

Catch and Release:  
Piracy, Slavery, and Law in the Early Modern Ottoman Mediterranean

by

Joshua Michael White

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Doctoral Committee:

Professor Rudi Paul Lindner, Chair  
Professor John V.A. Fine  
Associate Professor Gottfried J. Hagen  
Associate Professor Diane Owen Hughes

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For my parents

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## List of Abbreviations

### *Archives and Libraries*

ASV	Archivio di Stato di Venezia
BOA	Başbakanlık Osmanlı Arşivi
İSAM	İslam Araştırmaları Merkezi
TAH	Turkish Archive of Herakleion, Vikelaia Municipal Library
TNA	The [U.K] National Archives
TSMA	Topkapı Sarayı Müzesi Arşivi

### *Frequently Used Collections and Archival Fonds*

BAC	Bailo a Costantinopoli, Documenti Turchi
CSP	Calendar of State Papers, Venice
ED	Ecnebi Defterleri
EI	Encyclopedia of Islam, 2 <sup>nd</sup> Edition
MD	Mühimme Defterleri
MZD	Mühimme Zeyli Defterleri
SDC	Senato, Dispacci Costantinopoli
SP	State Papers, Foreign

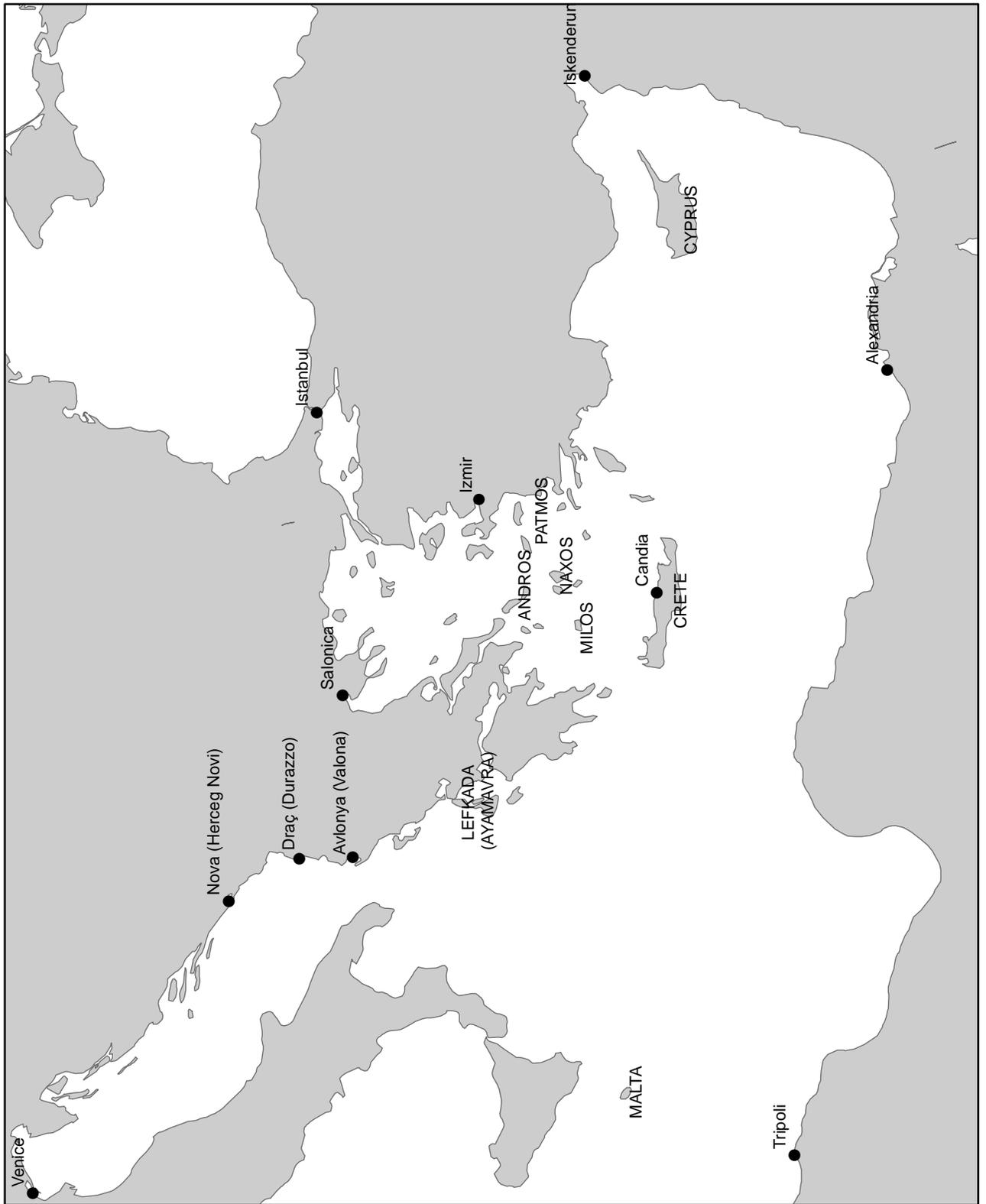
**Note on dates:** References in the footnotes preserve documents' original dates. For Ottoman documents, this means the Islamic lunar (*Hijri*) calendar, marked "H." when unclear. The lunar months are abbreviated in the footnotes as follows: Muharrem M, Safer S, Rebiyülevvel RA, Rebiyülahir R, Cemaziülevvel CA, Cemaziülahir C, Receb B, Şaban Ş, Ramazan N, Şevval L, Zilkade ZA, Zilhicce Z. Frequently, Ottoman documents eschew precise dates in favor of the following terms, which have been reproduced when they appear: Gurre (the first of the month), Evail (between the 1<sup>st</sup> and 10<sup>th</sup>), Evasit (between the 11<sup>th</sup> and the 20<sup>th</sup>), Evahir (between the 21<sup>st</sup> and the 30<sup>th</sup>), and Selh (the last day of the month). The Venetian calendar year began on March 1. When there is a discrepancy between the Venetian and Gregorian dates, the date is marked "m.v." (*more Veneto*). Thus, February 3, 1625 m.v. would be February 3, 1626 according to the Gregorian calendar. Old style dates are indicated (OS) when necessary. Dates in the body have been converted to the Gregorian calendar.

**Note on place names:** Where cities and geographical features have well-known names in English, I have used these. For example, Salonica, rather than Thessaloniki or Selanik. In other instances, I have preferred to use the names current in the period under study—

most often the Ottoman ones—always providing the present-day place name at first mention. For example, Avlonya (Valona, present-day Vlorë in Albania).

**Note on style:** I have employed a modified Modern Turkish orthography for transliterating Ottoman Turkish. Turkish words that are well known in English, like “pasha,” are used instead of *paşa*. Others are italicized throughout. The majority of the primary sources employed in this study were written in Ottoman Turkish. Words and phrases that are of Arabic origin, when they appear in an Ottoman Turkish context, are rendered according to Turkish orthographical conventions.

**Map:** The eastern half of the Mediterranean basin



## Chapter 1

### Introduction

One day in 1605, below the vines of Pera where the foreign ambassadors to the Sublime Porte resided, a group of men gathered in the Ottoman court of the seaside district of Galata, situated across the Golden Horn from Istanbul proper. Present in the room were the Ottoman judge, his scribe, the court witnesses, a Venetian interpreter named “Hamantomazi” representing the interests of Venice’s ambassador (the *bailo*) to the Ottoman Empire, and a slave. The slave, Yakomi son of Matyon, was a Venetian-subject from Crete, and on that day, he would be freed. Yakomi had been captured by pirates, probably in an amphibious raid on his home island, and subsequently ended up in the possession of the Ottoman governor of Cyprus, Cafer Pasha. Pirate slaving-raids were common in the early modern Mediterranean and helped feed the demand for servile labor on all sides of the sea. Muslims targeted Christians and Christians targeted Muslims for sale in distant markets. But the line between legal and illegal raiding in the eastern half of the Mediterranean was not simply religious, in spite of the theoretical holy war that permitted Muslims to enslave non-subject Christians and vice versa.

Although Christian, Yakomi was a protected foreigner, owing to the Ottoman sultan’s treaty with the Republic of Venice, and this made his capture, enslavement, and sale illegal. Once Venice’s diplomatic representatives were informed of Yakomi’s plight, they invoked the treaty provisions prohibiting the enslavement of either side’s subjects

and won his release. The hearing in Galata marked the final stage in the process. The Ottoman scribe recorded Yakomi's description—open-browed, hazel-eyed, of medium height with a scar on his right cheek—and with reed pen, wrote the words that confirmed his freedom in accordance with the imperial treaty. The former slave and the Venetian interpreter left the court with a legal document attesting Yakomi's free status and ordering anyone presented with it not to trouble him further.<sup>1</sup>

This dissertation is about piracy, but it is not about pirates or corsairs. Rather, it is about the administrators, diplomats, jurists and, above all, the victims—those who had to contend most with the consequences of maritime violence in the late sixteenth and seventeenth-century Ottoman Mediterranean.<sup>2</sup> It is about what happened after the pirates had sailed away and the ways individuals and institutions, like those involved in arranging Yakomi's release in Galata, attempted to sort out the legal and diplomatic messes pirates left behind. Yakomi's case was hardly unique. Maritime violence had been on the rise since the conclusion of the Ottoman-Venetian war for Cyprus in 1573, and the unchecked activities of pirates in the eastern half of the Mediterranean routinely affected both Ottoman subjects and the subjects of the European states with which the Ottoman Empire maintained peaceful relations, resulting in frequent domestic and inter-state legal disputes over ships, cargo, and captives. This dissertation explores the Ottoman legal and administrative response to piracy and its impact on the local and individual level. It

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<sup>1</sup> Timur Kuran, ed., *Mahkeme kayıtları ışığında 17. yüzyıl İstanbul'unda sosyo-ekonomik yaşam/Social and economic life in seventeenth-century Istanbul: glimpses from court records* (Istanbul, 2010), vol.1, 482-3 (Galata 27, 58a (1014)).

<sup>2</sup> The appellation "Ottoman Mediterranean" has long been used by scholars to describe the eastern half of the Mediterranean basin. Sometimes, however, the term has been deployed with additional implications. For instance, Molly Greene has argued that the defining feature of the seventeenth-century Ottoman Mediterranean is its reunified (with the conquest of Crete) Greek Orthodox ecumene in *A shared world: Christians and Muslims in the early modern Mediterranean* (Princeton, 2002), 11. Below, in contrast, this dissertation will argue that the Ottoman Mediterranean was a unified legal space, the borders of which were in large part defined by the challenge of piracy.

argues that the dramatic increase in maritime violence in the Mediterranean after the 1570s had a tremendous effect on the formation of international law, the conduct of diplomacy, the articulation of Ottoman imperial and Islamic law, and their application in local Ottoman courts.

While the activities of naval irregulars, sometimes loosely affiliated with the Ottoman state, played an important role in the non-conventional warfare of the early modern Mediterranean, piracy and amphibious slave raiding proved to be an enduring aspect of Mediterranean life in peacetime as well, and neither confessional identity nor state origin guaranteed safety. Never was this truer than in the period following the Ottoman defeat at Lepanto in 1571. Although the Ottoman fleet was rapidly reconstituted afterward and the war dragged on for a few more years, that battle proved to be the last major maritime confrontation in a century that had witnessed numerous decisive engagements. The Ottomans cemented their conquest of the North African littoral a few years later when they re-took Tunis in 1574, but the age of large-scale galley conflict in the Mediterranean was definitively over.<sup>3</sup> It was not, as some popular histories would have it, that the Ottoman defeat was the turning point in an "epic" battle between Islam and Christendom—Ottoman military capacity remained high and expansion continued on land for another century.<sup>4</sup> Nonetheless, no one was especially interested in continuing the conflict at sea; large scale naval warfare had simply become too expensive.

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<sup>3</sup> John Guilmartin, *Gunpowder and Galleys. Changing Technology and Mediterranean Warfare at Sea in the Sixteenth Century* (London, 1974). There is an extensive literature debating the importance of the Battle of Lepanto; we will return to the question in later chapters.

<sup>4</sup> A recent example of such popular histories is T.C.F. Hopkins, *Confrontation at Lepanto: Christendom Vs. Islam* (New York, 2007), the abstract of which declares, "Like an angry lion, the Turkish menace growled at the frontiers of Europe...Western civilization was being threatened by medieval Islam. By 1570, a huge Turkish fleet had begun to turn the Mediterranean into a Muslim lake. A year later Pope Pius V created an anti-Ottoman alliance known as the Holy League--Christendom's answer to Jihad. One morning in October 1571, Don John of Austria, commanding the fleet of the Holy League, met the Ottoman Turks in the waters

The accomplishment of all the Ottomans' strategic objectives in the war in spite of the tactical reversal at Lepanto meant that, after the Venetians pursued a separate peace in 1573 and the Spanish were finally expelled from Tunis in 1574, there was little reason to continue with the outrageous and unsustainable expense of maintaining the imperial fleet and putting it to sea each year. For both the Ottomans and the Habsburgs, more pressing political and military priorities, not to mention financial necessity, dictated a new policy.

Both sides thus turned to more pressing affairs on the frontiers of their empires—Spain to the resurgent Dutch revolt and the Ottomans to successive land wars—eventually agreeing to a truce in 1580.<sup>5</sup> That this coincided with the penetration of the Mediterranean by heavily armed English merchant ships, fitted for piracy as much as trade, and the growing independence and prowess of the corsairs of North Africa meant that these and others could operate largely unmolested.<sup>6</sup> Thus, at this point of naval disengagement, of reestablished relations with Venice and detente with Spain, the seas did not become a safer place. On the contrary, incidents of piracy increased dramatically, as both naval irregular proxies from the Mediterranean and English, Dutch, and French entrepreneurs from the Atlantic—what Fernand Braudel termed the “Northern

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at the mouth of the Gulf of Patros. The future of a despairing, fragmented Europe was about to be decided...For the first time in more than a century, West had defeated East. The Christians had successfully taken the offensive. Lepanto was one of the greatest turning points in history, though the centuries to come would see many more battles in the continuing conflict between Christianity and Islam. ..The result is a book whose lessons resonate today.” The framing of this unquestionably important (though how important is the subject of ongoing debate) naval battle as an epic civilizational clash between faiths—note the pejorative, reified “medieval Islam” pitted against “Western civilization”—and as the turning point at which Christendom finally regained the upper hand is not only historically inaccurate but almost ridiculously reductive. The publisher’s closing remark concerning the resonance of the book’s “lessons” is indeed a large part of the problem of this kind of a characterization. New and similar works with similarly problematic interpretations appear in bookstores almost annually.

<sup>5</sup> This is the scenario proposed by Andrew Hess, *The Forgotten Frontier: A History of the Sixteenth-Century Ibero-African Frontier* (Chicago, 1978).

<sup>6</sup> Alberto Tenenti, *Piracy and the Decline of Venice: 1580-1615* (Berkeley, 1967), 56-86.

Invasion”—filled the power vacuum at sea.<sup>7</sup> This reshaping of maritime power was not an instantaneous development, but both during and immediately after the conclusion of the war, Ottoman naval irregulars and Christian pirates alike took advantage of their privileged position to raid largely unmolested. By 1580, the age of the *corso*—the simmering, low-intensity pirate warfare that persisted through the seventeenth century—had begun.

The narrative is well-established. Whereas Ottoman naval strength had previously safeguarded merchant traffic in the Eastern Mediterranean and the imperial rivalry with Spain had provided the impetus for dispatching successive fleets into the Western Mediterranean to pillage Spanish dependencies, after 1580, the corsairs of North Africa and Malta were left to pursue their two-sided holy war at sea, while well-armed English, Dutch, and French ships joined the fray and drove their Venetian competition from the waves.<sup>8</sup> Those from the nominally-Ottoman North African city-states of Algiers, Tunis, and Tripoli—by 1605 equipped with the latest sailing technology thanks to English and Dutch renegades left unemployed by the end of England’s war with Spain—ranged the Mediterranean and beyond, staging dramatic raids as far as Ireland and Iceland in the

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<sup>7</sup> Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II* (London, 1972), vol.1, 615-42. The Northern Invasion paradigm has since undergone some recalibration, first in a critique by Molly Greene, “Beyond the Northern Invasion: The Mediterranean in the seventeenth century,” *Past and Present*, 174 (2002), 42-71, and most recently in a response by Colin Heywood, “The English in the Mediterranean, 1600-1630: A Post-Braudelian Perspective on the ‘Northern Invasion,’” in Maria Fusaro, Colin Heywood, and Mohamed-Salah Omri, eds., *Trade and Cultural Exchange in the Early Modern Mediterranean: Braudel’s Maritime Legacy* (London, 2010), 23-44. Heywood’s argument that more microhistory is what is needed to come to a better understanding of the actual shape of the Northern Invasion is one with which the present author enthusiastically agrees. At the same time, Greene’s insistence on the prominence of Greeks in the maritime activity of the seventeenth-century Eastern Mediterranean (an argument developed further in her 2010 book cited below) is well-taken and very much supported by the evidence considered in this dissertation, which most often finds Ottoman and Venetian-subject Greeks filling the roles of merchants, sailors, ship-captains, and pirate victims.

<sup>8</sup> See, among others, Tenenti, Braudel, op. cit.; Salvatore Bono, *Corsari nel Mediterraneo: cristiani e musulmani fra guerra, schiavitù e commercio* (Milan, 1993).

1620s and 1630s.<sup>9</sup> Meanwhile, the Knights of St. John of Malta and their compatriots, the Knights of St. Stephen, based in Livorno, made annual cruises into the Eastern Mediterranean and wreaked havoc on the vital sea lanes connecting Istanbul and Alexandria. Both sides took a significant cut of the wealth from passing shipping and carried off thousands into captivity, leading to the establishment of a thriving, trans-Mediterranean ransoming industry that supported a plethora of lenders, brokers, and investors in captive bodies, not to mention the many more who worked to clothe, feed, and house slaves held for ransom.<sup>10</sup>

The legacy of this activity in the historical memory and popular imagination of the Mediterranean, with a lopsided emphasis on the Muslim contribution, extends to the present day. In March 2011, the Libyan dictator Muammar Qaddafi, faced with a

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<sup>9</sup> For an overview of the Dutch in early modern North Africa and the Dutch privateer-to-North African corsair connection (and their shared dislike of the Spanish), see Alexander de Groot, "Ottoman North Africa and the Dutch Republic in the seventeenth and eighteenth centuries," *Revue de l'Occident musulman et de la Méditerranée*, 39 (1985), 131-47. On the famous 1627 raid on Iceland, captained by a Dutch renegade based out of Algiers, see Bernard Lewis, "Corsairs in Iceland," *Revue de l'Occident musulman et de la Méditerranée*, 15 (1973), 139-144, and Bjorn Jonsson of Skardsa's "Turkish Raid Saga," originally composed in Icelandic in 1643 and republished in English translation online by the Türkiye Sualti Arkeologisi Vakfi at: [http://www.tinaturk.org/THE\\_TURKISH\\_RAID\\_SAGA.pdf](http://www.tinaturk.org/THE_TURKISH_RAID_SAGA.pdf). On the 1631 "Sack of Baltimore," a small Irish village in Cork, see H. Barnby, "The Algerian attack on Baltimore 1631," *Mariner's Mirror*, 56 (1970), 27-31, and D. Ekin, *The Stolen Village: Baltimore and the Barbary Pirates* (Dublin, 2006).

<sup>10</sup> There is an extensive literature on captivity and ransom, though disproportionately focused on Europeans. In addition to works cited above and below, see, for example, Daniel Vitkus and Nabil Matar, *Piracy, Slavery, and Redemption: Barbary Captivity Narratives from Early Modern England* (New York, 2001); Nabil Matar, "English Accounts of Captivity in North Africa and the Middle East: 1577-1625," *Renaissance Quarterly*, 54 (2001), 553-72; see also the work of Robert Davis, "The Geography of Slaving in the Early Modern Mediterranean," *The Journal of Medieval and Early Modern Studies*, 37 (2007), 57-74; idem, *Christian Slaves, Muslim Masters: White Slavery in the Mediterranean, the Barbary Coast, and Italy, 1500-1800* (Houndmills, 2003); idem, "Counting European slaves on the Barbary coast," *Past and Present*, 172 (2001), 87-124. For Spain, see Ellen Friedman, *Spanish captives in North Africa in the early modern age* (Madison, 1983) and, more recently, Daniel Hershenson, "Early Modern Spain and the Creation of the Mediterranean: Captivity, Commerce, and Knowledge" (Ph.D. dissertation, University of Michigan, 2011). Muslim slavery in Italy has been studied by Salvatore Bono in *Schiavi musulmani nell'Italia moderna: Galeotti, vu' cumpra', domestici* (Naples, 1999). Otherwise, for the ransom of Ottoman subjects, see Pal Fodor, "Piracy, Ransom Slavery and Trade: French Participation in the liberation of Ottoman slaves from Malta during the 1620s," *Turcica*, 33 (2001), 119-134; Eyal Ginio, "Piracy and Redemption in the Aegean Sea during the first half of the Eighteenth century," *Turcica*, 33 (2001), 135-147; Halil Sahillioğlu, "Akdeniz'de Korsanlara Esir Düşen Abdi Çelebi Mektubu," *Tarih Dergisi*, 17-18 (1963), 241-256.

strengthening insurrection and increasing international isolation, warned French journalists that, if his regime were to fall, “there would be Islamic jihad in front of you, in the Mediterranean... bin Laden’s people would come to impose ransoms on land and sea. We will go back to the time of Red Beard [i.e. Hayreddin Barbarossa], of pirates, of Ottomans imposing ransoms on boats.”<sup>11</sup> The reference to Tripoli’s past as a hub of corsairing activity, the revival of which was implicitly restrained only by strongmen like himself, spoke directly to interpretations of Mediterranean history that view the early modern *corso* as just another manifestation of the perpetual holy war and civilizational clash between Islam and Christendom. Qaddhafi conjured the common image of the North African pirate as the scourge of Christendom and, drawing an analogy with al-Qaeda, constructed a genealogy of violence that made the specter of contemporary terrorism its latest incarnation.

The association of piracy and ransoming with the Ottomans is worth interrogating, however, for whereas Ottoman sovereignty was extended to Tripoli and its neighbors Tunis and Algiers in the mid-sixteenth century, the Ottoman central government exercised little control there during the seventeenth-century halcyon days of Mediterranean piracy. Despite Qaddhafi’s (unfounded) warning that reversion to religious conflict at sea would be the natural and inevitable consequence of his demise, Mediterranean maritime raiding and the Ottoman center’s relationship with it were considerably more complex and pragmatic, and nowhere near as uncompromising or religiously oriented in the late sixteenth and seventeenth centuries as he suggested. In the

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<sup>11</sup> Entire interview in *Le Journal du Dimanche*, “Kadhafi: ‘J’en appelle à la France,’” March 6, 2011, <http://www.lejdd.fr/International/Afrique/Actualite/Exclusif-L-interview-integrale-accordee-par-Mouammar-Kadhafi-au-JDD-278745/>. Translation quoted from *Today’s Zaman*, “Gaddafi: ‘Ottoman piracy’ will prevail if rebels succeed,” March 7, 2011, <http://www.todayszaman.com/news-237525-gaddafi-ottoman-piracy-will-prevail-if-rebels-succeed.html>

eastern half of the sea, the Ottomans were not simply perpetrators or enthusiastic supporters of piratical violence, but rather its most prominent victims. There is no question, however, of the signal importance of the activities of Mediterranean sea-raiders for the political, military, economic, and social history of the wider region, to the extent that they played a major role in justifying the imperial projects of both the Ottomans and Western Europeans all the way up to the French invasion of Algeria in 1830.<sup>12</sup>

The so-called Barbary Corsairs and their Catholic counterparts have received ample attention from scholars, the former more so than the latter. Much of the work on North African piracy has relied heavily on European captivity narratives, ambassadorial reports, and other European language documentary evidence, though in recent years some studies have begun to make use of long-neglected local archival and narrative material written in Arabic and Ottoman Turkish.<sup>13</sup> Likewise, the number of studies of captivity of Western Europeans in North Africa has grown rapidly in recent years, but these too rely

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<sup>12</sup> For the French imperial project, see Daniel Panzac, *Barbary Corsairs: the end of a legend, 1800-1820* (Leiden, 2005); Gillian Weiss, *Captives and Corsairs: France and Slavery in the Early Modern Mediterranean* (Stanford, 2011); for the Ottomans, see especially Hess, *Forgotten Frontier*.

<sup>13</sup> On North Africa: Adrian Tinniswood, *Pirates of Barbary: Corsairs, Conquests and Captivity in the 17th-Century Mediterranean* (London, 2011); Nabil Matar, *Britain and Barbary, 1589-1689* (Gainesville, 2005); Salvatore Bono, *Lumi e corsari: Europa e Maghreb nel Settecento* (Perugia, 2005); idem, *I corsari barbareschi* (Turin, 1964); Godfrey Fisher, *Barbary legend; war, trade, and piracy in North Africa, 1415-1830* (Oxford, 1957); Stanley Lane-Poole, *The Barbary Corsairs* (London, 1890). On Malta: T. Freller, "'Adversus Infideles': Some Notes On the Cavalier's Tour, the Fleet of the Order of St. John, and the Maltese Corsairs," *Journal of Early Modern History*, 3 (2000), 405-30; Alain Blondy, "L'ordre de Saint-Jean et l'essor économique de Malte (1530-1798)," *Revue du monde musulman et de la Méditerranée*, 71 (1994), 75-90; Michel Fontenay, "Corsaires de la foi ou rentiers du sol? Les chevaliers de Malte dans le 'corso' méditerranéen au XVIIe siècle," *Revue d'histoire moderne et contemporaine*, 35 (1988), 361-384; Paul Cassar, "The Maltese Corsairs and the Order of St. John of Jerusalem," *The Catholic Historical Review*, 46 (1960), 137-156. On Malta and North Africa together: Michel Fontenay, *La Méditerranée entre la croix et le croissant: navigation, commerce, course et piraterie, XVIe-XIXe siècle* (Paris, 2010); idem, "La place de la course dans l'économie portuaire: l'exemple de Malte et des ports barbaresques," *Annales. Économies, Sociétés, Civilisations*, 43 (1988), 1321-1347; Peter Earle, *Corsairs of Malta and Barbary* (London, 1970). Earle was one of the first to reflect on the parallel nature of these organizations and to make extensive use of Maltese archives. For insights into what can be done with North African archival material and how it might be used alongside Istanbul-housed Ottoman archival sources, see Fatiha Loualich, "In the Regency of Algiers: The Human Side of the Algerine Corso," in Maria Fusaro, Colin Heywood, and Mohamed-Salah Omri, eds., *Trade and Cultural Exchange in the Early Modern Mediterranean: Braudel's Maritime Legacy* (London, 2010), 69-96.

exclusively on European language sources.<sup>14</sup> In contrast, the stories of Ottoman-subject captives have rarely been told, and the eastern half of the Mediterranean has received far less attention.<sup>15</sup> Molly Greene's recent book on Catholic piracy and its Greek Christian victims in the seventeenth-century Eastern Mediterranean has been a valuable corrective, exposing the far more complex religious and legal dynamics at work in this maritime theater through an exploration of the claims for redress proffered by Ottoman Greek victims of Maltese piracy in the Maltese admiralty court.<sup>16</sup> It is thus also unique insofar as it focuses on Christian, Ottoman-subject victims of piracy.

Nevertheless, nearly all the available studies of piracy and captivity in the early modern Mediterranean have been focused on the activities of the parallel organized raiding enterprises based out of North Africa, Malta, or Livorno. While these groups were indeed major players in the early modern Mediterranean, the works concerning them, taken together, create an exaggerated sense of equivalency that fits poorly with the more ambiguous and chaotic reality of the Eastern Mediterranean, which hosted a far more diverse range of local and long-distance piratical actors. The focus on these groups is unsurprising, as the institutional support they received increased the political, diplomatic, and military significance of their activities and, crucially, increased the quantities of source material available to the modern historian. Whereas the Maltese left behind

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<sup>14</sup> A number of these have made cogent arguments for the important role of the captivity experience in shaping an emerging national identity back home, such as Linda Colley, *Captives: Britain, Empire and the World, 1600–1850* (London, 2002), and Weiss, *op. cit.*

<sup>15</sup> This is partially because the Ottoman experience of captivity did not result in the genesis of an indigenous genre of captivity narratives to the extent that it did in Europe, though there are examples, such as that of Macuncuzade Mustafa Efendi who wrote of his captivity on Malta in the sixteenth century—see Cemil Çiftçi, ed., *Malta Esirleri* (Istanbul, 1996). The dearth of scholarly research on Ottoman captivity is also a consequence of the scattered and largely uncatalogued nature of the Ottoman sources that could plausibly contribute to such studies.

