[232] Cutler, 'Gifts and Gift Exchange', 267-268.
[233] Penna, 'Piracy and Reprisal in Byzantine Waters', 45.
[234] Indeed, Michael Psellos comments on how the Byzantine navy had become undermanned and outdated in the eleventh century. Psellos, *Chronographia*, 145.

the Genoese ambassadors who negotiated the 1193 treaty with Isaac, the decision to likely condemn Grasso and his men to death cannot have been an easy decision.[235] Perhaps the high status of both Grasso and his crew, and Genoa conceding that they would hunt and punish him, was redress enough to ensure Isaac's honour was compensated, 'taking full account of the emperor's dignity', as the 1169 treaty states.[236] Ultimately, it is also important to note that punishing Grasso had practical applications. For instance, removing a threat to Byzantine traders would benefit both Byzantium and the Genoese, for the markets of Byzantium were often synonymous with markets where Genoese merchants could be found. Although this is true, scholarship has been too fixated on the material element here, as well as the potential power dynamic surrounding the redress awarded, rather than seeing the recompense made as a blend of both symbolic and material redress. Thus, the 1169 *Treaty of Genoa* and the 1192 incident concerning piracy showcase that the distinction between material and symbolic redress is flawed. The 1169 treaty explicitly links 'the emperor's dignity' with any punishment given to the offending Genoese, and the 1193 treaty has the Genoese deal with the pirate in a 'material' way (likely killing him) to appease the symbolic injury to the honour of the emperor.[237]

The dual nature of redress is further highlighted in the account of the 1169 peace made between Henry II and Louis VII. Henry came as a suppliant, offering all of his lands, and

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[235] 'mittunt vero legatos ad maiestatem meam de his rebus tractaturos, fidelissimum nempe vassallum ipsius Balduinum Guercium et Guidonem Spinulam, qui quum adiissent, maiestatem meam et multifariam ipsi satisfecissent, turpe illud facinus existimantibus Genuensibus reiectum et damnatum et propterea multo abhinc tempore fugam indictam a Genua et a civitate eorum iudicialem persecutionem, nunquam vero cessanturos ab iis insectandis, donec comprehensos in manus maiestatis meae tradiderint.'; *Treaty of Constantinople* (1193), 104. For details on this, see Penna, 'Piracy and Reprisal in Byzantine Waters', 44.

[236] *Treaty of Genoa* (1169) [MS B], 188.

[237] *Treaty of Genoa* (1169) [MS B], 188; *Treaty of Constantinople* (1193), 104. For more on the importance of honour, see Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca (NY): Cornell University Press, 2003), 88-92; Gerd Althoff, *Rules and Rituals in Medieval Power Games: A German perspective* (Leiden: Brill, 2019), 11 and 16-21; Han Nijdam, 'Wergild and Honour: Using the Case of Frisia to Build a Model', in *Compensation and Penance: The Monetary Logic of Early Medieval Conflict Resolution*, eds. Lukas Bothe, Stefan Esders, and Han Nijdam (Leiden: Brill, 2021), 161-182.

those of his children, to the French king to await Louis' judgement.[238] John of Salisbury states that Henry, and his sons, then made an oath stating that they would honour the French king as their liege lord. John Gillingham has seen this symbolism as a way of recognising Louis' concerns that his neighbour was getting too powerful, and has emphasised that the symbolism of homage helped the two kings make peace.[239] In this view, the symbolism as the most important part of the conference, the homage offered effectively acting as redress for the previous conflict. However, John Hosler sees the homage given as ultimately pragmatic, and material, as it eventually turned Henry's own sons against him.[240] Indeed, John of Salisbury emphasised that Henry offered himself and his children to the French King, presumably in homage, as well as his material wealth, specifically his lands, resources and treasures, 'se, liberos, terras, uires et thesauros'.[241] As the homage given was symbolic, and Henry's offer of lands and resources was material, it seems logical that this incident involved both symbolic and material redress.

Redress is ultimately highly pragmatic, with a variety of approaches utilised by rulers in treaties to dispel potential conflict. However, the terminology of both the narrative evidence and the treaties themselves concerning the various transmissions of lands, cash, titles, and other valuables, is often muddied. By utilising the principle of redress being fundamentally linked to compensation for a wrong or perceived wrong, scholars can differentiate between redress and other transactions, particularly by utilising treaties in tandem with surrounding narrative evidence. Of particular note is the redress paid by the Amalfitans of Byzantium to Venice in the 1082 *Treaty of Constantinople*, the cash payment of 700,000 Dirhams for the regions surrounding the city in the *Treaty of Aleppo*, and the cash payment for military

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[238] *The Letters of John of Salisbury*, eds. W. J. Millor and C. N. L. Brooke, 2 vols (Oxford: Oxford Medieval Texts, 1979), II, 636-638.
[239] John Gillingham, 'Doing Homage to the King of France', in *Henry II New Interpretations,* eds. Christopher Harper-Bill and Nicholas Vincent (Woodbridge: Boydell Press, 2007)*,* 75-76.
[240] Hosler, *Henry II*, 64-65.
[241] *The Letters of John of Salisbury*, II, 636.

service, not redress, in the *Treaty of Andover*.[242] By using the framework highlighted in this chapter, it is hoped that redress within treaties, and in some narrative evidence, can be separated from other transactions in future research. The treaties also reveal that rulers were practical in making their redress clauses familiar to the subjects of each party. Both English and Byzantine rulers did this in a number of ways, including utilising 'hybrid laws' combining the legal cultures of both parties, as in the 911 Rus' treaty and the *Ordinance of the Dunsæte*.[243] Additionally, rulers appealed to shared local customs and law for redress clauses, as in the 1198 *Treaty of Constantinople* and the *Treaty of Montlouis*.[244] This latter method seems to be more common when each of the parties were familiar with the legal culture of the other. Whichever method the rulers of both Byzantium and England opted for, each allowed the subjects of the involved parties to navigate the legal framework for claiming redress, and thereby reduced potential friction and the likelihood of future conflict. Rulers at times offered amnesty for crimes committed during a conflict, but it is also clear that crimes committed prior to a particular conflict, which forced a culprit to flee into exile, were not forgiven. Indeed, the *Treaty of Montlouis* and the 1111 Byzantine-Pisan treaty explicitly state fugitive criminals were still expected to face judgement, and pay redress for their crimes.[245] Rulers also utilised redress cunningly, even 'weaponising' it to inflict punishment on former enemies, under the guise of compensation, as in the *Treaty of Devol* and the *Treaty of Montlouis*.[246] This chapter also touched on the traditional divide of symbolic and material redress. It is difficult to separate material and symbolic redress within the treaties. However, as the 1169 *Treaty of Genoa* in conjunction with the 1192 Grasso incident show, it is clear that differentiating between symbolic and material redress seems not only difficult, but

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[242] *Treaty of Constantinople* (1082), 52; *Treaty of Aleppo*, cc. 1-2; *Treaty of Andover*, cc. 1.1 and 7.2.
[243] *Treaty of Constantinople* (911), 66-67; *Duns*, cc. 1-5.
[244] *Treaty of Constantinople* (1198), 135; *Treaty of Montlouis*, 69.
[245] *Treaty of Montlouis*, 69; *Treaty of Constantinople* (1111), 52.
[246] *Treaty of Devol*, 136; *Treaty of Montlouis*, 68.

perhaps also unnecessary, redress often having both components.[247] This is supported by how historians have interpreted homage in the peace negotiated between Henry II and Louis King of France. Henry's sons performing homage to the French king for their continental lands has been seen as both highly symbolic, in assuring the French king that Henry II was not becoming too powerful by Henry's son recognising the French king as their liege lord, and as highly material, in allowing Henry's sons to hold their lands from Louis and sowing the seeds for future rebellions.[248] It is thus best to limit the use of these labels for redress, when they are not necessarily apparent within the sources. It is hoped that the analysis provided in this chapter, by primarily focusing on redress within treaties, allows for further study on redress in a peace-making and inter-ruler context to be developed, utilising the principle that redress must be claimed for a perceived wrong, while avoiding unnecessary terminological divides. Ultimately, redress remains one of the fundamental aspects of treaties in the period, both the rulers of Byzantium and England utilising practical steps to address issues surrounding redress, both for themselves and for their peoples.

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[247] *Treaty of Genoa* (1169) [MS B], 188; *Treaty of Constantinople* (1193), 104.
[248] *The Letters of John of Salisbury*, II, 636.

Chapter 2: Peace, Religious Identity and Consent

As shown in the last chapter, redress was a fundamental aspect of peace. This is seemingly recognised by theological and philosophical models of peacemaking, which were influential throughout the Byzantine and English worlds. The likely ninth or early tenth cnetury *Old English Orosius*, for example, emphasises that since Christ was born, peoples of the world were more willing to make peace with one another, and do this by paying money.[249] This text was heavily influenced by the work of St. Augustine. Augustine's work, *De Civitate Dei*, states that there are a number of barriers which must be overcome to make peace between two peoples. For example, Augustine argues the barrier of language is such a hindrance to the peace-making process, that a man is more likely to talk to his dog than to attempt communication with one who does not speak their language.[250] While this issue might be overcome with translators, Augustine notes that wars will still arise, as many wars are waged for a just cause. Later, Augustine asserts that it is the duty of a Christian to not only ensure their household is Christian, but also to ensure that their neighbour is.[251] Just as this is true for a household, it is also true for a city, and indeed, a people. Augustine further argues that there can be no justice in a man who does not worship God, or indeed a collection of men.[252] However, according to Augustine, all peoples, regardless of custom or language, can find peace through the Christian faith.[253] Following Augustine's theory to its logical conclusion, it is thus just to wage war on non-Christians, provided that this is done with the aim of establishing a Christian peace. Augustine's theories regarding Christianity's, and God's, relationship with 'earthly' peace, are often seen to have fundamentally shaped the peace-

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[249] *The Old English Orosius*, ed. J. Bately (London: OUP, 1980), 31.
[250] Augustine of Hippo, *The City of God Against the Pagans*, ed. and trans. R.W. Dyson (Cambridge: CUP, 1998), 928.
[251] Augustine, *The City of God*, 940-942; Augustine, *The City of God*, 944-945.
[252] Augustine, *The City of God*, 950-952.
[253] Augustine, *The City of God*, 946-947.

making methods of the peoples of the 'Christian West' in the medieval period.[254] Indeed, we know these ideals were commonplace amongst the elite of England from an early period, with the translator of the Old English Orosius reiterating that peace was often sought through war.[255]

Augustine's work was not as influential in Byzantium. Instead, Aristotle was the key figure in shaping ideas of the just war in the medieval Roman empire.[256] Indeed, Meredith Riedel has even seen Leo VI as actively 'othering' his Islamic opponents, ascribing them as worshipping a separate God who delights in war, as opposed to the Christian God.[257] While the accuracy of this portrayal is questionable at best, Riedel concludes that the Emperor Leo does this to reconcile the Byzantine belief that warfare was fundamentally un-Christian, but still had to be waged in defence of the empire, and indeed to expand it.[258] Although Riedel attributes Leo's dislike of battle to this, this seems more reflective of medieval rulers typically avoiding pitched battles generally due to their high risk, rather than due to religious ideology.[259] Regardless, the fact remains that multiple sources from the medieval world ascribe waging war against those with a different faith as justifiable, and that this was true in both the context of Byzantium and England. Indeed, this fits well with how medieval rulers often utilised religious rituals, such as baptism and confirmation, in diplomatic meetings with other rulers.[260] As such the current historiography on peace-making has often seen these religious

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[254] Benham, *PMA*, 2.
[255] *The Old English Orosius*, 31.
[256] Meredith L. D. Riedel, *Leo VI and the Transformation of Byzantine Christian Identity* (Cambridge: CUP, 2018), 70. For more on Just War theory in Byzantium, see Yannis Stouraitis, ''Just War' and 'Holy War' in the Middle Ages. Rethinking Theory through the Byzantine Case-Study', *Jahrbuch der österreichischen byzantinistik*, 62 (2012), 227-264.
[257] Riedel, *Leo VI and the Transformation of Byzantine Christian Identity*, 70.
[258] Riedel, *Leo VI and the Transformation of Byzantine Christian Identity*, 71.
[259] For instance, see John Gillingham, 'William the Bastard at War', in *Studies in Medieval History Presented to R. Allen Brown*, eds. Christopher Harper-Bill, Christopher Houldsworth and Janet L. Nelson (Woodbridge: Boydell and Brewer, 1989), 144-148; Ryan Lavelle, 'Campagnes et stratégies des armées anglo-saxonnes pendant l'époque viking', *Médiévales*, 63 (2012), 141.
[260] For more on this, see Benham, *PMA*, 210.

rituals as a fundamental part of the peace-making process.[261] This view is so embedded in the historiography of medieval peace-making, that scholarship often divides itself between Christian diplomatic relations with peoples of non-Abrahamic faiths, often termed 'pagans', and Christian diplomatic relations with peoples of other Abrahamic faiths, most commonly Islamic peoples.[262] Whilst this division, between Christians' relations with 'pagans' and Christians' relations with Muslims, is arguably justifiable, it perpetuates the view that peace-making, and treaty-making, between these peoples was significantly different. This is particularly questionable as contemporary Christian medieval sources use the term 'pagan' interchangeably to denote non-Christians of the medieval North and Islamic peoples of the medieval Middle and Near East.[263] At times this is also reflected in the historiography, differentiating between Christians and non-Christians in general, but this still perpetuates the view that peace-making and treaty-making was fundamentally different between these two categories.[264] This chapter will analyse what has traditionally been seen to divide treaty-making between Christians and 'pagans', between Christians and Islamic peoples and between Christians and non-Christians as a whole, through the lens of Byzantine and English treaties and peace-making interactions. In particular, I will be examining the extent to which religious rituals are contained within treaties, whether or not these rituals are necessary for inter-faith peace, and if the current historiography is right to see inter-faith diplomacy as characterised by impermanent peace.

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[261] For an example, see Richard Abels, 'Paying the Danegeld', 173-192.

[262] Abels, 'Paying the Danegeld', 173-192; Holmes, 'Treaties between Byzantium and the Islamic World', 141-157. I recognise that the term 'pagan' is problematic, but to debate its use would go beyond the aims of this project. As such I will continue to use the term, while remaining aware of its problems that it is a broad, umbrella term. Its use in this chapter is to describe non-Abrahamic religions that largely did not have a literary culture.

[263] For instance, William of Tyre refers to Muslims as *pagani*. William of Tyre, *Chronicon*, ed. R.B.C. Huygens (Turnholt: Brepolis, 1986), 578.

[264] Drocourt, 'Christian-Muslim Diplomatic Relations, 29-72; William Ian Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago: University of Chicago Press, 1990), 267-270. Note, the latter reference refers to both domestic and inter-ruler peace-making.

Scholars of the medieval West have often argued that baptism was an essential part of making peace between Christians and non-Christians. For example, Abels has stated that the Anglo-Saxon kings utilised baptism or confirmation as a tool to 'overcome this cultural divide by converting [the English's] erstwhile pagan foes'.[265] Abels argues that in the English and Scandinavian worlds, peace was not simply a lack of war, but an active state, and that this is best seen in the ninth-century Old English *Orosius*. Abels relies particularly on a passage which states:

'…before Christianity, no people, of its own free will sought peace from another, unless compelled by need… But since Christ was born, who is the harmony and peace of the whole world, men may not only release themselves from slavery by paying cash, but people may also enjoy peaceful relations…'.[266]

Actively linking Augustine's argument for a just war in pursuit of a Christian peace with this statement in the *Orosius*, Abels believes that peace was often sought through war in this period, and that for the Anglo-Saxons a peace was cemented by solemn oaths.[267] However, this process was apparently alien to the pagan 'Vikings', who consistently did not honour their oaths, as apparent when a band of these raiders besieged Wareham in 876, abandoning their oaths sworn to Alfred 'the Great' upon a holy ring.[268] Abels argues this was due to a cultural difference between the Anglo-Saxons and their Scandinavian equivalents, arguing that the latter prized deceit and trickery.[269] To ensure an effective peace was made with these raiders, Abels argues that the English kings had to show strength via a military victory, and

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[265] Abels, 'Paying the Danegeld', 184.
[266] '…hwær hit gewurde ær þæm cristendome, þæt ænegu þeod oþre hiere willum friþes bæde, buton hiere þearf wære… Ac siþþan Crist geboren wæs, þe ealles middangeardes is sibb ond frið, nales þæt an þæt men hie mehten aliesan mid feo of þeowdome, ac eac þeoda him betweonum buton þeowdome gesibbsume wæron.'; *The Old English Orosius*, 31; Abels, 'Paying the Danegeld', 176.
[267] Abels, 'Paying the Danegeld', 179.
[268] Abels, 'Paying the Danegeld', 181; *ASC* [MS A], s.a. 876.
[269] Abels, 'Paying the Danegeld', 180.

overcome the cultural divide between the two peoples via baptism or confirmation, welcoming the Scandinavian leaders into 'the Christian brotherhood'.[270] The examples Abels explicitly focuses on are Alfred and Æthelred 'the Unready', two Anglo-Saxon kings who both made treaties with Scandinavian leaders and soon after performed a religious ritual with them. In Alfred's case, he made the *Treaty of Wedmore* in 878 with the leader Guthrum, and soon after Guthrum was baptised with Alfred as his godfather.[271] Æthelred's Scandinavian counterpart was Olaf Tryggvason, with whom he made the 994 *Treaty of Andover*, and soon after stood as sponsor for Olaf's Christian confirmation.[272] Abels, in effect, surmises the traditional view of interfaith diplomacy in the medieval period.[273]

This argument, that a shared religion was necessary for a peace to be made, sees inter-faith peace-making in two stages. The conversion ritual, by which both people establish a faith in common to overcome a cultural divide, and the making of a treaty, made in the peace of a shared religion and welcoming the pagan people into the shared culture of Christianity.[274] However, this argument does not recognise how contract law and the legal principle of *pacta sunt servanda*, that agreements must be kept, is understood in the vast majority of cultures, Christian or not. This undermines the first premise, that there is such a significant cultural divide that peace cannot be made without conversion. Wehberg has argued well that the principle of contract sanctity is one of the most universally upheld principles, regardless of society.[275] Wehberg points out that in both the Bible and the Koran, the upholding of contractual obligations and oaths is seen as a sacred duty. For example, in Matthew's Gospel,

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[270] Abels, 'Paying the Danegeld', 184.
[271] *ASC* [MS A], s.a. 878.
[272] *ASC* [MS E], s.a. 994.
[273] For other scholars who support the 'traditional view', see P.J. Helm, *Alfred the Great* (London: R. Hale Ltd, 1963), 47-48 and 101-103; R.H. Hodgkin, *A History of the Anglo-Saxons*, 2 vols (Oxford: Calrendon Press, 1935), II, 563-572.
[274] Abels, 'Paying the Danegeld', 173-192; For further work that reiterates this idea, see Christine Walsh, 'Baptized but not Converted: the Vikings in Tenth-Century Francia', *Ecclesiastical History Society*, 51 (2015), 69-70.
[275] Hans Wehberg, 'Pacta Sunt Servanda', *American Journal of International Law*, 53 (1959), 775-786.

Matthew emphasises that one should fulfil what one has promised, 'But let your communication be, Yea, yea; Nay, nay: for whatsoever is more than these cometh of evil'.[276] Similarly, in the Koran Muslims are encouraged to 'Be… true to the obligations which [they] have undertaken… For Allah is your Witness'.[277] Given these statements it is not surprising that we find references to oaths often in broader peace-making accounts, and also within treaties themselves, regardless of the religions of the parties involved. The *Treaty of Aleppo*, for example, states that the most prominent individuals of Aleppo swore oaths to guarantee the peace.[278] Similarly, the *Treaty of Baghdad* between Bardas Phokas and the Buyid emir emphasise that Bardas was read the terms of the treaty in Greek, and swore to uphold the treaty knowing its terms.[279] Thus it is certain that the principle *of pacta sunt servanda* existed beyond the Christian West, and indeed Byzantium.

While it is certainly harder to prove that this was necessarily the case with 'pagan' peoples and cultures, this certainly seems to have applied to pagans as well. Zieglar has pointed out quite reasonably that the earliest surviving treaties, between a king of Ebla and a king of Ashur in the 25th century B.C.E., invokes over thirty gods and goddesses.[280] These gods acted as witnesses to the treaty, and were to act as impartial judges to the agreement, punishing the one who violated the pact.[281] This is certainly similar to Allah bearing witness to the agreements made by Muslims as claimed in the Koran.[282] While we cannot know if this applied to all pagan cultures, pagan being such a diverse 'umbrella' term, it is almost certain that this was the case regarding the pagan cultures of Scandinavia mentioned above. This is perhaps most evident when one looks to Eddic Poetry, Anne Irene Riisøy having argued

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[276] *Matt.*, 5:33-37.
[277] See, Wehberg, 'Pacta Sunt Servanda', 775.
[278] *Treaty of Aleppo*, Ending Oath.
[279] *Treaty of Baghdad*, 67-68.
[280] K.-H. Ziegler, 'Conclusion and Publication of International Treaties in Antiquity', *Israel Law Review*, 29 (1995), 233-234.
[281] Zieglar, 'Conclusion and Publication of International Treaties in Antiquity', 234.
[282] See Wehberg, 'Pacta Sunt Servanda', 775.

convincingly that these poems offer a gateway into the pre-Christian legal traditions of Scandinavia.[283] As Riisøy highlights, oaths are a common occurrence within these sources, and it is quite clear that the oaths were intended to be upheld.[284] While various sources decry pagan Scandinavian peoples' breaking of oaths, these raiders do not seem to have been alien to the oath-making process. For example, Asser deplores the Danes breaking their oaths to Alfred in 876, implying that this was the raiders' custom.[285] However, if this were to be true, it is interesting that Asser does not question Alfred's prior use of oaths to bind the Danes to the treaties made earlier in Alfred's reign, or the use of oaths to bind Guthrum to the *Treaty of Wedmore*. The *Anglo-Saxon Chronicle* even goes so far as to imply the Vikings maintained their oaths after making peace in 876, saying they 'kept a firm peace' in its entry for that year.[286] Indeed, if the swearing of oaths would inevitably lead to the Scandinavian raiders breaking them, it is surprising that both Alfred, and other leaders such as Charles the Simple, would offer peace with this people that was bound via their oaths.[287] It is also clear that Byzantine treaties with the Rus', a people widely believed to be related to the peoples of Scandinavia and largely non-Christian in the early period, were cemented with oaths.[288] For instance, the narrative account of the 907 Byzantine-Rus' treaty clearly has the Rus' swear according to their religion upon '…their weapons and by their god Perun, as well as Volos, the god of cattle…'.[289] Despite these people not believing in the Christian God, it is clear that

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[283] Anne Irene Riisøy, 'Sacred Legal Places in Eddic Poetry: Reflected in Real Life?', *Journal of the North Atlantic*, 5 (2013), 28-41.
[284] Riisøy, 'Sacred Legal Places in Eddic Poetry', 30.
[285] *Asser's Life of King Alfred*, ed. W. H. Stevenson (Oxford: OUP, 1904), 37-38.
[286] *ASC* [MS A], s.a. 876.
[287] *ASC* [MS A], s.a. 876; *De moribus et actis primorum Normanniae ducum*, ed. J. Lair (Caen: Le Blanc-Hardel, 1865), 168-169.
[288] On the relation of the Rus' to Scandinavian peoples, as well as an overview of the historiography of the debate, see Charlotta Hillerdal, 'Vikings, Rus, Varangians the "Varangian Problem" in View of Ethnicity in Archaeology', *Current Swedish Archaeology*, 14 (2006), 87-105; Stein-Wilkeshuis, 'Scandinavian Law in a Tenth-Century Rus' -Greek Commercial Treaty?', 311-312.
[289] *RPC*, 65.

oaths were still honoured in their society, this not being reliant upon a particular deity being worshipped.

The argument that conversion was necessary to cross the cultural gap between Christians and pagans does not bear even the most cursory scrutiny. However, it is also important to highlight other flaws in this argument. The premise that conversion was necessary for a peace, and thus a treaty, to be made, is flawed in and of itself. This is in part due to the examples that the historiography of Anglo-Saxon peace-making focuses on. As noted above, scholars have traditionally seen both Alfred's and Æthelred's use of the sacraments of initiation, being baptism and confirmation, as key to their success in making lasting treaties with their Scandinavian adversaries.[290] It is easy to see why, as in Alfred's case three separate narrative sources, the *ASC*, *Æthelweard's chronicle*, and Asser's *Life of Alfred*, record that Guthrum underwent baptism with Alfred standing as his godfather soon after the *Treaty of Wedmore*.[291] However, the *ASC* is, somewhat uncharacteristically, very specific concerning the chronology of events after the Battle of Edington. The *ASC* explicitly states that Guthrum and his army gave oaths, and then promised that Guthrum would be baptised. The baptism occurred three weeks later, and thus took place three weeks after the treaty was made. This narrative is echoed by both Asser and Æthelweard. This is a major flaw in Abels's argument and implies that as the baptism took place after the treaty was made, conversion was not necessary to cross the cultural divide between these two rulers to make peace.

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[290] Stenton, *Anglo-Saxon England*, 256-257; Clare Downham, *Viking Kings of Britain and Ireland* (Edinburgh: Dunedin Academic Press, 2007), 77; Richard Abels, 'The *micel hæðen here* and the Viking threat', in *Alfred the Great*, ed. Timothy Reuter (Aldershot: Ashgate Publishing, 2003), 277; Theodore Andersson, 'The Viking Policy of Æthelred the Unready', *Scandinavian Studies*, 59 (1987), 291.

[291] *ASC* [MS A], s.a. 878; Asser, *Life of King Alfred*, 40–47; Æthelweard, *The Chronicle of Æthelweard*, ed. A. Campbell (London: Thomas Nelson and Sons Ltd, 1962), 42–47.

Æthelred's use of confirmation as an effective peace-making weapon after the *Treaty of Andover* in 994 is often seen as one of his few successes.[292] It has also been seen as evidence of the need for conversion, or rather confirmation, to cross the cultural gap between the English, Christian, king and the Scandinavian leader Olaf, as stated above.[293] The *ASC* entry for 994 mentions that Æthelred sponsored Olaf for confirmation, seemingly as a way to confirm the treaty. It is worth noting that the *ASC* does not itself say a treaty was concluded. However, the events it describes imply that one was, and this is supported by modern historiography.[294] This took place during a time of increased raiding activity. Indeed, every year from the year 991 to the year that the *Treaty of Andover* was made the *ASC* notes Scandinavian raids.[295] The treaty established between Æthelred and Olaf led to lasting peace in England from 994 to 1000, peace in England ending only when Æthelred fought a different Scandinavian power after Olaf had left the kingdom.[296] This example is another of Abels's case studies, but again, the narrative of the *ASC* simply does not back Abels's argument. The *ASC*'s entry for the year 994 simply records that after failing to take London and plundering the southeast of England, the Viking army made peace with Æthelred (implying this is when the peace was made), and then Olaf was received by Æthelred 'with bishops hands' (*æt biscopes handa*) implying Olaf's confirmation.[297] Again, this undermines Abels's argument significantly as the treaty seems to have been made prior to Olaf's confirmation. The ritual of

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[292] Abels, 'Paying the Danegeld', 175; Andersson, 'The Viking Policy of Æthelred the Unready', 285 and 291.

[293] Andersson, 'The Viking Policy of Æthelred the Unready', 285 and 291.

[294] *ASC* [MS E], s.a. 994; Phyllis Brown, 'The Viking Policy of Æthelred the Unready: A Response', *Scandinavian Studies*, 59 (1987), 296-298; Andersson, 'The Viking Policy of Æthelred the Unready', 291; Benham, 'Law or Treaty', 490-491.

[295] *ASC* [MS E], s.a. 991-994.

[296] *ASC* [MS E], s.a. 994-1001; The *ASC* records petty raiding between these years, but this could well have been a separate Scandinavian force, as we know that several Viking leaders operated in Britain and Ireland in this period, such as the enigmatic Pallig. Most importantly, the chronicle records that Olaf never again returned to England in hostility. Ian Howard, *Swein Forkbeard's Invasions and the Danish Conquest of England, 991-1017* (Woodbridge: Boydell Press, 2003), 51-53; M.K. Lawson, *Cnut: The Danes in England in the Early Eleventh Century* (London: Longman, 1993), 36 and 47-48; *ASC* [MS E], s.a. 994.

[297] *ASC* [MS E], s.a. 994.

Christian baptism or confirmation was not necessary for the peace to be made, as these rituals followed after the peace was made in the key examples for this argument.[298]

There are other narrative examples within the *ASC* which appear to adhere to the 'treaty followed by a sacrament of initiation' formula. For example, the *ASC* credits King Edmund with receiving Olaf Sihtricson, king of Northumbria, for baptism in 942, after a series of confrontations, eventually leading to Olaf '[acquiring] king Edmund's friendship'.[299] While this might not seem like a treaty on first sight, peace in the Anglo-Saxon world was an active state, which is well represented by the Old English terms *feond* and *freond*, meaning 'enemy' and 'friend', with no 'neutral' equivalent.[300] As such, it is likely that this reference to a 'friendship' between two rulers is either an oral or a written treaty which has not survived. This is not to say that peace-making interactions between the English and their Scandinavian counterparts never utilised baptism or confirmation before the peace was made.[301] What is important here is that Olaf acquired Edmund's friendship before he had been baptized, mirroring Alfred's and Æthelred's use of initiation sacraments surrounding treaties, rather than as a condition of a treaty.

This is clear evidence that Abels, and the traditional historiography, have misread and misused accounts of peace-making interactions. This is further reinforced by some scholars reading the conversion of Olaf by Æthelred as present in the treaty, such as Andersson and Lawson.[302] Despite this, the treaty itself makes no reference to Olaf's confirmation.[303] Thus,

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[298] *ASC* [MS A], s.a. 878; *ASC* [MS E], s.a. 994.
[299] *ASC* [MS D], s.a. 942.
[300] T.M. Charles-Edwards, 'The Distinction Between Land and Moveable Wealth in Anglo-Saxon England', in *Medieval Settlement: Continuity and Change*, ed. P.H. Sawyer (London: Edward Arnold, 1976), 180-181; P. Geary, 'Sacred commodities: the circulation of medieval relics', in *The Social Life of Things: Commodities in Cultural Perspective*, ed. A. Appadurai (Cambridge: CUP, 1986), 173 and 183.
[301] Indeed, no written treaties in appear to have survived from any Anglo-Saxon king other than Alfred and Æthelred; Chaplais, *English Diplomatic Practice*, 36.
[302] Andersson, 'The Viking Policy of Æthelred the Unready', 291. It is worth noting that Andersson sees the treaty document as dating to 991, and that the 994 treaty has not survived. Regardless of this, he still sees the

it is apparent that many scholars have conflated what is reported in the *ASC* with what is present in the actual treaty document. More generally, this shows that theological models of peace-making, stating that a shared religion was necessary for peace, underestimate that rulers were clearly practical in their pursuit of peace. Indeed, given that no English, or Byzantine, treaties refer to baptism or confirmation being necessary for peace to be made, it seems clear that treaties were concerned with more pragmatic issues. For instance, the treaty documents that Abels focuses on, being the *Alfred-Guthrum Treaty* and the *Treaty of Andover*, largely focus on trade, redress and exiles.[304] These are staple issues in treaties from this period, and are discussed in other chapters.[305] Given that these are common issues to many cultures, arguing that the differences between these two peoples were too great to be overcome unless a religious ritual was used is a poor argument. Perhaps then, this highlights that too often scholars have focused on the differences between peoples rather than their common interests. These are important, pragmatic, issues for both peoples and highlight that there is no need to speculate on conversion being necessary for a lasting treaty to be made, as Abels has done.[306] Ultimately, the treaties here reflect the practical concerns of the peoples involved, and do not seem to reflect religious identity, shared or otherwise.

Although it seems clear that religious identity was not a barrier to making peace, the fact remains that both baptism and confirmation were used soon after the peace was made. Rather than seeing these rituals as being requirements of the peace, it might be more accurate to

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confirmation as an aspect of a treaty, despite no surviving English treaties containing clauses on baptism or confirmation. Lawson, *Cnut: The Danes in England in the Early Eleventh Century*, 36.

[303] *Treaty of Andover*, cc. 1-7.2. For the dating of this treaty, see E.V. Gordon, 'The Date of Æthelred's treaty with the Vikings: Olaf Tryggvason and the Battle of Maldon', *Modern Language Review,* 32 (1937), 24-32.

[304] Abels, 'Paying the Danegeld', 185 and 189-190; *AGU*, cc. 1-5; *Treaty of Andover*, cc. 1-7.2.

[305] See Chapter 1, Chapter 4 and Chapter 6.

[306] For the importance of trade in Viking culture, see Herbert Jankuhn, 'Trade and Settlement in Central and Northern Europe up to and during the Viking Period', *Journal of the Royal Society of Antiquaries of Ireland*, 112 (1982), 18-50. On the Importance of compensation in Viking culture, seen through the Old Norse terms *fébóta* and *baugr* which are synonymous with compensation for killing an individual, see E.V. Gordon, *An introduction to Old Norse*, ed. and rev. by A.R. Taylor, 2nd edn (Oxford: Calrendon Press, 1962), 338 and 343; *A concise dictionary of old Icelandic*, 55.

focus on these rituals as cementing a familial bond between the individuals involved in a peace-making context. This would explain why Anglo-Saxon kings also utilised other religious ceremonies that cemented familial bonds in peace-making. One example is Æthelstan marrying his sister to Sitric Cáech, king of Northumbria, in 926.[307] This is also highlighted by English kings using similar religious rituals with kings who had already been baptized or whose people already had a rich Christian heritage. A good example of the former is Olaf's conversion shortly after the *Treaty of Andover*.[308] The latter is well demonstrated by the confirmation of Anarawd ap Rhodri, prince of Gwynydd, who had King Alfred as a witness for the sacrament in 885.[309] Indeed, Asser stresses the familial bond made between the two, stating Alfred received Anarawd as a son of confirmation 'by the hand of a bishop'.[310] This mirrors the language used to describe Æthelred in confirming Olaf, highlighting that Olaf's prior religion was not a notable factor in Æthelred's use of this ritual in a diplomatic context. Another example of this from outside of the English world, but still within the medieval West, would be Louis the Younger, Western emperor and king of Italy, standing witness as godfather for the Venetian Doge Pietro Tradonico's daughter in 856.[311] Evidently, the use of baptism and confirmation by both King Alfred in 878 and King Æthelred in 994 are part of a wider trend of rulers utilising Christian sacraments of initiation to cement familial bonds surrounding treaties.

Interestingly, the assumption that baptism was necessary for peace is less common in the scholarship of Byzantium. This is perhaps best demonstrated by scholarly discussions of the tenth-century treaties made with the Rus'. As touched upon earlier, the narrative description

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[307] *ASC* [MS D], s.a. 926.
[308] *ASC* [MS E], s.a. 994.
[309] Asser, *Life of King Alfred*, 66-67.
[310] 'ad manum episcopi in filium confirmationis acceptus…'; Asser, *Life of King Alfred*, 67.
[311] '[Lodovicus…] Iohanis ducis genitam de sacro fonte levavit'; Andrea Dandolo, *Andreae Danduli Ducis Venetiarum Chronica per extensum descripta: aa 46-1280*, ed. E. Pastorello (Balogna: N. Zanichelli, 1938), 154.

of the 907 Byzantine-Rus' treaty comments on the Rus' swearing oaths upon their weapons, and invoking their deities. Additionally, two later Byzantine-Rus' treaties made with the pagan Rus' in 911 and 945 largely focus on trade, redress, exiles and military service.[312] Shepard, in discussing the treaties, sees them as reflecting Byzantium's ability to detect and use the needs of other peoples in the arena of peace-making.[313] While Whittow sees the eventual Rus' conversion as the 'transformation of the Rus' into Byzantium's key ally in the North', he does not see this conversion as necessary for diplomatic relations between the Christian Byzantines and the pagan Rus'.[314] This is clearly reflected in the treaties. The 911 treaty is confirmed with oaths, and 'transcribed in vermillion script upon parchment in duplicate'.[315] The 945 treaty again has the terms copied for both parties, and again has the Rus' swear oaths according to their own religious practices.[316] The latter treaty in particular seems to reflect the growth of Christianity amongst the Rus', the Christian Rus' swearing on the cross of St. Elias, and the Pagan Rus' swore upon 'their shields, their naked swords, their armlets, and their other weapons', with both the Christian God and the god Perun cursing those who broke their oath.[317] What is obvious from this is that the sacraments of initiation were not necessary to facilitate Byzantine treaties with 'pagan' peoples either.

These findings further extend to treaties between Christians and non-Christians of Abrahamic faiths. For instance, the *Treaty of Aleppo* between the Byzantine general Peter Phokas and the ruler of Aleppo Qarghawaih contains no initiation sacrament to confirm the treaty.[318] Following a list of the terms, twenty-one in total, the *Treaty of Aleppo* is confirmed by 'a number of native sheikhs [swearing] an oath with the chamberlain (the ruler of Aleppo) and

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[312] *Treaty of Constantinople* (911), 65-68; *Treaty of Constantinople* (945), 73-77
[313] Shepard, 'Byzantine Diplomacy, 800-1204', 68.
[314] Mark Whittow, *The Making of Orthodox Byzantium, 600-1025* (London: McMillan Press Ltd, 2000), 262;
For Whittow's discussion of the treaties, see Whittow, *The Making of Orthodox Byzantium*, 256-257.
[315] *Treaty of Constantinople* (911), 68.
[316] *Treaty of Constantinople* (945), 76-77.
[317] *Treaty of Constantinople* (945), 77.
[318] *Treaty of Aleppo*, cc. 1-21.

Bakgur (the chamberlain's heir)'.[319] Another treaty, made between the rebel Byzantine general Bardas Skleros and Samsam al-Daula in 986, simply states both sides took an oath and emphasises that Bardas made this treaty of his own volition, and had been read the terms in Greek.[320] This is particularly interesting bearing in mind Augustine's own comments on the barrier of language to peace-making.[321] Byzantine rulers did not see religious differences as a barrier to making a treaty. Once again, this highlights that treaties were pragmatic documents, revealing practical ways in which peace was made, rather than reflecting religious ideology as a barrier to peace.

This is not to say that baptism was not used as a diplomatic tool by Byzantine rulers. It was common practice for Byzantine emperors to partake in the baptism of other, non-Christian, rulers, even before the period covered in this thesis. Khan Boris of Bulgaria, upon being baptised, took the Christian name Michael after his godfather Emperor Michael III in 864.[322] Similarly, when Constantine VII seemingly baptised Olga, regent of the Rus', the Primary Chronicle actively commenting on the spiritual kinship between the two.[323] These examples particularly emphasise that these religious rituals were a way of cementing familial bonds between rulers, and not necessarily concerned with notions of making peace through the Christian faith. Alexios I is also particularly noted for this practice. The *Alexiad* contains an account of Alexios baptizing an Islamic emissary, and several other accounts of his baptism

[319] *Treaty of Aleppo*, Ending Oath.
[320] *Treaty of Baghdad*, 67.
[321] Augustine, *The City of God*, 928-929.
[322] *On the Reigns of the Emperors: introduction, translation, and commentary*, trans. Anthony Kaldellis (Sydney: Australian Association for Byzantine Studies, 2017), 86; Leonis Grammatici, *Chronographia*, ed. Immanuel Bekker (Bonn: Bonn Weber, 1838), 238.
[323] *RPC*, 82. While the *RPC* is a tricky source to use, it still evidences attitudes towards baptism as a tool to create spiritual kinship. It is worth noting that Olga seems to propose baptism to ward off advances from Constantine, as creating the bond of godfather/goddaughter would ensure Constantine could not marry her, it being against Church law for a godchild and godparent to be married. Regardless, this shows medieval awareness of the 'spiritual kinship' created by these rituals. It is also worth noting that some Byzantine sources imply that Olga was already baptised, and that this may have been a secondary baptism. For more on this see: Dimitri Obolensky, 'The baptism of Princess Olga of Kiev the problem of the sources', *Byzantina Sorbonensia* (1984), 159-176.

of various Muslim individuals.[324] Furthermore, Alexios seems to have taken this a step further when dealing with the leaders of the First Crusade.[325] Alexios convinced key leaders of the First Crusade, including Godfrey of Bouillon, to undergo a form of ceremonial adoption.[326] While this is not quite the same process that the English kings used on already confirmed rulers, Shepard has noted that the familial relationship was established via ecclesiastical rites.[327]

Establishing familial bonds or bonds of friendship by baptism, confirmation or adoption was a common way to cement good relations between peoples, and as such, was a pragmatic way for rulers to establish or maintain friendship with their neighbours. However, it was rarely, if ever, a requirement of a treaty. It is also noteworthy that none of the treaties discussed so far actually mention any of the sacraments of initiation within treaty clauses, these rituals only being commented upon in the narrative accounts of the treaties rather than in the treaties themselves. It is apparent that the view that religious rituals were necessary to make peace between peoples of different faiths is simply not reflected in treaty-making practice. While the above scholarship focusing on England offers beneficial insights into English peace-making more generally, that it has often been argued that religious rituals were necessary to make peace with those of a different faith, is not only a result of neglecting to examine

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[324] *Alexiade*, II, 65-66.

[325] For a discussion of Alexios dealings with the first crusaders generally, see Lars Kjaer, 'I Fear Greeks, even when they bear Gifts: The Gifts of Alexios I and the Histories of the First Crusade', Viator, 49 (2018), 25-49.

[326] Albert of Aachen, *Historia Ierosolymitana*, ed. and trans. Susan B. Edgington (Oxford: Clarendon Press, 2007), 84-87. It is worth noting this seems to have confused some Western chroniclers, Albert of Aachen claiming that it was a Byzantine custom to make all visiting rulers and leaders sons of the emperor. A similar comment is made by Ekkehard of Aura, although he attributes it to be the custom of Alexios, not the Byzantines as a whole. Frutolfi et Ekkehardi, *Chronica Necnon Anonymi Chronica Imperatorum*, ed. and trans. F.J. Schmale and I. Schmale-Ott (Darmstadt: Wissenschaftliche Buchgesellschaft, 1972), 166-167. For more on Alexios's use of these rituals, see Jonathan Shepard, '"Father" or "scorpion"? Style and substance in Alexios's diplomacy', in *Alexios I Komnenos. Papers on the Second Belfast Byzantine International Colloquium, 14-16 April 1989*, ed. Margaret E. Mullett, Dion C. Smythe (Belfast: Belfast Byzantine Enterprises, 1996), 80-82. For other Byzantine uses of these rituals see: Evelyne Patlagean, 'Christianisation et parentés rituelles: le domaine de Byzance', *Annales. Économies, Sociétés, Civilisations*, 33 (1978), 625-636.

[327] Shepard, '"Father or "Scorpian"?', 111.

treaties, but also the result of scholarly isolation, neglecting the work and sources of scholars focusing on similar issues involving different peoples, such as the Byzantines.

Another prevalent theory amongst scholars is that peace-making and treaties between peoples of different faiths culminated in impermanent ends to conflict, which were short term by design. Holmes has argued that any periods of peace between Islamic powers and non-Islamic powers were fundamentally short and temporary by design due to the political ideology of Islam.[328] She argues that this is articulated well by the Caliph al Mu'izz when he greeted the envoy of Byzantine Emperor Constantine VII:

'Religion and Islamic law prevent the grant of a perpetual treaty because Allah has sent his envoy the Prophet Mohammed… to invite the world to adopt his religion and make war on those who oppose until they embrace Islam, unless they pay the *jizya*… Peace [otherwise] is only permitted for a fixed time… in the interests of Muslims and religion'.[329]

While Holmes goes on to argue that treaty-making was both an expansionary tool of Islamic power and a defensive mechanism, by which Muslim rulers could preserve their territory, she ultimately maintains that peace-making between Byzantium and Islamic peoples was characterised by short term agreements dominated by the payment of tribute and the gradual absorption of local administrative and political structures.[330] A major case study for her argument is the *Treaty of Aleppo*, where tribute, recognition of Byzantine superiority, and the maintaining of the Emirate of Aleppo's power structures are key aspects of the treaty. More generally Holmes maintains that while peace with other faiths was common for Islamic

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[328] Holmes, 'Treaties between Byzantium and the Islamic World', 141-142.
[329] Adapted from Holmes, 'Treaties between Byzantium and the Islamic World', 141; A. Vasiliev, *Byzance et les Arabes*, 3 vols (Brussels: Fondation byzantine, 1950-68), II, 421.
[330] Holmes, 'Treaties between Byzantium and the Islamic World', 141-157.

powers, the state of peace was not intended to be long lasting.[331] This attitude is mirrored by Abels's insistence that without baptism, long-term peace was impossible between the Anglo-Saxons and Scandinavian raiders.[332] This opinion is by no means uncommon. Hugh Kennedy characterises the Byzantine and Islamic worlds as in a 'state of permanent confrontation' for the majority of the early medieval period, and Barbara Crawford states that conversion was essential if the pagan Scandinavian raiders were to settle in the lands they occupied to enable 'normal relations'.[333] David Sturdy goes even further, suggesting that Guthrum attacked Alfred explicitly to sacrifice the Christian king to the pagan gods, and that the conversion of Guthrum to Christianity ensured a more peaceful relationship between the two kings.[334] More generally, R.C. Smail claims that the very existence of the Christian crusader states in the Near East meant that war was an essential part of the relations between these states and their Islamic neighbours, and that the crusader states society and legal system reflected this.[335] All of these arguments in essence rely upon two assumptions. The first is that Christian and non-Christian cultures were profoundly alien to one another, and the second being that the peace established by peace-making and treaties between Christians and non-Christians is, almost by definition, short. I will deal with both of these assumptions, but will focus on the first initially.

The above quote from the Caliph al Mu'izz certainly implies a difference in attitude to peace-making compared to his Byzantine counterpart. This is arguably reinforced by Byzantine texts, such as *De Administrando*. In this guide to the geopolitics surrounding Byzantium in

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[331] Holmes, 'Treaties between Byzantium and the Islamic World', 141-144 and 153-154; *Treaty of Aleppo*, cc. 1-21.

[332] Abels, 'Paying the Danegeld', 180.

[333] Hugh Kennedy, 'Byzantine–Arab diplomacy in the Near East from the Islamic Conquests to the Mid Eleventh Century', in *Byzantine Diplomacy*, ed. Jonathan Shepard and Simon Franklin (Aldershot: Variorum, 1992), 133; Barbara E. Crawford, 'The Vikings', *From the Vikings to the Normans*, ed. Wendy Davies (Oxford: OUP, 2003), 58.

[334] David Sturdy, *Alfred the Great* (London: Constable and Company Limited, 1995), 146-150. This claim is particularly odd, and as far as I can tell, not reflected in any primary sources.

[335] R.C. Smail, *Crusading Warfare*, 2nd edn (Cambridge: CUP, 1976), 1-2.

the mid tenth century, Constantine advises his successors on how best to deal with various peoples, often advising the use of diplomacy and the giving of gifts to cement good relations.[336] However, curiously, the emperor does not comment on how diplomacy should be conducted with the various Islamic peoples that made up Byzantium's Eastern frontier.[337] This could potentially be seen to support the supposition that peace between peoples of different faiths was uncommon, and when made, temporary. Certainly, Constantine even states in a separate passage that 'alien customs and divergent laws are likely on the contrary to engender enmities and quarrels and hatreds and division'.[338] This could be used to show inter-faith diplomacy was fundamentally different due to a difference in both religious and cultural values. Certainly, Prerona Prasad has seen raids carried out by Muslim peoples leading up to and during Constantine VII's reign largely in the light of the Islamic ideal of Jihad, tied with a believed religious obligation to raid Christian lands.[339] Following this view to its logical next step, peace made between Byzantium and the various peoples of its Eastern frontier must have been naturally short.

Despite the rhetoric within *De Administrando*, there is ample evidence from Constantine's reign on various peace-making interactions between Byzantium and rulers of different faiths. Constantine's 945 treaty with the Rus', as highlighted earlier, does not show religious difference to be a barrier.[340] Indeed, while no treaties with an Islamic power survive from Constantine's reign, we do know of peace-making interactions with various Muslim powers during his time as emperor. For example, *Theophanes Continuatus* recounts an exchange of

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[336] *De Administrando*, 44-45.

[337] *De Administrando*, 76-81. On Constantine VII's relations with the peoples of his Eastern frontier more generally, see Prerona Prasad, 'Diplomacy and foreign policy in the personal reign of Constantine VII Porphyrogennetos (945-959)' (unpublished doctoral thesis, University of Oxford, Keble College, 2015), 83-124.

[338] *De Administrando,* 74-75.

[339] Prasad, 'Diplomacy and foreign policy in the personal reign of Constantine VII Porphyrogennetos (945-959)', 129-131. Note that while Prasad believes the raids on Byzantium were motivated by religious ideology, she does not believe Byzantium's eventual recovery and counterattack was motivated by Byzantine religious ideology.

[340] *Treaty of Constantinople* (945), 76-77.

prisoners between Byzantium and the emir of Aleppo Sayf al-Dawla.[341] Such a clause is referred to in the *Treaty of Baghdad*, with Bardas Skleros promising to release all Muslim prisoners in the prisons of Byzantium.[342] Furthermore, correspondence surrounding Byzantine diplomatic endeavours emphasises that religious difference is not necessarily a cause of conflict. For instance, the patriarch of Constantinople Nicholas I, actively states that religious and cultural differences are no barrier to peace. In a letter to the emir of Crete likely written early in Constantine's co-reign as emperor (c. 914), the patriarch asks the emir to cease attacking the island of Cyprus, and further states '[the Romans and the Saracens] ought… to be in contact and brotherhood and not, because we differ in our lives and habits and religion, remain alien in all ways to one another…'.[343] Thus it seems highly unlikely that Constantine was deterred from making long lasting peace with Islamic peoples due to religion alone.

Constantine also seems keenly aware of the benefits of keeping peace and taking oaths from peoples of different faiths, particularly with the pagan Pechenegs:

'…it is always greatly to the advantage of… the Romans… to keep the peace with the nation of the Pechenegs and to conclude conventions and treaties of friendship with them and to send every year to them… a diplomatic agent'.[344]

Constantine continues to state that it is to the advantage of the empire to take both hostages and oaths from the Pechenegs, in return for 'gifts'.[345] Such peace-making methods are well documented throughout the medieval world, and show a variety of peace-making methods

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[341] *Theophanes Continuatus*, ed. I. Bekker (Bonn: Corpus Scriptorum Historiae Byzantinae, 1838), 443.
[342] *Treaty of Baghdad*, 65-66.
[343] *Nicholas I, Patriarch of Constantinople, Letters*, eds. R.J.H. Jenkins and L.G. Westerink (Washington: Dumbarton Oaks Center for Byzantine Studies, 1973), 2-3. Indeed, Nicholas refers to a peace which 'none of [the emir's] forefathers… [had] disturbed', implying a long-term peace was in place prior to the emir's attack. Nicholas I, *Letters*, 4-5.
[344] , *De Administrando*, 48-49.
[345] *De Administrando*, 56-57. For a discussion on the complexities of this term see Chapter 1.

were used irrespective of distinct religious culture. For instance, hostages were given by William, king of Scots, to Henry II, in the *Treaty of Falaise*, an interaction between two leaders of peoples with shared Christian belief.[346] Thus, we have very little evidence to infer any particular difference in peace-making policy due to religious identity.[347] Ultimately, this reflects that conflict resolution and peace-making more generally were not limited by religious ideology, and that rulers desire for peace was shaped more by the practicalities of geopolitics. This goes hand in hand with the vast majority of societies, regardless of their religion, understanding and utilising the principal of *pacta sunt servanda* to overcome cultural and ideological differences in order to make peace.[348] The practical benefits of maintaining good, long-standing, relations with peoples irrespective of their faith was in the pragmatic interests of rulers.

Scholarship has also often overlooked that there are both theological, legal and narrative writings from the medieval period that indicate making peace, and even a prolonged peace, with peoples of different faiths was a common practice. The eighth century jurist Muhammad al-Shaybani, often regarded as the founder of Islamic international law, actively stated that if a non-Islamic people requested peace with an Islamic people for an indefinite amount of time, this should be accepted provided it was in the interests of Muslims, and as long as this required no tribute be paid by the Islamic people.[349] Even this seems slightly inaccurate in its description of treaty-making in practice, with the *Treaty of Aleppo* specifying no time limit, and that the emirate paying Byzantium a capitation tax of sixteen *Dirhams* for every

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[346] *Treaty of Falaise*, 6-8.
[347] The Muslim geographer al-Bakri state the Pechenegs were converted in c. 1009, meaning the Pechenegs were likely still 'pagan' while Constantine was writing. 'Fragments de geographes et d'historiens arabes et persans inedits, relatifs aux anciens peoples du Causase et de la Russie meridionale', trans. C. Defremery, *Journal asiatique*, 4 (1849), 457-522.
[348] Hans Wehberg, 'Pacta Sunt Servanda', 775-786; Matt. 5:33-37; Zieglar, 'Conclusion and Publication of International Treaties in Antiquity', 234.
[349] Muhammed Ibn al-Hasan Ash-Shaybani, *Kitab al-Siyar al-Saghir*, trans. Mahmood Ahmad Ghazi (Islamabad: Islamic Research Institute, 1998), 61.

inhabitant of the emirate, in addition to an annual payment of 700,000 Dirhams 'for the regions of the truce'.[350] With this in mind, clearly some theological models of peace-making allowed for prolonged treaties, and thus prolonged peace, to be made between rulers of different faiths.

The view that a cultural divide impinges on making a long-term peace is also undermined by the treaties themselves. A treaty is a document by which both parties involved can express their needs and wants, being made after a lengthy negotiation process. The very existence of these documents between peoples of different faiths implies that the peoples involved were able to establish a dialogue in which both peoples' aims were set out. This alone hints that negotiation and compromise were held by these religiously different peoples in common. Furthermore, the majority of the surviving treaties between peoples of different faiths concern redress, exiles and trade, issues which were essential to settle if a long-term peace was to be established.[351] Thus, a cultural divide preventing long-term peace between peoples of different faiths is not supported by the evidence surrounding treaties.

More generally, inter-faith peace has been seen as impermanent by definition in our narrative sources, and can arguably be seen to exist within treaties. There are many examples of treaties between Christians that are seemingly made in perpetuity. For example, the 991 *Treaty of Rouen* has Æthelred II make a peace with Richard, Duke of Normandy, which would 'remain for ever unshaken'.[352] The trading privileges issued in the *Treaty of Constantinople* to the Venetians in 1126 also specify that the privileges are to last forever.[353]

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[350] *Treaty of Aleppo*, c. 2. This payment is complex, and I suspect it is actually a form of redress paid for the emir to retain control of Aleppo. However, as highlighted in Chapter 1, tribute, gifts, and redress are terms often used interchangeably, in narrative evidence and the treaties.
[351] For instance, see *Treaty of Constantinople* (911), 64-68; *Treaty of Constantinople* (945), 73-77; *Treaty of Aleppo*, cc. 1-21.
[352] *Treaty of Rouen,* 38. Translation from *EHD*, I, 824.
[353] *Treaty of Constantinople* (1126), 98. The 1126 Treaty was made after a series of raids made by the Venetians on the Byzantines, and is thus different to both the 992 and 1082 treaties. The earlier treaties both issued

By contrast, the 911 *Treaty of Constantinople* and the *Treaty of Aleppo* make no mention of the treaty lasting forever or of a time limit whatsoever.[354] This could be seen as reflecting the impermanent nature of agreements made between peoples of different faiths. Furthermore, the narrative accounts of the *Treaty of Jaffa*, between Saladin and Richard I, emphasise that the peace established was to only last for three years.[355] All of this implies that treaties were indeed temporary affairs when made between peoples of different faiths. This belief is reflected in the historiography of English treaties as well. For instance, it is a relatively common assumption that the *Alfred-Guthrum Treaty*, made eight to twelve years after Guthrum's conversion, was almost certainly a treaty designed to be only a short-term end to a conflict.[356] Thus the current historiographical consensus is that peace between peoples of different faiths was a temporary reprieve to an unending conflict.

Despite the above, when one looks at a wider selection of treaties, it is apparent that a religious divide to treaty-making is not present in the texts themselves. For example, while it seems widely assumed that the *Alfred-Guthrum Treaty* was a short-term agreement, we have no evidence to infer that this was the case. The *Alfred-Guthrum Treaty* even states that 'This is the peace which King Alfred and King Guthrum… agreed on and confirmed with oaths, for themselves and for their subjects, both for the living and those yet unborn…'.[357] Given this statement, and that the treaty has no explicit time limit, the treaty clearly implies that peace was intended to last in the long-term. While the dating of the treaty is uncertain, both the *ASC*

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privileges to Venice during peacetime, while the 1126 was attempting to re-establish peace, in part by reissuing the privileges given by previous emperors to the Venetians. For more on this, see Nicol, *Byzantium and Venice*, 77-81.

[354] *Treaty of Constantinople* (911), 66-67; *Treaty of Aleppo*, cc. 1-21.

[355] *The Chronicle of the Third Crusade,* ed. H. Nicholson (Abingdon: Ashgate, 1997), 371.

[356] Paul Kershaw, 'The Guthrum Treaty', in *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, ed. D.M. Hadley and J.D. Richards (Turnhout: Brepols Publishers: 2000), 45-46; Lambert, 'Frontier Law in Anglo-Saxon England', 22. This view is reiterated by Keynes, S. Keynes, 'King Alfred and the Mercians', in *Kings, Currency and Alliances: Southern England in the Ninth Century* (Woodbridge: Boydell Press, 1998), 33.

[357] AGu, Prol. Translation from *EHD*, I, 380.

and the other Alfredian chronicles do not report any further conflict between Alfred and Guthrum at all after 878.[358] This is not to say that the treaty necessarily dates to 878, but that there is no evidence for any later conflict between the two kings, and as such it is difficult to see this treaty as a short-term agreement.

