

Grantee: Will Smiley

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During my fellowship at Harvard, I undertook research in Harvard's libraries, connection with revising my dissertation for publication as a book. Some of this work involved primary sources, particularly with a text on an Ottoman Embassy to Russia in the 1790s, *Bir Elçi'nin Tarihiçe-i Sefareti*. This primary-source research is important in shedding light on the fates of Ottoman captives in Russia, as a counterpoint to my dissertation's focus on Russian captives in the Ottoman Empire.

The other part of my work during the grant involved broadening my understanding of the secondary literature, and rethinking some of my dissertation's theoretical arguments in connection with this work. The book will intervene in debates over the history of international law, of slavery and abolition, of the laws of war, of Ottoman reforms and statecraft, and of military practice. Here, I focused on one particular part of the legal and military argument, focusing on the de-commodification of captivity.

I summarized this argument—drawing significantly on the work I did during my History Project grant period—in the following paper, which I presented at the Project's "Commerce, Corporations, and the Law" conference at Princeton in late September 2013. My thinking on this subject benefited greatly from the comments of the other participants in the Princeton conference, and I will be revising and rethinking elements of this paper accordingly, before the arguments appear in the final book manuscript.

From Commercial Custom to International Law: The Shrinking Business of Ottoman Captivity,  
1730s-1870s<sup>1</sup>

Will Smiley

[This paper is a preliminary outline and summary of one of the main themes of a book project now in progress, based on my dissertation.<sup>2</sup> The later portions of the paper, dealing with the 1820s and later decades, are particularly preliminary, and based on ongoing research conducted since submitting my dissertation.]

Human freedom, in the modern world, is one of the few things which is not supposed to be up for sale or trade. This is most obviously true of slavery, which has been universally outlawed in domestic law and suppressed by international law. But it is true of ransom, too. The United Nations, the G-8 group of developed countries, and many states, have condemned or banned ransom. Paying a ransom to a terrorist group, the U.N. has flatly declared, is no different from donating or selling goods to that organization.<sup>3</sup> When individuals—often citizens of developed countries traveling in Afghanistan or Somalia—pay ransom they are often condemned for

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<sup>1</sup> My thinking in this paper owes a great deal to conversations with many people, most notably Virginia Aksan, Kate Fleet, Colin Heywood, Nur Sobers Khan, William O'Reilly, Joshua White, and John Witt. I am especially grateful for the financial support of the History Project and the Institute for New Economic Thinking, which allowed me to think through and further research the ideas in this paper, and to present them in Princeton. Much of the original research was funded by the Gates Cambridge Trust and the Skilliter Centre for Ottoman Studies.

<sup>2</sup> Will Smiley, “When Peace Is Made, You Will Again Be Free’: Islamic and Treaty Law, Black Sea Conflict, and the Emergence of ‘Prisoners of War’ in the Ottoman Empire, 1739-1830” (PhD diss., Cambridge, 2012).

<sup>3</sup> See U.N. Security Council Resolution 1904, Dec. 17, 2009, para. 1(a), available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1904%282009%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1904%282009%29); G-8, “2013 Lough Erne Communique,” June 18, 2013, para. 6, 75-77, available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207771/Lough\\_Erne\\_2013\\_G8\\_Leaders\\_Communique.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207771/Lough_Erne_2013_G8_Leaders_Communique.pdf).

encouraging the captors to repeat their crimes.<sup>4</sup> Some Iraqis and others have even found that paying a ransom to free themselves or a family member from foreign militias can be held against them, as “material support for terrorism,” if they apply for refugee resettlement in the United States.<sup>5</sup> The exchange of prisoners, too, is often controversial; such concerns have helped impede a deal between the United States and the Afghan Taliban, and have frequently provoked debates in Israel.<sup>6</sup> Captivity and release, in modern eyes, should be determined by law, not by purchase in cash or kind, no matter how desperate the situation—and this is true even for the captivity of prisoners of war, which remains recognized and legitimate.

For much of human history, though, captivity was inherently commercial, with slavery the norm, and ransom or exchange the only ways of obtaining release. Indeed, in the early modern era, whole frontier economies were shaped by this commerce, and individuals made their livelihoods by brokering an orderly traffic in humans. This was particularly true in the Balkans and the Black Sea littoral, where complex networks of intermediaries handled capture, enslavement, sale, ransom, and release between the Ottoman Empire and its rivals, the Habsburg and Russian Empires.

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<sup>4</sup> For a recent story illustrating these themes, see Sara Corbett & Amanda Lindhout, “12 Minutes of Freedom in 460 Days of Captivity,” *The New York Times Magazine* (August 28, 2013),

<http://www.nytimes.com/2013/09/01/magazine/lindhout-kidnapping-somalia.html?pagewanted=1>.

<sup>5</sup> See Human Rights First, *Denial and Delay: The Impact of the Immigration Law’s “Terrorism Bars” on Asylum Seekers and Refugees in the United States* (New York: Human Rights First, 2009), 30, 57, 62; Steven H. Schulman, “Victimized Twice: Asylum-Seekers and the Material-Support Bar,” *Catholic University Law Review* 59 (2009-2010), 949-64. Here, the government’s opposition to ransom outstripped public opinion and even the intent of the bill’s congressional backers, and the U.S. Department of Homeland Security issued an administrative waiver for ransoms paid under duress, strictly defined. See Jonathan Scharfen, “Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations,” USCIS Memorandum, May 24, 2007, available at [http://www.uscis.gov/files/pressrelease/MaterialSupport\\_24May07.pdf](http://www.uscis.gov/files/pressrelease/MaterialSupport_24May07.pdf).

<sup>6</sup> See Rod Norland and Matthew Rosenberg, “U.S. Abandoning Hopes for Taliban Peace Deal,” *New York Times* (October 1, 2012), [http://www.nytimes.com/2012/10/02/world/asia/us-scales-back-plans-for-afghan-peace.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/10/02/world/asia/us-scales-back-plans-for-afghan-peace.html?pagewanted=all&_r=0); Michael Hastings, “America’s Last Prisoner of War,” *Rolling Stone* (June 7, 2012), <http://www.rollingstone.com/politics/news/americas-last-prisoner-of-war-20120607>; Ethan Bronner, “Israel Plans New Rules on Exchange of Prisoners,” *New York Times* (January 5, 2012), <http://www.nytimes.com/2012/01/06/world/middleeast/after-shalit-israel-changing-prisoner-exchange-rules.html>.

Thomas Jefferson viewed this transition as “an example of the progressive development of man's moral sense. The enslavement of prisoners of war had surely been a marked improvement over their brutal slaughter. Enlightenment had now progressed so far that Montesquieu had shown that even enslavement was no longer a humane necessity. Someday, no doubt, nations would look with horror on the ransoming of captives.”<sup>7</sup> Jefferson was right about the end point—but was he right about the causes?

This paper considers how captivity was de-commoditized in the Ottoman Empire. I argue that this was a more contingent, and less humanitarian, process than Jefferson thought, and was not directly connected to the decline of slavery. As they banned ransom and increasingly took captives into state hands, the Ottoman state created a recognizable “prisoner of war” system, bringing it generally in line with western European practices even *before* it curbed the slave trade, before it joined the Concert of Europe in 1856, and before it ratified the Hague Convention on the laws of war in 1899. But, decommodification did not so much *end* brutality against captives, as shift the parameters of *who* was brutalized, and how. Decommodification was, I argue, a matter of replacing captives’ *labor* value with *political* value; of transforming them from economic commodities into state assets. As a secondary theme, I aim to show that this story of decommodification can be told just as well from the periphery of Europe as from its center, based on Ottoman and Russian, rather than western European, documents, ideas, and interests.<sup>8</sup>

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<sup>7</sup> Quoted in David Brion Davis, *The Problem of Slavery in Western Culture* (Ithaca, NY: Cornell University Press, 1966), 425. Indeed, within Jefferson’s lifetime, the U.S. Congress still authorized money to reimburse Americans who had bought their freedom during the War of 1812. See “Act Concerning Ransom,” 3 Stat. 788 (1823).