<sup>16</sup> Molly Greene, *Catholic pirates and Greek merchants: a maritime history of the Mediterranean* (Princeton, 2010).

archives, the local pirate operating out of a small rowboat on the Adriatic coast or the part-time pirate/part-time fisherman of the Aegean archipelago left none. The activities of these local actors in the eastern half of the Mediterranean had an impact arguably on par with that of their long-distance piratical cousins, but this becomes clear only by making use of Ottoman sources, which, for the seventeenth-century, no monograph in English has done.<sup>17</sup>

Beyond this understandable but unfortunate neglect of what Braudel referred to as the “lower levels of piracy,”<sup>18</sup> the failure to make use of Ottoman archival and legal sources has resulted in the near-total absence of Ottoman administrative and legal institutions and their representatives from the historiography dealing with Mediterranean piracy. The Ottomans, if they are mentioned at all, are presented as complicit, impotent, or simply absent. Even in Greene’s laudable study of the Ottoman Greek victims of Maltese pirates, the Ottoman Islamic legal culture in which her subjects had to operate once back home is barely acknowledged. The linguistic and logistical hurdles intrinsic to working with Ottoman sources have helped to perpetuate a serious imbalance in contemporary scholarship on Mediterranean maritime violence and its victims.

The Ottoman sultans’ failure to effectively patrol their vast maritime frontier in the century and a half following the Battle of Lepanto has been variously interpreted as evidence of their turning away from the sea, their indifference to or outright complicity in the “Muslim” piracy that preyed mostly on European shipping, or of sheer administrative

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<sup>17</sup> In Turkish, however, Idris Bostan has made use of the original Ottoman decrees extant in the Venetian archives in his study of piracy in the Adriatic, *Adriyatik'te Korsanlık: Osmanlılar, Uskoklar, Venedikliler, 1575-1620* (Istanbul, 2009); his student, Özgür Oral, prepared a master’s thesis on seventeenth-century Ottoman piracy in the Mediterranean based on a cross-section of the principal administrative document series in the Ottoman archives, “17. yüzyılda Akdeniz'de Osmanlı korsanlığı” (M.A. thesis, Istanbul University, 2004).

<sup>18</sup> Braudel, vol.2, 871.

incompetence and military decline.<sup>19</sup> Each of these interpretations contains a grain of truth, but they vastly oversimplify the situation, denying the Ottomans agency and precluding discussion of regional variation or change over time. The tendency has been to treat the Ottoman Empire as a monolithic entity, rather than as the massive, complex polity it was, comprised of multiple layers of authority knit together over long distances. Just as with their imperial neighbors, the interests of center and periphery did not always align, and efforts to bridge the gap between policy and practice necessitated constant negotiation and compromise, as well as a certain amount of tolerance of frontier insubordination in the interests of broader stability. The need to maintain frontier defense and access to experienced auxiliary forces, which naval irregulars along the Adriatic and North African coasts provided in times of conflict, limited the options available to Ottoman policy-makers who might otherwise be inclined to suppress piracy. So too did the severe financial difficulties that gripped the Mediterranean throughout the late sixteenth and early seventeenth centuries, as well as successive land wars, multiple rebellions, and dynastic turmoil through the first decades of the seventeenth century. Furthermore, Cossack pirate attacks on the Anatolian Black Sea coast—beginning around 1614 and intensifying in the 1620s with several raids into the Bosphorus that threatened Istanbul itself—forced Ottoman authorities to redirect nearly all their already weakened naval forces to the Black Sea, leaving the Eastern Mediterranean almost completely undefended at a critical moment.<sup>20</sup>

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<sup>19</sup> A survey of the various misconceptions, unsupported arguments, and unknowns about the Ottomans' relationship with the sea is Palmira Brummett, "The Ottomans as a World Power: What We Don't Know about Ottoman Sea-Power," *Oriente Moderno*, 20 (2001), 1-21.

<sup>20</sup> On the Cossacks, see Victor Ostapchuk, "The Human Landscape of the Ottoman Black Sea in the Face of the Cossack Naval Raids," *Oriente Moderno*, 20 (2001), 23-95.

Even if the Ottoman government could have restrained the pirates of North Africa by decree or force, it would not have made the Ottoman Mediterranean much safer for shipping. While European diplomats and travelers were most vocal in their complaints about these Muslim raiders, North Africa was not the only or even the primary threat in the east, which took many local and long-distance forms. We must consider the multifarious nature of the problem and the kind of resources it would have taken to effectively combat it. It may be a facile comparison, but the world's most powerful navies have been unable to put a stop to the modern pirate threat emanating from the Horn of Africa over the past decade, despite enormous sums of money and millions of tons of fuel spent patrolling the area. In fact, increased patrolling has simply led the pirates to expand their range further into the Indian Ocean by using large captured vessels as difficult-to-identify mother ships, making them even harder to catch.<sup>21</sup> Likewise, most years the *kapudan pasha*, the imperial admiral, cruised the Eastern Mediterranean with his fleet, collecting taxes and chasing pirate vessels, but this was an ineffective deterrent. Though the admiral often returned to Istanbul with infidel prizes in tow, they amounted to a drop in the bucket.<sup>22</sup> And though the pirates of Malta and North Africa deployed distinctive, highly recognizable ensigns bearing cross and crescent, respectively—the better to terrorize their quarry—many more pirates large and small relied on disguise and surprise to corner their victims and would never allow themselves to end up in a battle with the Ottoman fleet.

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<sup>21</sup> Michael Murphy, "Somali piracy: Not just a naval problem," *Center for Strategic and Budgetary Assessments*, 16 (2009). Unsurprisingly, Somali piracy has invited frequent comparisons with pre-modern North Africa, most recently in the same author's *Somalia, the New Barbary?: Piracy and Islam in the Horn of Africa* (New York, 2011).

<sup>22</sup> Katip Çelebi's (d. 1657) *Tuhfetü'l-kibar fi esfari'l-bihar* surveys these expeditions, as does the chronicle of İbrahim Peçevi (d. 1650), *Tarih-i Peçevi*. See Katip Çelebi, *The Gift to the Great Ones on Naval Campaigns*, İdris Bostan, ed. (Ankara, 2008), 114-23.

Characterizing the Ottomans' inability to prevent piracy and patrol effectively simply as a matter of complicity or weakness is an entirely inadequate explanation, given the vast territory involved and the extreme financial difficulties and external military threats they faced in the late sixteenth and early seventeenth centuries. Just as King James I of England could not put a stop to English piracy after peace was reestablished with Spain in 1604, despite threats, offers of amnesty, and dozens of executions,<sup>23</sup> so too Ottoman authorities were faced with a problem which could hardly be realistically contained militarily in light of the economic constraints and competing local interests they faced.<sup>24</sup>

Indeed, even as French and English diplomats advocated military action at the Porte in the first decades of the seventeenth century, before adopting a policy of direct negotiation with the North African regencies and ultimately bombarding the ports repeatedly in the second half of the century, the Venetian bailo Zorzi Giustinian recognized in 1624 that confronting the pirates head-on was not a viable solution for the eastern half of the Mediterranean. There, what really needed to be done was to deprive pirates of markets to sell their stolen merchandise and to crack down on the local officials

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<sup>23</sup> In 1610, the Venetian ambassadors to the English court reported on their conversations with James I regarding the English pirates and remarked on his genuine hatred of them and the spate of executions he had ordered, *Calendar of state papers and manuscripts relating, to English affairs, existing in the archives and collections of Venice, and in other libraries of northern Italy* (hereafter *CSP*) (London, 1864-1890), vol. 11, 480 (February 25, 1610).

<sup>24</sup> James I's Ottoman contemporary, Sultan Ahmed I, was no friend to pirates either. Ottavio Bon reported in his dispatch of January 20, 1605 an incident in which the sultan was sitting in a kiosk at Topkapı Palace when "he saw a[n Ottoman] galley coming in with a ship in tow. He called the Captain on shore and asked what the ship was; the Captain said it was a pirate captured by him. The Sultan made him land three of the principal pirates, and for his mere amusement he caused them to be dashed head foremost on the ground and then flung into the sea. Everyone is terror-stricken," *CSP*, vol. 10, 211. The story could well be apocryphal, but the sultan's decision in Bon's telling to summarily execute the captured pirates provides some indication of his perceived contempt for their lot.

who supplied them with provisions, safe harbors, and information.<sup>25</sup> But this was easier said than done, given that many people, including Muslims, Christians, Jews, Ottoman subjects, English, French, and Dutch profited immensely from this black market trade, which sustained whole economies in ports like Valona (Avlonya, present-day Vlore in Albania) and islands like Milos, not to mention, of course, Malta, Livorno, Algiers, Tunis, and Tripoli.

Without significant military involvement, the occasional Ottoman attempts to crack down on this activity on the frontier could end in tragedy for the unfortunate officials sent to carry out such unpopular orders, as was the case for a certain Ali Kethüda in the Adriatic port of Draç (Durazzo, present-day Durrës in Albania) in 1605, who was lynched for his efforts by a powerful consortium of local interests.<sup>26</sup> Besides, as the Venetian bailo Sebastiano Venero noted in 1627, in spite of the pirate threat, the European merchant ships that provided the Ottomans with much needed customs revenue continued to call in Ottoman ports.<sup>27</sup> So long as they reliably did so, the Ottoman government had little reason to commit precious and scarce resources to what would likely be a futile, costly, unpopular effort with what must have seemed to be little upside, especially as their European treaty-partners (excepting Venice) were doing no better in restraining their own subjects' predations in Ottoman waters.<sup>28</sup>

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<sup>25</sup> *CSP*, vol. 18, 397 (July 20, 1624). The Venetians had been advocating this approach for some time and continued to do so throughout the century's periods of peace.

<sup>26</sup> See Chapter 3.

<sup>27</sup> *CSP*, vol. 20, 221 (May 15, 1627).

<sup>28</sup> In 1612, the bailo Simone Contarini recounted a discussion with the grand vezir about the piracy problem: "the Pasha replied 'It is your own fault; you insist on the general term Christians; and yet sometimes it is Christians under the guise of Turks who do mischief. In the past there were none of these galleons, and cursed be he who introduced them. In the old days a caramursale without artillery went and returned alone from Alexandria; now the galleons must sail fully armed and in company, nor is that enough, they must have an escort of galleys too.[?]' He said it was this that made Sultan Selim [II] think of capturing Cyprus. He said that there were in Constantinople Ambassadors of France, England and Venice,

From the naval angle, the galleys and other oared-vessels on which the Ottomans relied until the late seventeenth century had several distinct advantages in Mediterranean warfare—including maneuverability, speed, and the ability to operate close to shore and without wind—but they were limited to operating during the “sea season,” roughly from late March to October, and they were costly to man and provision.<sup>29</sup> When the kapudan pasha embarked on his annual cruise through the Aegean with his galley fleet, pirates could simply disperse upon learning of his approach and return after he had passed, enjoying extensive freedom for the rest of the year. “Control of the sea,” in the sense originated by the naval captain and historian Alfred Mahan (d. 1914), was not an option for a fair-weather, oar-craft based navy.<sup>30</sup> The Ottomans maintained several permanent galley squadrons that provided coastal defense, but a permanent, year-round system of patrols in its maritime empire would have required a huge investment in new types of ships and a significant expansion of the Ottoman administrative presence on the Aegean

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they should come to a common understanding for the suppression of piracy. I replied that this would be very much to the purpose if each of the parties did its duty as Venice did, for she always kept a large fleet at sea...the Pasha declared that the ships which infest the sea are manned by Spaniards, French, English and Venetians,” *CSP*, vol. 12, 309 (March 10, 1612). Complaints and counter-complaints about English involvement in piracy in particular went back to the earliest years of their formal diplomatic relations. For example, during a 1586 audience between the grand vezir and the English ambassador, the kapudan pasha was present. The English ambassador claimed that the kapudan pasha had ordered the North Africans to ignore orders to free English ships and slaves but instead to attack them freely. In the Venetians’ description of the incident, “the capudan answered that, on the contrary, English ships, while feigning amity, seized Turkish ships on the plea that they were common pirates, and that they deserved to be chastised.” At this, the kapudan pasha and English ambassador came to blows, “to the disgust of the Grand Vizir.” Nevertheless, as the bailo noted, the Ottomans continued to place value in the English alliance “as a counterpoise to Spain while they are occupied with Persian affairs,” *CSP*, vol. 8, 172 (June 23, 1586).

<sup>29</sup> That said, Rhoads Murphey has estimated that the cost for the Ottomans of building, equipping, and operating a galleon fleet in the mid-seventeenth century was as much as five times that of an equivalent galley fleet, Rhoads Murphey, “The Ottoman resurgence in the seventeenth-century Mediterranean: The gamble and its results,” *Mediterranean Historical Review*, 8 (1993), 189-90. The cost advantage, then, could account in part for the hesitance to switch entirely to broadside sailing ships, despite their excessive manpower requirements. However, Ottoman observers like Katip Çelebi were well aware of the fact that a galley could not hope to win head-to-head against a well-armed galleon. Katip Çelebi, *Tuhfetü'l-kibar*, 148.

<sup>30</sup> This is one of the primary arguments in Guilmartin, *Gunpowder and Galleys*. For Mahan’s extremely influential views on naval warfare, see Alfred Mahan, *The Influence of Sea Power Upon History, 1660-1783* (Boston, 1918).

islands.<sup>31</sup> That the Ottomans' failure to develop an all-season fleet before the late seventeenth century would prove so costly in the long run—such that by the second half of the seventeenth century foreign Christian pirates used the nominally Ottoman Aegean islands as bases with impunity while the Ottoman government was forced to rely on European carriers to safely transport men and material between their possessions in their own maritime backyard—could hardly be predicted in, say, the 1620s, when far more serious concerns loomed.

However, it would be a mistake to assume that the relative lack of an effective Ottoman military response to piracy in the eastern half of the Mediterranean means that there was no response at all. On the contrary, rising maritime violence after the war for Cyprus (1570-1573) demanded a legal and an administrative response, which was manifested in Ottoman-Venetian treaty law, compilations of Ottoman Islamic legal opinions, and the efforts of the imperial center to retrieve wrongfully enslaved persons from captivity and return them to their homes.

Nevertheless, the principal power in the Eastern Mediterranean has been almost entirely left out of the story, which has traditionally been cast instead as a two-sided holy war at sea, with the corsairs of North Africa lined up against those of Malta and Livorno.<sup>32</sup> The narrative that emerges is incomplete and misleading, and it perpetuates the anachronistic “clash of civilizations” paradigm that continues to find new champions in contemporary political discourse and popular historical writing. Without rejecting the

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<sup>31</sup> On Ottoman naval organization in the sixteenth century see Colin Imber, “The Navy of Süleyman the Magnificent,” *Archivum Ottomanicum*, 6 (1980), 211-282. For institutions and structures, see also İsmail Hakkı Uzunçarşılı, *Osmanlı devletinin merkez ve bahriye teşkilâtı* (Ankara, 1948), and, for the navy and shipbuilding in the seventeenth century, İdris Bostan, *Osmanlı bahriye teşkilâtı : XVII. yüzyılda Tersâne-i Âmire* (Ankara, 1992).

<sup>32</sup> For example, Earle, who writes of “another episode in the Holy War, in that eternal war between the followers of these two Faiths...It is the war of the corsairs...It was an *eternal* war,” 2.

importance of religious violence, this dissertation takes a more nuanced approach. Furthermore, it demonstrates that, decades before the Dutch jurist Hugo Grotius wrote his first treatise on the law of prize and booty (*De Jure Pradae*, 1605),<sup>33</sup> Ottoman and Venetian negotiators had laid the groundwork for a new international law—replete with mutual rights to self-defense and hot pursuit, and provisions for restitution and the return of captives—spurred on by piratical acts perpetrated by uncontrollable third parties.

By shifting the spotlight away from the pirates and onto the Ottoman administrators, jurists, and victims, the considerable effects of piracy on Ottoman administration, law and diplomacy become clear. Clauses concerning piracy turned up in every bilateral treaty the Ottomans concluded with foreign powers from the late fifteenth century onwards, and piracy provided the pretexts for three wars with the Venetians (1570-1573, 1645-1669, and 1714-1718). A significant proportion of the Ottomans' diplomatic correspondence and internal decrees centered on combating rampant piracy and effecting the release of wrongfully taken captives. Piracy left an indelible mark on seventeenth-century Ottoman interpretations of Islamic law and on everyday life along the coasts. It was Ottoman treaty law, shared in the seventeenth century with Venice (in peacetime), Dubrovnik, France, England, and the Netherlands, that prescribed what would happen when ships met at sea, forbade piratical attacks, and required the return of wrongfully taken captives and cargo. At the same time, Ottoman Islamic law reigned in the Ottoman courts that resolved disputes resulting from piratical incidents across the region, heard cases of contested enslavement, and registered ransom transactions. Indeed, this dissertation argues that what made the eastern half of the Mediterranean basin the

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<sup>33</sup> Hugo Grotius, *De jure praedae commentarius. Commentary on the law of prize and booty* (Oxford, 1950). The work was not published until after manuscript was discovered in 1864, but it served as the basis for his influential later, published works, *Mare Liberum* (1609) and *De jure belli ac pacis* (1625).

“Ottoman Mediterranean” after 1571 was not so much Ottoman political control of the islands and coasts or naval supremacy in the waters in between (which, by the turn of the century, was ephemeral at best), but the fact that it was and remained a unified Ottoman legal space. It was the challenge of piracy that helped to define its contours.

### **Geographies of Piracy and Chronology**

The story this dissertation tells of piracy, slavery, and law begins in earnest with the Ottoman invasion of Cyprus in 1570 and ends around the turn of the eighteenth century, though much of the focus falls on the long period of formal peace between 1574 and 1645. In times of war in the eastern half of the Mediterranean, which abated for only fifteen years in the second half of the seventeenth century (1669-1684), legal commerce raiding rather than illegal piracy predominated on the waves. While we shall examine the local consequences of both, our study of the Ottoman administrative and inter-state legal responses to Mediterranean piracy will necessarily be confined to the periods of peace. The setting, the Ottoman Mediterranean, is for our purposes delimited by a line starting at the lower eastern Adriatic seaboard, passing through the narrow entrance—a pirate gauntlet in our period—of that formerly Venetian lake south across the Ionian Sea, and curving gently towards the Egyptian coastline. It thus encompasses in its entirety the waters of the Levant, the southern shores of Anatolia and Cyprus, the myriad tesserae of the Aegean archipelagic mosaic, and its rugged mainland coast. After 1669, Crete enters the fold as well. What it does not include, the reader will notice, is the North African port cities of Tripoli, Tunis, and, furthest west, Algiers.

The borders of the Ottoman Mediterranean are not defined in terms of sovereignty. Rather, they are dictated by the administrative and legal institutional limits of Istanbul's reach. Perusal of Ottoman administrative records unearths hundreds of decrees regarding piracy—orders to officials to crack down on pirates, free captives, stage patrols to defend the coasts, and so forth. Ottoman officials on the southern Adriatic, Ionian, and Morean coasts—areas, unlike the smaller Aegean islands, where there was a significant Ottoman administrative presence—received the lion's share of such decrees between the end of the war for Cyprus in 1573 and the invasion of Venetian Crete in 1645 and once more upon the return of peace in 1669.<sup>34</sup> Large numbers also went to points on the European and Anatolian Aegean mainland, large islands like Mytilini and Chios, and to Cyprus. The North African ports received far fewer, despite their outsize role as the Mediterranean corsairing enterprises par excellence. Although the Ottoman central government did dispatch orders to North African authorities and occasionally demanded the release of certain captives or the return of specific cargoes, there was simply no comparison in terms of the ratio of orders sent (low) to objectionable pirate attacks committed (very high).

In the absence of any coercive capacity and with the impediment of significant distance across a sometimes hostile sea, the Sublime Porte's ability to exert influence

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<sup>34</sup> I am referring here especially to the Ottoman *mühimme defterleri*, or registers of important affairs, containing rescripts of outgoing imperial decrees and correspondence (this archival source set is discussed at greater length in later chapters). Because the series is incomplete and some years are represented better than others, accurate quantitative analysis is impossible. Nevertheless, clear trends stand out regarding, on the one hand, where piracy was occurring, and on the other, the areas where the central state was being led to direct its efforts from the reports of local administrators and the complaints of foreign officials and Ottoman victims. However, while these categories probably overlapped to a large degree, they did not always. There were obvious administrative blind spots. North Africa was one, as discussed in the body, but other areas where piracy flourished in the seventeenth century, including the Levantine coast, and even, at times, the Aegean islands, were frequently absent from the records of the central administration. The reason is simple. If not bidden to produce a decree or notified of the problem, the central government would never become involved, and it would be left to local authorities to deal with it (or not).

there was too limited and the cost in political and diplomatic capital too high to engage in attempts to manage North African piracy except in extraordinary circumstances.<sup>35</sup> Moreover, Ottoman legal authorities had almost no sway there. Unlike in the Ottoman Mediterranean, Istanbul did not appoint judges in North Africa.<sup>36</sup> Unlike the official legal institutions in the Ottoman core, which subscribed to the Hanafi school of Islamic jurisprudence, the North African ports were for the most part Maliki (though there was a strong Turkish Hanafi presence) and followed the opinions of their own jurists above those of the Ottomans' chief jurist in Istanbul.<sup>37</sup> Moreover, by the late sixteenth century the North African port cities hardly respected the diplomatic agreements Istanbul concluded with foreign powers and soon began to pursue their own foreign policies. The breach was significant enough that North African pirates who attacked Ottoman treaty-partners were ultimately singled out in the seventeenth century in Ottoman treaties and excluded from the protections of Ottoman subjecthood.<sup>38</sup> Nevertheless, while North Africa lay outside the liquid borders of the Ottoman Mediterranean, the pirates who flew

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<sup>35</sup> Emrah Safa Gurkan, "The centre and the frontier: Ottoman cooperation with the North African corsairs in the sixteenth century," *Turkish Historical Review*, 1 (2010), 125-163; cf. Tal Shuval, "The Ottoman Algerian Elite and Its Ideology," *International Journal of Middle East Studies*, 32 (2000), 323-44. While Ottoman imperial institutions were mirrored to an extent in the North African provinces, this verisimilitude cannot be equated with actual control, nor can the Ottoman center's occasional successes at having the corsairs return their prizes or release their captives be taken to mean that the Ottoman center could always accomplish this were it only to ask. Ottoman sovereignty was extended to Algiers by request rather than conquest in 1519, and it came with limited power or authority. Although the necessarily brief discussion above conflates to a certain extent the independent polities and histories of Algiers, Tunis, and Tripoli, the situation with respect to the Ottoman center was much the same across the North African littoral by the end of the sixteenth century.

<sup>36</sup> Delenda Lagueche, "The mahalla: the origins of Beylical sovereignty in Ottoman Tunisia during the early modern period," *The Journal of North African Studies*, 6 (2001), 111.

<sup>37</sup> In Tunis, the pre-Ottoman practice of having four muftis representing the four schools of Sunni Islamic jurisprudence persisted through the Ottoman period, with the muftis and judge attending the meetings of the ruling council, J.M. Abun-Nasr, "The Beylicate in Seventeenth-Century Tunisia," *International Journal of Middle East Studies*, 6 (1975), 72.

<sup>38</sup> See Chapter 2.

the flags of Algiers, Tunis, and Tripoli and sailed east to raid play a critical role in this study.

The rhythms of piracy were seasonal and political. To a great extent, maritime raiding followed the patterns of trade and peaked during the Mediterranean sea season (*deniz mevsimi*) from late spring to early Fall, when calm waters promised smooth sailing. This was especially important for the oared vessels like galleys and galliots which were only marginally survivable in a Mediterranean winter storm.<sup>39</sup> Yet cabotage traffic persisted throughout the year and so too, to an extent, did small-scale coastal raiding. In the seventeenth century, as more and more pirates adopted round-bottomed broadside sailing ships little different from those favored by Atlantic merchants, both raid and long-distance trade became increasingly all-season. Regardless, the outstanding majority of serious pirate attacks in the late sixteenth and seventeenth centuries still took place during the late spring and summer. Likewise, more mobile pirating enterprises, including the Muslim and Catholic corsairing organizations and the long-distance merchant pirates from the Atlantic were deliberate in their choices of where to raid, hunting in certain areas at certain times of year, such as the Catholics' annual attempts to intercept the Ottoman grain convoys between Egypt and Istanbul.<sup>40</sup>

War and politics had the most decisive influence on the patterns of piracy. Maritime raiding accompanied every conflict, often in licensed forms, but it also opened the door to piracy (often by the same practitioners) which might easily pass unnoticed in the confusion of conflict. The end of war, however, frequently heralded a spike in piracy,

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<sup>39</sup> Guilmartin, *op.cit.*

<sup>40</sup> Michel Fontenay, "Les missions des galères de Malte 1530-1798," in Michel Vergé-Franceschi, ed., *Guerre et commerce en Méditerranée, IXe-XIXe siècles (Colloque de Toulon, 1987)* (Paris, 1991), 111-2; Greene, *Catholic Pirates and Greek Merchants*.

as demobilized irregulars chose to continue their attacks in spite of the peace. Such was the case during and after the war for Cyprus. The Aegean, for example, endured debilitating waves of Ottoman piracy in the 1570s and 1580s, largely committed by such irregulars, which only gradually gave way to a more diverse crowd of piratical entrepreneurs. Likewise, the Adriatic and Ionian coasts endured a similar, but far more enduring increase in unauthorized raids.<sup>41</sup>

Wars elsewhere, as we have noted earlier, with Safavid Persia from 1578 to 1590 and with the Austrian Habsburgs from 1593 to 1606, drew Ottoman attention and resources away from the Mediterranean and allowed the still elevated piracy carry-over from the maritime war to take on epidemic proportions.<sup>42</sup> At the same time, the peace between England and Spain in 1604 and the subsequent 12 Years' Truce between the Netherlands and Spain in 1609 led many unemployed and repudiated privateers to careers of piracy in North Africa.<sup>43</sup> Their role in introducing the latest sailing technology in Algiers and Tunis was rapidly noted and mourned in both Venice and Istanbul for years to come.<sup>44</sup>

The North African pirates, besides famously extending their raiding activities into the Atlantic after this point, became an increasingly troublesome presence in the Eastern Mediterranean and were especially active against Venetian shipping in the waters between Crete and Cyprus between the 1610s and the Ottoman invasion of Crete in

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<sup>41</sup> See Chapter 3.

<sup>42</sup> There was an abortive attempt in 1590-1 to revive the navy. Lack of funds and looming conflict in the Habsburg borderlands prevented the project from getting off the ground. Pal Fodor, "Between Two Continental Wars: The Ottoman Naval Preparations in 1590-1592," *In Quest of the Golden Apple* (Istanbul, 2001), 171-190.

<sup>43</sup> Christopher Lloyd, *English corsairs on the Barbary coast* (London, 1981); de Groot, "Ottoman North Africa and the Dutch Republic," 132.

<sup>44</sup> *CSP*, vol. 18, 321.

1645.<sup>45</sup> This coincided with the period of extreme dynastic turmoil in Istanbul that followed the death of Sultan Ahmed I in 1617, which culminated in the assassination of Sultan Osman II in 1622—bookended by the brief reigns of the unstable Sultan Mustafa I (1617-8; 1622-3)—and only really ended with the conclusion of Sultan Murad IV's minority in 1632.<sup>46</sup> It also coincided with the already mentioned rise of Cossack piracy in the Black Sea, which forced the government to repeatedly divert the weakened Mediterranean fleet there to meet the threat, resulting in a predictable increase in large-scale piratical incidents.

The slow crescendo of mostly Christian piracy in the Aegean that began around the turn of the century exploded when Ottoman control there weakened and then gave way entirely during the long war for Crete (1645-1669).<sup>47</sup> The war there, like the war for Cyprus, was instigated in large part by the failure of local Venetian authorities to deter Maltese pirates. In 1644, Maltese captured an Ottoman galleon carrying a valuable cargo and important dignitaries from Alexandria to Istanbul and stopped on a deserted beach on Venetian-held Crete to divvy up the booty.<sup>48</sup> Although Venice protested that it had had nothing to do with it, Istanbul held the Serenissima directly (if unfairly) responsible. Ottoman perceptions of Venetian complicity in this catalytic incident were such that, during the ensuing conflict, the Ottoman chronicler Solakzade (d. 1657) declared that it had been Venetian ships that carried out the attack and violated the treaty.<sup>49</sup>

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<sup>45</sup> TSMA.d 7687 (1048).

<sup>46</sup> See Caroline Finkel, *Osman's Dream* (New York, 2006), 196-205, for a narrative of this tumultuous period.