While some inter-faith treaties do not contain an 'eternity clause', they often last or were intended to last for significant amounts of time. For example, although the *Treaty of Aleppo* does not have an eternity clause, the peace it established seems to have lasted for some forty years, until the Emirate of Aleppo was subdued by the Fatimid caliphate.[359] This is also somewhat reflected in the *Treaty of Constantinople* (911). This treaty was broken eventually, but only after twenty-four years had passed. By contrast, treaties between Christians in the medieval West often lasted for much shorter lengths of time. For example, The *Treaty of Mantes* (1193) was broken almost immediately, and the French and English kings had to make another peace the following year.[360] Even this peace was not permanent, chronicle accounts stating that the peace agreed was broken within the same year.[361] Indeed, many of the twelfth-century English treaties do not bear any 'eternal clause' or time limit whatsoever, despite them largely dealing with Christian peoples.[362] This is not to say that treaties made by religiously diverse parties necessarily lasted longer than between Christian peoples, but that there is no correlation either way. This further highlights that treaties made between peoples of the same faith were just as likely to be impermanent as those made between peoples of

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[358] *ASC* [MS A] s.a. 878-890; Asser, *Life of King Alfred*, 47–96; Æthelweard, *Chronicle*, 42–47.

[359] Indeed, in 994 Byzantium came to relieve Aleppo from an encroaching Fatimid Army, in accordance to the treaty terms. Yahya ibn Sa'id al-Antaki, 'Histoire'', ed. and trans. I. Kratchkovsky and A. Vasiliev, *Patrilogia Orientalis*, 23 (1932), 440-441. Knowing when the treaty formally ended or was broken is difficult. While the Fatimid's occupied Aleppo in 1016, this did not last indefinitely. For more information on this, see J.H. Forsyth, 'The Chronicle of Yahya ibn Sa'id al-Antaki' (unpublished doctoral thesis, University of Michigan, 1977), 369-634; W. Farag, 'Byzantium and its Muslim Neighbours during the reign of Basil II (976-1025)' (unpublished doctoral thesis, University of Birmingham, 1979).

[360] *Treaty of Mantes*, 217-220; *Chronica,* III, 251-252; *Chronica*, III, 252.

[361] *Chronica*, III, 255-256.

[362] For example, see *Treaty of Falaise*, 2-10; *Treaty of Windsor*, 84-85; *Treaty of Canterbury*, 12-16.

different faiths. Thus, treaties reflect the practical priorities of rulers, such as control over particularly contested areas as in the Anglo-French treaties, rather than necessarily reflecting differences, or indeed similarities, in religious ideology.

It is also worth noting that treaties with 'eternal clauses' have often been treated by modern historiography as if they were intended to last for eternity. For example, Nicol seemingly contradicts himself in saying that the 1082 *Treaty of Constantinople* granted the Venetians inalienable trading privileges forever, but also claims it was well within the emperor's rights to withdraw these same privileges a generation later.[363] One can certainly see why this belief has arisen, after all, the wording of the treaties does seem to imply the granted trade privileges and immovable properties were granted for eternity.[364] However, this is hardly reflective of treaty-making in practice. It is unlikely that any of these treaties were designed to last forever, but rather, those with an 'eternal clause' were designed to last for as long as they could, i.e. indefinitely. This reflects the idea of *pacta sunt servanda* more generally, implying consent and ensuring that treaties had to be contracted by rulers personally through the swearing of an oath. This is reflected particularly well using the Byzantine-Venetian treaties as an example. The 1082 treaty states that the privileges given by Emperor Alexios were inalienable, and that the Venetians were to help the empire forevermore.[365] However, once Alexios had died, his son, John II, refused to renew the treaty.[366] The Venetians had actively asked that this be renewed, sending two envoys for this purpose, and this implies that

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[363] Nicol, *Byzantium and Venice*, 61-62 and 77-78.

[364] 'Hec ita cum dispensauerit Imperii michi pietas sancta, atque diffinit, nullum resistere eis sicut rectis et ueris dulis eius, et contra inimieos adiutoribus, et usque ad finem seculi tales se esse promittentibus, nec quemquam omnino contraria sentire hiis talibus, nec actiones aliquis aduersus omnes exercere propter tradicta eius ergasteria, et scalas istic. Qualiscunque enim juris hic existunt siue ecclesiastici, siue priuati siue publici, siue sancte domus sint, hec nullatenus continget, que nunc sunt fidelium dulorum Imperii michi Ueneticorum et in posterum futurorum, quum multam beniuolentiam et rectum animum erga Romaniam, et erga Imperium meum ostenderunt, et toto animo hec seruare promittunt **in perpetuum**, et pugnare pro Romeo-rum statu, et Christianis pro parte uolunt et protestantur'; *Treaty of Constantinople* (1082), 53. Emphasis my own.

[365] *Treaty of Constantinople* (1082), 53.

[366] 'Historia, Ducum Veneticorum', *MGH, Scriptores (in folio)*, ed. H. Simonsfeld, 39 vols (Hanover: Stuttgart Hiersemann, 1883), XIV, 73. For more on this, see Nicol, Byzantium and Venice, 76-80; Morossi, 'Political and economic relations between Venice, Byzantium and Southern Italy (1081-1197), 90-95.

the initial treaty, though issuing inalienable privileges in return for perpetual Venetian aid, was only intended to last for as long as it could within the lifetimes of each respective party. Once one of the parties had died, Alexios on this occasion, the treaty was no longer valid. That both parties knew of this can be inferred from the Venetian request that the treaty be renewed upon Alexios's death, and John's refusal to renew it.[367] That the treaty also clearly states these privileges were granted in return for Venetian military aid also shows that this treaty was 'eternal' while the required conditions were fulfilled.[368] Traditionally scholars have seen treaties as falling into two categories; those that are 'law-making' and those that act as 'contracts'.[369] However, as Benham has argued, this is perhaps too formal a differentiation, as many treaties have elements of both.[370] For instance, the Byzantine treaties made with the Venetians have some contractual elements, all of them granting or re-granting trading privileges and immovable property to the Venetians in return for continued military support from the commune.[371] However, these same treaties also contain legislation on how Venetians were to be treated by Byzantine courts and Byzantine law. For example, the 1082 treaty sets a fine for any who violate the privileges given to the Venetians, and the Venetians were to be compensated for any of their goods misappropriated by others.[372] More pertinent to the current point though, is that even if we insist on seeing the Byzantine-Venetian treaties as largely contractual, it is clear that these privileges granted by Byzantium hinged on the Venetians fulfilling their obligations stated within the treaty, and that the privileges were only inalienable while both rulers who made the treaty continued to rule. As such, viewing the longevity of treaties through the reigns of the parties that made it, as well as accounting for

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[367] *Historia, Ducum Veneticorum*, 73.
[368] *Treaty of Constantinople* (1082), 51-54.
[369] Benham*, ILE*, 29-39. While other scholars have commented on this, Benham has shown in depth the mechanics and differences of this during the medieval period. Dixon, *Textbook on International Law*, 52; Abbott and Snidal, 'Hard and Soft Law in International Governance', 421-456.
[370] Benham*, ILE*, 37.
[371] *Treaty of Constantinople* (1082), 51-54; *Treaty of Constantinople* (1126), 96-98; *Treaty of Constantinople* (1148), 110-112.
[372] *Treaty of Constantinople* (1082), 54.

the obligations of each party, is more pertinent to lasting peace as opposed to the negotiating parties' religious identity.

Similarly, some treaties that have been seen as 'law-making' treaties, such as the 945 *Treaty of Constantinople* with the Rus' or the *Alfred-Guthrum Treaty*, do contain an eternal clause, again indicating that these treaties were to last for the lifetime of the rulers involved.[373] As commented on in the Introduction, the vast majority of treaties examined in this thesis state this, explicitly saying they are between one ruler and another. However, there are many examples of treaties from both Byzantium and England that specify that these are to include the heirs of one or both of the rulers involved. For example, clause four of the *Treaty of Aleppo* explicitly states that Bakgûr, the son of Emir Qarghawaih, would be emir after Qarghwaih's death, but that the emperor would nominate Bakgûr's successor.[374] This implies that the treaty was to last longer than simply the immediate future, and undermines the argument that peace between peoples of different faiths was necessarily temporary by design. This is not to say that all law-making treaties were made to include rulers' heirs, but even those that were simply designed to last for a ruler's lifetime could often last for significant periods of time, and thus were not temporary by design.

The longevity of law-making treaties is further reinforced by them often containing clauses that deal with potential breeches of the treaty.[375] For example, the *Treaty of Andover* contains a detailed clause on how to deal with a breach of the treaty, and still maintain the treaty, despite the breach.[376] Specifically, it states:

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[373] *Treaty of Constantinople* (945), 77; AGu, Prol.
[374] *Treaty of Aleppo*, c. 4.
[375] Benham hass written extensively on this. See, Benham, ILE, 145-180.
[376] *Treaty of Andover*, cc. 5-6.

'If an Englishman slays a Dane, a freeman a freeman, he is to pay for him with 25 pounds, or the actual slayer is to be surrendered; and the Dane is to do the same for an Englishman, if he slays one'.[377]

Such a clause is perhaps unsurprising, clearly reflecting English domestic law, however one would think that killing a subject of either side would generally break the peace.[378] The *Treaty of Andover* even goes further, saying that the peace would only be broken from homicide 'if eight men are slain'.[379] This is by no means uncommon, the *Treaty of Constantinople* (945) and the *Treaty of Ivry* containing similar clauses specifically on how to proceed if a subject of either side commits actions that would seemingly break the treaty, without risking the peace which has been made.[380] For instance, the 945 Rus' treaty states if a subject of either party kill a subject of the other, the perpetrator may be killed by the relatives of the victim.[381] The *Treaty of Ivry* opts for a more subtle approach, stating that if any future dispute occurs between the English King Henry II and his French counterpart Louis VII, then an arbitration panel made up of nobles and bishops of each king will settle the dispute.[382] While these are very different methods, ultimately both treaties found practical ways to incorporate potential threats to the peace into the treaty, and as such increased each treaty's longevity.

This is not unique to 'law-making' treaties. One would think that if a service contracted via a treaty could not be given, this would violate the treaty. However, multiple 'contract' treaties have clear exceptions as to when the service might not be given, and 'work around' clauses so that the treaty would not be broken. I will not comment on this too much here, as I discuss

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[377] *Treaty of Andover*, c. 5; Translation from *EHD*, I, 402.
[378] For more on the use of domestic law within treaties see Chapter 1.
[379] *Treaty of Andover*, c. 5.2; Translation from *EHD*, I, 402.
[380] *Treaty of Constantinople* (945), 76; *Treaty of Ivry*, 145.
[381] *Treaty of Constantinople* (945), 76.
[382] *Treaty of Ivry*, 145.

these in depth in Chapter 5, however, it is clear that both the *Treaty of Dover* (1101), and the *Treaty of Constantinople* (1187), have clauses dealing with hypothetical scenarios which would hinder the provision of a particular service.[383] The former states the count of Flanders is required to lead hired Flemish troops to aid Henry I, but lists several possible exceptions to this, whereby the count does not have to lead the soldiers but must still send them.[384] The latter states that if the Venetians cannot supply their fleet to Alexios II within the allocated time frame, Alexios is free to conscript Venetians from within Byzantium to defend the realm.[385] Of particular relevance to the current discussion of religious identities' impact on treaty longevity is the sixth clause of the *Treaty of Aleppo*. This clause states that the emir of Aleppo is to bar hostile Islamic troops from entering Byzantium. If they persist, he is to stop them by force, and if he fails to do that, he is to notify the emperor who will send troops to aid the emir.[386] Given that the treaty has a well-defined pathway to be followed if the emir cannot fulfil the initial terms of the clause, and given that the treaty was made between a Christian and Islamic people, it is clear that the treaty's inclusion of such 'fail safe' clauses allowed the emir to more easily fulfil their treaty obligations, helping ensure the treaty's longevity. Thus rulers took practical steps to ensure that contracted services were still supplied via treaty, recognising potential complications in providing a service, and incorporating them into the treaty. This helped secure a treaty's longevity, and is more pertinent to ensuring a peace lasted than religious identity.

This raises questions surrounding how those actively involved in treaty-making understood treaties and peace more generally, compared with the theoretical understandings of peace that we see in religious texts which scholars are often most familiar with. St. Augustine, as

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[383] For further discussion, see Chapter 5.
[384] *Treaty of Dover* (1101), c. 5.
[385] *Treaty of Constantinople* (1187), 198-199.
[386] *Treaty of Aleppo*, c. 6.

highlighted at the start of this chapter, states peace is impermanent unless founded through the Christian faith.[387] However, these treaties actively anticipate breeches, or failures to fulfil obligations, and thus increased a treaty's longevity regardless of the faith of the involved participants. While scholars have often utilised religious and theological arguments to justify that peace between religiously diverse peoples would inevitably be broken, these treaty clauses anticipating actions that might endanger the treaty indicate that understanding a treaty as simply being 'broken' or 'unbroken' is too inflexible, both regarding Christian and non-Christian peoples.[388] The treaties above recognise that potential problems may arise, something historians may term as a 'breech of the treaty', but that the treaty would still be in effect thanks to these 'work around' clauses. This seems to highlight that 'the medieval peace' was much more flexible and pragmatic than traditional historiography has given credit for, often prioritising that the peace made as a whole remained intact over breaches of particular clauses.

Religious identity is at times used as an identifier of enemies within treaties. At times, we do have treaties which refer to a particular enemy, and specifically enlist aid to be given against a people specifying their religion as an identifier. For instance, the *Treaty of Acre* (1191), which has Richard I enlist the Genoese for aid during the Third Crusade against the 'gentiles', 'gentilium'.[389] Similarly, the *Treaty of Aleppo* asks the emir to aid Byzantium in any campaign against a non-Muslim people, clearly seeing the religious identity of potential enemies as relevant to the aid the emir could provide.[390] However, this is not representative of the treaty corpus as a whole. Although Richard I specifies the 'gentiles' as an enemy, his lack of clear and precise language in describing his adversary reflects more Richard's

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[387] Augustine, *The City of God*, 946-947.
[388] Abels, 'Paying the Danegeld', 179. For further analysis of treaty breeches, see Benham, *ILE*, 145-180.
[389] *Treaty of Acre* (1191), 16.
[390] *Treaty of Aleppo*, c. 10.

unfamiliarity with the potential foes he might face while on campaign. For instance, Richard also sees Babylon as a potential area of conflict, despite the ancient city being some distance from the Near East, as well as other targets of attack mentioned in the treaty, including Egypt generally and Alexandria in particular.[391] Of course, this is likely a manifestation of Richard being far from the familiar territory and power dynamics of realms neighbouring England and the other possessions of the Angevin realm. By contrast, while the emir is not to follow the Byzantine emperor on campaigns against fellow Muslim powers, the emir was required to fight any Islamic force attempting to attack Byzantium through the emirate, and lend the emperor aid generally against non-Islamic powers.[392] Therefore, the emir still owed Byzantium aid against potential foes, irrespective of their religious ideology.

While the religious identity of potential enemies is touched upon in both the 1191 *Treaty of Acre* and the *Treaty of Aleppo*, the majority of treaties do not emphasise the religious identity of hypothetical enemies. For instance, the 1074 *Treaty of Constantinople* between Michael VII Doukas and the Robert Guiscard of Sicily simply states Robert would treat any enemies of the emperor as enemies of himself, making no specific mention of religious affiliation.[393] Similarly, the 1101 *Treaty of Dover* states that the count of Flanders would lend Henry I aid against 'against all men that may be able to live and die'.[394] Such a clause is effectively repeated in the 1108 *Treaty of Devol,* Bohemond swearing to aid Alexios against all peoples 'provided they are not, like immortal angels, invulnerable to our spears'.[395] Indeed, the treaty

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[391] *Treaty of Acre* (1191), 16; While Egypt and Alexandria could potentially be targets of a potential campaign (and may even have been in reference to King Amalric's previous plans to invade Egypt), Babylon as a potential target is particularly odd, as the city had long since declined prior to the middle ages. Alan V. Murray, 'The Grand Designs of Gilbert of Assailly. The Order of the Hospital in the Projected Conquest Of Egypt by King Amalric of Jerusalem (1168–1169)', *Ordines Militares*, 20 (2015), 7-21.
[392] *Treaty of Aleppo*, cc. 6-10.
[393] *Treaty of Constantinople* (1074), 141.
[394] '…contra omnes homines qui vivere et mori possint…'; *Treaty of Dover* (1101), c. 1.
[395] *Treaty of Devol*, 127.

even explicitly states Bohemond would aid the emperor against either Christians or pagans.[396]

That the religious identity, as well as other identities, did not serve as a factor in who service was given against is particularly highlighted in the 1169 *Treaty of Genoa*, where the Genoese swore to serve Byzantium, and not aid '…any person crowned or un-crowned, who is, or who will be, Christian or pagan, man or woman, who may be able to die or live…' who might harm the empire.[397] Indeed, this phrasing is common in a number of Byzantine treaties. For instance, the 1187 Byzantine-Venetian treaty also details that the Venetians were to fight for the emperor against any potential enemies, 'whether they may be Christians or pagans'.[398] The 1201 *Treaty of Chinon*, between King John and the king of Navarre promises the latter will aid the former in every way possible, with both soldiers and money, against all men, 'only the king of Morocco excepted', who was undoubtedly Muslim.[399] I will not analyse this further, as there is much said on this later in the thesis. However, this clearly demonstrates that rulers largely did not differentiate between different peoples as potential enemies based on their religious identity, even excepting service against those of a different religion due to their obligations towards them. More generally, this shows rulers were more concerned with the practicalities of not knowing which of their neighbours might be a hypothetical enemy in the future, and thus contracted service against any potential enemies, allowing the service to be as flexible as possible.[400] What is most pertinent here, is that differentiating between various peoples' treaty-making practice based on religious identity simply does not reflect the practical realities of peace-making in this period, where rulers were often at war with those of

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[396] *Treaty of Devol*, 129-130; For more on this, see Chapter 5.

[397] '…alicui homini coronato vel non coronato qui sit vel qui erit, christiano vel pagano, viro vel mulieri qui mori vel vivere possit…'; *Treaty of Genoa* (1169) [MS B], 185. A similar phrase is also used in the second 1170 Byzantine-Genoese treaty. See, *Treaty of Constantinople*, II (1170), 122.

[398] 'et quod una cum stolo Imperii eorum persequentur stolum inimici maiestatis eorum, siue Christiani sint, siue pagani'; *Treaty of Constantinople* (1187), 198.

[399] 'Juramus et firmamus quod, bona fide et sine omni fraude, dabimus eidem Regi consilium et auxilium modis omnibus, pro posse nostro, tam per nos ipsos, quam per homines et fideles nostros, et cum pecunia nostra contra omnes homines (solo Rege Moroccorum excepto)'; *Treaty of Chinon*, 85.

[400] This is analysed in more depth in Chapter 5.

the same faith as themselves as shown in the *Treaty of Devol*, *Treaty of Genoa* (1169) and the *Treaty of Constantinople* (1187), and even had diplomatic obligations to rulers who were of a different religious persuasion, as was the case in the *Treaty of Chinon*.[401]

Theological models clearly played a large part in informing how both contemporary medieval peoples and modern scholars have seen peace-making between peoples of different faiths. Augustine's comments on a ruler having a duty to ensure their neighbouring peoples were Christian, in tandem with his comments on conflict being necessary if waged for a just cause, have been particularly influential in shaping both medieval theoretical views of peace and modern scholars' views of inter-faith peace-making.[402] While Augustine may not have been as influential in Byzantium, Riedel has interpreted Leo VI's view of waging war on Islam in a similar vein.[403] This has manifested itself in modern historiography often seeing religious difference as a fundamental barrier to peace, with Abels seeing the use of sacraments of initiation as a necessary part of English peace-making with Scandinavian raiders.[404] This presupposes that the religious differences of these peoples are too large to be overcome without a shared religion. However, this view is profoundly flawed, as the vast majority of societies, including those of medieval Scandinavia, understood the principle of *pacta sunt servanda*. Furthermore, Abels has specifically overlooked the order of events in the examples he uses, with baptism always taking place after the peace was made, and thus not being a pre-requisite for peace. Such an argument demonstrates the impact of scholarship at times being too tunnel visioned, this view being uncommon in the Byzantinist school. More generally, scholars from both schools have seen religious difference as ensuring inter-faith peace was naturally short. Such a view is common in secondary literature, and at times is referred to in

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[401] *Treaty of Devol*, 126; *Treaty of Genoa* (1169) [MS B], 185; *Treaty of Constantinople* (1187), 198; *Treaty of Chinon*, 85.
[402] Augustine, *The City of God*, 940-952.
[403] Augustine, *The City of God*, 940-952; Riedel, *Leo VI and the Transformation of Byzantine Christian Identity*, 70.
[404] Abels, 'Paying the Danegeld', 184.

the primary sources, such as the Caliph al 'Mu'izz's letter to Constantine VII.[405] However, this simply is not reflected in the surrounding peace-making evidence. Both treaties, such as the 945 Rus' treaty, and letters, such as that from the Patriarch Nicholas I, emphasise that prolonged peace between Christians and other peoples was possible and, indeed, desirable.[406] While interfaith peace could be seen as impermanent by definition, due to many treaties between Christians and non-Christians lacking an 'eternal clause', this does not reflect the wider treaty-making evidence. For instance, the *Alfred-Guthrum Treaty* clearly states it was to last for the life times of the parties involved, and be upheld by the descendants of each party, i.e. forever.[407] It is also clear that some inter-faith treaties lasted longer than treaties made between Christian powers, the relationship of near constant warfare (at times) between England and France in the later 12th century demonstrating this well.[408] What is of far more relevance to the length of a treaty was the lifespan of a ruler, treaties often having to be renewed, or ceasing entirely, when one of the parties died. This is demonstrated well by the series of treaties made between Byzantium and Venice.[409] Furthermore, both 'law making' and 'contractual' treaties tend to have clauses that attempt to preserve the treaty, even when some obligations were broken or unfulfilled, cementing that rulers intended for these treaties to have longevity, and that treaties by their very nature were practical documents. Finally, it is also clear that religious identity was not a significant factor in rulers contracting military aid against a separate people, at least via treaty. While some treaties do mention religious identity with regard to the targets of potential military service, such as the *Treaty of Aleppo* and the *Treaty of Acre* (1191), many do not, such as the *Treaty of Dover* (1101) and the

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[405] Vasiliev, *Byzance et les Arabes*, II, 421.
[406] *Treaty of Constantinople* (945), 76-77; Nicholas I, *Letters*, 2-3.
[407] *AGu*, Prol.
[408] *Treaty of Mantes*, 217-220; *Chronica,* III, 251-252; *Chronica*, III, 252.
[409] For example, see *Treaty of Constantinople* (1082); *Treaty of Constantinople* (1126). Also see their surrounding context in Nicol, *Byzantium and Venice*, 61-62 & 77-78.

Treaty of Constantinople (1074).[410] Instead, the latter treaties simply state aid was to be given against any enemy. Furthermore, multiple treaties emphasise that aid was to be given regardless of a potential enemy's religion, treaties such as the 1169 *Treaty of Genoa* and the 1187 Byzantine-Venetian treaty specifically stating this, and the *Treaty of Chinon* even prohibiting aid be given against a particular ruler who held a different faith.[411] Ultimately, this chapter highlights that theological models of peace at times do not reflect the practicalities of peace-making, at least when compared to the surviving treaty documents. This reflects that treaties are perhaps more concerned with the practical goals of rulers, showing that at times rulers desired long-term peace with other peoples regardless of their religious identity. Thus, in some ways, scholarly focus on religious identity has detracted from other causes of impermanent peace, such as the length of a ruler's reign or indeed changes in political circumstances. Perhaps then this chapter also reflects scholars' desire to perceive differences in peace-making practice where there were none, emphasising a particular people's unique peace-making practice to justify their study, but overlooking that there were clear customs that most societies held in common, regardless of their religious identity, including the practice of making treaties. This is not to say that there are no differences in treaty-making practice, and as Chapter 3 will show, ecclesiastical authority is a major point of difference between the treaties of Byzantium and England. However, ultimately to differentiate between peoples' peace-making practices solely on their religious identity is not supported by the treaty documents.

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[410] *Treaty of Aleppo*, c. 6-10; Treaty of Acre (1191), 16; *Treaty of Constantinople* (1074), 141; *Treaty of Dover* (1101), c. 1.

[411] *Treaty of Genoa* (1169) [MS B], 185; *Treaty of Constantinople* (1187), 198; *Treaty of Chinon*, 85.

Chapter 3: Ecclesiastical Authority within Treaties

The concept of justice in the Christian medieval world was heavily linked with religious ideals of God as a judge, and as such justice was intricately linked to the Church.[412] Although the Church portrayed itself as a universal, and eternal, entity fundamentally tied to peace and justice, the origin of the Church's involvement in 'secular' government can be traced to late antiquity. Constantine the Great's giving of judicial powers to bishops initiated them having a larger role in government. For example, Constantine's edict preserved in the *Codex Theodosianus* allows anyone to ask that a case they are involved in be transferred from a secular judge to a bishop, with the judge's permission.[413] This is further reinforced in the *Sirmondian Constitution* of 333.[414] The 333 edict expands the powers of bishops significantly, stating that the decision of a bishop acting as judge cannot be appealed, as well as giving bishops other powers.[415] Vismara has argued well that Constantine was simply legally recognising a pre-existing Christian practice that long outlasted his reign.[416] Regardless of whether this is true or not, it quickly became synonymous with the other roles of bishops, as shown by accounts of bishops acting as judges later in the medieval period.[417] For example, bishops are often found as judges in the shire courts of England in the eleventh

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[412] Jill Harries, 'Judicial accountability and the culture of criticism in late antiquity', in *Constructing the Judge*, ed. Richard Miles (London: Routledge, 1999), 214-233.

[413] *Theodosiani libri XVI: cum constitutionibus sirmondianis et leges novellae ad Theodosianum pertinentes*, eds. Theodor Mommsen, Paul M Meyer, and Paul Krueger, 2 vols (Berlin: Weidmannos, 1905), I, 62.

[414] *Theodosiani libri XVI: cum constitutionibus sirmondianis et leges novellae ad Theodosianum pertinentes*, I, 907-908; This is also recorded by Rufinus of Aquileia, *The Church History of Rufinus of Aquileia*, trans. Philip R. Amidon (Oxford: OUP, 1997), 10.

[415] *Theodosiani libri XVI: cum constitutionibus sirmondianis et leges novellae ad Theodosianum pertinentes*, I, 907-908.

[416] Giulio Vismara, *La giuridizione civile dei vescovi (secoli I-IX)* (Milan: Dott. A. Giuffre', 1995), 32-46; Crifò, has expressed cynicism regarding the extensive powers bestowed on the bishops in practice after Constantine had died. Giuliano Crifò, 'A proposito di Episcopalis audientia', *Institutions, société et vie politique dans l'Empire romain au IV siècle ap. J.-C, Collection de l' École Française de Rome*, 159 (1992), 397-410. It should be noted that I am not arguing that Roman Law necessarily continued into medieval period everywhere, but that at the very least Roman law established the precedent of using bishops as judges, a habit that continued into the medieval period.

[417] There is a significant body of historiography on this point, but to explore it further would detract from the aims of this chapter. For further reading, see Caroline Humfress, *Orthodoxy and the Courts* (Oxford: OUP, 2007), 153-195; Harries, 'Judicial accountability and the culture of criticism in late antiquity', 214-233; Claudia Rapp, *Holy Bishops in Late Antiquity* (Los Angeles: University of California Press, 2005), 242-252.

century.[418] Indeed, in Byzantium, it is well known that bishops offered an alternative legal venue rooted within the cities and diocese of the empire.[419] In both entities, bishops, and churches generally, held an important place in civic life, both being ratifiers of agreements and the latter also being physical places where oaths were sworn.[420] Thus, bishops' extensive judicial powers, in combination with bishops often being *de facto* representatives of communities, and holding power at their ruler's court, meant a bishop had considerable influence and jurisdiction.[421] As such, controlling the election of bishops in areas and communities was desirable by secular rulers, as it would allow rulers to exercise authority over the bishop, who in turn would exercise legal authority over the bishop's diocese. At times, rulers sought to control certain ecclesiastical offices through treaties, which expanded a ruler's jurisdiction by enforcing a ruler's claim over an area in a legal document recognised by each party. As such, controlling ecclesiastical authority in an area was a pragmatic way for rulers to expand their authority and power, without necessarily resorting to military conflict.

Disputes over ecclesiastical authority is often seen as a prime cause of conflict between the Church and secular rulers, at least in the medieval West, ecclesiastical and secular leaders often clashing over whose authority was the superior.[422] Scholars often frame this as a clash

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[418] For example, Cnut the Great wrote to the bishops, earls and reeves in the shires which archbishop Æthelnoth held lands in, stating that the archbishop had the right to judge the crimes committed in his own lands. *EHD*, I, 602.

[419] For more on this, see Humfress, *Orthodoxy and the Courts in Late Antiquity*, 153-156; Rapp, *Holy Bishops in Late Antiquity*, 242-243.

[420] For the Church acting as ratifier, see Byzantine-Pisan *Treaty of Constantinople* (1192), 51. For the importance of churches as a place where oaths are sworn see *Alfred's Domboc*, *DGA*, I, 66 (c. 33). Also see the swearing of oaths by the Rus' in the church of St Elias. *The Russian Primary Chronicle*, 77. For more on the importance of churches in civic life, see Vsevolod Slessarev, 'Ecclesiae Mercatorum and the rise of Merchant Colonies', *Business History Review*, 41 (1967), 177-197.

[421] For example, Archbishop Thurstan of York played a large role in the defence of Northern England when David I, king of Scots, invaded in 1138. Richard of Hexham, *Chronicles of the reigns of Stephen, Henry II, and Richard I*, ed. Richard Howlett, 5 vols (London: Longman, 1884), III, 139-178. This is also demonstrated well in Byzantium by Patriarch Nicholas I Mystikos leading Byzantium after the death of Emperor Alexander in 913, while Simeon I of the Bulgars besieged Constantinople; *Skylitzes*, 197-200.

[422] Uta-Renate Blumenthal, *The Investiture Controversy: Church and Monarchy from the Ninth to the Twelfth Century* (Philadelphia: University of Pennsylvania Press: 1988), 148-159; Colin Morris, *The Papal Monarchy: the Western Church from 1050 to 1250* (Oxford: Clarendon Press, 1989), 109-133.

between the pope's authority over the Church and royal authority over the king's people.[423]

By contrast, the dynamic between the Church and Imperial power in Byzantium has often been characterised as more harmonious, clashes between the emperor and Patriarch occurring over Christian ideology rather than over the appointing of individuals to ecclesiastical offices.[424] While both of these views are important aspects of ecclesiastical authority in relation to both Byzantium and England, ecclesiastical authority as it exists within treaties has received relatively little attention from scholars. For instance, Daniel Power's article on the Angevin and Capetian control of the Norman Church does not comment on the *Treaty of Le Goulet* at all, despite the treaty explicitly concerning King John and Philip Augustus effectively splitting the bishopric of Évreux between them.[425] Similarly, Richard Oram argues well that Henry II actively pursued the subjugation of the Scottish Church in the *Treaty of Falaise*, but only briefly touches upon the treaty, and does not offer in-depth analysis of the treaty and its ecclesiastical contents, while Morgan does not note the treaty's effect on the Scottish Church at all.[426] In-depth analysis of ecclesiastical authority in treaties is also largely absent in Byzantinist scholarship. Nicol has noted the 1082 *Treaty of Constantinople* touches on ecclesiastical authority, but does not offer in-depth analysis of what this entails or why any power would desire to hold such authority.[427] Even Klaus-Peter Todt's insightful analysis of the *Treaty of Devol*'s clause on the Patriarchate of Antioch concerns the context of the office

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[423] Blumenthal, *The Investiture Controversy: Church and Monarchy from the Ninth to the Twelfth Century*, 148-159.

[424] See, Deno J. Geanakoplos, 'Church and State in the Byzantine Empire: A Reconsideration of the Problem of Caesaropapism', *Church History*, 34 (1965), 381-399 (in particular 382 and 386-387); Ivanka D. Vasilevska, 'The Church and the State in the Byzantine Empire: The Holy and the Profane within Society', *Ius Romanum*, 2 (2018), 449.

[425] Daniel Power, 'The Norman Church and the Angevin and Capetian Kings', *Journal of Ecclesiastical History*, 56 (2005), 205-234.

[426] Richard Oram, *Domination and Lordship: Scotland, 1070-1230* (Edinburgh: Edinburgh University Press, 2011), 334-346; M. Morgan, 'The Organisation of the Scottish Church in the Twelfth Century', *Transactions of the Royal Historical Society*, 29 (1947), 135-149.

[427] Nicol, *Byzantium and Venice*, 63.

rather than analysing the practicalities of the clause itself.[428] While this scholarship offers valuable insight into how rulers engaged with ecclesiastical authority, this chapter hopes to utilise the treaties to show how rulers expanded their authority and jurisdiction through the framework of ecclesiastical authority, bringing novel insights into how these entities were 'polycentric'. This chapter will also highlight how religious institutions interacted with one another across secular borders in tandem with secular rulers. I will also show how rulers utilised ecclesiastical authority, hierarchy, and institutional framework in order to expand or transfer their authority and power in a particular area. Central to this issue is the clergy's role within the courts, councils and administrations in both England and Byzantium.

As noted above, the Byzantine emperors had control over ecclesiastical appointments within the Byzantine Church. However, the ecclesiastical world of the Christian West in the twelfth century challenged the notion that a ruler had authority over the bishops of their realm, the Gregorian reforms and 'Investiture Crisis' re-establishing the primacy of the papacy in ecclesiastical affairs. In England, these reforms resulted in the *Concordat of London* (1107) and Henry I and the papacy compromising.[429] Henry gave up his right to appoint bishops and abbots personally, but maintained that they would still need to perform homage to him for their lands.[430] Effectively, this reflected the dual role of bishops, being an authoritative member of the Church while also performing services for a ruler. This is particularly relevant, as while English rulers often had to be subtle in how they controlled ecclesiastical authority through treaties due to an anticipated papal response, the Byzantine emperors were not limited in such a way. This is reflected in the treaty corpus, in which only four English treaties referencing ecclesiastical authority survive from this period, while from Byzantium,

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[428] Todt, 'Antioch and Edessa in the So-Called Treaty of Deabolis', 497-498.
[429] Eadmer, *Historia Novorum in Anglia, et Opuscula Duo de Vita Sancti Anselmi et Quibusdam Miraculis Ejus*, ed. Martin Rule (London: Longman and Co, 1884), 186. Note that although we only have a narrative description of the Concordat, there is also no evidence showing that this description is inaccurate, and it fits well with how the English kings interacted with the English Church in this period.
[430] Eadmer, *Historia Novorum in Anglia*, 186.

there are more than twice that number of treaties with clauses concerning the control of particular churches and ecclesiastical offices. Although the Byzantine corpus is more extensive, both the treaties of Byzantium and England give ample insight into the practicalities of controlling a particular area, and understanding of how the control of a bishopric or diocese impacted those living within a particular area.

As will become apparent, there are clear similarities in how the rulers of both Byzantium and England pursued and utilised ecclesiastical authority within treaties. However, the fundamental differences in the ways in which the churches of these entities interacted with Byzantine and English rulers encouraged tangible differences in how each power approached ecclesiastical authority within treaties. It must also be noted, that ecclesiastical authority more generally is not a universal theme of treaty-making across space and time, unlike some of the other themes examined as part of this project, such as exiles.[431] Instead, controlling ecclesiastical authority via treaty is a particular way of rulers expanding their power in the medieval period, particularly during this study's time span. As such, it is vital that any project comparing the treaties of these entities analyses those which deal with ecclesiastical authority, to highlight how these rulers utilised the Church's structure to expand their power and jurisdiction, and the practicalities of this. Analysing the control of ecclesiastical authority in the period then is particularly interesting, as a ruler's control of churches and religious offices challenged the Church's position as a universal institution fundamentally linked to justice and peace. Rulers did not shy away from controlling ecclesiastical authority due to bishops' links to peace, judiciary matters, and wider diplomacy, but were instead encouraged by it. However, as treaties engaging with ecclesiastical authority generally are more the exception rather than the norm, it becomes more vital to engage with the context surrounding

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[431] See, Benham, *ILE*, 56-79.

the relevant treaties. As such, this chapter draws upon the context surrounding the relevant treaties more than other chapters.

Chronologically, the 969 *Treaty of Aleppo*, between the Byzantine general Peter Phokas and the ruler of the city Emir Qarghawaih, is the earliest treaty examined in this thesis focusing on ecclesiastical authority.[432] Clause 19 of the treaty states:

'The Rûm [are] to have the right to restore churches within these territories (of Aleppo) which [are] falling into ruins. Patriarchs and bishops [are] to be allowed to travel to them, and the Muslims to treat them honourably'.[433]

This clause is notable as it shows the Rûm's (Byzantines') desire to restore the churches within the territory of a neighbouring, Islamic, people. This is the only treaty of this project concerning ecclesiastical authority that involves an Islamic power. It is linked to the Byzantine re-conquest of Northern Syria which occurred in that same year, returning Antioch to Byzantine hands for the first time in 300 years.[434] Antioch was an important ecclesiastical see, being its own Patriarchate. Once Antioch was again within Byzantine hands, the office of Patriarch of Antioch also became an office under Byzantine control.[435] This was a major development, as the Patriarch of Antioch, in theory, had jurisdiction over many of the churches not only in Syria, but also in the surrounding areas.[436] In practice, the Patriarch had authority over the diocese of Isauria, Cilicia I and Cilicia II, but this was still a considerable

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[432] See Chapter Three. *Truce of Safar*, ed. Farag, 1-2.

[433] *Treaty of Aleppo,* c. 19.

[434] This is commemorated in a victory poem. Konstantinos Manasses, *Constantini Manasis Breviarium Chronicum*, ed. Odyssseus Lampsidēs (Athens: Academy of Athens, 1996), 301-306.

[435] This is best seen by the Byzantine emperor's electing the Patriarchs of Antioch. For example, Emperor John I Tzimiskes nominated Theodore II to the Patriarchal Throne of Antioch only a year after the Byzantine re-conquest of Antioch and the making of the *Treaty of Aleppo*. Skylitzes, 386-387. Emperor Constantine VII describes the process of imperial nomination of patriarchs (*problesis*) in detail in *De Ceremoniis Aulae Byzantinae*, ed. Johann Jakob Reiske and Johannes Heinrich Leich, 2 vols (Bonn: Corpus Scriptorum Historiae Byzantinae, 1829), I, 564-566.

[436] This is demonstrated well by Antioch's dispute with Rome over who controlled the Church of Cyprus. For more on this, see Glanville Downey, 'The Claim of Antioch to Ecclesiastical Jurisdiction over Cyprus', *Proceedings of the American Philosophical Society*, 102 (1958), 224-225.

amount of influence.[437] While Antioch itself was incorporated into the empire, the Emirate of Aleppo seems to have become a buffer state between Byzantium and Fatimid Egypt that recognised Byzantine authority.[438] Medieval Islamic rulers were in principle tolerant towards the 'people of the book' living within Islamic communities, provided they paid the *jizya* tax.[439] As such, religious minorities often had their own court within Islamic communities, resulting in legal pluralism, Christians and Jews often being able to apply to either their own court or its Islamic counterpart.[440] The Christian courts were often held within churches, and clergy members commonly held the role of judge.[441] By working the above clause into the treaty, particularly the phrase 'Patriarchs and bishops [are] to be allowed to travel to them, and the Muslims to treat them honourably', the Byzantines were effectively extending their ecclesiastical authority into the Emirate of Aleppo.[442] This also fits with the somewhat one-sided tone of the treaty, other clauses stating that each citizen of Aleppo is to pay one *Dinar* for the truce, with an additional payment of 700,000 *Dirhams* for the regions of Aleppo, as well as promising both military and logistical aid to future Byzantine military campaigns.[443]

This might give the impression that the *Treaty of Aleppo* is completely one sided. However, it is worth noting that the treaty largely respects the Islamic law of the emirate. For example,

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[437] Hamilton has argued well Church of Antioch likely controlled nineteen sees, based upon a tenth-century list of Antioch dependents. Bernard Hamilton, *The Latin Church in the Crusader States* (London: Variorum, 1980) 20-23. For a useful map of the territory under the Latin Church of Antioch, see Hamilton, *The Latin Church in the Crusader States*, 393.

[438] This is most clear from the tax paid by Aleppo to the empire, as well as the emir of Aleppo being chosen by the emperor in the future. Additionally, five clauses of the treaty concern military aid to be given to the empire by Aleppo; *Treaty of Aleppo*, cc. 1, 2 and 6-10. The tax is discussed in further detail in Chapter 2. For more on this, see Wesam Farag, 'The Aleppo Question: a Byzantine-Fatimid conflict of interests in Northern Syria in the later tenth century A.D.', *Byzantine and Modern Greek Studies*, 14 (1990), 44-59.

[439] See, Eli Alshech, 'Islamic Law, Practice, and Legal Doctrine: Exempting the Poor from the Jizya under the Ayyubids (1171-1250)', *Islamic Law and Society*, 10 (2003), 348-374.

[440] Uriel Simonsohn, *A common justice: the legal allegiances of Christians and Jews under early Islam* (Philadelphia: University of Pennsylvania Press, 1971), 4-8.

[441] For more on this, see Antoine Fattal, *Le statut légal des non-Musulmans en pays d'islam* (Beirut: L'institut de Lettres Orientales, 1958), 344-365.

[442] *Treaty of Aleppo*, c. 19.

[443] *Treaty of Aleppo*, cc. 1-21. On the tax see Chapter 2. For further context, see Julien Aliquot and Zaza Aleksidzé, 'La reconquête byzantine de la Syrie à la lumière des sources épigraphiques: autour de Balāṭunus (Qalʿat Mehelbé)', *Revue des études byzantines*, 70 (2012), 175-208.

the *Pact of Umar*, a text legislating on relations between Muslims and those of other faiths living within an Islamic community, states that Christians within Islamic lands were not to found any more churches.[444] Thus, the *Treaty of Aleppo* appears to respect Islamic law, while simultaneously incorporating the churches of Aleppo into the Byzantine church, allowing the Byzantine church to repair the pre-existing churches in Aleppo.[445] Regardless, that it allows the rebuilding of Christian churches, and allows Byzantine bishops and patriarchs to visit them unhindered, highlights that these churches were now incorporated into the wider network of the Byzantine Church. Thus, the Christian courts of the emirate were now more heavily influenced by Byzantine authority as a result of this treaty, subtly extending the emperor's authority and power without enforcing it through conquest.

We can glean further insights into the practicalities of ecclesiastical authority, such as how the control of ecclesiastical authority affected local legal proceedings as well as religious rites in a particular church, by looking to the treaties made with between Byzantium and the Italian cities.[446] For example, the 1082 *Treaty of Constantinople*, gives the church of St Andrew in Durazzo to the Venetians, with its property, revenues and other privileges, in return for military aid.[447] In fact, the treaty implies that the Venetians had already been given a church previously, saying that the Venetian church of St Akindynos in Constantinople was to be

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[444] Fattal, *Le statut légal des non-musulmans en pays d'Islam*, 60-63. The *Treaty of Aleppo* does overrule some aspects of the *Pact of Umar* regarding apostates. The *Pact of Umar* actually exists in several versions, which eventually became a canonical text summarizing the general rules for non-Muslims leaving under Muslim rule. For more details, see Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence* (Cambridge: CUP, 2011), 58-87.

[445] Some versions of the *Pact of Umar* prohibit the re-building of Christian churches. On the differences of the various versions, see Daniel E. Miller, 'From Catalogue to Codes to Canon: The Rise of the Petition To ʿUmar among Legal Traditions Governing non-Muslims in Medieval Islamicate Societies' (unpublished doctoral thesis, University of Missouri-Kansas City, 2000).

[446] Day has written well on this, but does not compare the grants to the Italian cities with other treaties. Gerald W. Day, 'Italian Churches in the Byzantine Empire to 1204', *The Catholic History Review*, 70 (1984), 379-388.

[447] *Treaty of Constantinople* (1082), 52. The treaty also gives several other payments and titles to both the Doge and the Patriarch of Venice, and trade privileges. See Chapter 1 on the money taken from the Amalfi, and Chapter 6 on the trade privileges. Additionally, see; John Mark Nicovich, 'The Poverty of the Patriarchate of Grado and the Byzantine-Venetian Treaty of 1082', *Mediterranean Historical Review*, 24 (2009), 1-16.

given the revenue of the bakery next to it.[448] Unfortunately, the original agreement that granted the church of St Akindynos has not survived. This would be useful, particularly in showing whether the churches granted to the Venetians after the Great Schism followed the Western rite, or whether these churches were expected to act as part of the Byzantine church.[449] Thankfully, a much later treaty between Byzantium and Venice, of 1268, sheds light on this. This states that the emperor has given the Venetians the right to their own priests, churches, and baptism according to the custom of the Venetians in Constantinople and the rest of the empire, all of which are to be exempt from Imperial authority.[450] This certainly implies that the Venetians were following the Latin rite, and as such, were expanding their ecclesiastical authority in this treaty. Presumably this helped cater to the ever-increasing Venetian population of Constantinople. By expanding its ecclesiastical authority in the empire's capital, the Venetians also gained control of their legal affairs in the empire. This is confirmed by the 1198 *Treaty of Constantinople*, which grants the Venetians of the great city their own judges. These judges were to swear an oath in the Venetian church of Constantinople to judge cases fairly, while the Venetian community of the city was present.[451] This clearly highlights how important controlling a church was, it being a hub of secular and civil life, as well as the religious heart of a community. By expanding their ecclesiastical authority into the empire, the Venetians were looking after both their religious needs and their secular interests within Byzantium. This was such a priority for Venice that in the 1187 *Treaty of Constantinople* Venice even agreed to provide military aid against any enemy attacking Byzantium with 40 ships or more, provided that the Venetians received a church, and other trading privileges, in any area Byzantium conquered with this Venetian

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[448] *Treaty of Constantinople* (1082), 52.

[449] For more on the Great Schism, see Jenkins, *Byzantium: The Imperial Centuries AD 610-1071*, 348-360.

[450] *Urkunden zur älteren Handels- und Staatsgeschichte der Republik Venedig*, III, 96. Scholars have also more generally seen the Venetian chruches, as well as churches granted to other Italian cities, as following the Latin rite, see Nicol, *Byzantium and Venice*, 62.

[451] *Treaty of Constantinople* (1198), 134.

aid.[452] Thus, securing ecclesiastical authority was an essential goal of Venetian diplomacy with Byzantium.

Similar treaties were made not only with the Venetians, but with the Pisans and Genoese as well. The 1192 treaty made with Pisa further highlights how these churches, and the attached ecclesiastical authority, were utilised in these contexts. The Pisan obligations in the treaty were confirmed by an oath, the signatures of the Pisan envoys, and the seals of the Pisan churches within Constantinople.[453] This likely symbolised the role of the Pisan bishops as judges and thus being able to ratify documents, which was an important function of the Church more generally.[454] Additionally, this would show the consent of the Pisan bishops to these privileges, including their enhanced judicial status. The desirability of possessing ecclesiastical authority in another people's territory is made clear by the *emendationes*.[455] This document lists improvements, or amendments, to the Genoese relations with the empire, which the Genoese entrusted to their envoys who were negotiating the 1169 treaty.[456] Specifically, it states that the envoys were to gain for the Genoese specific areas, including churches and landing stages, in Constantinople.[457] These were to be similar to those held by the Venetians. If they could not gain this, they were to ask for areas in Constantinople akin to the Pisans.[458] In fact, an alternate version of the 1169 treaty confirms that the Genoese were successful in this, adding that Emperor Manuel granted them a quarter, a landing stage and a church.[459] A later decree, issued by Alexios III in 1201, also grants the Genoese immovable

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[452] *Treaty of Constantinople* (1187), 198.

[453] *Treaty of Constantinople* (1192), 51; A. Müller, 'Documents, Imperial Chrysobulls', in *The Oxford Handbook of Byzantine Studies*, ed. E. Jeffreys, J. Haldon and R. Cormack (Oxford: OUP, 2008), 129-135.

[454] For more information on seals and their usage, see P.D.A. Harvey, *Seals and Their Context in the Middle Ages*, ed. Phillipp R. Schofield (Oxford: Oxbow books, 2015), 1-4.

[455] This is also related to the concept extraterritorial jurisdiction. See, Shalom Kassan, 'Extraterritorial Jurisdiction in the Ancient World', *American Journal of International Law*, 29 (1935), 237-247; *Emendationes*, 114 (fn. 1). For more on this document, see Penna, *The Byzantine Imperial acts*, 133.

[456] *Emendationes*, 114 (fn. 1).

[457] *Emendationes*, 114 (fn. 1).

[458] *Emendationes*, 114 (fn. 1).

[459] *CDRG*, II, 111.

property and churches, showing the Genoese pursued these things outside of treaties as well.[460] Of course, obtaining churches via treaties and grants was a standard practice of the Italian city states. One need only look to the treaties made between the Italian city states and the various crusader states to see this.[461] This likely represents the prominence of the bishops of Italian city states in leading their respective cities, and ultimately highlights the dual nature of power in the Middle Ages, being secular and ecclesiastical.[462] The treaties between Byzantium and the Italian cities emphasise the importance of this. For example, the 1169 treaty with Genoa states:

 'As regards provocations which Genoese might happen to commit against Greeks or against other non-Genoese aliens in the emperor's territory, they will be subject to the justice of the Lord Emperor's court in the same way as the Venetians and other Latin nations'.[463]

In essence, if the Genoese had damaged the property of Byzantine subjects or others that are not Genoese, they are to be judged in the Imperial court. This was the same for all 'Latin' peoples, but is hardly surprising as submitting to the law of the region where the offence took place is standard practice in treaties. However, as highlighted above, churches were often legal centres and the Italian peoples were often granted them via treaty with the Byzantines. When considering this with the above grants to the Italian communities, it implies that the Genoese, and other 'Latins', were to administer their own justice, provided the crimes were solely within their own community. This was to be done within their own courts, with judges

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[460] While this is not strictly a treaty, but a decree to Alexios's subject on the granting and restoring of previously confiscated property, it is likely the product of a separate treaty with the Genoese which has not survived. *CDRG*, III, 194-195. This is strengthened by a letter from the aforesaid emperor to the Genoese, in 1199, where Alexios states his desire for a new agreement to be made between them. *CDRG*, III 145-146.
[461] For example, King Baldwin of Jerusalem granted the Genoese very similar privileges in c. 1104; *LIRG*, I, 101-102.
[462] For example, Genoa's archbishops had enough power to levy a tax, the *decima maris*. See, Steven A. Epstein, *Genoa and the Genoese 958-1526* (The University of North Carolina Press: London, 1996), 26.
[463] *Treaty of Genoa* (1169) [MS B], 187**.** Translation from *Caffaro, Genoa and the Twelfth Century Crusades*, 207.

appointed by themselves, within their own churches. In effect, these communities were legally autonomous when dealing with their own citizens.

By the end of the twelfth century, the Venetians had gained particularly powerful rights regarding their bishops. The 1187 treaty between Byzantium and the Venetians even implies that the Venetians had abused their churches' right to act as guarantors of agreements, stating that the Venetians must fulfil their obligations, even if a bishop allows them to retract their promise.[464] The extent of Venetian ecclesiastical authority is further demonstrated in the 1198 treaty. This explicitly states that civil cases against a Venetian citizen are not to proceed unless a Byzantine notary has composed a document which is subsequently ratified by either a bishop, notary or judge (*pontificum vel ab aliquo tavulario vel iudice*) which the Venetians trust.[465] This in effect let the Venetians choose who could ratify this document, and gave them significant control over the cases levied against them. Indeed, this same treaty states that due to an 'unwritten rule' (*ex non scripto*) the Venetian judges were even able to judge cases brought by a Byzantine citizen against a Venetian citizen.[466] This is not to say that all of the Italian cities had such sweeping powers granted to their churches and communities. However, it does indicate how powerful these rights could be.

These churches in the empire became legal centres for the immediate communities of the Italian cities to administer justice between their own citizens in foreign territory, and even influence the administration of justice by the empire in Venice's case. At the very least, the citizens of these peoples had legal plurality within the empire, in being able to resolve matters of justice concerning one community within that said community.[467] This in essence established legal 'colonies' within the empire, and extended both the ecclesiastical and legal

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[464] *Treaty of Constantinople* (1187), 201.
[465] *Treaty of Constantinople* (1198), 133.
[466] *Treaty of Constantinople* (1198), 132.
[467] For more on legal pluralism, see Margaret Davies, 'Legal Pluralism', in *The Oxford Handbook of Empirical Legal Research*, eds. Peter Cane and Herbert M. Kritzer (Oxford: OUP, 2010), 805-824.

authority of the receiving people. We do not have the same level of detail regarding the expansion of Byzantine ecclesiastical authority in Aleppo. However, this reflects more that Byzantine control of ecclesiastical authority in Aleppo only impacted justice distributed between Christians, rather than justice distributed between two separate legal groups. Regardless it is clear that ecclesiastical authority was something the Byzantines themselves used as a diplomatic incentive, but also desired themselves.

We have two treaties between an English ruler and an Italian City, being the *Treaty of Acre* (1191) made between Richard I and the Genoese, and the *Treaty of Acre* (1192), between Richard I and the Pisans. Each was made while the English king was on crusade. The former treaty has Richard promise to reward the Genoese a portion of land, to be won from the Saracens, the amount of land awarded depending on the number of ships sent in support by the Genoese.[468] The latter treaty with the Pisans has Richard confirm the grants to the Pisans made by King Guy of Jerusalem and Queen Sibylla, presumably, to obtain Pisan support in conquering the lands Guy and Sibylla had formerly held.[469] While these treaties do not explicitly grant the Genoese a church in the yet to be conquered lands, it seems likely that a church would have been granted in any future gift. This is particularly apparent when you compare this treaty with those made between the Italian cities and Byzantium, and the *Emendationes* of the Genoese embassy in 1169 explicitly stating that churches were a desirable goal of the diplomatic mission.[470] Furthermore, the treaties of the Italian cities made with other entities, such as the various crusader states, also commonly have merchant cities being granted churches, along with warehouses and landing stages.[471] Furthermore, in 1190

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[468] 'Si vero naves et historiam integram vobiscum adduxeritis, de terra quam a Sarracenis, Deo propicio, poterimus obtinere porcio vestra que vos debebit contingere, sicut inter nos convenit, vobis plenius conferetur; sin autem, iuxta numerum et quantitatem navium vestrarum et gentis vestre porcionem vestram optinebitis'. *Treaty of Acre* (1191), 16-17.
[469] *Treaty of Acre* (1192), 58-59.
[470] *Emendationes*, 114 (fn. 1).
[471] *LIRG*, I/1, 99-102.

Hugh the Duke of Burgundy in securing Genoese aid for the crusade of the French King, Philip Augustus, also promised to pay the Genoese from conquered lands, and explicitly lists a church to be given in each of the taken cities.[472] This is confirmed by Philip himself in a later agreement, and the treaty with Philip effectively repeats this clause word for word.[473] Thus, while it is not explicit, both the treaties of Acre likely concern the granting of churches to the Italian communes.

The English kings more generally did concern themselves with ecclesiastical authority, but often did so subtly, and not as explicitly as their Byzantine counterparts, at least within treaties. This resulted from the compromise struck at the *Concordat of London* between Henry I and the papacy, Henry giving up his right to personally appoint England's bishops, but still requiring that they perform homage to him. While this appeased the papacy, this does not seem to have stopped English kings from intervening in the Church, particularly in the churches of England and the peoples of Scotland, Ireland, Wales, and Brittany. Perhaps the best example of this is a certain Bernard, who became bishop of St Davids. Bishop Wilfrid of St Davids died in 1115, presenting Henry I with an opportunity.[474] On 18 September Henry had Bernard made a priest, and the following day Bernard was consecrated by the Archbishop of Canterbury as the bishop of St Davids. This did not result in a papal response. This is unsurprising, as the Welsh bishoprics were formally under the authority of the archdiocese of Canterbury, meaning the Welsh clergy would have to contest with the will of the Archbishop of Canterbury himself.[475] The incident is informative, as while the English king undoubtedly played a large part in Bernard's election, given this happened within

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[472] *LIRG*, I/6, 11-14.
[473] *LIRG*, I/2, 190.
[474] *Brut Y Tywysogion*, ed. and trans. Thomas Jones (Cardiff: University of Wales Press, 1955), 124-125. The same passage details the outcry over Bernard's appointment. For more on this, see M. Richter, 'Canterbury's Primacy in Wales and the First Stage of Bishop Bernard's Opposition', *Journal of Ecclesiastical History*, 22 (1971), 177-189.
[475] Somewhat ironically, Bernard championed St Davids becoming its own archdiocese later in life. Richter, 'Canterbury's Primacy in Wales', 177-189.

Canterbury's diocese, and Henry had the archbishop's support, there was very little that could be done to appeal Bernard's appointment. Thus, by working within the Church's own structure, English rulers were able to interfere in Church affairs. Importantly, provided rulers did not enact a radical structural change to the Church, or limit the Church's power, the papacy did not see this as warranting a response.

As highlighted in the Byzantine treaties, and in conjunction with the English narrative evidence, controlling the authority of a church allowed for a ruler's subjects to gain their own courts in an area, and expanded a ruler's influence and jurisdiction. This is effectively due to how secular and ecclesiastical power went hand in hand in this period, and thus expanding control over a church or ecclesiastical offices necessitated an expansion of a particular ruler's power.[476] While ecclesiastical authority could be utilised to expand a ruler's power, we have clear evidence from treaties on the importance of ecclesiastical authority in cementing a smooth transfer of power. The latter is particularly apparent in the earliest Angevin treaty that actively touches on ecclesiastical authority, the *Treaty of Winchester* (1153), concluded between King Stephen of England and Duke Henry of Normandy, later to become King Henry II. The treaty concluded the conflict between Stephen, Henry I's nephew, and Henry Duke of Normandy, Henry I's grandson. This resulted in Stephen recognising the Duke of Normandy's claim to the throne as Stephen's rightful heir.[477] The text of the treaty records how all the English nobility swore allegiance to Henry, and then states 'The archbishops, bishops and abbots of the kingdom of England, by my (Stephen's) order, have sworn fealty to the duke (Henry)'.[478] While it is perhaps unsurprising that two rulers that claimed the English kingdom wanted to ensure the English clergy's loyalty, it is clear evidence that rulers

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[476] The chapter has covered the judicial role of Byzantium's bishops extensively above, but it is also clear that English bishops had a judicial role. See, *EHD*, I, 602.