<sup>8</sup> Two caveats are in order: First, this paper focuses on the status of captives held *by* and *in* the Ottoman Empire, though I believe many of the same dynamics were applicable to Ottoman subjects in Russia, and I am pursuing that line of research (I have presented a preliminary view as “Freeing ‘The Enslaved People of Islam’: Treaty Law, Religious Rhetoric, and Inter-Imperial Honor in Russo-Ottoman Relations, 1739-1815,” paper presented at Central

## Captive Commerce in the Early Modern World

Paying ransom was embedded in Christian, Muslim, and Jewish thought alike as a praiseworthy act of charity toward one's fellow believers,<sup>9</sup> and this tradition endured into the early modern era. Both Christianity and Islam recognized that during properly declared wars, non-believers could be enslaved, but not co-religionists, but not co-religionists—and this became very convenient, as the Ottoman Empire battled the Catholic Habsburg and Venetian states, and the Orthodox Russian Empire, for control of the Mediterranean and Black Sea littoral regions in fifteenth through eighteenth centuries.<sup>10</sup> Corsairs at sea—most famously the Ottoman tributary states of North Africa, known to Americans as the “Barbary pirates,” but also Christian corsairs from Italy and Malta—took slaves in huge numbers. So did imperial soldiers, local militias, Cossack and Tatar groups, and independent tribes throughout the Ottoman-Russian “middle ground”<sup>11</sup>—a zone, stretching from Bosnia to the Caucasus, of shifting allegiances and imperial struggles for influence over tributary polities. Captivity at sea in the Mediterranean is better-known to western readers, but slave raiding was most widespread in the Black Sea steppes, where the Tatars and Cossacks plundered each other, and the peasant populations of modern-day

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European University, Budapest, March 23, 2013). Secondly, I have omitted many of the individualized anecdotes which might give this paper more color and more access to diverse voices, in order to focus on legal and structural issues, but I have tried to attend to their experiences in my dissertation and other articles.

<sup>9</sup> See generally Youval Rotman, *Byzantine Slavery and the Mediterranean World*, trans. Jane Marie Todd (Cambridge, MA: Harvard University, 2009), 30–32, 44, 53.

<sup>10</sup> Jeffrey Fynn-Paul, “Empire, Monotheism and Slavery in the Greater Mediterranean Region from Antiquity to the Early Modern Era,” *Past and Present* 205 (2009): 3–40, conceptualizes this in terms of “slaving” and “no-slaving” zones in world history.

<sup>11</sup> The term is from Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (Cambridge: Cambridge University Press, 1991); it has been used in this context in Brian J. Boeck, *Imperial Boundaries: Cossack Communities and Empire-Building in the Age of Peter the Great* (Cambridge: Cambridge University, 2009). Virginia Aksan, emphasizing the view from Istanbul, refers to this stretch of territory as the Ottoman “northern defensive line.” Virginia H. Aksan, *Ottoman Wars 1700–1870* (London: Longman, 2007), 6.

Ukraine, Moldova, and Romania, on a vast scale—the Tatars, most notably, took hundreds of thousands of captives in the seventeenth and eighteenth centuries.<sup>12</sup>

Early modern Mediterranean states, as well as individuals, were active players in the slave market, especially seeking healthy but unskilled male captives to row the oar-powered galleys which made up the bulk of their battle fleets.<sup>13</sup> The Ottoman state, which also sought female slaves, to work in the sultan's palaces, received some captives as gifts from its North African tributaries (known to Americans as the “Barbary pirates” for their corsairing), occasionally seized a share of those taken on the battlefield, and, for a time, charged a one-fifth *ad valorem* tax on those captives kept by individual soldiers (this fell into disuse by the early eighteenth century).<sup>14</sup> In many cases, however, the state simply bought slaves, paying market prices like any other actor. In a report from June of 1690, for example, an Ottoman scribe noted that 100 slaves were needed for ships which were then being built, but there was insufficient time to buy them at a discount from the Tatars in the Crimea, close to where they had been captured—so the Porte would have to pay more to acquire them in the central Istanbul slave market.<sup>15</sup>

Foreigners, too, could shop in the Ottoman slave markets, and many did—in order to ransom their relatives, comrades, friends, or co-religionists. From a European Christian point of view, captivity was not viewed with the existential horror which would become attached to “white

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<sup>12</sup> Michael Khodarkovsky, *Russia's Steppe Frontier: The Making of a Colonial Empire, 1500-1800* (Bloomington: Indiana University, 2002), 22; Halil İnalcık, “Servile Labor in the Ottoman Empire,” in *Studies in Ottoman Social and Economic History* (London: Variorum Reprints, 1985), 40. For this trade in a world-historical context, see Fynn-Paul, “Empire, Monotheism and Slavery.”

<sup>13</sup> See Smiley, “‘When Peace Is Made,’” 23–24.

<sup>14</sup> See *Ibid.*, 18–19. In theory, the Ottomans held that the sultan had the authority to control the disposition of all captives, but this was rarely enforced until the later eighteenth century.

<sup>15</sup> Başbakanlık Osmanlı Arşivi (Prime Minister's Ottoman Archives), Istanbul, İbnülemin Hariciye collection, 405 (24 Şaban 1101 H).

slavery” in the nineteenth century—captivity was simply one (particularly terrible) risk, like shipwreck or disease, which went along with living or traveling in contested areas of the Mediterranean or Balkans. And when one was captured, ransom was the way out.<sup>16</sup> The Dutch legal theorist Hugo Grotius, writing in the seventeenth century, took for granted that—even in wars between Christians—soldiers might be captured, and might need to pay ransoms. He cited both Christian and classical sources in arguing that “[t]he ransoming of captives is in large measure an act of favour, especially among Christians, to whom the divine law especially commends this kind of compassion.”<sup>17</sup> His eighteenth-century Swiss successor Emer de Vattel largely agreed, though he also noted that sovereigns could conclude an agreement (a “cartel”) for the “exchange or ransom” of prisoners, relieving individuals of the need to pay ransoms.<sup>18</sup>

Although the Ottoman state’s preferred school of Islamic law, the Hanafi *mezheb*, frowned on accepting ransoms to free non-believers, the other three main schools did not, and the Ottomans generally allowed it. Indeed, over the course of the seventeenth century, the Ottomans signed treaties officially granting Austrian and Russian officials the right to ransom captives not only in the borderlands, deep *inside* the empire.<sup>19</sup> The one exception was that the Ottoman state itself, perhaps as an effort to comply strictly with Hanafi law, did not accept ransom for its own

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<sup>16</sup> Gillian Weiss, *Captives and Corsairs: France and Slavery in the Early Modern Mediterranean* (Stanford, CA: Stanford University Press, 2011); see also Linda Colley, *Captives: Britain, Empire and the World, 1600-1850* (London: Jonathan Cape, 2002); Wolfgang Kaiser, ed., *Le Commerce Des Captifs. Les Intermédiaires Dans L'échange et Le Rachat Des Prisonniers En Méditerranée, XVe-XVIIIe S.* (Rome: École Française de Rome, 2008).

<sup>17</sup> Hugo Grotius, *De Jure Belli Ac Pacis Libri Tres*, ed. James Brown Scott, trans. Francis W. Kelsey, vol. 2 (Oxford: Clarendon Press, 1925), 841–42.

<sup>18</sup> Emer de Vattel, *The Law of Nations*, trans. Charles G. Fenwick (Washington, D.C.: Carnegie Institution, 1916), v. 3, 333.