<sup>47</sup> Benjamin Slot, *Archipelagus turbatus: les Cyclades entre colonisation latine et occupation ottomane c. 1500-1718* (Istanbul, 1982), 162-70

<sup>48</sup> For a narrative of the lead up to and prosecution of the war, see Kenneth Setton, *Venice, Austria, and the Turks in the seventeenth century* (Philadelphia, 1991), 137-205.

<sup>49</sup> Mehmet Hemdemî Çelebi Solakzade, *Solak-zâde tarihi*, Vahid Çabuk, ed. (Ankara, 1989), vol. 2, 563-4.

In any event, the activities of the North African pirates, the Maltese, and local pirates along the Adriatic-Ionian coasts had already led to increasing friction between the two powers, including skirmishes (ironically) between Ottoman and Venetian anti-piracy patrols. An incident in Valona (Avlonya) in 1638, in which the Ottoman Albanian port's harbormaster sheltered a joint Algerian-Tunisian fleet from pursuing Venetian ships and the Venetian commander responded by entering the port and sinking or capturing most of the fleet, nearly led to war. Conflict was postponed by the payment of a large indemnity and Murad IV's preoccupation with the campaign to reconquer Baghdad.<sup>50</sup>

Nevertheless, when it did break out, war with Venice had dire implications for maritime security in the Ottoman Mediterranean. Ottoman authority in the Cyclades, which had always been nominal, was rapidly lost to Venice for the duration of the war. Privateering in favor of both sides, with the Maltese and North African city-states continuing their activities as usual, but now with the enthusiastic support of Venice and Istanbul, respectively, persisted throughout the conflict. But these actors were joined by many others whose activities continued after peace was agreed following the surrender of Candia in 1669, just as they had a century earlier. Indeed, the Aegean pirate infestation persisted into the eighteenth century.<sup>51</sup> War with Venice resumed in 1684, when the Serenissima elected to take advantage of the anti-Ottoman European coalition that had quashed the Ottoman siege of Vienna in 1683 and was rapidly driving them back from

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<sup>50</sup> The affair is described at greater length in Chapter 2. There was another connection between the Avlonya incident and the invasion of Crete: Murad IV had apparently promised Algiers' ruler at the time, the Italian renegade Ali Biçnin, compensation for his losses in the Venetian attack, but he failed to deliver. Still angry about this failure when Sultan Ibrahim determined to invade Crete seven years later, Ali refused to supply Algerian ships to support the military operations when ordered. Infuriated, Ibrahim dispatched men to collect Ali's head but, predictably, they accomplished nothing. The subsequent janissary uprising, however, succeeded in driving Ali from the city. Tal Shuval, "Cezayir-i Garp: Bringing Algeria Back into Ottoman History," *New Perspectives on Turkey*, 22 (2000), 101.

<sup>51</sup> Slot, 193-201. Slot refers to the Cyclades during the interwar period as a "no man's land" (deploying the English phrase amidst the French prose).

Hungary. Piracy and privateering spun up once more, both in the anarchic Aegean and beyond.<sup>52</sup> In Crete, which had been an Ottoman possession for barely fifteen years, the impact of piracy and privateering, both local and long-distance, was profound. The war, which ended in 1699 with the Treaty of Karlowitz, was disastrous and destructive. Besides their central European losses, the Ottomans lost Lefkada Island permanently and the Morea temporarily. The war also coincided with the Nine Years' War (aka, The War of the League of Augsburg, 1688-1697), which led to a serious outbreak of French and English privateering and piracy in the eastern half of the Mediterranean.<sup>53</sup>

Over the previous decades, improvements in naval artillery permitted the more effective application of gunboat diplomacy in North Africa. English, French, and Dutch fleets began bombarding Algiers, Tunis, and Tripoli in earnest in the 1670s and 1680s, most dramatically in Algiers in 1682 and again in 1688 by the French admiral Abraham Duquesne, who deployed the new explosive shells to great effect.<sup>54</sup> By this point, the North African threat in the Western Mediterranean and beyond the Straits of Gibraltar had receded from its highs in the first half of the century. Yet they continued to target Venetian vessels in war and peace, for unlike the Atlantic powers, Venice never concluded independent treaties with the city-states nor did it engage in punitive attacks against them. Nevertheless, the nature of maritime violence in the Ottoman Mediterranean was changing by the turn of the eighteenth century, as it became

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<sup>52</sup> Ibid., 234, for corsairing in the Cyclades during the Morean War.

<sup>53</sup> On the consequences of one such episode, see Colin Heywood, "The Kapudan Pasha, the English Ambassador and the Blackham Galley: An Episode in Anglo-Ottoman Maritime Relations (1697)," in Elizabeth Zachariadou, et al., eds., *The Kapudan Pasha: his office and his domain: Halcyon Days in Crete IV, a symposium held in Rethymnon, 7-9 January 2000* (Rethymnon, 2002), 410-38.

<sup>54</sup> Weiss, op. cit., 72-91; Panzac, op. cit., 31-8.

increasingly the playground for foreign states to fight proxy wars amongst one another and a new, indigenous Greek pirate presence expanded in the Aegean.<sup>55</sup>

Piracy was not one size fits all. Geography and trading patterns determined the scale and nature of raiding in the eastern half of the Mediterranean. Dense collections of islands and jagged, cove-filled shores permitted small-scale, locally-oriented forms of piracy. Such conditions were prevalent along the aforementioned Adriatic-Ionian-Morean corridor, in the Cyclades archipelago, and the Aegean's Anatolian littoral. Consequently, coastal raiders were a common feature in these areas, operating out of small rowboats that preyed on vessels not unlike their own and plundered seaside villages. Those parts that were astride major trade routes might also support medium-scale but still locally-based operations, with pirates sallying forth regularly to pick off regional transport vessels, whose crew and cargo they either sold off or ransomed back on the spot.<sup>56</sup> These zones also hosted long-distance pirates, especially from England and North Africa, who went for the larger prizes and often formed consortia with local pirating concerns or made use of their markets.<sup>57</sup> The open waters of the Eastern Mediterranean, in contrast, attracted only the biggest fish.

The Ottoman imperial life-line was the route connecting Egyptian Alexandria (and the other, smaller Egyptian ports like Rosetta and Damietta) to Istanbul. The traffic

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<sup>55</sup> Slot, 254-5, for Aegean piracy in the early eighteenth century; the growth of Greek piracy/privateering (on behalf of Russia) in the eighteenth century coincided with the expansion of the Greek merchant marine, on which see Stelios Papadopoulos, *The Greek merchant marine (1453-1850)* (Athens, 1972), 25-32.

<sup>56</sup> On-the-spot ransoming typically involved the captor ship hoisting a white truce flag and subsequently entering port or coming ashore to conclude the transaction with communal leaders or with the captives' family, friends, or business partners. Evliya Çelebi witnessed such an incident in 1672 at Abukir on the Egyptian coast. See Robert Dankoff, *An Ottoman Mentality: The World of Evliya Çelebi* (Leiden, 2004), 141-2.

<sup>57</sup> See Chapters 2 and 3.

in grain and other necessities on this route regularly attracted large flotillas from Malta and beyond throughout the sixteenth and seventeenth centuries.<sup>58</sup> At the same time, the growing long-haul European merchant traffic to ports like Izmir and Iskenderun (aka Alexandretta, or Scanderoon, the port of Aleppo) enticed North African and Atlantic pirates alike. North African pirate raids on Iskenderun, which was entirely open to sea and undefended, were frequent, especially in the 1620s when the Ottoman fleet was busy hunting the Cossacks in the Black Sea. In 1624 and again in 1625, a North African pirate flotilla burned down the Ottoman customs house and blockaded the port, capturing approaching merchant ships one after another.<sup>59</sup> This sort of piracy required larger, more powerful ships in order to overcome the larger, more powerful potential prizes that were sought, to carry more provisions to allow them to range further from the shore, and to safely traverse the longer distances with heavier loads of captives and booty in all seasons.

In spite of the differences, there were common features to Mediterranean piracy. Although engagements did take place in the open sea, the majority of both small and large-scale pirate attacks occurred within sight of land or inside (or just beyond) harbors. And even when pirates struck on the high seas, they would have to regularly make landfall to sell their takings and acquire victuals. As we are most concerned with the consequences of piracy for victims, jurists, and administrators—and less so with the

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<sup>58</sup> See Greene, *Catholic Pirates and Greek Merchants*.

<sup>59</sup> The 1624-5 raids on Iskenderun and the destruction of its customs house are not mentioned in any Ottoman chronicles of the period, which focus instead on the simultaneous efforts against the Cossacks in the Black Sea. In contrast, Venetian and English diplomatic dispatches discuss the incidents and subsequent efforts to encourage an Ottoman response at length. Likewise, two complete Ottoman customs registers, with supporting documents, survive from 1625 and 1626 which detail the financial and infrastructural damage incurred (TSMA.d. 1306, 1341). I am preparing a series of articles on these events and on the port of Iskenderun in the seventeenth century more generally.

pirates themselves—the story told by this dissertation is inherently an amphibious one, centered on what happened on the coasts, ports, courts, and capitals after the fact.

Yet before we can approach the legal and administrative response to piracy and pirates, we must interrogate the links between the smaller and larger scale Mediterranean pirating ventures that have so often been treated separately (or in the former case, not at all). The seemingly disparate natures of local and long-distance piracy aside, there were profound connections between the two in the Ottoman Mediterranean. These connections extended beyond the realm of targets, tactics, and booty markets to encompass the practitioners of maritime violence themselves. Focusing exclusively on the large-scale pirating enterprises or the lower-order predators obscures an important dynamic of which the Ottomans were very much aware: the former and the latter were often the same people at different points of the pirate life-cycle.

### **The Ottoman Pirate Life-Cycle**

Where do pirates come from? The Ottoman bureaucrat, poet, and historian Mustafa Ali had a theory. In his didactic coffee-table book and etiquette manual, *Mevā'idü'n-Nefāis fī kavā'idī'l-mecālis*, completed shortly before his death in 1599, he argued that they were predominantly Muslim Turks from northwest Anatolia who started off as small gangs of amphibious bandits preying on local Ottoman Christians. With time and success, they graduated to small-scale piracy and ultimately abandoned illegal attacks on Ottoman subjects in favor of joining the ranks of the corsairs of North Africa, where they devoted themselves full-time to marine jihad. These obscure origins he ascribed to

the most famous corsairs of the sixteenth century, like Hayreddin Barbarossa and his acolytes, though he noted, with somewhat less romanticism, that the destructive process of local, Ottoman-on-Ottoman piracy continued in his day.<sup>60</sup> Mustafa Ali's conception of the multi-stage pirate life-cycle, from local predatory raider to long-distance corsair, is largely borne out by the Ottoman documentary record of the late sixteenth and seventeenth centuries. It thus provides us with a ready-made theoretical framework for understanding some of the differences and connections between local and long-distance piracy in the early modern Ottoman Mediterranean. While the line between the two was more porous and multi-directional than he suggested—and Ottoman-subject pirates had been joined by a host of others by the time he was writing—it gives some indication of the complex relationship between the practitioners of piracy and amphibious slave-raiding on the one hand and government and victims on the other.

In Mustafa Ali's view, the metamorphosis from local pirate to long-distance corsair comprised four distinct stages:

First they gather five or ten men together. They attack a little boat owned by tax-paying infidels [i.e. Ottoman-subject Christians], board it, and take it to the islands. With that one boat, they launch their important career in plundering and severing family lineages, capturing men, and filling out their stores of articles of war. They bind the Ottoman-subject *zimmi* sailors (*reyadan olan gemici zimmileri*) and put them to the oar. At first they think they have but acquired galley slaves, then as they attack whatever vessel transporting day laborers that strike their fancy, they set off on the pursuit of wealth. Still, they do not abandon Islam all at once; they do not put merchants and sailors to the sword out of spite. As things develop, they in no way hesitate to seize bows and arrows useful to them or limitless numbers of weapons, or beardless lads or youths who comfort

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<sup>60</sup> Mustafa Ali, *Mevā'idü'n-Nefāis fī kavā'idi'l-mecālis*, ed. Mehmet Şeker (Ankara, 1997), 288-90; idem, *The Ottoman Gentleman of the Sixteenth Century: Mustafa Ali's "Tables of Delicacies Concerning the Rules of Social Gatherings,"* trans., Douglas Brookes (Cambridge, Mass., 2003) 33-7. I have adapted the translations below from Brookes.

the hearts of the afflicted. They do not feel it proper to hesitate about easily stealing guns and rifles and purses full of money.<sup>61</sup>

Small criminal bands of amphibious raiders, employing repurposed fishing boats to raid seaside villages and coastal traffic, did not appear for the first time in the sixteenth century, but they flourished in its final decades. They were not even an exclusively maritime phenomenon, for banditry was on the rise throughout Anatolia and the European provinces in the late sixteenth and early seventeenth centuries. A symptom of growing numbers of armed, unemployed, demobilized irregular infantry, enterprising gangs in coastal areas simply enjoyed the opportunity provided by geography to take their activities onto the water. After 1570, such bands popped up with alarming frequency not only along the Anatolian coastline, but especially along the distant and perpetually unruly Adriatic-Ionian-Morean littoral, as attested by Ottoman administrative records.<sup>62</sup>

Their targets at this stage were, essentially, their neighbors. Predators and prey were often already known to one another. The victims, Christians and Muslims, were “tax-paying Ottoman subjects,” a phrase that appeared constantly in the Ottoman documents describing the raids. These were unambiguously criminal attacks that violated Islamic and sultanic law—so much so that Mustafa Ali considered the pirates to be on the verge of abjuring Islam. Nevertheless, the Ottoman center was rarely informed of the fledgling pirate band’s activities or prepared to do much about them before they advanced to Mustafa Ali’s second stage:

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<sup>61</sup> Mustafa Ali, Şeker, ed., 288; Brookes, trans., 33-4.

<sup>62</sup> The *mühimme defterleri* preserve large numbers of decrees concerning individual pirates and larger gangs in these zones through the first half of the seventeenth century. These are discussed at greater length in Chapter 3.

But over time that boat can carry them no more, which is to say it becomes apparent that the cargo of sin they have loaded has become too ponderous a burden. When this happens they attempt to obtain a small frigate. By taking these steps they gradually expand ranks and become a gang.<sup>63</sup>

Success meant expansion. With more men joining the gang, by this point possibly numbering up to a few dozen men, and the regular haul of captives and loot threatening to capsize the boat, the pirate band would have the motive and the means to trade up to a larger vessel.<sup>64</sup> This of course meant that ability to range farther out to sea and thus to engage larger prizes. At this stage, the enterprise could move beyond attacking small fishing boats and focus on larger coastal traders, as well as engage in amphibious raids on larger and more distant villages. Already engaging in the lucrative on-the-spot ransom and extortion business, the upgrade to a frigate enabled full entry into the illegal slave trade.

Whereas before the pirates' abductions of Ottoman subjects primarily served their needs for a captive workforce or—as Mustafa Ali repeatedly mentioned elsewhere—to satisfy their lust, the ability to carry off more people for longer distances facilitated selling off Ottoman Christian subjects just far enough from their homes that they might be temporarily passed off as legally enslaved “enemy infidels.” The transition from keeping slaves to selling them was a critical aspect of this stage in the pirate life-cycle, and it was often at this point that the local frontier pirate might, through the complaints of villagers and provincial officials, attract the attention of the central government. Upon learning of such incidents, Istanbul typically ordered administrators in the affected district to investigate, find and free the enslaved Ottomans, and punish the offenders. Yet

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<sup>63</sup> Mustafa Ali, Şeker, ed., 288; Brookes, trans., 34.

<sup>64</sup> This figure is derived from examination of dozens of archival reports on such pirate bands, examples of which are discussed at length in Chapter 3.

by this point, pirate bands were often well entrenched in their areas of operation. As we shall see later in this dissertation, in many such cases local forces were simply not strong enough to take them on directly (and lacked the capacity to do anything at sea) or were coopted by them for a share of the profits. In those instances, the center was casting its orders into the wind. In the meantime, continued success permitted further upgrades and opened up a far richer buffet of potential targets further offshore:

In the third stage they come to rely as they must, upon those infamous perpetrators of malice and those evildoers of the human race known as “shipmaster's sailors.” They comb their hair and get some new clothes - which is to say they obtain some arms and provisions. Following upon this, they accumulate arms and provisions and weapons and tools, and enough money to build a galliot, which is a vessel somewhat smaller than a galley but slightly larger than a frigate, and they become rich. Sometimes, on the coast of the Morea and Lefkada (Ayamavra), with the collusion of one of the sea captains there, they build the kind of boat they want. Or they find one already built and buy it. But sometimes they don't trust those captains, and when the captains give safe quarter they do not believe the agreement is truthful, so they weigh anchor and head for Samos. Or they conceal themselves on some similarly wooded island. Incorporating within it a thousand fears and precautions, they construct a ship. As soon as it is ready they board it, cast off, and meet up with one of the pirate (*levend*) admirals wintering in Algiers. They offer gifts and present themselves for service and are honored with being recruited into their ranks.<sup>65</sup>

Upon acquiring a large enough frigate or light galley, the pirates no longer needed to limit themselves to attacks on Ottoman shores and subjects. On the Adriatic and Ionian coasts, they could now profitably expand their target list to include Venetian and Ragusan regional trading vessels carrying salt, timber, or grain.<sup>66</sup> Though the enslavement of the subjects of both powers was illegal, they might be sold off rapidly or ransomed on the spot, and the same was true for their cargoes. Mustafa Ali did not mention the island of Lefkada, the only Ionian island held by the Ottomans (the others belonged to Venice), by

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<sup>65</sup> Mustafa Ali, Şeker, ed., 288; Brookes, trans., 34.

<sup>66</sup> See Bostan, *Adriyatik'te Korsanlık*, for examples.

accident. Hosting a naval base stationed with irregulars, Lefkada was a perennial source of anti-Venetian and anti-Ottoman piracy and abetted the predations of those coming from further afield.<sup>67</sup> Finally, with a seaworthy vessel and a large enough crew of pirates and galley slaves, the band could embark upon the final stage of Mustafa Ali's pirate metamorphosis, emerging from the chrysalis of local marine banditry as mature, high seas raiders bound for the big time in Algiers.

“Having reached this stage,” Mustafa Ali declared, “they no longer attack Muslims and merchants and tax-paying infidels.” Drawing a firm line between their past activities and their new careers, he argued:

They never venture one step from Algiers except in jihad and gaza. They even abundantly repent their earlier sins. Not postponing any of their prayers, they make righteousness and piety their example. Certainly Barbarossa, whose name was Hayreddin Pasha, Salih Pasha, Yahya Pasha, and Turgutca all emerged along this path. They all came from one of the villages of towns on the Anatolian straits and rose up the ladder first through banditry, secondly through piracy, and thirdly through ownership outright of a galliot and supremacy over others in what is known as captaincy (*riyaset*, the act of being a *reis*).<sup>68</sup>

Although Mustafa Ali was correct about the small-scale piratical origins of men like Barbarossa in the late fifteenth and early sixteenth-century Aegean and Eastern Mediterranean, the situation he was describing was actually a late sixteenth-century reality, projected backwards to serve his critique of the contemporary Ottoman admiralty. Mustafa Ali's claim that “these evils did not exist in the time of Sultan Suleyman”—a common refrain from a man who idealized that period and always drew a negative

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<sup>67</sup> The pirate threat from the island ended only with its occupation by Venice in 1684. For more, see the next chapter.

<sup>68</sup> Mustafa Ali, Şeker, ed., 288; Brookes, trans., 35.

contrast with the state of affairs in his own day<sup>69</sup>—was in this instance demonstrably false,<sup>70</sup> but he was right that the maritime situation had deteriorated significantly in the generation since the defeat at Lepanto in 1571. The blame for this, in his mind, was tied to the failure to appoint qualified corsairs to the post of imperial admiral. Since 1495, corsair-origin admirals had provided the Ottoman sultans with the most experienced and skilled naval leaders available in the Mediterranean. From Kemal Reis through Hayreddin Barbarossa and Turgud Reis, such men had overseen the dramatic expansion of the Ottoman seaborne empire and the extension of Ottoman sovereignty over North Africa.<sup>71</sup>

In contrast, palace-trained bureaucrat admirals had presided over the Ottoman navy's greatest failures, the unsuccessful siege of Malta in 1565 and the defeat at Lepanto in 1571.<sup>72</sup> To fight the Christian and Muslim pirates and corsairs that infested the eastern seas and deter potential enemy attacks, the Ottomans required a cadre of talented and loyal Muslim corsairs of their own to command their fleets, supply auxiliaries, and defend the coasts. Thus, by Mustafa Ali's day and long thereafter, Ottoman commentators and historians argued that the only people worth installing in the post of imperial admiral were those with experience as corsairs, and if a non-corsair were given

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<sup>69</sup> For more on Mustafa Ali, his view of history and of the incipient decline of the Ottoman Empire in the post-Süleymanic age, see Cornell Fleischer's definitive study, *Bureaucrat and intellectual in the Ottoman Empire: the historian Mustafa Ali (1541-1600)* (Princeton, 1986).

<sup>70</sup> Ottoman administrative records attest to this. For specific examples, see Chapters 2 and 3, and also Nicolas Vatin, "L'Empire ottoman et la piraterie en 1559-1560," in Elizabeth Zachariadou, et al., eds., *The Kapudan Pasha: his office and his domain: Halcyon Days in Crete IV, a symposium held in Rethymnon, 7-9 January 2000* (Rethymnon, 2002), 371-408.

<sup>71</sup> For the early years and the role of Kemal Reis, see Andrew Hess, "The Evolution of the Ottoman Seaborne Empire in the Age of the Oceanic Discoveries, 1453-1525," *American Historical Review*, 75 (1970), 1892-1919; for the latter period, see Gürkan, 128-39.

<sup>72</sup> Gürkan, 139-40.

the position, he had best surround himself with some.<sup>73</sup> Unlike the bureaucrat admirals who had occupied the post since the death of Kılıç Ali Pasha in 1587 (elevated to the position after Lepanto), the ideal corsair admiral in Mustafa Ali's view would have perfect knowledge of the coasts and the conditions of his fleet. "When a sailor attached to one of the fleet captains turns to piracy," he argued, "that esteemed gentleman knows of it."<sup>74</sup> Yet fleet captains turning to piracy, which had been a recurring problem since the late fifteenth century, was not at all the situation he was describing in his pirate life-cycle, nor was it the principal source of the piracy problem in the decades of peace separating the end of the war for Cyprus in 1573 and the invasion of Crete in 1645.<sup>75</sup> Indeed, Mustafa Ali concluded his discussion of piracy with a prayer and a bitter observation of the present situation:

May an honored admiral be blessed with success and good fortune in the form of a ministry or a governorship. And beneath his command may many Admirals of the Sea and captains and officers become prominent on land and sea. While in this position of strength, five or ten contemptible, worthless *levends* (i.e. pirates/bandits) will commit bloodshed among the islands, and leaving their reflection upon the ocean of murder and plunder and mayhem at sea, spread their visage. They descend upon the tax-payers (i.e. Ottoman subjects) of that land and clime by boarding the small, insignificant ships of the petty unbelievers, who are the Christians of Rum, seizing them and putting them to the oars. Once their strength is exhausted, they fix a price on them and sell them.

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<sup>73</sup> In the 1650s, as the Ottoman fleet found itself repeatedly blockaded within the Dardanelles by the better trained and equipped Venetian navy, defeated in battles at sea, and struggling to provision the ground forces besieging Candia on Crete, the polymath Katip Çelebi echoed Mustafa Ali's conclusions in his history of Ottoman naval campaigns, *Tuhfetü'l-kibar fi esfari'l-bihar*. He wrote in the concluding advisory section—the collective lessons learned from the preceding chronicling of Ottoman naval history—that if the kapudan pasha was not a corsair (*korsan*) himself, he should seek the advice of and listen to corsairs in matters of the sea and naval warfare. Failure to do so was a sure path to disaster. Likewise, the captains of the *bastardas*, the flagship galleys, ought to have years of experience as corsairs at sea and among the islands because the movements of the entire fleet depended on them, Katip Çelebi, 148.

<sup>74</sup> Mustafa Ali, Şeker, ed., 289; Brookes, trans., 35—"If he says he doesn't know about it, then he is not a corsair (*korsan*), and the one who is not a corsair is not an admiral worthy of that high post."

<sup>75</sup> The issue of fleet captains and errant naval irregulars engaging in piracy was confronted in Ottoman-Venetian treaty law from 1482, see Chapter 2. It remained a serious problem through the 1570s, the ramifications of which are discussed in Chapter 3.

In particular, the merchants of Salonica and the Muslims and the non-believers among the toiling people of Rumelia and Anatolia, the bad and the good, are always vexed by them. They single out beardless boys and use them as did the people of Lot. Once this has occurred, certainly there is no need to listen to the admiral's apologies and excuses. Whatever he presents in submission need not be submitted referred up to the royal threshold.<sup>76</sup>

Returning to the image of the five to ten men gathering to raid with which he opened his discussion, Mustafa Ali recapitulated the origin story in darker tones. His outrage at the Ottoman pirates' despoiling of other Ottomans was shared by the central government, which by the mid-1570s dispatched dozens of decrees annually to coastal districts ordering them to suppress the plague of local piracy. However, the impediment to more effective action was that the pirate life-cycle now encompassed—in addition to common bandits—irregular military forces, rogue officials, and others who were intimately tied to local government. In some cases, the ones being ordered to stop piracy were themselves the culprits.<sup>77</sup> From Mustafa Ali's standpoint, holy warrior heroes like Barbarossa and Turgud might be forgiven their ignoble origins, but the present situation demanded that someone like them step up to put an end to a cycle that was spinning out of control.<sup>78</sup>

He appears to have doubted that the next generation of Ottoman corsair admirals was coming of age among the pirates of the archipelago, whose predations affected

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<sup>76</sup> Mustafa Ali, Şeker, ed., 290; Brookes, trans., 37.

<sup>77</sup> This issue is discussed in Chapters 2 and 3.

<sup>78</sup> Mustafa Ali's views to the contrary, the qualitative decline of the imperial admirals was not the only or even the most important cause of the broader rise of Mediterranean piracy, the start of which had coincided with the long tenure of the former corsair and victor at Tunis in 1574, Kılıç Ali Pasha. Financial difficulties, pervasive unemployment, grinding land wars, the proliferation of firearms, and many other factors discussed above and below contributed to the Ottoman piracy problem and the simultaneous explosion of banditry across the core lands of the Ottoman Empire, both of which developed apart from but concurrently with the rise of foreign Christian piracy in the Ottoman Mediterranean. As for what Mustafa Ali wanted to see happen to the pirates of his day, a macabre verse in his discussion leaves no doubt—"May he [the admiral] drown the sea in blood from executions, so that to every anchor//Coral branches offer a severed hand fouled with blood," Mustafa Ali, Brookes, trans., 36.

Muslims and Christians alike. Eventually the new crop of Ottoman pirates, like their more illustrious predecessors, might sail off to join the large-scale operations in Algiers, Tunis, or Tripoli. But for many there was no need. Already by 1599, the local situation on the frontier had changed to the extent that it had become relatively hospitable for larger and potentially more disruptive pirating operations. So much so, in fact, that those pirates operating out of Algiers, Tunis, and Tripoli might come to them, make use of their bases, and even engage in joint operations.<sup>79</sup> If it had ever existed, the idealized final stage of Mustafa Ali's pirate life-cycle—that of the true holy warrior corsair—had become twisted beyond recognition. Nevertheless, the connection between local and long-distance piracy that he pinpointed is of signal importance for understanding the nature of maritime violence in the late sixteenth and seventeenth-century Ottoman Mediterranean. We will return to its implications for Ottoman administrators, jurists, and victims throughout this dissertation.