[477] *Chronica,* I, 212-214.

[478] 'Archiepiscopi, episcopi atque abbates de regno Anglie ex precepto meo fidelitatem sacramento duci facerunt'; *Treaty of Winchester*, 64. Translation from *EHD*, II, 407.

recognised the importance of ecclesiastical authority in ensuring a smooth transfer of power, and attempted to control it via treaty. This is particularly significant, as ecclesiastical appointments were generally held for life, and as such, ensuring the loyalty of the clergy, who often held roles in government, was essential for any transfer of power. This is also highlighted in English narrative evidence, the Archbishop of Canterbury Theobald of Bec, serving both the courts of Stephen and Henry II after the *Treaty of Winchester* was concluded.[479] As with the case of Henry I and the Welsh Church, there was little response from the papacy on this matter. As both Henry II and Stephen were effectively supporting the 'status quo' of the English Church, in having the English clergy swear fealty to the future English king, there was no need for a papal response.

Interestingly, we can see the conflict between Duke Henry and Stephen expressed via the control of ecclesiastical authority in narrative evidence as well. John of Salisbury records Henry assenting to a certain abbot Gilbert's election to the bishopric of Hereford on the condition Gilbert did homage to Henry, and did not perform homage to King Stephen.[480] However, John also records the English Church's loyalty to Stephen, and how English bishops refused to consecrate Gilbert because of this, even after the papacy had commanded it.[481] Eventually, the bishop of Hereford was elected only after swearing homage to Stephen, despite Henry's protests.[482] Significantly, the bishops' refusal to consecrate their potential peer was justified to the pope on the grounds that it went against 'ancient custom' (*consuetudines antiquas*) to consecrate a bishop who did not perform homage to the king, particularly without the king's consent.[483] This can be seen in reference to the *Concordat of London*, which clearly allowed for the kings of England to receive homage from the clergy of

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[479] *Chronica,* I, 212-214.
[480] *The Historia Pontificalis of John of Salisbury*, ed. and trans. Marjorie Chibnall (Oxford: Clarendon Press, 1956; repr. 2002), 47-49.
[481] *The Historia Pontificalis*, 48.
[482] *The Historia Pontificalis*, 48-49.
[483] *The Historia Pontificalis*, 48.

the English Church.[484] Controlling the bishopric of Hereford, and indeed the English Church more generally, would consolidate either ruler's power and authority, and support their claim to the throne. That a clause within the *Treaty of Winchester* explicitly refers to ecclesiastical authority in the eventual peace settlement between the two rulers highlights how important control over the English Church was for any eventual transfer of power.[485] Bearing in mind the example of Bishop Bernard and the bishopric of St. Davids, it is also clear that controlling the Church could enhance a ruler's power in the realms of foreign kings as well.

It is clear that controlling the Church was important to aid the transfer of power within Byzantine treaties as well. The *Treaty of Aleppo*, for example, foresees an eventual transfer of power from Aleppo being autonomous to being integrated within Byzantium.[486] Given that the treaty also contains a clause on Byzantine control of the churches of the emirate, it seems likely Byzantine rulers were also keenly aware of the importance of ecclesiastical authority in the transfer of power. Evidently, there are differences here. For instance, it is unlikely that the clergy of Aleppo were involved in the government of the emirate, at least to the same extent the English Church was involved in the administration of the English kings. However, by incorporating the clergy of the emirate into the wider framework of the Byzantine Church, future emperors could be sure that the clergy of Aleppo would be well equipped with local knowledge and a loyalty to the empire to step into future government roles when the emirate was integrated into Byzantium.

This is also reflected in the *Treaty of Devol*. This treaty, made between the Byzantine Emperor Alexios I Komnenos and Bohemond prince of Antioch in 1108, specifically

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[484] Eadmer, *Historia Novorum in Anglia*, 186.
[485] *Treaty of Winchester*, 64. White has noted the importance of ecclesiastical authority in supporting royal authority and the transfer of power as well. G.J. White, *Restoration and Reform, 1153-1165: Recovery From Civil War in England* (Cambridge: CUP, 1999), 14.
[486] *Treaty of Aleppo*, c. 4.

concerns the office of the Patriarch of Antioch, and who is to elect said Patriarch.[487] When

Bohemond, and the other leaders of the First Crusade, captured the former Byzantine city of

Antioch in 1098, after having promised to return all former Byzantine possessions to Alexios,

Bohemond became one of the foremost Eastern concerns of the emperor.[488] Bohemond did

not return the city to Alexios, and soon after replaced the Greek Patriarch, John the Oxite,

installing his own Patriarch from the West, Bernard of Valence.[489] Given this context, it is

hardly surprising that the ecclesiastical authority of Antioch's patriarch became an issue dealt

with in the treaty.

The *Treaty of Devol* explicitly states that the emperor is to choose the patriarch, not

Bohemond, and the emperor's candidate is to perform all the ecclesiastical duties which are

associated with the role of the Patriarch of Antioch.[490] The phrase used, χειροτονίαις, likely

refers to 'the laying on of hands' and the giving of the sacrament of confirmation, where a

bishop's hands would be placed upon the confirmee's head in order to impart the Holy Spirit.

It also seems to refer to Ordination, the act of ordaining a member of the clergy, be it

ordaining a fellow bishop or another member of the church such as a presbyter or deacon.[491]

As shown above, this effectively enforced a 'top down' hand over of ecclesiastical authority

within Antioch, the emperor nominating the Patriarch, and the Patriarch ordaining other

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[487] 'συμφωνῶ δὲ καὶ ὄμνυμι τὸν ἐν τῇ ἐκκλησίᾳ Ἀντιοχείας πρεσβευόμενον Θεὸν, ὡς οὐκ ἐκ τοῦ ἡμετέρου γένους πατριάρχης ἔσται Ἀντιχείας, ἀλλ' ὃν ἂν πορβαλεῖται ἡ βασιλεία ὑμῶν ἐκ τῶν θρεμμάτων τυγχάνοντα τῆς κατὰ τὴν Κωνσταντινούρολιν μεγάλης ἐκκλησίας. Ὁ τοιοῦτος γὰρ καὶ τοῦ θρόνου τοῦ κατὰ τὴν Ἀντιόχειαν ἐπιβαίη καὶ πάντα πράζει ἀρχιερατικῶς ἔν τε χειροτονίας καὶ ταῖς λοιπαῖς ἐκκλησιαστικαῖς ὑποθέσεσι κατὰ τὰ τοῦ θρόνου τοῦδε προνόμια'; *Treaty of Devol*, 134; ('And I [Tancred] agree and I swear by the God that is worshipped in the church of Antioch, that there shall never be a patriarch of Antioch of our race ['Franks', Normans, or, from a Byzantine perspective, 'Latins' as a whole] but he shall be one whom your Majesties [Alexios and his son, John] shall appoint from among the disciples of the great church of Constantinople. This man shall sit on the throne in Antioch and perform all arch-hieratical offices in the elections and the other ecclesiastical functions according to the privileges pertaining to this throne'). Translation from *The Alexiad*, 251.
[488] *Alexiade*, II, 226; *Alexiade*, III, 19-23.
[489] *The Ecclesiastical History of Orderic Vitalis*, V, 356-357.
[490] *Treaty of Devol*, 134.
[491] One can see this in the first and second canons of the Holy and Altogether August Apostles. *A Select Library of the Christian Church: Nicene and Post-Nicene Fathers: The Seven Ecumenical Councils*, eds. Philip Schaff and Henry Wace (New York: Charles Scribner's Sons, 1900), 594.

members of Antioch's clergy. This treaty effectively attempts to incorporate Antioch into the empire, even having Bohemond become the liegeman of Alexios, the treaty literally Hellenising the term as 'λίζιον ἄνθρωπον'.[492] Thus, by controlling the election of the Patriarch, Alexios was implementing practical measures to cement his power over Bohemond's territory. The treaties of Winchester, Aleppo and Devol all utilise the controlling of ecclesiastical authority to help ensure a smooth and pragmatic transfer of power between secular powers.

The *Treaty of Winchester*, when compared to the treaties of Aleppo and Devol, highlights that both Byzantine and English rulers could approach ecclesiastical authority in a similar way and used it to fulfil similar goals. However, the fact remains that a relatively small number of English treaties explicitly address ecclesiastical authority. This is perhaps due to the reach of the papacy, restricting English intervention in the Church, at least when compared to their Byzantine counterparts. As with the election of Bishop Bernard of St Davids, there was no papal response to the *Treaty of Winchester* having the English clergy swear fealty to Henry, but this is perhaps expected due to the *Concordat of London*.[493] Furthermore, Pope Anastasius IV, who had only been nominated a few months prior to the treaty, can hardly have been in a secure position to object to what seems to have been a long established practice within the English Church.[494] Thus, while the *Treaty of Winchester* clearly concerns ecclesiastical authority, it was not a radical re-ordering of the Church.[495] It simply continued the existing practice of the English Church swearing fealty to the English kings. More radical changes to ecclesiastical authority and structure resulted in a strong papal response. Good examples to demonstrate this are the 1174 *Treaty of Falaise*, the 1189 *Treaty of Canterbury*,

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[492] *Treaty of Devol*, 126.
[493] Eadmer, *Historia Novorum in Anglia*, 186.
[494] J. N. D. Kelly and Michael J. Walsh, 'Anastasius IV', *A Dictionary of Popes*, <https://www-oxfordreference-com.abc.cardiff.ac.uk/view/10.1093/acref/9780199295814.001.0001/acref-9780199295814-e-194?rskey=csQD1j&result=20>, Accessed: 11/05/2022.
[495] *Treaty of Winchester*, 64.

and the relationship between the papacy, the kings of England and Scotland, and the Scottish Church.

The *Treaty of Falaise*, made between Henry II and William the Lion, king of Scots, is the most blatant attempt by any English king to assert authority over the Church of a foreign ruler by treaty.[496] Having as many as three clauses dedicated to the control of ecclesiastical authority, the *Treaty of Falaise* has the most clauses on this issue out of any of all four English treaties that concern this issue from the period. Of these, one concerns ecclesiastical authority via omission (the *Treaty of Canterbury*), two contain one clause on ecclesiastical authority (the *Treaty of Winchester* and the *Treaty of Le Goulet*), and the *Treaty of Falaise* contains three clauses on this theme. Thus, it is quite clear that the *Treaty of Falaise* is by far the most ambitious of these treaties, at least in respect to controlling the Church.[497] The agreement was made in the aftermath of the Great Rebellion of 1173-1174, in which the king of Scots had supported Henry's rebellious sons against the English king. William was captured at the Battle of Alnwick, and subsequently brought to Normandy where the treaty was concluded.[498] The first relevant clause states that the leading secular nobility of Scotland are to recognise that the English Church has the right of its Scottish counterpart.[499] The next clause has the leading clergy of Scotland also acknowledge this, and the final relevant clause states Scotland's remaining clergy will also agree to this.[500] The treaty additionally makes

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[496] *Treaty of Falaise*, 2-5.
[497] Here, it should be noted that while the 1196 *Treaty of Louviers* might seem as if it concerns ecclesiastical authority, it does not. The only potentially relevant clause specifically states that neither the French nor English kings were to influence the ecclesiastical affairs in either's territory. Thus, this treaty specifically does not concern ecclesiastical authority. 'Neque nos neque idem rex Anglie de cetero propter aliquam guerram que evenire possit aliquid capiemus vel supercapiemus de rebus ecclesiarum alter de terra alterius. Et in ea pace et ea libertate erunt ecclesie hinc inde in qua errant ante guerram'; *Treaty of Louviers*, 18.
[498] *Chronica*, II, 63; *Gesta*, I, 79; Matthew Strickland, *Henry the Young King, 1155-1183* (London: YUP, 2016), 195-198.
[499] 'Concessit eciam rex Scottorum et David frater ejus et barones et alii homines sui domino regi, quod ecclesia Scot' talem subjeccionem amodo faciet ecclesie Angl' qualem illi facere debet…'; *Treaty of Falaise*, 2-5.
[500] 'Similiter Ricardus episcopus sancti Andree et Ricardus episcopus de Duncoldre et Galfridus abbas de Dunfermelin et Herebertus prior de Goldingeham concesserunt quod eciam ecclesia Angl' illud jus habeat in ecclesia Scot' quod de jure habere debet, et quod ipsi non erunt contra jus ecclesie Angl''; 'Hoc idem facient alii

William, king of Scots, and all the leading nobles of Scotland, the liegemen of Henry II.[501] It

is a significant extension of Henry's power, greatly expanding his number of liegemen. While

we have little insight into the practicalities of Scotland's subjugation to Henry, it seems likely

that Henry's intent was to subjugate both Scotland's nobility and Church.[502] By making

William his liegeman, Henry may have hoped to have William as a powerful source of

support in future conflicts, perhaps mirroring Henry's relationship with the Lord Rhys, the

Welsh prince of Deheubarth, who had provided vital support for Henry in the recent

rebellion.[503] Certainly, the *Treaty of Windsor* made with the Irish King Ruaidhrí of Connacht,

emphasises that Ruaidhrí is to deal with any rebellious subjects, and also had the king of

Connacht become the liegeman of Henry II.[504] More pertinent to this chapter is Henry's

desire for the control of the Scottish Church, which is made particularly clear when one notes

that this is but one event in an ongoing dispute between the archbishop of York and the

Scottish Church, concerning whether or not the archdiocese of York was also the archdiocese

of Scotland.[505] Indeed, Stones has argued that the wording of the initial clause '…that the

Church of Scotland shall henceforward owe such subjugation to the Church of England as it

should do…' is in reference to the claim that the See of York had over the Scottish Church.[506]

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episcopi et clerus Scot' per convencionem inde inter dominum regem et regem Scottorum et David fratrem suum et Barones suos factam'. *Treaty of Falaise*, 4-5.

[501] 'Concessit eciam rex Scottorum et David frater ejus et barones et alii homines sui domino regi, quod ecclesia Scot' talem subjeccionem amodo faciet ecclesie Angl' qualem illi facere debet'. *Treaty of Falaise*, 2-5.

[502] Oram, *Domination and Lordship: Scotland, 1070-1230*, 342-343.

[503] No treaty with the Lord Rhys has survived, but the surrounding narrative evidence on this has been analysed well by Rowlands. I. W. Rowlands, ''Warriors Fit For a Prince': Welsh Troops in Angevin Service, 1154-2116', in *Mercenaries and Paid Men*, ed. John France (Leiden: Brill, 2008), 212-213.

[504] *Treaty of Windsor*, 84-85.

[505] For more on this, see Hugh the Chanter, *The History of the Church of York*, ed. Charles Johnson (Oxford: Clarendon Press, 1990), xlv-xlvii; There are many papal letters regarding this issue, but perhaps the most relevant of these is Pascal II's as early as 1101 recognition of these claims asking the Scottish bishops to show obedience to the archbishop of York. '…debitam obediantiam exhibeatis'; *Historians of the Church of York and Its Archbishops*, 3 vols, ed. James Raine (Burlington, ON: Longman, 1894), III, 22; '[the Scottish bishops had] ought to show [the archbishop of York] obedience'.

[506] '…quod ecclesia Scot' talem subjectionem amodo faciet ecclesie Angl' qualem illi facere debet…'; *Treaty of Falaise*, 4-5; *Anglo-Scottish relations,* xxii.

That the treaty was ratified in 1175 at York with the archbishop of York present can even be seen to support this.[507]

York's repeated attempts to control the Church of Scotland, within the twelfth century, are an important factor here, both in explaining the significance of these clauses and analysing the papal reaction to the treaty. The origins of York's claim as the Archdiocese of northern Britain are complex, and the history of this claim could be a paper in and of itself.[508] What is perhaps most important here is that as early as c. 1101 Pope Pascal II seems to have recognised these claims, stating that the Scottish bishops 'ought to show obedience' to the archbishop of York.[509] This seems to have been ignored, for in 1119 Pope Calixtus II wrote to the Scottish bishops again, demanding they cease to consecrate themselves and be consecrated by the archbishop of York: 'Therefore by apostolic authority we order, that no one hereafter may be consecrated a bishop in your churches, unless by your Metropolitan, the archbishop of York, or with his permission'.[510] This became a major issue that dominated papal relations with Scotland's Church long after Calixtus's death in 1124. Both Pope Honorius II and Pope Innocent II continued to command Scotland's bishops be consecrated by the archbishop of York.[511] The Scottish response consisted of continually postponing and avoiding giving any form of submission to their Metropolitan. For instance, in 1138 after losing the Battle of the Standard, King David I of Scotland was required by a papal legate to

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[507] *Chronica,* II, 79; Interestingly the *Gesta* only notes that the treaty was ratified at the Church of St. Peter in York, but it seems unlikely the archbishop of York would not have been present for this if it was at the Church of St. Peter in York, the Cathedral of York's archdiocese, and the seat of the archbishop of York. *Gesta*, I, 94-96.

[508] My account primarily concerns this claim during the 12th century. However, there is some evidence that York had influence in the North earlier than this. In particular, we have letters indicating York consecrated the bishop of Orkney in the latter part of the 11th century. However, there is no native Orkney tradition that accounts for these bishops. *The History of the Church of York*, xlvii.

[509] '…debitam obediantiam exhibeatis'; *Historians of the Church of York and Its Archbishops*, III, 22.

[510] 'Apostolica igitur auctoritate praecipimus, ut nullus deinceps in ecclesiis vestris in episcopum, nisi a metropolitano vestro Eboracensi archiepiscopo, aut ejus licentia, consecretur'; *Historians of the Church of York and Its Archbishops*, III, 41.

[511] For instance, see *Historians of the Church of York and Its Archbishops*, III, 49-50 and 62.

ensure John, bishop of St Andrews, would submit to the archbishop of York.[512] Fortunately for John, the archbishop of York had become ill shortly before the Battle of the Standard, and died before John could submit.[513] The Scottish clergy continued to argue for independence from York, and often managed to avoid submitting to York all together.[514] However, Pope Alexander III was sympathetic to the Scottish cause, consecrating both the bishops of Glasgow and St Andrews in 1164 and 1165 respectively.[515] It is important to bear in mind that this happened even with continual appeals to the pope by the archbishop of York to cement York's status as the See of Northern Britain.[516] Indeed, Alexander consecrated the bishop of Glasgow at Sens in France, potentially hinting at the French king supporting this weakening of the English Church.[517] It was in this ecclesiastical context that the stipulations in the *Treaty of Falaise* were made.

While the *Treaty of Winchester* did not incite a papal reaction, the *Treaty of Falaise* instigated a series of papal acts hindering English claims over the Church of Scotland.[518] In 1176, only a year after the confirmation of the *Treaty of Falaise*, Pope Alexander issued a bull now known as *Super Anxietatibus.* This ordered the Scottish bishops submit to no-one claiming metropolitan right bar the pope himself.[519] Indeed, Alexander states this is a direct response to the *Treaty of Falaise*, citing that Henry compelling the Scottish Church to submit was the source of Alexander's grief, stating that 'Henry the illustrious king of the English forced you all to swear that you might submit to the English Church', and additionally states

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[512] Richard of Hexham, III, 169-170.
[513] Henry of Huntingdon, *Historia Anglorum*, ed. Diana Greenway (Oxford: Clarendon Press, 1996), 613 (fn. 80) and 712-719; *Chronica*, I, 198.
[514] For more on this, see Oram, *Domination and Lordship: Scotland, 1070-1230*, 337-341.
[515] *Scotia Pontificia: Papal Letters to Scotland before the Pontificate of Innocent III,* ed. Robert Somerville (Oxford: Clarendon Press, 1982), 57-58; *Scotia Pontificia*, ed. Somerville, 60-61.
[516] *Scotia Pontificia,* ed. Somerville, 60-61.
[517] *Scotia Pontificia*, ed. Somerville, 57-58.
[518] For a detailed overview of the Papal reaction, see Dauvit Broun, 'The Church and the Origins of Scottish Independence in the Twelfth Century', 16-33.
[519] *Scotia pontificia,* ed. Somerville, 79-80; *Registrum Episcopatus Glasguensis*, ed. Cosmo Innes (Edinburgh: Impressum, 1843), 35.

that the *Treaty of Falaise* was the reason for Alexander's letter.[520] Oram argues well that Alexander's subsequent authorisation for the bishop of Glasgow to be consecrated by the archbishop of Lund, and assuring the Scottish bishop that Glasgow was the pope's 'special daughter… with no mediator', was further action to spite Henry's attempt to control the Scottish Church.[521] This strong reaction by the pope can also be seen as Alexander objecting to Henry's exploitation of William's status as prisoner to further Henry's goals. Indeed, according to canon law, oaths were the business of the Church, and should not be made under duress. Furthermore, Henry was enacting a massive change in the ecclesiastical structures of Scotland and England, a change which the papacy itself had acted against within the last decade by consecrating Scottish bishops in 1164 and 1165.[522] It is also important to view this in the wider context of the twelfth-century reformation. In particular, Alexander's allies had defeated the German emperor's forces at the Battle of Legnano only a few months prior to this letter.[523] This may have emboldened Alexander and re-assured his belief that ecclesiastical authority trumped secular authority. In other words, this was the beginning of a complete reversal in papal policy.

While the reversal of papal policy to favour the Scottish Church was certainly a blow to the claim of the archbishop of York, the issue persisted. This is further highlighted by the 1189 *Treaty of Canterbury* between Richard I and William the Lion, which essentially dissolved much of the *Treaty of Falaise*. It states that Richard would return all of the castles given in

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[520] 'Hen[ricus] illustris Anglo[rum] rex vos iurare coegit ut obediretis Anglicane eccle[sia]…'; *Registrum Episcopatus Glasguensis*, 35.

[521] '…specialem filiam… nullo mediante...'; *Registrum Episcopatus Glasguensis*, 30. Oram, *Domination and Lordship: Scotland, 1070 – 1230*, 343. Interestingly, this phrase is repeated in the 1218 bull *Cum Universi*, expanding exceptional group of Scottish bishoprics to St Andrews, Dunblane, Glasgow, Dunkeld, Brechin, Aberdeen, Moray, Ross, and Caithness. *Anglo-Scottish Relations*, 30.

[522] *Scotia Pontificia*, ed. Somerville, 60-61.

[523] For more on this, see Peter Munz, *Frederick Barbarossa: A Study in Medieval Politics* (London: Cornell University Press, 1969), 186-254; Gianluca Raccagni, 'English Views on Lombard City Communes and their Conflicts with Emperor Frederick Barbarossa', *Quaderni storici*, 49 (2014), 183-210.

the *Treaty of Falaise*, and restore the allegiance of William's liegemen.[524] Successive scholars and translators have failed to note that the wording of the latter treaty has a significant impact on how we can interpret the *Treaty of Falaise* and Angevin control of ecclesiastical authority.[525] The relevant clause of the *Treaty of Canterbury* states 'Reddidimus etiam ei **ligancias** hominum suorum quas pater noster receperat'.[526] One would think this applied to both ecclesiastical and secular followers of the king of Scots alike. However, when we compare it to clauses from other treaties, it becomes apparent that this is not the case. The *Treaty of Falais*e uses a particular wording in its ecclesiastical and secular clauses. For example: '…Ricardus episcopus sancti Andree et Ricardus episcopus de Duncoldre et Galfridus abbas de Dunfermelin… concesserunt quod eciam ecclesia Angl' illud jus habeat in ecclesia Scot' quod de jure habere debet'.[527] While this clause states that the Church of England 'has the right of' its Scottish counterpart, and that the various bishops and clergy of Scotland have sworn fealty to Henry, there is no mention of the word *ligans*, that is to say 'allegiance', in the clauses concerning ecclesiastical authority. Conversely, clauses that concern the secular followers of William specifically reference their allegiance. For example '…regis Scottorum et baronum et hominum suorum homagium et **ligantiam** facient haeredibus domini regis contra omnem hominem'.[528] That *ligans* is a term specifically concerned with the allegiance of secular lords, at least in an inter-ruler, and not domestic

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[524] *Treaty of Canterbury*, 12-16. There are several versions of this treaty, see *Anglo-Scottish Relations*, 12-13. Richard seems to nullify the treaty in return for 10,000 marks of sterling, although this transaction is not mentioned in the treaty itself, but in surrounding narrative evidence. It should also be noted that Richard pledged to take the cross in the same year. Thus, it seems likely the money raised was to fund his crusading efforts. *Chronica,* III, 19-20.

[525] *Treaty of Canterbury*, 14; *The Annals of Roger de Hoveden,* 2 vols, ed. Henry T. Riley (London: H.G. Bohn, 1853), II, 131-132. Indeed, Taylor only mentions the treaty in relation to William the Lion raising 10,000 marks for Richard I. Alice Taylor, *The Shape of the State in Medieval Scotland, 1124–1290* (Oxford: OUP, 2016), 387.

[526] 'we have restored also to [William] the **allegiances** of his men which our father had received' (my emphasis); *Treaty of Canterbury*, 14-15.

[527] '…Richard bishop of Saint Andrews and Richard bishop of Duncoldre and Geoffrey abbot of Dunfermline… have granted that the Church of England shall also have the right in the Church of Scotland which it lawfully should'; *Treaty of Falaise*, 4–5.

[528] My emphasis. This clause is in all versions of the treaty. *Treaty of Falaise*, 4–5; *Diceto*, I, 396–397.

setting, is further backed by other Angevin treaties from this period, such as the 1174 *Treaty of Montlouis*.[529] Specifically, it states, 'Et omnes homines et barones, qui a fidelitate patris causa eorum recesserant, clamaverunt quietos ab omni juramento quod eis fecerant, et ita liberi et quieti ab omni juramento, et absoluti ab omni conventione quam eis fecerant, in hominium et **ligantiam** domini regis redierunt'.[530] Latham and Howlett have noted that the term should be translated as 'duty or obligation by a liege-man or vassal to [their] lord; allegiance', and its primary use is when allegiance is owed to the king, and secondary use when owed to a foreign ruler.[531] Their definition fits well with how it is used above, but does not explicitly state that the term is not used to concern those with ecclesiastical offices.

This is not to say that all treaties referring to secular power contain the word *ligans*. For instance, the 1191 *Treaty of Messina* between Richard I and Philip Augustus concerns secular power, but makes no such use of the word *ligans*.[532] Nor does it necessitate that treaties that utilise the term *ligans* must have other clauses that concern ecclesiastical authority. Other treaties, with the rulers in Britain and Ireland, such as the *Treaty of Windsor* (1175), between Ruaidhrí, king of Connacht and Henry II, and the *Treaty with Llywelyn* (1201), between Llywelyn, prince of Gwynedd, and the representatives of King John, use *ligans*, but neither of these concern ecclesiastical authority.[533] While one is loath to argue from a lack of evidence, the lack of the term in ecclesiastical clauses implies it was reserved for secular clauses. This is also highlighted when one looks where the term appears in other medieval documents from

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[529] *Treaty of Montlouis*, 67.
[530] 'And all the men and barons, who had withdrawn from the fidelity of the father (Henry II) for their sake (Henry II's sons), they (the sons) declared that they (the men and barons) were released from every oath that they (the barons) had made to them (the sons), and thus freely released from every oath and freed from every agreement that they (the men and barons) had made, they (the men and barons) returned into the homage and allegiance of the lord king' (my emphasis); *Treaty of Montlouis*, 67.
[531] *Dictionary of Medieval Latin: From British Sources*, 6 vols, eds. R.E. Latham and D.R. Howlett (Oxford: OUP, 1997), I, 1607.
[532] *Treaty of Messina* (1191), 14-15.
[533] *Treaty of* Windsor, 84-86; *Treaty with Llywelyn*, 372-373.

across the period.[534] The aforementioned examples show that Richard's later treaty with William released William's secular lords from their allegiance to Richard, but did not reverse the English Church's authority extending over the Scottish Church.[535] This is particularly interesting when one realises that Pope Clement had claimed Scotland fell solely under the jurisdiction of the papacy itself earlier that same year.[536] This gives us further context to place the *Treaty of Canterbury*. While it does not state England's ecclesiastical supremacy, it does not give Scotland its ecclesiastical autonomy either.[537] The silence concerning Scotland's Church in the *Treaty of Canterbury*, i.e. only returning the allegiance owed by the secular nobility of Scotland and omitting the fealty of the Scottish Church gained in the *Treaty of Falaise*, can be seen as an attempt to maintain England's ecclesiastical supremacy, while simultaneously avoiding a papal response.

The subtlety of Richard's attempt to maintain English control over the Scottish Church, and how the Angevin kings more generally approached control of ecclesiastical authority, is illustrated by looking to treaties which one may expect to touch upon ecclesiastical authority. The case of Bishop Bernard's election to the diocese of Saint Davids in 1115 highlights Anglo-Norman intervention in the Welsh Church.[538] As English kings had an established precedent in nominating the bishops of Wales, one would expect this issue to be reflected in Angevin treaties with the various Welsh princes. However, the earliest surviving written treaty between an English king and a Welsh prince, the 1201 *Treaty with Llywelyn*, makes no mention of any ecclesiastical clauses. Instead, it focuses on other staple issues, such as the

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[534] *Dictionary of Medieval Latin: From British Sources*, I, 1607.
[535] *Treaty of Canterbury*, 12-16. While the treaty does state Richard undoes all that his father took from William, it is still not explicitly stated that Richard returns the ecclesiastical authority of the Scottish Church. However, various popes continued to write that the Scottish Church was answerable to no-one bar the papacy itself. This implies that the papacy still saw that the authority of the Scottish Church was still under threat; i.e. that Richard had not returned Scotland's ecclesiastical authority. *Treaty of Canterbury*, 14-15.
[536] *Chronica,* II, 360-361.
[537] *Treaty of Canterbury*, 12-16.
[538] *Brut Y Tywysogion*, 124-125.

legal procedure to be followed if a dispute arises concerning Llywelyn's lands, and exiles.[539]

This is interesting when we know that Llywelyn expressed active concern for the Anglicisation of the Welsh Church. Llywelyn wrote a letter to Pope Innocent III six months prior to the treaty, stating that English clergy had become so prominent in Wales that certain communities could not go to confession as their local clergy did not speak Welsh.[540] Despite this appeal, there was no serious papal response, and Pope Innocent III's reply simply encouraged the Welsh princes to aid the Church of St Davids in any way they could.[541] Previous popes had been just as supportive regarding English control of Welsh ecclesiastical affairs. For instance, in c. 1165 Owain Gwynedd wrote to Thomas Beckett, while the latter was in exile, about the need to replace the bishop of Bangor, the former bishop having died.[542] Owain proposed that as Beckett was in exile, Owain's candidate be consecrated by someone else. Not only did Becket reply saying he would never agree to this, but Pope Alexander III wrote to the clergy of Bangor backing the stance of the archbishop of Canterbury.[543] As the English control of the Welsh Church was effectively a part of the ecclesiastical 'status quo', the papacy seems to have had little problem with English control of Welsh ecclesiastical affairs. Furthermore, as the English kings were relatively successful in intervention in the Welsh Church, there was little need to enforce English claims over the Welsh Church in a legal document, such as a treaty.

Similarly, we know that English kings had significant influence in the Irish Church in the twelfth century. Henry II's intervention in Irish politics is often seen as motivated, at least in

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[539] *Treaty with Llywelyn*, 373.
[540] *The Acts of Welsh Rulers 1120-1283*, 369-370.
[541] The dating of Innocent's reply is complex. See *The Acts of Welsh Rulers*, 371.
[542] *The Acts of Welsh Rulers*, 325-326.
[543] *The Correspondence of Thomas Becket Archbishop of Canterbury 1162-1170*, ed. and trans. Anne J. Duggan, 2 vols (Oxford: Clarendon Press, 2000), I, 238-239; *Materials for the History of Thomas Becket, Archbishop of Canterbury*, ed. James Craigie Robertson, 7 vols (London: Longman, 1875-1885), V, 225-226.

part, by a desire to bring the Irish Church in line with that of its continental counterparts.[544]

Indeed, Corrain has argued that the English Church had attempted to expand its jurisdiction into Ireland in the later eleventh century, citing the consecration of Gilla Patric, bishop of Dublin, by Lanfranc, archbishop of Canterbury.[545] Corrain has even argued Henry II's invasion of Ireland was the culmination of Canterbury attempting to expand its authority, justifying this to the pope by referring to the need for reform in the Irish Church.[546] There is a great deal of historiographical debate over this.[547] For example, Duffy sees Henry's invasion as the move of an ambitious opportunist taking advantage of the exiled Diarmait Mac Murchada, whom initially re-kindled Angevin interest in Ireland.[548] Duffy also argues that Henry's invasion was simultaneously a chance to curtail the ambitions of the earl of Pembroke.[549] While these points certainly have merit, it is the ecclesiastical aspirations that concern this chapter, and it is clear that Pope Alexander III congratulated Henry on his invasion's early success. Indeed, the pope even urged Henry to further bring the Irish Church in line with its continental and English equivalents: 'We therefore beg your royal excellency – nay, as you value the remission of your sins, we exhort you in the Lord – to continue in that which you so laudably begun. We bid you to strengthen and renew your purpose to bring

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[544] W.L. Warren, *Henry II* (London: Eyre Methuen, 1973), 194-198.

[545] Donnchadh O. Corrain, *The Irish Church, Its Reform and the English Invasion* (Dublin: Four Courts Press, 2017), 61.

[546] Canterbury consistently refers to the prevalence of the barbaric practices of the Irish in the face of canon law, specifically in consecrating a bishop with less than three bishops, and consecrating bishops without a diocese. Corrain, *The Irish Church, Its Reform and the English Invasion*, 63, 97-102. It is also worth noting here that Corrain sees the document known as *Laudabiliter* as authentic. There is significant debate over the bull's authenticity. for some examples, see Corrain, *The Irish Church, Its Reform and the English Invasion*, 99; Anne J. Duggan, 'Totius christianitatis caput', in *Adrian IV The English*, ed. Brenda Bolton and Anne J. Duggan (Aldershot: Ashgate Publishing Limited, 2003), 138-152.

[547] For more on this, see Marie Therese Flanagan, *The Transformation of the Irish Church in the Twelfth Century* (Woodbridge: Boydell Press, 2010), 5-6; D. Carpenter, *The Struggle for Mastery: Britain 1066–1284* (London: Penguin Books, 2004); C. Veach, *Lordship in Four Realms: The Lacy Family 1166–1241* (Manchester: MUP, 2014); James F. Lydon, *The Lordship of Ireland in the Middle Ages* (Dublin: Gill and Macmillan, 1972).

[548] Seán Duffy, *Ireland in the Middle Ages* (Basingstoke: Palgrave Macmillan, 1997), 69-70.

[549] Duffy, *Ireland in the Middle Ages*, 69-70.

back this people to the worship of Christ and by your power to keep them in it.'[550] Henry seems to have carried out the actions of a king intent on ecclesiastical reform, calling a synod of the Irish Church at Cashel in 1172, the year after his initial landing.[551] Gerald of Wales records the main constitutions of this synod, the final of which was 'It is appropriate and indeed just that, as Ireland has chosen by God her lord and king from England, so too it may receive a better form of living hereafter'.[552] Clearly, Angevin policy in Ireland had some ecclesiastical aspirations, at the very least to maintain papal support.

Three years later, Henry made a treaty with a representative of Ruaidhrí, king of Connacht and native high king of Ireland, at Windsor.[553] The *Treaty of Windsor* is similar to the later treaty made between Llywelyn and English representatives. Both concern exiles and legal procedure.[554] While these themes are also present in the *Treaty of Falaise*, both the treaty with Llywelyn and the *Treaty of Windsor* are void of any clauses concerning ecclesiastical affairs.[555] Despite this, it is clear that the Angevin kings were concerned with the Churches of both Wales and Ireland. I have already highlighted Llywelyn's concern over the English control of the Welsh Church. However, Roger of Howden further highlights Angevin interest in the Irish Church, in his account of the council at which the *Treaty of Windsor* was made.[556] Henry actively gives a certain Augustin the bishopric of Waterford, and commanded both the

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[550] 'Rogamus itaque Regiam excellentiam, monemus et exhortamur in Domino, atque in remissionem tibi pecatorum inuingimus, quatinus in eo, quod laudabiliter incipisti, tuum propensius animum roberes et consortes, et gentem illam ad cultum Christianae fidei per potentiam tuam revoces et conserves...'; *Liber Niger Scaccarii*, ed. David Dundas, 2 vols (London: B. White, 1774), I, 46. Translation from *EHD*, II, 779-780.
[551] Gerald of Wales, *Expugnatio Hibernica*, ed. A.B. Scott and F.X. Martin (Dublin: Royal Irish Academy, 1978), 100-101.
[552] 'Dignum etenim et iustissimum est ut, sicut dominum et regem Anglia sortita divinitus est Hibernia, sic etiam exinde vivendi formam accipiat meliorem.'; Giraldus Cambrensis, *Expugnatio Hibernica*, 100-101.
[553] *Treaty of Windsor*, 84-86.
[554] *Treaty of Windsor*, 84-86. For an overview of the terms, see: Jenny Benham, 'The Peace of Windsor (1175)', in *Encyclopedia of Diplomacy*, ed. Gordon Martel (London: Wiley-Blackwell, 2017), 2-4.
[555] *Treaty of Falaise*, 4-6; *Treaty with Llywelyn*, 373; *Treaty of Windsor*, 85.
[556] *Chronica,* II, 85.

archbishops of Dublin and Cashel to consecrate him.[557] Once again, it is clear that the English kings managed to influence the Irish Church without having to resort to enforcing their authority over it via treaty. Additionally, as with the intervention in the Welsh Church, there was no papal opposition to this.

Although the evidence is more sparse, the Church of Brittany is another good example of a Church which the Angevin kings meddled in. Specifically, Henry supported Brittany's attempt to have its own archbishop, being based at Dol. Initially, Henry supported the case of a man named Hugo, who had been denied the archbishopric by Pope Anastasius IV in 1154.[558] Fortunately for Hugo, Anastasius died later that year.[559] Henry lent Hugo his support, recommending Hugo's case to the newly elected Pope Adrian IV. Hugo returned as archbishop of Dol a year later. In 1161 Hugo resigned as archbishop in Henry's presence, and Henry appointed a man named Roger as a replacement.[560] That the resignation took place in Henry's presence, implying Henry may have orchestrated this, and that Roger was one of Henry's followers, highlights just how much ecclesiastical influence Henry had in Brittany. Five years later, Henry annexed Brittany. Unfortunately, due to the nature of the surviving evidence, we cannot see the Breton clergy's reaction to this development, or how this stood in contrast to the Breton Church before the intervention of the English kings, specifically

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[557]*Chronica,* II, 85. No other chronicler records this. Ralph de Diceto is oddly silent concerning Irish affairs. Gerald of Wales does not record this either. Nonetheless, the *Annals of Tigernach* seem to confirm the accuracy of at least part of Howden's account. Howden states Hugo de Lacy, William Fitz Audeline and Philip de Braose are given lands in Dublin, Wexford and Waterford. The contemporary *Annals of Tigernach* seemingly confirm that these figures go to the said lands in the same year. With this in mind, it seems reasonable to trust Howden's account. *The Annals of Tigernach*, 2 vols, trans. Whitley Stokes (Felinfach: Llanerch Publishers, 1993), II, 297-298.

[558] On this, see J. A. Everard, *Brittany and the Angevins* (Cambridge: CUP, 2000), 68-75; *Mémoires pour server des preuves a l'histoire ecclésiastique et civile de Bretagne*, ed. H. Morice, 3 vols (Paris: De l'imprimerie de Charles Osmont, 1742), I, cols. 739-740; Robert de Torigini*, Chronicles of the reigns of Stephen, Henry II, and Richard I*, IV, 210.

[559] Robert de Torigini, IV, 181.

[560] Robert de Torigini, IV, 210.

through Henry II's son Geoffrey becoming the count of Brittany.[561] Despite this privation in the historical record, it seems likely that Angevin actions towards the Breton Church were similar to those taken towards the Irish and Welsh Churches.

Bearing the Welsh, Irish and Breton examples in mind, we can see that the Angevin kings utilised the Church's own ecclesiastical structure to gain wider influence in Ireland, Wales and Brittany. Specifically, both Canterbury's power over the Welsh Church and the papacy's desire to reform the Irish Church were exploited to gain influence in these case studies. Thus, provided Angevin control of ecclesiastical authority did not change the Church's structure radically, or constrain the authority of the Church and papacy, the papacy did not deem it necessary to respond to these cases of English control of the churches of other peoples. Furthermore, given the success that the Angevin kings had in exerting influence over the Irish and Welsh Churches, there was little need to implement these claims in a legal document, i.e. in a treaty. Thus, it appears that most Angevin attempts to control ecclesiastical authority were subtle, occurring outside of the treaty-making arena, and did not change the structure of the Church, or contradict the papacy directly. It was only when Henry II utilised a 'heavy handed' approach through the *Treaty of Falaise*, taking advantage of the unique opportunity presented when William the Lion was his prisoner, that the papacy seems to have objected. This is in stark contrast to the Byzantine treaties, the emperor's simply not needing to avoid dealing with ecclesiastical authority due to their control over the nomination of clerical offices. The prevalence of Byzantine treaties in dealing with ecclesiastical authority, and the rarity of English treaties dealing with this reflect the clear practicalities that Byzantine and English rulers were faced with. English rulers were faced with a powerful head of the

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[561] The exact year Geoffrey became count is difficult to assert, but by 1174 Geoffrey was already associated with Brittany via his impending marriage to Constance of Brittany. *Treaty of Montlouis*, 68.

Western Church, who actively undermined English attempts to enforce control of other peoples' churches. This simply was not the case in Byzantium.

That Western rulers had to be subtle in controlling ecclesiastical authority, unlike their Byzantine counterparts, is supported by the final English treaty that concerns the control of ecclesiastical authority, the *Treaty of Le Goulet* (1200). The treaty, made between King John and the French King Philip Augustus, effectively split the bishopric of Évreux between the kings of France and England, the bishop answering to each king on matters concerning the parts of the bishopric that they controlled:

'He (King John) also granted to us (King Philip) of the bishopric of Évreux that is within these boundaries; from where the bishop of Évreux will answer to us, and to our heirs. Also the same bishop will answer to the king of England, and to his heirs, with respect to that (being the bishopric of Évreux) which will be outside these boundaries'.[562]

John Baldwin has seemingly misread the treaty, claiming that Philip gained the entirety of the bishopric of Évreux through the agreement, which was not the case.[563] While Philip certainly controlled Évreux itself, and the majority of the bishopric, the treaty makes it clear that John controlled part of the bishopric, specifically Le Neubourg.[564] Although the bishopric was certainly split between the two kings, once again, this provoked little in terms of a papal response. Presumably, this was as no radical restructuring of ecclesiastical power was taking place. Indeed, the treaty is silent on changing the archdiocese of Évreux, and thus it seems fair to say the bishopric of Évreux still answered to the archbishop of Rouen on ecclesiastical

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[562] 'Concessit etiam nobis de episcopatu Ebroicensi id quod est infra has metas; unde episcopus Ebroicensis nobis respondebit, et haeredibus nostris. Idem autem episcopus respondebit regi Angliae, et haeredibus suis, de hoc quod erit extra has metas'; *Treaty of Le Goulet*, 149.
[563] John W. Baldwin, 'Philip Augustus and the Norman Church', *French Historical Studies*, 6 (1969), 1-4.
[564] *Treaty of Le Goutlet*, 149.

matters.[565] One can even see the papacy as being in favour of this outcome, using surrounding charter evidence. Later in the same year, the French king issued a charter giving the canons of Évreux control over future elections of their bishop.[566] The papacy seems to have been in full support of this, ratifying the charter a year later.[567] This is perhaps unsurprising, the charter empowering the clergy of Évreux, and by extension, the wider Church. The papacy's actions surrounding the *Treaty of Le Goulet*, and Philip Augustus's subsequent charter concerning the Church of Évreux, in combination with the other examples touched upon above, highlights that provided the authority of the Church and papacy was not infringed upon, the papacy had no qualms with rulers interfering in ecclesiastical matters. Indeed, it even supported this intervention if it resulted in greater power for the Church and papacy. The latter point is particularly clear regarding the Irish Church, as well as the *Treaty of Le Goulet* and the Church of Évreux.

Of course, we must also note here that Philip Augustus took control over the majority of John's remaining continental lands within three or so years. With this in mind, we can see the *Treaty of Le Goulet's* clause on ecclesiastical authority as preparatory for future campaigns against the English king. One can imagine that once the bishop of Évreux answered to Philip for the parts of the diocese controlled by the French King, it would not be a drastic change for the bishop to answer to Philip for the whole diocese. Both Peter Poggoli and John Baldwin link this with a wider plan of the French king to gain the loyalty of the Norman Church in the

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[565] *Treaty of Le Goulet*, 148-151.

[566] 'Proinde concedimus canonicis Ebroicensis ecclesie ut ipsi, cum episcopalis sedes Ebroicensis vacaverit, liberam habeant potestatem eligendi episcopum, sicut et alii canonici ecclesiarum Francie liberam habent eligendi sibi episcopum potestatem'; *Recueil des actes de Philippe-Auguste*, eds. H.F. Delaborde, C. Petit-Dutaillis, and J. Boussard, 4 vols (Paris: Imprimerie Nationale, 1916-1966), II, 188. Philip seems to have been particularly generous to the church of Évreux, even granting the dean and chapter of Évreux land on which to build a mill in 1201. *Recueil des actes de Philippe-Auguste*, II, 259-260.

[567] This confirmation is dated to 1201 and found in MS Register of the Chapter of Évreux, A. D. Eure, G. 122, 5. It is also interesting to note here that Philip did put this into practice. For example, in 1201 the canons of Évreux convened and elected Robert de Roye bishop. For more on this, see Baldwin, 'Philip Augustus and the Norman Church', 7-8.

build-up and aftermath of Philip's eventual conquest of Normandy.[568] However, both Wendy Stevenson and Daniel Power dispute this.[569] In particular, Stevenson has demonstrated much of the evidence for seeing Philip as a 'liberator' of the Norman Church can be read in multiple ways, and Power has demonstrated that the Norman Church was dominated by Norman families, making it unlikely that it saw French control in a positive light.[570] The treaties offer a fresh perspective on this. Indeed, it is apparent that that control of ecclesiastical authority was an essential issue that went hand in hand with the transferring of power in the treaties of Winchester, Aleppo and Devol.[571] As such, it seems likely Philip was cementing his rule over parts of Évreux.[572] Indeed, the *Treaty of Falaise* can be seen in this light, Henry II having secured the king of Scots as his liegeman, and cementing his control over Scotland via control of the Church, at least in theory.[573] However, it is difficult to argue that the *Treaty of Le Goulet* was in preparation for potential future expansion, rather than Philip simply cementing his control over the Church in lands he had recently conquered, as there is no clause on the wider Norman Church. As such, it seems unlikely that this was an attempt to woo the Norman Church. Indeed, it seems more plausible that the *Treaty of Canterbury* evidences potential expansionist plans, Richard I being reluctant to give up the progress his father had made in getting the Scottish king to agree that the English Church was the superior of Scotland's, and perhaps wanting to capitalise on this in the future.[574] While the *Treaty of Canterbury* evidences potential plans for Richard to further expand his

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[568] Peter A. Poggoli, 'From Politician to Prelate: the Career of Walter of Coutances, archbishop of Rouen, 1187-1207' (unpublished doctoral thesis, The Johns Hopkins University, 1984), 142-145; Baldwin, 'Philip Augustus and the Norman Church', 1-8.

[569] W. B. Stevenson, 'England and Normandy, 1204–59' (unpublished doctoral thesis, University of Leeds 1974), 29–52 and 113–136; Power, 'The Norman Church and the Angevin and Capetian Kings', 205-234.

[570] Stevenson, 'England and Normandy, 1204–59', 36; Power, 'The Norman Church and the Angevin and Capetian Kings', 221-222.

[571] *Treaty of Winchester*, 64; *Treaty of Aleppo,* c. 19; *Treaty of Devol*, 134.

[572] *Treaty of Le Goulet*, 149.

[573] *Treaty of Falaise*, 2-5.

[574] *Treaty of Canterbury*, 12-17.

influence in Scotland, the *Treaty of Le Goulet* does not evidence the expansionist plans Philip Augustus had for Normandy.

Focusing solely on the English examples, the English treaty corpus can be seen through the lens of Anglo-Papal relations. The *Treaty of Falaise*, and by extension the *Treaty of Canterbury*, are clearly quite exceptional in provoking such a strong papal response. This is in sharp contrast to the treaties of Winchester and Le Goulet, as well as the examples of Angevin intervention in the Welsh, Irish and Breton churches. This was linked in part to the atypical circumstances surrounding the *Treaty of Falaise*, where the capture of William the Lion allowed Henry II to impose significant structural changes on the Scottish Church. By utilising William's captivity to enact York's claim as archbishopric of Northern Britain, Henry was restructuring ecclesiastical authority without the necessary mandate from the papacy, unlike Henry's actions in Ireland. This resulted in a vigorous papal response. While Richard I attempted to retain English ecclesiastical authority over the Scottish Church by annulling the *Treaty of Falaise* bar the clauses on ecclesiastical authority, this did not go unnoticed by the Roman Pontiffs, who continued to support the case of the Scottish Church. The papacy's reaction to both the treaties of Falaise and Canterbury indicates the papacy's anxiety concerning secular intervention in ecclesiastical authority. However, it is also clear that rulers could utilise ecclesiastical structure to ensure a stable transferal of power or expand their power in an area. This is clear within the treaties of Winchester and Le Goulet, and outside of treaties, as in the examples of the Welsh, Irish and Breton churches. While rulers gaining the fealty of the holder of ecclesiastical authority did not provoke a papal reaction, enacting structural change of these churches itself was seen as an attack on ecclesiastical authority and thus the authority of the Church itself.

This contradicts the traditional narrative that scholars have used to portray the Angevin kings' relations with the peoples around them. Often, the Angevin's relations are described as

between a clear superior and inferior, the superior being the Angevin crown. For instance, while Warren does note the limits of Angevin policy in Wales, Scotland, and Ireland, he simultaneously sees them as being under Henry II's thumb.[575] Even more specifically with regard to ecclesiastical authority, scholars often emphasise English superiority over the churches of the peoples the English kings dealt with. Specifically, when briefly touching upon English intervention in the Irish and Scottish churches, Duffy notes the *Treaty of Falaise* was a humiliating subordination of the Scottish Church, mirroring how Henry II had succeeded in a similar subordination of the Irish Church at the Synod of Cashel.[576] While there is evidence of Angevin domination of the ecclesiastical spheres of Wales and Ireland, it is clear that the Scottish Church resisted this, despite the significant efforts of Henry II and Richard I.[577] Indeed, one can even see Angevin control of Norman ecclesiastical authority as under attack by Philip Augustus in the *Treaty of Le Goulet*.[578] Thus to portray the Angevin kings as the one-sided victors in controlling ecclesiastical authority in Britain, Ireland, and Normandy, is clearly inaccurate, at least from the perspective of the treaties.

While ecclesiastical authority within English treaties questions the narrative of the ever-expanding Angevin juggernaut, we can also use these treaties of both Byzantium and England to indicate the power dynamics between the rulers negotiating these treaties. The *Treaty of Winchester* effectively highlights the stalemate that Stephen and Henry found themselves in, and this is reflected in the clauses on ecclesiastical authority, the English clergy promising to swear fealty to Henry, and still having fealty to Stephen, as shown by Stephen issuing the order for the clergy to perform fealty to Henry.[579] By contrast, the *Treaty of Falaise* reflects the powerful position Henry was in, having captured William king of Scots, prior to the

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[575] Warren, *Henry II*, 168-169, 186-187, 205-206, and 229-230.
[576] Seán Duffy, 'Henry II and England's Insular Neighbours', in *Henry II New Interpretations*, 148-151.
[577] For instance, see the examples of bishop Bernard of St Davids, and bishop Augustin of Waterford. *Brut Y Tywysogion*, 124-125; *Chronica,* II, 85; *Treaty of Falaise*, 2-5; *Treaty of Canterbury*, 12-16.
[578] *Treaty of Le Goulet*, 149.
[579] *Treaty of Winchester*, 64.

treaty, and the *Treaty of Canterbury* highlights Richard's position was still secure enough that he could maintain the claim over the Scottish Church while treating with William the Lion.[580] Thus, the *Treaty of Le Goulet* demonstrates John's uncertain position, having lost territory to his French rival, and ceding the associated ecclesiastical authority.[581] This analysis also works well in the treaties of Byzantium. The treaties of Aleppo and Devol represent moments of strength for the empire, the *Treaty of Aleppo* made in the background of a Byzantine army besieging the city, and the *Treaty of Devol* being made after Bohemond's army was harried by disease and surrounded by the forces and allies of Alexios. Subsequently, each of these treaties has clauses expanding the Byzantine control of ecclesiastical authority.[582] By contrast, the treaties with the Italian cities seem to reflect Byzantium's reliance on the merchant cities' naval forces, Byzantium consistently offering churches, and trade privileges, in return for use of a city's fleet.[583] This is not necessarily showing Byzantium as the inferior power here, as some of these treaties occurred in the reigns of expansionist Byzantine emperors, such as Alexios I and Manuel I, but perhaps reflects an increasing reliance on the Italian cities for naval aid. Certainly, the Venetian fleet played a key role in Alexios's defence against Bohemond prior to the *Treaty of Devol*.[584] This fundamentally highlights that while rulers were keenly aware of the uses of ecclesiastical authority, Byzantium utilised it to gain naval support, while English rulers did not. Of course, this also reflects the Byzantine ability to control, and bargain with, the infrastructure of the Byzantine Church, something which simply was not a possibility for their English counterparts due to papal opposition.

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[580] *Treaty of Falaise*, 2-5; *Treaty of Canterbury*, 12-17.
[581] *Treaty of Le Goulet*, 149.
[582] *Treaty of Aleppo,* c. 19; *Treaty of Devol*, 134.
[583] For instance, see *Treaty of Constantinople* (1198), 133; *Treaty of Constantinople* (1187), 196; *Treaty of Constantinople* (1111), 42; The 1111 treaty is renewed in 1170 and 1192. See, *Treaty of Constantinople* III (1170), 54; *Treaty of Constantinople* I (1192), 56; For another example, see *CDRG*, III 145-146.
[584] Nicol, *Byzantium and Venice*, 64-65.

Ecclesiastical authority is ultimately a theme fundamentally connected with the intertwined nature of the church and 'government' in the period. As we have seen, this seemingly goes back to the very origins of the Church being adopted by Constantine the Great, bishops often holding judicial powers, as well as holding both local and higher government offices. In the later period, this necessitated that a ruler had to control the ecclesiastical authority of the lands that they ruled, or at least secure the homage of the clergy. In Byzantium, with the emperor's position over the Patriarch of Constantinople, the former option was taken, while in England, with papal primacy over the election of bishops being established at the *Concordat of London*, the latter option was preferred, at least in theory. The treaties here offer insight into how rulers pursued ecclesiastical authority, and the specifics of why it was pursued. For instance, the *Treaty of Aleppo* clearly shows religious difference was no barrier to seizing ecclesiastical authority, the treaty incorporating the churches of the emirate into the Byzantine framework, and thus giving the emperor control over the Christian courts of Aleppo.[585] The Byzantine treaties with the Italian cities are particularly informative. Multiple treaties with Venice, Genoa, and Pisa grant churches and trading privileges to the Italian cities in return for naval support, and the Genoese *emendationes* highlight the importance of these churches to these Italian cities.[586] Importantly, the 1198 Venetian treaty grants the Venetians in Byzantium their own judges.[587] The 1169 *Treaty of Genoa* states that all 'Latins' were tried in the Imperial court for crimes against Byzantine subjects, and implies that Genoese, and indeed Venetians and Pisans, were able to settle cases between their own citizens in their own courts.[588] This was motivation enough to warrant the control of ecclesiastical authority, but the treaties also reveal sweeping judicial powers granted to the Venetians by the end of the twelfth century, giving them much power over which cases could

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[585] *Treaty of Aleppo*, c. 19.
[586] *Emendationes*, 114 (fn. 1).
[587] Treaty of Constantinople (1198), 132-133.
[588] *Treaty of Genoa* (1169) [MS B], 187.

be levied against them. Ecclesiastical authority was also important in ensuring a smooth transferal of power, as shown in the *Treaty of Winchester,* and highlighted when compared to the *Treaty of Aleppo*, the *Treaty of Devol* and the *Treaty of Le Goulet*.[589] Thus, rulers pursued ecclesiastical authority to attain practical goals, including increased control and power in a particular area, legal privileges for the subjects, and allowing for a potential seizure of a particular area. While this is interesting, the fact remains that only four English treaties touch upon ecclesiastical authority. A partial reason for this is the fear of English kings of a strong papal response. This is demonstrated well by the treaties of Falaise and Canterbury, as well as the events surrounding them. Indeed, given the English success in securing Irish and Welsh ecclesiastical authority, it seems likely that enforcing a claim via treaty was a last resort for the English kings that took advantage of William the Lion's capture. This highlights that the rulers of both Byzantium and England were heavily influenced by their relationship with the heads of their respective churches. As the Byzantine emperor was in theory the head of the empire in its entirety, and had the power to nominate ecclesiastical officials, emperors were able to barter with their own ecclesiastical authority more often to pursue specific goals, such as securing the aid of the Italian cities. By contrast English rulers were relatively hesitant to deal with this issue in the treaty-making arena out of fear of provoking a papal response. We can also see ecclesiastical authority in treaties as representing the power dynamic between the parties involved. When England or Byzantium had the advantage, both entities expanded their ecclesiastical authority, as shown in the treaties of Aleppo, Devol, Falaise, and Canterbury.[590] When either power were at disadvantage, as shown in the *Treaty of Le Goulet*, and Byzantium's dire need for naval support in the treaties with the Italian cities, both Byzantium and England ceded ecclesiastical authority.[591] While there were certainly

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[589] *Treaty of Aleppo*, c. 4; *Treaty of Devol*, 134; *Treaty of Winchester*, 64; *Treaty of Le Goulet*, 149.
[590] *Treaty of Aleppo*, c. 4; *Treaty of Devol*, 134; *Treaty of Falaise*, 2-5; *Treaty of Canterbury*, 12-16.
[591] For instance see, *Treaty of Le Goulet*, 149; *Treaty of Constantinople* (1082), 52.

differences in approach to ecclesiastical authority, rulers of both Byzantium and England pursued this theme to cement their power in an area, recognising that control of a particular ecclesiastical office gave them control of authority and jurisdiction in a specific region. Rulers from both entities also recognised the importance of securing ecclesiastical authority for the transition of power, and that the Church played an important aspect in the administrative framework that rulers had to utilise, such as dispensing justice. This administrative framework was utilised to deal with a variety of issues, such as trade, the movement of services, and as the next chapter will show, the movement of people. While Byzantium utilised ecclesiastical authority to secure military aid, unlike their English counterparts, ultimately, both the Byzantine emperors and the English kings saw the intertwined nature of the Church and government in this period, and utilised it for their own particular ends.