<sup>19</sup> See Treaty of Karlowitz, Article 12, BOA, Divan-ı Hümayun Düvel-i Ecnebiyye Defterleri collection, 57/1, 25 (January 26, 1699 NS); Treaty of Constantinople, Article 9, BOA, DVED 83/1, 7-8 (June 13, 1700 NS); Géza Dávid, “Manumitted Male Slaves at Galata and Istanbul Around 1700,” in *Ransom Slavery Along the Ottoman Borders: (early Fifteenth-Early Eighteenth Centuries)*, ed. Dávid and Pál Fodor (Leiden: Brill, 2007), 141–42; Dariusz Kołodziejczyk, *Ottoman-Polish Diplomatic Relations (15th-18th Century): An Annotated Edition of 'Ahdnames and Other Documents* (Leiden: Brill, 2000), 186; Gustav Bayerle, “The Compromise at Zsitvatorok,” *Archivum Ottomanicum* 6 (1980): 19.

captives—those in the sultan’s household, and those rowing on the galleys of the imperial fleet.<sup>20</sup> The state, instead, arranged for one-to-one, and sometimes even like rank-for-like rank, exchanges of military captives in its hands.<sup>21</sup> What the state did *not* do was order its subjects to release legally-taken slaves—captives were treated as commodities, subject to sale and purchase.<sup>22</sup>

With the exception of captives in state hands, then, freedom was bought, rather than given. Most captors were happy either to ransom their captives or to sell them to other Ottoman subjects (not only Muslims, but often Christians or Jews as well), so potential ransomers had to outbid the market (sometimes substantially, since they were paying for a *particular* person, rather than simply buying “a slave”).<sup>23</sup> This meant that ransoms, like the prices for slaves, varied greatly depending on cultural, social, and economic evaluations of the individual person being purchased. While prices on the slave markets might depend on age, health, strength, and beauty, ransom prices also turned on individuals’ rank (if military men), their title, and their wealth, or their connections to wealth.<sup>24</sup>

Those who paid these prices were a diverse array of largely non-state actors: families, military officers and units, towns and chambers of commerce, and, most notably, large-scale Catholic

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<sup>20</sup> See Smiley, “‘When Peace Is Made’,” 16, 19, 20, 28.16, 19, 20, 28.

<sup>21</sup> BOA, DVEd 16/4, 10; Gabriel Noradounghian, ed., *Recueil d’Actes Internationaux de l’Empire Ottoman* (Paris: Pichon, 1897), v. 1, 134; Mahmud Mesud, ed., *Muahadat Mecmuası* (Istanbul, 1876), v. 2, 144.

<sup>22</sup> However, the Porte did from time to time order the ransom-free release of *illegally* enslaved foreigners—the subjects of friendly states enslaved in violation of commercial treaties (the famous Capitulations). See Joshua White, “Crossing the Line: Captivity, Conversion, and Religious Identity in Early Modern Ottoman Islamic Law” (presented at the American Historical Association Annual Meeting, Boston, MA, January 7, 2011); Joshua White, “Piracy, Slavery, and Diplomacy on the Early Modern Adriatic Frontier: The Ottoman Administrative Perspective” (presented at the Adriatic Frontiers: Communications Across Cultures, Space and Time, 11th Mediterranean Research Meeting, Florence and Montecatini Terme, Italy, 2010).

<sup>23</sup> Alan W. Fisher, “Muscovy and the Black Sea Slave Trade,” in *A Precarious Balance: Conflict, Trade, and Diplomacy on the Russian-Ottoman Frontier* (Istanbul: Isis, 1999), 41.

<sup>24</sup> See Géza Pálffy, “Ransom Slavery Along the Ottoman-Hungarian Frontier in the Sixteenth and Seventeenth Centuries,” in *Ransom Slavery Along the Ottoman Borders: (early Fifteenth-Early Eighteenth Centuries)*, ed. Géza Dávid and Pál Fodor (Leiden: Brill, 2007), 41–84.



ransoming orders of friars who operated much like a modern-day humanitarian organization.<sup>25</sup> In the late seventeenth century, Britain, France, and Venice began to put significant state resources toward the liberation of their captives in North Africa, but before that, most ransoms were mostly raised privately—with one major exception. In Muscovy/Russia, long victimized by slave raids which carried off hundreds of thousands of captives along the steppe frontier, the tsarist state and Orthodox state cooperated to collect a special tax, the *polonianichnyi den'gi*, between 1551 and 1679 for the ransom of captives. The 1649 Muscovite law code, the *Ulozhenie*, specified precisely how much the state would contribute toward the liberation of any given captive, based on social rank and landholdings.<sup>26</sup>

Those who raised these ransoms, however, were separated from those who would receive them by political boundaries—the very same conflict-ridden boundaries which had allowed the beneficiaries of ransom to be captured in the first place. Crossing them required a network of brokers and intermediaries who were, in both the Balkans and the Black Sea steppe, crucially important to ransom. There is still known about such brokers, because they typically operated outside the eye of the central states, but historians working with family archives in Hungary, and reading official Russian records against the grain, have revealed intriguing information.<sup>27</sup> Ransom brokers, “like modern bail bond providers,” “introduced order and predictability into

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<sup>25</sup> See Weiss, *Captives and Corsairs*; Robert C. Davis, *Christian Slaves, Muslim Masters: White Slavery in the Mediterranean, the Barbary Coast, and Italy, 1500-1800* (Basingstoke: Palgrave Macmillan, 2003); Pálffy, “Ransom”; Robert C. Davis, “Slave Redemption in Venice, 1585-1797,” in *Venice Reconsidered: The History and Civilization of an Italian City-State, 1297-1797*, ed. John Jeffries Martin and Dennis Romano (Baltimore: Johns Hopkins University, 2000), 454–487; Karl Jahn, “Zum Loskauf Christlicher Und Türkischer Gefangener Und Sklaven Im 18. Jahrhundert,” *Zeitschrift Der Deutschen Morgenländische Gesellschaft* 111 (1961): 63–85.

<sup>26</sup> Khodarkovsky, *Steppe*, 22; Richard Hellie, *Slavery in Russia 1450-1725* (Chicago: University of Chicago, 1982), 5–8, 25–26, 525–26.

<sup>27</sup> See Boeck, *Boundaries*; Peter F. Sugar, “The Ottoman ‘Professional Prisoner’ on the Western Borders of the Empire in the Sixteenth and Seventeenth Centuries,” *Études Balkaniques* 7, no. 2 (1971): 82–91.

what were dangerous, chaotic, and risky situations.”<sup>28</sup> In eastern Europe, Peter Sugar has argued, some brokers even became “professional prisoners,” entering captivity to broker others’ ransoms. Small groups would agree to enter captivity in a fortress which already held friendly captives, and then, some would gain parole to collect ransom from the “real” prisoners’ families and communities, while others would stay behind, offering their own body parts (teeth, ears, and fingers) as guarantees for their colleagues’ return. If all went well, they would secure their own release and that of the “real” prisoners, making a healthy profit along the way.<sup>29</sup>

The rules of this business were complex, and varied from place to place, but in both the Balkans and the Black Sea steppe, it included guidance on how and when to take captives, to request, collect, and pay ransom, to extend or accept credit, and to release or punish captives.<sup>30</sup> Even for intra-European conflicts, Grotius and Vattel spelled out similarly detailed rules, and Ottoman jurists, too, issued legal opinions (Arabic *fatwa*/Turkish *fetvâ*) regulating cross-border capture and release.<sup>31</sup> Most fundamentally of all, the rules aimed to keep captives alive—they were valuable.