### **A Pirate By Any Other Name: The Ottoman Vocabulary of Maritime Raiding**

Mustafa Ali introduced the connection between the two opposing legal poles of Mediterranean maritime raiding—piracy and corsairing—and the two words most frequently associated with the practitioners of both—*levend* and *korsan*. These terms are those used most frequently in Ottoman Turkish to denote pirates, naval irregulars, and

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<sup>79</sup> These pirate coalitions became increasingly common after central authority in North Africa slackened due to the administrative reorganization of 1587. This established triennial pashas in the three port cities who, with no local power base (unlike their predecessors) and little time on the ground, rapidly became sidelined figureheads. On this administrative reorganization, see Shuval, "Cezayir-i Garp," 93-6. Collaboration increased further in the first decade of the seventeenth century, with the advent of sail in North Africa.

corsairs. The question of what separated pirates from privateers is not easily unraveled, however, for they were very much opposite sides of the same coin.<sup>80</sup> A corsair is understood to be the particularly Mediterranean label for a privateer, one who engages in maritime raiding in the context of war (in this instance, holy war) and with the authorization of a sovereign entity. The corsair or privateer wages public war, privately. In contrast, to those “individuals who despoil others through privately exercised force and without urgent reasons to do,” the Dutch jurist Hugo Grotius wrote in 1605, “we give the name ‘pirates’ when their activities take place upon the sea.”<sup>81</sup> Grotius’ definition of the pirate will serve us well here. However, even he seemed unsure where to place the raiders of North Africa or, for that matter, those of Malta, who on the one hand could be considered to be operating on behalf of a sovereign entity—that is Algiers, Tunis, or Tripoli, which could all be treated as independent states—in which case they were privateers, or not, given Ottoman sovereignty there, in which case they were pirates.<sup>82</sup>

If the North African corsairs were indeed privateers from the perspective of Tunis or Algiers, they were not necessarily seen as engaging in lawful war in Istanbul when they targeted the sultan’s own subjects or those of states with which he had made peace. In that vein, Mustafa Ali admonished his readers in a verse to “think of jihad as an island: on its right is a sea of wealth, on the left is corruption.”<sup>83</sup> The line between legal and illegal raiding was thin indeed. The right claimed by corsairing entities to raid and enslave any and all adherents of the enemy faith collided with political and legal realities that identified people by their subjecthood as well as confession and extended special

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<sup>80</sup> Michael Kempe, “Beyond the Law. The Image of Piracy in the Legal Writings of Hugo Grotius,” *Grotiana*, 26 (2007), 395.

<sup>81</sup> Grotius, *De Jure Pradae Commentarius*, 325-6.

<sup>82</sup> Kempe, “Beyond the Law,” 389-90.

<sup>83</sup> Brookes, 35.

protections to some. In such instances where Ottoman law was breached, the Ottoman central administration would still refer to the raiders as *korsan* or *levend*, but often in conjunction with epithets like rebel, criminal, and thief.

The meaning of the word *levend* is somewhat ambiguous and varied according to context. It could denote officially recognized Ottoman corsairs, independent freebooters with no ties to the state, or naval auxiliaries more generally. It could be used to describe the ship, its captain, or the fighting men on board (each of whom was a *levend*). It carried no geographic connotation—that is, it did not imply North African affiliation—but it was used almost exclusively for Muslims. The word was used for auxiliary forces on land as well, though by the second half of the sixteenth century it had also acquired the meaning of “bandit” due to the fact that numerous demobilized infantrymen turned to this activity to support themselves.<sup>84</sup> The phrase *gönüllü reis*, “volunteer captain,” could also be used for a captain of an auxiliary/corsairing vessel. The Turkish words *korsan* and *korsanlık*, derived from the Arabic *kursan* which in turn was derived from the Italian *corsaro*, carry the meaning of “pirate” and “piracy” respectively in modern Turkish. In the early modern period, however, as some scholars have pointed out, they would be more accurately rendered as “corsair/privateer” and “corsairing/privateering.”<sup>85</sup> Both Ottoman and foreign (Christian) maritime raiders, including those from North Africa and Malta, could be called *korsan*, whereas non-Ottoman corsairs/pirates were almost never called *levend*.

The inconsistency and ambiguity of Ottoman usage was somewhat mitigated in administrative documents by the occasional use of various modifiers and word

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<sup>84</sup> Mustafa Cezar, *Osmanlı Tarihinde Levendler* (Istanbul, 1965); Nicolas Vatin, “Une Affaire Interne: Le sort et la libération des personnes de condition libre illégalement retenues en esclavage sur le territoire Ottoman (XVI<sup>e</sup> siècle),” *Turcica*, 33 (2001), 155.

<sup>85</sup> C. Pellat, C. Imber, and J. Kelly, “*Ḳurṣān*,” in *Encyclopaedia of Islam, Second Edition* (Leiden, 2009), vol. 5, 502; Bostan, *Adriyatik'te Korsanlık*, 17-19.

collocations that help to clarify Ottoman views of such actors or their methods, such as *harami fırkate levendleri* (*levend* robber frigates), *levend eşkiyaları* (*levend* bandits/rebels), *kayık levendleri* (*levends* operating small skiffs—i.e. coastal raiders), *gönüllü levend korsanları* (volunteer *levend* corsairs), *harbi kafir korsanları* (enemy infidel corsairs, lit. “infidel corsairs from the ‘Abode of War’”), or sometimes just descriptions of the types of ship, such as *harbi kafir kalyonları* (enemy infidel galleons).<sup>86</sup> Some of these, like *harami levend* (robber *levend*) and *levend eşkiyası* (bandit/outlaw or rebel *levend*) can be quite clearly interpreted to mean pirate—one whose actions were considered criminal by the state—though in some instances they might indicate auxiliaries gone rogue. In the Ottomans’ treaties with the Venetians, early references to pirates were to “robber ships” (*harami gemisi*) and only later in the sixteenth century did the texts begin replacing the sea-robber appellation with *levend* and *korsan*.<sup>87</sup>

However, the usage of *korsanlık* to mean exclusively corsairing or privateering as we might understand these terms, with all their religious and statist connotations, was in fact not consistent over time and space. In the seventeenth century, even small-scale raids by Greek Christian pirates on their co-religionists in the Aegean, committed without state authorization or the cover of religious justification—that is to say, acts of piracy in the most basic sense—were sometimes characterized as *korsanlık* by Ottoman scribes.<sup>88</sup>

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<sup>86</sup> Idris Bostan has noted that the Ottoman Turkish for true, unaffiliated, indiscriminate piracy is *deniz haydutluğu*, “sea banditry” (op. cit., 17-19), yet this term appears very infrequently in the sources and seemingly only when the identity of the culprits was completely unknown—see, for example BOA Mühimme Defteri (hereafter MD) 58: 540/228 (28/R/994). *Harami levend* and its derivatives were more common terms for Ottoman-subject pirates. The word *şaki* (plural, *eşkiya*) can be translated as bandit or brigand, but it also carries the meaning of rebel or outlaw. In describing those who attacked the sultan’s subjects and those with whom he wished peace, both meanings applied.

<sup>87</sup> See Chapter 2.

<sup>88</sup> See Chapter 5.

Thus, the semantic distinction between simple piracy and corsairing that some scholars insist upon was not quite as firm in the seventeenth century as has been portrayed. For our part, we are most concerned with acts of maritime raiding that the Ottoman center (and its European treaty-partners) considered unacceptable or illegal, and so referring to these as acts of piracy is a necessary concession for coherence.

How the practitioners of maritime raiding conceived of their activities, what justifications they employed, and how they selected their victims are questions that are worth asking. However, they are questions that are ultimately of less importance when considering an Ottoman administrative and legal response that was concerned with the subjecthood and confession of the raiders but otherwise made little distinction between them whenever the targets they chose ran counter to the Ottoman central government's wishes. Besides, a significant number of those we might call pirates were not engaged in predatory raiding full-time, but did so whenever it was convenient and profitable. This was certainly the case for the English sailing ships that began to appear in the Mediterranean in ever greater numbers after 1580 and which, even when laden with cargo for legitimate trade, often raided indiscriminately. In 1599, for example, the vessel carrying England's new ambassador to the Sublime Porte, Henry Lello, and the accession gift for Sultan Mehmed III tarried repeatedly in its journey across the Mediterranean to take prizes, including some belonging to Ottoman subjects.<sup>89</sup> Beyond the English, many others alternated between raid and trade with alacrity. For us, then, the question is not so

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<sup>89</sup> Thomas Dallam, master organ-builder, had been commissioned to construct a combination clock and mechanical organ with numerous complications to serve as Queen Elizabeth's (by then quite late) accession gift to the sultan (though the Levant Company was forced to foot the bill). Dallam was required to accompany the gift, and the new ambassador who would present it, to Istanbul in order to reassemble it there. His account of the voyage to Istanbul, taken from the journal he kept during his time abroad, was reproduced in, "Dallam's Travels" in *Early voyages and travels in the Levant: with some account of the Levant Company of Turkey Merchants* (London, 1893), 1-50. Dallam, who never names the captain of the English ship, seems to have taken a dim view of his extracurricular activities.

much who is a pirate, or what is a pirate, but *when* is a pirate? That is, at what point did maritime raiding become illegal, and what was to be done about it?

Unlike privateering, piracy is by definition unlawful. Pirates were the “common enemies of all,” a designation originating in ancient Rome and current in early modern Europe, one which the Ottomans by and large shared and espoused in their treaties with Venice and others. The jurisdiction to punish pirates extended to all. Modern linguistic conventions do not map well onto Ottoman usage, but we must take care not to confuse popular notions of holy war with Ottoman conceptions of legitimate and illegitimate sea robbery, which could be and often were practiced by the same individuals and groups—the cessation of conflict often transforming privateers into pirates for continuing to do what they had been doing all along. This was certainly true for the Ottomans vis-à-vis Venice after 1573 and for the English vis-à-vis Spain after 1604. Thus, what remained *guerre de course* or *korsanlık* on the local level—or “customary raiding,” as sea raiders from Herceg Novi on the Adriatic would claim in 1627 after a peacetime attack on nearby Venetians<sup>90</sup>—was to the Ottoman imperial center a criminal act. It was, in essence, piracy, even if we might hesitate to anachronistically apply the label pirate to those the Ottomans called “rebels” and “thieves” when they attacked Ottoman subjects or those of their allies. The tendency of outsiders like the English to call all Mediterranean sea robbers pirates when their Venetian victims called them “corsari” and the Ottomans “*korsanlar*” or “*levendler*” should not obscure the more important, less semantic, differentiation between legal and illegal acts of maritime violence.<sup>91</sup>

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<sup>90</sup> See Chapters 2 and 4.

<sup>91</sup> In the 1624-5 Iskenderun raids discussed above, this same terminological breakdown also occurs across the English, Venetian, and Ottoman sources. The word choices of the Ottoman-Venetian treaty authors and translators for referring to piracy are scrutinized in Chapter 2.

All this took place in a context in which the practitioners of maritime violence increasingly operated outside the boundaries of declared war and beyond the control of the states that had once closely patronized their kind. That they were joined in the late sixteenth and seventeenth centuries by a plethora of local and long-distance actors of murky origins and no discernible agenda besides their own financial betterment only complicated matters. While we must recognize that the corsairs of Malta and Barbary were not the exactly the same creatures as the Corsican pirate captain cruising the Aegean or the Ottoman Muslim amphibious bandit prowling the Adriatic coast, they were all part of the broader pattern of maritime violence that arose in this period, profoundly connected by method, result, and response. The rise of violence perpetrated by uncontrollable non-state or quasi-state actors demanded that administrators, diplomats, and jurists tighten the legal net to include those who served the state's interests and exclude those who violated them.<sup>92</sup> Braudel observed that "privateering," by which he meant the Mediterranean *corso*, "often had little to do with either country or faith, but was merely a means of making a living."<sup>93</sup> This fact certainly accounts for the extraordinary mobility of seamen across religious and political boundaries, adopting and shedding allegiances when it served their interests. Maritime work was a trade, after all, and sailors and captains were first and foremost tradesmen who sought work where it was available and profitable, including in North Africa.

The influx of English seamen to North Africa following the conclusion of England's long conflict with Spain in 1604 provides ample evidence for this. In any event, the line between trade and raid—really just another form of trade—was not

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<sup>92</sup> This is one of Janice Thomson's arguments in *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, 1996).

<sup>93</sup> Braudel, vol.2, 867.

especially rigid, nor were the religious fault lines that were meant to determine the selection of victims. All this meant that it was the task of Ottoman authorities on land to better define what was and was not acceptable at sea, when, and why. The question of pirate vs. corsair ends up being one of perspective to some extent, but without taking into account self-perception, we may profitably refer to any targeted raid deemed unacceptable by the Ottoman sultan to be an act of piracy. Thus, the *levend* captain with an official commission who nevertheless conducted unauthorized raids on Ottoman subjects or the ships of Ottoman treaty-partners and whose actions met with official disapproval would be, in this instance, a pirate.

The primary, theoretical distinction between the Mediterranean corsair as opposed to the Atlantic privateer or the true pirate was the religious dimension to their targeting. That is, even if their attacks were unauthorized, Muslim corsairs were supposed to plunder and enslave Christians and vice versa, whereas the privateer attacked the ships of the sovereign(s) specified in his letter of marque and the pirate was indiscriminate in selecting his prey. Yet the gulf between theory and practice was vast and the continuum of maritime violence contained no lack of raiders exceeding their charge. The Muslim *korsans* and *levends* of the North African, Adriatic and Ionian coasts and the *corsari* of Malta and Livorno routinely despoiled their co-religionists. What they did not regularly do, however, was enslave them.

### **Ins and Outs of Ottoman Slavery**

Snatched from shores in amphibious raids or removed from captured prizes, captives were among the most valuable spoils available to pirates and corsairs in the Mediterranean, to be used as oarsmen, sold as slaves, or held for ransom. Throughout the early modern period the Knights of St. John, the Knights of St. Stephen, and independent Christian pirates roamed the Eastern Mediterranean, capturing as many “Turks” as possible and carrying them back to the slave markets of Malta and Livorno, where investors purchased those who seemed likely to get a good ransom and sold off the rest to provide labor on land or row on the galleys of the Pope or the king of France. A parallel situation existed in the port cities of the North African littoral, where captured Christians were brought in huge numbers to work and, if they were lucky, await redemption.<sup>94</sup> In the core lands of the Ottoman Empire, slavery was widespread, and the Islamic custom of manumitting slaves, often after a fixed period of service, generated constant demand.<sup>95</sup>

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<sup>94</sup> On Muslim galley slaves, see Salvatore Bono, “Achat d’esclaves turcs pour les galères pontificales (XVIe - XVIIe siècles),” *Revue de l’Occident musulman et de la Méditerranée*, 39 (1985), 79-92; Weiss, op. cit.; Michael Fontenay, “Routes et modalités du commerce des esclaves dans la Méditerranée des Temps modernes (XVIe, XVIIe et XVIIIe siècles),” *Revue historique*, 4 (2006), 813-30. Mr. Roberts, an English gunner pressed into service against his will on a Corsican pirate ship active in the Aegean and along the Levantine coast in the early 1690s, wrote of how the “Turks” they captured who were unable to arrange ransoms were transported back to Livorno for sale, where they were frequently leased out for day-labor by their owners, “*Mr Roberts’s Adventures among the Corsairs of the Levant; his Account of their Way of Living; Description of the Archipelago Islands, Taking of Scio, &c.*,” in Captain William Hacke, *A Collection of Original Voyages* (London, 1699), 11.

<sup>95</sup> The *de rigueur* opening to any study of Ottoman slavery, irrespective of the period, locale, or type of slavery covered, is an extensive lamentation of the dearth of research on the subject. Indeed, at present the scholarship concerning Ottoman slavery in general is quite limited. Whereas a number of monographs have appeared in recent years, they deal almost exclusively with slavery as an institution in the nineteenth century Ottoman Empire and its abolition (Hakan Erdem, *Slavery in the Ottoman Empire and its Demise, 1800-1909* (New York, 1996); Ehud Toledano, *Slavery and Abolition in the Ottoman Middle East* (Seattle, 1998); idem, *The Ottoman Slave Trade and its Suppression: 1840-1890* (Princeton, 1982)). Much of the scholarship which does concern early modern Ottoman slavery focuses on the slave institutions for which the Ottomans were (in)famous, namely the janissary corps, the palace slaves (*kapıkulları*) that comprised the administrative elite of the empire, and the levy of (mostly) Christian children (*devşirme*) that fed into both. These institutions and their origins, in spite of their prominence in Ottoman history, are themselves still poorly understood. With unknown thousands of slaves being imported into Ottoman territory annually, however, these institutions represented a small (albeit uniquely important) fraction of the total number of slaves residing within the empire, and we will not focus on them here.

Slavery in the Ottoman lands was governed first and foremost by the provisions of Islamic law (*şeriat*) and secondly through treaty law and the secular imperial and provincial law codes (which incorporated customary law), the *kanunnames*.<sup>96</sup> Who could be legally enslaved in the Ottoman Empire was as much a question of subjecthood as it was of religious identity. While non-Muslims from outside Ottoman domains could theoretically be considered fair game for Muslim slave-raiders by the standards of Islamic law, bilateral treaties and capitulation agreements (*ahdnames*) concluded between the Ottomans and Christian powers inevitably included reciprocal clauses explicitly forbidding piracy and the enslavement of the other's subjects.<sup>97</sup> Such agreements were frequently abrogated during peacetime and were set aside during war, but they had a significant impact on the origins of the majority of the slaves entering the empire: the slave trade was most developed in the Black Sea region and in the Sudan (via Egypt), with Central Europe and the Mediterranean region—except in times of war, when the situation was completely reversed—coming in third.<sup>98</sup> No such ambiguity existed concerning the rights of non-Muslim Ottoman subjects, *zimmis*, who were supposed to be protected by virtue of their payment of the poll-tax (*cizye*). Their enslavement was unambiguously illegal by the standards of both Islamic and Ottoman sultanic law.

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<sup>96</sup> For references to regulations concerning slavery in the *kanunnames*, see Uriel Heyd, *Studies in Old Ottoman Criminal Law* (Oxford, 1973), 97; 100; 110; 114; 126. Laws banning particular practices, such as sexual relations between a free person and a slave belonging to another, fighting between slaves, luring away someone else's slave or stealing a prisoner of war, and the prostituting of slaves (on which see below) are scattered throughout; it appears likely that sultanic law governing the conduct of slaves, slaveholders and slave traders, was developed on an ad hoc basis and in response to issues as they arose.

<sup>97</sup> See Chapter 2; also, Halil Sahillioğlu, "Slaves in the Social and Economic Life of Bursa in the Late 15<sup>th</sup> and Early 16<sup>th</sup> Centuries," *Turcica*, 17 (1985), 82-3.

<sup>98</sup> Sahillioğlu, 65-8; Toledano, *The Ottoman Slave Trade and its Suppression*; Mikhail Kizilov, "Slave Trade in the Early Modern Crimea from the Perspective of Christian, Muslim, and Jewish Sources," *Journal of Early Modern History*, 11 (2007), 1-31.

Likewise, Muslims, whether freeborn or recent converts, could not be enslaved, though a slave's conversion to Islam did not necessarily lead automatically to release.

Nevertheless, contrary to Islamic law—which guaranteed the freedom of all Ottoman subjects—unscrupulous pirates, Muslim as well as Christian, often captured Ottoman non-Muslims and sometimes even Ottoman Muslims within Ottoman territory for sale as slaves in distant Ottoman ports and towns, where they attempted to pass them off as legally captured “enemy infidels.” Such illegally enslaved Ottoman subjects theoretically had recourse to the courts and could win their release.<sup>99</sup> At the same time, pirates continued to attack the subjects of foreign powers, especially those of Venice, who were supposed to be protected under the Ottomans' peace treaties. In both instances, we can see that the state actively intervened on the captives' behalf, searching for and ordering the release of those found to have been illegally enslaved. In this dissertation on piracy in the Ottoman Mediterranean, the plight of the illegally enslaved will receive significant attention.

Captivity (*esirlik*) and slavery (*kölelik*, *rikk*) were legally distinct categories. In legal texts, wholly-owned male slaves were usually referred to as *köle*, *kul*, *abd-i memluk*, or *gulam* and female slaves as *cariye* (concubine).<sup>100</sup> However, in Ottoman practice, the usage of the word *esir*, meaning captive or prisoner, often overlapped with that of slave and was, for those entering lives of slavery and captivity in the Ottoman Empire, legally or illegally, the most commonly applied term. It was also the basis for most other slave-related constructions in Ottoman Turkish, like slave-dealer (*esirci*) and slave market (*esir pazarı*).

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<sup>99</sup> Besides this dissertation, which deals with the issue at length in Chapter 3, the only study of the illegal enslavement of Ottoman subjects is Vatin, “Une Affaire Interne.”

<sup>100</sup> See EI2, “Abd.”

Once enslaved, slaves were typically taken to markets in city centers for sale. Technically, only Muslims were allowed to buy slaves, but the reality was that Ottoman Christians and Jews bought and sold slaves openly throughout much of the pre-modern period.<sup>101</sup> Most major and minor cities had a slave market, usually part of the main city market, though in Istanbul it was an independent structure, set apart from the other bazaars.<sup>102</sup> The markets were, at least in theory, closely regulated by the government, which received taxes on slaves at various stages in the process of importation and sale.<sup>103</sup> Licensed slave dealers, male and female, belonged to the slave dealers' guild, and the Ottoman government was often concerned with preventing unauthorized slave dealing.<sup>104</sup> Whereas the bulk of the slave trade probably took place in the licit arena, with slaves sold by licensed slave dealers under the supervision of government officials, there were clearly active black (illegal sale of illegally enslaved persons) and grey (unregulated, i.e. illegal, sale of legally enslaved persons) markets in Istanbul and elsewhere.

The judge (*kadi*) of Istanbul periodically issued proclamations forbidding the sale of slaves outside the slave markets or by unauthorized persons throughout the seventeenth century. The substance of the edicts, and their repetition demonstrate both the prevalence of the problem and the government's inability to stop it. The *kadi* argued that the purpose of the law was to prevent the sale of free Muslims as slaves, to ensure quality control, and guarantee that the government received its rightful share of the

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<sup>101</sup> Alan Fisher, "The Sale of Slaves in the Ottoman Empire: Markets and State Taxes on Slave Sales, Some Preliminary Considerations," *Boğaziçi Üniversitesi Dergisi*, 6 (1978), 157; Yaron Ben-Naeh, "Blond, tall, with honey-colored eyes: Jewish ownership of slaves in the Ottoman Empire," *Jewish History*, 20 (2006), 315-332.

<sup>102</sup> Fisher, "Sale of Slaves," 150-1.

<sup>103</sup> *Ibid.*, 162-9; Sahillioğlu, 68-82; 85.

<sup>104</sup> Fisher, "Sale of Slaves," 156-7.

profits through the taxes associated with the trade.<sup>105</sup> Yet there was a thriving intra-empire trade in slaves, who thus frequently changed masters. Though there was nothing illegal about selling a slave and such sales were often registered with the courts for notarial purposes, this activity was mostly unregulated. Thus, illegally imported slaves, once sold and resold, could easily disappear into the vastness of the empire unless the government knew where to look for them or, in the process of being resold in the courts, they managed to convince the judge of their free origins.

Slaves were acquired for a variety of purposes. Most famously, some young male slaves entered the imperial service and, after years of rigorous training, could become members of elite military units or high-ranking members of the administration, including grand vezir; suitable females might end up in the sultan's harem and become mothers of future sultans. The vast majority, however, endured considerably more prosaic lives of service. Most worked in urban settings. Agricultural slavery, such as was practiced in the American South, was uncommon and usually economically impractical (though not unheard of). Most slaves served in domestic roles, though those with special talents or skills were frequently employed in trades or crafts, such as silk weaving or dying, and fetched prices commensurate with their abilities.<sup>106</sup>

In Istanbul, there was tremendous demand for slaves with the skills necessary for shipbuilding for employment in the imperial arsenal, and such slaves usually came from the Mediterranean. Skilled slaves were often offered a special type of manumission contract called *mukatebe*, by which they agreed to work for a fixed period of years or

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<sup>105</sup> Ibid., 158.

<sup>106</sup> Sahillioğlu, 46-7.

designated quantity of production, after which point they would be freed.<sup>107</sup> While many slaves were employed in service roles in wealthier households, a large range of society, including decidedly less than wealthy individuals might own a slave or slaves.<sup>108</sup> Slaves could be found in almost any occupation as freemen and many enjoyed considerable freedom. In addition to domestic roles, they might also be used to work in construction, in the textile industry (as was common in Bursa), as oarsmen, or as commercial agents for merchants.<sup>109</sup> The latter role was so commonplace that the sections concerning maritime law in seventeenth-century compilations of Islamic legal opinions often dealt at length with questions of what effect enemy pirates' seizure of a merchant ship had on the servile status or ownership of the slaves traveling onboard it for the purposes of trade.<sup>110</sup> Female slaves were likewise purchased primarily for domestic roles and, as either a primary or secondary consideration, for the sexual gratification of their (male) master (it was forbidden for a man to fornicate with his wife's female slave).<sup>111</sup>

Slavery was not necessarily a lifelong condition. Manumission, encouraged in the Qur'an, was a frequent occurrence—one which no doubt helped sustain the demand for new slaves—and took several forms. Manumission could be granted without condition during the slave owner's lifetime, often in response to an auspicious event in the owner's life, to expiate sin, or following the conversion of the slave to Islam (though slave-owners were under no obligation to free a slave who converted whilst in bondage). Manumission

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<sup>107</sup> See especially Nur Sobers Khan, "Slaves without Shackles" (Ph.D. dissertation, Cambridge University, 2011).

<sup>108</sup> Yvonne Seng, "Fugitives and Factotums: Slaves in Early Sixteenth-Century Istanbul," *Journal of the Economic and Social History of the Orient*, 39 (1996), 144-6.

<sup>109</sup> Sahillioğlu, 46-7.

<sup>110</sup> See Chapter 4. The same questions could apply to enslaved oarsmen as well, though questions wherein the slave was specifically identified as being engaged in trade on his master's behalf were much more common, probably owing to the fact that far fewer private individuals—who were the ones requesting the majority of the jurists' opinions—owned galley slaves or even employed oared vessels.

<sup>111</sup> Heyd, *Studies in Old Ottoman Criminal Law*, 100.

could also be granted conditionally (*tedbir*), wherein the master might stipulate in his will or register with the courts the circumstances, such as his death or disappearance, which would result in the release of the specified slave(s). In addition to the aforementioned contractual, *mukatabe* manumission, often arranged at the outset in the courts,<sup>112</sup> the female slave who bore the recognized child of her master would be automatically manumitted upon the master's death (called *umm-i veled*); the child was born free and had full rights of inheritance the same as any other children the master might have. Finally, manumission could be granted by the courts if it was found that preexisting agreements had been violated by the master or his or her heirs, that the slave had been illegally enslaved, that a converted Muslim slave belonged to a non-Muslim owner, and so forth.<sup>113</sup>

Even after the period of slavery ceased following manumission, many, if not most, slaves continued to work for their former masters in the same or similar occupation or in their households. Rather, a form of clientage took its place, wherein the master became the former slave's patron (the word *mevla* stands for both). Domestic slaves were often very much a part of their masters' households and the relationship could be continued, even after manumission, for multiple generations. Indeed, the former master and his male heirs were automatic heirs of the manumitted slave, even one who was married and had heirs of his own (in which case the master's household would take a disproportionate share).<sup>114</sup> Successful manumitted slaves could, and often did, own slaves

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<sup>112</sup> Alan Fisher, "Studies in Ottoman Slavery and Slave Trade, II: Manumission," *Journal of Turkish Studies*, 4 (1980), 50-51. See also Sahillioğlu, 51-60.

<sup>113</sup> Fisher, "Manumission," 52-3.

<sup>114</sup> Fisher, "Manumission," 52-3; Sahillioğlu, 60-1.

of their own, and the cycle of slave importation, exploitation, and final integration was perpetuated.

However, there were other avenues to release. Ransom was one, albeit a less common one for highly-skilled captives or those of undistinguished parentage.<sup>115</sup> For those who were illegally enslaved, the courts or administrative intervention provided the other. We have already remarked upon the right of slaves to make use of Ottoman courts, and though the available data do not tell us much about the challenges of access, it was clearly fairly common. For those claiming to be Ottoman subjects of free origin, the burden of proof, which had to be met with at least two Muslim witnesses, rested upon them. Taken far from their homes, it was a burden which was probably insurmountable for most, but the records do preserve success stories, as we shall see. The involvement of local or central government increased the odds. Invoking Islamic or sultanic law, the agents of the government frequently ordered the release of wrongfully abducted Ottoman subjects and foreigners. Such was the case for Yakomi, the Venetian subject from Crete, who was freed in accordance with the Ottoman-Venetian *ahdname* and had his release certified in the Islamic court of Galata. The development and application of the Ottoman law that freed men like Yakomi—and others foreign and Ottoman illegally snatched by pirates in the late sixteenth and seventeenth centuries—is a major focus of this work.

### **Law in the Ottoman Mediterranean**

We do not know of any maritime laws peculiar to the Ottoman empire, and to the regencies established on the Barbary coast, subject to the grand Seignior. It appears, that they are acquainted with no other than those of the nations with

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<sup>115</sup> European travelers in the Ottoman Empire also occasionally purchased Christian slaves in order to free them. For example, the Habsburg envoy Busbecq.

whom they traffic. Formerly, vessels were not allowed to navigate in the different ports of the Levant, except under the protection of the French flag. The consuls of that nation were the only judges of all differences relative to maritime commerce, either between Frenchmen and Turks, or between the former and the inhabitants of the country.