Chapter 4: The Movement of People: Slaves and Exiles

The administrative framework that medieval rulers utilised often found itself dealing with problems that remain familiar to a modern audience, such as justice and migration. As seen in the last chapter, the Church was intrinsically tied to both Byzantine and English rulers' capacity to administer justice, and to control particular areas. This chapter ties into another fundamental issue that rulers had to deal with via treaty, the movement of people. The movement of people remains one of the most popular areas of study in scholarship both for Byzantinists and scholars of the medieval West. This perhaps reflects that migration remains a fundamental issue as both a cause and a result of conflict in the modern period, and therefore it is a critical aspect of conflict resolution and peacemaking. For instance, even as I write this, current UK policy towards refugees and asylum seekers is being heatedly debated.[592] However, it is also clear that treaties prior to the medieval period legislated on this issue, being present in many treaties regardless of era. For instance, the Macedonian-Carthaginian (215 BCE) treaty has a clear clause on each party rejecting the other's enemies.[593] While this clause might be seen more specifically as a clause on military aid, scholarship on comparable treaties in the Middle Ages has shown such clauses are common within treaties more generally, and likely concern domestic enemies, such as exiles and fugitive slaves, as well as foreign enemies.[594] This is demonstrated well by the events surrounding the *Treaty of Rouen* and the relevant surrounding scholarship. The treaty, made in 991 between King Æthelred and Duke Richard of Normandy, contains the following clause, 'Richard is to receive none of the king's men, or of his enemies, nor the king any of

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[592] Rajeev Syal and Mark Brown, 'Home Office Staff Threaten Mutiny Over 'Shameful' Rwanda Asylum Deal', *The Guardian*, 20th April 2022, <https://www.theguardian.com/uk-news/2022/apr/20/home-office-staff-threaten-mutiny-over-shameful-rwanda-asylum-deal>, Accessed: 28/04/2022.
[593] Polybius, *The Histories*, 6 vols, trans. W. R. Paton and rev. F. W. Walbank, 2nd edn (Cambridge, MA: Harvard University Press, 2010), III, 467.
[594] Benham, *ILE*, 59-62.

his, without their seal'.[595] The above clause on the movement of people has often been seen as fundamentally linked with the raids of Æthelred's reign. In particular, scholars have seen this clause as a way of the English king preventing Scandinavian raiders from harbouring their ships in Normandy.[596] However, Benham has highlighted that the above clause, which bars each party from accepting the other's enemies and men, likely concerns political exiles rather than marauding raiders.[597] Æthelred had no shortage of enemies after a turbulent start to his reign, and exile offered a merciful and permanent way of dealing with troublesome domestic adversaries.[598]

Benham has also shown that clauses on exiles, and the wider movement of people, are some of the most common within the treaties of this period.[599] When considering this in conjunction with migration remaining a contentious diplomatic subject today, and knowing that treaties from the ancient world also dealt with the movement of people, it is clear that the movement of people and specifically exiles has remained an issue of significance for rulers from antiquity, through the medieval world, and into modernity. Of particular interest here, is that the movement of exiles is one of the few themes that directly linked Byzantium and England to one another, some exiles appearing in the histories of both powers. For instance, Harald Hardrada is well known both for serving in the Varangian guard and for commanding his forces in England in 1066 at the Battle of Stamford Bridge, and his origins are intertwined with his status as an exile.[600] Similarly, it is widely agreed that after the Norman conquest, former English nobles found employment in Byzantium, even facing familiar foes in the form

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[595] *Treaty of Rouen*, 38. Translation from *EHD*, I, 824.
[596] Stenton, *Anglo-Saxon England*, 376; Roach, *Æthelred: The Unready*, 117.
[597] Jenny Benham, 'The Earliest Arbitration Treaty? A reassessment of the Anglo-Norman treaty of 991', *Historical Research*, 93 (2020), 193-194.
[598] Benham, 'The Earliest Arbitration Treaty?, 193-194.
[599] Benham, *ILE*, 59-62.
[600] Snorri Sturluson, *Heimskringla*, ed. Bjarni Aðalbjarnarson, 3 vols (Reykjavík: Hið Íslenzka Fornritafélag, 1941-51), III, 71-72 and 186-191.

of Norman Sicily.[601] What this effectively shows is that the movement of exiles could have a profound impact on the rulers of the medieval world, and were not solely an issue for powers neighbouring one another.

While the movement of people generally in the period has extensive scholarship dedicated to it, the treaties offer novel insight into the active measures rulers took to control the movement of people, particularly exiles and slaves.[602] In particular, it is apparent that rulers often concerned themselves with the movement of slaves, not only to ensure their own slaves did not flee, but also to ensure their enslaved subjects could return home. Additionally, the treaties show rulers could not afford to be passive concerning exiles, as this allowed exiles to seek refuge with a neighbouring leader, and potentially return with foreign backing in the future. Indeed, controlling the movement of exiles in particular could potentially allow a ruler a larger 'recruitment pool' to bolster their own forces, and utilise them against their enemies. The movement of slaves and exiles fundamentally is an issue which required pragmatic solutions in order for rulers to reign effectively in an era of many conflicts.

The movement of slaves was a fundamental aspect of the English and Byzantine economies in this period. Despite this, as David Wyatt has noted, within the narrative evidence slaves often appear as a footnote of a central event.[603] Emperor Constantine VII's message to Olga, regent of the Rus', in c. 950 is exemplary of this, the emperor demanding gifts of slaves, wax, furs, and troops in return for gifts he had previously given Olga.[604] Similarly, the *ASC*'s entry

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[601] Jonathan Shepard, 'The English and Byzantium: A Study of their Role in the Byzantine Army in the Later Eleventh Century', *Traditio*, 29 (1979) 53-76.

[602] For instance, see Michael Kulikowski, 'Barbarians in Gaul, Usurpers in Britain', *Britannia*, 31 (2000), 325-331; Walter Goffart, *Barbarian Tides: The Migration Age and the Later Roman Empire* (Philadelphia: University of Pennsylvania Press, 2006), 73-118; Damian Tyler, 'Early Mercia and the Britons', in *Britons in Anglo-Saxon England*, ed. N.J. Higham (Woodbridge: Boydell Press, 2007), 91-99; Ton Derks, 'Ethnic identity in the Roman Frontier. The epigraphy of Batavi and other Lower Rhine tribes', in *Ethnic Constructs in Antiquity: The Role of Power and Tradition*, eds. Ton Derks and Nico Roymans (Amsterdamn: Amsterdam University Press, 2009), 239-269.

[603] David Wyatt, *Slaves and warriors in Medieval Britain and Ireland, 800-1200* (Leiden: Brill, 2009), 23-26.

[604] *RPC*, 83.

for 980 documents a raid on Southampton and implies the entire town was either killed or imprisoned, the latter likely being a euphemism for enslaved.[605] The *ASC* account highlights a common fact of the period; that slaves were often former prisoners of war.[606] Constantine's request highlights another; that slaves were dehumanized, and were used as indicators of status.[607] It is important to keep this in mind, as treaties were often made after times of conflict and often made between wealthier members of two societies, being rulers and their immediate followers. As such, it is not surprising that many treaties, which largely reflect the interests of those sections of society, concern themselves with the movement of slaves.

Half of the Anglo-Saxon treaties have clauses that seemingly concern slaves. Both the *Alfred-Guthrum Treaty* and the *Treaty of Andover* are explicit in this, and effectively have the same clause. Clause 5 of the *Alfred-Guthrum Treaty* states, 'And we all agreed on the day when the oaths were sworn, that no slaves nor freemen might go without permission into the army of the Danes, any more than any of theirs to us'.[608] Similarly clause 6.2 of the *Treaty of Andover* states, 'And neither they nor we are to receive the other party's slave, or thief, or person concerned in a feud'.[609] As we shall see, while these treaties clearly concern the movement of slaves, the Byzantine emperors seem more concerned with ensuring their subjects enslaved by other peoples were actively returned, at least within a treaty-making context.

Both the *Alfred-Guthrum Treaty* and the *Treaty of Andover* seem to have been made after conflict between the two parties. The exact context of the *Alfred-Guthrum Treaty* is difficult to determine, reflecting the uncertain date of the document. Indeed, scholarship has generally seen the document as made between 886 and 890.[610] The starting date is justified by London

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[605] *ASC*, [The Abingdon Chronicle], s.a. 980.
[606] *ASC*, [The Abingdon Chronicle], s.a. 980.
[607] *RPC*, 83.
[608] *AGu*, c.5. Translation from *EHD*, I, 381.
[609] *Treaty of Andover*, c. 6.2. Translation from *EHD*, I, 402.
[610] Stenton, *Anglo-Saxon England*, 258.

being within Alfred's control, as per the border established in the treaty, and the *ASC* stating that Alfred took London in 886.[611] The ending date is normally justified as Guthrum is reported to have died in 890.[612] However, the chronicle evidence is unreliable here, as the *ASC* itself does not record another conflict between Alfred and Guthrum specifically after 878, and London may well have been under Alfred's control prior to 886.[613] As such, it is difficult to say whether the *Alfred-Guthrum Treaty* was made after conflict. Despite this, given that arguably the most famous of the treaty's clauses, the 'border clause', seems so concerned with defining where one ruler's authority stopped and another's began, it seems likely this was made after some form of conflict between the two rulers.[614] The context of the *Treaty of Andover* is less obscure, the treaty being made after Olaf Tryggvason and other raiders made a failed attack on London in 994.[615] Given both treaties were likely made after conflict, and given that slaves were commonly prisoners of war, these clauses effectively prevent slaves taken by either side in the conflict from being received by, or returned to, their own people. This is supported by the 945 *Treaty of Constantinople* with the Rus', which explicitly links prisoners of war with slavery. Specifically, the treaty states:

'If any Russes are found labouring as slaves in Greece, providing they are prisoners of war, the Russes shall ransom them for ten bezants each. But if a Greek has actually purchased any such prisoner, and so declares under oath, he shall receive in return the full purchase price paid for the prisoner'.[616]

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[611] *ASC*, [MS A], s.a. 886.

[612] *ASC*, [MS A], s.a. 890.

[613] M. Blackburn, 'The London Mint in the Reign of Alfred', in *Kings, Currency and Alliances: History and Coinage in Southern England in the Ninth Century*, eds. M. Blackburn and D. Dumville (Woodbridge: Boydell Press, 1998), 105-123; S. Keynes, 'King Alfred and the Mercians', 1-45 (particularly 18).

[614] *AGu*, c. 1.

[615] *ASC* [MS E], s.a. 994. The dating of this is generally accepted, see Gordon, 'The Date of Æthelred's treaty with the Vikings', 24-32; Benham, 'Law or Treaty?', 490-491.

[616] *Treaty of Constantinople* (945), 75.

Here, the clause actively distinguishes between slaves taken as prisoners of war, and those bought separately. In the context of the *Alfred-Guthrum Treaty* and the *Treaty of Andover*, the 945 Rus' treaty suggests that the slaves referred to in these treaties were likely taken during conflicts prior to each treaty.

Given that the *Alfred-Guthrum Treaty* and the *Treaty of Andover* were likely made after conflict, and that the 945 Rus' treaty confirms slaves were often prisoners of war, it is not surprising that the two sides wanted to ensure none of their recently enslaved captives could flee home, at least not without some form of ransom being paid to satisfy the captors.[617] After all, slaves were certainly an important source of labour and wealth for the parties involved.[618] The remaining Anglo-Saxon treaties are less concerned with slaves. The *Treaty of Rouen* is less explicit, simply asking neither party to accept the other's men, which likely included slaves generally, but does not specify slaves.[619] This could also reflect that there was no conflict between the two leaders prior to this, and as such it was less likely that either party had recently taken and enslaved prisoners of war wishing to return home. Interestingly, the *Ordinance of the Dunsæte* does not explicitly mention slaves either, but does note no citizens from either the English or Welsh communities are to enter the land of the other without the 'appointed man'.[620] Given that this treaty was made directly between two communities, rather than two rulers, this seems to show how the movement of slaves was more of an issue for those with greater wealth. As such, legislating on fugitive slaves within this treaty was simply impractical. That the treaty is orientated towards poorer communities, rather than wealthy rulers and their followers, is cemented by the *Ordinance of the Dunsæte* also opting for lower

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[617] *AGu*, c. 5; *Treaty of Andover*, c. 6.2; *Treaty of Constantinople* (945), 75.
[618] For more on this, see Wyatt, 'Reading Between the Lines', 17-32 (particularly 30-32).
[619] *Treaty of Rouen*, 38.
[620] *Duns*, c. 6. Translation from Noble, *Offa's Dyke Reviewed*, 107.

rates of compensation, to ensure redress was made between the communities and conflict avoided.[621]

By contrast, the treaties of Byzantium that explicitly concern the movement of slaves largely attempt to ensure the enslaved people of each party are returned. Specifically, the 911 *Treaty of Constantinople* states that if a Rus' or Byzantine prisoner of either party was sold to another people, any Rus' or Byzantine subject in that area were to purchase them and return them to their native country.[622] The purchaser was to be compensated, presumably by the ruler of the freed subject. Later, the treaty clarifies that this is also to happen if any Byzantines or Rus' sell a Byzantine or Rus' subject, the enslaved person being returned for twenty *byzants*.[623] These clauses are particularly interesting, showing active concern for each ruler's subjects, highlighting that Byzantine rulers attempted to help their enslaved subjects return home. The 945 Byzantine-Rus' treaty has similar clauses. Any Byzantine slaves in Rus' territory, specifically young men and women, were to be returned for ten *byzants*, middle aged subjects for eight *byzants*, and enslaved elderly or young people were returned for five *byzants*. Interestingly, all Rus' slaves in Byzantium were to be ransomed at 10 *byzants*.[624] This may reflect the Rus' had recently been the aggressor in a conflict with Byzantium, and as such any Rus' slaves in Byzantium were likely young enough to have actively participated in warfare, while Byzantine slaves from the conflict likely came from raids, and thus from a cross section of Byzantine society.[625] As already noted, the 945 treaty also actively differentiates between those enslaved as prisoners of war, and those bought as slaves from a third party.[626]

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[621] *Duns*, c. 5.
[622] *Treaty of Constantinople* (911), 67.
[623] *Treaty of Constantinople* (911), 68.
[624] *Treaty of Constantinople* (945), 75.
[625] *RPC*, 71-72.
[626] *Treaty of Constantinople* (945), 75.

A somewhat similar approach is taken in the *Treaty of Aleppo*. Any Byzantine runaway slaves that sought harbour in Aleppo were to be denounced by the community.[627] However, the slaves could remain in Aleppo if compensation was paid (thirty-six dinars for a man, twenty for a woman, and fifteen for a child).[628] If the slave was Christian, however, the slave must be returned to Byzantium.[629] Given that the treaty was made shortly after a prolonged siege, it seems likely these clauses refer to enslaved people from Aleppo returning home. While the clause is more general, it certainly allows for slaves to return home, and at times compensates the slave owner.

When we contrast the Byzantine treaties concerning slaves with their English counterparts, it becomes apparent that Byzantine rulers seem more concerned with their enslaved subjects than English rulers.[630] This is not to say that the emperor was anti-slavery, other clauses clearly recognise the need to return the runaway slaves of Byzantine subjects, and the empire consistently made and received gifts of enslaved people across its history.[631] Despite this, it is also worth highlighting that the Byzantine emperors could have simply formalised the process of paying money for the return of an enslaved subject within treaties. This process may well have taken place in an English context as well, perhaps through agreements made outside of the treaty. Regardless, ensuring that rulers could control the movement of slaves, whether the slaves be their own subjects or runaway prisoners of war, helped cement a ruler's status.

Interestingly, the later treaties do not seem to concern slaves explicitly. Traditionally, the slave trade has been seen to decline later in the period in the medieval West, in part due to the

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[627] *Treaty of Aleppo*, c. 12.
[628] *Treaty of Aleppo*, c. 12.
[629] *Treaty of Aleppo*, c. 13.
[630] For instance, compare the following treaties' clauses on slaves: *Treaty of Constantinople* (911), 68; *Treaty of Constantinople* (945), 75; *AGu*, c. 5; *Treaty of Andover*, c. 6.2.
[631] *Treaty of Aleppo*, c. 12; *RPC*, 83.

spread of Christianity and the papacy outlawing slavery.[632] However, as Wyatt has highlighted, this overlooks that slavery still took place in the later period.[633] Indeed, there are plenty of later narrative accounts that have prisoners taken as part of the 'spoils', likely being enslaved.[634] Richard of Hexham even records English slaves being taken by David I king of Scotland in 1138, meaning that while the English kings may not have taken slaves themselves, they still had to deal with adversaries that did.[635] Even if the spread of Christianity was responsible for the decline of clauses on slavery in the later treaties, this simply does not explain the dearth of clauses on manumission in the Byzantine corpus, which was surrounded by non-Christian entities and was not beholden to the papacy. It seems more likely that slavery continued to be a topic dealt with via treaties, but that the relevant clauses were simply framed differently. This is not necessarily surprising, as a similar change is observable with redress clauses, examples from the early period being expressed differently to their latter counterparts, the former often focusing more on personal redress.[636] A good example of clauses on slaves simply being expressed differently in the later treaties is in the *Treaty of Montlouis*, made between Henry II and his rebellious sons, touched on in Chapter 1. The clause states:

'Also, those who fled before the war for whatever reason, and came to the service of his (Henry II's) son, for the love of his son [may] be returned to peace, if they will have given pledge and surety that they will be stood for the trial of those [crimes] which they forfeited before the war. Also, those who were in plea (i.e., in a lawsuit) when they withdrew to his

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[632] D. B. Davis, *Slavery and Human Progress* (Oxford: OUP, 1984), 108-109.
[633] Wyatt, *Slaves and warriors in Medieval Britain and Ireland*, 10-23 and 31-32.
[634] For instance, see Wyatt's comment regarding Western Baltic in the 13th century, Wyatt, 'Reading Between the Lines', 26.
[635] Richard of Hexham, III, 156-157. Richard later records these slaves being released, but the point still stands that even if slavery did not exist in twelfth century England, which seems unlikely as it is still an issue that plagues modern Britain, the English kings still had to deal with those who took their subjects as slaves. Richard of Hexham, III, 170-171
[636] See Chapter 1.

son, may be returned to peace, so that they may be in that same state of their plea, in which they were when they withdrew'.[637]

This clause is very general, and covers a variety of different persons who had fled, likely including both political and criminal exiles. Given that this clause is so broad, not specifying who in particular had 'fled before the war for whatever reason', it seems likely this also covered fugitive slaves. Such a clause allowed any runaway slaves to return in peace, but only if they allowed themselves to be judged for crimes they had committed that they were fleeing from, or simply serve the appropriate sentence for a slave that had fled.[638]

Later Byzantine treaties are similarly vague regarding the movement of slaves, who are rarely being explicitly named within clauses. However, once again there are clear examples of clauses that must have targeted fugitive slaves, amongst other groups. For instance, the *Treaty of Devol* has as many as three clauses targeting exiles and fugitives in general.[639] Two of these, explicitly concern refusing the enemies of the emperor as well as those rebelling against the emperor. However, the final clause on this states, 'Again I will never receive any fugitives from your Empire, but will compel them to retrace their steps and return to your Empire'.[640] Given that the treaty emphasises that Bohemond is not to accept any of the enemies of Byzantium repeatedly, and that this clause specifies fugitives, $\phi\nu\gamma\acute{\alpha}\delta\alpha\varsigma$, it seems likely this clause encompassed fugitive slaves.[641] Ensuring that runaway slaves in particular returned to their respective territory was advantageous for both the rulers of Byzantium and England and their followers, enslaved people being a valuable source of labour. As such,

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[637] 'Qui autem aute werram quacunque de cause aufugerunt, et ad servitium filii sui venerunt, pro amore filii sui ad pacem revertantur, si vagium et plegium dederint standi judicio de his quae ante werram forisfecerunt. Illi autem qui in placito erant quando recesserunt ad filium suum, ad pacem revertantur, ita quod in eo statu placiti sui sint, in quo erant quando recesserunt.'; *Treaty of Montlouis*, 69.
[638] *Treaty of Montlouis*, 69.
[639] *Treaty of Devol*, 126-131.
[640] *Treaty of Devol*, 130. Translation from *The Alexiad*, 249.
[641] *Treaty of Devol*, 130.

collaborating with other rulers to ensure the return of slaves was in the interest of leaders, both in the early and later period examined in this thesis.

I suspect that this change in how slaves are referred to within treaties reflects that the terminology used to refer to slaves is inconsistent across both the Byzantine and English treaty corpus. This is supported by looking to treaties from beyond Byzantium and England. For example, both the Lombard-Neapolitan *Pactum Sicardi* (836) and the *Treaty of Pavia* (840) between the Frankish Emperor Lothar I and the Venetians each use a variety of terms to describe slaves, such as *mancipia*, *servi* (both meaning slaves), *ancille* (specifically for slave women), *captivi* (captive) and *fugitivos* (fugitive) to refer to what seem to be enslaved people.[642] A lack of consistent vocabulary on slaves is also present in the Byzantine and English treaties. For instance the Anglo-Saxon treaties use *ðræl*, *wealh*, *þeowe* and *seruum* (all meaning slave, the first three in Old English, the last in Latin), while the later treaties use *aufugerunt* (those who fled).[643] Similarly, the Byzantine treaties seemingly use a variety of terms to refer to slaves, such as φυγάδας (fugitive), ἀπόβλητον ([those] expelled), and *fugam* (exile or fugitive).[644] This likely reflects that a person's status as a slave was highly fluid, and was not necessarily a fixed state. The prevalence of this diverse terminology throughout the treaty corpus suggests rulers were very much active in pursuing slaves that had fled, likely wanting to preserve their hold over an essential labour source.

Treaties also offer novel insights into how rulers hoped to control the movement of exiles. Indeed, given how common clauses on rejecting each parties' exiles are, controlling the movement of exiles is a fundamental aspect of peace-making, both in the Middle Ages and

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[642] 'Sicardi Pactio', *MGH Leges (in folio)*, ed. Georg Heinrich Pertz, 5 vols (Hanover: MGH, 1868), IV, 219 (c. 6);'Pactum Hlotharii I', *MGH Capitularia regum Francorum*, 2 vols, eds. A. Boretius and V. Krause (Hanover: MGH, 1883–97), II, 131-132 (c. 3,4 and 10).

[643] *AGu*, c. 5; *Treaty of Andover*, c. 6.2; *Treaty of Montlouis*, 69.

[644] *Treaty of Devol*, 130; *Treaty of Constantinople* (1193), 104; *Acta et Diplomata Graeca Medii Aevi*, eds. F. Miklosich and J. Müller, 3 vols (Vienna: C. Gerold, 1865, Repr. Aalen 1968), III, 42.

beyond. I have already touched upon the *Treaty of Rouen* and its clause on exiles. However, the surrounding context is enlightening regarding both Byzantine and English rulers' approaches to the movement of exiles. In 991, King Æthelred II dispatched emissaries to Duke Richard I of Normandy, and the resulting treaty states neither party was to accept the other's enemies or men without the other ruler's seal.[645] This treaty, and the scholarship surrounding it, offer useful examples of how the movement of people have been viewed in the Middle Ages, as well as how rulers approached it. The treaty gives a description of prior events, revealing that Pope John XV invited Æthelred to initiate peace negotiations having heard of enmity between the two rulers.[646] As mentioned above, the exile clause in the *Treaty of Rouen* has often been linked with the Scandinavian raids of Æthelred's reign.[647] However, Frank Stenton has also seen this treaty, and the exiles clause, as being a result of the active papacy, implying that the English king was passive in this event.[648] More recently, Levi Roach has echoed this sentiment.[649] However, this view is fundamentally flawed. Caroline Brett has persuasively argued, based on the collection that the *Treaty of Rouen* has been found in, that Archbishop Sigeric is the treaty's author.[650] This is significant as Sigeric visited Rome in 990, meaning Sigeric may have told the pope of the conflict initially.[651] If this is the case, it seems likely Sigeric acted with Æthelred's backing, meaning Æthelred was active in these events. Sigeric seems to have acted as Æthelred's emissary on other occasions, further evidencing his role as a diplomatic representative of Æthelred in 990. While it may appear that Æthelred was unusual in being diplomatically active in restricting the movement of

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[645] *Treaty of Rouen* (991), 38.
[646] *Treaty of Rouen* (991), 37.
[647] *Treaty of Rouen* (991), 38.
[648] Stenton, *Anglo-Saxon England*, 376.
[649] Roach, *Æthelred: The Unready*, 117.
[650] Caroline Brett, 'A Breton Pilgrim in England in the Reign of King Æthelstan', in *France and the British Isles in the Middle Ages and the Renaissance*, ed. Gillian Jondorf and D. N. Dumville (Woodbridge: Boydell, 1991), 53.
[651] See, V. Ortenberg, 'Archbishop Sigeric's Journey to Rome in 990', *Anglo-Saxon England*, 47 (1990), 197-246.

exiles, at least according to Stenton and Roach, I believe this was a fundamental requirement for rulers of the period. Indeed, if we continue to use Æthelred as an example, it is clear that the English King had no shortage of enemies after a turbulent start to his reign, and exile offered a merciful and potentially permanent way of dealing with troublesome domestic adversaries.[652] Given that clauses on exiles are some of the most common within treaties of this period, it is clear that the movement of exiles remained an issue of significance for rulers throughout the era.[653] In fact, this is clearly the case for the emperors of Byzantium. Every Byzantine treaty touched upon in the discussion of the movement of slaves also has at least one clause touching on the movement of exiles. For instance, the 911 *Treaty of Constantinople* with the Rus', states:

'If a criminal takes refuge in Greece, the Russes shall make complaint to the Christian Empire, and such [a] criminal shall be arrested and returned to Rus' regardless of his protests. The Russes shall perform the same service for the Greeks whenever the occasion arises'.[654]

William Jordan has argued that exile in medieval England was favoured as it removed a criminal or political opponent from the community, while also not killing them. This avoided any subsequent feud arising from relatives of the banished, as opposed to killing the exile, which may result in a feud and further disrupt the peace.[655] Interestingly, Emperor Constantine VII made similar comments a millennia prior to Jordan, stating that exiled murderers could seek asylum through the Church, granted they were exiled far away from where the crime took place.[656] This would avoid any emotional trauma for the victim's family

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[652] Benham, 'The Earliest Arbitration Treaty?', 193-194.
[653] Benham, *ILE*, 59-62.
[654] *Treaty of Constantinople* (911), 68.
[655] William Chester Jordan*, From England to France: felony and exile in the High Middle Ages* (Princeton: PUP, 2015), 14. Indeed, we even have reference to King Æthelstan being prepared to exile entire families to avoid feuds arising. DGA, I, 166 (Prol. 1).
[656] *Jus Graecoromanum*, I, 230-231. Note that the culprit was to be enrolled in a monastery, and to make both the ecclesiastical and civil penance. Civil penance included giving one third of their possessions to the victim's

and potential future killings. In essence, the use of banishment in both England and Byzantium helped maintain communal trust, preserving a community's status quo as much as possible by removing the perpetrator of an unforgivable crime.[657] This would also minimize the potential for future conflict via feud. The crimes punishable by exile included arson, homicide, repeated theft, or illegally minting coins.[658] While murder is perhaps expected, the others may seem surprising. However, all these crimes could have a profound impact on the wider community. Arson risked large scale fires desolating property and life, theft undermined trust within the community, and minting coins lead to inflation and challenged a ruler's control over the monetary economy. With this in mind, exile protected the community from troublesome individuals, while limiting potential consequences, such as a feud or vengeance more generally.

While exile was a useful tool in a ruler's arsenal, this does not explain why treaties often have clauses banning other rulers from accepting their exiles, such as in the *Treaty of Rouen*. *De Administrando* offers a good example of the hazards of exiles. Constantine VII tells us that Emperor Romanus released the exiled Serbian Prince Zacharias home in order to seize power.[659] Perhaps Prince Pavle, who was ruling at the time, could have avoided this if he had made a treaty with the emperor banning the harbouring of Serbian exiles. With this in mind,

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wife and children, to the culprit's children, and to the monastery the culprit enrolled in. If they did not enrol in a monastery, two portions would go to the victim's family. Emperor Manuel Komnenos later changes this, stating this is too lenient on killers and was ineffectively enforced anyway, many killers returning from their monastery once they had been given forgiveness. For a translation see, R.J. Macrides, 'Justice under Manuel I Komnenos: Four Novels on Court business and Murder', in *Kinship and Justice in Byzantium, 11th-15th centuries*, ed. R.J. Macrides (Aldershot: Ashgate, 1999), 157-167. For more on Byzantium and domestic exiles, see R.J. Macrides, 'Killing, Asylum, and the Law in Byzantium', *Speculum*, 63 (1988), 509-538. Interestingly this coincides with a crackdown on the Church's ability to harbour fugitives. For more on this, see Karl Shoemaker, *Sanctuary and Crime in the Middle Ages, 400-1500* (New York: FUP, 2011), 154-162.

[657] Legal evidence from beyond England and Byzantium suggests it was not always the perpetrator who was exiled if a group of people committed a crime. For example, the Grágás law code of Iceland states that if a group of men killed another man's slave, the owner would choose one of the men to be exiled. *Laws of early Iceland: Grágás, the Codex Regius of Grágás, With Material From Other Manuscripts*, trans. Andrew Dennis, Peter Foote and Richard Perkins, 3 vols (Winnipeg: University of Manitoba Press, 1980), I, 172.

[658] For more on this, and an excellent list of examples from across the medieval world, see Benham, *ILE*, 56-58.

[659] *De Administrado*, 158-159.

we can see that Prince Pavle was effectively passive regarding exiles in his relations with Romanus. Despite Pavle's lack of action on exiles, he still found himself dealing with exiles in a different way, once Zacharias returned in an attempt to seize Pavle's throne.[660] Similarly, the Welsh chronicle *Brut y Tywysogion* reports that Henry I had tensions with the Welsh Prince Madog ap Rhiddid of Powys, as the latter harboured 'Saxons', who would consistently raid Henry's lands using Madog's realm as a base.[661] Thus, addressing the reception of exiles by one's neighbours had clear benefits, and by neglecting to be active in the peace-making arena regarding exiles, rulers effectively left themselves vulnerable to these exiles returning home with foreign backing, damaging their realm and subjects and even potentially displacing them.

While scholarship on exile does exist, it is often limited in focus. Jordan, for example, largely focuses on English 'domestic' exiles, i.e. those exiled from a community for crimes such as repeated theft.[662] Similarly, Macrides focuses on the legislation behind exile and banishment in Byzantium, which centres on those seeking asylum with the church after having committed a murder.[663] Both of these works focus on exiles as a domestic matter, rather than as an inter-community issue. Work that does touch on exiles in an 'inter-people' context is often very specific in its geographical and chronological relevance, or does not acknowledge any peace-making implications. For instance, Shepard has persuasively argued for a significant movement of English nobility exiled by William the Conqueror after 1066 to Byzantium, which intensified in the 1080s.[664] Shepard explicitly links this with military service, the crux of Shepard's argument being that the English replaced the Rus' as the principal troops in the

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[660] *De Administrado*, 158-159.
[661] *Brut y Tywysogion*, 110-111.
[662] Jordan, *From England to France: felony and exile in the High Middle Ages*, 7-32.
[663] Macrides, 'Killing, Asylum, and the Law in Byzantium', 509-538.
[664] Shepard, 'The English and Byzantium', 53-76.

Varangian guard.[665] While this is valuable scholarship, on a theme which actively links England with Byzantium, the treaties offer valuable insight into the legal framework that rulers used to deal with exiles more generally, and how rulers approached exiles as a diplomatic issue.

Elisabeth van Houts has also written convincing work on the terminology of exile found in Normandy and England, noting that the Scandinavian word *utlah* (outlaw) gradually replaced its Old English and Latin equivalents. Van Houts further argues that Scandinavian migrants in England and Normandy increasingly found themselves exiled, becoming marauding bands of warriors, and that the term *utlah* denoted the identity of the exile.[666] While this argument has merit, Van Houts does not fully realise the peacemaking implications of this: that one ruler's exiles could become another ruler's problem or tool, requiring rulers to be active in dealing with them. Benham has touched on the issue of terminology in the medieval West, and highlighted that to focus on the terminology detracts from discussion on exile as a problem that traverses time and space.[667] Indeed, she has observed that there is no consistent vocabulary in the Latin sources describing exiles, and that as such it is inherently difficult to distinguish between 'domestic' criminal/exiles and 'international' exiles.[668] This is certainly true, but Benham does not focus on any one particular area, and largely excludes Byzantine material on the subject. Interestingly, Greek sources are also inconsistent with the terminology used to describe exiles. Terms such as *ἀποστάτης*, *τυραννεύω*, and *ὑπερόριον* are commonly associated with exiles and rebels, but there is no consistency in how these terms were used.[669] Even if the terminology was consistent, any debate over the label used for

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[665] Shepard, 'The English and Byzantium', 76.

[666] Elisabeth van Houtes, 'The Vocabulary of Exile and Outlawry in the North Sea Area Around the First Millennium', in *Exile in the Middle Ages*, eds. L. Napran and E. van Houts (Turnhout: Brepolis, 2004), 13-28.

[667] Benham, *ILE*, 59-61.

[668] Benham, *ILE*, 63.

[669] *àpostátis*, meaning 'deserter/rebel'; *tirannévo*, meaning 'ruler/tyrant'; *ýperórion*, meaning '[those] over the borders/abroad'.

exiles detracts from discussion on how rulers ultimately dealt with exiles. As such, there are some significant limitations on the scholarly value of analysis focusing on the terminology surrounding exiles. Consequently, it remains important that rulers' approaches to exiles are analysed through the lens of treaty-making, a perspective which can frame the movement of exiles in a novel framework and offer new understanding of an age-old issue.

Exiles were clearly a premiere issue within the treaties of Byzantium. While many treaties, made by both the English kings and the Byzantine emperors, ban each party from accepting the enemies, and thus the exiles, of the other, some Byzantine treaties contain a particular phrase which heavily emphasises the exile aspect of such clauses. A good example of this is the 1169 *Treaty of Genoa*, which states that the Genoese should never ally with any enemies of the emperor, 'crowned or uncrowned'.[670] The specific wording of this clause, drawing attention to 'uncrowned' enemies, indicates rebels and exiles were of particular concern to the Byzantine emperors. Indeed, this phrase is repeated in a number of treaties, such as the 1187 Byzantine Venetian treaty, stating the Venetians would give military aid 'whenever any of the leaders, of the crowned or the un-crowned, or of any people or nation come against Romania…'.[671] Of particular interest is the use of the phrase 'whenever any leader' (*quocienscumque principum aliquis*) in conjunction with the phrase 'crowned or uncrowned', emphasising that potential adversaries may not be landed rulers. Similarly, the 1198 treaty made between Alexios III and the Venetians also emphasises this, stating that '…the Venetians will aid and defend Romania against any man crowned and uncrowned, and any people wanting to harm Romania…'.[672] It is interesting to note that this phrasing simply does

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[670] 'coronato vel non coronato'; *Treaty of Genoa* (1169) [MS B], 185.

[671] '…quocienscumque principum aliquis coronatorum uel non coronatorum, uel gentium aut nationum aliqua contra Romaniam uenit…'; *Treaty of Constantinople* (1187), 196.

[672] '…iuvabunt et defendent Romaniam Venetici contra omnem hominem coronatum et non coronatum, et contra omnem gentem Romaniam nocere volentem…'; *Treaty of Constantinople* (1198), c. 126; This particular usage might also encompass deposed emperors and their heirs, such as Isaac II and Alexios IV. This is touched

not exist in the English treaty corpus, perhaps reflecting that English rulers were content to use phrases such as 'against all men' (*contra omnem hominem*), that incorporated rebels and exiles without emphasising them in particular.[673] This may reflect Byzantine emperors being particularly anxious about usurpers returning in rebellion to claim the Imperial throne. Indeed, the later twelfth century was marked by a series of rebellions and usurpations in the empire.[674] As such, the Byzantine emperors gaining support from an outside source, whose loyalty would likely be unaffected by civil strife, was a logical way of dealing with unreliable and rebellious domestic forces. Indeed, given that one such usurpation led to the Fourth Crusade conquering Constantinople to restore Alexios IV to the throne, his uncle Alexios III having deposed Alexios IV's father Isaac II, these concerns were grounded in reality.[675] Curiously, the 1198 treaty, enlisting Venetian aid against all men, even 'uncrowned' exiles such as Alexios IV, should have safeguarded against the Fourth Crusade attacking Byzantium with Venetian backing.[676] As such, it is difficult to see any justification for the Venetians breaking the treaty bar the Doge being a keen opportunist.[677] However, this incident does emphasise that 'uncrowned' enemies were a real threat, capable of toppling emperors.

Not all Byzantine treaties are as explicit on barring exiles and rebels. The *Treaty of Devol* (1108), as touched on above, has as many as four clauses stating that Bohemond would not

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on below. For more context on the agreement, and the Fourth Crusade generally, see Jonathan Harris, 'The Debate on the Fourth Crusade', History Compass, 2 (2004), 1-7.

[673] For instance, see *Treaty of Dover* (1101), c. 1; *Treaty of Caen*, 79.

[674] The Massacre of the Latins and the events leading to the Sack of Constantinople are good examples of this. Nicol, *Byzantium and Venice*, 106-108, 127 and 123-138.

[675] Nicol, *Byzantium and Venice*, 127 and 123-138.

[676] *Treaty of Constantinople* (1198), 126.

[677] The Venetians backing Alexios IV may also be explained by the fifteen *kentenaria* awarded in redress for Emperor Manuel seizing the Venetians of the empire, and their property, in 1171. We know that by 1189 Byzantium had only paid one *kentenarion*, and given how long it had taken to pay one, it seems unlikely this payment would have been complete by 1198, or even 1204. *Treaty of Constantinople* (1189), 106; Penna, *The Byzantine Imperial Acts*, 46-48 and 56. For the term *kentenaria* see, C. Morisson, 'Byzantine Money: Its Production and Circulation', in *The Economic History of Byzantium*, ed. A.E. Laiou, 3 vols (Washington D.C: Dumbarton Oaks, 2002), 920 and 951.

receive the enemies of the Emperor Alexios.[678] These clauses are exemplary of treaties concerning exiles within the period. Three of them repeat that Bohemond would aid Alexios against his enemies, and would reject any enemies or fugitives of Alexios that sought harbour.[679] One clause has Bohemond compel any of Alexios's exiles that sought harbour to 'retrace their steps', and return to Byzantium.[680] Similarly, in the 1074 *Treaty of Constantinople*, between Robert Guiscard and Michael VII Doukas, the Sicilian Duke is to be enemies to all who show the emperor hostility, and exclude them from his friendship.[681] When reading these exile clauses from both the *Treaty of Constantinople* (1074) and the *Treaty of Devol* one might think that rulers were active in isolating exiles via peace-making, but passive in a practical sense. By this, I mean that these treaties require Bohemond and Guiscard to reject any exiles that present themselves but does not have either of the Norman leaders actively seek out any exiles within their lands. The *Treaty of Rouen* banning either party from accepting the other's enemies or men (without their ruler's seal) shows otherwise: that rulers were active in physically halting exiles coming into their realm.[682] This suggests that by introducing a physical aspect to the treaty clause, such as requiring a seal, rulers were not passive in excluding exiles from their realms. This specific requirement mirrors the 945 *Treaty of Constantinople*, which alludes to prior treaties that required the Rus' to have particular badges for their merchants and agents if they were to enter Constantinople.[683] The treaty then affirms that with the new agreement, the Rus' merchants and agents were required to have special documents instead, for entrance into the great city.[684] If the Rus' came without these documents, they would be detained. If they fled detention and returned to the

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[678] *Treaty of Devol*, 126-131.
[679] *Treaty of Devol*, 126-130.
[680] *Treaty of Devol*, 130.
[681] *Treaty of Constantinople* (1074), 141.
[682] *Treaty of Rouen*, 38.
[683] *Treaty of Constantinople* (945), 74.
[684] *Treaty of Constantinople* (945), 74.

Rus', the Rus' would deal with the fugitive at their discretion.[685] Thus rulers not only required other parties to reject their exiles, but at times also imposed physical barriers to halt the movement of fugitives.

We also have clear evidence that rulers utilised other approaches to controlling exiles coming into their realms. For example, the Rus' treaty of 911 explicitly implies each rulers' ability to know of any Rus' or Byzantine subjects in the other party's territory. It states that if either party requests the return of a criminal, they shall be returned.[686] The logistics behind this are not made clear in the treaty. However, the narrative account of the Rus' treaty of 907 is informative. It states that all Rus' traffic is to enter Constantinople through one gate, escorted by an agent of the emperor.[687] This account even reports officers of the empire having to make a list of all the names of the Rus' entering the city, actively making this a requirement if the Rus' were to attain their supplies and privileges while within Constantinople: 'Our government will send officers to record their (the Rus') names, and they shall then receive their monthly allowance'.[688] This likely had the dual purpose of ensuring that taxes were paid and ensuring no criminals were attempting to seek refuge in the host community. This is common practice in other treaties. The *Ordinance of the Dunsæte* has any Welsh or English crossing into the territory of the other be accompanied by the 'appointed man'.[689] Similarly, in the *Treaty of Aleppo*, Byzantine traffic is to be accompanied by someone dispatched by the emir.[690] The *Treaty of Falaise* mentions certain English bailiffs and justices who are involved in returning the exiles of William king of Scots, and receiving the exiles of Henry II from his Scottish counterpart.[691] Interestingly, a letter of Richard I's, dated to 1194, details that the

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[685] *Treaty of Constantinople* (945), 74.
[686] *Treaty of Constantinople* (911), 68.
[687] *RPC*, 65.
[688] *RPC*, 65.
[689] *Duns*, c. 6.
[690] *Treaty of Aleppo*, c. 21.
[691] *Treaty of Falaise*, 4-6.

sheriffs, bishops, and nobles of different English localities acted as escort for the king of Scots through their various territories to Richard's court.[692] While it is unlikely this escort was common for those entering England, the letter also states that the king of Scots was to bring any exiles that wished to clear themselves of felony.[693] Thus this escort likely prevented these exiles from escaping into the community just as much as it protected the king of Scots. Considering this, active clauses on the movement of people requiring seals, or escorts, went hand-in-hand with rulers banning other leaders from accepting their exiles, and also protected a ruler's own people from the incoming criminals of their neighbours.

A ruler, such as the king of England or the Byzantine emperor, was not solely responsible for keeping track of incoming and outgoing exiles. In fact, it is clear that rulers appealed to other leaders to aid in recording the movement of these fugitives. The aftermath of the 1189 *Treaty of Azay* hints at one of the ways that this was done. After the treaty, concluding a conflict between Henry II of England, his son Richard, and King Philip of France, Henry requested a list of all those who deserted him during the conflict.[694] This was likely for Henry to exact judgement as he saw fit on the deserters. The treaty (perhaps unusually) does not have any form of 'amnesty clause' for those who defected. By engaging with other rulers who had dealings with their exiles, a ruler could ensure that they had an accurate list of the exiles they had to deal with. Indeed, the 1111 *Treaty of Constantinople* states that the Pisans agreed to track down any of their subjects that had wronged Byzantium and had returned to Pisa.[695]

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[692] *Anglo-Scottish Relations*, 18.
[693] *Anglo-Scottish relations*, 20. Benham highlights that returning exiles in this way may have been more of a specific feature of the Anglo-Scottish relationship rather than a common feature of medieval peace-making. However, this is ultimately just one of a plethora of examples that indicate rulers could, and did, take an active approach to exiles. Benham, *ILE*, 63.
[694] *Chronica*, II, 366. While the list Henry asks for here clearly serves a narrative purpose, Henry dying as soon as he sees his son's name, John, at the top of the list, there is ample evidence that these lists existed and were used in the period. For instance, see Saxo Grammaticus, *Gesta Danorum: the History of the Danes*, 2 vols., eds. Peter Fisher and Karsten Friis-Jensen (Oxford: Oxford Medieval Texts, 2015), II, 1088-1089. In a broader sense, the description of the 907 Byzantine-Rus' treaty shows that rulers could and did keep track of those entering their realms, and that such lists did exist in the period. *RPC*, 65.
[695] *Treaty of Constantinople* (1111), 52.

Similar measures were implemented in the *Treaty of Genoa* (1169), where the Genoese promised to track down any Genoese citizen who had wronged the Byzantine empire.[696] The 1193 *Treaty of Constantinople*, made after the Genoese pirate Gulielmo Grasso had raided Byzantine possessions, even shows this clause in action.[697] It clarifies that the pirate had been previously expelled from Genoa for similar actions, and assures the emperor that the Genoese would be pro-active in their search for Grasso, only stopping when Grasso was finally in the emperor's hands.[698]

Similarly, the *Treaty of Baghdad*, made between the Byzantine rebel Bardas Skleros and the Buyid emir, explicitly states Skleros was to oppose any of his subjects who attempted to break the terms of the treaty, be they Greek, Armenian or from any other entity.[699] This is a clear reference to rebellious Byzantine subjects, and the burden of ensuring they did not harm Buyid interests is placed squarely upon Skleros's shoulders. Clearly rulers were dynamic in keeping track of exiles, both passively by not accepting other leaders' exiles, and actively by ensuring other rulers would return their exiles upon request. Rulers even imposed physical barriers such as making the use of seals mandatory and ensuring that incoming traffic was accompanied by nominated officials. It was in rulers' interests to be active concerning this issue, assuring them that their own exiles would not return with foreign backing, and stopping foreign criminals from causing trouble within the ruler's own territory.

The movement of exiles was also deeply intertwined with exiles' role as hired foreign troops, often playing an important role in bolstering a ruler's military might. This is particularly well

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[696] *Treaty of Genoa* (1169) [MS B], 188.
[697] *Treaty of Constantinople* (1193), 104. For a good discussion of the context of this, see Penna, 'Piracy and Reprisal in Byzantine Waters', 36-41; David Jacoby, 'Diplomacy, Trade, Shipping and Espionage Between Byzantium and Egypt in the Twelfth Century', *Polypleuros Nous*, eds. Cordula Scholz and Georgios Makris (Munich: K. G. Sauer, 2000), 101.
[698] 'turpe illud facinus existimantibus Genuensibus reiectum et damnatum et propterea multo abhinc tempore fugam indictam a Genua et a civitate eorum iudicialem persecutionem, nunquam vero cessaturos ab iis insectandis, donec comprehensos in manus maiestatis meae tradiderint.'; *Treaty of Constantinople* (1193), 104.
[699] *Treaty of Baghdad*, 66.

demonstrated in the later part of the tenth century during the reign of Basil II. Confronted with a serious rebellion to the East from Bardas Phokas and Bardas Skleros, Basil sought military aid from Vladimir, prince of the Rus'.[700] While we do not have a surviving treaty document for this transaction, the *RPC* contains a part of a curious letter from the Rus' prince to the emperor. The letter states that the hired troops will arrive in Byzantium soon, warning the emperor not to keep many in Constantinople, but to scatter them throughout the empire lest they 'cause harm as they have done [in Kyiv]'.[701] Finally, the extract finishes with an important reminder to the emperor not to send them back.[702] This extract effectively highlights a common fact of the early Middle Ages; that exiles offered their military service to foreign rulers. We can see an almost reverse of this letter from Charlemagne writing to Archbishop Æthelheard of Canterbury and Bishop Ceolwulf of Lindsey (793-796).[703] In this letter, the Frankish king asks the bishops to request King Offa of Mercia allow certain English exiles, who had been staying in Charlemagne's court, to return to England. The exiles in question had followed a certain Lord Hringstan into exile. Benham has argued convincingly that Hringstan may have committed treason against Offa.[704] Charlemagne states that as Hringstan had since passed away, these men should be able to return to England. If Offa refused, it is insinuated that these men would do service for the Frankish ruler.[705] Charlemagne's and Vladimir's letters show that whether one was banishing exiles, or asking for their return, exiles commonly served as hired troops for foreign rulers.

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[700]*Skylitzes*, 335-336. For more on this see; Catherine Holmes, *Basil II and the Governance of Empire* (Oxford: OUP, 2005), 240-298.

[701] *RPC*, 93. While this appears in the chronicle nine years earlier than Basil's use of the Varangians, Theotokis has argued that the *RPC*'s chronicler has mis-copied the letter into an earlier date. Additionally he states that the letter is likely from 989. Regardless of whether this is true, the letter still reveals that the mercenaries referred to in the letter were exiles, which is what is relevant to my argument. Georgios Theotokis, 'Rus, Varangian and Frankish Mercenaries in the Service of the Byzantine Emperors (9th-11th C.): Numbers, Organisation and Battle Tactics in the Operational Theatres of Asia Minor and the Balkans', *Byzantina Symmeikta*, 22 (2012), 136.

[702] *RPC*, 93.

[703] 'Alcuini sive Albini Epistolae', ed. E. Dümmler, in *Epistolae Karolini Aevi II*, MGH, Epistolae IV (Berlin, 1895), 128.

[704] Benham, *ILE*, 67-68.

[705] *MGH Epistolae*, IV, no. 85.

Shepard, as noted above, has argued well that English exiles migrated to Byzantium in the post-Conquest period, receiving a warm welcome from Emperor Alexios I himself.[706] This demonstrates one of the many ways that rulers could respond to exiles. The exiled English effectively became the elite guard of the emperor and Anna Komnene comments upon their absolute loyalty to the emperor.[707] Effectively, Alexios seized upon an opportunity, presented by exiles, and this resulted in a guard of elite and well-connected troops loyal to him.[708] This is a clear example of a ruler using exiles to their advantage, albeit with no supporting treaties. Ewan Johnson has noted Norman exiles to Sicily often worked in small warbands for hire, before becoming a more permanent part of Italian society, provided there was no opportunity or motivation to return to Normandy.[709] Shepard, in fact, has linked the Norman threat in Italy and Sicily to Alexios's appeal for troops, which he sees as resulting in the arrival of English exiles.[710] While the treaties for these case studies is limited, appealing to treaties from across this period in tandem with supporting narrative evidence offers insights into how rulers dealt with exiles more generally, and shows how rulers utilised exiles as hired foreign troops in particular.

Benham has given the most comprehensive analysis of exiles acting as hired troops in a treaty-making context. Noting that exiles were commonly hired as troops in the early part of the period, and that this became less common as the period progressed, she argues that some exiles were treated as having legal personality by medieval rulers in the early period.[711] Effectively, in the early part of the period some exiles were able to make treaties with rulers. This gradually disappeared throughout the Middle Ages, as there is virtually no evidence for

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[706] Shepard, *'The English and Byzantium'*, 54-55.
[707] Shepard, *'The English and Byzantium'*, 84; *Alexiade*, I, 90-92.
[708] On how well connected these troops were, see Wyatt, 'Reading Between the Lines: Tracking Slaves and Slavery in the Early Middle Ages', 30-31.
[709] Ewan Johnson, 'The Process of Norman Exile into Southern Italy', in *Exile in the Middle Ages*, eds. L. Napran and E. van Houts, 29-38.
[710] Shepard, *'The English and Byzantium'*, 72-73.
[711] Benham, *ILE*, 64-69.

even high-status exiles serving in a foreign ruler's forces via treaty in the twelfth century. In sum, in the early period some exiles were capable of acting as a party in a treaty, while in the later period this does not seem to have been the case. This is certainly supported by the above letters from Vladimir and Charlemagne, both of which stem from the early medieval era. While it is difficult to ascertain whether exiles lost legal agency in the later part of the period, it can perhaps be inferred through comparison. As we shall see, in the early period, the Byzantines had no issue with hiring exiles as foreign troops via treaty. However, in the later part of the period, we have very little evidence for this practice. In particular, the 1192 case of Gulielmo Grasso, the Genoese citizen turned pirate, is of interest here.[712] Given Byzantium's early dealings with exiles by hiring them to deter other rebels or foreign threats, one would think that the Emperor Isaac II may have hired Grasso to deter other pirates. However, the only resolution we ever hear concerning this case is the emperor demanding the Genoese right this wrong, and 'avenge the deed'.[713] What is of interest is that by the twelfth century Byzantium no longer dealt with such exiles as parties to treaty agreements. Instead, Byzantium dealt with their people of origin; in this case, the Genoese.[714] This not only evidences a change in Byzantine strategy concerning rebels, but also a wider trend in the Middle Ages, that exiles gradually lost legal personality across the period and were increasingly unable to negotiate with rulers as the period progressed.

Even in later examples where rulers were generous to exiles, there is little evidence to show exiles in the later period were given legal agency. For example, Henry II and the Angevin nobility's dealings with the exiled king of Leinster, Diarmait Mac Murchada, highlight this. Diarmait was exiled by Ruaidrí, king of Connacht and high king of Ireland in 1166. Diarmait

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[712] *Treaty of Constantinople* (1193), 102-107; Penna, 'Piracy and Reprisal in Byzantine Waters', 36–52.

[713] 'ea conditione ut si incolae civitatis Genuae eventus notitiam nacti ad facinoris vindictam excitarentur, reddenda esset iis deposita pars'; *Treaty of Constantinople* (1193), 103.

[714] Byzantium does seem to use variety sea capatain from different Italian cities to fend of various pirates in the later twelfth century, but this seems to have been done by working with the captain's city of origin. See Day, *Genoa's Response to Byzantium*, 45-46 (fn. 85).

subsequently sought aid from Henry. While Gerald of Wales records Henry was sympathetic to Diarmait's cause, no treaty is recorded.[715] Instead, Henry issued the exile letters patent allowing any of Henry's followers to aid Diarmait if they wished to. With the above in mind, it is clear that Henry did not view Diarmait as holding the legal agency to actually negotiate a treaty. By contrast, Strongbow, earl of Pembroke, seems to have made some form of agreement (*sekiritesse*) with Diarmait. While this agreement has not survived, Gerald states it involved Strongbow providing aid in return for becoming Diarmait's successor.[716] While modern translators have seen this as a treaty, this is a misunderstanding of what a treaty is, at least in how this thesis defines a treaty.[717] As per this project's definition, a treaty must be negotiated between two rulers or leaders of people, who claim to represent people on the inter-ruler stage.[718] Thus this cannot have been a treaty, Strongbow simply not having the necessary authority. As such, it seems Diarmait did not have the necessary legal agency to make a treaty. This supports Benham's theory, that in the early period certain exiles had legal personality, and were thus capable of making a treaty with rulers, while in the later period this declines.

Although exiles seem to be deprived of legal agency later in the period, it should be noted that this may not be as linear as Benham has depicted. For instance, the Rus' treaties have clauses on military service which evidence a decline in the exiles' legal personality as early as the tenth century. The 911 treaty explicitly states that:

'Whenever you find it necessary to declare war, or when you are conducting a campaign, providing any Russes desirous of honouring your emperor come at any time and wish to

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[715] Gerald of Wales, *Expugnatio Hibernica*, 24-31.
[716] Gerald of Wales, *Expugnatio Hibernica*, 26-27.
[717] Gerald of Wales, *Expugnatio Hibernica*, 26-27.
[718] See Introduction.

remain in his service, they shall be permitted in this respect to act according to their desire'.[719]

By contrast, the 945 treaty states:

'If [the Byzantine emperor] shall desire of you military assistance for use against our adversaries, they shall communicate with your Great Prince, and he shall send us as many soldiers as we require'.[720]

The 911 treaty allows any Rus', likely including exiles as established above, to serve in Byzantium if they desire, but leaves the terms of such employment to the discretion of Byzantium and the employed exile. By contrast, the 945 treaty has the Byzantine emperors hire Rus' troops via the Rus' leader. This likely reflects the growing centralisation of power into the hands of the Rus' prince by 945, but also seemingly reflects that the decline of exiles having legal agency started earlier in the period, at least in Byzantium. This is not to say this decline was necessarily linear. As touched on above, Harald Hardrada famously served in the Varangian guard in the eleventh century, although it is difficult to say whether a treaty was made to secure Hardrada's service.[721] Thus, it seems the ability of exiles to make treaties with rulers generally declines across the period, but that it was not necessarily a linear decline, and rose and ebbed across the era.

Although there is relevant scholarship on exiles and their role as mercenaries, by analysing treaties from both Byzantium and England, novel work can be produced, specifically on rulers failing to bar other rulers from accepting their own exiles via treaty. In particular, two surviving treaties made between exiles and rulers are apt for comparison. One example being made between the English king Æthelred II and the exiled Scandinavian adventurer Olaf

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[719] *Treaty of Constantinople* (911), 68.
[720] *Treaty of Constantinople* (945), 76.
[721] *Heimskringla*, III, 71-72.

Tryggvason (being the *Treaty of Andover* of 994), and the other between the Byzantine rebel general Bardas Skleros and the Buyid emir Samsam al-Daula (being the *Treaty of Baghdad* of 989).[722] These are the only surviving treaties between exiles and established rulers that exist for both Byzantium and England in this period. As such, they provide unique insight into how rulers utilised exiles. Both treaties concern utilising the exiles against an enemy ruler. As such, both treaties evidence what happened when a ruler did not establish a clause concerning exiles with their neighbouring powers.