In Hungary, Géza Pálffy has aptly called this the “customary law of the border zone,” and it was indeed developed and practiced in the inter-imperial middle ground, by actors who had some level of economic and political power, as captors or well-connected captives, but were still far removed from elites in Istanbul, Vienna, or St. Petersburg. This was not a system international law but of frontier law and custom. It was not the practice of states, as in customary international law, but the practice of local groups and notables, which established general principles of

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<sup>28</sup> Boeck, *Boundaries*, 51.

<sup>29</sup> Sugar, “Professional,” 86.

<sup>30</sup> Pálffy, “Ransom,” 42–43. Pálffy wrote about the Hungarian borderlands, but similar rules existed on the steppe frontier. See Boeck, *Boundaries*, 40–53.

<sup>31</sup> Grotius, *De Jure Belli*, 2:v. 2, 842–44; de Vattel, *Law of Nations*, 332–35. For the legal discourse, see Joshua White, “Catch and Release” (PhD diss.: Michigan, 2012).

behavior, and it was not treaties, but ransom contracts and safe-passage agreements, which filled in its situational details.

Indeed, the intermediaries had much *more* at stake in the contours of this law than central states did—they, not diplomats and statesmen, were the repeat players in the system.<sup>32</sup> Thus, when an Ottoman grand vizier executed Habsburg captives taken in the siege of Nové Zamky/Uyvar in the mid-seventeenth century, Ottoman border soldiers protested that “to destroy the captives in cold blood was an action against the Laws of Arms, and might be revenged by their enemies with like examples of cruelty.”<sup>33</sup> The grand vizier would simply return to Istanbul at the end of the campaign, but the frontier militias would have to live with the results of flouting the border law.

### **Closing the Market**

The central state, however, began to take a greater hand in the business of captivity during the eighteenth century, and the beginning of the end for the frontier law came with the 1739 Treaty of Belgrade. This agreement, ending a four-year war between the Ottoman and Russian Empires, mandated that both sides would return all captives without the payment of ransom.<sup>34</sup>

The abolition of ransom was in no way a moral condemnation of the practice; indeed, the Ottomans signed another peace treaty, the very same day, with Austria (confusingly also known

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<sup>32</sup> This was the reverse of the more common quandary today, of states whose foreign ministries *are* repeat players, but whose subordinate entities (state governments and courts) show less respect for international law because they rarely engage with it. In the U.S. context, this is exemplified by the controversial case of *Medellin v. Texas*, 552 U.S. 491 (2008); in Europe, by the European Court of Justice’s *Kadi* cases.

<sup>3333</sup> Quoted from Paul Rycout by Mark L. Stein, *Guarding the Frontier: Ottoman Border Forts and Garrisons in Europe* (London: I.B. Tauris, 2007), 23–24.

<sup>34</sup> Treaty of Belgrade, Article 7, BOA, DVEd 83/1, 85 (September 18, 1739 NS).

as the Treaty of Belgrade), which *did* allow ransom to be paid, and Austrian captives remained subject to ransom for decades afterwards.<sup>35</sup> The Russians, it seems, simply wanted to save money; they had unsuccessfully demanded similar terms in other peace negotiations forty years earlier. Now, they had been militarily successful and held a number of notable Ottoman officers as captives. Importantly, these captives had been taken by the regular Russian army, rather than by auxiliaries such as Cossacks, so they were in central state custody. The Russians used these captives as bargaining chips: as the British ambassador observed of the negotiations, “there are a great Number of Turks Prisoners in Muscovy, the Price of whose Liberty is to be that of the Muscovites here.” He was quite clear that because the Austrians were less successful, they only received those captives in state hands; all others, they had to pay for. The Russians, in other words, had not directly de-commoditized captives; they were simply paying for captives, now, with a different currency—Ottoman captives, and political capital gained through military victory.

But the result of the Treaty of Belgrade was that Ottoman commissioners and Russian agents together searched Ottoman households in the early 1740s, finding and freeing captives while paying their owners the fixed sum of 100 piasters/kuruş. This sum was somewhat below what many owners had paid for their human property—resembling the Ottoman state’s practices in procuring goods (known as *narh*). The result was a lengthy and contentious release process, as owners resisted or evaded the Porte’s orders.<sup>36</sup> In 1774, and then 1792, the Ottoman signed similar treaties and undertook similar release procedures, while paying the same sum, but

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<sup>35</sup> Treaty of Belgrade, Article 10, BOA, DVEd 57/1, 182 (September 18, 1739 NS). Ransom for Habsburg subjects was eventually abolished by the 1791 Treaty of Sistova, Noradounghian, *Recueil*, v. 2, 9–10..

<sup>36</sup> See Will Smiley, “The Meanings of Conversion: Treaty Law, State Knowledge, and Religious Identity Among Russian Captives in the Eighteenth-Century Ottoman Empire,” *The International History Review* 34, no. 3 (2012): 559–580; Will Smiley, “Let Whose People Go? Subjecthood, Sovereignty, Liberation, and Legalism in Eighteenth-Century Russo-Ottoman Relations,” *Turkish Historical Review* 3, no. 2 (2012): 196–228.

inflation and devaluation meant that it fell even further behind the slave market. In 1802, after making peace with France, Selim ordered the release of all French prisoners—now, with *no* compensation.<sup>37</sup> The Porte did the same for British captives in 1807, and for Greek captives in 1830.<sup>38</sup> Thus, what had begun as a particular concession granted to the Russians on one occasion, had become a regularized Ottoman practice; and to fulfill its new obligation, the state had moved from buying captives on the open market, to forced purchase, to a token compensation, and finally to outright confiscation. This did not humanize captives, but it did transform them more into political assets than economic commodities.

By the 1770s, the state began confiscating captives *during* wars. This was not a result of a need for slave labor; indeed, the Ottoman navy had largely stopped using galleys, so there was little need for unskilled manpower.<sup>39</sup> Nevertheless, in the middle of the 1768-1774 Russo-Ottoman War, convoys of captives began arriving in Constantinople, consigning hundreds of Russians to the prison in the Ottoman shipyards. These convoys continued in the 1787-1792, 1806-1812, and 1828-1829 conflicts. By 1789, Ottoman officials responsible for provisioning the prison openly lamented the logistical problems brought on by the “prisoner trouble” (*üserâ gâilesi*)<sup>40</sup>—a complete reversal of the situation in earlier centuries, when they had regarded captives as a windfall. It is important to note that the state did *not* collect civilian captives, whom it allowed to be enslaved—

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<sup>37</sup> BOA, CHR 5735 (*evast* Recep 1217 H); BOA, DVED 30/5, #1660, 291 (*evast* Recep 1217 H). When given in this format, Ottoman documents’ dates are from the Islamic *hicrî* calendar.

<sup>38</sup> BOA, HAT 1444/59399 (Cemazeyilahir 1086 H); Ziya Yilmazer, ed., *Sânî-zâde Târîhî: 1223-1237/1808-1821* (Istanbul: Camlica, 2008), vol. 1, 239; Robert Walsh, *A Residence at Constantinople* (London: Westley & Davis, 1836), v. 2, 528–29; Eser Erdem Özkan, “R – 20 Numaralı Rusçuk Kadı Sicili Transkripsiyon Ve Tahlili (H.1244 – 1247 / M. 1828 – 1831)” (MA thesis, Osmangazi, 2006), 328–29; Noradounghian, *Recueil*, v. 2, 82.

<sup>39</sup> I make this argument in detail in Smiley, “When Peace Is Made,” 22–26, 122–24.