So wrote the Italian jurist Domenico Azuni in his treatise on international maritime law, first published in Italian in 1795 and subsequently in French and English translations in 1798 and 1806, respectively.<sup>116</sup> Azuni's pronouncement that the Ottomans lacked an indigenous body of maritime law or venues where maritime cases were heard besides the French consular courts is, as we shall see, demonstrably false, but unsurprising in light of the common misconception that, by the end of the sixteenth century, the Ottomans had turned away from the sea and had little subsequent interest in it. Originally composed 25 years after a Russian naval force penetrated the Mediterranean for the first time and smashed the Ottoman fleet at the Battle of Çeşme in 1770—the worst Ottoman naval defeat since Lepanto in 1571—few in Europe at the time would have considered the Ottoman Empire to be a formidable maritime power.<sup>117</sup> Ottoman naval decline was thus conflated with systemic administrative and legal disinterest in the sea. But European jurists' ignorance of Ottoman maritime law should not be confused with its absence. Though diffuse, spread between treaties and compilations of legal opinions composed by Ottoman jurists, early modern Ottoman maritime law was real and applied in the Islamic courts throughout the Ottoman Mediterranean.<sup>118</sup>

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<sup>116</sup> Domenico Azuni, *The Maritime Law of Europe* (New York, 1806), 414. I am grateful to Michael Talbot for bringing this work to my attention.

<sup>117</sup> For an account of the battle and the lead-up to it, see Anderson, 277-91.

<sup>118</sup> However, the scholarship pertaining to the Ottomans' legal relationship with the sea is extremely limited.

Azuni was correct that foreign merchants could and did make use of consular courts to resolve their disputes, but they also could and did make use of Ottoman courts. So too did Ottoman non-Muslims, who had the right to bring intra-communal disputes and criminal matters to their own ecclesiastical courts, but frequently made use of Ottoman *kadis* to resolve issues not only with Muslims (which was required) but amongst themselves (which was not).<sup>119</sup> There were no hard and fast lines separating Christian and Muslims spheres in the early modern Mediterranean, but rather a culture of legal pluralism in which merchants, travelers, and seamen took advantage of multiple overlapping jurisdictions.<sup>120</sup> This was certainly true of the Greek victims of Catholic piracy, who made use of Catholic institutions in the Eastern Mediterranean to build support for their cases before heading to Malta to demand restitution, but they were also adept at obtaining Islamic legal opinions from Ottoman jurists and pressing their subsequent claims against one another in the Ottoman Islamic courts.<sup>121</sup>

As much as the eastern half of the Mediterranean was an Ottoman legal sphere, it both incorporated and supplied ideas essential to the construction of the unified maritime legal order that emerged in the early modern period—which had its true roots in the Mediterranean but was, by the late sixteenth century, finding new expression in Europe and being projected across the globe. Thus, Azuni’s dismissal of an Ottoman maritime law might be forgiven, for the international/maritime law that developed over the course

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<sup>119</sup> Eugenia Kermeli, “The Right to Choice: Ottoman Justice vis-a-vis Ecclesiastical and Communal Justice in the Balkans, Seventeenth-Nineteenth Centuries,” in Andreas Christmann and Robert Gleave, eds., *Studies in Islamic law: a festschrift for Colin Imber* (Oxford, 2007), 165-210.

<sup>120</sup> On “legal pluralism” and overlapping legal cultures, see Lauren Benton, *Law and colonial cultures: legal regimes in world history, 1400-1900* (Cambridge, 2002), 8.

<sup>121</sup> The former point is documented extensively in Greene, *Catholic Pirates and Greek Merchants*, but to see the other side, of what happened when these Ottoman Greek merchants returned to the Ottoman Mediterranean to fight over shares in ships and cargo, we must look to Ottoman *fetva* collections and court records—discussed in Chapters 4 and 5, respectively.

of the sixteenth and seventeenth centuries, shaped predominantly by the changing and growing threat of piratical violence, was broadly consonant with that developing in Western Europe at the same time.

There were two primary sources of Ottoman law: Islamic law, the *şeriat* (Arabic: *shari'a*), in the Hanafi jurisprudential tradition, and sultanic law, *kanun*, which typically encapsulated local customary law as well as the orders and decrees of the sultans. The *şeriat* dominated and *kanun* was typically positioned as an extension of it, rather than an alternative set of laws, though in reality they did not always mesh.<sup>122</sup> The task of applying Ottoman law, Islamic and sultanic, fell to the judges of the empire (*kadis*), who served double-duty as local administrators in their jurisdictions.<sup>123</sup> The task of interpreting the law, however, fell to muftis, qualified jurists. By the sixteenth century, the head of the Ottoman legal and religious hierarchy was the mufti of Istanbul, the *şeyhülislam*, who had broad authority over judicial and religious-education appointments throughout the empire and was its chief jurisconsult. The opinions he and other muftis offered in response to specific questions were called *fetvas* (Arabic: *fatwa*), and these, often later compiled into exhaustive reference works, provided the primary mechanism through which law might be elaborated and Islamic and sultanic law reconciled.

Large numbers of *fetvas* concerning piracy and maritime violence more generally first began to appear in *fetva* collections around the turn of the seventeenth century and continued into the eighteenth century, when the impact of new kinds of legal problems posed by an increasingly chaotic sea first began to be felt.<sup>124</sup> Piracy and all manner of maritime issues were relegated to a sphere of legal thought referred to as *siyar*, what has

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<sup>122</sup> See Heyd, *Studies in Old Ottoman Criminal Law*.

<sup>123</sup> The role of the kadi is discussed at length in Chapter 5.

<sup>124</sup> The importance of the *şeyhülislam* and his *fetvas* is the subject of Chapter 4.

often been called the “international law” branch of Islamic legal reasoning, whose primary originator, the early Hanafi jurist al-Shaybani (d. 804) was once referred to as “the Muslims’ Grotius.”<sup>125</sup> Ottoman jurists developed their responses to maritime issues primarily through analogical reasoning, deploying the classic texts of Hanafi jurisprudence (*fiqh*) to find new legal solutions to specific problems. The resultant law rested on the firm ground of centuries of Hanafi tradition, but it was a tradition that had not, for the most part, dealt a great deal with the sea and earlier works on *siyar* had not given any space to piracy.

Whereas medieval Maliki jurists had written treatises on the sea, Hanafi jurists had not, and the texts to which Ottoman jurists returned to again and again, like the *Hidaya* of the twelfth-century Central Asian jurist al-Marghinani hardly mentioned the sea at all.<sup>126</sup> Thus, Ottoman jurists came up with entirely new solutions to the pressing questions of a seventeenth-century Mediterranean wracked with anarchic violence, concerning who would retain possession of a contested prize ship, who owned a slave who had been captured from a pirate vessel, what happened to captives taken in amphibious raids that were later determined to be illegal, and so forth. One of the key questions facing Ottoman jurists was how to divide the Mediterranean maritime world. Islamic legal theory conceived of a world divided into Abode of Islam (*darüislam*), the lands ruled by Muslim power, and Abode of War (*darülharb*), those lands yet to be conquered. Fixing the line between those two zones was, for reasons discussed later in this dissertation, absolutely essential to adjudicating disputes over ships, cargoes, and

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<sup>125</sup> A strange thing to say for someone who predated Grotius by eight hundred years.

<sup>126</sup> See Chapter 4.

slaves, but actually doing so for the sea, which was subject to no power, was no simple task.

The challenge of piracy, however, demanded answers which could provide guidance to judges and administrators throughout the Ottoman Mediterranean regularly faced with these kinds of questions. Although technically advisory opinions in their initial issue, *fetvas* were considered to be authoritative sources of law, to be consulted and relied upon by judges and jurists across the empire when faced with similar questions.<sup>127</sup> In contrast, judges' decisions, though binding, were not a source of law, and so it was the Ottomans' chief jurists, the *şeyhülislams* and their supporting bureaucracy, that engineered and promulgated Ottoman maritime law and, as government appointees, ensured that it was in harmony with sultanic law and imperial policy.

Articles concerning piracy and slave raiding in Ottoman treaties, along with sultanic edicts that expanded upon it between treaty issues, comprised the other main source of Ottoman maritime law which falls into the category of *kanun*. This is because the Ottoman *ahdnames*, the commercial and political agreements with foreign powers like Venice known as capitulations, were framed as unilateral decrees by the Ottoman sultans in order to circumvent Islamic prohibitions against contracting permanent peace with powers in the Abode of War. Yet this was a legal fiction, for these agreements were extensively pre-negotiated, bilateral treaties. Those between the Ottoman Empire and Venice had the longest history and were the first to deal at any length with piracy, providing the model for all future treaties with other foreign powers. The effects of the long maritime border with Venice and the changing nature of maritime violence, from a

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<sup>127</sup> When a judge was presented with or aware of a relevant *şeyhülislam fetva* that dictated a particular ruling in an analogous case, he was forbidden to rule against it. Abdurrahman Atcil, "Procedure in the Ottoman Court and the Duties of the Kadis" (M.A. thesis, Bilkent University, 2002), 67.

byproduct of fleet actions and errant corsairs exceeding orders to a symptom of the sea's being populated with a diverse array of uncontrollable non-state and quasi-state actors, become clear through the development of the anti-piracy articles across successive treaty issues from the late fifteenth to late seventeenth centuries.

By its nature, inter-state law is born of a process of negotiation. The Ottoman-Venetian incarnation of earlier maritime legal traditions in these treaties was a product of such a process of negotiation. With the paternity of international law variously assigned to European jurists like Hugo Grotius (d. 1645) or Alberico Gentili (d. 1608), this dissertation stresses the negotiated origins of this law and situates them in the Mediterranean.<sup>128</sup> While a survey of the ancient roots of this law, from pre-Roman times through the medieval Rhodian sea law, is beyond the scope of this project, I argue that the treaty law that developed around the issue of piracy between Venice and the Ottoman Empire channeled these various antecedents and was broadly consonant with what later European theorists espoused in their own writings.<sup>129</sup> The maritime law that developed through these treaties and simultaneously through the writings of Ottoman jurists constituted a bi-nodal but uniform body of law that should be considered a part of the story of the birth of international law, which affected and was effected by contemporary legal developments in Europe. This law helped to define legal and illegal marine raiding, set up procedures for the return of captives and stolen cargo, assigned responsibility for piratical acts in certain maritime jurisdictions and established mechanisms for the

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<sup>128</sup> On the history of these claims, see Peter Haggemacher, "Grotius and Gentili: A Reassessment of Thomas E. Holland's Inaugural Lecture," in Hedley Bull, Benedict Kingsbury, and Adam Roberts, eds., *Hugo Grotius and international relations* (Oxford, 1990), 133-76.

<sup>129</sup> For such an overview, see Hassan Khalilieh, *Admiralty and maritime laws in the Mediterranean Sea (ca. 800-1050): the Kitāb Akriyat al-Sufun vis-a-vis the Nomos Rhodion Nautikos* (Leiden, 2006) and idem, *Islamic maritime law: an introduction* (Leiden, 1998). The Ottomans did not cite these earlier sources of maritime law (and I have not been able to find any dedicated treatises on the subject), but their legal responses were rooted in and grew out of the same ancient Mediterranean tradition.

provision of restitution for losses, fixed ways for determining when and how change of possession had legally taken place after a seizure at sea, and asserted the Ottoman sultan's exclusive right to initiate religious violence.

Against the characterizations of a Mediterranean gripped by holy war and an Ottoman government seemingly indifferent to or unaffected by piracy, this dissertation makes heavy use of micro case studies to arrive at a more nuanced picture of the experience of piracy in the eastern half of the Mediterranean over the course of the long seventeenth century. Only by examining in detail how Ottoman administrators, jurists, judges, and victims actually confronted the problem can the generalizations, misunderstandings, and lacunae be replaced with a deeper appreciation of the complexity and dynamism of Ottoman Mediterranean maritime realities.

### **Dissertation Outline**

This dissertation is organized thematically, with the focus systematically narrowing over its course from a macro view of the situation at sea during the late sixteenth and seventeenth centuries to an in-depth examination of the experiences of victims of piracy in local Ottoman courts. Chapter Two examines the political and diplomatic framework through which incidents of piracy and slave raiding were handled by the Ottomans and their treaty partners, and the consequences of such raids and the subsequent negotiations for both the powers involved and their subjects. Focusing on Ottoman-Venetian relations, this chapter parses the form and content of their treaties and examines how their provisions were understood. Starting in the late sixteenth century, the

anti-piracy articles of these treaties grew in length and complexity to address the growing problem of how to deal with and defend against uncontrollable non-state actors (and the sea raiders of North Africa) without violating provisions that guaranteed the safety of the subjects of each power.

The chapter addresses the critical question of the extent to which either side could realistically enforce these treaties, drawing on numerous cases of their being contravened and the efforts taken by both sides to obtain or provide redress and effect the return of wrongfully taken captives. My analysis is based on research in both the Ottoman and Venetian archives. These source sets together allow for not only a close reading of what the treaties said, but for a detailed appraisal of how actors on both sides actually went about handling complicated cases. Thus, the chapter evaluates the mechanics of restitution and the financial, diplomatic, and human cost of piracy for both sides.

The third chapter moves deeper into the dynamics of empire, examining the internal social and political significance of pirate slaving for the Ottoman state and its implications for our understanding of Ottoman power and center-periphery relations. This chapter relies principally on the Ottoman *mühimme defterleri*, or registers of important affairs. These register books, extant from the mid-sixteenth century, contain copies of much of the outgoing correspondence of the Ottoman administration; letters to foreign leaders and orders to judges, governors, military leaders, and vassals fill their pages. They record dozens of entries concerning piracy and slavery, including many instances involving Ottoman subjects illegally enslaved by Ottoman pirates and ordered released by the administration.

The chapter begins with the story of a 1574 pirate raid on Naxos, which resulted in large numbers of Ottoman subjects being transported to Anatolia and sold illegally there. I follow the Ottoman administration's response to this incident and use it to frame the rest of the chapter's discussion of how such cases were handled and how policy and practice diverged between the Aegean and Adriatic-Ionian frontier region during the years of peace separating the wars for Cyprus and Crete. Ultimately, the story I tell is not of decline on the frontiers, but of triage. Because the Ottoman central administration relied heavily on naval irregulars to safeguard the coasts and provide intelligence on enemy movements, it was forced to balance the demands of law and justice with its security needs and the limits of its political and military capacity.

The fourth chapter delves into the role of Islamic law in Ottoman theory and practice, tracing the development over time of the responsa (*fetvas*) issued by the chief Islamic legal authorities of the empire concerning maritime violence and exploring the implications of these rulings for judges and litigants throughout the empire. This chapter is based on research in sixteenth and seventeenth-century *fetva* collection manuscripts held at the Süleymaniye Library. I use these sources, which have never been exploited in this manner before—indeed have rarely been referenced at all—to establish the kinds of religious questions that piracy and captivity posed for the Ottomans (and not just Muslims!), how they were answered, and how this developed over time as the intensity, frequency, and focus of piracy in the Mediterranean mutated in sometimes alarming ways.

These *fetvas* show how seventeenth-century Ottoman jurists confronted the unprecedented legal problems associated with an increasingly violent and chaotic sea and

how their rulings reflected changing political prerogatives. They demonstrate that Ottoman attitudes to Islamic law, and Islamic law itself, were not static. Through *fetvas*, the state articulated its understanding of “holy war” and asserted its monopoly on religious violence, responding to the challenges posed by independent actors who, in attacking the subjects of the Ottomans' treaty partners and Ottoman Christians, failed to respect sultanic authority. Nevertheless, private commercial concerns, not ideology or the state, lay behind the majority of the piracy-related opinions. This discussion ultimately serves as a bridge between the preceding macro and concluding micro sections of the dissertation, showing how secular, inter-state law and Islamic law were harmonized and laying the groundwork for the subsequent analysis of the convergence of theory and practice in local Ottoman courts.

Chapter Five looks at how individuals and communities affected by piracy made use of Ottoman legal structures and especially the Islamic courts. Relying primarily on Ottoman court records from Istanbul and Crete and published documents from Orthodox monasteries in the Aegean, it shows how the courts were used and manipulated, the role they played as the primary site through which Ottoman subjects interacted with the imperial center, and how victims of piracy sought restitution and the illegally enslaved their freedom.

Moving gradually away from the center in both time and space, the chapter asks how questions of jurisdiction and procedure were handled in Ottoman maritime court cases. With a stopover in the Greek islands of Andros and Patmos, it presents a series of cases heard in the highest court in the empire in Istanbul and contrasts them with those adjudicated in Crete, the Ottomans' final conquest in the Mediterranean, over the last

thirty years of the seventeenth century. In so doing, the chapter ties together the threads from the preceding examination of the courts, Islamic law, Ottoman administrative responses to piracy, and the Ottomans' diplomatic dealings. Narrating the experiences of Ottoman victims of piracy in the Ottoman courts of the late sixteenth and seventeenth-century Ottoman Mediterranean, we see the forces of law, religion, state power, and conflict at work on the local and individual level, and how they developed over the course of the so-called "golden age of Mediterranean piracy."

## Chapter 2

### The View from the Breach: Piracy, Diplomacy, and Inter-State Law

In the early months of 1627, a party of Venetian merchants hired a Dutch ship in Venice and laded it with goods bound for the markets of Alexandria. The outbound voyage proceeded without incident, and after unloading their goods, the merchants took on a new cargo in the Egyptian port and set sail for Crete. Shortly before making land on Crete, however, the Venetians were intercepted by pirates, who seized the merchant vessel. The pirates left a number of their men aboard the subdued ship to pilot it along with its captive crew and cargo back to their base on Samos, but a severe storm and contrary winds blew both pirates and prize off course. They made for the safety of the port of Kuşadası on the Aegean Anatolian coast and entered the harbor. Taking shelter beneath the fortress walls, they dropped anchor.

The pirates and their captives were still docked in Kuşadası when the *bailo*, the Venetian ambassador to the Sublime Porte, learned of the incident. He immediately reported it to the Ottoman government, submitting a petition to the sultan requesting an investigation into the event and the return of the goods and slaves. In response, the Porte dispatched a decree in early March to the *kadi* (judge) of Izmir, in whose jurisdiction Kuşadası lay, and to the chief Ottoman administrator in Kuşadası, ordering them to liberate the ship and prevent the further sale of its stolen merchandise. The Porte declared that piratical acts and the enslavement of Venetian subjects were violations of the peace

and of the *ahdname-i humayün*, the imperial treaty, and so the *kadi* was required to apprehend and punish the pirates in accordance with the treaty's provisions, locate and gather the Venetian captives and their goods, and turn them over to the protection of the Venetian consul in Izmir.<sup>1</sup> A personal letter from Hasan Pasha, the imperial admiral, addressed to the same recipients, was sent at the bailo's behest and echoed the sultan's demands that the *ahdname* be upheld.<sup>2</sup> The matter of who these pirates actually were, their subjecthood or confessional affiliation, was never mentioned.

What precisely did this treaty promise the Venetians in 1627? How did Ottomans and Venetians understand its provisions and how had that understanding evolved across time and space? On what legal bases were the Venetians or the Ottoman entitled to demand action and restitution and what practical legal and diplomatic structures facilitated the process? An unfortunate byproduct of trade and declining naval capacity on both sides that was exacerbated by a long land and sea frontier, piracy proved to be one of the defining issues in Ottoman-Venetian relations in the late sixteenth and seventeenth centuries. More than any other concern, rampant piracy threatened commerce and the peace and sent innumerable diplomats, messengers, dispatches, and funds back and forth across the eastern half of the Mediterranean basin.

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<sup>1</sup> Archivio di Stato di Venezia, Bailo a Costantinopoli, Documenti Turchi (hereafter BAC) 251/6, 7 (C/1036). The "Documenti Turchi" section of the Bailo's Archives consists of registers of Ottoman letters and decrees sent from Istanbul and requested by or concerning Venice and her subjects. Venetian dragomans copied the Ottoman Turkish texts into the bailo's register books and prepared side-by-side Italian translations. Comparison of entries with corresponding decrees extant in the Ottoman archival record demonstrates that the Ottoman copies were faithful to the originals. The bailo's archive record is not complete and the original criteria for inclusion in the registers are not known, but they preserve a broad sample. Documents from the years 1589-97, 1604-8, 1612-14, 1615, 1620-4, 1626-7, 1629-1632, 1636-1640, 1670-75, 1681-3 are represented. Of the roughly 1000 entries in the books, approximately 20% are concerned with piracy in some way. I am grateful to Natalie Rothman for sharing with me the index of these documents compiled by her research assistant, Murat Yaşar.

<sup>2</sup> BAC 251/6, 8 (no date, probably C/1036).

This chapter examines Mediterranean piracy in the context of inter-state relations. It does not explore the aspects of Ottoman maritime raiding that would have been encouraged, or at least not actively discouraged or prohibited: attacks against Spanish subjects and other unprotected groups will not be discussed here, nor will the conduct of corsairs in times of armed conflict figure into our analysis. Rather, this chapter will focus primarily on Ottoman-Venetian relations, describing the diplomatic and legal framework through which incidents of unauthorized piracy were dealt with and the ways in which policy developed in response to the changing political and military situation in the sixteenth and seventeenth-century Mediterranean. The bilateral treaties and commercial agreements concluded between the Ottoman Empire and European powers regulated this relationship and dictated the mutual expectations for dealing with pirates and amphibious slave-raiders in peacetime. Nevertheless, these treaties and their provisions cannot be fully understood in isolation. Their anti-piracy articles developed not out of theoretical concerns but as a practical response to real issues, and they were supplemented by and expanded through sultanic decrees.

The first stage of their evolution took place gradually in the early sixteenth century, when successive Ottoman conquests in the Aegean, along the Morea (i.e. the Peloponnese), and in the Adriatic brought Ottoman naval forces in ever closer contact with those of Venice, while growing imperial ambitions and sympathy with the plight of Iberian Muslims propelled Ottoman-aligned corsairs across the Mediterranean Sea.<sup>3</sup> This means that the anti-piracy clauses developed first in a period of maritime violence that

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<sup>3</sup> See Palmira Brummett, *Ottoman Seapower and Levantine Diplomacy in the Age of Discovery* (Albany, 1994); Andrew Hess, *The Forgotten Frontier: A History of the Sixteenth-Century Ibero-African Frontier* (Chicago, 1978); idem., "The Evolution of the Ottoman Seaborne Empire in the Age of the Oceanic Discoveries, 1453–1525," *American Historical Review*, 75 (1970), 1892-1919.

was predominantly state-sponsored, even as the line between regular navy forces and irregulars and corsairs remained blurred. After 1570, however, the centers of gravity and practitioners of piracy shifted largely beyond the control of the central states most affected by it. At this later time, Ottoman and Venetian negotiators expanded the treaty language concerning piracy. By necessity, the means of implementing the treaty requirements also changed over time to meet the proliferation of new pirate threats.

Piracy was a major source of friction between the Ottomans and those who came to trade in their domains, and as a result of increasingly ineffective policing of the seas, the articles that dictated what would happen after pirate attacks became considerably more important than those that forbade them. Piracy was thus the primary engine driving the development of inter-state law throughout the sixteenth and seventeenth centuries, while dealing with the consequences of piracy became a central pillar of early modern Mediterranean diplomacy. Bilateral treaties alone did not dictate this relationship. Frequent negotiations in the respective capitals and the dispatch of case-specific orders and elaborative decrees added to and clarified anti-piracy law between treaty issues and reflected shifting understandings of their provisions, even as the original articles retained their form. They thus created a new body of maritime law that could be referred to as necessary to resolve disputes and guided domestic and inter-state policy. In order to understand the development of modern international law, we must first appreciate the role of piracy and situate its origins in the context of the early modern Mediterranean.

Scholars have increasingly taken note of the connection between piracy and the birth of international law in the early modern period.<sup>4</sup> However, few have looked beyond

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<sup>4</sup> See, for example, Janice Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, 1996); Lauren Benton, *A search for*

the theorists who are usually associated with its earliest development, such as the London-based Italian jurist Alberico Gentili and the Dutchman Hugo Grotius, active in the late sixteenth and early seventeenth centuries, or traced the ideals they espoused back to the Mediterranean.<sup>5</sup> A tendency to focus exclusively on the published writings of prominent European jurists has obscured its maturation (if not its origins) in the Ottoman-Venetian treaty law that gradually emerged over a century before Gentili published the first book of *De iure belli* in 1588.<sup>6</sup> These treaties themselves incorporated ancient Mediterranean customary law and modernized it. They were the product of extensive negotiation—the work of Ottoman and Venetian diplomats and administrators accumulated over generations—and they created a new, secular code of maritime law that informed the writings of later European jurists, whose thinking about piracy would ultimately be projected around the globe in the seventeenth century.

The focus on Ottoman-Venetian relations here is based on several factors. First, the Ottomans maintained diplomatic relations with Venice long before they did so with any other maritime power, and those commercial treaties granted eventually to France in 1536/1567, England in 1580, and the Netherlands in 1612 were based directly on and

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*sovereignty: law and geography in European Empires, 1400–1900* (Cambridge, 2010), which refines many of the ideas presented first in “Legal spaces of empire: Piracy and the origins of ocean regionalism,” *Comparative Studies in Society and History*, 47 (2005), 700-24; Michael Kempe, “‘Even in the Remotest Corners of the World’: Globalized Piracy and International Law, 1500–1900,” *Journal of Global History*, 5 (2010), 353-372.

<sup>5</sup> Bülent Arı notes that the ahdnames were the primary locus for the exposition of Ottoman maritime law, but while he discusses the parallel development of “Western” maritime law, he does not explicitly link the two. See “Akdeniz’de Korsanlık ve Osmanlı Deniz Hukuku,” *Türkler ve Deniz* (Istanbul, 2007), 265-318.

<sup>6</sup> The complete series, *De iure belli libri tres*, was published in 1598. See Alberico Gentili, *De iure belli libri tres*, trans. John Rolfe (Oxford, 1933). Gentili’s ideas about piracy in particular are elaborated in greater detail in *Hispanicae advocacionis, libri duo*, published posthumously in 1612 and based on his work on behalf of the Spanish Crown in the English admiralty courts between 1605 and 1608. Alberico Gentili, *Hispanicae advocacionis, libri duo*, trans. Frank Abbott (New York, 1921). Hugo Grotius’ thoughts on piracy were first presented in *De iure praedae* (On the Law of Prize), but this work was not published until the nineteenth century. It provided the basis, however, for his *Mare Liberum* (1609) and for the sections concerning piracy in his *De iure belli ac pacis* (1625).

essentially mirrored the language of the Ottoman-Venetian agreements.<sup>7</sup> More importantly, the Ottomans and Venetians shared a long, dynamic frontier on land and sea that resulted in constant contact, mostly peaceful but punctuated by both isolated violent episodes and periods of sustained conflict. The intimacy and history of this relationship meant that piracy was first and for far longer an issue for both the Ottomans and the Venetians, and they were forced to develop lasting legal and diplomatic procedural solutions to the problem very early. These anti-piracy provisions were elaborated and expanded over time to accommodate the changing nature and growing number of threats facing both sides at sea.

Moreover, around the turn of the seventeenth century, as maritime violence increased unchecked and the bailo was forced to tolerate the presence of not only a French ambassador in Pera, but also those of the English and then the Dutch, there was a key divergence. The Venetians, unlike their Atlantic power counterparts, never concluded independent peace treaties with the North African regencies, but continued to rely directly on their relations with the Porte to safeguard their rights. It is not clear that Venice could have pursued any other course of action, but this development means that studying the Ottoman-Venetian diplomatic framework provides the best way to understand how the system worked as a whole, as well as the theoretical implications and practical consequences of the Atlantic-powers' decision to effectively abandon petitioning the Porte to deal with North African piracy in favor of a policy of direct negotiation.

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<sup>7</sup> A brief overview of the parallel development of these instruments is Alexander H. DeGroot, "The Historical Development of the Capitulatory Regime in the Ottoman Middle East from the Fifteenth to the Nineteenth Centuries," in Maurits van den Boogert and Kate Fleet, eds., *The Ottoman Capitulations: Text and Context* (Rome, 2003), 575-604.

Furthermore, the fact that piracy, and the other side's perceived inability to control it, was responsible for numerous diplomatic imbroglios, was cited by the Ottomans as a cause for two wars (1570-1573; 1645-1669), and undoubtedly contributed to resentment that boiled over into a third (1684-1699), means that it is impossible to make sense of early modern Mediterranean law and diplomacy without first taking into account the role of piracy in Ottoman-Venetian relations. Indeed, through their pragmatic, negotiated agreements—and in the regular violations of them—Ottomans and Venetians laid the groundwork for principles that would become enshrined in modern international law. Combining maritime custom, negotiation, and the legal traditions of both sides, Istanbul and Venice constructed a platform of codes of conduct at sea, expectations for how to deal with pirates, and a formal system for providing restitution for damages and the return of illegally enslaved, treaty-protected subjects.