The context of the *Treaty of Baghdad* (989) is complex, partly due to the circumstances surrounding Bardas Skleros's exile. Skleros was a major Byzantine general from the powerful Skleroi family.[723] After winning the Battle of Arcadiopolis (970) against the Rus' Prince Svyatoslav, Skleros became the trusted advisor of Emperor John I Tzimiskes.[724] However, upon John's death in 976 Skleros rose in rebellion attempting to seize the throne for himself. The rebellion failed when Skleros lost a battle to the Byzantine general Bardas Phokas the younger, but Skleros found shelter with the Buyid dynasty of Iraq.[725] Only seven years later, Phokas himself rose in rebellion, and Skleros returned from exile.[726] The *Treaty of Baghdad* was made between Skleros and his harbourers concerning the nature of his release, the support they would give him, and their future relationship should his rebellion succeed.[727] Interestingly, the chronicler Michael Psellos records the Buyid emir employing Skleros and his supporters as hired foreign troops against Persian rebels, but Skleros fled back to Byzantium.[728] The *Skylitzes* records two versions of events, one based upon Psellos's account. The other states that having served the emir well, Skleros was treated generously,

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[722] *Treaty of Andover* (994); *Treaty of Baghdad* (989).
[723] For the background of Skleros and an account of the rebellion, see Werner Seibt, *Die Skleroi: eine prosopographisch-sigillographische Studie* (Vienna: Verl. d. Österr and Akad d. Wiss, 1976), 29-58.
[724] *Skylitzes*, 300-301.
[725] *Skylitzes*, 315-327.
[726] *Skylitzes*, 332-338.
[727] *Treaty of Baghdad*, 65-68.
[728] *Psellos*, 7-8.

and the Persian leader eventually made a treaty with him allowing him to return.[729] The treaty's existence implies that the *Skylitzes's* second account is closer to the truth. However, it is not explicit concerning the emir's support, while Psellos's account explicitly states Skleros's followers were equipped by the emir.[730] The *Skylitzes's* first account adds that Skleros augmented his forces with Roman troops kept in Persian prisons, evidencing the emir's support.[731] This is corroborated by the reports from Yahya ibn Sa'id, who explicitly credits Skleros returning with nomadic troops, who likely were hired with Buyid funds.[732] The treaty itself allows Skleros and his followers to return to Byzantium, stating he will not be arrested, nor forbidden from acquiring any material, or suffer expenses or fees.[733] While this does not explicitly state Skleros's forces were augmented, it seems unlikely that he would return unless he had the backing to fight the Imperial army. Thus, it seems that Skleros was equipped and his forces augmented by Persian prisoners to defeat those rebelling against the emir, and that the treaty allowed Skleros to equip his forces with the necessary provisions to return to Byzantium in rebellion. Interestingly, the treaty reveals that Skleros may have had different ideas to Phokas on the rebellion's goals. The treaty refers to Skleros as 'king of the Rums', and this may be the reason behind Phokas imprisoning Skleros soon after he returned to Byzantium to aid the rebellion.[734] Regardless, Skleros's status as an exile in negotiating this treaty is key here. While Skleros was eventually released from Phokas's imprisonment and took leadership of the rebellion, this was only after Phokas had died in 989, and the rebellion was soon after ended by Basil II.[735]

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[729] *Skylitzes*, 332-334.
[730] Psellos, 7-8.
[731] *Skylitzes*, 332-334.
[732] Yahya ibn Sa'id al-Antaki, 'Histoire', 421-423.
[733] *Treaty of Baghdad*, 66.
[734] *Treaty of Baghdad*, 65. *Skylitzes* implies Skleros did not time his return to coincide with Phokas's rebellion. Combined with the treaty giving Skleros the title of 'king of the Rums', we can infer Skleros initially sought sole rule of the empire for himself. *Skylitzes*, 334-336.
[735] *Skylitzes*, 336-339.

By contrast, the early history of Olaf Tryggvason, the exile who was one of the parties to the *Treaty of Andover* (994), is much more mysterious. Benham has highlighted that various thirteenth-century sagas imply that Olaf was an exile.[736] Olaf's early history from the later sagas suggests he was exiled for seeking revenge on his father's murderer.[737] He found refuge with the ruler of the Rus', who in turn eventually exiled him due to his love of violence. Soon after, Olaf emerged as a leader of a Viking band raiding northwestern Europe. Benham emphasises that we should not necessarily see these accounts as accurate, being written two centuries after Olaf's death.[738] However, the underlying theme of exile for avenging his father, in being exiled by the Rus', and his subsequent employment as a soldier for hire hint heavily at Olaf's exile being a historical reality. In the year 994, Olaf's band attempted to raid London, with aid from the army of the Dane Swein Forkbeard, but was defeated.[739] In the aftermath of this, 'Anlaf (seen as Olaf by modern scholars), Josteinn and Guthmund Steitason' made a treaty with Æthelred II at Andover.[740] The treaty concerns hiring these forces for the defence of England, establishing a legal framework for these hired troops to exist in while living in English society, and explicit payment for their services. The *ASC* for this year notes that Olaf was then confirmed with Æthelred as sponsor, and afterwards that Olaf left England and never returned.[741] Olaf subsequently appeared in Norway, becoming king by 997 and replacing the previous ruler Jarl Haakon.[742] He is often credited with

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[736] Benham, *ILE*, 65-66. Although the saga evidence is much later, all the surviving evidence for Tryggvason's origins suggest he was an exile.

[737] *Olafs saga Tryggvasonar*, ed. Olafur Halldorsson (Reykjavik: Islenzka Fornritafelag, 2006), 1, 6, 8, 21, 25, and 29-30.

[738] Benham, *ILE*, 65-66.

[739] *ASC* [MS E], s.a. 994.

[740] *Treaty of Andover* (994), Prol.

[741] *ASC* [MS E], s.a. 994. It is worth noting that the author of this version of the *ASC* seems to have been writing post-1016. As such, he may well have singled Olaf out here knowing that he would go on to have great success in his campaign for the Norwegian throne. S. Keynes, 'A Tale of Two Kings: Alfred the Great and Æthelred the Unready', *Transactions of the Royal Historical Society*, 36 (1986), 195-217.

[742] Theodore Andersson, 'The Viking Policy of Æthelred the Unready', 284-295.

Christianising Norway.[743] This, combined with his speedy rise to power, has led scholars such as Theodore Andersson to believe Olaf had the backing of Æthelred in this endeavour, English money and missionaries presumably aiding Olaf in both taking the throne and the quick conversion of the people.[744] Andersson thus argues that this would give Æthelred a powerful ally in Scandinavia, and create problems for would-be raiders who operated out of both Norway and Denmark. Ultimately Olaf was defeated by Swein Forkbeard, who had become king of Denmark in 1000, and who would go on to invade England in 1013.[745]

While the *ASC* comments on Olaf leaving England and never returning, and the saga sources have Olaf return to Norway and become king, linking Olaf's return explicitly to the *Treaty of Andover* is challenging. The treaty enlists the Viking army's aid in defending England, but other clauses are less clear.[746] For instance, clause 1.2 states that any region that gives harbour to those that have raided England is to be treated as an enemy by the English and the Viking army.[747] At first glance, one would think this had to be a reference to enemies abroad, that sheltered other raiders. However, the Old English words used, 'ælc ðæra landa' any lands), could just as easily refer to local regions as it could foreign lands, and could be interpreted as a clause on aid against any rebellious English ealdormen harbouring Æthelred's exiles.[748] The Latin version of the treaty offers little clarity, opting for *omnis terra* (all the land/territory/region).[749] Clause 3.1 is more helpful. It states that if an English subject travelled where the peace did not apply, and the army was there, the English subject was to

[743] Sverre Bagge, 'The Making of a Missionary King: The Medieval Accounts of Olaf Tryggvason and the Conversion of Norway', *Journal of English and Germanic Philology*, 105 (2006), 473.

[744] Andersson, 'The Viking Policy of Æthelred the Unready', 284-295. We have clear evidence of English missionaries aiding Olaf's conversion. See Svend Ellehøj, *Studier over den ældste norrøne historieskrivning* (Copenhagen: Munksgaard, 1965), 256-257; Lesley Abrams, 'The Scandinavian Encounter with Christianity Overseas: Diplomatic Conversions in the 9th and 10th Centuries', in *Viking Encounters Proceedings of the 18th Viking Congress*, eds. Anne Pedersen and Søren M. Sindbæk (Aarhus: Aarhus Universitetsforlag, 2020), 34-44.

[745] Howard, *Swein Forkbeard's Invasions and the Danish Conquest of England 991-1017*, 49-53.

[746] *Treaty of Andover* (994), c. 1.1; 'And that, if any fleet harry England, we are to have the help of them all; and we must supply them with food as long as they are with us'. Translation from *EHD*, I, 401.

[747] *Treaty of Andover* (994), c. 1.2.

[748] *Treaty of Andover* (994), c. 1.2.

[749] *Treaty of Andover* (994), c. 1.2.

have peace. The Old English used, *cume on unfriðland* (literally 'come on un-friendly territory'), is again ambiguous.[750] The Latin version of the treaty clarifies this with the following phrase, *id est in hostilem terram* ('they are in an enemy land'). The use of *hostilem* here, rather than reusing a more general phrase, such as *omnis terra*, hints that this was against an already hostile area. This could thus be intended to mean enemy territory, i.e. territory that was not Æthelred's and was thus foreign to England. However, this is not an explicit clause stating that Olaf will return to Norway with Æthelred's backing and is at most ambiguous.

While the *Treaty of Andover* may not be explicit regarding Olaf's return to Norway, both the *Treaty of Andover* and the *Treaty of Baghdad* were made with an exile who subsequently returned home in an attempt to seize power. The treaties, and the histories surrounding them, are clear examples of the dangers and opportunities that exiles presented for rulers. While both Skleros's and Olaf's usurpations were not long term successes, the former never making it to Constantinople and the latter only being king for three years, they both presented existential threats to the rulers whose thrones they coveted.[751] Skleros's rebellion in part led to Basil II hiring some 6000 Varangian troops to crush the rebellion, which Basil seems to have only received after arranging for his sister to marry the Rus' Prince Vladimir.[752] Furthermore, Olaf seems to have been responsible for the death of his predecessor, Jarl Haakon.[753] Clearly both Basil II and Haakon would have benefited from making peace with the Buyid emir or English king, ensuring that these rulers would not accept their enemies and exiles. Indeed, the *Skylitzes* even details that Emperor Basil attempted to prevent the Samsam al-Daula from receiving Skleros at all. Unfortunately, this proved to be insufficient, as the

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[750] *Treaty of Andover* (994), c. 3.1.
[751] *Skylitzes*, 336-339; Howard, *Swein Forkbeard's Invasions and the Danish Conquest of England 991-1017*, 49-51.
[752] *Skylitzes*, 336. The importance of this cannot be overstated, and is highlighted by Constantine VII's comments in *De Administrando*, 70-73.
[753] Howard, *Swein Forkbeard's Invasions and the Danish Conquest of England 991-1017*, 49-51.

Byzantine envoy was imprisoned, and Skleros remained in Persia.[754] While this effort ultimately failed, it again highlights that rulers had good reason to make active efforts to halt other rulers from accepting their exiles.

As one would expect of two treaties made with exiles, both the *Treaty of Andover* and the *Treaty of Baghdad* emphasise that each party is to have the same enemies. This effectively stops any chance of future exiles returning to England or Iraq with the backing of the hypothetical courts of Skleros or Olaf. For example, the *Treaty of Andover* effectively repeats this clause three times. It stresses that those who harass England are to be treated as enemies of both the English and the army, that the regions who harbour the harassers are to be treated as hostile by the English and the army, and that neither party is to accept slaves, thieves, or persons involved in a feud of the other.[755] The *Treaty of Baghdad* arguably goes further, effectively repeating the clause four times. Each party states that they will not accept the enemy of the other in separate clauses, and in the later part of the treaty the emir states twice he will not accept any negotiations or offers made by those who attempt to oppose Skleros in his goal to become emperor.[756] Thus, these case studies highlight both the dangers in not engaging with neighbouring rulers regarding exiles, and the opportunities this presented for all the parties involved in these treaties.

Interestingly, other events surrounding these treaties also reveal how rulers relied upon exiles. I have already noted how Skleros first became an exile, his rebellion having been defeated by Bardas Phokas. However, it is worth noting that Phokas himself was brought out of exile from the island of Chios for the explicit purpose of defeating Skleros's rebellion.[757] Indeed, Phokas's second rebellion is seemingly also defeated by the emperor employing exiles, being

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[754] *Skylitzes*, 327-328.
[755] *Treaty of Andover*, c. 1.1, 1.2, and 6.2.
[756] *Treaty of Baghdad*, 65-67.
[757] *Skylitzes*, 324-325.

the Varangians that Vladimir referred to in his letter to Basil II.[758] This may well have been Æthelred's motivation in hiring another Viking leader, Thorkell the Tall, in 1013.[759] Thorkell was formerly one of Swein's men, being referred to as an exile (*exul*) in narrative evidence, and offered tactical prowess and manpower at a time when Æthelred was hard pressed by Swein.[760] This suggests turning to exiles was relatively common, particularly in times of need. However, it is also worth emphasising that in these examples we have no evidence to suggest that any of the rulers involved attempted to prevent their exiles being accepted by another ruler via treaty, bar the case of Skleros being harboured by the Buyid court.[761] As touched upon above, Basil II made a failed attempt to prevent Skleros from sheltering at Samsam's court.[762] As such, while exile seems to have been a form of mercy, rulers used it both as a punishment and a solution to potential problems, particularly gaining expertise and manpower in times of need, or in causing strife in their adversaries' realms.

This highlights why it was so essential for rulers to bar other leaders from accepting their exiles, and why clauses barring rulers from accepting exiles are so common across the period. Controlling the flow of exiles from one ruler to another limited the harm an exile could do to their former ruler, but also stopped other leaders from utilising a ruler's exiles directly against them. As touched on above, the *Treaty of Dover* (1101) has a clause that evidences the importance of controlling the flow of exiles, rather than outright banning them. Clause 7 states that Count Robert of Flanders was not to bar any men who wished to join the king of England (Henry I) from doing so. Specifically, the phrase 'whoever they may be and from wherever they will come' is used.[763] While this is ultimately quite general, it does allow for any men to join the English king should Henry have requested military support, including

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[758] *RPC*, 93.
[759] *Encomium Emmae Reginae*, ed. A. Campbell (London: Royal Historical Society, 1949) 11-12.
[760] *Encomium Emmae Reginae,* 11-12.
[761] *Skylitzes*, 327-328.
[762] *Skylitzes*, 327-328.
[763] 'quicumque ipsi sint, [vel undecumque venient…]'; *Treaty of Dover* (1101), c. 7.

exiles. The treaty, made during tensions between Henry and his brother Robert, the duke of

Normandy, seemingly anticipates Henry's own lords rebelling and a conflict in Normandy.[764]

With this in mind, the above clause allows Henry access to a wider 'recruitment pool',

ensuring they can cross from mainland Europe to England even if they were exiles. As noted

above, exiles often found service as hired troops, but this could also refer to groups of

professional foreign troops that were exiled for their service as hired troops, rather than exiles

who became hired foreign troops due to their exile. A corroborating example from a little

beyond this project's focus is the 1171 *Treaty of Toul* between Frederick Barbarossa and

Louis VII, king of the French, where each ruler promised to ban the use of Brabançons and

Coterelli.[765] These two groups were renowned for their military service to a variety of

powers, the former even being employed by Henry II.[766] With this in mind, the 1101 *Treaty*

of Dover reflects Henry I's dire need for manpower. Interestingly, this clause is repeated in

the 1110 and 1163 treaties of Dover but is not repeated in the 1197 Anglo-Flemish *Treaty of*

Andeli.[767] This is perhaps expected, as the 1197 treaty is markedly different to its

predecessors. The previous treaties primarily concern the supply of soldiers in return for

payment, while the 1197 treaty concerns a formal alliance between the two parties. Perhaps

this reflects who was to be responsible for the Flemish troops' upkeep in each of these

treaties, as the count of Flanders would presumably shoulder the cost for his men in the 1197

treaty as it requires him to be at war with the French king.[768] While clause 7 in the 1101

treaty is almost contrary to more standard clauses on exile, most banning exiles rather than

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[764] *Treaty of Dover* (1101), cc. 5 and 10.

[765] *Die Urkunden Friedrichs I, 1168-1180*, ed. H. Appelt, 4 vols (Hannover: Hahnsche, 1985), III, no. 575. For more information, see H. Géraud, 'Les routiers au douzième siècle', *Bibliothèque de l'école des chartes*, 3 (1842), 125-147.

[766] *Chronica*, I, 382.

[767] *Treaty of Dover* (1110), 6; *Treaty of Dover* (1163), c. 7; *Treaty of Andeli* (1197).

[768] It must be noted here I am not suggesting these exiled mercenaries were able to make a treaty with the English kings. I am showing that exiles were hired as mercenaries in the twelfth century, but this is a separate point to exiles having legal personality in a peace-making context.

allowing their movement, it ultimately evidences that controlling the flow of exiles was important, and that exiles were a vital source of hired manpower throughout the period.

Of course, controlling the flow of exiles was a two-way process, both outward and inward, and concerned both neighbouring exiles and a ruler's own exiles. That is to say, rulers did not just bar others from receiving their own exiles, and accept the exiles of other rulers. Rulers could, and did, receive their own returning exiles, and this inevitably led to forgiveness, or amnesty, being offered for some of these exiles. For example, Norman exiles have been well studied, and it is clear that not all of them were banished permanently, and some eventually returned to Normandy.[769] One such example is Hugh de Grandmesnil, a prominent Norman lord who was banished by Duke William in 1058 for offending the duke.[770] However, five years later Hugh was recalled to Normandy and pardoned by William.[771] Johnson has argued that this was to help William deal with a new conflict between Normandy on the one side and Brittany and Maine on the other.[772] Indeed, Johnson links this with the recall of another exile, Ralph de Tosny whom William summoned back from exile in the same year.[773] Johnson observes that this is significant as both Ralph and Hugh were lords of border castles, and as such their support was vital for any war with Normandy's neighbours that William wished to pursue.[774] This, once again, highlights that exiles were an effective tool in a ruler's arsenal, rulers utilising their own exiles as much as those of other peoples. Within treaties, this acceptance of returning exiles is seen via amnesty clauses. The scholarship surrounding amnesty clauses is often more focused on amnesty being offered between rulers, forgiving either side for perceived wrongs during a conflict. For instance, Benham notes that amnesty

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[769] F. Chalandon, *Histoire de la domination normande en Italie et en Sicile*, 2 vols (Paris: Protat Frères, 1907); D. Matthew, *The Norman Kingdom of Sicily* (Cambridge: CUP, 1992).
[770] Orderic, *Ecclesiastical History*, II, 90.
[771] Orderic, *Ecclesiastical History*, II, 104–06.
[772] Johnson, 'The Process of Norman Exile into Southern Italy', 35.
[773] Orderic, *Ecclesiastical History*, II, 104–06.
[774] Johnson, 'The Process of Norman Exile into Southern Italy', 35.

clauses frequently appear within treaties concluding civil wars, or conflicts when there was no clear victor.[775] While this is certainly true, little work has focused on the exiles receiving amnesty within treaties, and treaties offer a new perspective on giving certain exiles amnesty to restore the status quo, allowing a community to move forward from a conflict. As such, it is worth turning our attention to some specific examples where exiles are the targets of amnesty clauses to understand the implications of these.

The *Treaty of Adrianople* (1190) contains a good example of an amnesty clause. Isaac II forgave any who had served the Western emperor, Frederick Barbarossa, and his crusading forces, whether they be Greeks, Armenians, or Latins.[776] The implication here, is that some of Isaac's subjects had aided the German emperor's forces while they crossed, and harried, Byzantium. Effectively, this clause offered forgiveness to these subjects, and a return to the status quo. Aiding an enemy force, one that was actively raiding the lands of one's ruler, was a serious crime, and it is surprising that those that aided Barbarossa did not suffer a permanent punishment for this. However, amnesty clauses fundamentally evidence that the forgiving ruler foresaw a future relationship with the targeted exiles. Thus, we can see this clause as Isaac restoring the status quo and moving beyond the conflict. The 1174 *Treaty of Montlouis* echoes this, having the victorious Henry II and his defeated rebellious sons each forgiving the followers of the other, and promising not to do any evil to them on account of the recent war.[777] This allowed exiles to return to society, either due to a ruler having a particular use for them, or as a way of securing the end to a conflict. It is interesting to note here the 1189 *Treaty of Azay*.[778] As said above, it is completely lacking in any form of amnesty clause, yet Henry II requested a list of the deserters' names soon after the treaty was

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[775] Benham, *ILE*, 102.
[776] *Treaty of Adrianople* (1190), c. 8.
[777] *Treaty of Montlouis*, 67-68.
[778] *Treaty of Azay* (1189), 366.

concluded.[779] Perhaps this hints at Henry not welcoming these deserters back into his kingdom after the treaty. Indeed, the treaty even mentions that none of the deserters would return to him until one month before he set out on crusade. While it is difficult to know exactly what this means, it seems likely that Henry did not intend to let the deserters return without any form of punishment, leaving them in some form of 'limbo' until he dealt with them. Despite this, Henry still felt the need to engage with the exiles on some level, giving them a time frame in which they would be dealt with. Thus, Henry could not afford to ignore these exiles, regardless of whether Henry was going to offer these exiles amnesty or not.[780]

Dealing with the movement of slaves and exiles was a fundamental issue across the treaties of this period. We have clear examples of rulers from both England and Byzantium dealing with the issue of runaway slaves, acting to secure their slaves from fleeing home.[781] While the Byzantine emperors acted to secure the return of their enslaved subjects, this does not appear to have been done by their English counterparts, at least within treaties.[782] Both Byzantine and English rulers were effectively required to deal with exiles through their treaties, attempting to stop other rulers from accepting their exiles. While the prevalence of clauses on exiles has been noted by Benham's work, it is clear from a number of treaties that rulers were active concerning exiles.[783] By implementing physical barriers such as the requirement of seals, having agents keeping track of incoming people, and specifically requesting action concerning specific exiles, rulers attempted to ensure active measures were in place to control the flow of exiles. Furthermore, exiles were fundamentally linked with the employment of mercenaries in this period, as evidenced both in the treaties of Andover and

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[779] *Chronica*, II, 366.
[780] *Chronica*, II, 365-367; *Treaty of Azay* (1189), 366.
[781] *AGu*, c. 5; *Treaty of Constantinople* (945), 75.
[782] *Treaty of Constantinople* (945), 75; *Treaty of Andover*, c. 6.2.
[783] Benham, *ILE*, 59-62; *Treaty of Rouen*, 38; *Treaty of Constantinople* (945), 75.

Baghdad.[784] These treaties also highlight that in the early period exiles had legal personality and were capable of negotiating on an inter-ruler level, provided they were the leaders of people. The treaties of Andover and Baghdad further highlight that exiles offered a quick and effective solution to issues, such as man-power shortages. While exiles were still a source of manpower later in the period, as shown in the *Treaty of Dover* (1101), exiles seemingly lost their ability to negotiate a treaty in the later period, although this rose and fell across the period and was not necessarily a linear decline.[785]

 In many ways, the *Treaty of Adrianople*, *Treaty of Montlouis* and the *Treaty of Azay* bring us full circle. As we have seen, exile represented a merciful, and often permanent, way of dealing with domestic enemies. However, receiving exiles and offering amnesty restored the status quo within the community, and allowed the community to move forward. Fundamentally, this highlights that rulers could not afford to ignore the issue of exiles, whether they were exiles of a neighbour or one's own. The treaties of Adrianople and Montlouis show that it was possible for rulers to offer amnesty to their exiles, and that this was an important aspect of moving forward from conflict.[786] While the *Treaty of Azay* shows that this was not always simple, it still reveals that exiles were a pressing issue, even if a ruler did not want to deal with them 'there and then' as the treaty was made.[787] Ultimately, the movement of exiles and people reflect a fundamental pressure upon rulers throughout the period, and was intertwined with trade and military service, as the following chapters will show. Knowing that the movement of people is still an important issue today, it is not surprising that rulers were compelled to deal with exiles, whether this was to safeguard their

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[784] *Treaty of Andover*, c. 1.1; *Treaty of Baghdad*, 66.
[785] *Treaty of Dover* (1101), c.7. This is also evidenced by the Byzantines treatment of the Genoese pirate, Gulielmo Grasso. *Treaty of Constantinople* (1197), 104.
[786] *Treaty of Adrianople*, c. 8; *Treaty of Montlouis*, 67-68.
[787] *Treaty of Azay* (1189), 366.

own reign, or to harass other rulers. To engage with exiles was in essence defensive, as being passive invited other rulers to use them against you.

Chapter 5: The Movement of Military Service

As highlighted in the last chapter, the movement of exiles was an intrinsic part of rulers recruiting troops from abroad to bolster their own manpower. The movement and use of military services is a well-studied topic, both by Byzantinists and scholars of the medieval West. Often scholars have focused on the tactics of particular 'mercenary' groups, and their aptitude for warfare in a particular theatre.[788] These studies shed light into the role of foreign troops in rulers' forces, and how rulers utilised particular troops against specific foes.[789] However, utilising the treaties, many of which concern the use of hired troops, we can offer novel insights into the legislative 'mechanics' of how such recruitment worked. For instance both the use of Rus' troops by Byzantine emperor's, and the use of Flemish troops by English kings, are well known to scholars and evidenced within treaties.[790] While scholars have often referred to various treaties in passing, focus is often given to the narrative accounts concerning hired foreign troops, rather than the treaties themselves.[791] Within the treaties of both Byzantium and England, there are many clauses on the different methods rulers used to bolster their forces, and rulers of each entity often utilised a foreign community that lived domestically, or contracted service from abroad. The treaties also reveal ample information regarding the number of troops to be provided, against who they were to serve, and where the expected theatres of service might be. The logistics of military service, namely transport and supplies for the troops, are also evidenced within treaties of both powers, highlighting that rulers had an eye for the practical needs of such service. Indeed, rulers even foresaw the need

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[788] Theotokis, 'Rus, Varangian and Frankish Mercenaries in the Service of the Byzantine Emperors', 125-155; John D. Hosler, 'Revisiting Mercenaries under Henry Fitz Empress', in *Mercenaries and Paid Men*, 33-40.

[789] Theotokis, 'Rus, Varangian and Frankish Mercenaries in the Service of the Byzantine Emperors', 129-130; Hosler, 'Revisiting Mercenaries under Henry Fitz Empress', 33-40.

[790] For instance, see *Treaty of Constantinople* (945), 76; *Treaty of Dover* (1101), cc. 1-3.

[791] While Theotokis does refer to the Byzantine-Rus' treaties, he only does so in passing, simply noting that these treaties refer to the use of the Rus' as mercenaries. Theotokis, 'Rus, Varangian and Frankish Mercenaries in the Service of the Byzantine Emperors', 129-130. Hosler does not mention any of Henry II's treaties at all, Hosler, 'Revisiting Mercenaries under Henry Fitz Empress', 33-40.

to allow for the competing obligations of the hired party, the medieval world after all being a complex web of conflicting relationships. Importantly, these treaties further highlight why the service was offered, detailing evidence of extensive financial rewards. Thus, the treaties of both Byzantium and England reveal that in some respects these were state-like entities capable of a logistical infrastructure and foresight that is rarely credited to the rulers and peoples of the medieval world.

This chapter aims to largely analyse treaties concerned with military services, which often contain a transactional element, rather than treaties of alliance, although the latter will be discussed in relation to diplomatic networks later in the chapter. Often, treaties of alliance contain clauses that affirm vague pledges of military support, by one or both of the parties involved, for anytime it is needed. For instance, the 1197 *Treaty of Andeli* states that if either Richard I or Baldwin count of Flanders made peace with the king of France, but were subsequently attacked by the French king, both Richard and Baldwin must lend aid to the defender.[792] Given that there is no explicit reward for this aid, it is difficult to see any support given here as a transactional service. Another good example is the 971 Byzantine-Rus' treaty, which simply has the Rus' Prince Svyatoslav promise, out of desire 'to preserve peace and perfect amity', to wage war on any enemy that plans to attack Byzantium.[793] Similarly, the 1177 *Treaty of Ivry* simply states that both Henry II and King Louis of France would aid each other against any who wished to do harm to the other.[794] Later in the treaty, each king promises to defend the other's territory as if it was their own, while the initial clauses of the treaty states that all should know that the kings are now friends, and will defend each other

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[792]'Et si forte de voluntate et assensu utriusque pax aut concordia fieret inter regem Francie et eos, et rex Francie postmodum alterutrum guerrearet, tenerentur predicti rex Anglie et comes ad mutuum subsidium et auxilium sibi invicem conferendum, prout melius poterunt et sicut fecerunt tempore quo fedus istud inter eos contractum est.'; *Treaty of Andeli* (1197), 466.
[793] *Treaty of Silistra*, 89-90.
[794] *Treaty of Ivry* (1177), 144.

against all men.[795] Such clauses cannot truly be seen to concern transactional military service, in so far as the aid is provided freely, with no payment, at least within the treaty. As there is little evidence within the treaties themselves as to whether any gift or payment was made for this aid, I will not consider it a service as such, but rather as a vague obligation of alliance.[796] By contrast the 1101 *Treaty of Dover* is a staple treaty for any scholar looking at hired troops in the context of medieval Northern Europe, and has clauses focusing on what aid was to be given, where the aid was to be given, who likely aggressors were, and how much the contracting party would pay for the performed service.[797]

When studying treaties, the role of military services provided in the treaty-making arena is intimately linked with how scholars view 'mercenaries' in the period. Both Morillo and Abels see a 'mercenary' as a soldier who utilises their fighting skills as a commodity.[798] Importantly, the 'mercenary' is 'unembedded in the society of their employer', while a soldier is a part of the 'moral economy' of their society. In their view, while both fought for money, this is the primary motivator for the former. This categorisation can be problematic in the medieval period, when we rarely have evidence or insight into a soldier's motivations, and when both 'mercenaries' and 'regular' troops were often paid for the service in similar ways. Indeed, while troops often provided service in exchange for recognition of their lands in the medieval world, we also have clear evidence that hired foreign troops could receive payment in this way. For instance, the 1187 *Treaty of Constantinople*, and an accompanying document to the 1163 *Treaty of Dover*, make clear that contracted foreign troops often

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[795] *Treaty of Ivry* (1177), 144-146.
[796] On this see, Benham, *ILE*, 29-31.
[797] For instance, see *Treaty of Dover* (1101), cc. 1-3. It should be noted there are clauses within this document that are less services performed out of 'friendship', which this chapter will not focus on. For instance, clause 15 states that the mercenaries provided by the count of Flanders will serve in either Normandy or Maine once a year, not both, unless the count performs this additional service out of friendship. *Treaty of Dover* (1101), c. 15.
[798] Richard Abels, 'Household Men, Mercenaries and Vikings in Anglo-Saxon England', in *Mercenaries and Paid Men*, 144-145; Stephen Morillo, 'Mercenaries, Mamluks and Militia: Towards a Cross-cultural Typology of Military Service', in *Mercenaries and Paid Men*, 243-257.

performed their service in return for payments of land.[799] This is similar to how rulers' own followers were often paid.[800] Indeed, Rowlands has noted it is perhaps inaccurate to view Welsh troops used by the Angevin kings as 'mercenaries' rather than troops fulfilling obligations to their lord's master.[801] Welsh soldiers commonly served the Angevin kings under Welsh princes or Welsh marcher lords, both of whom often had an obligation to the English kings to provide military support. Thus, it is difficult to differentiate between Welsh troops simply fulfilling their master's obligation to their liege lord the English king, and other English troops, whose service was harnessed using a similar model. Similarly, other troops often referred to as 'mercenaries' are also found serving under their own leaders. A good example of this is the Flemish troops promised in the 1101 *Treaty of Dover*, who were normally required to be led by Count Robert I of Flanders, and whom Oksanen sees explicitly as 'mercenaries'.[802] Indeed, 'mercenaries', or foreign troops, in Byzantium were commonly led by one of their own, but rarely do we have the treaties that contracted these services.[803] Given that these foreign troops often received payment in a similar way to 'domestic' troops, and given that they also served under their own lords, it is difficult to separate 'regular' military service from 'mercenary' service within the narrative evidence. Similarly, any distinction between a 'mercenary' and a subject who is performing an obligation for their ruler is not clear cut within the treaties either.[804] For instance, while the *Treaty of Andover* is

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[799] *Treaty of Constantinople* (1187), 198; Chaplais, *Diplomatic Documents*, I, 12-13.

[800] For instance, Nikatas Choniates remarks on this, although the principle point of his account is in demonstrating how those unsuited to warfare enrolled in the Byzantine military solely for the land based rewards. *Nicetae Choniatae Historia*, ed. Ioannes A. van Dieten (Berlin: De Gruyter, 2013), 208-209. More generally, this is a well-known aspect of English military service throughout the period. C. Warren Hollister, *The Military Organization of Norman England* (Oxford: Clarendon Press, 1965), 43-71; Marjorie Chibnall, 'Military Service in Normandy Before 1066', in *Anglo-Norman Warfare*, ed. Matthew Strickland (Suffolk: Boydell and Brewer Ltd, 1992), 28-40

[801] Rowlands, '"Warriors Fit For a Prince": Welsh Troops in Angevin Service, 1154-1216', 222.

[802] *Treaty of Dover* (1101), cc. 2 and 4; Oksanen, *Flanders and the Anglo-Norman World*, 59.

[803] Of course, as touched on above, Harald Hardrada is perhaps the most famous hired soldier of the 'Viking Age', and was reportedly leader of the Varangian guard. *Heimskringla*, III, 71-72. Similarly, Roussel of Bailleul, a hired Norman or Frank, in the Byzantine army also seems to have commanded the Normanno-Frankish cavalry during his service. *Alexiade*, I, 9-56.

[804] For instance, see Howeden, *Chronica,* II, 65-66; *Alexiade*, III, 187.

often framed as hiring a foreign, 'mercenary', army to protect England, the Old English terminology used in the treaty is simply *here*, or army.[805] The Byzantine-Rus' treaties, which famously have clauses referring to what scholars have seen as 'mercenaries', simply refer to 'Russes desirous of honouring [the] emperor', as well as the provision of 'soldiers'.[806] Indeed, even clauses that must refer to the hiring of third party 'hired muscle', which a modern audience may think of as synonymous with the hiring of 'mercenaries', just opts for *milites*, or soldiers.[807] Even in regard to hiring ships, the terms used remain surprisingly literal. Byzantine treaties with the Italian cities opt to transcribe the Greek $\gamma\alpha\lambda\acute{\epsilon}\alpha$, literally galley, and $\sigma\tau\acute{o}\lambda o\varsigma$, 'stolus' or fleet.[808] Given the lack of consistent vocabulary differentiating military and foreign 'mercenary' service, the similar payment methods for both paid soldiers and 'mercenaries', and that both soldiers with obligations to their liege lord and 'mercenary' soldiers often served under their own commanders, it is perhaps best to avoid using the term 'mercenary'. This is as it differentiates between regular military service despite there being little evidence for this. This is not to say that there was no distinction *per se*, but rather, that this distinction is not apparent within the evidence from treaties. Therefore, I will continue to use the term 'military service' and avoid using the term 'mercenary'.

The military services offered vary from treaty to treaty but can generally be split between providing troops and ships, and providing transportation. The first English treaty which touches upon the provision of a service is the 994 *Treaty of Andover*, between Æthelred and the leaders of a Scandinavian army.[809] The treaty is largely concerned with the provision of troops. After the initial clause states a general peace was made between the two parties, the

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[805] *Treaty of Andover*, cc. 1 and 1.2.
[806] *Treaty of Constantinople* (911), 68; *Treaty of Constantinople* (945), 76.
[807] For instance, the 1187 Byzantine-Venetian treaty contains a clause on hiring soldiers from Lombardy or other lands for Byzantine military service. 'Item, si imperium eorum uoluerit homines aut uestiaria Venetiam mittere gratia conducendi milites a Lombardia uel ab alia terra…'; *Treaty of Constantinople* (1187), 200.
[808] *Treaty of Constaninople* (1187), 196; *Treaty of Constantinople* (1148), 109.
[809] *Treaty of Andover*, Prol.

treaty immediately outlines the duties of the army while serving in England, 'if any fleet harry England, we are to have the help of them all; and we must supply them with food as long as they are with us'.[810] The treaty even provides a legal framework for the army to follow while serving in England.[811] Interestingly, the 1155 *Treaty of Genoa* is quite similar. The treaty states that if any force attacks Byzantium, the Genoese of the empire are to help protect the endangered lands.[812] As part of the reward for this service, the Genoese were to receive a trading station and quays in Constantinople, similar to those that the Pisans possessed.[813] Furthermore, the treaty also sets out the legal framework the Genoese were to follow while within Byzantium, specifically stating they were to be treated in the same way the Pisans were.[814] It would be a mistake to assume that either of these treaties is solely concerned with supplying military aid based either on land or sea, rather than both land and naval-based military aid. The *Treaty of Andover* is quite explicit on this, clauses 2-3.2 explicitly acknowledge the contracted armies presence on both land and sea.[815] The 1155 *Treaty of Genoa* is less explicit, but the reputation of the Genoese as sailors, combined with the treaty being renewed and expanded in 1169 with several clauses highlighting how naval aid was to be given, imply heavily that the 1155 treaty was not solely concerned with land-based military service.[816] Thus, in many ways, these treaties mirror one another. Each ruler invited a population to live within their territory, provided a legal framework for the foreign population to interact with the 'local' population, while the foreign population was to bolster the employing ruler's troops.

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[810] *Treaty of Andover*, c. 1.1; *EHD*, I, 401.
[811] *Treaty of Andover*, cc. 1.1-7.2.
[812] *Treaty of Genoa* (1155), 264.
[813] *Treaty of Genoa* (1155), 263.
[814] *Treaty of Genoa* (1155), 264. That the Pisans relations with Byzantium were used as a template of sorts perhaps reflects Genoa being relatively late to making a treaty with Byzantium, Venice making one in 992, the Pisans in 1111, and Genoa only in 1155. For more on this see, Penna, *The Byzantine Imperial Acts*, 133-134.
[815] *Treaty of Andover*, cc. 2-3.2.
[816] *Treaty of Genoa* (1169) [MS B], 186-187; *Treaty of Genoa* (1155), 264.

In some ways, the *Treaty of Devol* takes this further. The treaty has a number of clauses where Bohemond swears to give Alexios military support. For instance, Bohemond promises to take arms against any of the emperor's enemies, and to go wherever the emperor would order him to go.[817] The treaty further states Bohemond, and his men and territory, were to become a part of the empire with Bohemond even becoming the liegeman of Alexios.[818] While there are no clauses establishing a legal framework for Bohemond's men interacting with other subjects of the empire, this is perhaps expected, as Bohemond and his men effectively became fellow Imperial subjects through the treaty.[819] This was ultimately a very practical way of enlisting foreign troops for military aid. Other treaties, as we shall see, often had a period of notice in which the aid would be provided. By utilising a population already present in their lands, rulers could be quick to respond to any threat, and perhaps even deter an enemy from attacking altogether, having these troops to hand at all times. Thus, having a foreign population living within a ruler's territory was both a simple and pragmatic way for a ruler to bolster their own forces.

Of course, utilising a foreign community living within a ruler's lands did have complications, and these were recognised within the treaties, which provided the legal framework for these foreign communities while they lived in a ruler's realm. For instance, the *Treaty of Andover* has clauses on how to proceed if one of the hired troops kills an English subject, or vice versa.[820] The treaties with the Italian cities also foresaw conflict between their subjects. The

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[817] *Treaty of Devol*, 127.
[818] *Treaty of Devol*, 126.
[819] *Treaty of Devol*, 132; 'With regard to those of my horsemen and heavy-armed soldiers, whom we generally call 'chevaliers', who are absent, let thy Majesty send a man to the city of Antioch and there those others shall take the same oaths and the man sent by thy Majesty shall tender them, whilst I, I swear this, will see to it that the men swear and agree to keep the same agreement without any change'. Translation from The *Alexiad*, 250. Bohemond is also paid for this service.
[820] *Treaty of Andover*, cc. 5-5.2.

1155 *Treaty of Genoa* states the Genoese in the empire were to be treated, if they committed offences, in a similar way to the Pisans.[821] The treaty clarifies the specifics of this, stating:

'So if a Genoese commits an offence against His Majesty or His Majesty's subjects, the consuls of the commune of Genoa will be bound in good faith to do what justice requires once they have been notified by the Lord Emperor, just as the consuls of the Pisans are under an obligation to render him justice'.[822]

Indeed, later treaties highlight that at times relations between the Genoese of the empire and the subjects of Byzantium were strained. Particularly, the first of two treaties dating to 1170 with the Genoese, being the *Treaty of Constantinople* I (1170), states:

'However, it will not be permitted [for] those who dwell in the great city or in other regions of the empire, [for] the Genoese to take up arms against any men of Romania with evil contemplation and intention'.[823]

This perhaps reflects the ongoing tensions, not only between the Genoese living in the empire and Byzantine subjects, but also tensions with other foreign communities the emperors utilised for military aid who also had a significant presence within the empire. After all, Genoa was a relative latecomer to gaining a quarter in Constantinople, compared to its Venetian and Pisan neighbours.[824] Evidently, as highlighted in the plethora of treaties with the other Italian communes, prior to the first Genoese treaty of 1155, the Venetian and Pisan

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[821] *Treaty of Genoa* (1155), 264.

[822] 'Si vero aliquis Ianuensis intulit aliquam offensionem imperio eius vel hominibus imperii eius, consules comunis Ianue bona fide tenebuntur facere inde id quod iuticia vult postquam inde commoniti erunt a domino imperatore sicut Pisanorum consules ei iusticiam facere tenentur.'; *Treaty of Genoa* (1155), 264. Translation from *Caffaro, Genoa and the Twelfth Century Crusaders*, 196.

[823] 'Veruntamen non licebit qui in magna civitate seu in aliis regionibus imperii habitant, Genuensibus cum meditacione et consilio malo accipere arma adversus aliquos homines Romanie.'; *Treaty of Constantinople* I (1170), 119.

[824] Penna, *The Byzantine Imperial Acts*, 133-134.

presence in Byzantium was significant.[825] While both Venice and Pisa were granted privileges in return for military service, it is apparent that the increasing number of Venetians, Pisans, and later Genoese in the empire caused strained community relations within Constantinople. The rivalry between these communities in Byzantium is well documented, and exploded into violence in 1162, when the Venetians and Pisans in Constantinople attacked the Genoese quarter.[826] Indeed, the tension between these communities, which were a major aspect of Byzantium's diplomatic approach to increase its military might, continued throughout the twelfth century.[827] This violence was not solely inflicted by these foreign communities upon one another, but also inflicted upon them by the residents of Byzantium, as shown in the 1182 Latin massacre.[828] In this incident, the citizens of Constantinople were encouraged by the rebellious Andronikous, who was attempting to overthrow the deceased Emperor Manuel's infant son and Manuel's widow Maria of Antioch, to turn on their Latin neighbours. This resulted in the death and expulsion of the Genoese, Pisan and Venetian communities from the city.[829] While treaties continued to be made between Byzantium and Genoa, Pisa and Venice after 1182, this must have had a catastrophic effect on relations between these powers. Indeed, Gerald Day has argued quite reasonably that this souring of relations between these various powers encouraged pirates from the Italian cities to raid Byzantium, specifically citing the case of Gulielmo Grasso.[830] Therefore, it is clear that being overly reliant on foreign communities living within one's own realm came with associated problems, and could result in tensions between different communities.

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[825] For instance, see: *Treaty of Constantinople* (1082), 51; *Treaty of Constantinople* (1111), 52-53; *Treaty of Constantinople* (1126), 96; *Treaty of Constantinople* (1147), 63.

[826] For more on this, see Day, *Genoa's Response to Byzantium*, 26; Nicol, *Byzantium and Venice*, 94-95.

[827] Day, *Genoa's Response to Byzantium*, 30-31.

[828] For good analysis of the Latin Massacre, see Nicol, *Byzantium and Venice,* 106-108.

[829] Nicol, *Byzantium and Venice,* 106-108; Day, *Genoa's Response to Byzantium*, 28.

[830] Day, *Genoa's Response to Byzantium*, 30-31.

Having these foreign troops living within a ruler's own territory was one way military service was provided, and could result in inter-communal tensions and violence. However, it was not the only strategy that rulers employed to secure military aid. The Anglo-Flemish treaties of Dover are some of the most well studied of the treaties of this project and provide one of the alternatives. Each focuses on the counts of Flanders providing troops for the English kings in return for payment.[831] Specifically, the 1101 treaty states that if Henry I summons Robert of Flanders for aid, Robert will provide 1000 troops led by himself within 40 days.[832] Similarly, the 1187 *Treaty of Constantinople* has the Venetians promise to aid Byzantium. If the empire was attacked by a fleet of 40 to 100 ships, the Venetians were to send just as many within six months of being notified.[833] The 1198 Venetian treaty renewed this commitment.[834] This is clearly a different approach to the *Treaty of Andover* and *Treaty of Genoa* (1155), but perhaps reflects the additional preparation needed for the necessary equipment and transport necessary for the Venetian and Flemish treaties. The 1101 *Treaty of Dover* specifically states that each of the 1000 troops provided was to have three horses, while large parts of the 1187 Venetian treaty concern the commissioning of Venetian ships and crews to aid Byzantium in the event of an attack.[835] However, both the 1101 and 1187 treaties have contingency, 'work around', clauses to ensure any delay in providing this service is minimal. The 1187 treaty for instance, states that if there is no time to notify the Venetians, the emperor was free to enlist troops from the Venetians already in the empire, much like the 1155 *Treaty of Genoa*.[836] The 1101 treaty takes a different approach, stating that if Count Robert cannot aid the English king himself, he will send his troops while he remains in Flanders.[837] This difference perhaps

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[831] For a discussion of these, see Oksanen, *Flanders and the Anglo-Norman World*, 54-81.

[832] *Treaty of Dover* (1101), c. 2.

[833] *Treaty of Constantinople* (1187), 196.

[834] *Treaty of Constantinople* (1198), 122-123.

[835] *Treaty of Dover* (1101), c. 2; *Treaty of Constantinople* (1187), 196-197.

[836] *Treaty of Constantinople* (1187), 198-199.

[837] *Treaty of Dover* (1101), c. 5.

highlights the network of obligations that the Anglo-Flemish treaty traversed, the count of Flanders being the liegeman of the French King. Despite these different approaches, these treaties reflect practical concerns, such as the necessary time needed to procure equipment. Indeed, while the time window provided did have its cons, such as the military service needed not necessarily being ready to aid the contracting party, rulers implemented clauses to minimise the risk that no aid was provided whatsoever. Again, these agreements reflect the practical concerns of rulers, and took pragmatic steps to avoid any potential problems with the service provided, whether that was utilising a foreign population living domestically, as in the *Treaty of Andover*, the 1155 Genoa treaty, and the *Treaty of Devol*, or hiring a force from abroad with a strict time window and ensuring the treaty contained 'work around' clauses, as in the 1187 Venetian treaty and the 1101 *Treaty of Dover*.

This divide, between foreign troops being employed from foreign communities within a ruler's realm and troops being employed from abroad, can perhaps explain why some of these agreements are so specific regarding the number of troops provided by the contracted party, while others are quite vague. The *Treaty of Andover* simply states that if anyone attacks England, the English are to have the help of 'them all', presumably being the entirety of the contracted army.[838] Similarly, the 1155 *Treaty of Genoa* makes no explicit reference to the numbers the Genoese were to provide, only stating that any Genoese present in an Imperial territory under attack will aid in its defence.[839] Additionally, the *Treaty of Devol* re-states several times that Bohemond will come with his men whenever the emperor was in need, but gives no estimate as to how many men would be provided.[840] By contrast, the 1101 *Treaty of Dover* specifically has the count of Flanders provide 1000 men, and the 1187 Venetian treaty has the number of ships correspond to the number attacking Byzantium (between 40-100),

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[838] *Treaty of Andover*, c. 1.1.
[839] *Treaty of Genoa* (1155), 264.
[840] *Treaty of Devol*, 127.

each crewed with 140 men.[841] By being non-specific regarding the numbers of troops to be provided, the treaties allowed for flexibility in responding to any threat. For instance, the emperor was unlikely to call for the entirety of Bohemond's forces to deal with a small raid, nor would Æthelred need the entirety of the hired army to deal with a minor threat. By contrast, the *Treaty of Dover* (1101) and the 1187 Venetian treaty deals with specific numbers to be provided, as to transport troops over a larger distance meant larger numbers of troops had to be moved for such a service to be worthwhile.[842] The transportation of military forces was an expensive operation, even when done by sea, which was by far the most efficient way of moving a large number of troops over a considerable distance.[843] As such, contracting military service from abroad necessitated that rulers be specific concerning the number of contracted soldiers, to ensure the potential costs involved in transportation were worthwhile. Thus, these treaties reflected the distances between the parties involved, and the logistic necessities involved, which were recognised as potential problems and dealt with in the treaty.

Interestingly, the potential targets listed within these treaties were often quite general, but do at times note potential enemies. Benham has noted that possible enemies are sometimes named within treaties, as well as the hypothetical areas of service. Specifically, Benham focuses on the 1101 *Treaty of Dover*, which has a number of clauses with an explicit geographical focus, mentioning England, Normandy, and Maine specifically.[844] Additionally, the treaty names English magnates and the king of France as likely enemies.[845] However, Benham and Ganshof have each noted that the true target of this treaty was likely Henry I's

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[841] *Treaty of Dover* (1101), c. 2; *Treaty of Constantinople* (1187), 196.
[842] *Treaty of Dover* (1101), c. 2; *Treaty of Constantinople* (1187), 196-197.
[843] See Haldon, *Warfare, State and Society in the Byzantine World*, 140 and 166.
[844] Benham, 'Law or Treaty?', 491-492; *Treaty of Dover* (1101), cc. 2, 10, and 14.
[845] *Treaty of Dover* (1101), cc. 1 and 5.

brother, Robert of Normandy, who was planning to invade England in the spring of 1101.[846] However, while this is a clear example of treaties naming specific potential enemies and areas of conflict, this is perhaps over emphasized by the scholarship.[847] For instance, the main enemy cited by both Benham and Ganshof in the 1101 *Treaty of Dover*, Duke Robert of Normandy, is not actually named in the treaty at all.[848] Indeed, it is quite clear that this agreement is made against a plethora of hypothetical enemies. For instance, both Benham and Ganshof each highlight that the 1101 *Treaty of Dover* also states that the count of Flanders is to give aid 'against all men that may be able to live and die'.[849] Thus, it is perhaps best to view the 1101 *Treaty of Dover* as naming some likely enemies but being against all potential enemies more generally.

This is also clear in other treaties, some of which refer explicitly to where military service might be needed, and who a prospective enemy might be, but also detail aid would be given against any enemy. For instance, the 945 Byzantine-Rus' treaty requests the Rus' Prince Igor protects the Kherson district, specifically singling out the 'Black Bulgarians' as likely aggressors.[850] Additionally, the *Treaty of Devol* explicitly highlights that Bohemond would have to wage war on his nephew Tancred, if Tancred did not accept the treaty.[851] However, both these examples also imply aid would be given against any enemy. The 945 Rus' treaty, states the Rus' would provide soldiers against Byzantium's enemies, without any limiting clause on who these enemies might be.[852] Similarly, the *Treaty of Devol* has Bohemond state he will fight on behalf of Emperor Alexios 'for every land and sea that is under your

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[846] Benham, 'Law or Treaty?', 491-492; Francois L. Ganshof, 'Note Sur Le Premier Traité Anglo-Flamand De Douvres', *Ruvue du Nord*, 158 (1958), 249-250.
[847] Benham, 'Law or Treaty?', 491-492; Benham, *ILE*, 63-64; Ganshof, 'Note Sur Le Premier Traité', 249-250.
[848] Benham, 'Law or Treaty?', 491-492; Ganshof, 'Note Sur Le Premier Traité', 249-250.
[849] Benham, 'Law or Treaty?', 491-492; Ganshof, 'Note Sur Le Premier Traité', 249.
[850] *Treaty of Constantinople* (945), 76.
[851] *Treaty of Devol*, 130.
[852] *Treaty of Constantinople* (945), 76. The 945 treaty emphasises that from this other nations will learn of the friendship between Byzantium and the Rus'.

(Alexios's) sway, namely, from this Adriatic Sea to the farthest East and throughout the length of great Asia, wherever the Roman boundaries are'.[853] While some treaties, such as the 1101 *Treaty of Dover*, the 945 Rus' treaty, and the *Treaty of Devol* mention specific enemies, that they also state aid is to be given against all adversaries effectively makes these clauses redundant, and allows the treaties to be more flexible in their coverage of would-be enemies.

Perhaps of particular interest, are a number of treaties, from both Byzantium and England which use a similar phrase to denote that aid will be given against all conceivable threats. For instance, the 1101 *Treaty of Dover* specifically states the count of Flanders is to help the king of England 'against all men who may be able to live and die'.[854] Similarly, the 1200 *Treaty of Caen* between King John and Hugh count of La Marche states Hugh would be John's liegeman 'against all men and women who can live and die'.[855] Such intertextuality is perhaps expected within the treaties of the English corpus, but there are also Byzantine parallels.[856] The 1169 *Treaty of Genoa*, for instance, states that the Genoese will never stand against the Emperor Manuel themselves or ally with those who do 'crowned or uncrowned… Christian or pagan, man or woman, who may be able to die and live'.[857] This sentiment is echoed in the *Treaty of Devol*, emphasising that Bohemond would serve against all of Alexios's enemies, 'provided only they be not like the immortal angels and invulnerable by our spears or endowed with adamantine bodies'.[858] It must be noted, that despite the elaborate framing of these clauses in the Byzantine corpus, they function in much the same way as their English counterparts, perhaps reflecting the particularly rich language used in Byzantine

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[853] *Treaty of Devol*, 128. Translation from, *The Alexiad*, 248.
[854] '…contra omnes homines qui vivere et mori possint…'; *Treaty of Dover* (1101), c. 1.
[855] '…contra omnes homines and faeminas, qui vivere and mori possunt…'; *Treaty of Caen*, 79.
[856] Such statements are reflecting a common oath form. See, Stephen D. White, 'A Crisis of Fidelity in c.1000', in *Building Legitimacy: Political Discourses and Forms of Legitimacy in Medieval Societies*, eds. I. Alfonso, H. Kennedy, and J. Escalona (Leiden: Brill, 2004), 27–49.
[857] 'coronato vel non coronato qui sit vel qui erit, christiano vel pagano, viro vel mulieri qui mori vel vivere possit'; *Treaty of Genoa* (1169) [MS B], 185.
[858] *Treaty of Devol*, 127. Translation from *The Alexiad*, 248.

sources more generally. Such phrases are by no means universal across the Byzantine and English treaty corpus, and most of the treaties of this project do not contain these particular expressions. However, this shows that appealing to a party to give aid against all practical foes they would face, i.e. those capable of dying, was sufficient enough to be present in both the Byzantine and English treaty corpus, reflecting a wider desire for aid to be given against all likely enemies. Perhaps then, it is best to view clauses on specific foes as simply denoting likely enemies, in the context of aid being given against all potential adversaries.

While treaties often contracted military service for use against all hypothetical enemies, treaties were also concerned with the logistics of transporting the hired military service. Indeed, within some treaties the provision of transport for military service was a service in and of itself. Unsurprisingly, transportation is more of a factor in the treaties where military service is brought in from abroad, such as the treaties of Dover, rather than utilising a foreign community living domestically, as in the 1155 *Treaty of Genoa*. The 1101 *Treaty of Dover* contains a good example, with clause 2 explicitly stating that Henry I was to provide appropriate ships to transport 1000 men, each with three horses.[859] The *Treaty of Adrianople* between the crusading Frederick Barbarossa and Isaac II Angelos has a similar clause, stating Isaac 'would provide enough ships for the crossing from Gallipoli, or for the voyage of the glorious army of Christ and the life-giving Cross between Sestors and Abydos', specifically stating 'seventy vissiers and a hundred and fifty [other] ships' would be required.[860] The same clause continues by stating that the galleys were explicitly for the purpose of guarding Frederick's army while being transported, and that he was not to harm Byzantium with these ships, or blockade Constantinople.[861] While clauses on transport are not explicit in all treaties,

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[859] *Treaty of Dover* (1101), c. 2.
[860] *Treaty of Adrianople*, c. 2.
[861] This is particularly important as the treaty was made after a conflict between the two emperors had broken out while the crusading army was passing through Byzantium. *Treaty of Adrianople*, c. 2.

it is likely included within vague clauses referring to the 'services' of a fleet. For instance, Emperor Manuel's treaty with the Venetians in 1148 asks for military aid from the Venetians, but is quite vague in terms of the actual help being given. It simply notes that the Venetian forces will serve the emperor against Roger of Sicily for six months, simply using the terms *seruirent* (may serve) and *servitio* (service), but does not note what service will be provided.[862] On this particular occasion, the Venetian fleet united with that of the emperor before going on to besiege Corfu, held by the Sicilians.[863] At the very least, the Venetian warships safeguarded the transports of the Byzantine army. Indeed, this is somewhat implied by a passage of the 1148 treaty addressing the service that had already been performed by the Venetian fleet, specifically emphasising the Venetians had fought against the Sicilian fleet.[864] However, the narrative evidence implies the Venetians also aided in transporting the Byzantine troops while besieging Corfu.[865] Similarly, in the 1191 *Treaty of Acre* Richard I requests ships from the Genoese for a future campaign in Egypt, but distinguishes between the Genoese fleet in general, *naves*, and the Genoese warships, *galeis*, implying that Richard desired Genoese aid both in transporting his army and in a naval capacity (perhaps protecting his army while it was being transported).[866] Thus, it is clear that enlisting naval support was just as much concerned with the logistics of transport as it was naval combat.