<sup>40</sup> BOA, CBH 1632 (3 Zilkade 1203 H).

but as the Ottomans lost one war after another, they had fewer and fewer opportunities to capture enemy civilians.<sup>41</sup>

Why collect captives, if not for labor—and why collect *only* military captives? Ottoman documents do not directly answer this question, and the Ottomans, as late as the 1870s, never issued general orders about prisoners of war.<sup>42</sup> However, the circumstantial evidence suggests that the Porte realized two things: first, that it would have to return captives without ransom when the war ended; and second, that the Russians were most concerned with recovering captured soldiers, whom the tsarist state had recruited and trained. The easiest way to ensure that the Ottomans could return captured Russian soldiers was to keep them in state custody in the first place.<sup>43</sup>

Doing so, however, required further transforming captives from a private asset into a state asset. By the 1780s, the Ottoman author Mourdjea d’Ohsson noted that “the Ottoman sovereign has for his part all the military [men] made prisoners, both officers and soldiers.”<sup>44</sup> To some extent, this was accomplished simply by seizing captives from their captors, but on other occasions, the state paid compensation on the field.<sup>45</sup> There is no clear pattern to these payments, and they seem to have been—like those paid after peace was made—more a nominal compensation than an attempt to compete with the slave market. In 1826, Sultan Mahmud II (r. 1808-1839)

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<sup>41</sup> For example, there were almost no civilians among the Russian captives in the Ottoman shipyard prison at the end of the 1787 War. See Arkhiv Vneshnei Politiki Rossiiskoi Imperii (Archive of the Foreign Policy of the Russian Empire), Moscow, Konstantinopol’skaya Missiya collection, *fond 90, del 1055, lits 11* (April 7, 1792 OS). See also Smiley, “When Peace is Made,” 113-20, 128, for a further exploration of this argument.

<sup>42</sup> Friedrich de Martens, *La Paix et La Guerre*, trans. N. de Sancé (Paris: Arthur Rousseau, 1901), 472–73.

<sup>43</sup> I make this argument in Smiley, “When Peace Is Made,” chap. 4.

<sup>44</sup> Mourdjea D’Ohsson, *Tableau Général de l’Empire Ottoman* (Istanbul: Isis, 2001), v. 5, 21. He also noted the *pencik*, though as noted above, d’Ohsson himself shows that it had fallen out of use by the 1780s.

<sup>45</sup> Smiley, “When Peace Is Made,” 127.

abolished the janissary corps and replaced it with a trained, regular army of conscripts, who could be relied upon to relinquish captives (sometimes in exchange for monetary awards). Just as it already had *after* wars, the state had now turned from buying captives on the battlefield, to receiving them in exchange for nominal payments. It is important to note that well into the nineteenth century, slavery itself remained not only legal but widely practiced in the Ottoman Empire; soldiers taken in war were simply being removed from the market. Only the state would profit from their captivity, and it would primarily do so politically, by releasing them upon peace, rather than economically.

Thus, by the 1780s, the Ottoman state had the basic outlines of a “prisoner of war” system in place: captured enemy soldiers were held in state custody, were not ransomed, and were returned when each war ended. Their conditions were terrible at times, and in the 1787 War, death rates from disease in the Ottoman prison were high—but this was no higher than those of the Russian army on campaign.<sup>46</sup> They were, by at least the 1820s and perhaps even the 1810s, no longer required to perform significant work (since, with the decline of the galleys, there was little for them to do). Conditions slowly improved; the prisoners received bread rations at the same rate as Ottoman naval yard workers, and officers, in particular, sometimes received luxuries such as coffee, meat, and alcohol.<sup>47</sup>

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<sup>46</sup> Over the course of the 1787 War, 35% of all Russian-affiliated captives consigned to the prison died there or on Ottoman ships, while a further 4% were aboard Ottoman ships which did not return to port (presumably, they therefore died or escaped in combat or a shipwreck). 40% of these deaths were concentrated in the first year of the war, perhaps because of an especially harsh disease season or because the Ottomans improved conditions in 1788. These figures are drawn from Russian lists in AVPRI, Snosheniya Rossii s Turtsiej collection, 89/8, 161, 1 (Sept. 20, 1788 OS); and AVPRI, KM 90/1, 1055, 13 (April 7, 1792 OS). Russian armies marching against foreign foes typically lost half their men through disease and desertion before ever entering battle, and one Ottoman ship captured by the Russians in 1790 had lost 90 men to disease—almost 14% of her crew—in just one season at sea. Aksan, *Wars*, 29 n. 24; I. I. Bocharov, *Admiral Ushakov: Pis'ma, Zapiski* (Moscow: Voennoe Izdatel'stvo, 2005), 90.

<sup>47</sup> This paragraph is a summary of Smiley, “When Peace Is Made,” 139–40.

Their conditions were monitored by, in different conflicts, Danish and Sicilian diplomats, and the Russian state was sometimes able to send them money and mail. Part of this improvement was due to periodic pressure from European ambassadors, who were generally more concerned about the comfort of well-connected aristocratic officers linked to pan-European networks, than about a general sense of “humanitarianism.”<sup>48</sup> More importantly, the Ottomans saw good treatment for prisoners as a way to encourage the Russians to treat captured Ottomans well, and at the same time, they hoped good conditions in captivity might encourage Russian soldiers to desert. The Russians did the same, encouraging the Ottomans to further improve treatment. By 1829, Russian prisoners were being held on an Heybeli island in the Sea of Marmara, which both now and then was a popular vacation spot for Istanbulites.<sup>49</sup> Medical care also improved; by the time of the 1877 War, wounded Russian prisoners were treated on the same terms as Ottoman soldiers.<sup>50</sup>

It is a bit ironic that of the main reasons for this “virtuous circle” was that the captives involved were often unhappy *before* captivity—after 1826, the regular armies on both sides were made of often-unwilling conscripts, who might take advantage of captivity to desert.<sup>51</sup> Indeed, in Kurdish areas of Anatolia, Ottoman conscription sometimes proceeded much like a slave raid, with army

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<sup>48</sup> See *Ibid.*, 142–45, 209, 227.

<sup>49</sup> See *Ibid.*, 224–28. In addition to Ottoman archival documents, an especially useful source is a captured Russian officer’s memoir: A. G. Rozalion-Soshal’skii, *Žapiski Russkogo Ofitsera, Byvshego v Plenu u Turok v 1828 i 1829 Godakh* (Kiev: Kharkovskii Chastnyi Muzei Gorodskoi Usad’by, 2006).

<sup>50</sup> Fredrick William von Herbert, *The Defence of Plevna, 1877, Written by One Who Took Part In It* (London: Longmans, Green, 1895), 172–73, 207, 290; Charles S. Ryan and John Sandes, *Under the Red Crescent: Adventures of an English Surgeon with the Turkish Army at Plevna and Erzeroum, 1877-1878* (London: John Murray, 1897), 138–39, 138–39.

<sup>51</sup> Mahmud’s fears of such desertion, and the record-keeping they prompted, are reflected in BOA, DASMD 37544 (est. 1244 H); BOA, DBŞMd 9866 (est. 1246 H); BOA, HAT 1048/43239F (29 Muharrem 1246 H); BOA, HAT 1052/43306 (est. 1245 H); BOA, HAT 1076/43947D (est. 1245 H); Topkapı Saray Müzesi Arşivi (Topkapı Palace Museum Archives), Istanbul, *defter* 6789 (est. 1245 H). The Ottomans sent irregular (*başı bozuk*) captives home when they were released, but retained conscripts in service. See BOA, HAT 1076/43944F (21 Cemazeyilahir 1245 H). Hopes for inspiring Russian desertion are noted in BOA, HAT 1021/42650D (29 Muharrem 1244 H); BOA, HAT 1051/43283 (13 Zilkade 1243 H).



units attacking villages which refused to surrender their young men, and then adding the prisoners to their own ranks.<sup>52</sup> Thus, one of the main reasons for the Ottomans to improve the treatment of Russian captives was that the Porte itself had become the largest purveyor of unfree labor—but this labor was not bought; it was abducted without compensation, paid a paltry wage, and justified by appeals to loyalty and imperial legitimacy.