Thus, this chapter begins by describing in detail the initial appearance and subsequent expansion of the Ottoman-Venetian anti-piracy regulations and their internal logic in the late fifteenth and sixteenth centuries. It then analyzes those regulations and their later evolution in the context of the events—the frequent raids, counter-raids, border clashes, and maritime skirmishes—that put their articles into action and further tested their efficacy over the course of the late-sixteenth and seventeenth centuries.

### **The *Ahdnames*: Background**

The diplomatic instruments through which relations between the Ottomans and foreign powers were defined were known as *ahdnames*.<sup>8</sup> The term combines the Arabic word *ahd*, for promise or pact, with the Persian *name*, for letter. The first *ahdname* granted to Venice was issued in 1403 and was likely based on a combination of Mamluk and Byzantine models.<sup>9</sup> As charters of commercial privileges, they dictated the rights of foreigners resident in the Ottoman Empire, opened markets to trade, fixed customs rates, and assured the same rights to free trade to Ottoman subject merchants.<sup>10</sup> However, they were not merely lists of unilateral concessions. The *ahdnames* with Venice also

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<sup>8</sup> There is an expansive literature on the *ahdnames*, written mostly from the angle of diplomatics. See Dariusz Kołodziejczyk, *Ottoman-Polish diplomatic relations (15th-18th century): an annotated edition of 'ahdnames and other documents* (Leiden, 2000). On the Venetian *ahdname*'s, see Hans Theunissen, "Ottoman-Venetian Diplomats: The Ahd-names. The Historical Background and the Development of a Category of Political-Commercial Instruments together with an Annotated Edition of a Corpus of Relevant Documents," *EJOS*, 1 (1998), 1-698; M. Tayyip Gökbilgin, "Venedik devlet arşivindeki Türkçe belgeleri koleksiyonu ve bizimle ilgili diğer belgeler," *Belgeler*, 5-8 (1968-1971), 9-12, 1-152. For the English and Dutch cases, see Susan Skilliter, *William Harborne and the trade with Turkey 1578-1582: a documentary study of the first Anglo-Ottoman relations* (Oxford, 1978) and Alexander H. DeGroot, *The Ottoman Empire and the Dutch Republic: a history of the earliest diplomatic relations, 1610-1630* (Leiden, 1978), respectively. A case-study based analysis of the interpretation and implementation of the *ahdnames* in the eighteenth century is Maurits van den Boogert, *The capitulations and the Ottoman legal system: qadis, consuls, and beratlis in the 18th century* (Leiden, 2005).

<sup>9</sup> Theunissen, 218.

<sup>10</sup> The *ahdnames* came to be known as "capitulations" and have typically been referred to as such in the relevant scholarly literature. Despite its prevalence, I have eschewed the term here for a number of reasons. First, although unilateral grants of commercial privileges were an integral part of the *ahdname* regime from its earliest manifestations, the word "capitulation" has acquired a great deal of baggage from its usage in the nineteenth century, when Ottoman political, military, and economic weakness allowed European powers to abuse the *ahdnames*' provisions and interpret them in ways that were extremely unfavorable to Ottoman interests. It has often been assumed, for example, that the *ahdnames* granted European powers full extraterritoriality in Ottoman domains, an interpretation many European diplomats and merchants in the late empire undoubtedly encouraged and that some Ottomans may have adopted, but this has been shown by Maurits van den Boogert to be incorrect. Indeed, it appears that neither the Ottomans nor the European trading communities believed this to be the case in the eighteenth century, when the evolution and expansion of the capitulatory system peaked. See van den Boogert, *The capitulations and the Ottoman legal system*; cf. Halil Inalcik, "The status of the Greek Orthodox patriarch under the Ottomans," *Turcica*, 21-23 (1991), 407-36. It is crucial not to confuse the later history of these texts with their earlier status. A more pertinent reason, however, for avoiding the term has to do with the sections of the *ahdnames* that are of interest to us here: whereas the commercial privileges unilaterally granted in the *ahdnames* are extremely important, the clauses that enshrined maritime law were, as we shall see, often explicitly reciprocal. There was nothing capitulatory about the bilateral, negotiated aspects of these agreements that regulated how the Ottomans and their treaty-partners would respond to piracy or to the enslavement of each other's subjects. As instruments of international law, negotiated and mutually binding, we shall refer to the *ahdnames* as such, as treaties rather than "capitulations."

delineated borders, set tributes, determined procedures for dealing with fugitive slaves, and established codes of conduct for naval and merchant vessels meeting at sea.<sup>11</sup>

Although early *ahdnames* had a bilateral character, by the sixteenth century the *ahdnames* had assumed an increasingly unilateral tone.<sup>12</sup> They were “given” at the request of Venice as an expression of friendship and as a reward for peaceful behavior. Nevertheless, this was a rhetorical fiction; the *ahdnames* were extensively pre-negotiated. And even as the *ahdnames* granted to Venice and other powers in the sixteenth and seventeenth centuries came to resemble sultanic decrees, a convenient device to avoid the Islamic prohibitions against negotiating perpetual peace with the *dariülharb* (“The Abode of War”), they implicitly operated on the principle of reciprocity.<sup>13</sup> And, in some key instances, especially those having to do with maritime issues, the *ahdnames* maintained explicitly reciprocal articles throughout their history.

Venice confirmed, renewed, or acquired a fresh *ahdname* at the accession of every new sultan or following the end of hostilities. Although the Ottomans employed very similar terminology in their peace treaties and in their commercial agreements—and those with Venice essentially conflated the two—the *ahdnames* discussed in this chapter were not strictly speaking peace treaties like those that ended conflicts with the Habsburgs in Southeastern Europe. Unlike the *ahdnames*, those instruments did not contain any unilateral grants of privileges, though there were certain common expectations, including the status of captives taken in peacetime in violation of territorial

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<sup>11</sup> For more on the concept of land and sea borders between the Ottoman Empire and Venice and its evolution, see Maria Pia Pedani, “Beyond the Frontier: The Ottoman-Venetian Border in the Adriatic Context from the Sixteenth to the Eighteenth Centuries,” in Almut Bues, ed., *Zones of Fracture in Modern Europe: The Baltic Countries, the Balkans, and Northern Italy* (Wiesbaden, 2005), 45-60.

<sup>12</sup> Theunissen, 240.

<sup>13</sup> De Groot, “Historical Development,” 579; see also Viorel Panaite, *The Ottoman law of war and peace: the Ottoman Empire and tribute payers* (Boulder, 2000).

sovereignty and the terms of the peace.<sup>14</sup> Tributary states and polities that might be (or definitely were) considered to be part of Ottoman domains also received *ahdnames*. For example, the European suburb of Galata, across the Golden Horn from Istanbul and home to most of the European merchant communities and their diplomatic representatives, received an *ahdname* upon its submission to Sultan Mehmed II in 1453. This pact was renewed a number of times over the centuries that followed, and it established the community's special status within the Ottoman sphere.<sup>15</sup>

Somewhat different were the *ahdnames* given to the Adriatic city-state of Dubrovnik (Ragusa), which retained nominal independence from the Ottoman Empire in exchange for an annual tribute and obedience to the sultan. Like Venice, Dubrovnik's *ahdnames* promised peace and prosperity and granted favorable trade rights and extensive freedom of movement within Ottoman domains. However, Dubrovnik was sometimes considered to be a part of the Empire itself. Whereas the Ragusans were not technically Ottoman subjects, at times the city's leaders and Ottoman administrators conspired to paper over this fact for convenience. The Ottomans often dispatched decrees to Dubrovnik as if its leaders were provincial officials, and Dubrovnik often made appeals for Ottoman aid in finding and freeing abducted Ragusans on the basis of its protected status within Ottoman domains.<sup>16</sup>

Part of the problem, and the solution to the quandary of the questionable religious-legal basis of the *ahdname*, was the question of subjecthood and tribute. Non-Muslim Ottoman subjects, *zimmis*, were liable to pay the poll-tax, the *cizye* (Arabic:

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<sup>14</sup> De Groot, "Historical Development," 579; for an example of how the Ottomans invoked similar language in their relations with the Habsburgs, see BOA Mühimme Defteri (hereafter MD) 31: 373/161 (2/C/985).

<sup>15</sup> De Groot, "Historical Development," 582-4.

<sup>16</sup> Nicolaas Biegman, *The Turco-Ragusan relationship. According to the firmāns of Murād III (1575-1595) extant in the state archives of Dubrovnik* (The Hague, 1967).

*jizya*). Yet the *cizye* was typically referred to in Ottoman usage as the *harac* (Arabic: *kharaaj*), the canonical land-tax. The same term was used for the tribute paid by submissive states. The conflation of these taxes proved legally useful. This way, by extension, when the Ottomans referred to Ragusans as “tax-paying subjects,” *haracgüzar reaya*—the same formulation the Ottomans used to describe their own subjects—they could avoid the complicated question of whose subjects, precisely, they were.<sup>17</sup> By virtue of the fact that Venice, too, paid a tribute—likewise referred to as *harac*—the Ottomans could dispel some of the Islamic legal proscriptions against making perpetual peace with them and construe the tribute as submission.<sup>18</sup> Regardless, there was no practical acceptance on either side that Venice was Ottoman, even if she did pay tribute, and there was no attempt made to extend this fiction to the French, English, or Dutch when they acquired their own *ahdnames*. In short, the *ahdnames* with Venice and other foreign powers were framed as unilateral charters of privileges to satisfy Islamic legal strictures but were in reality bilateral treaties that were mostly, but not exclusively, concerned with commercial matters.

### **The Early Evolution of Ottoman-Venetian Anti-Piracy Law: 1482-1517**

Although piracy in the Mediterranean increased dramatically in the century after 1570, piratical violence accompanied every naval conflict of the preceding century and persisted to varying degrees in peacetime as well.<sup>19</sup> As war and trade brought Venice and the Ottoman Empire closer and closer in the late fifteenth century, the two powers

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<sup>17</sup> De Groot, “Historical Development,” 582.

<sup>18</sup> Theunissen, 186, 210.

<sup>19</sup> See Chapter 1.

together evolved their first diplomatic and legal responses to piracy. In order to understand the form that this took in the late-sixteenth and seventeenth centuries, we must begin our examination in 1482. Much of the language and content characteristic to subsequent *ahdnames* first took shape in the Venetian *ahdname* of 1482, which in turn incorporated many of the articles of the peace treaty that ended the first Ottoman-Venetian war in 1479.<sup>20</sup> The 1463-1479 conflict marked the emergence of the Ottomans as a formidable naval power, and the treaty document of 1482 was thus the first *ahdname* to address a number of important maritime issues, including the conduct of Ottoman and Venetian naval forces in peacetime. This instrument, which established broad trading rights and freed all Venetian slaves taken during the previous hostilities, was also the first to mention piracy, however obliquely.<sup>21</sup> It stipulated that when Ottoman and Venetian ships met at sea, they should be friendly and not do any damage to one another, and that if either “captured the ships of thieves (*haramiler*) in any place, they should punish them and execute them.” In a later clause, the 1482 *ahdname* established another principle that would carry over into every subsequent issue—that of procuring bonds from non-fleet vessels to ensure their good behavior.

In addition to a unilateral promise that Ottoman naval vessels would not engage in “robbery” or “wrongdoing” (*haramilik*), by which the drafters surely meant predatory raiding, the treaty stipulated that both Ottomans and Venetians would take a “strong

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<sup>20</sup> On the treaty itself, see Pierre Mackay and Diana Wright, “When the Serenissima and the Gran Turco Made Love: The Peace Treaty of 1478,” *Studi Veneziani*, 53 (2007), 261-277.

<sup>21</sup> For the Ottoman Turkish texts of the Venetian *ahdnames*, I have relied throughout this chapter on the authoritative critical editions published by Theunissen in “Ottoman-Venetian Diplomats.” These were based on comparison of the originals preserved in the Venetian archives with the extant rescripts held in the Ottoman Archives in Istanbul, as well as with the earlier editions published by Gökbilgin and Şakıroğlu, which have now been superseded. The *ahdnames* have not been published in translation; all translations from the Ottoman are mine. For the clause releasing the Venetian slaves, see Theunissen, 374-5. In later treaties, Venetian slaves taken during wartime did not have to be freed by their Ottoman masters, unlike those illegally taken before and after the hostilities.

surety” from the captains of ships going out to sea in order to discourage acts of piracy against the other. Those captains who did not provide surety would be viewed as “criminals and sinners” and would be strongly punished, and those who did give surety and then engaged in piracy would have the restitution for the damages they caused paid out from their bond.<sup>22</sup> As we shall see, the issue of actually getting ship captains based in ports sustained by the profits from piracy to post bond continued to vex Ottoman and Venetian central administrators for the next two hundred years, but versions of this clause became a fixture in every subsequent Venetian *ahdname*.

The next Venetian *ahdname* was issued in 1503 after the conclusion of the second Ottoman-Venetian war (1499-1503). Like that of 1482, it was granted by Sultan Bayazid II, and it was substantially similar to the earlier treaty. Nevertheless, further Ottoman territorial gains in the Aegean brought Ottomans and Venetians into ever closer contact in the politically divided archipelago. The concomitant danger of piracy and the increasing importance of maritime affairs necessitated the first in what would be an extensive series of elaborations and expansions of the *ahdname*'s anti-piracy clauses over the course of the sixteenth and seventeenth centuries.

In the years leading up to the second war, Ottoman power was first projected beyond the Eastern Mediterranean. The raids of the notorious Turkish corsair Kemal Reis (uncle of the famous admiral and geographer Piri Reis) stretched across the sea and even into the Atlantic. He caused serious economic and psychological damage throughout the Christian Mediterranean in the 1490s and into the early years of the sixteenth century,

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<sup>22</sup> Theunissen, 375.

and Venice was not spared his wrath.<sup>23</sup> At the same time, the raiding activities of the Hospitaller Knights of St. John, based on the island of Rhodes, were a continuing threat to Muslim pilgrims and merchants and a tremendous irritant to the Ottomans. The failed Ottoman siege of the island in 1480 had not dampened their enthusiasm for raiding, and with Cyprus and numerous Aegean islands still in Venetian hands, it was up to Venice as much as the Ottomans to defend against Hospitaller predation until the Ottomans finally expelled the knights in 1522.<sup>24</sup>

For all these reasons, the matter of piracy, as well as legitimate corsairing, had to be dealt with in greater depth in 1503. As before, the treaty stipulated that when Ottoman and Venetian ships met at sea, they should be friendly and do no harm to one another, but gone now was the vague commitment to punish captured “robber” ships. A strongly worded reciprocal anti-piracy clause took its place that, like the surety clause of 1482, became a fixture in all future agreements in one form or another. It stated that:

Venice shall not equip, give refuge or provisions to other countries' robber (*harami*) barques and galleys when they come to its islands and ports and if their capture is possible, they shall capture and punish them and they shall absolutely prohibit and repudiate [them]; and I also shall not equip, give refuge or provisions to the robber galleys, barques, and caïques that come to my islands and ports and, if their capture is possible, I shall capture and punish them and I absolutely prohibit and repudiate [them].<sup>25</sup>

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<sup>23</sup> See Andrew Hess, “The evolution of the Ottoman seaborne empire in the Age of the Oceanic Discoveries, 1453-1525,” *American Historical Review* (1970), 1892–1919; Palmira Brummett, “Foreign Policy, Naval Strategy, and the Defence of the Ottoman Empire in the Early Sixteenth Century,” *International History Review*, 11 (1989), 613-627.

<sup>24</sup> Nicolas Vatin, *L'Ordre de Saint-Jean-de Jérusalem, l'Empire ottoman et la Méditerranée orientale entre les deux sièges de Rhodes, 1480-1522* (Leeuven, 1994); Palmira Brummett, “The overrated adversary: Rhodes and Ottoman naval power,” *The Historical Journal*, 36 (1993), 517–541.

<sup>25</sup> Theunissen, 381-2.

Thus, both sides undertook to deny shelter and aid to pirates of any nation, essentially adopting the Roman view of pirates as the “common enemy of all.”<sup>26</sup> While this clause was new to the 1503 *ahdname*, its inspiration can probably be traced back to ancient Eastern Mediterranean maritime legal tradition. The “Roman Piracy Law” of 100 BCE, for example, similarly required the Eastern Mediterranean powers who were friends of Rome to deny pirates access to their harbors, prevent them from operating from their territory, and act against them whenever possible.<sup>27</sup> Both the Roman law and the Ottoman-Venetian law framed combatting piracy as a mutual obligation of friends and allies, to be achieved principally by depriving pirates of bases of operation and markets for stolen goods. In both instances, pirates were unequivocally excluded from any legal protections afforded by subjecthood and declared to be thieves punishable by any and all.

As a corollary to this, piracy in the 1482 and 1503 *ahdnames* was explicitly defined as a criminal act. Although there is no question that the *ahdname* clauses were referring to piracy, it is noteworthy that the near-interchangeable Ottoman terms for corsairs and naval irregulars, *korsan* and *levend*, do not appear anywhere in the Ottoman text of either document. In recognition of the fact that few of the “thieves” at issue were likely to be full-time pirates but rather were errant military vessels, the *ahdname* described them instead according to the types of ships they typically employed, with the word *harami*, thief or robber, doing the rest of the work. The Ottoman and Venetian negotiators in 1503 evidently recognized that much of the unlicensed maritime violence of the time came from vessels associated with their respective navies, and this was what

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<sup>26</sup> Cicero, *De officiis*, 3.29.107.

<sup>27</sup> Philip De Souza, *Piracy in the Graeco-Roman World* (Cambridge, 2002), 108-114.

they were most anxious to prevent. This is also clear from the wording of the 1503 treaty's reciprocal surety clause:

When the galleys and *caïques* and other ships go out to sea from those places in my well-protected domains and my admiral is not together with them, the captains of the aforementioned ships shall give strong sureties (*kefil*) that they will not go and do damage to the dominion of Venice; if they go without giving surety, they are criminals and sinners (*mücrim ve günahkar*) and shall be punished; if, after giving surety, they go and do damage, however much damage they do shall be given from their surety. In the same way also, if the captains of the ships that go out to sea from the side of Venice without the Venetian admiral, after giving strong surety, do damage to my well-protected domains, they shall give their sureties for those damages; if they go without surety they are sinners and shall be strongly punished.<sup>28</sup>

The clause singles out galleys and *caïques*, swift ships better suited for combat than commerce, among the vessels whose captains had to provide surety when they went out to sea unaccompanied by their fleet admiral. Captains participating in fleet actions were not required to post bonds, the implication being that they would be controlled by their respective leaders. At this stage in the development of the treaty language, the surety clause does not appear to have applied to private merchant vessels or fishing boats but only to warships (though this would be reinterpreted a century and a half later).<sup>29</sup> The clause thus referred specifically to ships associated with the Ottoman and Venetian navies, including irregulars, that set out to sea independently for the express purpose of predatory raiding. In spite of the criminalization of piracy in the earlier clause, neither the Ottomans nor the Venetians rejected the legitimacy of the practice of raiding enemy shipping and shores, and they did not automatically equate it with piracy. The purpose of taking surety was not to prevent Ottoman corsairs from setting upon legitimate targets—why else would they go to sea?—but simply to discourage any attacks of convenience on

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<sup>28</sup> Theunissen, 384.

<sup>29</sup> See below.

Venetian ships and shores; only failure to give surety, and thus to obtain license from the authorities, made corsair captains into “criminals and sinners” and, by extension, pirates.

The renewals of the *ahdname* in 1513 and 1517 reproduced the two anti-piracy clauses of 1503 almost verbatim.<sup>30</sup> However, in light of growing Ottoman imperial ambitions in the Mediterranean, ultimately expressed through the absorption of the Mamluk Empire in 1517, expansion into North Africa, and open conflict with the Habsburgs, these *ahdnames* included another new addition. Henceforth, all *ahdnames* contained the provision that when the Ottoman imperial navy went on campaign, it would not stop in the places belonging to Venice. In return, Venice’s fleet was expected “to remain silent in its place in friendship and not set sail.”<sup>31</sup> This warning to stay out of the way meant, essentially, that the Venetian peacetime navy was expected to remain sequestered in the Adriatic whenever the Ottoman navy entered the Mediterranean. It also meant that Venice had to cease naval patrols in the furthest parts of the *stato da mar* during Ottoman campaigns, leaving large parts of its maritime empire defenseless when it was most vulnerable.

In the 1517 version of the *ahdname*, this statement directly preceded the clause prohibiting giving aid to pirates. As before, the Ottoman text still spoke only of *harami* galleys, barques, and caiques,<sup>32</sup> but the Italian translation of the 1517 instrument rendered this as the ships of “corsari.”<sup>33</sup> No such word appeared in the Ottoman version, but this would change in the *ahdnames* given by Sultan Süleyman I in 1521 and again in 1540. The expectations regarding piracy had remained similar, if vague, since 1503, but the

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<sup>30</sup> Theunissen, 396-8; 403-5.

<sup>31</sup> Theunissen, 396.

<sup>32</sup> Theunissen, 403.

<sup>33</sup> Theunissen, 408.

brewing imperial contest with Spain for dominance in North Africa and the growing role of corsairs in it on both sides left Venice in an uncomfortable position in the middle and necessitated further expansion and clarification of the treaty language. The Süleymanic *ahdnames* of 1521 and 1540 mark the growing maturity of the format and the crystalization of many of its core elements and their language, which served as the basis for later treaties with Venice and for those concluded with other powers.

### **Expansion: The *Ahdnames* of 1521 and 1540**

The 1521 *ahdname* marked a significant change in the tone and content of the *ahdnames*, reflecting the Ottomans' enhanced confidence as a naval force to be reckoned with and their growing imperial pretensions. As before, Ottoman and Venetian naval and merchant vessels were urged to be friendly when they met upon the high seas and not do each other harm, "but they [the Venetians] must also lower their sails and make known their friendship and obedience when they meet my personal fleet, my galleys, and my others ships sailing at sea, as before in accordance with my imperial decree." This humiliating demonstration of Venetian obeisance and respect before Ottoman naval might, beyond the traditional salute, had previously been decreed by Sultan Süleyman and was now permanently enshrined in the *ahdname* text, but it also had the practical implication of forcing Venetian ships to make themselves vulnerable whenever they encountered Ottoman ships. "And if, after lowering sail and making their friendship known," the text continued, "they are damaged, if a man or possession or goods are

harmed, whatever it may be shall be replaced.”<sup>34</sup> This latter part was then expressed in reverse, committing Venice to provide restitution should any harm come to Ottoman naval vessels or merchant ships, Ottoman subjects, or their possessions at Venetian hands.

Although the new addition emphasized Ottoman dominance through the required sail-lowering, it also formalized the procedures for Ottoman and Venetian maritime encounters, prescribing a submissive display of friendship which, properly and promptly performed, would serve to defuse what was always a potentially dangerous situation. Furthermore, the reciprocal agreement to provide restitution for damages and losses of ships, men, and material was an extremely important development. While the 1521 *ahdname*, like those before and after it, maintained the surety clause essentially intact, this new promise of restitution independent of the captains’ sureties placed the financial responsibility for any damages caused by Ottoman or Venetian subjects squarely on their respective governments. It likewise formalized and codified what had probably already become standard procedure in such instances. This guarantee marked a practical and logical step forward in the development of Ottoman-Venetian relations that would serve as the legal basis for dozens, if not hundreds, of claims for losses presented by both Venice and the Ottoman Empire over the course of the sixteenth and seventeenth centuries.<sup>35</sup> We will return to the question of how such claims were handled in practice later in this chapter.

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<sup>34</sup> Theunissen, 420-1.

<sup>35</sup> Copies of the Ottoman decrees and letters that resulted from Venetian petitions regarding piracy are preserved in both Venetian and Ottoman archival sources, specifically in the Archivio di Stato’s *Bailo a Costantinopoli* (BAC) “Documenti Turchi,” and in the Başbakanlık Osmanlı Arşivi’s *mühimme defterleri* (MD) and *ecnebi defterleri* (ED) fonds. See below.

The reciprocal assurance of financial restitution for losses was followed by several new provisions that expanded and elaborated upon the pre-existing anti-piracy clauses and did away with much of their earlier ambiguity. Immediately after the restitution clause, the 1521 *ahdname* included a strongly worded new provision that marked the first time the Ottoman word *levend* appeared in the *ahdnames* (though *korsan* was still absent) and introduced specific new procedures for Venice to take when combating piracy perpetrated by Ottoman subjects:

If they [the Venetians] should happen across and meet a robber pirate ship (*harami ve levend gemisine*), it is incumbent upon them to attack that robber ship (*harami gemisi*) and by the grace of God almighty they shall be victorious over that robber ship; let them kill however many men they kill at the time of battle, but if they capture and take implicated men alive, they shall never kill them themselves; without fail they shall send them healthy (*sağ ve selim*) to my threshold of felicity (i.e. Istanbul) where I will strongly punish them and have them executed in such a way that they shall be a necessary warning and admonition to others.<sup>36</sup>

This clause unambiguously gave Venetians the right to defend themselves against Ottoman pirate attacks. Indeed, it actually required them to engage and defeat Ottoman pirates whenever they encountered them, though this was a rhetorical twist meant to obscure the fact that Venetian ships were more likely to be accosted by Ottoman-subject pirates than the other way around. Nevertheless, it did implicitly recognize Venice's right to mount galley patrols of her maritime possessions for the express purpose of protecting against and hunting down marauding Ottoman pirates. The use of the word *levend* here in conjunction with *harami* unquestionably denotes Ottoman naval irregulars, volunteer ship

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<sup>36</sup> Theunissen, 422.

captains and corsairs operating off-mission and thus engaged in piracy.<sup>37</sup> The Venetians were allowed to destroy the enemy and kill as many men as required to subdue them, but they were denied the right to punish Ottoman-subject pirates themselves; this responsibility the sultan reserved for himself, promising to make a gruesome example of convicted pirates in the imperial capital.

This strong assurance aside, however, the clause demonstrated a new Ottoman unwillingness to have its subjects, no matter what the crime, tried and punished by a foreign power. In practice, as we shall see, the Ottoman government did at times make serious attempts to find notorious Ottoman pirates and executed no small number. As for those the Venetians captured, however, it proved easier, cheaper, and perhaps more effective to kill them all on the spot, though a number of cases of mistaken identity, in which overzealous Venetian galley commanders cleared the decks of non-piratical Ottoman ships, revealed the dangers of such unofficial policies and resulted in severe diplomatic crises.<sup>38</sup> Regardless, after the 1521 *ahdname*, Venice was permitted to be more proactive in the prosecution of Ottoman piracy, and running battles with errant Ottoman corsairs, no matter who initiated them, were not supposed to be viewed as violations of the peace.

The novel requirement to send Ottoman pirate prisoners safe and sound to Istanbul for punishment established a long-lasting dichotomy in the *ahdnames*' anti-piracy clauses.<sup>39</sup> The article of the 1521 *ahdname* stipulating that neither side would give refuge or support to foreign pirates, which had been a hallmark of these agreements since

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<sup>37</sup> In Ottoman usage, *levend* almost always referred to Ottoman, usually Muslim, pirates/corsairs, unlike *korsan*, which could be used equally for Ottoman and non-Ottoman pirates/corsairs. On the history and usage of the word *levend*, see Mustafa Cezar, *Osmanlı tarihinde levendler* (Istanbul, 1965).

<sup>38</sup> Such as the case of Captain Gabriele Emo in 1584-5, discussed below.

<sup>39</sup> Lasting for about a century and a half, that is. See below.

1503, still contained the requirement that Ottomans and Venetians capture and punish such pirates whenever possible. This meant that while both sides continued to recognize the principle that pirates, as the common enemy of all, could be theoretically tried and punished by anyone, a special exemption had been made for Ottoman-subject pirates—one which was not explicitly mirrored for the Venetians.

Though constructed in almost the exact same form as before, the 1521 anti-piracy clause contained important additions to the wording that were indicative of some of the growing sources of tension for Venetian and Ottoman subjects at sea. Chief among these was the complicity of fortress commanders on the frontier, which worsened with time and ultimately caused numerous diplomatic scandals and severely damaged Ottoman-Venetian relations at several points in the late sixteenth and seventeenth centuries. The 1521 additions to the treaty language are given in bold:

Venice shall not equip, give refuge or provisions to other countries' robber (*harami*) barques and galleys **and other ships** when they come **across** (*tuş geldüğü vakt*) its islands, ports, **and fortresses** and if their capture is possible, they shall capture them and **however many men they capture they shall not give them any opportunity and never treat them with respect or affection** but they shall **strongly** punish **all of** them **immediately** and **if they are unable to capture them** they shall absolutely prohibit and repudiate [them]; and I also shall not equip, give refuge or provisions to the robber galleys, barques, and caiques that come to my islands and ports and, if their capture is possible, **I shall not give them any opportunity** and they shall be **strongly** punished **immediately and if capture is not possible**, I will prohibit and repudiate [them].<sup>40</sup>

The addition of fortresses (*hisarlar*) here was of paramount importance, as their castellans often played a key role in facilitating piracy. Their appearance here anticipated what would become a common complaint among the Venetians, that the Ottoman castellans of fortresses on the Eastern Mediterranean and Aegean islands and along the

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<sup>40</sup> Theunissen, 423-4.