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[862] 'Porro et in reliquas regiones Imperii nostri transmiserunt, quatenus, qui invenirentur cumpatriote eorum, uenirent, et seruirent et ipsi in eiusmodi Romanie et Imperii nostri servitio usque ad complementum tocius mensis Septembris futuri cum deo indictionis duodecime'; *Treaty of Constantinople* (1148), 110.

[863] *Nikatas Choniates*, 77-78.

[864] '…et ab Imperio nostro uocati in congressum contra eum, qui potestatem habet Sicilie, et omnimodam pugnam contra eum et stolum eius, nec non et terram eius, parati et promti apparuerunt'; *Treaty of Constantinople* (1148), 109

[865] Nikatas records the emperor leading troops to besiege Corfu, both by land and sea, while the Venetian fleet was present. *Nikatas Choniates*, 86-87.

[866] 'Si vero naves et historiam integram vobiscum adduxeritis, de terra quam a Sarracenis, Deo propicio, poterimus obtinere porcio vestra que vos debebit contingere, sicut inter nos convenit, vobis plenius conferetur; sin autem, iuxta numerum et quantitatem navium vestrarum et gentis vestre porcionem vestram optinebitis. De galeis autem sciatis quia a tempore ex quo ad exercitum christianum veniendi iter arripuerint medietatem expensarum vobis integre persolvemus.'; *Treaty of Acre* (1191), 16-17;

Armies travelling on land also needed to be transported, and this too is recognised in treaties. Clause nine of the *Treaty of Aleppo* states that the emir is to escort any campaigning Byzantine force through his territory, and upon reaching the limit, return to Aleppo.[867] While this clause likely also concerns general 'safe conduct' for the parties involved, given that it explicitly refers to campaigning forces, it also concerns the movement of military service.[868] Similarly, the 1169 *Treaty of Genoa* has a more general clause with similar intent, simply stating that should the emperor send cargo, or citizens, or galleys through the territory of the city, the Genoese would receive them and protect them, regardless of who their target was.[869] Such clauses were desirable by both parties. For treaties where transport was provided for those employed via the treaty, such as the *Treaty of Dover* (1101), this assured the employer that the service they had contracted would arrive quickly and efficiently. For treaties where the service was provided to guide a campaigning force through particular territory, such as the *Treaty of Adrianople* and *Treaty of Aleppo*, this minimised the risk of conflict between the campaigning army and local administration, as well as raids on the 'host' community.

Not all treaties concerning the movement of forces necessarily promise to aid their movement. Some treaties simply state the 'host' ruler will not impede the traveling army. For instance, in the *Treaty of Messina* (1190) Tancred of Sicily swore to Richard I, whose forces were traveling through Sicily *en route* to the Near East, that he would keep peace towards the English king and his forces, on both land and sea. This obligation was then repeated by Richard.[870] In a similar vein, the *Treaty of Baghdad* states Bardas Skleros and his followers will be granted free passage through the Buyid emir's territory, explicitly waiving the fees

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[867] *Treaty of Aleppo*, c. 9.
[868] *Treaty of Aleppo*, c. 9.
[869] *Treaty of Genoa* (1169) [MS B], 187. As touched on above, this clause is echoed in the 1187 *Treaty of Constantinople*, 200.
[870] *Treaty of Messina* (1190), 62.

and tolls that they might encounter, and mentioning they would be able to purchase provisions and equipment freely.[871]

It is worth noting here that the issue of supplies for military forces on the move is also touched upon in several treaties. Of course, this is a part of the above clause from the *Treaty of Baghdad*, but is also present within other treaties, such as the *Treaty of Aleppo* and the *Treaty of Adrianople*.[872] I will not discuss this in-depth here, as I discuss this further in my chapter on the movement of goods, but it is important to note rulers consistently recognised the practicalities of moving a large number of people through different territories. Clearly, the practicalities of moving military forces through foreign territory were active concerns of rulers. By addressing these practicalities within the treaties, rulers removed a potential source of conflict, and allowed the movement of services to be done as efficiently as possible. This minimised the window for any conflict to arise between either party, be it from one force getting lost in a territory, or from proceeding to raid to prevent starvation.

Rulers did not only contract transport for their hired manpower and campaigning forces. Multiple Byzantine treaties refer to the movement of 'recruitment officers', and allow for officers of different parties to recruit manpower within the territory of the other as well as to move freely while doing so. For instance, the 1187 Venetian treaty explicitly states that any Imperial officials traveling to Venice to recruit troops in Lombardy were to be accommodated and protected.[873] While it is not explicit, the 1169 *Treaty of Genoa* has a similar clause, stating that if the emperor deployed 'treasure, cargo, or his citizens, galleys, or sailing ships' to Genoa, the Genoese would protect them.[874] While this does not specify that

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[871] *Treaty of Baghdad*, 66.
[872] *Treaty of Baghdad*, 66; *Treaty of Aleppo*, c. 8; *Treaty of Adrianople*, cc. 7 and 10.
[873] 'Item, si imperium eorum uoluerit homines aut uestiaria Venetiam mittere gratia conducendi milites a Lombardia uel ab alia terra, et dispensandi ea, que ad honorem et utilitatem terre spectant celsitudinis eorum, licite faciet hoc, si hoc non est contra Venetiam'; *Treaty of Constantinople* (1187), 200.
[874] *Treaty of Genoa* (1169) [MS B], 187.

these things would be deployed for the recruitment of troops, the clause also implies this service has a military aspect, stating that the Genoese would provide protection no matter who was the target of these operations.[875] Given that the 1187 treaty also states that the Venetians would provide the same service to Byzantine troops travelling through Venice, it seems likely that the vague service the emperor's citizens might have provided in the 1169 treaty encompassed the recruiting service of the 1187 Venetian treaty, and thus included military recruitment.[876] Indeed, Italy seems to have been a staple recruitment ground for the Byzantine emperors. A century earlier, in 1051, we have reference to a Byzantine envoy named Argyros coming to Southern Italy equipped with gold and silk garments for the purpose of recruiting Norman troops.[877] It is possible that the Norman Roussel of Bailleul found his way into Byzantine service by such means, having first served in Sicily.[878] While there is no evidence in the English treaties for such a practice, it is clear that utilising friendly relations with other peoples to ensure the safe conduct of their recruitment officers was an important aspect of Byzantine diplomacy.

While the use of 'recruitment officers' in the territories of other people seems solely a theme in Byzantine treaties, there is clear evidence of other rulers acting as recruitment officers themselves for both the Byzantine emperors and English kings. For example, the 1108 *Treaty of Devol*, has Bohemond promise to accept any men into his service, provided they promise to also become the men of the emperor as well.[879] In fact, the treaty further states that if Alexios would like any of these men to serve the emperor rather than Bohemond, this would

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[875] *Treaty of Genoa* (1169) [MS B], 187.

[876] 'Item si imperatoria celsitudo uoluerit milites in Romaniam transducere per Venetiam, licite faciet et hoc, nisi ipsi manifesti inimici Venetie fuerint, aut Venetia impedita fuerit.'; *Treaty of Constantinople* (1187), 200; *Treaty of Genoa* (1169) [MS B], 187.

[877] For more on this, see Theotokis, 'Rus, Vanrangian, and Frankish Mercenaries', 142-143; Harris, *Byzantium and the Crusades*, 2nd edn (London: Bloomsbury, 2014), 46; Donald Nicol, 'Byzantium and the Papacy in the Eleventh Century', *Journal of Ecclesiastical History*, 13 (1962), 8.

[878] A.J. Simpson, 'Three sources of military unrest in Asia Minor: the Norman chieftains Hervé Frankopoulos, Robert Crispin and Roussel de Bailleul', *Mesogeios/Mediterranée*, 9-10 (2000), 181-207.

[879] *Treaty of Devol*, 129-130.

be the case.[880] Thus, Alexios saw the *Treaty of Devol* as a chance to gain the military aid of Bohemond, but also as a chance to further extend his recruitment network.

The various treaties of Dover are also good examples of rulers acting as recruitment officers. Oksanen has argued that while the 1101 treaty allows for the count of Flanders to provide his own men as troops for the English king, it is just as likely that Count Robert simply hired other foreign troops to fulfil this need. According to Oksanen, this would reduce the risk to Robert's own followers, who held key roles within his territory.[881] He has also noted that all three of the treaties of Dover contain a seventh clause referring to the counts of Flanders allowing any who wish to serve the English Kings free passage from Flanders to England. Although Oksanen has not noted the relevance of this clause to troops who were also exiles, he does not that it is likely that this clause allowed the English Kings access to a larger recruitment pool.[882] While there are few other treaties that explicitly refer to allowing travel for military recruitment, they must have been much more common than the survival rate indicates. Certainly, many scholars have noted that Robert I, count of Flanders, also provided Emperor Alexios I with 500 mounted troops, perhaps as a result of a treaty that has not survived, in c. 1090.[883] Given the count and his successors acted as recruiters of hired troops for the English kings, it is not hard to imagine this same service was provided here. Indeed, given that we never hear of these Flemish troops returning to Flanders, it seems likely these were troops hired by the count for this purpose, rather than his own men serving the emperor indefinitely.[884] Thus, rulers relied on one another, both in providing manpower and in acting

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[880] *Treaty of Devol*, 129-130.
[881] Oksanen, *Flanders and the Anglo-Norman World*, 65.
[882] For discussion of this clause's relevance to exiles, see chapter 4.
[883] Shapard, ''Father' or 'Scorpion'', 103; Oksanen, *Flanders and the Anglo-Norman World*, 56; *Alexiade*, II, 105 and 109.
[884] Ciggarr has argued that the last we hear of these troops is in 1194/5, using much later saga evidence. I find this unconvincing, the saga evidence being written much later, and focusing more on the activities of the hired Varangian then any Flemish support. Regardless, the point stands that we never hear of the hired Flemish

as a place of recruitment for hired troops, transporting additional forces to the contracting ruler that would otherwise be out of reach.

While some treaties have in-depth clauses on the provision of military services, and their transportation, they also provide insight into the circumstances that led to the providing party being exempt from their obligations. These 'lawful excuses' reflect the practical issues of providing military service.[885] For instance, there are frequent references in treaties concerning military service to the ruler providing a service potentially being sick, and thus unable to provide the contracted service. The 1108 *Treaty of Devol* is an excellent example, Bohemond stating he will wage any war on behalf of Emperor Alexios as long as he is in good health.[886] If he is ill, he promises to send as many men as he can spare to make up for his absence. This clause effectively repeats the 1101 *Treaty of Dover*, clause 13 stating that the count of Flanders would command 1000 soldiers if aid was needed in Normandy, 'unless he is forced to stay (in Flanders) on account of severe illness of body… And if for this reason he has to stay, he will send, as we have set out, 1000 soldiers into Normandy in the king's service'.[887] The practicalities of illness and service are an issue which rulers were concerned with.[888] Indeed, while clauses on illness are not present in most treaties concerning military service, there are clearly clauses that practically must refer to illness less explicitly. For example, the 1187 *Treaty of Constantinople* states that:

'after our fleet had been united to the fleet of your Imperial highness, the men who will be in the galleys ought to be counted, by the Imperial captain of their fleet, if he himself will have wished; and indeed they [those that are there] will be found in the employ of their highness,

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returning home. Krijnie Ciggarr, 'Flemish Mercenaries in Byzantium: Their Later History in an Old Norse Miracle', *Byzantion*, 51 (1981), 66-74.
[885] Benham, *ILE*, 171 and 177-178.
[886] *Treaty of Devol*, 127-128.
[887] *Treaty of Dover* (1101), c. 13.
[888] For a discussion of this, see Benham, *ILE*, 176-178.

however they will hasten to find those missing in good faith, if they can, to supply the [full] number'.[889]

While Nicol does not note why these men might be absent, and Penna notes this absence may be due to death or desertion, given the vagueness of this clause and that other treaties specifically cite this as an issue, it seems fair to assume that illness was one of a number of causes covered by this particular clause.[890] This is distinct from the ill health of a ruler as in the *Treaty of Dover* (1101) and *Treaty of Devol*, being more concerned with the health of the provided troops more generally. However, this demonstrates that the practical realities of supplying troops who were also vulnerable to illness were taken seriously, particularly as this could lead to a breach of the agreement.[891] These clauses can even be seen as attempting to limit the spread of serious illness, plague often ravaging campaigning armies. For instance, Bohemond's army was decimated by disease prior to the negotiations of the *Treaty of Devol*.[892] If such clauses were not in the agreement, one can see how the supplier might be tempted to still send men who were sick to fulfil the terms of their service, and still gain their payment or additional reward, but this would ultimately risk the employer's larger force succumbing to disease. By incorporating these clauses into the treaty, the employer allowed time for the supplier to make up any deficit in their numbers due to disease, without the supplier risking the payment for their services. While Benham has seen illness impeding a contracted service as a 'lawful excuse', it is clear that a more widely spread disease (epidemic), putting the contracting ruler's forces at risk, or even risking a larger scale pandemic, was also a factor here. In modern international diplomacy, the prevention of a

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[889] 'Postquam uero stolus noster stolo Imperialis celsitudinis unitus fuerit, debent numerari homines, qui in galeis erunt, a capitaneo stoli Imperii eorum, si ipse uoluerit; et inuenti quidem erunt in seruitio celsitudinis eorum; absentes uero bona fide festinabunt reperire, si possunt, numerumque supplere'; *Treaty of Constantinople* (1187), 197.

[890] Nicol, *Byzantium and Venice*, 112; Penna, *The Byzantine Imperial Acts*, 49.

[891] Benham, *ILE*, 176-178.

[892] *Alexiade*, III, 114-117.

legal obligation due to an unforeseen, large-scale, event or circumstance beyond the state's control is referred to as a *force majeure*.[893] While Benham sees *force majeure* as distinct from legal excuses, it is clear that with regard to illness and military service, there is a link between the two concepts.[894]

Indeed, disease as a lawful excuse seems to go hand in hand with other justifications for absences, such as defending one's own territory or being already on campaign when the contracting party calls for aid.[895] For instance, the *Treaty of Devol* states Bohemond would provide the necessary aid unless he was already involved in another conflict.[896] Similarly, clause four of the 1101 *Treaty of Dover* also excepts the count of Flanders from service on account of potentially losing his land, presumably from invasion.[897] That these clauses are each contained within the same sentences as the statements on sickness, highlights just how interconnected these justifications were in the eyes of medieval rulers. Indeed, just as there are clauses that practically must refer to sickness but do not do so explicitly, there are also clauses that seemingly refer to exemption from service due to an attack on the providing party. For instance, the 1187 *Treaty of Constantinople* states that 'if on account of any trouble they (the Venetians) will have not been able to come in support with ships of this kind from Venice' the Emperor Isaac could conscript up to three quarters of the Venetian population already in the empire.[898] The 'trouble', *grauamen*, referred to almost certainly encompasses various likely obstacles, such as storms and other natural disasters, but also likely concerns

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[893] Benham, *ILE*, 171-180.
[894] Benham, *ILE*, 171-180.
[895] On the difference between lawful excuse and justification, see Benham, *ILE*, 145-180.
[896] *Treaty of Devol*, 127.
[897] This is repeated in clause 13 as well. *Treaty of Dover* (1101), cc. 4 and 13.
[898] 'Item, si ob aliquod grauamen nequiuerint huiusmodi galee secundum prefixum terminum uenire Venetia, debent in seruitium stoli Imperii eorum ingredi omnes inuenti in Romania Venetici, de quatuor tres…'; *Treaty of Constantinople* (1187), 198-199.

any potential invasion of Venetian territory.[899] The 1175 *Treaty of Windsor* has a similarly vague clause, stating that any Irish rebels will be dealt with by Ruaidrí, king of Connacht. However, 'if he (Ruaidrí) will not be able to do justice on them himself', the constable of the king of England will do so.[900] While no explicit reason is given for this, again, it seems likely that dealing with a potential invasion, or being on campaign, illness, or any other possible lawful excuse is being alluded to. While both Nicol and Penna have touched on the 1187 treaty, neither have noted the significance of the above clause, or noted what the hypothetical 'trouble' might be.[901] Similarly, Duffy, despite seeing the *Treaty of Windsor* as a significant but unsuccessful peace-making achievement of King Ruaidrí, notes nothing on this clause regarding Ruaidrí's ability to 'do justice'.[902] Even Benham's work, which explicitly focuses on lawful excuses in a treaty-making context, does not note these clauses in either treaty, nor does she highlight that such clauses, although vague, clearly refer to lawful excuses of some kind.[903] Indeed, the vagueness of these clauses likely permitted parties to allow for more unexpected events, rather than being specific about hypothetical exemptions to service. Although this might hamper a service being provided, such as doing justice on a potential rebel as in the *Treaty of Windsor*, it still allowed the treaty itself to remain, and ensured other services and obligations of the treaty could still be performed.[904]

These lawful excuses even foresaw, and actively anticipated, the conflicting obligations between various different parties throughout the medieval world. This intricate network of obligations had to be navigated carefully by rulers, and both the Byzantine emperors and English kings put much effort into respecting any commitments to third parties. For instance,

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[899] It is worth noting that Benham argues storms at sea are largely referred to in treaties as 'acts of God'. Benham, ILE, 172. However, the term *grauamen* likely encompasses all of these things.

[900] 'Et si eos per se justitiare non poterit'; *Treaty of Windsor*, 84.

[901] Nicol, *Byzantium and Venice*, 112-114.

[902] Seán Duffy, 'Henry II and England's Insular Neighbors', in *Henry II New Interpretations*, 140-141.

[903] Benham, ILE, 177-180.

[904] For instance, the *Treaty of Windsor* still has Ruaidrí pay Henry II annually in animal-hides. *Treaty of Windsor*, 84.

as noted above, the 1101 *Treaty of Dover* specifically names the French King Philip I as a potential invader of England and Normandy, and also states that English rebellious barons may be the target of the hired Flemish forces.[905] However, the count of Flanders was allowed some exemptions to this if his service to the king of England conflicted with his service to the king of France, the king of France being his liege lord.[906] Specifically, if the French king invaded Normandy and summoned Robert for support, Robert was to support the French king with only twenty men, but send the remaining 980 to support Henry I.[907] The treaty effectively recognises the responsibilities of the count of Flanders, and includes them into the treaty to allow the military service to take place.[908] Additionally, clause 14 states that if service is required in Maine, 500 troops will be sent and will serve as a part of Henry I's household troops.[909] This may well have helped disguise these hired men as English troops, and not alert the French king to one of his liegemen helping an enemy.

Such exemptions also exist in Byzantine treaties. Indeed, the complex relationship between the Italian cities, Byzantium, the Western Empire, and Sicily, is frequently alluded to within the treaties and the surrounding narrative evidence. For example, the 1187 *Treaty of Constantinople* states that the Venetian navy would not serve against the 'king of the Germans', being the western Roman emperor.[910] Nor would it serve against the king of Sicily, unless he was shown to be the aggressor.[911] Additionally, Byzantium was to come to the defence of Venice against any hostile attack.[912] However, the treaty explicitly states that if

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[905] *Treaty of Dover* (1101), cc. 1 and 5. For more on this, see Benham, 'Law or Treaty', 491-492.
[906] *Treaty of Dover* (1101), cc. 4 and 12.
[907] *Treaty of Dover* (1101), c. 12. Also see commentary on this in Oksanen, *Flanders and the Anglo-Norman World*, 73-75; Ganshof, 'Note Sur Le Premier Traité', 250-251;
[908] Benham argues that this reflects that well-defined obligations had to account for such third-party obligations to avoid breaches of the treaty and to ensure that rulers could continue to maintain as many relationships with different people as possible. Benham, *ILE*, 30-31.
[909] *Treaty of Dover* (1101), c. 14.
[910] 'regem Alemannie'; *Treaty of Constantinople* (1187), 199. This reflects the Venetian obligations to the German emperor being renewed in 1177. *Die Urkunden Friedrichs I*, III, 207-208.
[911] *Treaty of Constantinople* (1187), 199.
[912] *Treaty of Constantinople* (1187), 202-203.

the king of Sicily attacked Venice due to the aid given by the Venetians to Byzantium, the

Emperor Isaac would act as he saw best.[913] While this might seem 'unfair' to the Venetians,

they may well have thought it unlikely the Sicilian king would attack Venice for serving

Byzantium at all, even if the Venetians served Byzantium directly against the Sicilian forces.

The 1175 treaty between the Venetians and the king of Sicily explicitly states that all

Venetians and their assets would be safe within the lands and sea of the king of Sicily, bar the

Venetians serving the Byzantine emperor.[914] That the treaty between the Sicilians and the

Venetians is explicitly referred to within the 1187 *Treaty of Constantinople*, even stating that

the Venetian-Sicilian treaty would expire in seven years and nine months, shows that it is

likely the Byzantine-Venetian treaty was made with the Sicilian treaty in mind.[915] Thus, the

Venetians were confident they need not fear Sicilian attack. Furthermore, the 1198 *Treaty of*

Constantinople, made by Emperor Alexios III Angelos after the Venetian treaty with Sicily

expired, no longer exempted the Venetians from service against the Sicilian king.[916] Indeed,

while this certainly reflects the Venetian-Sicilian treaty expiring, it may also reflect a

potential strengthening of relations between Byzantium and Venice, before the dramatic

decline leading to the events of 1204, as the treaty also explicitly states:

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[913] *Treaty of Constantinople* (1187), 203.

[914] 'In regno nostro et in reliqua terra et mare potestatis nostre Dux Venetie et Venetici salvi et securi erunt per terram et mare in personis suis et eorum pecuniis de hominibus nostris et stolio nostro et galeis nostris, exceptis cursalibus et illis, qui contra regnum nostrum egerint, et exceptis illis, qui fuerint in auxilio Imperatoris Constantinopolitani ad deffendendum ejus Imperium in galeis illis'; *Urkunden zur älteren Handels- und Staatsgeschichte der Republik Venedig*, I, 173. Clearly the practical nature of treaties recognised that the men of one community or people could at times be found on both sides of a conflict.

[915] '…salua conuentione [interuentione] inter Veneticos et nobillissimum regem Sicilie Vilielmum facta, que protenditur usque in annos septem et menses nouem, computandos a principio Januarii mensis presentis sexte indictionis.'; *Treaty of Constantinople* (1187), 199.

[916] *Treaty of Constantinople* (1198), 126.

'In such a manner and in such order the Venetians will aid and defend Romania against every man crowned and uncrowned, and any people wanting to harm Romania, as stated above; and against the king of Germany (*regem Alemannie*) himself'.[917]

When compared to the 1187 Byzantine-Venetian treaty, with clauses exempting the Venetians from the king of Sicily and the German emperor, it seems Alexios III hoped to strengthen Byzantium's military might through Venice, and was weary of his Sicilian and German counterparts.

Navigating this complex web of relations and obligations within the Italian peninsula seems to have motivated Byzantium's rulers to utilise the military services of different Italian cities with specific enemies in mind. For example, it is widely known that the Byzantine emperors consistently appealed to the Venetians for aid in combating the Sicilians and other Norman states in Southern Italy.[918] Traditionally, this has been framed as the Venetians feared Sicilian control of the Adriatic, and preferred potential Byzantine control of the sea due to the lucrative trade privileges the Venetians enjoyed in Constantinople, and later much of the Byzantine Empire.[919] While this is certainly a factor, Venice's position as arguably the premier naval power on the Adriatic, as well as their relative tardiness in gaining trade privileges in Sicilian territory (unlike their Genoese rivals, and to a lesser extent the Pisans), meant they were the premium partner for any Byzantine action against the Sicilian kings.[920] Indeed, it is quite telling that Byzantium never enlisted the Genoese against the Sicilians, particularly given that the Genoese were the earliest of the northern Italian cities to gain

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[917] 'Tali itaque modo talique ordine iuvabunt et defendent Romaniam Venetici contra omnem hominem coronatum et non coronatum, et contra omnem gentem Romaniam nocere volentem, prout superius declaratum est; et contra ipsum regem Alemannie'; *Treaty of Constantinople* (1198), 126.
[918] Nicol, *Byzantium and Venice*, 85; Abulafia, *The Two Italies*: *Economic Relations Between the Norman Kingdom of Sicily and the Northern Communes*, 54-55.
[919] Abulafia, *The Two Italies*, 54-55.
[920] The Genoese seem to have had privileges in Sicily from 1116. Venice's consistent aid to Byzantium against the Sicilians cannot have helped in gaining privileges in Sicily, Venice providing aid in 1082, 1108 and 1148 against the Sicilians. *Treaty of Constantinople* (1082), 51-52; *Alexiade*, III, 53-54; *Treaty of Constantinople* (1148), 109.

trading privileges in Sicily.[921] The Sicilian kings even acted to prevent Byzantium, and other powers, from utilising the Genoese against Sicily, the Sicilian-Genoese treaty of 1156 explicitly prohibiting the Genoese from lending their fleet to any enemies of the Sicilian king.[922] Given Byzantium's consistent use of the navies of the Italian city states, it seems likely Byzantium was one of these enemies. With this in mind, rulers clearly chose whom to call upon for particular military service while taking into account the existing obligations, and loyalties, of their possible partners. More generally the practical nature of treaties recognized that the men of one community or people could at times be found on both sides of a conflict, and that in a world where alliance networks were often complex, allegiance was not so clear cut.

Such diplomatic networks built by the Byzantine emperors and utilised for the movement of military service went beyond the Italian peninsula, although the evidence from treaties on this is less substantial. In *De Administrando* Constantine VII famously describes the geopolitics of the peoples surrounding Byzantium, explicitly highlighting that Byzantine emperors would do well to have good relations with the Pechenegs.[923] Specifically, Constantine emphasises that the Byzantine-Pecheneg relationship was particularly important, as the Pechenegs could be induced to attack a number of Byzantium's neighbours and potential foes, including the Turks, Bulgars and Rus'.[924] Patriarch Nicolas Mysticus, writing in the tenth century, even threatened the Bulgar leader Symeon with a cabal of 'every race' being arranged against him.[925] Indeed, this sentiment is echoed to the tenth century envoy Liudprand of Cremona, who was told that the emperor could raise all nations against his liege.[926] Of course Byzantium's enemies realised how the emperors could utilise their diplomatic networks to

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[921] *I diplomi greci ed arabi di Sicilia*, ed. S. Cusa, 2 vols (Palermo: Stabilimento Tipografico Lao, 1868), I, 359.
[922] *CDRG*, I, 339-341; Abulafia, *The Two Italies*, 91.
[923] *De Administrando*, 48-49.
[924] *De Administrando*, 48-53.
[925] Nicholas I, *Letters*, 160-161.
[926] Liudprand of Cremona, *Embassy*,271.

harass those that they fought. Indeed, Patriarch Nicolas reports of Bulgarian efforts to undermine the Byzantine-Pecheneg relationship, stating the Byzantine governor of Kherson had reported Bulgarian diplomatic efforts to gain the support of the Pechenegs in attacking the empire.[927] Navigating this network of relationships was thus not only an essential aspect of Byzantine peace-making, but also an important part of Byzantine military strategy and the movement of military service, albeit not always being concerned with Byzantium's military. The only treaty that actively touches upon this northern network is the 945 Rus' treaty, which states that the Rus' were to defend Kherson from the 'Black Bulgarians'.[928] This strategy served Byzantium well against its northern neighbours, however it was not without its drawbacks. In 971, John I Tzimiskes, having enticed the Rus' leader Sviatoslav to attack the Bulgars, found himself at war with the Rus', who were strengthened by a swift conquest of the Bulgars.[929] Although Byzantine forces subsequently bested the Rus', and brought Sviatoslav to the negotiating table to make the 971 treaty, this incident demonstrates relying on other powers did have its risks. However, Byzantium seems to have consistently utilised this network to appeal to a number of different Steppe peoples, particularly in the tenth century, to counterbalance their powerful and ambitious northern neighbours, particularly the Bulgars. Thus, these treaties and the surrounding evidence reflect the existence of large diplomatic networks, which rulers utilised to gain manpower and military support from outside of their own realms. These treaties also reflect the obligations of the parties involved and attempted to allow the provider an element of flexibility to respect their commitments, while still providing the required service.[930]

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[927] Nicholas I, *Letters*, 58-59.
[928] *Treaty of Constantinople* (945), 76.
[929] *Treaty of Silistra*, 89-90. Curiously, the 971 treaty itself does not reveal much information on the Byzantine peace-making networks.
[930] For more on this, see Benham, *ILE*, 21-39.

Unsurprisingly, similar networks were utilised and navigated by the kings of England, and underpinned which ruler the kings of England appealed to for additional troops and military support. I have already touched on the 1101 *Treaty of Dover* recognising the count of Flanders's commitments to the king of France, but still allowing for aid to be sent to Henry I.[931] However, we have substantial evidence for the English kings actively building a network of rulers against their French counterparts more generally. Although these treaties tend to be vague commitments of allegiance, they still evidence appeals for military aid, and show the active approach English kings took to building a wide network of potential allies. For instance, the 1197 *Treaty of Andeli* between Richard I and Baldwin IX count of Flanders has the two become allies, and undermines the French king Philip Augustus, stating neither party was to make peace with Philip without the other.[932] However, both the treaties of Dover and the *Treaty of Andeli* (1197) clearly undermined the power of the French King, who was after all the liege lord of the counts of Flanders. Indeed, King John saw this relationship as so important, that he renewed the treaty in the first year of his reign.[933] John also made another treaty in the first year of his reign with Renaud de Dammartin count of Boulogne, another of the French king's liegemen.[934] This treaty again reiterates that neither party was to make peace with the French king, and that they would aid each other when either of them was in conflict with the French ruler:

'And [if] the king of France afterward wars with one or the other, it was agreed that the said king of England and the count should bestow mutual aid and assistance to one another, as best they will be able...'.[935]

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[931] *Treaty of Dover* (1101), cc. 4 and 12.
[932] *Treaty of Andeli* (1197), 466.
[933] *Treaty with Baldwin* (1199), 77.
[934] *Treaty of Andeli* (1199), 77.
[935] 'Rex Angliae pacem aut treugam cum Rege Franciae non faciet, nec facere poterit absque voluntate ett assensu ejudem comitis; nec idem comes facere poterit pacem aut treugam cum rege Franciae, absque voluntate

The phrasing 'mutual aid and assistance' (*mutuum subsidium et auxilium*) in particular is suggestive, as it is effectively repeated in the *Treaty of Andeli* (1197), and the 1199 treaty between King John and the count of Flanders.[936] Such intertextuality is not necessarily surprising, particularly given the close temporal proximity of these treaties. However, this does evidence a clear attempt to navigate and utilise the complex network of allegiances surrounding the English kings to undermine their French counterparts, and to gain military support from the French king's own liegemen. Such was the threat posed by these agreements, that Philip eventually forced John to cease aiding any of the French king's liegemen that wished Philip harm, singling out the count of Flanders in particular, at the *Treaty of Le Goulet*.[937] The French king was thus keenly aware of the networks made against him. Indeed, Philip seems to have used such schemes himself. For instance, John, when acting as count of Mortain at the *Treaty of Paris* in 1193 acted against his brother, King Richard, stating he would not send men to aid the English king.[938] Conspiring with Henry II's various sons seems to have become the textbook strategy of the French kings during the latter half of the twelfth century, the Angevin kings just as often finding themselves the victims as the victor when it came to wooing their opponents liegemen and allies.[939] Although in these particular cases, such as the 1197 and 1199 Anglo-Flemish treaties, as well as John's attempt to conspire with the count of Boulogne, were ultimately unsuccessful in sufficiently undermining his French counterpart, this is clear evidence that the English kings, like their Byzantine counterparts, were also capable of creating and taking advantage of the complex web of relationships surrounding their realm.

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et assensu praedicti Regist Angliae… et Rex Franciae postmodum alterutri guerraret, convenit quod dicti Rex Angliae et comes ad mutuum subsidium et auxilium sibi invicem conferendum, prout melius poterunt…';
Treaty of Andeli (1199), 77.

[936] *Treaty of Andeli* (1197), 466; *Treaty with Baldwin* (1199), 77.

[937] *Treaty of Le Goulet*, 151.

[938] *Treaty of Paris*.

[939] For more on this, see *Henry II*, Hosler, 64-65; *The Letters of John of Salisbury, II, 636*-638; *Chronica*, II, 46-69.

The English kings were also involved in networks that targeted leaders other than the kings of France. For instance, the 1185 *Treaty of Najac*, between Richard, at the time count of Poitiers, and the king of Aragon confirms that each party would support the other. However, the likely aggressor listed is not the French King, but Raymond, count of St. Giles, each party agreeing:

'Indeed both of us agreeing that we had given each other faith and received a kiss that each should help the other in good faith and without fraud and without any ill will against Raymond, count of Saint Giles, so that neither of us should make truce, peace, concord, or any agreement with him, from this day forward, without the counsel, consent, and will of the other; and we also agreed with each other that we would both fight the same Count Raymond in person and with our men. And if one or both of us should be absent, each, for his part, should himself send and have in that war 200 armed men, according to this friendship and concord'.[940]

The aid given here is particularly interesting, specifically listing the number of troops each party was to provide the other due to the treaty, cementing that this was a practical way for rulers to safeguard themselves and draw upon support from beyond their own means. It is also suggestive that King John, in 1201, made a treaty with the king of Navarre, stating:

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[940]'Convenientes siquidem ambo ad invicem data hinc inde fide et osculo recepto quod alter alterum iuvet bona fide et sine fraude et sine omni malo ingenio contra Raimundum comitem Sancti Egidii, ita quod neuter nostrorum treugas, pacem, concordiam, sive aliquam composicionem cum eo faciat, ab hodierna die in antea, sine alterius consilio, assensu et voluntate, convenimus etiam ad invicem quod ambo guerrejabimus eundem comitem Raimundum per nos et per homines nostros. Et si alter nostrorum vel ambo defuerimus, uterque ex parte sua per se transmittat et habeat in ipsa guerra CC milites armators, pro hac itaque amicitia et concordia'; *Treaty of Najac*, 283. My thanks to Jenny Benham for her help in translating this.

'We swear and confirm that, in good faith and without any deceit, we will give to the same king (being John) advice and assistance in every way, according to our power, in person as through our men and faithful, and with our money against all men'.[941]

Here, the support offered extends beyond simply military support in terms of troops, including advice, and even additional resources, perhaps being financial aid, to help John in any conflict. Indeed, the terms *auxilium et consilium*, 'help and advice', are staples of alliance treaties, generally noting vague obligations of support between the two involved powers. These treaties still respected the obligations of the parties involved. For example, the aforementioned *Treaty of Chinon* touches upon the obligations of the king of Navarre, the treaty clarifying that John would receive aid against all men 'only the king of Morocco excepted'.[942] Clearly, this elaborate web of relationships that stretched from England, across France, and into the Iberian peninsula, even touching the Islamic world of Iberia and North Africa, was a necessary tool utilised by the rulers this network traversed, and both recognised, and took advantage of the commitments of various rulers, to help secure military service and aid in potential conflicts.

These intricate networks of obligations that rulers had to navigate while making treaties touch upon another factor, that of limiting possible military aid to potentially hostile parties. Most commonly, this appears in the form of a clause restricting aid be given to the enemies by one or both of the parties involved. For instance, the 1155 *Treaty of Genoa* states that the Genoese 'shall not form plans or take action, either alone or through third parties, or in association with others, causing the Lord Manuel… to lose territory or real estate…'.[943]

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[941] 'Juramus et firmamus quod, bona fide et sine omni fraude, dabimus eidem Regi consilium et auxilium modis omnibus, pro posse nostro, tam per nos ipsos quam per homines et fideles nostros, et cum pecunia nostra contra omnes homines…'; *Treaty of Chinon*, 85. My thanks to Jenny Benham for her help in translating this.

[942] '…solo Rege Moroccorum excepto…'; *Treaty of Chinon*, 85.

[943] *Treaty of Genoa* (1155), 264. Translation from *Caffaro, Genoa and the Twelfth Century Crusades*, 196. These clauses often concern exiles, and I have examined them in the previous chapter. However, it is clear that

Additionally, the *Treaty of Le Goulet*, between King John and Philip Augustus, is of particular interest here. The treaty, as touched on above, states John was not to aid the count of Flanders specifically, or any of the other liegemen of the king of France, if these liegemen attempted to cause any harm to the French King.[944] This clause has, quite rightly, been viewed in light of the Anglo-Flemish *Treaty of Andeli* (1197), as well as the 1199 treaty between John and Count Baldwin, both of which state the rulers involved would provide military service and support for the other.[945] What has been given less attention, is that this clause is repeated, with Philip promising not to aid any of John's liegemen who mean to do John harm.[946] This could have referred to any number of John's subjects, but perhaps the leading suspect is Arthur of Brittany, or at least those that supported the child duke, who had previously been a part of Philip's court, as the treaty states John was to receive Arthur as his liegeman.[947] While both Maurice Powicke and Wilfred Warren have noted Arthur was to be John's liegeman, each of them only note that John was to cease encouraging the counts of Flanders to disobey the king of France, and do not note the French king reciprocates this obligation with regard to John's own vassals.[948] Indeed, Powicke in particular sees the treaty as solely isolating John from allies, and ignores that Philip Augustus swore a similar clause.[949] Although John eventually lost most of his continental holdings, to attribute this to a clause isolating John from the counts of Flanders while ignoring that the French king swore the same to John is to interpret the *Treaty of Le Goulet* through the lens of hindsight without

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this also applied to rulers and peoples as well. For discussion of this regarding exiles see Chapter 4. Note that the Genoese quite cunningly find a loophole here for their 1156 treaty with the Sicilians, simply stating they would not aid anyone with their fleet, rather than actively hampering Byzantium. *CDRG*, I, 339-41; Abulafia, *The Two Italies*, 91.

[944] *Treaty of Le Goutet*, 151.

[945] *Treaty of Andeli* (1197), 466; *Treaty with Baldwin*, 77.

[946] *Treaty of Le Goulet*, 151.

[947] *Treaty of Le Goulet*, 150; Maurice Powicke, *The Loss of Normandy*, 2nd edn (Manchester: MUP, 1961), 138; W. L. Warren, *King John* (London 1961), 54-56.

[948] Powicke, *The Loss of Normandy*, 135-138; Warren, *King John*, 54–56.

[949] Powicke, *The Loss of Normandy*, 140.

giving due diligence to the treaty's clauses.[950] Indeed, we can even see these clauses as renewing the commitment of King Richard and King Philip to not accept the liegemen of one another, as stated in the *Treaty of Louviers*.[951] We can also see the 1193 *Treaty of Paris* between John, acting as count of Mortain and Philip Augustus as a good example of cutting off potential aid. Here, John swears that he will hold land from the king of England but will not be compelled to enter service on behalf of Richard, and will only send Richard as many men as he would send during peace time.[952] In other words, Philip reduced the effectiveness of Richard's forces, by ensuring one of Richard's liegemen would send inadequate help to any potential summons. Thus, it is certain that rulers acted to restrict the military aid and service that could be offered to their rebellious liegemen, cementing their power over their vassals and nullifying a threat to their rule. Restricting military aid and service to another power was a tool within a ruler's diplomatic arsenal, and was just as important as giving military service.

Ultimately, whatever service was offered, whether military service, the service of transport, or preventing service being given all together, rulers expected payment for the service they provided. Treaties are not always so specific regarding payment. For example, the 1169 *Treaty of Genoa* has the Emperor Manuel pay the Genoese enlisted in Byzantine service 'the standard financial payment… usually paid to the Latins'.[953] However, this is not representative of all treaties regarding hired military service. The 994 *Treaty of Andover* is

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[950] Benham, *PMA*, 204-207.

[951] *Treaty of Louviers*, 18.

[952] 'Quod si non posset, consilium eius esset quod huiusmodi pacem facerem, scilicet quod eam terram quam haberem pro pace a rege Anglie ita eam tenerem ab eo quod pro nulla causa venirem ad submonitionem eius, sed semper per aduocatum aut per nuncium absens agerem vel responderem et tantum ibi facerem per aduocatum aut per nuncium meum aut ad adquirendum aut ad perdendum…'; 'tanquam si ibi presens essem, nec compellerer ire in exercitum vel in equitationem sed mitterem tot milites quot ordinatum fuerit in pace, quando pax fiet'; Treaty of Paris.

[953] '…universi Ianuenses qui tunc inventi fuerint in terris Romanie debent intrare in galeis domini imperatoris cum consuetis soldis curie domini imperatoris quos consuevit dare Latinis…'; *Treaty of Genoa* (1169) [MS B], 186. Translation from *Caffaro, Genoa and the Twelfth Century Crusades*, 206. Unfortunately, no document detailing how much this payment would be had survived.

explicit on this, the English king paying 22,000 pounds of gold and silver for the agreement, and also providing the army with food while it serves.[954]

The *Treaty of Devol* is an interesting case study here, as Bohemond and his territory were to become a part of Byzantium, and as such Bohemond was paid an annual 'talent', *τάλαντα*, of 200 pounds of the Emperor Michael, likely referring to Alexios's predecessor, Michael VII Doukas.[955] Leib has argued that this particular reference to Doukas reflects the monetary crisis of Alexios's reign, resulting in lower grade coinage.[956] While this is of interest in and of itself, this is particularly comparable to the 1074 *Treaty of Constantinople* between Robert Guiscard, Duke of Sicily, and Emperor Michael Doukas. The treaty proposes Guiscard be the enemy of Doukas's enemies, and fight with the emperor's forces whenever the emperor required him to do so, in return for a wage of 200 pounds.[957] Of course, these requirements are mirrored in the *Treaty of Devol,* although Alexios appears to have a far more direct approach in controlling Bohemond's realm, as well as making Bohemond and his followers the emperor's liegemen.[958] Doukas also rewards Guiscard with a number of titles, to distribute amongst his followers, each with an attached wage, which, as explicitly highlighted in the treaty, adds up to a total of 200 pounds, 'ὄσα συμπλαηροῖ ἐνιαύσιον ρογας ποσότητα εἰς δύο κεντηνάρια συναριθμουμένην'.[959] As we shall see, the term *ρογας*, 'rogas', meaning wage or pension, is often used in Byzantine treaties paying a foreign ruler for military service, but, perhaps strangely, the term is not used in the *Treaty of Devol*.[960] However, of particular interest here is the value of the cash paid for the anticipated service, each treaty

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[954] *Treaty of Andover*, c. 7.2.
[955] *Treaty of Devol*, 136-137.
[956] *Treaty of Devol*, 136-137 (fn. 4).
[957] *Treaty of Constantinople* (1074), 141.
[958] *Treaty of Devol*, 126.
[959] 'καὶ ἁπλῶς εἰπεῖν τοσαῦτά σοι τὸν ἀριθμὸν ἡ Βασιλεία μου δίδωσιν ἀζιώματα σύν γε τψ κουροπαλατικψ, ὄσα συμπληροῖ ἐνιαύσιον ρογας ποσότητα εἰς δύο κεντηνάρια συναριθμουμένην'; *Treaty of Constantinople* (1074), 142.
[960] *Treaty of Devol*, 125-139.

with these Norman rulers giving 200 pounds worth of money.[961] Although Leib is certainly right in saying that the payment made in the *Treaty of Devol* explicitly being made from coinage of Doukas is linked to the monetary crisis of Alexios's own reign, it also seems likely this payment actively mirrors the 200 pounds Doukas was willing to pay Guiscard in the 1074 treaty.[962] It also shows the costs of rewarding one's followers, at least in the context of Norman rulers in the Mediterranean world, was similar between 1074 and 1108, perhaps revealing that the makeup of Bohemond's followers, and the hierarchy amongst them, was sufficiently similar to Guiscard's that 200 pounds split between them was still sufficient reward for their service. Given that the 1074 treaty goes into depth as to how the 200 pounds was divided between various different titles, which Guiscard was to allocate to his own followers at his own discretion, it seems likely the mirrored payment in the *Treaty of Devol* performed a similar function, providing payment not only for Bohemond, but also for his followers. However, a vital difference here is Bohemond and his followers becoming the liegemen of Alexios, and thus receiving the payment from the liege lord directly. Doukas does not become the liege lord of Guiscard in the 1074 treaty, and the treaty actively comments on Guiscard's right to bestow the titles and payments as he saw fit.[963] Indeed, the treaty seems more between equals, the word *συμμαχία*, 'alliance', being used, while the *Treaty of Devol* clearly has Bohemond negotiating from an unfavourable position.[964] It is easy to imagine how receiving payment, and titles, directly from the emperor, rather than from the Sicilian leader, would cement ties between the bestower and the receiver. As such, we can see the *Treaty of Devol* as an evolution of the 1074 *Treaty of Constantinople*, utilising a different, but pragmatic, method of payment in an attempt to create lasting bonds of loyalty.

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[961] *Treaty of Constantinople* (1074), 142; *Treaty of Devol*, 136-137.
[962] *Treaty of Constantinople* (1074), 142; *Treaty of Devol*, 136-137.
[963] *Treaty of Constantinople* (1074), 142.
[964] *Treaty of Constantinople* (1074), 143; *Treaty of Devol*, 126.

Other treaties also concerned payment for military service. The 1101 *Treaty of Dover* has

Henry I pay Count Robert a specific sum, 500 pounds of money in fief, in return for 1000

troops.[965] Similarly, the 1187 *Treaty of Constantinople* has Emperor Isaac II hire the

Venetians as ship makers and sailors.[966] For this service, the ship builders would be paid sixty

hyperpyra per man, while the sailors would be paid an unspecified wage, or *roga*.[967]

Although the sum of sixty *hyperpyra* is explicitly mentioned, this may have also been paid in

a mixture of actual coinage and goods.[968] This was also likely the case with the payment of

22,000 pounds of gold and silver in the *Treaty of Andover*. As Reuter has argued, payment in

kind appears to have been common in large parts of the medieval West throughout the ninth

century, payment for military service often being in the form of silks, gold and silver, horses

and arms, as well as more 'basic pay' in terms of food, accommodation, and clothing.[969]

Similarly, *De Administrando* highlights that this was a common practice when treating with

the Pechenegs, giving a number of goods used as payment for their services, including purple

cloth, pepper, and Parthian leather.[970] Although the wider Byzantine economy was likely

more monetised than its Western counterparts, the fact remains that Byzantium often gave

gifts as well as cash in return for military service from amicable peoples.[971] With this in

mind, we can even see the pallia given to the Genoese in 1155, as well as those given to the

Sicilians in the 1174 *Treaty of Constantinople*, as payment.[972] Certainly, Liudprand of

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[965] *Treaty of Dover* (1101), cc. 2 and 18.
[966] *Treaty of Constantinople* (1187), 197. The clause explicitly references the wage paid for the Corfu campaign of 1148.
[967] The *roga* is likely the same as that paid to the Genoese in the 1169 treaty, *Treaty of Genoa* (1169) [MS B], 186; *Treaty of Constantinople* (1187), 197.
[968] It should be noted, this is also true of both the 1155 *Treaty of Genoa*, and the 1201 *Treaty of Constantinople* with the Genoese. Certainly, both also contain gifts of vestments, lands and facilities, which are certainly a payment in kind. *Treaty of Genoa* (1155), 264; *Treaty of Constantinople* (1201), 193.
[969] Timothy Reuter, 'Plunder and Tribute in the Carolingian Empire', 76-85. It should be noted that Reuter states it is possible that arms and horses were part of the basic pay of soldiers, as they were required for their profession; Reuter, 'Plunder and Tribute in the Carolingian Empire', 84.
[970] *De Administrando*, 53.
[971] Laiou, *The Byzantine Economy*, 52.
[972] For instance, see *Treaty of Genoa* (1155), 263-264; *Treaty of Constantinople* (1174), 142-142.

Cremona's failed attempt to get pallia from the empire highlights the value of these garments.[973] It is quite clear that payment for these services also took other forms. Indeed, Henry II's treacherous son Geoffrey, the Duke of Brittany, raided the shrine of Saint Martial and paid his hired Brabanters with the captured treasures.[974] Roger of Howden estimates the value of the booty to be fifty-two marks of gold and twenty-seven marks of silver, implying that the plunder was not actual money itself, but goods equivalent to this value.[975] While Reuter has noted the use of gifts as a reward for military service, he is hesitant to see this as an economic transaction.[976] Reuter states this gift giving 'ran largely parallel to and independently from the normal economic circulation of goods'.[977] However, these agreements having clauses in which service is given in return for payment, which were often made in kind as shown in the surrounding evidence, clearly highlights that the giving of precious objects and metals, be they obtained through plunder or through trade, was a part of payment for these services, and thus an essential part of the medieval economy and hiring of military service.[978] We can see this within the treaties, and thus the giving of material goods in return for service was just as much an economic transaction as a symbolic gesture, at least in a treaty-making context.

Furthermore, 'gifts', or rather 'moveable gifts', were not the sole way payment was made for services provided in these agreements. The Byzantine treaties with the Italian cities often granted trade privileges and property. For example, the 1155 *Treaty of Genoa* explicitly states

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[973] While Liudprand states it is quite easy to get these garments through Venetian and Almalphitan merchants, this seems suspect. It begs the question why Liudprand would bother buying these in Byzantium, if they were so common in the Italian markets? See, Liudprand, *Embassy*, 271-272.

[974] Howden, *Chronica,* II, 277.

[975] Howden, *Chronica,* II, 277.

[976] Reuter, 'Plunder and Tribute in the Carolingian Empire', 85.

[977] Reuter, 'Plunder and Tribute in the Carolingian Empire', 85.

[978] Of course, it is quite clear that this was not limited to the pay of hired troops, but also prominent soldiers and followers of medieval rulers, and an important aspect of redress. On the former, see Reuter, 'Plunder and Tribute in the Carolingian Empire', 75-94. On the latter, see Jenny Benham, 'Peacemaking and Negotiations in High Medieval Scandinavia', in *The Nordic Civil Wars*, eds. Kim Esmark, Hans-Jacob Orning and Jon Viðar Sigurdsson (Berlin: De Gruyter, forthcoming 2022), 10-16.

that the Genoese would be granted facilities similar to the Pisans, presumably in return for their services.[979] The 1187 *Treaty of Constantinople* similarly states that if the Byzantines took any territory while being aided by the Venetian fleet, the Venetians would be rewarded with a church, quarter, and landing stage in that place.[980] Similarly, the 1191 *Treaty of Acre* states that if the Genoese provided their whole fleet in support of Richard I and the 'Christian army', the Genoese shall receive a share of the land won from 'the Saracens'.[981] If the Genoese only sent a portion of their fleet, they would receive a share in proportion to the number of ships they sent.[982] This form of payment existed in treaties beyond those with the Italian cities. The *Treaty of Devol*, for instance, states that if Bohemond should conquer any territory, he would defer the ownership of the territory to Alexios.[983] Bohemond was to accept whatever decision the emperor made regarding the territory, whether this resulted in Bohemond controlling the land, or resulted in the emperor or another Byzantine administrator receiving it, but Bohemond is also given a list territories that he may own without deferring to the emperor.[984] Furthermore, an accompanying document to the 1163 *Treaty of Dover* also states that land was often paid in exchange for the Flemish troops provided, supporting that the payment of 500 marks were in practice paid 'in fief' as stated in the treaty.[985] With this in mind, it is clear payment for military service was flexible in this period. Indeed, as highlighted at the start of this chapter, payment for military service in a treaty-making context was akin to how rulers paid for military service by their own followers. Given that many of the treaties that concern military service also explicitly have the contracted party swear fealty to the contracting ruler supports this. For instance, the *Treaty of Devol* has Bohemond swear

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[979] *Treaty of Genoa* (1155), 263. Similar clauses appear in the 1082 Byzantine-Venetian treaty. *Treaty of Constantinople* (1082), 52.

[980] *Treaty of Constantinople* (1187), 198.

[981] *Treaty of Acre* (1191), 16-17.

[982] *Treaty of Acre* (1191), 16-17.

[983] *Treaty of Devol*, 129-130.

[984] *Treaty of Devol*, 136.

[985] Chaplais, *Diplomatic Documents*, I, 12-13; 'in feodo'; *Treaty of Dover* (1163), c. 17.

to be the faithful liegeman of Alexios.[986] Similarly, the 1101 *Treaty of Dover* has the contracted troops pledge faith to Henry I upon their arrival in England, in addition to having the count of Flanders swear faith.[987] Thus, it seems rulers used treaties to expand their network of potential troops for military service, but utilised a similar approach to payment, and ensuring loyalty, which they used with their own followers.

The movement of military service within treaties is, fundamentally, a theme of practicality. The *Treaty of Andover* highlights that rulers were pragmatic in creating communities of foreign soldiers within their territory to use in the defence of their realms, or in utilising pre-existing communities as in the 1155 and 1169 treaties of Genoa.[988] This divide also explains why some treaties are general regarding the numbers of soldiers to be provided, as in the *Treaty of Andover* and the treaties of Genoa which utilised domestic communities, while others were quite specific, as in the 1101 *Treaty of Dover* and the 1187 Byzantine-Venetian treaty, both of which detail the hiring of troops from communities abroad.[989] While some treaties recognised likely potential enemies, scholarship has perhaps overemphasised this, the vast majority of treaties recognising that aid would be needed against an unanticipated foe, allowing further flexibility against possible enemies.[990] The infrastructure required to move these services was also recognised, rulers often offering to either not hinder, or to actively help transport the armies they were enlisting for aid. In addition, treaties could aid armies in crossing a ruler's territory, as was the case in the *Treaty of Adrianople*.[991] These agreements further anticipated the immense strain on the local economy transferring such a large force could cause, often anticipating the need to provide markets for the purchase of provisions for

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[986] *Treaty of Devol*, 125-126.
[987] *Treaty of Dover* (1101), cc. 1 and 3.
[988] *Treaty of Andover*, cc. 1.1-1.2; *Treaty of Genoa* (1155), 264; *Treaty of Genoa* (1169) [MS B], 186-187.
[989] *Treaty of Dover* (1101), c. 2; *Treaty of Constantinople* (1187), 196-197.
[990] *Treaty of Devol,* 128; *Treaty of Dover* (1101), c. 7.
[991] *Treaty of Messina* (1190), 62; *Treaty of Baghdad*, 66; *Treaty of Aleppo*, cc. 8 and 9; *Treaty of Adrianople*, cc. 2, 3 and 10.

the foreign military.[992] Moreover, both Byzantium and England utilised other rulers as 'recruitment officers' through treaties, but only Byzantium had other rulers host Byzantine recruitment officials via these agreements.[993] Despite the latter being specific to Byzantium, it is clear both roles were intended to increase the potential flow and movement of hired troops. The treaties also recognised possible lawful excuses which could impede a contracted service and provided solutions. Specifically, treaties address how to proceed if one party was sick, or if one party was on campaign or under attack when called upon to fulfil their service.[994] Interestingly, both Byzantine and English rulers were aware of the complex web of allegiances and obligations they had to navigate in order to gain and retain a service, and Byzantium in particular seems to have sought out specific parties for service against particular enemies, such as the Venetians against the Sicilians. Of course, payment of these forces is often detailed within these agreements. However, by utilising a combination of these treaties, such as the 1155 *Treaty of Genoa* and the 1187 *Treaty of Constantinople*, in conjunction with surrounding evidence, such as the accompanying document to the 1163 *Treaty of Dover*, we can see clearly that payment for these services was often in kind rather than in cash.[995] Indeed, given that payment was at times given in the form of land, and that hired troops had to swear fealty to the contracting ruler, the divide between 'regular troops' and foreign hired troops is incredibly blurred in this period. Perhaps even to the extent that it is difficult to justify there being a divide at all, other than the latter being hired via treaty from a population outside of the contracting rulers' realm.[996] The provision, accommodation, and payment for the movement of military service reflects the practical needs of both the employer and supplier. The provision of troops was expensive and required extensive legal

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[992] *Treaty of Adrianople*, c. 10; *Treaty of Baghdad*, 66; *Treaty of Aleppo*, c. 8.
[993] For instance, see *Treaty of Constantinople* (1187), 200; *Treaty of Dover* (1101), c. 7.
[994] *Treaty of Dover* (1101), c. 4; *Treaty of Devol*, 127-128.
[995] *Treaty of Genoa* (1155), 263; *Treaty of Constantinople* (1187), 198; Chaplais, *Diplomatic Documents*, I, 12-13.
[996] *Treaty of Devol*, 125-126; *Treaty of Dover* (1101), c. 1.

infrastructure and foresight, as well as an awareness of the obligations of the various parties involved. This is not often credited to medieval entities, but can be seen in the treaties of both Byzantium and England. Importantly, the treaties highlight that military service was desired by each of these entities, and steps were taken towards providing it within these legal agreements. The narrative evidence further backs these conclusions, providing complementary details as well as evidence that military service was often provided. This clearly shows that these treaties were not simply idealistic sentiments but grounded in practicality.

Chapter 6: The Movement of Goods

The movement of people and the movement of services go hand in hand with the movement of goods. This has already been touched on a little above, particularly in terms of contracted supplies to support campaigning armies. However, trade more generally was an important issue for the rulers of the medieval world. The tenth-century Abbasid geographer Abu al-Qasim saw Byzantium as the central trade hub between eastern and western trade, and an essential stopping point for merchants involved in long distance trade.[997] By contrast, when touching on England, referring to it as 'Tulia', he states no ships visit there, nor does it export any products.[998] Of course, this seems a simplification, and one can hardly be surprised that someone based in Egypt had not heard of significant trade at the edges of a separate continent. However, this notion that Byzantine trade was lucrative, and was an essential feature of the empire, while English trade was less prominent, has persisted in modern historical scholarship and affected scholarly approaches to studying treaties and peacemaking. For instance, Nicol views the wealth and trade of Byzantium as being a magnet for Venetian merchants, while Abulafia even sees Venetian relations with other powers being actively shaped by the lucrative privileges awarded to the Venetians in Byzantium.[999] Both evidently recognise the prominent place that trade had in Byzantium's treaties with Venice. Conversely, scholarship on England seems quite hesitant to make similar comments. While Oksanen notes the importance of cross-channel commerce between the Anglo-Norman world and Flanders, he is more focused on the payment for military service through peace-making and diplomacy within treaties rather than any movement of goods.[1000] This is unexpected, as

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[997] *Medieval Trade in the Mediterranean World*, eds. Robert S. Lopez and Irving W. Raymond (New York: W.W. Norton and Co., 1967), 31-32.

[998] *Medieval Trade in the Mediterranean World*, 31. Tulia refers more generally to the island of Britain, but the sentiment stands.