This Ottoman prisoner of war system was eventually absorbed into the growing body of western European international treaty law. The 1856 Treaty of Paris, which concluded the Crimean War, simply mandated that “all prisoners of war” be released immediately; it applied alike to the Ottomans, Russians, French, British, and Piedmontese, and it went without saying that ransoms would not be paid.<sup>53</sup> By the time of the 1877-1878 Russo-Ottoman War, even the Russian lawyer-propagandist Friedrich de Martens, while claiming that the Ottomans killed many Russians at the moment of capture, did not deny that those whom they did take prisoner were treated reasonably well, at least in Istanbul.<sup>54</sup> (It is worth noting that a British-German officer who served with the Ottomans dismissed such claims, arguing that “[i]solated instances of barbarism will happen in every war and among the most civilised troops,” and contended that the Russians had massacred Ottoman captives at least once and allowed more than 8,000 to die of exposure.)<sup>55</sup> When the 1899 Hague Convention codified the customary international law of

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<sup>52</sup> Aksan, *Wars*, 387.

<sup>53</sup> Treaty of Paris, Article 6, Mahmud Mesud, *Muahedat*, v. 4, 248 (March 30, 1856).

<sup>54</sup> de Martens, *La Paix et La Guerre*, 473–75. He did complain that captives held in Istanbul were too rigorously interrogated, and watched too closely. He also noted that Ottomans did not promulgate rules for prisoner-of-war treatment, but von Herbert claimed the officers had “strict orders—always obeyed and enforced, as I know from experience—to check excesses and bring offenders to book.” On at least one occasion, an Ottoman field marshal (*mushir*) knew enough to demand the return of captured Ottoman medical personnel, based on “justice, equity, and international courtesy,” as well as the 1864 Geneva Convention. von Herbert, *Defence of Plevna*, 207, 216–17. For more on Martens, see the work of Peter Holquist.

<sup>55</sup> von Herbert, *Defence of Plevna*, 207, 464.

war, it explicitly provided that prisoners were “in the power of the hostile Government, but not in that of the individuals or corps who captured them”—and the Ottomans ratified it.<sup>56</sup>

Three factors had brought Ottoman practice to this point. First, the abolition of ransom, beginning with the 1739 Treaty of Belgrade, indirectly led the state to take custody of captured soldiers, so that it could release them. Second, collapsing demand for male galley slaves led the state to emphasize captives’ political value, rather than their labor value. (It may also have encouraged individual Ottoman soldiers to turn captured Russian soldiers over to the state, if slave-market prices could not compete with state rewards, but I have not been able to prove this.) Finally, the growth of regular, conscript armies on both sides of the Russo-Ottoman frontier both brought more captives into state hands, and gave both states a strong interest in ensuring that captured soldiers came back—since, unlike militiamen or landholding cavalry, they had been recruited and trained at state expense. There are no signs of an Ottoman attempt to imitate Europe. Moreover, the process was somewhat more complex than simply a march of progress, as Jefferson thought; and it was not entirely a matter of increasing humanitarianism (as Stephen C. Neff has seen in Europe).<sup>57</sup>

### **Effects in the Middle**

The end of ransom also did not occur uniformly, and it was not beneficial for all Ottoman captives. The Ottoman Empire, in the late eighteenth century, was far from a centralized state

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<sup>56</sup> Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land [Hague Convention], Annex, Sec. 1, Chap. 2, art. 4.

<sup>57</sup> See Stephen C. Neff, “Prisoners of War in International Law: The Nineteenth Century,” in *Prisoners in War*, ed. Sibylle Scheipers (Oxford: Oxford University, 2010), 1214.

whose power reached uniformly to the edge of its international boundaries. It was, instead, a tangle of internal jurisdictions and authorities; Ottoman power might better be visualized (following Lauren Benton) as a series of strings, running along land routes and across the Black and Aegean seas, connecting Istanbul to cities, fortresses, and enclaves. Most notably, areas of the Ottoman borderlands were often connected only by thin and tenuous strings to Istanbul. Similarly, from a military perspective, the main Ottoman army (itself often undisciplined, until Mahmud brought in his conscript army) was complemented by an array of militias, tribes, mercenary bands, local garrisons, and private armies. These uneven patterns of central authority initially limited the de-commodification of captivity, but were, slowly but inexorably, affected by it.

Those on the empire's edges, either geographically or administratively, sometimes still sold enemy soldiers into slavery, or held them for ransom.<sup>58</sup> Take, for example, the Ottomans' successful defense of the fortress city of Anapa against a Russian attack in 1790. This city on the eastern shore of the Black Sea was itself connected to Istanbul by maritime strings of commerce and administration, but was situated in a hinterland where the Porte had less direct authority. Ottoman documents, accordingly, distinguished between "Ottoman," "local," and "tribal" forces defending the city, and the three groups indeed did treat their captives differently. Russian and Ottoman documents together show that the fortress commander himself sent captives to Constantinople, but the local (city) forces and tribal nomads sold others into slavery—including one who lived in slavery until he escaped to Russian diplomats after the war, and others who

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<sup>58</sup> In addition to the case of Anapa, I give other examples in Smiley, "When Peace Is Made," 129–31.

were en route to be sold in Constantinople when they were liberated by Russian naval forces.<sup>59</sup> As late as 1803, Russian diplomats were still seeking the release of captives who were reputed to have been sold into slavery in the area, which was largely beyond the reach of Ottoman central authority.<sup>60</sup>

By the time of the siege of Anapa, however, the new central state approach to captivity was already having indirect effects even on peripheral regions. To see this, it is useful to look to the other end of the Ottoman middle ground, to the province of Bosnia. There, the Ottomans faced not Russia, but the Habsburg/Austrian Empire. Bosnia was defended largely by irregular militias, who had a long history of ransoming and exchanging prisoners with their cross-border counterparts, the Habsburg *grenzers*,<sup>61</sup> and as Colin Heywood has observed, “[t]he old traditions of the Ottoman border, one suspects, never really died out.”<sup>62</sup> Indeed, Bosnia’s irregular militias sent few prisoners to the Porte in the 1787 War, even after winning major victories over invading Austrian forces in 1788.<sup>63</sup>

But in August of that year, the Habsburgs managed to capture the Ottoman fortress of Dubice, and one of its officers, a Bosnian captain (*kapudan*) named Ömer.<sup>64</sup> His friends or family in

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<sup>59</sup> AVPRI, KM 90/1, 1055, 61 (May 2, 1792 OS); BOA, HAT 1392/55537 (25 Şaban 1204 H); The National Archives [of Great Britain], London, Foreign Office collection 78/11, #11 (May 22, 1790 NS); Bocharov, *Ushakov*, 72; Adnan Baycar, *Osmanlı Rus İlişkileri Tarihi: Ahmet Câvid Bey’in Müntehabâtı* (Istanbul: Yeditepe, 2004), 645; Adnan Baycar, *Hadika-i Vekâyi* (Ankara: Türk Tarih Kurumu, 1998), 19.

<sup>60</sup> BOA, DVEd 86/4, #681, 75 (*evast* Şaban 1207 H); BOA, DVEd 88/6, #826-828, 101 (*evail* Cemaziyilahir 1218 H); BOA, İEHR 1854 (no date).

<sup>61</sup> See Michael Robert Hickok, *Ottoman Military Administration in Eighteenth-Century Bosnia* (Leiden: Brill, 1997); Gunther Erich Rothenberg, *The Military Border in Croatia, 1740-1881; a Study of an Imperial Institution* (Chicago: University of Chicago, 1966).

<sup>62</sup> Colin Heywood, “Bosnia Under Ottoman Rule, 1463-1800,” in *The Muslims of Bosnia-Herzegovina: Their Historic Development from the Middle Ages to the Dissolution of Yugoslavia*, ed. Mark Pinson (Cambridge, MA: Harvard University, 1996), 38.