Adriatic-Ionian coasts were doing exactly what the *ahdname* provision forbade. At the same time, the addition of the word “across” expanded the sphere of responsibility for preventing piracy, which no longer applied only to pirates who came to their islands and ports, but also to those passing by them. This clause, now in its mature form, thus laid the legal grounds for later Ottoman complaints about Venice’s failure to stop Maltese and Uskok piracy when it transited Venetian territory. In particular, a Maltese pirate attack on an Ottoman vessel in 1645, followed by the pirate ship’s landing on a deserted stretch of Cretan coast, provided the *casus belli* for the invasion of that island in that year, setting off a 24-year war.<sup>41</sup>

The language also tried to take into account the problem of local sympathies with corsairs and pirates, demanding now not only that neither side abet piracy but that captured raiders be immediately and severely punished and given no opportunity to rally support or chance of escape. The repudiation of piracy expressed in earlier versions was now tied to the failure to capture the pirates; actions, the *ahdname* seemed to suggest, would speak louder than words. There was to be no quarter in the war on piracy.

Yet of all the additions and modifications to the anti-piracy clauses in the 1521 *ahdname*, perhaps the most important was that concerning illegal slave-raiding. Few issues were more contentious and few violations of the treaty more egregious than the enslavement of Venetian subjects in peacetime. Whereas earlier *ahdnames* implicitly prohibited the enslavement of the subjects of the other side through the various do-no-harm clauses and had established procedures for dealing with both sides’ cross-border runaway slaves, there had been no specific mention of slave-raiding by land or sea, nor any indication of what should be done if and when it occurred. The only previous

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<sup>41</sup> See Chapter 1.

guidance had been the restitution clause of 1503, which was wholly inadequate to the task. What was to be done about Venetians taken captive in cross-border raids on the land frontiers, or in pirate attacks on ships and islands? Venice would have justifiably demanded their return, but just as with the issue of Muslim slaves who escaped from Christian lands into Ottoman territory and vice versa, religious conversion made the answer to the question far less straightforward, as did the very basic problem of determining who, in fact, was a Venetian. In a Mediterranean world in which slavery was acceptable, legal, and integral to every level of society, in which the constant import of slaves was necessary for the system to function and the question of who could be enslaved was a matter of subjecthood as much as religious identity, no aspect of the issue could be taken for granted. The *ahdname* of 1503 had ordered the release of all Venetian captives taken during the previous war,<sup>42</sup> but Venetian subjects were still being captured in illegal slaving-raids along the land and sea frontiers of the two polities. As a result, the 1521 *ahdname* not only explicitly forbade the enslavement of Venetian subjects, it also fixed detailed procedures for finding, identifying, and returning wrongfully taken captives:

And further, should the robber ships (*harami kayıkları*) go by sea and others by land and raid the islands belonging to Venice and enslave their people and take them to and sell them in Anatolia and Rumelia (i.e. the European part of the Ottoman Empire), as before, when a slave is found, it will be investigated with attention and care as required; in whoever's possession he is found, he shall be taken from him. Furthermore, if the person who took him turns out to be a *levend* and if that *levend* is captured and if the slave is actually a Venetian, then that *levend* shall be severely punished; and if that slave became a Muslim, he shall be emancipated (*azad olub*) and freed, and if he is still an infidel, he shall be turned over to the Venetians. If [his Venetian identity] is not known from whom he was taken, then that slave himself shall be brought to my exalted court and it shall be investigated with complete care at my threshold of felicity, and if it is revealed

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<sup>42</sup> Theunissen, 378-9.

that he is Venetian and if he has become a Muslim, he shall be emancipated and if he is still an infidel, he shall be turned over to the bailo.<sup>43</sup>

This clause was included unchanged in every subsequent *ahdname* until 1595, when it was expanded and subtly altered for reasons to be discussed below. It served as the model for similar clauses that appeared in every other *ahdname* given to foreign powers for the duration of the regime, including those of Dubrovnik, France, England, and the Netherlands, and it established a lasting Ottoman policy for dealing with the illegal enslavement of treaty-protected subjects.<sup>44</sup> Venetians who were captured in contravention of the treaty were to be found and freed no matter the circumstances, but they would only be returned to Venetian custody if they had not converted to Islam. This was because the Ottoman government would not do anything that might facilitate apostasy—which sending back formerly Christian Venetian subjects to Venetian territory unquestionably would do. Indeed, this became intra-Ottoman policy as well. In cases where *levends* illegally enslaved Ottoman Christian subjects from the Aegean islands, all captives were ordered found and freed but only those who had not converted were returned to their almost exclusively Christian homeland for this express reason.<sup>45</sup> In both instances, converted Muslim slaves were thus formally emancipated (*azad*) and not simply released (*itlak*).

However, the methods for determining Venetian subjecthood on the ground were left deliberately vague. In intra-Ottoman cases, local courts were the primary venues in

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<sup>43</sup> Theunissen, 427-8.

<sup>44</sup> However, the irrevocability of conversion (in this case, among prisoners of war) was eventually successfully challenged by the Russians in the late eighteenth century. 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*, 34:3 (2012), 1-22.

<sup>45</sup> This issue is addressed at length in Chapter 3.

which Ottoman subjecthood had to be proven in order to earn release, and they typically tried to follow standard Islamic legal practice, in particular requiring the testimony of trustworthy witnesses, to do so.<sup>46</sup> But there is no evidence that this was the case for Venetian slaves. While local judges, by virtue of their law enforcement role, might bear some responsibility for identifying Venetian slaves, the process of freeing them and turning them over was otherwise an executive matter that operated outside the regular Ottoman Islamic legal system. Indeed, in cases where Venetian subjecthood was suspected but uncertain, only the sultan's court—the imperial council (*divan-i humayin*)—was competent to adjudicate the issue. This was congruent with policy elsewhere in the *ahdnames*, which held that legal disputes involving treaty-protected foreigners had to be heard by the imperial council.

Later in the sixteenth century, as the number of peacetime raids against Venetian targets spiked, the stipulation that “Venetian-ness” be determined on the spot or investigated in Istanbul was quietly dropped in favor of allowing the Venetians to take a more proactive policy of helping to identify and retrieve their own subjects, but the procedures described in the 1521 *ahdname* for freeing the illegally enslaved were otherwise fixed thereafter. While this clause was not expressed reciprocally, unlike the anti-piracy clauses carried over from earlier treaty issues, it was nevertheless understood to apply in reverse. Ottoman captives taken in peacetime were similarly expected to be found, freed, and returned to Ottoman custody.

This unilateral article included the first mention of amphibious slave-raiding by Ottoman pirates—referred to as *harami kayıkları* and *levend*—anywhere in the *ahdnames*. Although it was hardly a new practice, it was certainly on the rise by this

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<sup>46</sup> See Chapter 3 and 5.

time. Ottoman-aligned corsairs prowled the Mediterranean and carried off thousands into captivity. However, Venetian territory was not the primary target of this activity, which was otherwise condoned by the Ottoman government.<sup>47</sup> Thus attacks on Venetian insular possessions were, just as in the preceding clauses, framed as criminal acts. Nevertheless, the culprits were still assumed to be primarily Ottoman naval units and Ottoman-sponsored corsairs gone astray, accounting for the language about establishing whether the attacker was indeed a *levend* and the victim indeed a Venetian before prescribing extraordinary punishment. The term *levend* had not fully acquired the more pejorative overtones that it would possess later in the century and did not on its own suggest disobedience.<sup>48</sup> The treaty authors could not have anticipated how political, military, and economic developments would reshape the maritime landscape later in the century, when the frequency of amphibious raids in the Eastern Mediterranean increased even as their scale shrank and the types of actors responsible for such attacks and the bases from which they operated multiplied.

Another Ottoman-Venetian war resulted in the second and final *ahdname* of Sultan Süleyman's reign. Based largely on the 1521 instrument, the anti-piracy clauses were reproduced largely intact from the earlier document. However, the decisive Ottoman victory over allied Christian naval forces at the Battle of Preveza in 1538 and in the 1537-1540 conflict as a whole consolidated the Empire's control over the Morea and the Aegean, leaving only Tinos in Venetian hands, and the new *ahdname* hardened the boundaries between the two states and enacted new limitations on Venetians' freedom of movement in the Ottoman Empire. Every earlier *ahdname* had explicitly given the

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<sup>47</sup> See Chapter 1.

<sup>48</sup> See Cezar, *passim*.

Venetians the right to visit and trade unimpeded in Ottoman domains and come and go as they pleased.<sup>49</sup> This changed for good in 1540.

Venetian merchants traveling by land and Venetian ships were now admonished not to enter “heedlessly” into the straits of Lepanto and Preveza, the port of Modon in the Morea, the “straits above Gallipoli” (i.e., the Dardenelles), Istanbul, Galata, or Alexandria without first notifying the local fortress commanders and obtaining their leave to enter or pass. Exceptions were made in the event of contrary winds or storms, or if “*harami* and *levend* galliots were pursuing them” and there was no other safe harbor to put into, in which cases they were permitted to seek shelter and enter unannounced. Even in such instances, however, the *ahdname* text suggested that if it were possible, Venetians should attempt to provide some warning of their imminent arrival to the castellans. No harm was to come to Venetian ships that entered Ottoman ports in emergencies, but neither could they depart after the danger had passed without first obtaining the necessary approval of the fortress commander.<sup>50</sup>

This distinctly unwelcoming language certainly did not mean that the Ottomans were trying to discourage Venetian trade, but it did imply that, with Ottoman hegemony in the Aegean and the Morea complete, they were inclined to and capable of regulating contact far more closely than they had previously. It also suggests an Ottoman desire to avoid creating situations where violations of the treaty were likely to occur. A cursory look at later Ottoman and Venetian records, for example, uncovers numerous instances of

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<sup>49</sup> In the 1521 version of the *ahdname*, it said: “They shall come and go whenever they wish by land and sea with galleys and *kökes* (i.e. cogs, single-masted, square-rigged ships with a high freeboard) and other small ships to my well-protected domains, to Istanbul, Galata, Trabzon, Kefe, Egyptian Alexandria, and other ports in Arabia, and to all the places that are connected with my well-protected domains,” Theunissen, 419-20.

<sup>50</sup> Theunissen, 454-5.

Venetian merchant vessels that were blown into Ottoman Adriatic ports by storms or had fled pirates only to have the goods confiscated, the ship impounded, and the passengers and crew sold into slavery.<sup>51</sup> This was not necessarily the norm—after all, the records typically only preserve cases of things going wrong, not the many instances where Ottoman port authorities assisted endangered Venetians and upheld their treaty obligations—but it was enough of a concern to be worth trying to prevent altogether.

Merchant traffic in and out of Venice, so vital to its survival, had to pass through a long Ottoman gauntlet above and below the narrow entrance to the Adriatic, with no friendly port until Venetian-held Corfu (the conquest of which had been the initial objective of the late conflict). Ottoman Adriatic ports like Nova (Castelnuovo, present-day Herceg Novi), Draç (Durazzo, present-day Durrës), and Avlonya (Valona, present-day Vlorë) based numerous, poorly supervised naval irregulars right in Venice's maritime backyard and posed a constant threat to the shipping of Venice and others making use of the Venetian transit ports to the north. This threat increased immensely in the decades following the definitive end of the Ottoman-Habsburg-Venetian galley wars in the mid-1570s, but it was already severe enough by 1540 that the *ahdname* had to include a clause promising that “the ships that sail in the straits above Corfu, whether they be Venetian or others coming and arriving in Venice for trade shall not be prevented or harmed.”<sup>52</sup>

This was a hollow assurance. Pirates based out of the Ottoman ports north of Corfu and to the south on Lefkada (Ayamavra or Santa Maura), the only Ionian island held by the Ottomans, attacked the shipping of Venetians and others passing through the straits with regularity and, by the 1580s, were joined by pirates from England and North

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<sup>51</sup> For example, BAC 251/4, 86 (CA/1033), 251/7, 8-9 (B/1039)—both at Draç.

<sup>52</sup> Theunissen, 445.

Africa, with whom they sometimes operated in concert.<sup>53</sup> The Venetian *ahdname* was thus frequently violated here, as it was elsewhere in the eastern half of the Mediterranean. We turn now to the question of how Ottomans and Venetians actually put its anti-piracy articles, especially those concerning restitution for the acts of piracy the Ottomans failed to prevent, into practice.

### **What Difference Does a War Make? Piracy and Law Before and After Cyprus**

The 1540 *ahdname* remained in force for 27 years, and it defined Ottoman-Venetian relations for far longer. It was confirmed and renewed without amendment in 1567 upon the accession of Sultan Selim II, suspended during the 1570-1573 war, and then renewed again.<sup>54</sup> The 1575 *ahdname*, given by Sultan Murad III, again quoted the entirety of the 1540 text, tacking on only one new article at the end. There would be no substantial changes made to the structure or content of the treaties until 1595. In the intervening 55 years, however, the maritime situation did change. There was no lack of piratical activity during the 1550s and 1560s, as the Ottoman fleets embarked on far-flung slave-raiding tours of enemy Christian coasts, conquered Tripoli in 1551, and unsuccessfully besieged Malta in 1565. However, in this period, attacks on Venetian ships and possessions were largely collateral damage, an unfortunate but predictable consequence of the chaos that accompanied large fleet movements and the irregulars who joined them. Ottoman naval commanders were thus ordered to keep their men in line, and

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<sup>53</sup> See below.

<sup>54</sup> The 1573 *ahdname* renewed without relisting the provisions current before the war. The Ottomans dictated the terms of the agreement to the Venetians, who then had to present them to the Porte as their own. Theunissen, 210-1.

whenever Venetian ships and men were taken, as they were in one incident near Alexandria in 1558, to promptly return them and punish those responsible.<sup>55</sup>

As a result, the Ottoman government began the regular practice, at the bailo's request, of dispatching orders at the start of each sea season to the imperial admiral and to the commanders of the squadrons and North African naval regiments that joined the main body of the fleet on campaign. On April 2, 1560, for example, the Porte sent orders to the kapudan pasha (the imperial admiral) and the *beys* of Rhodes and Lesbos (Midillü) urging them to ensure that the ships under their command, when they set off with the imperial fleet, not interfere with Venetian vessels or harm the merchants they carried, and not do any damage to Venetian coasts, islands, or subjects, or do anything else “in contravention of the imperial *ahdname*.”<sup>56</sup>

Yet it was the local galley squadrons and naval irregulars based on strategic islands and coasts in the Aegean and along the Adriatic and Ionian Seas, not the imperial fleet, that were increasingly the source of friction with the Venetians. So long as they were occupied with missions from the imperial center or sailing with the combined navy, major incidents were comparatively infrequent, and when they did occur—in contrast with later years—the Ottoman government often knew the names and identities of the culprits, precisely because they were ship captains who drew state salaries.

Thus, on May 20, 1560, less than two months after dispatching orders to leave the Venetians in peace, the sultan sent a decree concerning the predations of two salaried *levend* captains based out of Ayamavra (Lefkada) fortress, Divane Nasuh Ali and Memi, who had seized a small Venetian ship, killed its captain, and sailed off with the cargo and

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<sup>55</sup> MD 2: 1929/213 (15/R/964).

<sup>56</sup> MD 4: 459/43 (6/B/967).

crew. The goods were ordered returned, the captives found and freed, and the *levend* captains punished.<sup>57</sup> As the same sea season drew to a close that fall, the Porte issued orders concerning an attack on Venetian Crete, in which the *levend* captains Karaca Ali and Divane Yusuf raided a village with their three galliots and made off with two hundred captives. Afterward, they sailed to Lesbos, where they were likely stationed, and tried to sell their catch to the *bey*, who was now ordered to turn over those captives who were verifiably Venetian to the bailo.<sup>58</sup>

These two incidents reflect several common features of anti-Venetian Ottoman piracy in the period and the Ottoman center's response to it. Encompassing both ship-on-ship and amphibious slave-raids, in both instances, the central government was aware of the names of the accused captains before it dispatched its orders and, in the latter case, seemed to have already corralled the slaves in anticipation of their return. Both decrees were instigated by Venetian petitions to the Porte, a pattern that would be repeated in nearly every such case, and in the latter instance, the Porte was explicitly abiding by the language of the 1540 *ahdname* that called for an investigation to determine Venetian subjecthood before turning over the captives to the bailo. In other words, anti-Venetian Ottoman piracy was still largely a problem of ship captains on the state payrolls freelancing before or after fleet maneuvers, and the Ottoman central government was capable of identifying the culprits and still, in this period, of meting out punishment.

In the aftermath of the 1570-1573 war with Venice over Cyprus, however, this changed. The previous chapter covered the chronology of the period in depth and the next chapter will discuss the ramifications of the role of the local *levends* in that conflict and

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<sup>57</sup> MD 4: 750/74 (24/S/967).

<sup>58</sup> MD 4: 1593/153 (23/S/968).

its aftermath in greater detail, so here it will suffice to say that the *levends* were crucial to the war effort, especially for intelligence gathering and local defense. In the aftermath of the defeat at Lepanto on October 7, 1571, the reliance on their services increased. Two months after the destruction of the Ottoman navy there, the Ottomans were actively encouraging the construction of privateering vessels on the coasts near Lepanto (Inebahti) and granted authorizations (*icazet*) to those who desired to go raiding. At the same time, Venetian ships raided up and down the Ottoman Adriatic littoral.<sup>59</sup> Amnesties were offered to fugitive Ottoman pirates if they would turn their attentions to the fight against Venice.<sup>60</sup> Thus, the combined threat of Venice and her allies staging attacks on remote Ottoman territorial possessions while the imperial arsenal worked furiously to rebuild the shattered fleet led to a proliferation of independent operators in the Adriatic and beyond. The main problem was that when the war stopped, they did not.

However, piracy was not a one-sided problem before the war for Cyprus. Although the Venetian government strove mightily to avoid provoking the Ottomans, Venetian subjects were occasionally implicated in pirate attacks and, more seriously, Venetian provincial officials were frequently accused of turning a blind eye to, if not actively facilitating piracy. This was also the case on Cyprus. Although Sultan Selim II coveted Cyprus even before he renewed the Venetian *ahdname* in 1567 and sought religious justification for breaking the pact from his chief jurist, the *şeyhülislam* Ebu Su'ud, Catholic piracy provided an official, secular *casus belli*. The Knights of St. John, now of Malta, stopped often in Cyprus on their cruises into the Eastern Mediterranean. The Venetians' failure to deny the Maltese and others access to Cypriot ports and

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<sup>59</sup> MD 9: 392/ 254 (18/B/979).

<sup>60</sup> Sophia Laiou, "The Levends of the Sea in the Second Half of the 16th Century: Some Considerations," *Archivum Ottomanicum*, 23 (2005/6), 241.

provisions, indeed their failure to capture and punish passing “robber ships” whenever possible, was a clear breach of the *ahdname*’s anti-piracy provisions, similar violations by Ottoman fortress commanders notwithstanding. A particularly egregious case in 1570 provided a convenient pretext for the desired invasion of the island. Ottoman conquest would, it was hoped, prevent Cyprus from serving as a way-station for the Christian corsairs preying on pilgrimage traffic in the Eastern Mediterranean once and for all.<sup>61</sup>

When the Venetians finally decided to cut their losses and sue for peace in 1573, the *ahdname* of 1567 was reaffirmed. Unlike those before and after it, the 1573 instrument did not bother to recapitulate the entirety of the 1540 text; after fixing war indemnities and confirming the Ottoman annexation of Cyprus, it simply “renewed” the earlier version.<sup>62</sup> Nevertheless, frontier leaders and *levend* found it difficult to adjust to the strictures imposed on them from above after enjoying a number of years of relative freedom. Whether for ideological or financial reasons, some were disinclined to accept the return to the old status quo and discontinue raiding their erstwhile enemy.<sup>63</sup> Thus, despite the official reestablishment of peace, tensions remained high along the shared Ottoman-Venetian maritime frontier.

Of course, the Venetians in the Adriatic were far from defenseless. The Serenissima mounted patrols of its territory to protect against pirate raids. In the spring of 1574, for example, a *levend* galliot intent on raiding islands subject to Venice encountered a Venetian galley patrol. The galliot fled in face of this superior force and made for land, coming ashore near Draç, at which point its crew ran away. The Venetians

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<sup>61</sup> Svatopluk Soucek, “Navals aspects of the Ottoman conquests of Rhodes, Cyprus and Crete,” *Studia Islamica*, 98/99 (2004), 219-61. For Ebu Su’ud’s *fetva* in support of the invasion, see Imber, “Ebu Su’ud,” 84-5.

<sup>62</sup> Theunissen, 493-5.

<sup>63</sup> Faroqhi suggests this as an explanation for their disobedience, “The Venetian Presence,” 383.

succeeded in capturing two of the *levends* and promptly turned them over to the men of the local Ottoman government, scrupulously following the protocol prescribed in the *ahdname* that required them to leave the punishment of Ottoman pirates to the sultan. In response, the Ottoman administration ordered the castellan, the head of the guard, and the *kadi* in Draç to interrogate the men and find out who their comrades were, and then round them all up and send them to Istanbul for punishment. It reminded the recipients that “the pact (*ahd*) was renewed and peace restored,” that *levends* no longer had permission to raid the Venetians, and that earlier orders to that effect should be respected. The decree concluded with warnings, doubtless unheeded, not to provide grain to *levends* and to prevent them from equipping their ships.<sup>64</sup>

But too spirited a defense could lead to local conflict and a pattern of raids and reprisals that the distant governments of both sides were powerless to prevent. In a decree dated May 25, 1574, issued thirteen days after the aforementioned one, it was revealed that the doge had sent a letter to the Porte informing it that a Venetian galley captain had, in violation of the *ahdname*, taken a number of captives from the shore below Draç castle. Perhaps this was the same Venetian galley that had successfully chased down the *levend* galliot before, venting its frustration on the *levends*' home base, or, given the lag-times in communication, the incident may very well have preceded the failed attack described above. The doge reported that the galley captain had been punished for his violation and the Ottoman captives had been freed. As the Ottoman central administration had clearly been unaware of this incident before, it now ordered the Elbasan *sancakbey*

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<sup>64</sup> MD 24: 596/ 224 (20/M/982).

(district governor) to investigate when the captives had initially been taken, confirm that they had in fact been released, and find out where they had gone.<sup>65</sup>

The fact that the doge sent a letter directly to the sultan, rather than going through the normal channels and communicating through the Venetian bailo in Istanbul, indicates the care with which Venice was trying to adhere to the *ahdname*'s requirements as both sides gradually readjusted to peace. Both the sultan and the doge were by now anxious to avoid any violent flare-ups on the frontier. Cognizant of the likelihood of reprisals, the sultan closed his decree with another reminder that the *levends* were forbidden to attack the Venetians.<sup>66</sup>

However, Ottoman prescience had not been accompanied by any credible threat of force. Later that summer, *levends* from Draç captured a Venetian galley in violation of the recent Ottoman orders and the *ahdname*. Once again, the government turned to the Elbasan *sancakbey* and ordered him to recover the galley and, in accordance with the request of the Doge—who in light of the continuing sensitivities, was conducting diplomacy at the highest levels—see to it that the ship was brought back to Venice. The blame was laid firmly at the feet of the leaders on the border, that is, the local officials in Draç who had received the initial decree several months previously, along with others who had a stake in the *levends*' projects or did nothing to stop them. Evidently these men had taken it upon themselves to avenge the earlier Venetian galley's intrusion, and the situation had escalated. This time it was left to the Elbasan *sancakbey* to make clear to the officials in his district that violations of the peace with the Venetians would not be tolerated, perhaps in recognition of the fact that an order coming from him, the leading

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<sup>65</sup> MD 24: 745/ 278 (3/S/982).

<sup>66</sup> Ibid. The preceding decree had also expressed Ottoman desires to keep the border quiet.

authority on the ground, would be taken more seriously than those coming from distant Istanbul. It was further decreed that captains should no longer be allowed to equip galliots for raids against the Venetians and that those who did not obey would be arrested and sent chained together to Istanbul for punishment while their *levend* crews would be put to the oar.<sup>67</sup> The threat of condemnation to the galleys was a new innovation, a quality deterrent that simultaneously promised to help relieve the chronic shortage of oarsmen that the Ottoman navy had suffered since the defeat at Lepanto.

The piracy epidemic of 1574 was not limited to the Adriatic, nor were the damages restricted to the subjects of Venice.<sup>68</sup> The Ottoman government did not need to be petitioned by the Venetian bailo to recognize that the maritime situation remained unacceptably unstable. On July 7, 1574, the Porte dispatched a decree to Alaüddin Bey, *sancakbey* of Üsküp (present-day Skopje) and commander of the Ottoman forces responsible for the defense of the Lepanto-side of the Morea, that neatly summed up the problem:

When the *kadis* and *beys* on the Mediterranean coasts were ordered not to give provisions to the robber *levend* frigates (*harami firkate levendlerine*) and to capture them when they came ashore, the aforementioned continued in corruption again, continually raiding [our] tax-paying subjects (*haracgüzar*) and the subjects of the islands belonging to Venice and sacking merchant ships. Since it has been learned that they captured a Venetian oil ship and brought it to Preveza and the *beys* and *kadis* and castellans and irregular commanders took shares in the despoliation and that many provincial soldiers have been guiding [them] and receiving stolen goods, when these come ashore for water and grain, they are to be captured, the captains are to be punished and their men clapped in chains.<sup>69</sup>

In response, Alaüddin Bey was to ensure that the fortress commanders and their men no longer provision the pirates or purchase stolen cargoes, and he was ordered to

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<sup>67</sup> MD 26: 400/152 (22/R/982).

<sup>68</sup> See Chapter 3 for a discussion of the phenomenon of Ottoman on Ottoman piracy.

<sup>69</sup> MD 26: 180/68 (17/RA/982).

record the names of all those who did not obey. Since Istanbul had received intelligence that the levends who captured the Venetian ship were somewhere in the vicinity of Preveza, Lepanto, and Ayamavra, he was ordered to find and capture them and make sure that the complicit local officials also got the message that the sultan was not pleased. The decree, more concerned with the insubordination of the Ottoman frontier government and its soldiery than the actual piracy, nevertheless mirrored the form and tone of orders sent out at the request of the Venetian bailo in response to similar incidents, and it anticipated the problems the center would have with the periphery regarding piracy for the next century. As the capacity of the Ottoman navy declined and attentions turned to successive land wars after 1578, enforcement of such decrees—especially along the Adriatic-Ionian frontier and in North Africa—became increasingly difficult, but the Ottomans and Venetians continued to cooperate to effect the return of cargo and captives when possible and to provide restitution when it was not.

In the mid-1570s, however, piracy and border raiding were an additional complication to a still lingering issue from the war. During the conquest of Cyprus, the Ottomans had taken a large number of high-value Venetian prisoners-of-war and enslaved an enormous part of the island's population. Unlike in 1503, the Ottomans had no intention of unilaterally freeing any of these captives. The Cypriots taken during the war would remain slaves, but what of the "Venetian" Venetians? Shortly after the end of hostilities, the Porte and the Serenissima began arranging prisoner swaps, a process which continued for several years. However, many Venetian nobles were in private hands, and their owners expected ransoms, as did those Venetians holding Ottoman prisoners. Given that mutual enslavement was prohibited in the *ahdnames*, and that

captives taken by pirates after the war ended were being returned as a matter of course, it was determined that clarification of the rules was necessary.

Thus, the only new article in the *ahdname* of 1575, issued upon the accession of Sultan Murad III, stated that “on the matter of captives taken in contravention of the treaty before and after the hostilities, it shall be carried out in accordance with the conditions expressed in the treaties, but on the matter of captives taken from the two sides during the hostilities, that article is not in force; slave owners are free to choose if they wish to release them in exchange for ransom or if they want they can use them and no one may prevent or prohibit it.”<sup>70</sup> This could have been a point of contention after the end of the last war in 1540, but it was not dealt with then. Whereas its inclusion this time might have been due in part to the greater number of captives taken and the question of whether an order to release all Venetian prisoners would have extended to their former subjects in Cyprus, it was the illegal enslavement of Venetians that had begun before 1570 and persisted after 1573 that made it absolutely necessary to draw a line. Nevertheless, it was no simple matter to differentiate between legally and illegally enslaved Venetians so soon after the war.