[999] Nicol, Byzantium and Venice, vii-viii; Abulafia, *The Two Italies,* 54-55.

[1000] Oksanen, *Flanders and the Anglo-Norman World*, 145-146.

the archaeological evidence for English trade shows English maritime trade was a prominent economic force in Northern Europe, revealing that the lacking written evidence is more of a privation than evidencing a lack of Anglo-centric trade.[1001] While scholars have been hesitant to engage with trade within the English treaty corpus, more generally, trade is seen as one of the defining factors of medieval diplomacy by both Byzantinists and scholars of the medieval West. For instance, Shepard has seen trade as the principal motivator behind the series of treaties made between the Rus' and Byzantium.[1002] Similarly, Abels has seen the 'facilitation of commerce across… borders' as a primary concern of the *Alfred-Guthrum Treaty*.[1003] Certainly, the earliest treaties considered in this thesis each have clauses dedicated to the movement of goods in some manner, both the *Alfred-Guthrum Treaty* and the *Treaty of Constantinople* (911) providing a framework for trade between the parties involved, the latter even having provisions on shipwreck.[1004] However, while scholars commonly recognise the importance of trade within treaties, rarely are clauses concerning trade given in-depth analysis. For instance, Shepard focuses more on Byzantine-Rus' trade as a means by which Byzantine ideas infiltrated Rus' society, without discussing any of the trade clauses within the treaty itself.[1005] Likewise, Abels notes trade as a theme of importance, but sees its presence in *AGu*, as well as the broader treaty itself, as an attempt by Alfred to introduce Guthrum to the 'Christian tradition' of the king as a law maker, rather than examining the

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[1001] For instance, trade between the Carolingians and the southern English Kingdoms being significant enough in the eighth century that roughly 24% of surviving coinage from that period in Southern England is Carolingian. Rory Naismith, *Money and Power in Anglo-Saxon England: The Southern English Kingdoms, 757–865* (Cambridge: CUP, 2012), 205-206. In the twelfth century England's trade radiated in many directions. For instance see, Pamela Nightingale, 'The London Pepperers' Guild and Some Twelfth-Century English Trading Links with Spain', *Bulletin of the Institute for Historical Research*, 58 (1985), 123-132; Nils Hybel, 'The Grain Trade in Northern Europe before 1350', *The Economic History Review*, 55 (2002), 219-247; D. Wilson, 'Trade between England and Scandinavia and the Continent', in *Der Handel des frühen Mittelalters. Untersuchungen zu Handel und Verkehr der vor- und frühgeschichtlichen Zeit in Mittel- und Nordeuropa*, eds. K, Düwel, H. Jankuhn, H. Siems and D. Timpe, 3 vols (Göttingen: Vandenhoeck & Ruprecht), 255-269.
[1002] Shepard, 'Russo-Byzantine Relations', 23 and 27.
[1003] Abels, 'Paying the Danegeld', 184-185.
[1004] *AGu*, c. 5; *Treaty of Constantinople* (911), 67.
[1005] Shepard, 'Russo-Byzantine Relations', 10-33.

'mechanisms' of the trade clauses.[1006] This is unfortunate, as treaties offer insight into the legislative infrastructure that rulers utilised to deal with trade, touching on controlling the movement of goods, the use and implementation of tolls and taxes, the movement of goods for the business of diplomacy, the supply of goods for military campaigns, and the explicit link between the ownership of land and the infrastructure that facilitated trade. As such, this chapter hopes to explore the movement of goods, specifically by analysing the treaty documents to reveal how rulers dealt with trade via treaties.

The Byzantine corpus is seemingly far more focused on trade, perhaps justifying Abu al-Qasim's comments and reflecting Byzantium's eminence as one of the foremost markets and exporters within the Mediterranean and the medieval world. However, this also reflects how these agreements have been preserved for posterity. England's surviving treaties often evidence England's relationships with surrounding peoples. These documents detail changes in land ownership, as well as the power dynamic of the participants, such as the 'superior' English king and the 'inferior' rulers of England's 'Celtic' neighbours. By contrast, many of Byzantium's treaties survive solely from the Italian cities, entities which seem to have prioritised preserving documents that enshrined their trading privileges, not only with Byzantium, but with many other entities of the medieval world. As such, while I will remain focused on the treaties of each power in this chapter, I will also utilise surrounding evidence, such as domestic law codes and narrative accounts that substantiate England's trading relationships, as well as those of Byzantium.

Controlling the movement of goods is intertwined with controlling the movement of people, and this is recognised within the earliest treaties of this project. In the *Alfred-Guthrum Treaty*, as touched on in Chapter 4, each trader has to know their warranter for the sale of horses or

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[1006] Abels, 'Paying the Danegeld', 184-185.

oxen, and hostages are required for any transaction to take place.[1007] This allows both parties involved to be sure of fair-trading practice. The *Treaty of Constantinople* (945) takes a different approach, one which is mirrored in many other treaties. All Rus' merchants enter through one gate in Constantinople to access their trade privileges, highlighting this clause has a clear trade dimension.[1008] Indeed, the 945 Rus' treaty even has a Byzantine official meet the Rus' at the gate, to take their names and escort them to their accommodation. The *Ordinance of the Dunsæte* mirrors this clause, stating 'neither is a Welshman to cross over into English land, nor an Englishman to Welsh, without the appointed man from that land'.[1009] Similarly, the *Treaty of Aleppo* has the emir dispatch the 'Zirwar' to meet any Byzantine caravans coming into Aleppo.[1010] In many ways, such clauses are simply clarifying what was a common custom in both Byzantium and England, as well as surrounding peoples. For instance, the *Digest of Justinian* has multiple references to officers taking tolls and taxes at particular places, such as bridges.[1011] Similarly, the *Laws of Hywel Dda* states that most contracts require the presence of a 'contract-man', and the laws of Alfred have incoming merchants bring any of their accompanying men to the king's reeve.[1012] Both the contract-man and the reeve likely had a similar function to the 'appointed man' of the *Ordinance of the Dunsæte* in this context.[1013] These clause controlling the movement of incoming goods and people have a multifaceted use, including controlling the movement of exiles, as shown in chapter 4. However, it is clear these clauses also had a function in trade, such as how rulers implemented tolls and profited from the movement of goods.[1014] Indeed, treaties are explicit

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[1007] *AGu*, c. 5.
[1008] *Treaty of Constantinople* (945), 74-75.
[1009] *Duns*, c. 6. Translation from Noble, *Offa's Dyke Reviewed*, 107.
[1010] *Treaty of Aleppo* (969), c. 21.
[1011] *Digest of Justinian*, II, 115.
[1012] *Ancient Laws and Institutes of Wales*, I, 137; *DGA*, 68 (c. 34). Also see comments above on 'hybrid' law in Chapter 1.
[1013] *Duns*, c. 6.
[1014] For more on the use of tolls and the expectation for travelers to be able to identify themselves, see *Benham*, ILE, 71-72.

on this, with some particularly generous agreements even dropping the toll which most merchants would have to pay, often to secure other terms such as military service. For instance, the 992 *Treaty of Constantinople* changes the toll that Venetian merchants had to pay to seventeen *hyperpyra*.[1015] The treaty also reveals that the majority of merchants were still being charged thirty or more *hyperpyra*, highlighting the lucrative nature of these privileges for the Venetians. Indeed, the 1082 Byzantine-Venice treaty drops the toll completely.[1016] English treaties are not as explicit on tolls, but complimentary evidence shows they existed. For instance, the law code *IV Æthelred* specifically states that the men of Rouen trading wine or fish, (*uino uel craspisce*), were to pay a toll of six shillings and twenty pieces of fish.[1017] This toll was likely collected by a similar 'appointed man' as mentioned in the *Ordinance of the Dunsæte*.[1018] While Lebecq and Gautier have postulated that this clause relating to the men of Rouen is resultant of the 991 *Treaty of Rouen*, there is little evidence for this, the treaty itself having no explicit clauses on trade.[1019] More generally, there are certainly differences in approach used by rulers to control the movement of goods, *AGu* relying on a hostage as a surety for incoming traders, while the other treaties have merchants entering an area through one place or accompanied by a particular officer. However, each approach allows for strict control over arriving merchants and for the relevant tolls to be paid.

Of course, being accompanied by a particular official, or having to enter the trading site via a particular place, also allowed for the sale of goods themselves to be drawn within the

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[1015] *Treaty of Constantinople* (992), 37; Nicol, *Byzantium and Venice*, 40.
[1016] *Treaty of Constantinople* (1082), 53.
[1017] *DGA,* I, 232 (c. 2.5). 'Craspisce' is likely the words *crassus* (large) and *piscis* (fish) amalgamated. Naismith has dated parts of the law code to towards the end of the eleventh century, and other parts towards the end of the tenth, but this dating remains controversial. Rory Naismith, 'The Laws of London? IV Æthelred in Context', *London Journal*, 44 (2019), 8 and 11-13. Certainly, there is clear evidence that London had trade links with the other cities and peoples that are mentioned in the code. Tinti, *Europe and the Anglo-Saxons*, 44-50.
[1018] *Duns*, c. 6.
[1019] S. Lebecq and A. Gautier, 'Routeways between England and the Continent in the Tenth Century', in *England and the Continent in the Tenth Century*, ed. D. Rollason, C. Leyser and H. Williams (Turnhout: Brepolis, 2010), 27; *Treaty of Rouen*, 37-38.

established trading framework. In particular, taxes on the sale of merchandise, in addition to tolls on merchants entering a trade site, provided additional income to rulers and further motivated leaders to control the movement of arriving foreign traffic, and was common practice in both Byzantium and England. For instance, it is well known that all merchandise entering markets in Byzantium, or entering Constantinople specifically, had to pay a tax of ten percent on whatever the value of the merchandise which was called the *κομμέρκιον*, or *kommerkion*.[1020] In Constantinople, this was paid at particular points of entry, such as Abydos and Hieron for shipping.[1021] Similarly, *IV Æthelred* has merchants arriving at London pay a toll upon reaching Billingsgate, being one halfpenny for most goods, and for more valuable goods, one full penny.[1022] While there is a similarity in how both Byzantium and England conducted trade, the Byzantine treaties more commonly address the matter of tolls, and other commercial taxes, in treaties. The *Treaty of Aleppo*, for example, lists many luxury goods, such as gold, silver, and silk, for which the Byzantine emperor would tax the sale of, while the emir was allowed to tax the sale of linen cloth and livestock.[1023] This allowed Byzantium to extract significant amounts of wealth from the movement of Aleppine trade. Conversely, the 1082 *Treaty of Constantinople* states that the Venetians can trade in any goods from the empire tax free, the treaty explicitly listing the tolls and taxes the Venetians were to be exempt from.[1024] The 1126 treaty reissues these privileges, and the 1147 treaty expands them into the islands of Crete and Cyprus, valuable markets in and of themselves, and also

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[1020] For more on this, see Laiou, *The Byzantine Economy*, 52; N. Oikonomides, 'The Economic Region of Constantinople: From Directed Economy to Free Economy and the Role of the Italians', in *Europa medievale e mondo bizantino. Contatti effettivi e possibilità di studi comparati*, eds. G. Arnaldi and G. Cavallo (Rome: CISH, 1997), 221–238.
[1021] Laiou, *The Byzantine Economy*, 52.
[1022] *DGA*, I, 232 (c. 2).
[1023] *Treaty of Aleppo*, c. 20.
[1024] 'non prebentibus omnino pro qualibet propria negotiacione quidlibet commercii gratia uel euiusuis alius conditionis…'; 'Omnium enim, quas quis dicat, specierum ac rerum concessa est his negotiacio, et omnium emptionem in potestate habebunt facere, superiores existentes uniuersa datione.'; *Treaty of Constantinople* (1082), 53.

strengthening Venetian access to the markets of Syria and Palestine.[1025] The purpose of these clauses varies between the treaties. The toll clause in the Treaty of Aleppo allowed the emperor to gain wealth from goods entering an area formerly beyond Byzantine control. Conversely, the treaties with the Venetians protected and enhanced Venetian commerce in the empire. It is interesting to note that these clauses do not actively protect Byzantine merchants from their competitors. This might indicate that the emperors' goals in these treaties included either increasing their own wealth, as in the *Treaty of Aleppo*, or securing military aid, as in the Venetian treaties, rather than protecting the business of Byzantine subjects.

It is well known within the scholarship on Byzantine treaties that many peoples, the Italian cities in particular, sought privileged trade with Byzantium, such as through provisions for their merchant communities or a reduction of Imperial tax upon their commerce.[1026] The importance of this is shown in the Skylitzes account of the Bulgar ruler Symeon declaring war on Leo VI due to a rising customs duty placed upon Bulgarian goods.[1027] However, there is little scholarship on privileged trade within the treaties of England. While one might suspect this is due to a lack of scholarship on treaties in general, privileges regarding taxes and tolls are elusive within the English treaties. In fact, one of the sole clauses on the taxing of goods surviving in the English treaty corpus exists in the *Treaty of Windsor* (1175). In the treaty Ruaidhrí, king of Connacht, promises to give to Henry II one in every ten animal hides.[1028] Traditionally, this has been interpreted as a tribute given by Ruaidhrí to the English king. For instance, Riley's translation states Ruaidhrí '…shall render tribute each year to our lord the king (Henry II), that is to say, for every ten animals one skin, such as may be

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[1025] For instance see, *Treaty of Constantinople* (1126), 96-98; *Treaty of Constantinople* (1147) [MS C], 64-65.
[1026] For instance see, Nicol, *Byzantium and Venice*, 40 and 61.
[1027] *Skylitzes*, 175-177.
[1028] 'Et propter hunc finem reddet praedictus rex Conactae domino regi Angliae tributum singulis annis, scilicet de singulis decem animalibus unum corium placabile mercatoribus, tam de tota terra sua quam de alia'; *Treaty of Windsor* (1175), 84.

approved by dealers, both from the whole of his own lands, as also from those of others'.[1029]

Both Warren and Duffy seemingly agree with Riley's translation, seeing the treaty as Henry's acknowledgement of Ruaidhrí as high king of Ireland, bar the areas that Henry controlled, with the hides being given as tribute in return.[1030] However, while the term used to denote what Riley has seen as tribute, *tributum*, can be translated as tribute, it can also be translated as tax.[1031] Additionally, the term Riley translated a dealers, *mercatoribus*, can also be translated as trader or merchant, and later the treaty states such a 'tribute' is not to apply to people coming from Henry's lands and those of his barons.[1032] Given this context, this clause clearly concerns the movement of goods, likely taxing animal hides, 'animalibus corium', moving within and into Connacht, and gives the merchants from Henry's realm a privileged trading position.[1033] Indeed, as we shall see below, such a tax is mirrored in a variety of domestic law codes as well.[1034] Thus, the scholarship concerning this treaty has been too tunnel visioned, focusing on the political relationship between Henry and Ruaidhrí and whether this was a relationship of superior and inferior, and has thus neglected the commercial aspect of this treaty.

While the *Treaty of Windsor* undoubtedly has a clause concerning the movement of goods, the problem remains that the majority of English treaties do not contain any references to trade privileges. This contrast in the treaties likely reflects Byzantium's status as a major

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[1029] *The Annals of Roger de Hoveden*, I, 403.

[1030] Warren, *Henry II*, 201-202; Duffy, 'Henry II and England's Insular Neighbours', 140.

[1031] *Treaty of Windsor* (1175), 84.

[1032] 'Et propter hunc finem reddet praedictus rex Conactae domino regi Angliae tributum singulis annis, scilicet de singulis decem animalibus unum corium placabile mercatoribus, tam de tota terra sua quam de alia'; 'excepto quod de terris illis quas dominus rex Anglie retinuit in domino suo et in domino baronum suorum, nihil se intromittet'; *Treaty of Windsor* (1175), 84.

[1033] It must be noted that this was clearly a 'hide' in the sense of leather rather than land, *corium* literally meaning leather/hide. This may have been of particular significance due to cattle's prominence as a status indicator in Irish society and it's importance in Irish law. See, Narys Patterson, *Cattle Lords and Clansmen: The Social Structure of Early Ireland*, 2nd edn (London: University of Notre Dame Press, 1994), 44-45 and 72-79.

[1034] *Die 'Honorantie Civitatis Papie': Transkription, Edition, Kommentar*, tr. Carlrichard Brühl and Cinzio Violante (Vienna: Böhlau, 1983), 37. For more on this see comments on the κομμέρκιον and *decima* taxes below.

trading hub in the Eastern Mediterranean, but if one looks at complementary source material, we can see that English rulers utilised a different approach to trade privileges and the movement of goods in general. For example, while English treaties rarely legislate on tolls and issue trade privileges, English domestic laws often have revealing clauses regarding the movement of goods. As mentioned above, *IV Æthelred* contains legislation on tolls.[1035] However, this law code also grants the 'men of the emperor', presumably those of the German emperor Otto III, the same trade privileges as English merchants.[1036] This gave the imperial merchants an advantage in trading fish and wine compared to the merchants of Rouen. Additionally, it gave these men exemptions from particular taxes. For instance, the law code states merchants from Huy, Liège and Nivelles had to pay a tax called the *ostensio*, which imperial merchants were presumably exempt from, given that they had the same privileges as domestic merchants.[1037] Similarly, an eleventh-century law code from Pavia contains a clause stating that English merchants were exempt from paying a tax known as the *decima*.[1038] Of course, this *decima* tax mirrors the *Treaty of Windsor*, where Ruaidhrí was to send one in every ten animal hides to Henry II.[1039] However, the *decima* tax is further comparable to the *κομμέρκιον* tax of Byzantium, each being a ten percent tax on the sale of goods.[1040] The Pavian privilege given to the English merchants was apparently due to contact from an anonymous English king, likely Æthelred II or Cnut the Great, who in return for this exemption would pay in kind with a number of goods:

[1035] *DGA*, I, 232 (c. 2.5).
[1036] *DGA*, I, 234 (c. 2.8).
[1037] *DGA*, I, 232 (c. 2.7). While Huy, Liège and Nivelles may have been under imperial rule at this point, this could simply mean the merchants of these places were excluded from the privileges enjoyed by other imperial merchants, although it is difficult to know what the reason was for this.
[1038] *Die 'Honorantie Civitatis Papie'*, 19 and 37.
[1039] *Treaty of Windsor* (1175), 84.
[1040] For good analysis of such taxes more generally, see Neil Middleton, 'Early Medieval Port Customs, Tolls and Controls on Foreign Trade', *Early Medieval Europe*, 13 (2005), 313-358.

'every third year, fifty pounds of refined silver, two large, handsome greyhounds, hairy or furred, in chains, with collars covered with gilded plates sealed or enamelled with the arms of the king, two excellent embossed shields, two excellent lances, and two excellent swords wrought and tested. And to the master of the treasury ... two large coats of miniver and two pounds of refined silver'.[1041]

While such clauses on taxes are rare in the English treaties, the English kings appears to have had no qualms with utilising their own domestic laws to implement such clauses, or appeal to other rulers to give English merchants privileges via domestic law codes. This perhaps explains why the English treaties with the French Kings, being some of the more common of the English treaty corpus, have a curious absence of clauses featuring tolls and taxes on merchandise. As we shall see, on occasion these treaties do make reference to merchants being freely able to move between the territory of the English kings and their French counterparts.[1042] Bar these brief mentions, there are few clauses actually referring to the movement of goods, or price controls, or the payment of tolls. However, we do have domestic privileges granted to local trade hubs that have specific clauses regarding the movement of particular goods, their price, payable tolls, and taxes, and even controlling when markets could take place. At the end of the twelfth century, the abbey of La Sauve-Majeure, for instance, was given extensive trade privileges containing a number of clauses giving specific details on the movement of goods and trade generally. For instance, the fifth clause of the privileges allows the abbey to have a weekly market, and a fair for eight to fifteen days from the 20th of June.[1043] The sixth clause allows those of the abbey to 'sail every year on the

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[1041] Translation from Lopez and Raymond, *Medieval Trade in the Mediterranean World*, 58; *Die 'Honorantie Civitatis Papie'*, 19.
[1042] For instance see, *Treaty of Ivry*, 146. This is discussed in more depth below.
[1043] 'C 61/129: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://www.gasconrolls.org/edition/calendars/C61_129/document.html#it129_18_02f_146>, Accessed: 11/05/2022. Similar privileges were granted to Bolton Priory and Savigny Abbey: *The Letters & Charters of*

river Garonne a boat loaded with 10 *muids* of salt for buying corn, free of right', presumably exempting this purchase from tolls.[1044] The seventh clause allows for the abbey 'franchise of any custom when they buy fish, wine, corn, cloth, metals at the [Pays de] Buch or Bordeaux'.[1045] Such legislation gave regional trade centres clear control over local trade.[1046] The clause allowing the abbey to hold its own market on a weekly basis gives the abbey particular prominence. Control over when a market could take place would translate into power over where goods could enter, and who could enter, making it easy for the abbey to implement tax on any particular goods at the market. Furthermore, the abbey would directly profit from the tolls associated with the market, giving the site particular prominence as a local trade hub. Thus, it is important to bear in mind the significance of these local sites, as this may have replaced the need for English kings to legislate such trade privileges with their French counterparts by devolving these rights to local seats of power and commerce. While clauses on trade privileges and taxes are not as common in English treaties as in their Byzantine counterparts, it is clear that this is not due to a lack of interest from English rulers. Rather, English rulers seem to have pursued this theme outside of the treaty-making arena. It should be noted here that this is not unique to the English kings. The emperors of Byzantium also utilised domestic law codes to legislate on trade. For instance, the *Digest of Justinian* records that corn merchants were not to be forced to sell their merchandise at less than the market price, and Skylitzes records Nikephorus Phokas establishing a price cap on grain.[1047]

Henry II, ed. Nicholas Vincent, 7 vols (Oxford: OUP, 2020), I, 254-255; *The Letters & Charters of Henry II*, IV, 521-523.

[1044] 'C 61/129: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://www.gasconrolls.org/edition/calendars/C61_129/document.html#it129_18_02f_146>, Accessed: 11/05/2022.

[1045] 'C 61/129: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://www.gasconrolls.org/edition/calendars/C61_129/document.html#it129_18_02f_146>, Accessed: 11/05/2022.

[1046] For more on this more generally see, R. H. Britnell, 'English Markets and Royal Administration before 1200', *Economic History Review*, 31 (1978), 183-196.

[1047] *Digest of Justinian*, 50, I, 8; *Skylitzes*, 276-278. For more on Byzantine control over trade more generally see, George C. Maniatis, 'The Economic Institutions of the Byzantine State', *Byzantion*, 86 (2016), 205-259.

While both entities did legislate on trade domestically, Byzantium approached this issue through treaties more consistently. This likely indicates the prevalence of long-distance trade in Byzantium, but domestic trade in England.

While tolls and taxes were important aspects of the movement of goods, and went hand in hand with controlling the arrival of mercantile traffic, we also see clauses allowing for merchants, customers, and goods to move freely after their initial arrival in a territory. At times, this is vague, such as in the *Treaty of Aleppo* which states 'If any Rumi enters Muslim territory he [is] not to be hindered in his business'.[1048] While there is no explicit mention of merchants or goods here, it is likely this clause encompassed them, as well as other forms of 'business' as well. These other forms of business are perhaps alluded to in the *Treaty of Ivry*, both Henry II and Louis VII swearing 'that merchants and all other men of [their] dominions, both clergy as well as laity, with all their property, be secure, and may have peace in all [their] territories'.[1049] This clause is effectively repeated in the 1180 *Treaty of Gisors*.[1050] These two treaties highlight that 'business' tended to include ecclesiastical affairs as well as commercial activities. This is cemented by the narrative description of the *Treaty of Jaffa*, made between Richard I and the Egyptian Sultan Salah ad-Din, which states the subjects of each party will have free and safe passage, and access to the Holy Sepulchre, while also emphasising free passage for merchants.[1051] Thus the free movement of goods and merchants went hand in hand with the free movement of other people, including pilgrims and clergy.

[1048] *Treaty of Aleppo*, c. 15.

[1049] 'Volo etiam quod mercatores et omnes homines, tam clerici quam laici, de terra sua, cum omnibus rebus suis securi sint et pacem habeant per omnes terras meas'; *Treaty of Ivry*, 146. Both Louis and Henry effectively repeat this.

[1050] 'Ego etiam Philippus volo, quod mercatores et omnes tam clerici quam laici de terra Henrici regia Angliae, cum omnibus rebus suis securi sint, et habeant pacem per omnes terras meas'; *Treaty of Gisors* (1180), 199. Again, this is effectively repeated by each party.

[1051] *Chronicle of the Third Crusade*, 371.

Other surrounding evidence also links the movement of goods with the movement of clergy and pilgrims. For instance, King Cnut in his letter to the English people records the Burgundian King Rudolf making an edict giving all merchants and pilgrims from the territory of Cnut, English or Danish, freedom to pass through Burgundian lands 'in safety with firm peace and just law, free from hinderances of barriers and toll-gatherers'.[1052] Similarly, the privileges issued to the abbey of La Sauve-Majeure also legislates on this, giving 'safe-conduct for pilgrims, merchants and others coming and going to the franchise of La Sauve-Majeure for market or devotion or at the abbot's request'.[1053] Clearly, securing the movement of people more generally included providing the legal infrastructure for the movement of goods. Rulers recognised the benefits of doing this via treaty, but also approached the movement of goods outside of the treaty-making arena, relying on personal relationships between rulers, and local lords and power centres, to minimise potential barriers to trade. Indeed, Skylitzes even records the breakdown of relations between the Rus' Prince Vladimir and Constantine IX Monomachos resulting in the imprisonment of 'Scythian' merchants.[1054] Skylitzes implies that prior to this, merchants had been able to move freely within Constantinople, as a result of a prior treaty. Furthermore, it is clear that regional commercial centres also held power over trade in Byzantium, and this was recognised by emperors. For instance, Alexios I granted extensive privileges to the monastery of Lavra, giving the monastic community exemption from the majority of taxes and tolls when the monks engaged in trade.[1055] Thus, while rulers certainly controlled the movement of goods between territories using particular officers as highlighted above, rulers also recognised the benefits of

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[1052] *DGA*, i, 276–7. Translation in *EHD*, I, no. 53.
[1053] 'C 61/129: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://www.gasconrolls.org/edition/calendars/C61_129/document.html#it129_18_02f_146>, Accessed: 11/05/2022.
[1054] *Skylitzes*, 430-433.
[1055] *Actes de Lavra*, eds. André Guillou, Paul Lemerle, Denise Papachryssanthou and Nicolas Svoronos (Paris: P. Lethielleux, 1970), I, 285-287.

allowing trade to be conducted free of further internal barriers, once merchants and their goods had entered a particular territory. Rulers also had to rely on their relationship with one another, as well as their relations with local power centres and local lords, which supports Benham's notion of medieval entities being fundamentally 'polycentric'.[1056] Power and commerce in this period relied on a complex network of 'inter-ruler' and local relationships, which is demonstrated well by the treaty corpus in combination with domestic laws and grants.

At times, we can see the absence of freedom of movement for merchants with their goods, and also restrictions on particular individuals wanting to buy goods. For instance, as noted earlier, Skylitzes records Constantine IX Monomachos putting Rus' merchants under guard and sending them 'into the themes', effectively imprisoning them outside of Constantinople, after the Rus' Prince Vladimir assembled a great army and headed towards Byzantium.[1057] We have ample evidence from treaties on the imprisonment of merchants as well. For instance, the *Treaty of Adrianople*, taking place after conflict between Isaac II Angelos and the crusading Frederick Barbarossa, states Isaac was to 'set free all the men of the Roman empire (being the men of Barbarossa) who have been captured from the time when the war began, whether on land or sea, and whether they be pilgrim or merchant'.[1058] At times travel could be perilous, and result in incarceration during times of conflict, even if a merchant had no direct link to the war. Indeed, while not explicit, the *Treaty of Montlouis* between Henry II and his sons contains a similar clause. This states that all prisoners were to be released, bar several individuals captured during the conflict that had already made an agreement with

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[1056] Benham, *ILE*, 20-22.
[1057] *Skylitzes,* 430-433.
[1058] *Treaty of Adrianople*, c. 14. Benham has also touched on this issue through reprisals, using *the Treaty of Adrianople*. See, Benham, *ILE*, 157-158.

Henry II, including the king of Scots and several prominent barons.[1059] Some were only to be released if they could provide a hostage, presumably the wealthier prisoners who were combatants and had not reached an agreement with Henry.[1060] However, after this there is an additional clause which states 'for the others (being prisoners) he (Henry II) will have security through their faith, their oath, and [that] of their friends'.[1061] This almost reads as an afterthought, as it is tagged on after in-depth explanation on what is to happen regarding the prisoners that had made agreements with Henry II, and the prisoners that would be released if they provided hostages. This final category of prisoners likely included those from either side that were not wealthy or important enough to have to give their family members as hostages, and would include those imprisoned simply due to suspicion, coming from the territory or realm of either of the negotiating parties. Medieval reports concerning spies frequently involved merchants or envoys, as well as women and children, being involved in espionage.[1062] Emperor Constantine VII was well aware of the capacity of merchants for espionage and diplomacy, stating the Turks often send merchants to the Pechenegs, these traders returning with 'official messages'.[1063] Of particular interest is a passage from the tenth century Byzantine military manual *De Velitatione Bellica*, which advises the use of merchants as spies to keep track of foreign military movement, specifically in Syria.[1064] Therefore, it seems likely this was one of the ways through which Byzantine governors learned of mobilising enemy forces, Patriarch Nicholas alluding to multiple governors

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[1059] *Treaty of Montlouis,* 68.
[1060] *Treaty of Montlouis*, 68.
[1061] 'Et de aliis habebit securitatem per fidem et sacramentum suum et amicorum suorum'; *Treaty of Montlouis*, 68.
[1062] For more on this see Jacoby, 'Diplomacy, Trade, Shipping and Espionage between Byzantium and Egypt in the Twelfth Century', 83-84.
[1063] *De Administrando*, 172-175.
[1064] *Three Byzantine Military Treatises*, ed. and trans. G. T. Dennis (Washington D.C: Dumbarton Oaks, 1985), 162-163.

warning of an impending Bulgar attack.[1065] Thus enemy merchants would likely be imprisoned if suspicion was raised during times of conflict. This perhaps explains why the prisoners referred to in the *Treaty of Baghdad* are mentioned in conjunction with their goods and property. The treaty states Skleros would release all Islamic prisoners with their wives, children, and families, as well as all of their property, upon his successful rebellion.[1066] The emphasis on possessions, in particular, seems to encompass captured merchants, as well as the tools and equipment necessary for other skilled work, such as architects, masons, and weapons and jewellery smiths. This cements that such clauses affected trade and the free movement of merchants and goods. Indeed, in 1171, Emperor Manuel had the Venetians of the empire imprisoned, and their property confiscated. The cause of this seems to be the Byzantine capture of Dalmatia from the Hungarians, which threatened Venetian control of the Adriatic, as well as the Venetian response of refusing to send military aid at the emperor's request.[1067] The Venetians formed cordial relations with the Hungarians, their former enemies, in a likely attempt to dislodge Byzantium from Dalmatia.[1068] Effectively, the imprisonment here acted as a reprisal for what must have been perceived as Venetian treachery.[1069] While the reprisal element of this act is certain, Manuel's actions were likely multifaceted. Imprisonment certainly cemented that the Venetians were expected to fulfil their military service if they were to enjoy their privileges in Byzantium. However, imprisoning the Venetians in the empire would also hamper Venetian intelligence gathering efforts, which might lead to Byzantium losing its recently gained territory, and would have

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[1065] Nicholas I, *Letters*, 58-59. Nicholas also states that the Pechenegs sent messages on this imminent threat as well.

[1066] *Treaty of Baghdad,* 65-66.

[1067] It's worth noting the source on this incident are complex. For good analysis of this, as well as the surrounding diplomatic evidence, see Nicol, *Byzantium and Venice*, 95-102; Penna, *The Byzantine Imperial Acts*, 46; Thomas F. Madden, 'Venice's Hostage Crisis: Diplomatic Efforts to Secure Peace with Byzantium between 1171 and 1184', in *Medieval and Renaissance Venice*, ed. Donald E. Queller (Cockeysville (MD): University of Illinois Press, 1999), 96-104.

[1068] Nicol, *Byzantium and Venice*, 95-96.

[1069] For a discussion or reprisals, see Benham, *ILE*, 153-164.

been vital given that the Venetians soon after set out with a fleet to assault Byzantium.[1070]

Thus, freeing merchants made captive during times of conflict, and utilising treaties to ensure trade resumed as it did prior to the outbreak of war, was an important issue for rulers and addressed by treaties. Certainly, redress for the 1171 incident became an issue in later Byzantine-Venetian treaties.[1071] Thus, the discussed treaties and surrounding evidence highlight that during times of conflict merchants often risked incarceration, with their goods potentially being compounded or lost. The treaties also show rulers had to act to ensure their merchants were not imprisoned, or to ensure their release if they were.

While ensuring the safety and freedom of captured merchants was an issue of importance for both Byzantine and English rulers, the leaders of both realms also approached the hazards of merchant travel more generally within treaties. For instance, the 'law of shipwreck' can be detected in many Byzantine treaties. Generally, such legislation allows for aid to be extended to the victims of shipwreck, and for security of their goods, at times in return for some payment to those who aided the victims.[1072] For instance, the 911 Rus' treaty has the Rus' offer any ship aid if the said ship was forced upon the shore by high winds.[1073] If weather or other obstacles prevented the ship from reaching its destination, the Rus' would extend further aid, conducting the crew of the ship and their merchandise to Byzantine territory. If such an incident happened in Rus' territory, the merchandise would be 'disposed of', presumably sold, and the price offered to the emperor at the Rus' next visit to Constantinople. Similarly, the 1111 treaty with Pisa states that if any Pisan ship is shipwrecked within

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[1070] Madden, 'Venice's Hostage Crisis', 96.
[1071] For example, see the references to the owed 15 *kentenaria* in *Treaty of Constantinople* (1189), 106.
[1072] For further reading, see Daphne Penna, 'Finders Keepers, Losers Weepers? Byzantine Shipwreck and Salvage in the Eleventh and Twelfth Centuries', in *Conflict Management in the Mediterranean and the Atlantic, 1000-1800: Actors, Institutions and Strategies of Dispute Settlement*, eds. L. Sicking and A. Wijfels (Leiden: Brill, 2020), 43-44; Edda Frankot, *'Of laws of ships and shipmen': Medieval Maritime Law and its Practice in Urban Northern Europe* (Edinburgh: Edinburgh University Press, 2012), 28-31.
[1073] *Treaty of Constantinople* (911), 67.

Byzantium, the Pisans can retain their cargo.[1074] However, if any Byzantines give aid in recovering the shipwrecked goods, the Pisans must 'give to them a reward as the regional custom requires, except if something else is willingly agreed between [the Pisans] and them'.[1075] These clauses are clearly mirrored by the 994 *Treaty of Andover*.[1076] In fact, while there is much scholarship on this treaty, the shipwreck clause is at times overlooked. Edda Frankot's seminal work on medieval maritime law has claimed the earliest northern European legislation on shipwreck is from Scandinavia in the twelfth century, despite the tenth-century *Treaty of Andover* containing a version of the law of shipwreck.[1077] Similarly, Susan Raich's work on shipwreck is insightful into shipwreck in England, focusing on the Anglo-Norman and Angevin kings and commenting on pre-Conquest England, but without noting the clauses on shipwreck in the *Treaty of Andover*.[1078] Clauses 2-4 effectively detail how the army of Olaf, Jostein, and Guthmund were to interact with ships and merchants. Clauses 2-2.1 apply to any trading ship (*ceapscip*) that 'enters an estuary', rather than just those of Æthelred and his subjects. These ships were to have peace, as long as they are not driven ashore.[1079] Even if they were driven ashore, and the crew escaped into a borough included in the peace, the men and their cargo were to be left alone. Clauses 3.1-3.2 state that if a subject of Æthelred was in an area where the peace did not apply, the subject and their goods (*æhta*)would also have peace.[1080] They will also have peace if they have brought their ship ashore by choice. This is particularly similar to the law of shipwreck as it exists in the Rus' and Pisan treaties highlighted above. Specifically, the safeguarding of the merchant's cargo, or at least the value of it, when the merchant has been forced ashore outside of their native realm. Perhaps the

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[1074] *Treaty of Constantinople* (1111), 53.

[1075] *Treaty of Constantinople* (1111), 53. Translation from Penna, *The Byzantine Imperial Acts*, 108-109.

[1076] *Treaty of Andover*, cc. 2-4. On this treaty more generally, see Stenton, *Anglo-Saxon England*, 541-542; Benham, 'Law of Treaty?', 492.

[1077] Frankot, M*edieval Maritime Law and its Practice in Urban Northern Europe*, 6.

[1078] Susan Raich, 'Wreck of the Sea in Law and Practice in Eleventh and Twelfth Century England', *ANS*, 38 (2016), 141-154.

[1079] *Treaty of Andover*, cc. 2-2.1; *EHD*, I, 401.

[1080] *Treaty of Andover*, cc. 3.1-3.1.

most notable difference between the law of shipwreck in the Byzantine treaties and the *Treaty of Andover* is clause 3.3, which states if a subject of Æthelred had brought their goods into the house of people from 'outside the truce', the subject would forfeit their goods, but have peace if they announced themselves.[1081] While the Byzantine treaties focus on giving aid to the shipwrecked, the *Treaty of Andover* focuses more on allowing merchants to retain their cargo or be left in peace. However, both Byzantium and England implemented a clear legal framework for the parties involved to utilise when coming across the shipwrecked merchants. This had clear benefits, as it assured merchants that while they moved their goods they could expect aid if they experienced hazardous conditions as in the Byzantine treaties. Alternatively, as in the *Treaty of Andover*, the treaty guaranteed that troops hired by Æthelred posed no threat to merchants' cargo, provided they followed the established framework.[1082] Indeed, both the 911 Rus' treaty and the *Treaty of Andover* have additional clauses on how to punish either the Rus' or the hired army for stealing cargo. The Rus' treaty refers to a prior clause on theft in general, stating the thief would repay the stolen goods, along with three times their value. Clause 4 of the *Treaty of Andover* similarly states that the goods would be returned, unless the accused could prove their innocence.[1083] By providing a legal avenue to claim redress for these stolen goods, both Byzantine and English rulers provided merchants with confidence to move their goods with a clear 'safety net'.

While the law of shipwreck does appear in the *Treaty of Andover*, it is striking that it does not appear in other English treaties from the period, particularly when compared to their Byzantine counterparts. As the majority of England's borders were along the coastline, and given that the kingdom was punctuated by rivers used for both warfare and shipping in the period, it is surprising that so few domestic laws and treaties concern shipwreck or

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[1081] *Treaty of Andover,* c. 3.3; *EHD*, I, 401.
[1082] *Treaty of Constantinople* (911), 67; *Treaty of Constantinople* (1111), 53; *Treaty of Andover*, cc. 2-4.
[1083] *Treaty of Andover*, c. 4.

navigation. There are several grants of the right of shipwreck to various local centres. For instance, charters record Cnut granting the right to Christchurch Canterbury, and Edward the Confessor granting it to one of his followers.[1084] While there is little reference to shipwreck in pre-conquest domestic law, Henry I explicitly refers to the royal right of wreck.[1085] Furthermore, both Henry I and Henry II are recorded legislating on shipwreck, stating a ship can only be classed as a wreck if none of the crew survived to claim the goods.[1086] Given that both Cnut and Edward the Confessor granted the right of shipwreck to local centres, and given that later kings confirmed the right of shipwreck was a royal privilege, it seems fair to say that shipwreck was also a royal privilege in the pre-conquest period. Indeed, this is supported by Gerald of Wales, who records that the right of shipwreck was legislated on by the 'old laws of the English'.[1087] It is worth noting that Gerald seems to believe that in a shipwreck any survivor could claim the total goods of the wreck under old English law. While this is not supported by the surviving charters, it could potentially allude to the *Treaty of Andover*, or legislation that inspired the shipwreck clauses in the treaty, which allowed for shipwrecked merchants to reclaim their goods if they knew who had taken them.[1088] Indeed, Henry I's laws also support that earlier domestic legislation on shipwreck existed, listing the royal right of shipwreck, along with several other rights which preceded Henry I's reign, and indeed that of the Norman kings, including the *Danegeld* and fines concerning *fyrd* service.[1089] Given Henry I's grouping of the right of shipwreck with fines of *fyrd* service and

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[1084] 'S 89: A.D. 1023. King Cnut to Christ Church, Canterbury; grant of the port of Sandwich', *The Electronic Sawyer*, ed. and trans. Peter Sawyer, Susan Kelly, Rebecca Rushforth, et al., <https://esawyer.lib.cam.ac.uk/charter/959.html>, Accessed: 29/06/2022; 'S 1063: A.D. 1053 x 1058. Writ of King Edward declaring that his housecarl Urk is to have his shore over against his land and everything driven to his shore', *The Electronic Sawyer*, ed. Peter Sawyer, Susan Kelly, Rebecca Rushforth, et al., <https://esawyer.lib.cam.ac.uk/charter/1063.html>, Accessed: 29/06/2022.
[1085] *DGA*, I, 556 (c. 10.1).
[1086] For Henry I, see *The Chronicle of Battle Abbey*, ed. and trans. E. Searle (Oxford: OUP, 1980), 142-143. For Henry II, see *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, I, 282.
[1087] Gerald of Wales, *De Principis Instructione*, 350-351.
[1088] *Treaty of Andover*, cc. 2-4.
[1089] *DGA*, I, 556 (c. 10.1).

the *Danegeld*, the earlier charters granting the right of shipwreck to local centres, and Gerald of Wales comments on the antiquity of English shipwreck legislation, it seems likely that there was some form of earlier legislation on shipwreck which was alluded to in these documents but has not survived. Although it is difficult to say this with certainty, this would also bring the English legislation in line with its Byzantine counterpart.

Interestingly, Richard I legislated on shipwreck while in Sicily during the Third Crusade. Specifically, the charter states any survivors of shipwreck could claim any goods they could prove were theirs, while anyone who died in a shipwreck could have their property claimed by their heirs (if the heirs could prove their right to inherit).[1090] Additionally, if someone died in a shipwreck and had no heirs, their goods became the property of the king, reemphasising that shipwreck remained entwinned with English royal power throughout the period.[1091] While Howden does record the charter being issued, the text now survives as a confirmation issued by Edward III In 1372.[1092] This is suggestive, as several other twelfth-century charters relating to the movement of goods solely survive in much later copies.[1093] This suggests that such legislation continued to be used long after it was originally issued domestically, and perhaps highlights why English treaties do not commonly legislate on shipwreck. Of course, this is not to say that Byzantium, where treaties more frequently refer to issues of shipwreck, did not touch upon the subject in domestic laws. Famously, Justinian I legislated on the issue.[1094] However, while the treaty was not the favoured avenue for English rulers on the

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[1090] 'C 61/85: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://www.gasconrolls.org/edition/calendars/C61_85/document.html#it085_46_08f_017>, Accessed: 11/05/2022; Howden also mentions this: *Chronica*, III, 68.

[1091] 'C 61/85: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://www.gasconrolls.org/edition/calendars/C61_85/document.html#it085_46_08f_017>, Accessed: 11/05/2022.

[1092] 'C 61/85: Gascon Roll for the 17th to 18th years of the reign of Henry VI', The Gascon Rolls Project, <http://www.gasconrolls.org/edition/calendars/C61_85/document.html#it085_46_08f_017>, Accessed: 11/05/2022; *Chronica*, III, 68.

[1093] 'C 61/129: Gascon Roll for the 17th to 18th years of the reign of Henry VI', *The Gascon Rolls Project*, <http://gasconrolls.org/edition/calendars/C61_129/document.html#it129_18_02f_146>, Accessed: 11/05/2022.

[1094] *Digest of Justinian*, IV, 282-285.

issue or shipwreck, Byzantine rulers used both domestic law and treaties to implement such legislation. It is difficult to be certain as to why this gap exists, considering both entities were maritime and their relations with other entities must logically have involved a significant amount of movement across seas as well as rivers. To examine this difference fully would require extensive study of treaties concluded between entities that do not form a part of this study, but this could be an avenue for future research.

The movement of goods is intertwined with the sale of goods, and rulers sought to control the sale of particular goods at specific markets. Byzantium's control over the silk trade is well known. Lopez's seminal article on the Byzantine silk trade emphasises the control emperors exerted over its production, importation and exportation.[1095] For instance, Persian merchants bringing silk into the empire had to go via Trebizond, allowing for strict control of the imported luxury item.[1096] Furthermore, Muthesius has argued well that silk underpinned much of Byzantium's diplomatic activities, acting as both a high value gift or payment to secure a ruler's favour.[1097] However, Muthesius barely touches on the control of the sale of silk within treaties, despite Byzantine treaties revealing pertinent information on the sale of silk.[1098] In particular, the empire's strict control over this luxury item is shown in the 945 Rus' treaty.[1099] Rus' merchants were only to able buy silk up to the value of fifty *bezants* or *hyperpyra*. Any merchant buying silk was to then show it to an officer, who would 'stamp and return' the merchandise.[1100] While this might seem strict, to be able to buy silk at all was

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[1095] Lopez, 'Silk Industry in the Byzantine Empire', 1-42. For more on the Byzantine Silk industry, see Anna Muthesius, 'The Byzantine Silk industry: Lopez and Beyond', *Journal of Medieval History*, 19 (1993), 29-67; Gang Wu, 'The Myth of *Phocaicus*: New Evidence on the Silk Industry in Byzantine Central Greece', *Mediterranean Historical Review*, 30 (2021), 43-61.

[1096] Lopez, 'Silk Industry in the Byzantine Empire', 29.

[1097] Muthesius, 'Silk, Power and Diplomacy in Byzantium', 101-104; Muthesius, 'The Byzantine Silk Industry: Lopez and Beyond', 11.

[1098] Muthesius does mention the *Treaty of Aleppo* has a clause on the taxation of silk but does not offer any in-depth analysis of the clause. Muthesius, 'Silk, Power and Diplomacy in Byzantium', 104.

[1099] *Treaty of Constantinople* (945), 75.

[1100] *Treaty of Constantinople* (945), 75.

an impressive privilege, Liudprand of Cremona not being allowed to buy any silk whatsoever when visiting Constantinople on behalf of Otto I.[1101] Indeed, as Lopez has noted, this allowed Rus' Merchants better access to silk than their provincial Byzantine counterparts.[1102]

While this gave Rus' merchants a significant trading advantage, these rights were eclipsed in the next century. In the 1082 treaty with the Venetians, the Venetians were permitted to trade in all types of merchandise in Byzantium, presumably including silk.[1103] Lopez does touch on some of these privileges, but only makes a passing reference to the Venetian privileges, and without emphasising that the Venetians were from this point able to trade silk in the same way as domestic Byzantine merchants. In fact, this privilege was later extended to the Pisans, '[merchandise] that [comes] from Romania, you can sell and give them like the Romans'.[1104] It is also worth noting the sweeping rights granted to the Venetians in the 1198 treaty, being allowed to trade freely throughout Byzantium, on land and sea.[1105] These privileges made the Italian cities, and particularly Venice, a powerful mercantile force, both in Byzantium and the wider Mediterranean. However, it is important to highlight that both the *Treaty of Aleppo* and the *Treaty of Baghdad* have no cap on the buying of silk either. Indeed, the *Treaty of Baghdad* actively states that Skleros would not be forbidden from buying any provisions or equipment. While this likely focused on military supplies, there is no mention of curtailing Skleros's ability to buy silk, and thus it seems likely he could purchase it if he saw fit.[1106] Given this was in the prelude to his second rebellion, it is easy to see how silk could have been useful to him as diplomatic gifts in wooing potential allies. The *Treaty of Aleppo* actively refers to silk being traded in Aleppo, reserving the taxation of it for the Byzantine

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[1101] Liudprand, *Embassy*, 272.
[1102] Lopez, 'Silk Industry in the Byzantine Empire', 35.
[1103] 'Omnium enim, quas quis dicat, specierum ac rerum concessa est his negotiacio, et omnium emptionem in potestate habebunt facere'; *Treaty of Constantinople* (1082), 53.
[1104] Treaty of Constantinople (1111), 53. Translation from Penna, *The Byzantine Imperial Acts*, 112-113.
[1105] *Treaty of Constantinople* (1198), 129-132.
[1106] *Treaty of Baghdad*, 66.

officer in the emirate.[1107] Neither the treaties of Aleppo or Baghdad attempt to control the sale of silk, which likely reflects the increased accessibility of silk east of Byzantium, and thus the control of its sale being less important.

While there are many clauses from Byzantine treaties controlling the sale of particular goods, this is relatively rare in their English counterparts. However, as touched upon above, there is evidence of trading privileges and issues being dealt with outside of written treaties. For instance, Offa of Mercia and Charlemagne famously negotiated over trade issues prior to this project's period.[1108] The *Treaty of Windsor* offers a rare example of an English king controlling the sale of a particular good, specifying tax is to be levied on one in ten animal hides sold by all merchants bar those from Henry II's lands, and not on any other merchandise.[1109] I have commented above on English domestic law codes legislating on trade privileges and toll exemptions, but domestic laws are also pertinent to controlling the sale of particular goods. Once again, the law code *IV Æthelred* and the privileges issued to the 'men of the emperor', are relevant here, allowing the merchants to sell the same cargo as their English counterparts.[1110] Byzantine domestic law also concerns the sale of particular goods, the *Book of the Eparch* legislating on the sale of silk in particular.[1111] However, Byzantium often approached controlling the sale of particular goods in the treaty-making arena, while English rulers more often controlled it via other methods. While this likely partly reflects how the treaty corpus has survived, the majority of Byzantium's treaties surviving with the Italian cities, this difference is still surprising, particularly as more English treaties survive in total. As such, this seems to further support that Byzantium was more concerned with long-

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[1107] *Treaty of Aleppo*, c. 20.
[1108] *MGH Epistolae*, IV, 145–146.
[1109] *Treaty of Windsor,* 84.
[1110] *DGA,* I, 232 (c. 2.8).
[1111] *Roman Law in the Later Roman Empire: Ordinances of Leo VI*, trans. Edwin Hanson Freshfield (Cambridge: CUP, 1938), 16-27.

distance trade and controls on the sale of particular goods than its English counterparts, at least within the treaties.

The movement of luxury goods, such as silk and animal hides, was an important aspect of trade, but it is easy to overlook the sale of essential goods that made up supplies. The sale of staple goods was recognised by both Byzantine and English rulers within treaties. In particular, the logistics of supplying large bodies of troops with staple foods and other provisions were legislated on by both Byzantine and English rulers. For instance, the *Treaty of Andover* provided supplies for the hired troops, stating that 'we must supply them with food as long as they are with us'.[1112] Analyses of this treaty have overwhelmingly focused on the military service provided, the payment for this service, and redress, but this clause clearly shows supplies were a vital part of the treaty.[1113] Similarly, the 1101 *Treaty of Dover* states that the hired Flemish troops were to do service at King Henry's expense, and that the king would make up for any of the hired troops' losses.[1114] Presumably, this accounts for the supplies and expenses of the troops while they served the English King. Although supplies are given in these two examples, the logistics of their provision are not given, and it seems likely that providing the supplies was solely the responsibility of the English kings, and as such, not relevant to the treaty. This fits well with current scholarship on how the burden of supply often fell on the ruler in England more generally.[1115] By contrast, it is apparent in the Byzantine treaties that rulers did not always bear the burden of supply for their troops. The *Treaty of Aleppo*, for example, is quite clear that the opportunity for Byzantine forces to buy provisions would be provided, but most of the provisions themselves were not freely given.

[1112] *Treaty of Andover*, c. 1.1; *EHD*, I, 401.

[1113] Stenton, *Anglo-Saxon England*, 376; Roach, *Æthelred: The Unready*, 117.

[1114] *Treaty of Dover* (1101), c. 8.

[1115] Mark S. Hagger, *Norman Rule in Normandy, 911-1144* (Woodbridge: Boydell Press, 2017), 624-634 and 641-644. As Gillingham notes, it was also common practice to gather supplies via foraging/ravaging an opponent's territory while on campaign, Gillingham, 'William the Bastard at War', 147-153; Lavelle has pointed out this is likely true earlier in the period as well, Lavelle, '*Campagnes et Stratégies des Armées Anglo-Saxonnes Pendant L'époque Viking*', 127-126.

Clause 8 states that if the emperor or the commanding officer of the Byzantine army was to lead an attack on 'Muslim territories', the emir's son was to meet them at a certain place and 'stop villagers escaping so that Rumi troops may buy whatever they need'.[1116] This may reflect that in this period the campaigning Byzantine army seems to have been supplied by a combination of supply by the ruler, arrangements being made by the *protonotarios* of the Imperial *thema* a force was travelling through, and soldiers having to forage and fend for themselves at times.[1117] Indeed Leo VI advises the leaders of campaigning armies to carry sufficient supplies but rely on foraging in enemy territory.[1118] Perhaps this clause thus recognised the utility in having a friendly party as a 'stopping point' at the start of a campaign, providing needed supplies for campaigning Imperial forces, and giving the soldiers themselves a chance to secure provision before departing to enemy territory where foraging sources might be scarce. Indeed, it is difficult to emphasise the importance of securing fresh supplies while on campaign, and Aleppo's placement on the borders of the empire made it an ideal 'check point' for this. Although these treaties highlight a difference in approach, securing supplies for troops was an issue of concern for rulers, showcasing the pragmatic nature of these documents.

The importance of securing markets for the purchase of supplies for campaigning armies, as well as controlling the price of goods and how goods could be used by armies in the field, is also referred to in the evidence surrounding treaties.[1119] Henry II, for example, clearly realised the importance of securing supplies, for upon declaring his intentions to go on crusade, he wrote letters to the various kings and rulers *en route*, including Emperor Isaac II

[1116] *Treaty of Aleppo*, c. 8.
[1117] On this, see John Haldon, *Warfare, State and Society in the Byzantine World, 565-1204* (London: UCL Press, 1999; repr. Abingdon: Routlege, 2014), 143-145.
[1118] *Leonis Imperatoris Tactica*, ed. R. Vári, 3 vols (Budapest: University of Budapest Press, 1917-1922), I, ix, 1–3 and III, xvii, 36.
[1119] For further reading more generally on the supplies secured for these forces, see John Gillingham, 'Richard I and the Science of War', in *Anglo-Norman Warfare*, 203-206; Haldon, *Warfare, State and Society in the Byzantine World*, 142.

Angelos, to ensure his army had access to adequate markets.[1120] Such references also occur in treaties and agreements made with crusading forces. For instance, the *Ordinance of Messina* (1190), detailing an agreement between the crusading forces of Richard I, Philip Augustus, and Tancred of Sicily, puts strict controls on the selling of key goods. For instance, the treaty states merchants 'cannot buy bread in the army to be sold, nor flour unless some foreigner will have brought it, and who will have made bread with it'.[1121] This condition was likely to control bread prices, stopping merchants from selling bread on at an inflated sum. Indeed, this appears to be a common theme in the text, as bringing bread, corn, flour or feed (*pasta*) into a town, or even within a league of a town, was banned. Presumably this was an attempt to stop troops from selling rations that may have been needed later. Strict legislation was enforced upon merchants dealing with the army, stating that regardless of what was being sold, merchants could only make one penny of profit for every tenpence, perhaps reflecting a form of the *decima*.[1122] The kings also agreed a transaction rate, stating that 'one penny of English money may be given for four pence of Anjouin money for all purchases'.[1123] Controlling the sale and movement of food staples was thus a practical step to ensure the crusading army was supplied while *en route* to the Near East, and the agreement of an exchange rate helped ensure trade was fair. This avoided potential friction with local markets.

These practical steps were mirrored in another treaty made with crusading forces, being the *Treaty of Adrianople*. Clause 10 explicitly has Isaac set up markets for the purchase of supplies, both while the army crosses to Anatolia, and afterwards. Additionally, the treaty states that 'sales will be made to them (Barbarossa's forces) at a fair price, as they should sell

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[1120] *Diceto*, II, 51-52.

[1121] 'Praeterea statutum est a praedictis regibus, quod mercator, de quacunque mercatione sit mercator, non potest emere in exercitu panem ad revendendum, nec farinam, nisi aliquis alienigena illam adduxerit, et qui de illa panem fecerit'; *Ordinance of Messina*, 60.

[1122] 'Alii vero mercatores, de quacunque mercatione sint mercatores, in decem denarios tenentur lucrari unum denarium'; *Ordinance of Messina*, 60.

[1123] 'Et ut de moneta Angliae unus denarius detur in omnibus mercaturis pro quatuor denariis Andegavensis monetae'; *Ordinance of Messina*, 60.

to the Emperor Isaac [himself]'.[1124] While this is not explicit, it does mirror a clause from the *Ordinance of Messina*, putting a cap on the profit a merchant could make from any sale to the crusading army.[1125] Additionally, clause 9 has clear parallels with the *Ordinance of Messina*. While the *Ordinance of Messina* states 'one penny of English money may be given for four pence of Anjouin money', clause 9 of the *Treaty of Adrianople* also sets an exchange rate, 'A mark of silver will be sold for five and a half *hyperpera*, and the *hyperpera* will be exchanged for 120 *stamina*'.[1126] Establishing exchange rates is of particular interest, as it is still a prominent feature of modern long-distance travel as well as trade. There are certainly differences between these treaties. Clause 7 of the *Treaty of Adrianople*, for instance, states if the *Pansebastos*, the Imperial officer of a territory, could not secure supplies 'through the reluctance of the inhabitants', Barbarossa's crusading army could 'behave towards them as they saw fit, except that they were not to hand over their land to any foreign person'.[1127] While this mirrors clause 8 of the *Treaty of Aleppo*, both commenting on the potential noncompliance of locals in providing goods for supplies and addressing the provision of markets within the treaties, there is no equivalent clause in the *Ordinance of Messina*.[1128] However, there are clear approaches in common here, both Byzantine and English rulers establishing controls on the sale of staple goods for crusading armies, and establishing an exchange rate to ensure fair trade of goods. Both powers clearly used treaties to address the logistical challenges presented by moving large numbers of troops through territory, highlighting that rulers had the foresight to use treaties as a pragmatic avenue to address issues surrounding the movement of supplies, and found solutions which remain familiar to a modern audience.