<sup>63</sup> TNA, FO 78/9, #12 (April 1, 1788 NS).

<sup>64</sup> This story is based on BOA, HAT 179/8099 (est. 1203 H).

Bosnia, almost certainly following border custom, attempted to arrange a deal with the Austrians, who replied that they would release Ömer only in exchange for an Austrian captain named “İstanik” (as his name was transcribed by the Ottomans).

The Bosnians now found themselves in a dilemma, because they did not have İstanik. He had, in fact, been captured at Şebeş, in modern-day Romania, by the main Ottoman army, and he was now in Constantinople. The Bosnians’ only choice was to petition the Porte to give them İstanik, so they could give him to the Austrians. Sultan Selim III (r. 1789-1807) and the Imperial Council demurred, and it is unclear if the exchange ever occurred.

It is striking that even Bosnia, in many ways the archetypal frontier ransom economy, was being affected by the new central policies toward captivity. The Austrian forces which had taken Dubice—made up of *grenzers* who were now fighting as a regular force for the first time—were commanded by a regular Austrian general, Field Marshal Ernest Gideon von Loudon. The officer who handled the prisoner exchange, who was probably not a local, did not request a *grenzer* commander—as his predecessors would have done—but instead another imperial officer, İstanik—perhaps someone he knew from Vienna or with whom he had attended school. And İstanik himself, part of an *Austrian* imperial network, was now, through captivity in Constantinople, part of an *Ottoman* imperial network.

The Bosnians, in short, were trying to negotiate a local prisoner exchange in what was rapidly becoming a pan-imperial market. This meant that their skills and livelihood as mediators of captivity were no longer necessary; what mattered now were ties to the imperial center. For that center, captives were political assets; it may well be that Selim was reluctant to exchange İstanik

because he cared more about weakening the enemy and preserving the captain as a bargaining chip than he did about freeing Ömer, a mere provincial militia leader.

Though my research on this point is still incomplete (and there are few Ottoman records speaking to the situation in frontier regions such as Bosnia), the incident of İstanik and Ömer suggests that captivity was now mediated more by the Ottoman central state, in conversation with its imperial counterparts, than by borderland intermediaries.

### **Shifting Brutality**

This was good for captured foreign military men, as discussed above—they became prisoners of war, entitled at least to live until released at the end of the war. But matters were very different for those captured during domestic revolts by Ottoman Christian populations, most notably in Serbia (1804-1816) and Greece (1821-1830). These conflicts illustrate the complexity and unevenness of captivity's de-commodification, and the ways it may have channeled brutality, rather than reduced it.

Both conflicts occurred before the Ottomans introduced their new regularized conscript army in 1826, so the Porte had to rely on irregulars, whom it often could not afford to pay. The Ottomans had, since the 1770s, found a clever way to make counterinsurgency pay for itself: they secured legal opinions from the empire's chief jurisconsult, the *şeyhülislam*, confirming that Islamic law allowed rebellious Christians to be enslaved. The Porte did the same for the Serbians in 1806 or 1807, and for various Greek communities in the 1820s. This allowed the state to leverage the

fact that peripheral forces—such as the militias which it would need to suppress the Serbian and Greek revolts—still *did* see captives as economic commodities.

Not all captives, however, were equally valuable. With the end of the galleys, neither the state nor private ship owners had much need for unskilled male slaves. This was a sharp contrast to previous conflicts, in which the Ottoman state and Ottoman subjects had enslaved rebellious subjects whenever possible.<sup>65</sup> Nor did the state collect captured combatants, as it did in wars against Russia, because Serbs and Greeks were not Russian subjects; they had no political value to replace their lost economic value. So, Ottoman forces simply killed military-age males on the battlefield. This began as early as the 1790s, when Selim III executed Ottoman Greeks captured while serving as Russian privateers, hanging their bodies outside churches around Istanbul to intimidate other Ottoman Christians.<sup>66</sup> The practice grew in the early nineteenth century; during the Greek revolt, male captives rarely made it to the Ottoman slave markets, and those who did end up in state custody were executed, their bodies displayed around Istanbul.<sup>67</sup> Executions in the field became official policy in July 1821, and the practice became so common that Ottoman reports referred to it casually and in passing.<sup>68</sup> Ottoman forces had almost never slaughtered captives on such a scale before—and they did so now not only because the accused were seen as treasonous rebels, but also, in part, because they had no easy way to profit from their male captives' suffering.

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<sup>65</sup> I make this argument based on an analysis of prison registers from the mid-eighteenth century, in Smiley, “When Peace Is Made,” 23–24; see also White, “Catch and Release,” for the sixteenth and seventeenth centuries.

<sup>66</sup> I discuss this in detail in *Ibid.*, 173–75.

<sup>67</sup> BOA, HAT 497/24402 (19 Ramazan 1236 H); BOA, HAT 837/37755 (9 Zilhicce 1238 H); BOA, HAT 1155/45820 (est. 1236 H); BOA, HAT 1155/45845 (est. 1237 H); BOA, HAT 1157/45920 (17 Şevval 1236 H); Ziya Yılmaz, ed., *Sânî-zâde Târîhi: 1223-1237/1808-1821* (İstanbul: Çamlıca, 2008), 1247, 1249, 1277–78, 1283, 1290; Rozalion-Soshal'skii, *Ofitser*, 57.

<sup>68</sup> BOA, HAT 1108/44662 (29 Şevval 1236 H); BOA, HAT 862/38436 (5 Zilkade 1237 H); BOA, HAT 872/38769 (15 Şevval 1240 H).

Greek and Serbian women and children, by contrast, were still valuable economic commodities, and they suffered differently—not by being killed, but by being sold into slavery, by the thousand.<sup>69</sup> They served, for the most part, as household servants and concubines. The state took advantage of Ottoman society’s demand for female and minor slaves by using their enslavement as a way to compensate and encourage its forces, but it tried to keep control over who was being enslaved. The Porte resurrected the *pencik* tax on captivity, not for revenue (the amounts collected were tiny, and sometimes the state even renounced them) but as an attempt to ensure that captivity was legally documented, allowing officials to distinguish between those slaves who had been loyal and disloyal subjects, and to release the former.<sup>70</sup>

In previous centuries, ransom had always gone hand-in-hand with enslavement, and had helped to mitigate its effects. Families or, at times, religious groups or states, had raised money to release those who were enslaved. But now, the international decommodification of captivity prevented this. The Porte, perhaps having internalized the view that ransom was illegitimate, banned its soldiers from selling Serbian captives to other Serbs.<sup>71</sup> Many Greeks and Serbs probably could not afford to pay ransoms in any case, but there was still one major source of ransom money: Russia. The Russians had, in the 1770s, demanded that the Ottomans agree to release Christian slaves, but they had since backed down from this position, essentially admitting that Ottoman sovereignty prevented it from interfering in the enslavement of any but Russian subjects. They thus had no legal right to demand the Ottomans release enslaved Greek or Serbian women and

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<sup>69</sup> Greek rebels did the same with captured Ottoman Muslim women and children.

<sup>70</sup> Smiley, “‘When Peace Is Made’,” 232–36.

<sup>71</sup> BOA, CAS 3209 (*evahir* Şevval 1228 H); BOA, CAS 32404 (21 Şevval 1222 H).



children, and they made no such demand.<sup>72</sup> But the Russian government, in an echo of the *polonianichnyi den'gi* of earlier centuries, sponsored a collection to *pay* for Greeks' freedom in the 1820s. This campaign raised a great deal of money, but it did not ransom a single Greek.<sup>73</sup> The problem was that the Russians could not find intermediaries. They could not give the money to the Greek rebel government, for "this would imply recognition of that government and violate Russia's neutrality" in the conflict.<sup>74</sup> A few wealthy Greeks and foreign diplomats attempted to arrange ransoming, but they failed. The diverse networks of cross-border intermediaries who had facilitated a thriving ransom economy a century earlier had, it seems, atrophied through disuse as the border became less porous and ransom was banned. Moreover, the Russians rejected the possibility of giving their funds to Ottoman Greek clergy, for fear that this would call their loyalty into question<sup>75</sup>—suggesting that the Ottoman government was internalizing the norm against ransom, seeing it as inherently illegitimate rather than as an ordinary part of borderland life.

The de-commodification of captivity in the international sphere, then, meant that even as Russian soldiers' captivity became more brutal, that of Greek and Serbian men became *more* brutal. At the same time, for those whose captivity did still have economic value *within* the empire—women and children—cross-border ransoming could not mitigate their plight.

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<sup>72</sup> I make this argument at length in Smiley, "Let Whose People Go."

<sup>73</sup> Gary J. Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York: Alfred A. Knopf, 2008), 142–45.

<sup>74</sup> *Ibid.*, 144.

<sup>75</sup> *Ibid.*, 143–44.

The divergence between male and female captives reflected the nature of the Ottoman slave market in general; in the nineteenth century, enslavement was overwhelmingly female.<sup>76</sup> But in the decades following the Greek revolt, even enslaved women and children slowly lost their commodity value, as the Ottoman government, propelled in part by British pressure, attempted to curb the slave trade. In 1856, Sultan Abdülmecid proclaimed equality for Ottoman Christians, Jews, and Muslims, which legally meant that the Porte could no longer declare even disloyal Christian subjects to be subject to enslavement under the Islamic law of rebellion.<sup>77</sup> At the same time, the rise of the disciplined Ottoman conscript army meant that by the time of the Crimean War (1853-1856), most of the Ottoman army did not participate in what remained of the slave trade. Thus, the fate of captured Greek and Serbian women and children—sale into slavery, with slim prospects of ransom—was the past, and that of Greek men—execution—was the future, as captivity was fully de-commodified.

Though my research on this period is still preliminary, it is striking that the massacre of disloyal subjects became common in the late nineteenth-century Ottoman Empire. There were many reasons for this, but de-commodification might have been one, though I cannot yet draw a clear causal connection. After 1826, the Ottomans retained irregular forces alongside their regular army, known as *başı bozuk* (literally “broken head,” either due to their recklessness or their indiscipline).<sup>78</sup> During the Crimean War, even as the Ottoman regular army (with perhaps a few individual exceptions) did not sell its captives into slavery, *başıbozüks* did.<sup>79</sup> By the 1870s, though, they had become more famous for their activities inside the Ottoman Empire—killing prisoners

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<sup>76</sup> See generally Madeline C. Zilfi, *Women and Slavery in the Late Ottoman Empire* (Cambridge: Cambridge University, 2010).

<sup>77</sup> Y. Hakan Erdem, *Slavery in the Ottoman Empire and Its Demise, 1800-1909* (Basingstoke: Macmillan, 1996), 45.

<sup>78</sup> Edward J. Erickson and Mesut Uyar, *A Military History of the Ottomans: From Osman to Atatürk* (Denver, CO: Praeger/ABC-CLIO, 2009), 136.

<sup>79</sup> Erdem, *Slavery*, 45.

and massacring Ottoman Christians during extraordinarily violent reprisals against suspected rebellions in the Balkans.<sup>80</sup> While they did enslave a few of their captives, by and large, they simply killed them—probably in large part because ransom was defunct, and there was no longer any legal way to enslave Ottoman Christians, even rebellious ones.

The same was true in eastern Anatolia, where the Ottoman government used quasi-independent Kurdish irregular (the Hamidiye Light Cavalry) to counter another perceived domestic threat: this time, from the Armenians. The Hamidiye and other Kurdish irregular groups participated in massacres in the 1890s, and then, more infamously, during the First World War.<sup>81</sup> There is no indication, however, that they took many captives, probably for the same reasons the *başî bozüks* in the Balkans did not.<sup>82</sup> Neither the state nor the irregulars could profite, economically or politically, from their captivity.

On the other side of the Russo-Ottoman border, the Cossacks, too, became infamous during the early nineteenth century for killing their captives—after the Russian army, too, had turned to a prisoner of war system. Though it is only supposition at this point, it may be that the

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<sup>80</sup> Davide Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815-1914* (Princeton, N.J.: Princeton University Press, 2012), 164; Erickson and Uyar, *Military History*, 200.

<sup>81</sup> See generally Janet Klein, *The Margins of Empire: Kurdish Militias in the Ottoman Tribal Zone* (Stanford, CA: Stanford University Press, 2011); Michael A. Reynolds, *Shattering Empires: The Clash and Collapse of the Ottoman and Russian Empires, 1908-1918* (Cambridge: Cambridge University Press, 2011).

<sup>82</sup> When the Ottoman state turned to slaughtering Armenians on a larger scale and more consistent basis after 1915, rural Kurdish and Arab groups, and sometimes military officers, kidnapped Armenians from the deportation caravans—reviving *de facto*, if not *de jure*, slavery. Some Ottoman Muslims regarded these captives as “legitimate war booty, a sentiment captured by the phrase ‘remnants of the sword’,” harkening back to previous centuries, while European and American aid workers often considered them slaves. See Keith David Watenpaugh, “The League of Nations’ Rescue of Armenian Genocide Survivors and the Making of Modern Humanitarianism, 1920-1927,” *American Historical Review* 115, no. 5 (2010): 1323–25. The following decades, of course, witnessed state-sponsored massacres throughout eastern Europe in the 1930s—including in the very same areas of modern-day Ukraine where Tatar slave-raiding and ransoming had once flourished, with the Crimean Tatars and others now taking the role of victims of Nazi and Soviet states which sometimes demanded their (uncompensated) labor, but more often, only their deaths. See Timothy Snyder, *Bloodlands: Europe Between Hitler and Stalin* (New York: Basic Books, 2010).

delegitimation of ransom and the end of enslavement, throughout the Black Sea borderlands, contributed to widespread massacres in the region. When empires sought to advance their political objectives by turning to the borderland populations who had once been enmeshed in the cross-border commerce of captivity, the resulting violence was channeled in the direction of massacre, rather than ransom or enslavement. De-commodification did not end captives' dehumanization.

## **Conclusion**

The preceding narrative shows that between 1739 and the 1870s, captivity was almost completely de-commodified in the Ottoman Empire. The state moved from participating fully in the ransom and slavery market; to buying captives during and after wars at fixed, below-market prices; to confiscating captives; and finally, to discouraging and banning the cross-border ransom, and then the internal sale, of captives.

The Porte did not do this for humanitarian reasons, but instead to serve its own interests—to enhance its military performance and to fulfill its treaty obligations to Russia and other states. The result was that the economic and cultural factors which had once determined captives' fates were replaced, not by a generalized humanitarian concern, but by a different set of priorities which redistributed brutality. For those who were Russian subjects, and especially Russian soldiers, this was beneficial. But for those who were not, the result was, at first, prolonged slavery, and later, simply execution.

This suggests that, at least in the Black Sea world, the evolution of the laws of war was not a matter of uniform improvement, as Jefferson expected. The commodification of human freedom was often a brutal practice in itself, but it had, for many, helped to mitigate even worse brutality. De-commodification was a story of tradeoffs—some captives gained, while others lost.<sup>83</sup>

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<sup>83</sup> For an overview of conflicted American views on whether the laws of war really do—or should—limit suffering in war, and what tradeoffs that might entail, see generally John F. Witt, *Lincoln's Code: The Laws of War in American History* (New York: Free Press, 2012).