[1124] *Treaty of Adrianople,* c. 10. Translation from *The Crusade of Frederick Barbarossa*, 91.
[1125] *Ordinance of Messina*, 60.
[1126] *Treaty of Adrianople*, c. 9. Translation from *The Crusade of Frederick* Barbarossa, 91.
[1127] *Treaty of Adrianople*, c. 7. Translation from *The Crusade of Frederick* Barbarossa, 91.
[1128] This perhaps also indicates Emperor Isaac's waning authority, allowing a foreign party to raid his own territory if his subjects do not comply. *Treaty of Aleppo*, c. 8; *Ordinance of Messina*, 60.

Scholarship of both England and Byzantine military service has also noted the importance of pack animals to the logistics of campaigns.[1129] For instance, a tenth-century Byzantine military manual advises against any campaign lasting longer than 24 days in foreign territory, without resupply, as it would not be possible to transport enough barley for the army's horses to subsist on.[1130] Morillo has noted that the Pipe Rolls from Henry II's reign cite fodder for the animals associated with a campaigning army as a considerable expense, noting that Henry's Irish campaign in 1171 spent £65, roughly one eighth of his overall expenses, on oats, presumably for horses.[1131] We also have substantial treaties for rulers securing supplies in particular for the animal contingent of their forces. For instance, while clause 8 of the *Treaty of Aleppo* does touch on markets for supplying troops, it also states that Byzantine forces will not have to buy straw, 'which is to be provided gratuitously according to rules in force'.[1132] Similarly, the *Ordinance of Messina* forbids anyone in the crusading army from bringing staple food stuffs, including what appears to be animal feed, *pasta*, within one league of any town, which would stop troops from selling animal fodder for their own personal gain.[1133] While the *Treaty of Adrianople* does not have any clause on supplies for animals specifically, the treaty's second clause does explicitly have Isaac provide 'one hundred and fifty [other] ships suitable for the safe transport of horses'.[1134] With this in mind, the markets which were to be set up by the *Pansebastos* must have included an adequate supply of animal fodder. In fact, this is made explicit in clause 10, which states Isaac would set up markets for the entire army both during the crossing and afterwards, the crossing being

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[1129] See, Haldon, *Warfare, State and Society in the Byzantine World,* 155-163; Stephen Morillo, *Warfare Under the Anglo-Norman Kings* (Woodbridge: Boydell Press, 1994), 78; Gillingham, 'Richard I and the Science of War', 203-206.
[1130] *Three Byzantine Military Treatises*, 302-305.
[1131] *The Great Roll of the Pipe for the Eighteenth Year of the Reign of Henry II: AD 1171-1172* (London: The Pipe Roll Society, 1894), 1-147 (throughout the material, but particularly 129). Also see, Morillo, *Warfare Under the Anglo-Norman Kings*, 124-125.
[1132] *Treaty of Aleppo*, c. 8. Unfortunately, we do not know what these 'rules in force' were.
[1133] *Ordinance of Messina*, 60.
[1134] *Treaty of Adrianople*, c. 2; Translation from *The Crusade of Frederick* Barbarossa, 90.

the reason the ships for the transport of horses were provided in the first place.[1135] Indeed, given that clause 2 of the *Treaty of Dover* (1101) specifically mentions each of the hired troops were to bring three horses with them, it seems reasonable to assume the provided ships and expenses covered by Henry I also allowed for the transportation and expenses associated with these horses.[1136] Therefore, the various animals that accompanied campaigning troops, both draft animals and otherwise, were an essential aspect of any campaigning army, and show that securing the logistical support to ensure adequate supply for these animals was an important aim for any campaigning ruler.

While other treaties are not as explicit, there are numerous references to supplies that likely referred to campaigning supplies generally, and incorporating supplies for both troops and draft animals. For instance, the *Treaty of Baghdad* allows Bardas Skleros and his followers to travel to the Buyid emir's territory freely, and by the necessary provisions and equipment.[1137] While I briefly discussed the purchase of particular items earlier in terms of buying silk for use in diplomacy, this is also likely to have encompassed other supplies, such as campaigning provisions, particularly given Skleros's subsequent activity as a returning rebel.[1138] Similarly, the *Treaty of Acre* (1191) between Richard I and the Genoese specifically asks for Genoese naval aid, but also asks for the Genoese to bring as many supplies, *apparatu*, as they can. This clause in particular highlights the importance of naval forces in supplying logistical aid in moving goods. Clearly, rulers were actively concerned about maintaining the supply chains for their campaigning forces, while also realising that many locals in an area would flee before any large military force, thus making goods harder to come by. Furthermore, even if locals did not flee, the excess demand caused by moving potentially thousands of troops

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[1135] *Treaty of Adrianople*, c. 10; Translation from *The Crusade of Frederick* Barbarossa, 91.
[1136] *Treaty of Dover*, c. 2.
[1137] *Treaty of Baghdad*, 66.
[1138] *Skylitzes*, 334-336.

through an area could cause the price of staples to inflate massively. As such, both Byzantine and English rulers, as well as those they dealt with, took steps to stop this from happening, and utilised treaties to do so.

While the issue of supplies for armed forces was one of importance within Byzantine and English treaties, treaties also refer to giving supplies to those on diplomatic business. Of course, the 945 Rus' treaty is well known for containing clauses allowing Rus' merchants to receive supplies for their stay in Constantinople if they entered the city with their merchandise via the appropriate channels.[1139] Rightly, scholars have seen this clause as having a clear trade element, encouraging Rus' merchants to declare their goods and pay the appropriate tolls in exchange for a clear reward in terms of supplies and accommodation.[1140] However, this clause also seems to have had a diplomatic element. Given that 'agents' of the Rus' Prince are also covered by this, and that a number of merchants are named as envoys of the Rus' Prince within the treaty, it seems likely this also had a diplomatic function, and was not solely to guarantee good trading relations.[1141] This touches on a separate aspect of the movement of goods, supplies given or provided for diplomatic business. Such clauses within treaties vary from treaty to treaty, and perhaps reflect the relationship between the rulers involved. For instance, individuals can be named within treaties, specifically granting a person freedom to travel, and to buy supplies while within a ruler's territory conducting diplomatic business. For example, the *Treaty with Llywelyn* states that having performed homage to King John, Llywelyn 'shall not be impeded by anyone', presumably when travelling back home and when obtaining provisions for the journey.[1142] The *Treaty of Baghdad* seems to go further, explicitly stating Skleros would not have to pay fees to cross

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[1139] *Treaty of Constantinople* (945), 74-75.
[1140] Shepard, 'Russo-Byzantine Relations', 18-19.
[1141] The treaty names many of the Rus' envoys at the start, and ends by stating the emperors had signed one copy of the treaty, and the merchants and agents of the Rus', presumably being the Rus' envoys, had signed the other copy. *Treaty of Constantinople* (945), 73 and 76-77.
[1142] *Treaty with Llywelyn*, 372.

the Buyid emir's territory, nor would he be impeded in buying any necessary goods.[1143] These clauses, in combination with the clauses using frontier officers to control trade, show rulers had sufficient control over markets and the movement of goods in their territory, and that other parties had to obtain permission to trade and partake in these markets for supplies. Furthermore, both Byzantine and English rulers clearly recognised the practicalities of travel. Whether one was a ruler of note, such as Skleros or Llywelyn, or a subject travelling abroad, rulers recognised that providing the means to restock supplies was an essential aspect of movement in this period that needed to be addressed in treaties.

The relationship between rulers was of importance for such clauses, and affected the right to supplies of the visiting diplomatic party. For instance, Roger of Howden recorded an account of the reception of the King Louis VII of France in England, along with Philip count of Flanders, Baldwin count of Guisnes, and Henry duke of Lorraine, and the English king explicitly provided all necessary provisions.[1144] More depth for these types of provisions is given in a letter between Richard I and William the Lion, king of Scots, which list the following will be given to William:

'and each day from his (William's) arrival at our court until his departure towards his own land, 30 sterling, and twelve of our own wastel loaves and the same number of our own simnel loves, and twelve sesters of wine, that is four of our wine, as it is served to us, and eight sesters of the wine with which our household is served, and two stone of wax or four [wax?] candles and forty [tallow?] candles of our own, as they are served to us, and two pounds of pepper, and four pounds of cumin'.[1145]

[1143] *Treaty of Baghdad*, 66.
[1144] *Chronica*, II, 192-193.
[1145] *Anglo-Scottish Relations*, 18-21.

By contrast, the *Treaty with Llywelyn*, only allows for the prince of Gwynedd to return home unimpeded, letting Llywelyn buy the necessary provisions for his return home but not actively supplying the Welsh prince.[1146] This is also mirrored in the *Treaty of Baghdad*, explicitly allowing Skleros access to Buyid markets, but not giving Skleors any provisions.[1147] This seems a relatively meagre concession compared to the provisions offered to the Rus' merchants and envoys in the 945 treaty.[1148] The differences in these concessions seemingly reflects the relative relationship and power dynamics involved between the involved parties, Skleros being an exile at the Buyid court and Llywelyn being significantly less powerful than both the king of Scots and the king of France. Therefore, the supplies provided for diplomatic business varied from party to party, perhaps reflecting the prominence allocated to particular rulers and peoples by the host party.

We can also see the movement of goods in a separate diplomatic sense, specifically to be offered to other parties not named within the treaty itself. The references to Byzantine emperors moving goods and men through Italian cities are insightful here. For instance, as noted in Chapter 5, the 1169 *Treaty of Genoa* has a clause which states that the emperor could deploy treasure, cargo, his men and ships to Genoa, and that the Genoese would protect them.[1149] This clause is mirrored in the 1187 Venetian treaty, which states that the emperor can send any recruitment officers, as well as troops and property, to Venice, and that the Venetians would defend these officers and their property from any enemies.[1150] That these goods were utilised for diplomacy, or at least recruitment, is shown by these officers both possessing these goods, and their role explicitly in gaining troops for Byzantium.

[1146] *Treaty with Llywelyn*, 371-372.
[1147] *Treaty of Baghdad*, 66.
[1148] *Treaty of Constantinople* (945), 74-75.
[1149] *Treaty of Genoa* (1169) [MS B], 187.
[1150] 'Item, si imperium eorum uoluerit homines aut uestiaria Venetiam mittere gratia conducendi milites a Lombardia uel ab alia terra, et dispensandi ea, que ad honorem et utilitatem terre spectant celsitudinis eorum, licite faciet hoc, si hoc non est contra Venetiam'; *Treaty of Constantinople* (1187), 200.

Furthermore, we know Byzantium consistently sent agents with goods of value to recruit troops in Italy.[1151] Although Nicol has discussed this clause, he only notes that the Venetians were unlikely to be called upon to be the Byzantine gateway to a western invasion.[1152] Even though this clause certainly has a military aspect, Nicol overlooks that this clause also concerns the movement of goods, and does not address its clear relevance to diplomacy. Clearly, these clauses are multi-faceted, encompassing the movement of military service and the movement of goods. Although the latter certainly had an economic element, it would be wrong to see the movement of goods and giving of supplies as solely an economic transaction, when it also had a peace-making element.

While the Byzantine clauses refer explicitly to the movement of goods as diplomatic gifts by the emperor's subjects, the English treaties are less explicit. However, given the English clergy's prevalence as envoys on behalf of English rulers, it is probable that diplomatic gifts are encompassed by the clause in the *Treaty of Ivry* which states 'that merchants and all other men of his [Henry II's] dominions, both **clergy** as well as laity, shall, with all their property, be secure, and enjoy peace in all my territories'.[1153] This clause is effectively repeated in the *Treaty of Gisors*.[1154] Surrounding evidence consistently emphasises the importance of such gifts. For instance, Richard I gave the mythical sword of King Arthur to Tancred of Sicily, and Constantine VII comments on the giving of gifts to numerous peoples to cement good relations.[1155] Thus this movement of goods as peace-making gifts was also a prominent concern of English rulers, and both the English and Byzantine leaders acted to secure these gifts within the treaties. Given that medieval diplomacy is often characterised by rulers' personal relationships, and the prominence placed on diplomatic gifts in cementing these

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[1151] For more on this, see Theotokis, 'Rus, Vanrangian, and Frankish Mercenaries', 142-143; Harris, *Byzantium and the Crusades*, 46.
[1152] Nicol, *Byzantium and Venice*, 114.
[1153] *Treaty of Ivry*, 146.
[1154] *Treaty of Gisors* (1180), 199.
[1155] *Chronica*, III, 97; *De Administrando*, 48-55.

relationships in the surrounding evidence, it seems likely being able to safely transport such gifts through the realms of other peoples was an important aspect of maintaining and growing a ruler's network of potential friends and allies.

Throughout this chapter so far, when discussing the movement of goods in treaties, I have focused on moveable goods. However, it is also worth exploring the movement of ownership regarding immovable 'goods', namely land. Traditionally, immovables, being land, and movables, being goods, have been treated by scholars as separate categories of property. For instance, Penna approaches the two separately throughout her analysis of treaties with the Italian cities, specifically separating clauses on immovable property and on shipwreck, the latter relating to the movement of goods.[1156] Similarly, Hudson repeatedly emphasises the categorical difference between English legislation pertaining to land, and legislation pertaining to movable goods.[1157] While this legal separation is reasonable, it perhaps overlooks that the 'movement of land ownership' impacted the movement of goods. Specifically, there are clear examples where the exchanging of towns, fortifications, landing stages, and other properties, have a clear link to trade, and thus have clear relevance to the movement of goods in and of itself. For instance, it is well known that the Italian cities often sought immovable property, such as warehouses and landing stages, and this is overwhelmingly apparent in the treaties with Byzantium. The 1082 *Treaty of Constantinople* with the Venetians states 'To this end [the Emperor] grants to them both workshops… and three coastal landing stages, which will be bounded to the aforesaid space'.[1158] Of course, the granting of workshops and landing stages has a clear link with the movement of goods, helping facilitate trade between the two peoples, both in moving the goods through the

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[1156] For instance, see Penna, *The Byzantine Imperial Acts*, 277 and 280.

[1157] Hudson, *The Oxford History of English Law*, 149 and 678.

[1158] 'Ad hoc donat eis et ergasteria... et maritimas III scalas, que in predicto spatio terminator'; *Treaty of Constantinople* (1082), 52. The 'aforesaid place' being the Golden Horn.

landing stages, and in storing and securing them at a particular site for future movement. Indeed, the 1155 *Treaty of Genoa*, in addition to promising the Genoese 'a trading station in Constantinople, and quays…', sees further grants of immovable property as the likely result of future negotiations, 'If moreover Palaiologogos or Subitos promised to you a specific trading station and quays… [the Emperor] will grant the very same to you'.[1159] Given that the granting of these immovable properties often went hand in hand with exemptions from tolls and taxes, such grants were important if only for the practical implementation of these trading privileges. Indeed, this is effectively confirmed by the first treaty made with the Genoese in 1170, which grants the Genoese a warehouse (*embolus*) and a landing stage (*scala*).[1160] Presumably, privileges issued to a particular people, such as the Venetians or Genoese, were implemented by having particular officers inspect the cargo of these peoples at particular points, and the granted landing stages likely acted as the check point which implemented these taxation exemptions.[1161] This is supported by the 1082 Venetian treaty explicitly listing the taxes that did not apply to Venetian trade, and naming the officials from whom the Venetians were exempt.[1162] This gave the Venetians a clear 'check list' regarding their privileges, but also allowed customs officers from Byzantium to know whether they were to concern themselves at all with the Venetian landing stages. Indeed, the 1198 Venetian treaty even punishes Byzantine officials that impeded on the Venetians' extensive privileges.[1163] Much scholarship has recognised this as a theme in the treaties between Byzantium and the Italian cities. Nicol, for instance, argues that the Byzantine emperors gave the Italian cities rights over the property granted to them, in order to gain favourable terms and military

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[1159] '…dabit vobis in Constantinopolim embolum, scalas…'; 'Si vero Paleologus vel Subitus promiserunt vobis speciale embolum et speciales scalas…dabit vobis easdem…'; *Treaty of Genoa* (1155), 263.

[1160] *Treaty of Constantinople* I (1170), 118.

[1161] For instance, see the immovable property granted to the Genoese in the 1192 treaty. *Treaty of Constantinople* II (1192), 59.

[1162] 'Excident uero et ab ipso eparcho, parathalassite, eleoparocho, genico, chartulariis, hypologis, et omnibus, qui huiusmodi sunt, nullo eorum, qui per loca sunt principum uel aliorum seruitium communis traetantium, contempnere quid eorum, que hic diffinita sunt, presumente'; *Treaty of Constantinople* (1082), 53.

[1163] *Treaty of Constantinople* (1198), 132.

service.[1164] Penna has added that the land technically remained in the hands of the emperor, but agrees with Nicol's analysis.[1165] Similar immovable property seems to have been promised to the Genoese for aiding Richard I's crusading army. Richard promises that the Genoese 'will get a share in proportion to the number of ships and people [the Genoese] do send'. The 'share' here, *porcionem*, almost certainly refers to potentially conquered lands with assets which might be given to the Genoese.[1166] Indeed, there are clear comparisons to be made between the Italian cities' treaties with Byzantium, England, and other entities, such as the crusader states. The majority of these treaties concern the granting of land for the movement of goods in some way.[1167] While there is ample scholarship on the movement of land ownership in relation to the movement of goods in Byzantine treaties, there is relatively little on the English treaty corpus. This privation in the scholarship on English treaties lends itself to interpreting English trade as undeveloped, despite ample clauses on the movement of land ownership existing. While these clauses are admittedly different in character to those of the Byzantine treaties with the Italian cities, as shown below, these clauses still ultimately concern the movement of goods.

The 1177 *Treaty of London*, arbitrated by Henry II between Alphonso VIII of Castille and Sancho VI of Leon, is a clear example of how the movement of land ownership impacts the movement of goods, and how it is expressed differently in English treaties compared to Byzantine treaties with the Italian cities.[1168] While movement of land related to trade is not as explicit as in the Byzantine-Italian city treaties, there are clear references to trading hubs

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[1164] For instance, see Nicol, *Byzantium and Venice*, 61.

[1165] Penna, *The Byzantine Imperial Acts*, 209.

[1166] '…iuxta numerum et quantitatem navium vestrarum et gentis vestre porcionem vestram optinebitis'; *Treaty of Acre* (1191), 16. Translation from *The Conquest of Jerusalem and the Third Crusade*, 181.

[1167] *Treaty of Constantinople* (1082), 52; *Treaty of Acre* (1191), 16. Also see the c. 1104 treaty between the Kingdom of Jerusalem and Genoa, *LIRG*, I, 98-99.

[1168] Regarding Henry's role as arbitrator, this is not the last time Henry was chosen to arbitrate peace between two powers. He was also chosen as a third-party arbitrator to make peace between Philip Augustus, king of France, and Philip I, count of Flanders in 1180. See, *Treaty of Gerberoy*, 500-503.

changing ownership. For example, in an earlier treaty referred to in the *Treaty of London*, the *Treaty of Logroño*, Alphonso lists a number of places Sancho had taken from him, including 'Logroño… Navarette… and Agosen, [and] Abtol… with their markets...'.[1169] Henry explicitly recognises this in the *Treaty of London*, stating that Alphonso accused Sancho of taking 'Logroño, Navarette, Andeva, Abtol, and Agosen, **with all their borders and appurtenances**… from which he (King Alphonso) demanded that restitution be made to him (King Alphonso). [1170] Unlike the clauses with the Italian cities, there are no explicit references to landing stages and warehouses, and it is only by referring to a prior treaty that we see these appurtenances must have included immovable property fundamentally linked with the movement of goods, in this case a market, *mercatis*. Such vague references to other possessions within territories often appear in treaties concerning exchanges of immovable goods, including markets and land linked to the production of goods. For instance, the *Treaty of Montferrand* has the count of Maurienne grant Prince John and the count's daughter:

'Rousillon, with all his command and with all its appurtenances, and Pierecastle, with all its appurtenances, and to them he grants the whole county of Belicia, as he holds it; and the whole valley of Novalese; and Chambery with all their appurtenances'.[1171]

The frequent reference to the appurtenances, *pertinentiis*, clearly highlights the importance of the unnamed assets of these places, and likely encompasses a number of other things as well. The treaty later clarifies some of these, 'All these things the aforesaid count grants to [John]

[1169] The initial treaty of Alphonso and Sancho states 'Sanctio Navarrae, avunculo suo, sibi fieri restitutionem de Logronio, de Athlena, de Navaret, quod est citra Ribarovia, et de Agoseio, de Abtol, de Arresa, de Alava, **cum suis mercatis**'; *Chronica*, II, 125. Henry II addresses this in the *Treaty of London*. 'Logronium, Navarret, Antelena, Aptol, Agoseio, **cum omnibus terminis et pertinentiis suis**… Unde et eorum (Alphonso) sibi fieri restitutionem postulabant'; *Treaty of London*, 129. Emphasis my own. Later in the treaty, full restitution is made for the named places.

[1170] 'Logronium, Navarret, Antelena, Aptol, Agoseio, **cum omnibus terminis et pertinentiis suis**… Unde et eorum (Alphonso) sibi fieri restitutionem postulabant'; *Treaty of London*, 129. Translation and emphasis my own.

[1171] 'Rusillun cum toto mandato suo sive pertinentiis suis omnibus; et Perecastle cum omnibus pertinentiis suis; et totum comitatum Belicensem, sicut eum habet, illis concedit; et totam vallem Novalesiae; et Camberiacum cum omnibus pertinentiis suis...'; *Treaty of Montferrand,*, 41.

the aforementioned son of the king of England, with his aforenamed daughter, as freely, entirely and serenely, in men and cities, castles and other fortifications, in meadows… waters, and valleys, and mountains, and customs and in all other things…' which both the count and the count's father had controlled in those lands.[1172] While the granting of immovable property linked with trade is expressed very differently here when compared to the treaties with the Italian cities, it is clear this was a theme of importance in the English treaties with other powers too. Clearly, English rulers were also actively concerned with controlling areas of importance for local and long distance trade, and recognised the commercial value of immovable property within treaties.

The importance of these appurtenances is shown by the frequent emphasis given to them within English treaties in a variety of contexts. The *Treaty of Montferrand* might be seen as exceptional. After all, the treaty explicitly concerns Henry II gaining the hand of the count of Maurienne's daughter, Alice, and focuses on the count of Maurienne providing the couple with ample lands and estates to provide an income.[1173] However, treaties made in the aftermath of conflict also give emphasis to the appurtenances of particular lands, which certainly included immovable property linked with trade. For instance, the 1174 *Treaty of Montlouis*, between Henry II and his rebellious sons, has Henry the Young King specifically agree to Henry II giving Prince John 'a thousand pounds worth of rents in England from his demesne and from his estates by his consent and its appurtenances; and the castle of Nottingham with the county, and the castle of Marlborough with its appurtenances'.[1174] John Gillingham has solely focused on the homage performed, or not performed in this case, by

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[1172] 'Haec omnia praefatus comes concedit praedicto filio regis Angliae in perpetuum, cum filia sua praenominata, ita libere, integre et quiete, in hominibus, et civitatibus, castris et aliis munitionibus, in pratis… in aquis, et vallibus, et montanis et paagiis, et in omnibus aliis rebus…'; *Treaty of Montferrand,*, 42.

[1173] *Treaty of Montferrand*, 41-42. Similar grants are given for the marriage of King Louis VII of France daughter to Henry the Young King in the 1160 *Treaty of Gisors. Treaty of Gisors* (1160), 221-222.

[1174] '…mille libratas reddituum in Anglia de dominico suo, et de excaetis suis ad voluntatem suam et pertinentiis suis; et castellum de Notingham cum comitatu, et castellum de Merleberga cum pertinentiis suis…'. *Treaty of Montlouis*, 68.

Henry the Young King to Henry II in the *Treaty of Montlouis*, and sees the land transferred between the two strictly in terms of homage and allegiance.[1175] This underestimates the commercial importance of these areas, solely denoting the transfer of these areas in terms of the political relationship between Henry II and his son. The *Treaty of Louviers*, between Richard I and Philip Augustus, also has related clauses. Richard ratifies the earl of Leicester giving the castle of Pacy with its appurtenances to the French king.[1176] Similarly, the 1153 *Treaty of Winchester*, concluding the conflict between King Stephen and the future Henry II, also emphasises the importance of controlling the assets associated with a particular estate. Henry grants Stephen's son the whole county of Norwich and the church of Faversham 'with its appurtenances'.[1177] Edmund King has largely focused on the *Treaty of Winchester* in terms of balanced concessions, and the right of Stephen to continue ruling England, while considering Henry's advice, but barely mentions the grants of land at all and does not acknowledge the implications for trade.[1178] While this scholarship offers valuable insight into these treaties and the context surrounding them, the economic relevance of these appurtenances are glossed over, reducing the transference of these lands to one dimensional political acts, rather than clauses that also have economic significance. This has limited how the English material has been utilised to shed light on the movement of goods in an inter-ruler context.

One reason for this, touched on in the Introduction, is the nature of how the treaty corpus has survived. For instance, many of the Byzantine treaties are preserved in the archives of the

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[1175] John Gillingham, 'Doing Homage to the King of France', in *Henry II New Interpretations*, 63-84.
[1176] 'Preterea quitacionem illam quam comes Leecestrie nobi[s] fecit de castello Paciaci tam in feodo quam in dominio cum castellaria sua et pertinenciis ipsius ratam habet rex Anglie et firmam…'; *Treaty of Louviers*, 16.
[1177] '…quod ego Willielmo filio meo dedi, ipse dux ei concessit... totum comitatum de Northfolk...ecclesiam de Fauresham cum pertinentiis suis dux confirmavit…'; *Treaty of Winchester*, 63. It's unclear whether Henry grans Stephen's son the Church of Faversham, or whether he confirms the appurtenances of that church to the Church itself. The former would make for an interesting comparison with the landing stages, warehouses, and churches granted to the Italian cities by Byzantium.
[1178] Edmund King, 'The Ascension of Henry II', in *Henry II New Interpretations*, 29-31.

Italian cities they were made with. As the Italian cities were often merchant cities, it is unsurprising that many of their treaties, with Byzantium as well as other powers, focus on immovable assets that were linked to the movement of goods. Indeed, the only English treaties with the Italian cities, the treaties *of Acre* (1191 and 1192) with the Genoese and Pisans respectively, touch upon the explicit granting of immovable property and the movement of goods.[1179] Both of these agreements survive in the archives of the Italian cities, and do not have English copies. By contrast, the vast majority of English treaties have survived in English chronicles and archives, and are concerned with the English kings' relations with their surrounding rulers, whether French, Flemish, or otherwise, often prioritising the details of homage and the political control over various vassals over detailing specifics on trade, as noted by much of the historiography.[1180] Given the nature of how much of the treaty corpus has survived, it is perhaps unsurprising that such a division exists in the surviving treaties, as there are differing priorities of the peoples who preserved these documents.

This divide, between treaties with the Italian cities being particularly explicit in relating transmission of land ownership to trade, and those with other powers being less so, is illustrated well by the surviving Byzantine treaties with other powers. For instance, the *Treaty of Baghdad* states Bardas Skleros is to deliver several fortresses to the Buyid emir, with all of their inhabitants, as well as all the inhabitants' belongings, herds, goods and tools.[1181] As in the English treaties, this clause's vagueness likely allowed it to include a variety of different goods, both movable and immovable. Similarly, the *Treaty of Devol* also touches on this. Emperor Alexios grants Bohemond a number of territories, such as:

[1179] *Treaty of Acre* (1191), 16; *Treaty of Acre* (1192), 58-59.
[1180] For example, see King, 'The Succession of Henry II', 30-33; Gillingham, 'Doing Homage to the King of France', 75-76.
[1181] *Treaty of Baghdad*, 66.

'…the city of Antioch in Cœle-Syria with its fortifications and its dependency together with Suetium situated on the sea coast; Dux with all its dependencies, together with the place called Cavcas; the place called Lulu; and the Mons Admirabilis and Phersia with all the country belonging to it…'.[1182]

The word which both Dawes and Leib translate as 'dependency'/'dépendance', *διακράτησης*, has a similarly vague meaning to the term 'appurtenances', *pertinentiis*, used in the English treaties. While Todt offers in depth and valuable analysis of the territory granted by Alexios, his analysis is largely concerned with locating the areas granted to Bohemond, and analysing the obligations of Bohemond and his men to the emperor.[1183] Although Todt does note that the granted lands included a number of harbours, he largely discusses the grant in the context of military and strategic importance, rather than being vital sites for the movement of goods.[1184] Indeed, Syria in general seems to have been a prime market and production partner for Byzantium, the *Book of the Eparch* outlining several privileges and taxes pertaining to Syrian merchants and merchandise specifically.[1185] While treaties with the Italian cities are certainly more explicit concerning the giving of immovable property to aid the movement of goods, scholars have over looked that this is clearly a theme within Byzantium's other treaties as well. Indeed, the granting of immovable property in other Byzantine treaties has clear parallels with English treaties, simply referring to the assets of particular lands in general, rather than specific assets. This is not to say that all Byzantine treaties, bar those with the Italian cities, concerned the transaction of such assets and lands. For instance, of the Rus' treaties, only the 945 treaty has a clause concerning such assets, but this only grants the

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[1182] *Treaty of Devol*, 133-134. Translation from Dawes, *The Alexiad*, 251. Indeed, there are also other references in the treaty to other locations granted by the emperor to Bohemond. *Treaty of Devol*, 136.
[1183] Todt, 'Antioch and Edessa in to the So-Called Treaty of Deabolis (September 1108)', 490-497.
[1184] Todt, 'Antioch and Edessa in to the So-Called Treaty of Deabolis (September 1108)', 493-494.
[1185] *Ordinances of Leo* VI, 19-20.

Rus' a temporary place to stay while in Constantinople, not a permanent residence.[1186] The 1074 treaty with Robert Guiscard contains no land transaction whatsoever.[1187] However, it is clear that both the Byzantine and English corpus contain treaties which have been analysed by scholars for containing other themes, such as redress and military service, but have yet to be analysed with regard to the granting of immovable property and trade. By focusing on the granting of immovable property, we can see that entities other than the Italian cities were concerned with controlling the apparatus that facilitated the movement of goods, and that this was clearly a theme both Byzantium and England were concerned with.

The movement of goods was evidently an issue of importance for both Byzantine and English rulers, and the leaders of these entities utilised a variety of approaches to address the various aspects of trade in diplomacy. The use of hostages, as in *AGu*, or established places of entry with frontier officers, as in the *Ordinance of the Dunsæte* and the 945 *Treaty of Constantinople*, helped rulers to control the arrival of traffic, and to implement tolls.[1188] While there are less English treaties on the movement of goods in general, it is clear that English rulers also controlled incoming merchandise through domestic laws, such as *IV Æthelred*.[1189] Rulers also concerned themselves with the movement of goods after a merchant's initial arrival, with multiple treaties, such as the *Treaty of Aleppo* and the *Treaty of Gisors*, allowing for merchants to travel freely without hinderance.[1190] Rulers were concerned with the safety of merchants and their goods in the event of shipwreck, and both Byzantine and English treaties and domestic laws touch on this, but this is seemingly more common in the Byzantine legal corpus.[1191] Byzantine treaties also appear to be more

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[1186] *Treaty of Constantinople* (945), 74-75. The narrative description of the 907 treaty hints at similar concessions, *RPC*, 65.
[1187] *Treaty of Constantinople* (1074), 140-143.
[1188] *AGu*, c. 5; *Duns*, c. 6; *Treaty of Constantinople* (945), 74-75.
[1189] For instance see, *DGA,* I, 232 (c. 2).
[1190] *Treaty of Aleppo*, c. 15; *Treaty of Gisors* (1180), 199.
[1191] *Treaty of Constantinople* (911), 67; *Treaty of Constantinople* (1111), 53.

concerned with controlling the sale of particular luxury goods, namely silk, with treaties such as the 945 Rus' treaty limiting merchants' ability to buy this item.[1192] Only one English treaty explicitly deals with controlling the sale of a particular good, being the *Treaty of Windsor* levying a tax on hides bar those traded from Henry II's lands.[1193] The movement of goods and the provision of supplies to campaigning forces was an issue which the rulers of both entities approached using similar methods. In particular, both English and Byzantine treaties established fair trading between visiting armies and their hosts, in the context of the crusades, by placing a profit cap on dealings with the campaigning army.[1194] Both powers also have multiple clauses on the movement of land ownership. While this is a well-known theme within the treaties each power has with the Italian cities, it is clear this is also a prominent theme in a variety of other treaties, such as the *Treaty of Montlouis* and the *Treaty of Devol.*[1195] Although the clauses are quite different and less explicit to those in the treaties with the Italian cities, focusing more on assets of particular territories that included vital trading infrastructure, as opposed to simply giving landing stages and warehouses, this partially reflects how the surviving treaty corpus was preserved and the priorities of the preserving party. Specifically, treaties preserved in the archives of the Italian cities reflect the commercial nature of these entities, while the treaties preserved in English archives reflect England's concern for its political relationship with other entities, particularly the king of France. Even though there are at times clear differences in approach to the movement of goods overall, perhaps evidencing that Byzantium was more concerned with long distance trade, the treaties clearly show rulers of each power were concerned with the movement of goods and approached this issue within treaties. The treaties anticipate likely problems, such as shipwreck, and attempt to facilitate trade and control the movement of goods in a number

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[1192] *Treaty of Constantinople* (945), 75.
[1193] *Treaty of Windsor* (1175), 84.
[1194] *Treaty of Adrianople,* c. 10; *Ordinance of Messina*, 60.
[1195] *Treaty of Constantinople* I (1170), 118; *Treaty of Montlouis*, 68; *Treaty of Devol*, 133-134.

of ways, utilising trade officers to meet merchants upon arrival, ensuring they were unhindered after this, and implementing taxes (or dropping them) on particular goods. Furthermore, each power was explicitly concerned with the controlling of particular lands and estates to control the movement of trade, and also utilised the movement of goods to support campaigning armies via the treaty-making arena. Both Byzantium and England used treaties to implement practical steps to facilitate, control, and encourage the movement of goods, which went hand in hand with expanding a ruler's own wealth and power.

Conclusion

The treaties of both Byzantium and England were practical documents. Medieval law, and by extension treaties, has often been characterised as unenforced or unimplemented, as argued by John Bellamy.[1196] While other scholars such as Wilhelm Grewe acknowledge that medieval laws were pragmatic, and that treaties were enforced, they largely focus on material from the later Middle Ages, and offer little exploration of the mechanics of the treaties that show these were implementable documents.[1197] By applying the insights gained by a reading of surrounding narrative evidence to the study of treaties, we can see that the clauses of these documents were implemented in practice. This is true for all of the issues discussed above. For instance, the *Treaty of Falaise's* clause on returning the exiles of the English king is confirmed to work in practice in Richard I's 1194 letter concerning the king of Scotland coming to his court, and returning fled criminals.[1198] In Byzantium, the attempt of Basil II to entice the Buyid Caliph to return Bardas Skleros to him, while ultimately futile, evidences similar practices. Collaborating with other rulers to ensure the return of exiles seems to have been a standard practice of both Byzantium and England, and is substantiated by the exile clauses present throughout the treaty corpus.[1199] Similarly, the Byzantine treaties of 1147 and 1148, both enlisted Venetian aid against the Sicilians, which clearly took place as we have detailed narrative accounts of this service.[1200] Although it is unclear whether the various treaties of Dover were ever called upon by the English kings for military aid, the additional document accompanying the 1163 treaty shows how the Flemish troops were to be paid, thus

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[1196] John G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London: Routeledge, 1977), 299.
[1197] Wilhelm G. Grewe, *The Epochs of International Law*, trans. and rev. Michael Byers (Berlin: Walter De Gruyter, 2000), 88-91.
[1198] *Anglo-Scottish Relations*, 18-23.
[1199] *Skylitzes*, 10.
[1200] *Nikatas Choniates*, 103-116.

evidencing these agreements were reflective of military aid in practice.[1201] To go through the various issues addressed via treaty in this project, citing examples of the pragmatism of treaties, would add little to the project's conclusions. However, the other chapters of this project show treaties concerning ecclesiastical authority, redress and the movement of goods were also grounded in the practical needs, and capabilities, of the legislative infrastructure that these state-like entities had access to. Thus, through the comparison of Byzantine and English treaties, and using other supporting documents such as letters, domestics laws and narrative evidence, this project has shown the significant capabilities of the legal framework that the rulers of Byzantium and England used to deal with peacemaking issues.

Many of the issues touched on in this thesis (i.e., redress, the movement of goods, the movement of people and the movement of services) were diplomatic issues dealt with both before and after the Middle Ages. Indeed, most of the topics discussed in this project remain common issues in modern international relations. That medieval treaty issues remain relevant in the modern day is reflective of peacemaking more generally, in that many of the issues this project wrestles with are a fundamental aspect of diplomatic relations. As such, it is logical that these problems were addressed in treaties from antiquity, through the treaties of the Middle Ages, and continue to be legislated on via treaty in the modern world.[1202] This emphasises that these medieval peoples had similar problems to the states of today, but also utilised similar solutions in making peace and developing relations with their neighbours. This is not to say that the medieval world and its powers are a mirror image of modern geopolitics, but that the issues, and the approaches taken to tackle them, remain recognisable

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[1201] Chaplais, *Diplomatic Documents*, I, 12-13.

[1202] For an ancient example, see the exile clause in the Carthaginian-Macedonian treaty in Polybius, *The Histories*, III, 467. Dealing with exiles and rebels via treaty is also a stable of treaties from the medieval period, and contemporary governments are divided on recognising the Taliban's takeover of Afghanistan via diplomatic negotiations. See, Rowena Mason, 'Boris Johnson urges international unity over Taliban as he recalls parliament', *The Guardian*, 15th August 2021, <https://www.theguardian.com/politics/2021/aug/15/boris-johnson-urged-to-recall-parliament-over-afghanistan-crisis>, Accessed: 20/05/2022.

to a modern audience. Nor is this to say that we can necessarily draw a linear line between these issues in medieval treaties and these issues in modern international relations. However, it is apparent that the problems and practicalities of addressing these issues remained similar in both the medieval and modern periods.[1203]

This point, on the practicalities of treaties, is particularly emphasised by the discussion of religious rituals in and surrounding treaties. In an age characterised by faith, one would expect religious identity, and difference in religious practice, to affect how a treaty was made. This is reflective of theoretical models of war and diplomacy, often heavily influenced by theological and philosophical views of peace and conflict.[1204] While there are certainly references to religion in most of these treaties, particularly in the swearing of oaths, there are no significant differences in treaties made between Christian rulers and those made between Christian and non-Christian leaders.[1205] Although, the use of baptism and confirmation has been noted as a peacemaking tool with non-Christians, no requirements for such a ritual form part of any of the treaties examined by this project. This highlights that differentiating between groups of people based on their religion does not reflect a division present in treaty-making in practice. A potential avenue for future research, which would strengthen this conclusion, would be looking to the plethora of treaties made between Christian Mediterranean powers, particularly by the Italian cities, Iberian kings, and perhaps the crusader states, with various Islamic rulers of Iberia, North Africa, and the Levant.[1206] These agreements evidence substantial interfaith relations, alliance networks, trade privileges, and more general cooperation between peoples who were religiously diverse. Ultimately, these

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[1203] Benham has also noted this. Benham, *ILE*, 232-233.
[1204] Augustine, *The City of God*, 940-952; Riedel, *Leo VI and the Transformation of Byzantine Christian Identity*, 70-71.
[1205] See Chapter 2.
[1206] For instance, see *LIRG*, I, 22-29; Robert I. Burns and Paul Edward Chevedden, *Negotiating Cultures: Bilingual Surrender Treaties in Muslim-Crusader Spain Under James the Conqueror* (Leiden: Brill, 1999), 231-232.

treaties, made by a plethora of rulers and communities demonstrate that regardless of religious or political affiliation, the peoples of the medieval world recognised the shared values of peacemaking.

The shared goals pursued in the treaties of Byzantium and England, as well as in treaties in the wider medieval world, are also highlighted by the various issues touched on in this project. Redress, as noted in Chapter 1, is a feature of the vast majority of treaties studied in this project, both in the Byzantine and English corpus, and throughout the period studied.[1207] The treaties demonstrate the use of 'hybrid' law, allowing for the subjects of the rulers involved to claim redress using a framework with elements familiar to them.[1208] The redress evidence also refers to regional customs and laws, which demonstrates the localised nature of redress. These clauses on redress were grounded in practicality, and not only ensured a ruler's subjects could claim compensation, but could also be used by rulers to subtly punish one of the parties involved.[1209] Whether seeking redress for their subjects, or seeking to punish others via redress, the fact remains that both Byzantine and English rulers addressed this issue in the peacemaking arena, using similar methods. Furthermore, the leaders of these peoples consistently recognised the importance of practicality in making treaties, both in how their subjects could claim redress, and in enforcing redress as a punishment.

The practicalities of treaties are particularly highlighted through clauses on the movement of slaves and exiles. Rulers were clearly concerned with slaves, who were taken during recent conflicts, fleeing their captors and returning home, and acted to stop this movement which could reduce a vital source of labour.[1210] Moreover, clauses on exiles are some of the most common in the treaty corpus, and often rulers were active in dealing with these, not only

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[1207] See Chapter 1.
[1208] *Treaty of Constantinople* (911), 66-67; *Duns*, c. 1-1.1.
[1209] *Treaty of Montlouis*, 68; *Treaty of Devol*, 136.
[1210] For instance, see, *Treaty of Constantinople* (911), 68; *AGu*, c.5.

collaborating with their neighbours to ensure their exiles found no refuge, but implementing active checks on movement between the parties involved. The latter point is of particular interest, as treaties, as well as surrounding documents, reveal extensive legal infrastructure existed to ensure the exiles of one community could not enter into neighbouring territory freely.[1211] The specifics of this are particularly interesting, rulers relying on a combination of documents and seals conveying someone is moving within the appropriate 'pathway' between two peoples, or relying upon those entering a realm being greeted by a particular officer.[1212] Exiles were also an important source of manpower, and the treaties of Andover and Baghdad, in particular, highlight this.[1213] Indeed, exiles returning with foreign backing seem to be of the utmost concern for rulers throughout the period, as these exiles could pose existential threats to a leader's reign. Of course, offering amnesty was also an important aspect of peacemaking, rulers recognising that amnesty must be offered at times for communities to move on from a recent war. Both Byzantium and England utilised a series of similar measures regarding this theme, the rulers of each people taking pragmatic steps to control the movement of slaves and exiles, safeguarding their own workforces and reigns while supporting those of their neighbours.

The movement of military service is also revealing regarding the capabilities of medieval diplomacy and legislative infrastructure. Rulers utilised a variety of approaches to widen their recruitment pools, both settling foreign populations domestically and enlisting aid from abroad to access manpower. The former often had a population living in a territory for prolonged periods, and as such required legislation for interactions between the foreign population living domestically and the local population.[1214] The latter often dealt with hiring

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[1211] *Treaty of Rouen*, 38; *Treaty of Constantinople* (945), 74.
[1212] *Duns,* c. 6; *Treaty of Aleppo* (969), c. 21.
[1213] See discussion of these treaties in Chapter 4.
[1214] *Treaty of Andover*, c. 1.1; *Treaty of Genoa* (1155), 264.

manpower from abroad, and as such involved long-distance movement. With this in mind, treaties hiring manpower from abroad often dealt with the logistics of long-distance travel.[1215] Byzantium and England utilised both approaches, and consistently employed pragmatic steps to ensure the required aid could be given with minimum friction between the employed party and the host community. Both peoples also utilised other rulers as 'recruitment officers' to gain manpower.[1216] Each people was surrounded by extensive diplomatic networks, and rulers utilised these networks to pursue particular goals. There were certainly differences in approach. For example, Byzantium sent officers to other peoples to recruit troops, an approach that does not exist in the English treaty corpus. However, overall each people utilised similar methods to pursue comparable goals via treaties. Again, this is a theme shaped by the pragmatic needs of the parties involved, and that the treaties' focus on logistics, exemptions from service, and the diplomatic networks of the involved parties reflect these practicalities.

Although there are clearly many similarities in both the approaches used and the goals pursued in the treaties of Byzantium and England, we must not gloss over the apparent differences. The ability of each people to pursue ecclesiastical authority via treaty, for example, is perhaps the clearest division between the two powers. While both the Byzantine emperors and the English kings did strive to obtain ecclesiastical authority, the profound difference between the two with regard to the relationship between their churches and rulers resulted in a significant difference in how each power approached this topic. The emperor's control of the Patriarch of Constantinople, as opposed to English theoretical subordination to the Papacy on ecclesiastical matters, ensured that Byzantine treaties were more concerned

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[1215] *Treaty of Dover* (1101), c. 2; *Treaty of Constantinople* (1187), 196.
[1216] *Treaty of Dover* (1101), c. 7; *Treaty of Devol* (1108), 129-130.

with ecclesiastical authority than their English counterparts.[1217] As English rulers had to be conscious of the potential papal reaction to meddling in ecclesiastical affairs, the English kings limited their attempts to control ecclesiastical authority via treaty.[1218] It is true that the majority of Byzantine treaties concerning ecclesiastical authority are with the Italian cities. However, given that we also have Byzantine treaties made with other powers which concern the control of churches, it seems unlikely that the prevalence of ecclesiastical authority in this corpus is solely the result of treaties with the Italian cities being overrepresented. While there were significant overlaps in the goals pursued and approaches used by each people, these state-like entities were still shaped by separate forces, resulting in a differing approach to ecclesiastical authority. Despite this, the rulers of Byzantium and England hold the pursuit of churches in common, albeit it is rarer in the English corpus.

Similarly, the movement of goods in the treaty corpus of England and Byzantium diverges significantly. While we have evidence of England's kings being concerned with trade, few English treaties actively detail any taxes or tolls merchants were to pay, or concern particular goods.[1219] By contrast, practically every Byzantine treaty bar two explicitly concerns the movement of goods in some way, through clauses allowing the sale of a particular good, such as silk, or by giving exemptions to tolls or taxes. That trade is addressed more consistently in the Byzantine corpus reflects Byzantine trade being more 'international', while English trade might have been more localised. This is not to say that there was no English long-distance trade, and we have ample supporting evidence to suggest that there was, but the dearth in clauses on the explicit movement of goods in English treaties is suggestive. This contrast in the treaties of each power also reflects how the treaty corpus of both entities were preserved. While many of Byzantium's treaties are preserved in the archives of the Italian cities, and

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[1217] See above, Chapter 3.
[1218] *Treaty of Winchester*, 64; *Treaty of Falaise*, 2-5; *Treaty of Canterbury*, 12-16; *Treaty of Le* Goulet, 149.
[1219] One of the few examples is the *Treaty of Windsor,* 84.

thus reflect the trading interests of these peoples, England's treaties are often preserved in England, recording England's various relationships with the kings of France, counts of Flanders, and other entities. However, even Byzantine treaties made with other powers that were not Italian cities show a clear interest in trade, such as the Rus' treaties and the *Treaty of Aleppo*. As such, we must not overemphasise the potential bias in how the treaty corpus of both entities have survived, and it seems that the Byzantine rulers were simply more concerned with trade than their English equivalents. Despite these differences, there are still clear approaches in common, particularly in how both entities approached the issue of supply for campaigning forces, and the treaties from both powers surrounding crusading armies make for a particularly apt comparison.[1220] Furthermore, there are also similarities regarding the movement of land ownership in relation to trade for each people. The use of the word 'appurtenances' in the English treaty corpus incorporates multiple immovable assets, such as markets and other trade affiliated sites.[1221] This is similar to how the Byzantine treaties with the Italian cities concern grants of immovable property, the main difference being that the English treaties are less explicit.[1222] However, even Byzantine treaties opt for this less explicit approach, granting 'dependences' in a similar way to the English treaties granting 'appurtenances'.[1223] As such, while the movement of goods was clearly more of a concern for the Byzantine emperors in terms of long-distance trade, the English kings were still ultimately concerned with trade and the granting of immovable property but perhaps to a lesser extent.

Analysis of this project and its apparent themes is revealing of the common and different approaches and goals that both Byzantium and England pursued through treaties in this

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[1220] *Ordinance of Messina*, 60; *Treaty of Adrianople,* c. 10.
[1221] For instance, see *Treaty of Winchester*, 63.
[1222] For instance, see *Treaty of Constantinople* (1082), 52.
[1223] *Treaty of Devol*, 133-134.

period. Both have much in common in their approach to treaty-making with those of different faiths, to redress, and to exiles. While both utilise largely similar approaches to the movement of military service, there are some differences here. Perhaps most notably, Byzantium seems to send 'recruitment officers' into other peoples' territory, particularly that of the Italian cities, while there is no English equivalent to such a practice.[1224] There are further differences, particularly regarding the pursuit of ecclesiastical authority and to some extent enacting legislation on trade within treaties. However, despite these differences, both entities were concerned with ecclesiastical authority and the movement of goods, the latter particularly via the granting of lands concerned with trade. While Byzantium certainly seems more concerned with both of these issues, England was not oblivious to these points, and still addressed them via treaty but the evidence is less extensive. When considering these issues as a whole, it is apparent that both powers have much in common, at least in the treaty-making arena, often pursuing similar goals using similar approaches. It is tempting to draw wider conclusions about medieval treaty-making more generally from these case studies, but of course more analysis of treaties from beyond Byzantium and England would have to be used to achieve this. However, it is clear that these two powers had much in common, at least with regard to their goals pursued and approaches used within a treaty-making context.

This touches on one of the potential issues of the project. While the two case studies were chosen due to each entities' considerable treaty corpus from across the period, and the comparable levels of bureaucracy and centralisation within each power, ultimately this project still largely focuses on sixty treaties from Byzantium and England in total. Although the treaty corpus is considerable, further examination of treaties from a wider geographical sample is necessary to ascertain exactly what practices were typical or atypical for specific entities as well as for specific points in time. Indeed, there are treaties within the corpus

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[1224] *Treaty of Constantinople* (1187), 200; *Treaty of Genoa* (1169), 187.

examined which are the sole example of a particular goal being pursued or an approach used. A good example of this is the *Ordinance of Messina*, as it is the only English treaty from the period that touches on exchange rates for a moving army, and provides extensive detail about supplying campaigning troops.[1225] While the Byzantine corpus has a treaty touching on exchange rate, and this treaty in addition to another go into similar depth regarding supplies for campaigning troops, it ultimately seems wrong to generalise from these few examples.[1226] Of course, the comparative nature of the project helps with this, but, to continue using the example of supplies, three treaties giving in-depth detail on supplies does not make the conclusions much more concrete than looking at each of the treaties in isolation (that is, one example from England, and two from Byzantium). As such, some might even accuse this project of 'cherry-picking' examples, solely to support the conclusions of the author. However, the treaties inspected make up a significant proportion of the surviving treaty corpus from the period, and as such, offer clear insights into the treaties of two of the most bureaucratic powers of the era. Furthermore, while some particular approaches and goals are only seen in a limited number of treaty examples, such as supplies, we know from other evidence, such as letters, manuals and narrative accounts, that these issues were dealt with by rulers in other treaties and peacemaking interactions. For instance, while supplies are only dealt with in-depth by three English and Byzantine treaties, letters and narrative evidence from both entities emphasise the importance of this issue, and relate that it was commonly touched on by rulers in a peacemaking and treaty-making context.[1227] Indeed, at times the project uses evidence from outside the two main case studies to indicate some practices seem to have been common across a plethora of peoples, including Byzantium and England, even if we only have a few treaties from Byzantium and England to support this. For instance, the

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[1225] *Ordinance of Messina*, 60.
[1226] *Treaty of Adrianople*, c. 9; *Treaty of Aleppo*, c. 8.
[1227] *Anglo-Scottish Relations*, 18-23; *RPC*, 64-65.

use of 'name lists' to keep track of exiles and rebels is shown in the aftermath of the English *Treaty of Azay*, and the description of the 907 Byzantine-Rus' treaty, but is also shown in evidence from other peoples, such as in the chronicle of Saxo Grammaticus, a Danish court historian.[1228] Although the survivability of the treaties does limit the conclusions of this project somewhat, many of the goals and methods attested in these treaties are also evidenced in a variety of different sources, both from Byzantium and England as well as from neighbouring polities. The aims and methods utilised by rulers within treaties were seemingly more widespread and not confined to the realms of Byzantium and England. Thus, not only are the conclusions of this project supported by the treaties examined, they are also corroborated by a variety of other evidence, from Byzantium, England and beyond.

Of particular interest here, is that many modern treaties still address the same goals as those addressed by medieval rulers via treaty, and use approaches that mirror those used in medieval peacemaking. For instance, the 2003 extradition treaty between the USA and UK allows one party to return 'wanted persons' to the other.[1229] While there are certainly differences between the 2003 treaty and its medieval counterparts, the modern treaty stating supporting evidence is needed to justify extradition, rulers' concerns over exiles and the collaborative approach taken to address these concerns are clearly recognisable in the Byzantine and English treaty corpus. Given that leaders of both the modern and medieval worlds have similar concerns, we should not necessarily be surprised that the approaches taken, and goals pursued, in the treaties of both periods have clear parallels. This is a particularly pertinent point, as while modern treaties at times might seem removed from the political realities of the 'real world', very few would call modern treaties simply symbolic

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[1228] *Chronica*, II, 366-367; *RPC*, 65; Saxo Grammaticus, *Gesta Danorum*, II, 1088-1089. Benham has highlighted this. Benham, *ILE*, 72.
[1229] Sean D. Murphy, 'New U.S./EU and U.S./UK Extradition Treaties', *American Journal of International Law*, 98 (2004), 848-850.

documents, when they have a very real effect on the two powers involved, and are steeped in pragmatism. Considering the similarities between the treaties of the modern world and their medieval counterparts, it is thus clear that just as modern treaties are pragmatic documents, so too are their medieval equivalents. As such, this project has shown that treaties were implemented across 900-1200, despite what particular scholars have actively argued or have neglected to demonstrate.[1230]

As touched on above, the goals and methods rulers pursued and utilised within treaties often exist in the treaties of other peoples beyond England and Byzantium. This highlights where future research should be done, building on top of this current project as well as other vital studies into treaties.[1231] This project has built upon the work of Benham, whose focus on treaties as evidence of international law in the medieval period in many ways laid the foundations for future diplomatic comparative history to be written. This project has been able to produce novel scholarship, by focusing on the practicalities of treaties, highlighting the legislative infrastructure implemented by treaties, and enforced in practice. Between the work of Benham, as well as other scholars such as Penna, in conjunction with this thesis, the corpus of Byzantine and English treaties has been relatively well covered, although there are undoubtedly other issues that could be looked at. For instance, the role of gender and identity in diplomacy and treaties, and specifically the use of marriage in treaties, has yet to be explored in a comparative manner. Interestingly, the use of marriage in treaty-making is more represented in the English corpus. The Byzantine corpus only has one treaty concerning this.[1232] However, there is ample narrative evidence for both peoples on the use of marriage within a treaty-making context. The Byzantine material in particular, such as *De*

[1230] For instance, see Bellamy, *Crime and Public Order in England in the Later Middle Ages*, 299; Grewe, *The Epochs of International Law*, 88-91.

[1231] Benham, *ILE*; Penna, *The Byzantine Imperial Acts*.

[1232] For English treaties concerning marriage, see *Treaty of Gisors* (1160), 221-223; *Treaty of Montferrand*, 42-44; *Treaty of Le Goulet*, 148-151. For a Byzantine example see *Treaty of Constantinople* (1074), 140-143.

Administrando and the comments of Byzantine officers on the subject in Liudprand's *Embassy*, allows for further insight into a ritual which is still embedded in the public consciousness regarding medieval diplomacy.[1233] Furthermore, there is no reason to limit future research to Byzantium and England. While these case studies work well for this period, including other powers for future comparison, such as the Western empire and perhaps the Kings of Iberia, and adjusting the timeframe, perhaps to solely the twelfth century, would be an ideal next step for future research with novel insights.

Additionally, much more work can also be done on the legal infrastructure of medieval peoples, particularly regarding the movement of people, goods and services throughout the period. While these issues were key in the work of this project, there is ample room for exploring the mechanics of movement, be it concerning people, trade or services, within treaties of the medieval era more generally, and before the period of this study. Although the date range of this project is justified by the lack of material prior to 900, this would not be an issue for a wider ranging study, perhaps looking at treaties from Europe, the Mediterranean, and the Islamic world, from 500-1200. Despite the movement of people, goods and services having been touched upon in this project, the greater number of treaties would allow for more certainty for any future project's conclusions, and would enable research into the fundamental tools which rulers utilised to encourage, and restrict, movement. By focusing on the issues of the movement of people, trade and services, primarily through the lens of the apparatus available to rulers of the period, the treaties will offer a fresh perspective, contributing novel ideas to current scholarship.

Ultimately, this project has highlighted that while there were differences between Byzantium and England, peoples which were at the edges of what would become Europe, they still had

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[1233] *De Administrando*, 70-73; Liudprand, *Embassy*, 248-249.

similar objectives, and used methods that would be recognisable to one another to pursue their goals in the treaty-making arena. These goals were often pragmatic, and the approaches towards fulfilling them practical, rulers recognising that any diplomatic relations, as a result of conflict or friendship, had to be defined by what was realistic, for themselves, for the other party, and for both parties' subjects. While there is a tendency to look at the Middle Ages as a primitive period, the approaches that medieval rulers took to treaties clearly share much in common with their modern counterparts, showing that these treaty issues traverse space and time. Current world leaders often have to deal with issues of redress, the movement of people, trade, and the supplying of military aid. These same issues were negotiated in a plethora of treaties from the period, between the kings of England and the rulers of France, kings of Ireland and princes of Wales, and between the Byzantine emperors and the Italian cities, the Rus' princes and the Sicilian kings. Similarly, both medieval and modern accounts of treaties often focus on one side taking advantage of the other, but this fundamentally misunderstands what treaties are. Treaties act as a bridge between two powers, showing that despite the cultural and linguistic differences between the medieval and modern worlds, and the Byzantine and English worlds, fundamentally, we all have more in common than not.

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