The investigations prescribed in the *ahdnames* since 1540 took on added meaning after 1573, since Ottoman officials would have to determine not only whether contested captives were Venetian, but when they had been taken. Only in 1595, when 22 years had passed since the end of the war, was the clause and the investigation requirement officially dropped, though it fell into desuetude earlier. In the meantime, the Ottoman and Venetian governments stuck to the pattern when pirates struck: the Venetian bailo would submit a petition describing the incident and requesting the return of plundered goods and

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<sup>70</sup> Theunissen, 529.

captives and the punishment of the culprits. The Porte would duly order that the *ahdname* be respected, the goods returned, the captives found, the culprits punished, and that such acts be prevented in the future.

In 1578, for example, the bailo submitted a petition to the divan revealing that two *levend* galliots equipped at Angilikasrı and based at Ayamavra had captured some of the small boats plying the waters around the Venetian islands of Kefalonya and Zaklise and taken prisoners; now six of the Venetian captives were being employed as galley slaves in Lepanto. The Venetian petition resulted in two decrees: one to the *bey* of Karlieli (Agrinio) prohibiting *levend* attacks on Venetian subjects, and the other to the *bey* of Inebahtı (Lepanto) ordering him to investigate and free the six unfortunate oarsmen if they were truly Venetian subjects.<sup>71</sup>

Even as the Ottomans were increasingly ineffective at restraining their frontier naval forces as required in the *ahdnames*, Venetian attacks on Ottoman subjects and ships that were perceived to be unprovoked drew a sharp reaction from Istanbul and unsubtle threats of harsh reprisals. After Venetian ships landed on the coastline of Herzegovina in 1583 and disembarked soldiers who pillaged and made off with captives, the Porte sent along a list of the names of the abducted and demanded that Venice return them and their possessions to their homes and punish those responsible. Such incidents, the letter noted, would lead to a breach in the *ahdname* and retaliation.<sup>72</sup> In another well-known case, the high-ranking Venetian galley captain Gabriele Emo captured an Ottoman galley carrying Ramazanpaşazade Memi Bey, young son of the deceased governor of Algiers, and his mother, near Kefalonya in 1584, having supposedly mistaken it for a pirate ship. These

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<sup>71</sup> MD 31: 549-550/261, respectively, (16/RA/986).

<sup>72</sup> MD 48: 638/229 (9/Z/990).

two and many other passengers were slaughtered, and the ship was towed away as a prize. The incident provoked outrage in Istanbul and increasingly strident demands for retribution that came to personally involve the highest levels of the administration. It took the return of the ship and its contents and, more importantly, the execution of the Venetian captain in 1585, to resolve the issue.<sup>73</sup>

The predations of the Uskoks corsairs also frequently excited Ottoman passions. Because the Uskoks had to cross Venetian territory to raid the Ottomans, and because the Venetians claimed sovereignty in their “gulf,” the Ottomans held them responsible for coastal security and accused them of complicity if they failed to prevent attacks.<sup>74</sup> Indeed, in the 1590s the Ottomans interpreted the *ahdname* provisions regarding restitution to mean that the Venetians were financially responsible for damages caused by the Uskoks and supported Ottoman merchants’ claims against the bailo.<sup>75</sup> This changed by 1605, however, when the Ottoman government decided that only the Habsburg government should be held responsible for their attacks, not Venice.<sup>76</sup>

### **The *Ahdnames* Come of Age: Making, Breaking, and Building upon the 1595 Instrument**

Throughout the 1580s and 1590s, the overwhelming majority of piratical incidents that generated diplomatic activity between the Ottoman Empire and Venice

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<sup>73</sup> The affair is the subject of Antonio Fabris, “Un caso di pirateria veneziana: la cattura della galea del bey di Gerba (21 ottobre 1584),” *Quaderni di Studi Arabi*, 8 (1990), 91-112. Decrees concerning the final resolution of the story—the handing over of the captured galley at Preveza and the return of the remaining captives and goods—are found in MD 58: 14/ 3 (R/993), 20/ 5 (R/993), 33/11 (8/R/993), 49/16 (8/R/993), 50/16 (8/R/993), 273/ 97 (17/CA/993), and 314/116 (17/CA/993). The sheer number of decrees preserved in the registers gives some indication of how seriously the Ottomans took the matter.

<sup>74</sup> For example, MD 48: 646/232 (18/Z/990). See also Bostan, *Adriyatik'te Korsanlık*, 97-112.

<sup>75</sup> ASV BAC 250/1, 50-1.

<sup>76</sup> BAC 250/2, 22-3.

originated in and around the Adriatic and the Morea. Although North Africa-based pirates (including English pirates) were undoubtedly responsible for many of the attacks on Venetians there and elsewhere, they were directly implicated in only a few of those dealt with directly by the Porte before the turn of the century.<sup>77</sup> This was not the case, however, for *ahdname*-protected France and England. France received a set of privileges in 1536 and its first official *ahdname* in 1569, modeled after the relevant parts of the Venetian texts, including the same mutual protections against piracy and enslavement.<sup>78</sup> England received its own, similar *ahdname* in 1580.<sup>79</sup> Nevertheless, beginning shortly after the Ottoman reconquest of Tunis in 1574 and the end of major naval operations in the Eastern Mediterranean, North African piracy increased, aided by sharply decreased interest from the Ottoman center in North African affairs. France was supposedly protected under its *ahdname* from such attacks, and so when several French ships were captured by pirates based out of Tunis and Tripoli in 1576, it complained to the Porte, which decreed that French captives should be freed and the treaty with France respected.<sup>80</sup> Similar orders were sent again to Algiers in July of 1580,<sup>81</sup> April of 1582,<sup>82</sup> March of 1586,<sup>83</sup> and June of 1591.<sup>84</sup>

Nevertheless, the Porte was mostly limited to intervening in cases involving the capture of important personages, whose release from North Africa it could demand by name. The Ottoman government did on occasion send out proactive decrees, such as one

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<sup>77</sup> One of the first major incidents, involving a pirate captain based out of Algiers named Murad in 1591, is described in BAC 250/1, 98 (L/999).

<sup>78</sup> De Groot, "Historical Development," 596-7.

<sup>79</sup> It stated that, "Turkish ships meeting Englishmen are to treat them as they have orders to treat the French and the Venetians." *CSP*, vol. 8, 51.

<sup>80</sup> MD 28: 663/270.

<sup>81</sup> MD 43: 214/117-9 (27/CA/988).

<sup>82</sup> MD 47: 105/41 (7/RA/990)

<sup>83</sup> MD 62: 43/14 (14/RA/994).

<sup>84</sup> MD 67: 218/84, 362/137 (7/N/999).

in February 1588 that was dispatched to Algiers, Tunis, and Tripoli and declared that it was forbidden to attack the ships of Venice, England, France, and Dubrovnik or enslave their subjects. In fact, it ordered the recipients to **protect** the merchants of these powers, in accordance with their *ahdnames*.<sup>85</sup> It is not clear, however, that such orders—meant to expand and shore up the authority of the *ahdnames* between re-issues—had much effect. Direct representation, however, could help with both raid and trade. The English sought and obtained the right to open consulates in the North African ports in their 1580 *ahdname*,<sup>86</sup> and the French, not to be left out, acquired the same right the following year.<sup>87</sup>

Thus, even though Venice was perhaps not yet the favorite target of the North African pirates—and Venice never sent consuls to Algiers or Tunis—the rise in North African piracy impacted the content of the Venetian *ahdname*, as well as those of the other treaty-protected powers, when they were renewed by the new Sultan Mehmed III in 1595. This was because the *ahdname* regime already operated essentially on the most-favored nation principle, such that the privileges acquired by one power were usually given to all the others (the principle became official policy by the nineteenth century).<sup>88</sup> The 1595 Venetian *ahdname* marked a new step in the development of the form, abandoning the practice of quoting the 1540 *ahdname* in favor of a fresh text, though one that still preserved much of the wording and content of the earlier treaties. The essence of the anti-piracy clauses that had matured in the 1540 version was carried over without meaningful change, but the sections regarding illegal enslavement underwent several

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<sup>85</sup> MD 62: 428/190 (11/RA/996).

<sup>86</sup> *CSP*, vol. 8, 51.

<sup>87</sup> De Groot, “Historical Development,” 597.

<sup>88</sup> On which, see van den Boogert, *Capitulations and the Ottoman Legal System*.

critical changes. The new clause simplified and consolidated the earlier, separate provisions that touched on slavery and expanded their coverage:

If the *levend* galliots of the Magreb (i.e. North Africa) and the *korsan* caiques of other places go by sea, or if other thieves go by land, and raid the islands and other places subject to Venice and capture their people and take them and sell them in Rumelia or Anatolia or in the Maghreb or in other places, or if they use them themselves; that sort of slave, in whoever's possession he is found, shall be taken from them without delay and be turned over to the Venetian Senate's (*Venedik beylerinin*) bailos or their deputies or their agents and those robber *levend* shall be captured and strongly punished and if that slave became Muslim he shall be emancipated and freed.<sup>89</sup>

This new version integrated the earlier provisions, and it now specifically recognized the North African port cities as one of the chief sources of illegal piracy. It also marked the first time that the word “*korsan*” appeared in the *ahdnames*, reflecting the complicated relationship the Ottoman center had with its nominal North African provinces and Adriatic-Ionian periphery, as well as the proliferation of third-party piracy, especially that of the English. The treaty now recognized that the *levend/korsan* of North Africa and elsewhere could be corsairs, insofar as they were openly supported by their local governments, and still be pirates by the standards of the respective imperial centers. In this respect, the Ottomans had finally caught up with the Venetians, who had been translating the earlier Turkish “*levend ve harami kayıkları*” as “*leventi & corsari*” for decades.<sup>90</sup>

Whereas in 1521, the language of the original anti-slave-raiding clause had reflected Venice's previous status as the holder of far more of the Aegean's real estate and identified the primary raiders as errant irregulars from the fleet, the new version

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<sup>89</sup> Theunissen, 569-70.

<sup>90</sup> By 1575, this rendering of the Ottoman Turkish had become standard. The relevant portions of the original Italian version of this treaty are in Theunissen, 533-4.

mentioned “other places” beyond just islands. This meaning had long been assumed but was now made explicit. Likewise, the clause now mentioned North Africa along with Anatolia and Rumelia and, again, “other places,” among the places that Venetians might be sold, making clear that there were absolutely no exceptions to the rule that they must be found and freed. It also added the possibility that the pirates might keep the captives for themselves, whether for use as oarsmen, personal slaves, or for ransom. Slaves held in such circumstances had previously been ordered freed under the *ahdname* regulations, but the new language closed the loop-holes and removed any doubt as to the clause’s intent. More importantly, the procedures for returning Venetian captives were clarified and simplified. Gone was the tortured language about investigations to verify Venetian subjecthood. Rather, slaves would be located wherever they were held, released, and turned over to the relevant Venetian authorities or those deputized to receive them as soon as possible, unless they had converted. The word order regarding conversion was itself reversed, so there was no longer the implication that this was the most likely outcome of illegal capture. All of this was followed by a further provision stating that, if Venetians enslaved in contravention of the treaty were to escape, it would not be viewed as a breach of the peace.

Decades of amphibious raids, disorder on the frontiers, and the rising threat from North Africa demanded revision of the language and expansion of the content, but as with every previous iteration of the *ahdname*, the changes were the result of actual experience and negotiation, not theory. The Venetians themselves were the party most competent to identify Venetian slaves, not the Porte, and it made no sense to send captives liberated from, for example, the Morea to Istanbul for careful examination

before turning them over to the bailo when they could simply be sent home on ships sent for them. The experience of resolving dozens of such cases determined the next step in the evolution of the treaty language, while the sultanic decrees sent out over the years in response to them comprised the legal basis for the changes.

The “case-law” precedent origins of the new form of the law were in fact spelled out in the treaty itself. The 1595 *ahdname* specifically incorporated the body of earlier sultanic decrees on the subject, declaring that since imperial decrees had previously been given concerning the punishment of those who violated the peace by enslaving Venetians and stating that there was no excuse for such acts, “it shall be dealt with as it was by the understanding of those imperial decrees.”<sup>91</sup> Sultanic, not Islamic, law was the legal glue of the *ahdnames*.

The *ahdname* with Venice was renewed again in 1604, 1619, 1625, and 1641 with little more than the names and dates changed from the 1595 version.<sup>92</sup> The treaty text concerning piracy and slavery was, by 1595, as comprehensive as could be hoped for, and further additions within the treaty would only muddy the waters.<sup>93</sup> After 1595, changes to and new interpretations of Ottoman-Venetian anti-piracy policy, beyond the case-specific orders, were elaborated through special unilateral sultanic decrees (*nişan*). These were typically issued at the request of the bailo in Istanbul and were likely the product of some prior negotiation. Before 1595, they recalibrated procedures between treaty issues; after 1595, they obviated the need to alter the treaty text itself. Indeed, in August 1595, several months before the new *ahdname* was granted, a spate of pirate

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<sup>91</sup> Theunissen, 570.

<sup>92</sup> The Ottoman Turkish texts of these *ahdnames* are found in Theunissen, 579-91, 592-615, 616-25, and 626-36, respectively.

<sup>93</sup> Indeed, the anti-piracy law was updated and simplified in 1670, but the 1595 version was still the platform on which this and every other power’s *ahdnames* was founded. See below.

attacks in the Morea spurred the bailo to request action and so, in addition to a series of case-specific orders sent to the Morea, the Porte disseminated a *nişan* across the Empire that firmly established the new policy that Venetian slaves must be freed wherever they were and those who had not converted should be turned over to the nearest appropriate representatives of Venice.<sup>94</sup> This *nişan* and the others that preceded it were, as we have seen, then specifically referenced as a binding source of law in the 1595 *ahdname* itself.

Thus, in March of 1605, four months after the *ahdname* was next renewed, Sultan Ahmed I dispatched a wide-ranging anti-piracy *nişan* that responded to some of the present issues with specificity in areas where the treaty itself did so only generally. Produced in response to a petition from the bailo, the decree opened by noting that both Muslim *levends* and enemy infidel pirates (*harbi küffar taifesinin korsan gemileri*) had been staging attacks at sea and in the ports on Venetian merchant ships sailing for the Ottoman Empire. The sultan confirmed that the Ottoman Empire was financially responsible for Venetian losses in the areas under Ottoman jurisdiction, whether they were caused by (Ottoman) Muslim or foreign Christian pirates. Ottoman authorities were responsible for locating and returning stolen goods, and if Ottoman subjects bought anything from the “corsair outlaws” (*korsan eşkiyasından*), the goods or slaves would be taken from them regardless of whether or not they claimed to have paid for them “with our own money.”<sup>95</sup>

This meant that even if the goods had changed hands multiple times, they would still be taken from whoever held them without compensation. Moreover, unlike in the

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<sup>94</sup> BAC 252/13, 63 (Z/1003). See also 59-62 for the case-specific decrees.

<sup>95</sup> It is worth noting here that around the same time, Ottoman religious authorities produced opinions that rejected the “I bought it with my own money” justification for keeping illegally enslaved persons or stolen merchandise using much the same language. See Chapter 4.

*ahdname* document, the *nişan* singled out several maritime problem areas, stating that the fortress commanders of Ayamavra, Perona, and others must not admit pirate ships to their ports, not purchase stolen merchandise, and prevent others from doing so. Ayamavra in particular was—and remained—perhaps the most consistent violator of the *ahdname*'s anti-piracy and anti-enslavement clauses. It was mentioned here precisely because its irregular naval forces and independent entrepreneurs continually hit Venetian targets. The *nişan* would be unlikely to have much deterrent effect, but it did lay the specific legal groundwork for Ottoman administrators' efforts to locate stolen goods after successful attacks.<sup>96</sup>

In addition to *nişans* like the aforementioned, the decrees that accompanied the appointment of new consuls also provided opportunities for clarification. Thus, when a new Venetian consul was sent to the Morea in 1606, he was preceded by an imperial decree to the *beys* and *kadis* around Lepanto that stated that he could reside wherever he wished and that he should not be oppressed or interfered with, and then designated him as the Ottoman district government's primary contact person for all Venetian affairs. Any Venetian slaves in the area were to be turned over directly to the consul unless they had converted. Likewise, local authorities were expected to save Venetian ships, subjects, or goods captured by pirates and hand them over directly to the consul.<sup>97</sup> Similar decrees were sent to other consuls, to the effect that piracy and slavery cases, which were occurring with greater frequency, should be handled locally as much as possible.<sup>98</sup> The

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<sup>96</sup> BAC 250/2, 22-3 (L/1013). It also contained a significant change in policy: Venice was no longer to be held responsible for the predations of the Uskoks of Senj. Given that the Long War with the Habsburgs was ongoing, this made sense.

<sup>97</sup> BAC 250/2, 63 (ZA/1014).

<sup>98</sup> Some examples: BAC 250/2, 96 (ZA/1015), for Chios; BAC 251/4, 100 (C/1023), for Inoz; BAC 252/8, 68 (1050), for Cyprus; BAC 252/8 (C/1050), for Kili; BAC 252/10, 64-5 (S/1085), for Aleppo; BAC

intent was to increase the efficiency of the restitution process and save the bailo and the Porte the trouble and expense of resolving everything through Istanbul.

These sorts of additions and elaborations to the rules and procedures of the *ahdnames* were increasingly important in light of the changing nature of the pirate threat in the area. In particular, the presence of growing numbers of English pirates in the Mediterranean complicated the situation. Venetian shipping in and around the Morea and the Adriatic was a favored target, and since it was not practical to take the booty all the way back to England, English pirates developed close relationships with local Ottoman administrators, who purchased the goods they stole. In light of the provisions of the *ahdnames* with both Venice and England, the Ottoman central government ordered that such pirates be captured if the opportunity presented itself, but it was more concerned with trying to close the markets. In the summer of 1605, it sent a list of names, produced through Venetian intelligence, of Ottoman officials who were collaborating with English pirates in the Morea to the *sancakbey* and *kadi* and ordered them to apprehend the accused and punish them in such a way that they would serve as an example for other Ottoman subjects.<sup>99</sup> The same held true for the pirates of North Africa, who likewise found the Morea to be an increasingly convenient place to dispose of stolen goods.<sup>100</sup>

The extent of the pirate cooperation extended beyond the Morea and crossed religious and political boundaries in sometimes surprising ways, further complicating Ottoman efforts to prevent it. English pirates increasingly worked together with North African administrators to avoid the long arm of the Ottoman central bureaucracy, which

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252/10, 97-8 (N/1085), for Alexandria; for post-conquest Crete, see Turkish Archive of Herakleion (TAH) 4, 8-9 (M/1082).

<sup>99</sup> BAC 250/2, 46 (S/1014).

<sup>100</sup> For example, BAC 250/3, 8 (RA/1021); 250/3, 25 (C/1021).

was largely neutered there. In 1607, English pirates captured a Venetian ship and took it to Tunis, where they sold the Venetian passengers and crew into slavery. This was an unambiguous violation of the *ahdnames* on the part of both the English and the North Africans, but it was rather more difficult to retrieve Venetian captives from Tunis than from the Morea. The Porte nevertheless ordered the Tunisian authorities to find the Venetian slaves, return their goods, and send them home.<sup>101</sup>

However, there were success stories in both North Africa and the Morea, where local Ottoman administrators upheld the *ahdname* as was expected of them. In February 1601, for example, two English pirate vessels captured a Venetian ship in Spanish waters, dumped its captain and crew with the ship's boat on Majorca and brought it to Algiers, claiming it was a Spanish ship. As the English began unlading their prize, however, the Venetian master and crew arrived in the port. The Algerian officials realized they had been deceived and "seeing the trick, resolved to restore the ship." But the English pirates burned it to conceal that it was Venetian. Some of the pirates were imprisoned, and the officials decided to give one of the English pirate ships to the Venetian master as restitution. The matter ultimately got transferred to Istanbul, where the English and Venetian ambassadors fought over the issue, but in the end, decrees were sent in May confirming the Algerians' initial intention to restore the goods and turn over one of the pirates' ships to the Venetian captain.<sup>102</sup> In another case, English pirates brought a Venetian ship with a cargo of wood into the Morean port of Modon in April 1603, looking for buyers. Seeing the Venetian markings on the cargo, local officials refused, saying they would have purchased it if it had been Spanish. Instead, the Ottomans in

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<sup>101</sup> BAC 250/2, 112-3 (C/1016).

<sup>102</sup> CSP, vol. 9, 454-6, 459.

Modon arrested the English pirates and turned them over to the Venetian governor of Zante, Maffio Michiel. Some of the pirates who had escaped Modon were captured separately by the Venetians and were condemned to death in late May. Those who were turned over by the Ottomans, including the English captain, were held for some time in Zante, as the *sancakbey* of the Morea subsequently demanded the pirates be returned to him for further examination; ultimately, Venetian diplomacy in the capital convinced him to relent and he dropped his demands, writing to Michiel to do as he saw fit. The remaining pirates were hanged on September 11, 1604, as their compatriots had been, their bodies left to swing from the castle in sight of town and port to be consumed, by the birds and the elements, to serve as a warning to others.<sup>103</sup> Stories such as these tend to be obscured in a documentary record that preserves more evidence of clashes than cooperation, but it is important to recognize that the system could work.

Nevertheless, with time, the Porte's ability to impose solutions on recalcitrant administrators in North Africa declined further. From the 1590s, Istanbul assented to the French and English conducting direct negotiations with the North African port cities. These were initially ineffective, and both France and England, like Venice, continued to request the sultan's intercession with Algiers, Tunis, and Tripoli until the 1620s.<sup>104</sup> However, in the context of the dynastic turmoil of that decade, war with Persia, and the immediate threat of Cossack raiders on the capital, what authority the Ottoman center had over North African corsairing evaporated and Ottoman patrols in the Mediterranean

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<sup>103</sup> *CSP*, vol. 10, 6-7, 13, 39, 60, 173, 181.

<sup>104</sup> England was still doing so as late as 1622, when it induced the kapudan pasha to write to Tunis and Algiers in favor of the release of a particular set of Englishmen, The [U.K.] National Archives (TNA) State Papers (SP) 71/26, fol. 1a (March, 1622).

ceased.<sup>105</sup> With the Porte's blessing, England's ambassador, Thomas Roe, successfully negotiated treaties directly with Algiers and Tunis in 1624-1625 and obtained the release of hundreds of English captives. The French and the Dutch soon followed suit. Although these treaties were repeatedly broken and renegotiated by all sides and bad faith abounded, when the parties did abide by them, they removed English, French, or Dutch-flagged vessels from the target lists. By 1627, the ambassadors of England, France, and the Netherlands had all agreed that there was little point in continuing to press the pirate issue at the Porte.<sup>106</sup> This left Venice all alone among the Mediterranean trading states, making "ye flagge of Saint Marke," in the words of Roe, "ye very temptation of a Piratt, for Venice would not scape under ye banner, if it did swimme in ye Medeteran."<sup>107</sup> Only Venice did not abandon the Porte in favor of direct diplomacy with North Africa, leaving those merchants who still sailed under the Venetian flag increasingly exposed to attack. Many chose to sail under English or Dutch protection, but the number of North African attacks on Venetian merchants skyrocketed between the 1620s and the Ottoman invasion of Crete in 1645.

### **Triangulating Diplomacy between Istanbul, Venice, and North Africa**

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<sup>105</sup> TNA SP 97/10, fol. 261a (30 April OS, 1625).

<sup>106</sup> The bailo Sebastiano Veniero reported in his dispatch of May 15, 1627, that "the ambassadors of France, England and Flanders have spoken there at length about the corsairs, in the visits which we have exchanged. They all agree that no real remedy can be expected here by remonstrances alone, because they [the corsairs] are weakening the Christian powers and they [the Ottomans] expect great help from these Barbary people, who are their subjects, in the event of war. They do not lose heavily of their customs, as the plundered Christians continue to trade. They [the ambassadors] all agree equally that the powers concerned should apply a remedy without further delay." The remedy they had in mind was a joint fleet to destroy the North African ports. The Venetians were supportive in theory, but remained cautious for fear of upsetting the Ottoman government. *CSP*, vol. 20, 221.

<sup>107</sup> SP 97/11, fol. 113a (8/18 October, 1625).

Flurries of decrees traversed the Mediterranean from Istanbul to North Africa on behalf of Venice in those tumultuous years. In the absence of any coercive capacity on the part of the Ottoman central government, Ottoman and Venetian officials resorted to a number of novel diplomatic and legal tactics to urge compliance. Venice mobilized all its resources, including the personal networks of its Ottoman allies in Istanbul, to get results. Decrees from the Porte were shadowed by personal letters from leading Ottoman dignitaries, all sent at the behest of Venice, to the men on the ground most likely to get results. Moreover, in light of the shaky religious-legal grounding of the *ahdnames*, which were based entirely on secular, sultanic legal precedent, the bailo sometimes tried to enlist the Ottomans' chief religious authority, the *şeyhülislam*, in the process. An episode from the mid-1620s shows how Ottoman and Venetian officials worked together, engaging in what I call “*fetva* diplomacy” to articulate their understanding of the *ahdname*'s provisions and demonstrate to North African corsairs why they were legally binding; the affair also reveals the “legal posturing” that the raiders of North Africa engaged in to justify their continued defiance of the center's cease and desist orders.<sup>108</sup>

In the summer of 1624, a thirteen-ship flotilla from Tunis teamed up with irregulars and local administrators from the Adriatic port city of Nova (present-day Herceg Novi), sacking several of the Venetian Ionian islands and capturing a number of merchant ships in the straits of Corfu. More than seven hundred Venetian subjects (possibly up to a thousand) were carried off and sold into slavery at various Ottoman ports, both in the Ottoman province of Bosnia and in North Africa.<sup>109</sup> The brazen pirate cruise, and the involvement of local Ottoman officials from the Adriatic in it, led to

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<sup>108</sup> On “legal posturing,” see Benton, *A Search for Sovereignty*.

<sup>109</sup> The account of the cruise is reconstructed from BAC 251/4, 121-3; 126-31; BAC 251/5, 27, 55-61.

outrage in both Venice and Istanbul. Some amount of frontier violence, the occasional seizure of ships or slaves, might be forgiven if not condoned, but most Ottoman officials in Istanbul seemingly agreed that this went beyond the pale.

In the aftermath of the Tunisian raids, the bailo met with several high-ranking officials, including the *şeyhülislam*, as a result of which successive imperial decrees were dispatched in October to officials in Tunis and to the provincial governor of Bosnia, in whose jurisdiction Nova fell, ordering them to investigate the incident, locate the stolen goods, free the slaves, find the culprits, and ensure that nothing be done in contravention of the *ahdname* in the future.<sup>110</sup> These decrees were accompanied by personal letters from the grand vezir, the kapudan pasha, and the *şeyhülislam*, Zekeriyyazade Yahya Efendi.<sup>111</sup> The religious question—what was a religiously acceptable raid that constituted *gaza*, or holy war, and what was not—was at the center of the issue. As the kapudan pasha declared in his letter to Yusuf Dey in Tunis, whom he referred to as a *gazi* par excellence even as disparaged the Ionian raiders as “rebel pirates,” it was not a permissible raid, a “*halal gaza*,” to attack Venetians as they might other enemy infidels (*harbi kefere*).<sup>112</sup>

The *şeyhülislam*, who it would appear had seen the other letters and been consulted in the composition of the decree before writing his own, stressed in his letter—sent only to the governor in Bosnia, Bayram Pasha—that there was peace between the Porte and Venice and, because the *ahdname* which Venice had been given said their subjects would not be molested, to do so constituted a violation of Islamic law. As the others had done in their letters, he urged the governor to obey the sultan’s orders, fight

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<sup>110</sup> BAC 251/4, 121-3 (M/1034).

<sup>111</sup> BAC 251/4, 126-131 (no date).

<sup>112</sup> BAC 251/4, 121b.

against piracy and give whatever aid was necessary to the Venetians.<sup>113</sup> The purpose of his letter was evidently to lend some of his religious gravitas to the situation and, along with the letters from the grand vezir and the kapudan pasha, create a sense of urgency.

These combined efforts may have worked on Bayram Pasha in Bosnia, but they had no effect in Tunis. Although the 1624 decree had ordered the Tunisians not to delay in carrying out the sultan's commands and to confirm that they had received the message and were acting upon it, they sent no response. A second decree to Tunis in April of 1625 was also met with silence.<sup>114</sup> But the arrival of a Tunisian delegation in Istanbul in early January of 1626 provided an opportunity for the bailo and his Ottoman supporters to press the issue once more.

The bailo's dispatches back to the Venetian Senate and the Ottoman letters and decrees that would soon be sent to Tunis tell the whole story and shed light on the crucial role of the *şeyhülislam* in what followed.<sup>115</sup> The representatives from Tunis had, it seems, come to Istanbul for other purposes, but they were soon faced by the bailo and his dragomans, who meant to secure "the liberation of our subjects and the security in the future of our places and ships from their infestations."<sup>116</sup> The kapudan pasha, Receb Pasha, had arranged the meeting, at which he and other Ottoman officials were present. All were attempting to prevail upon the Tunisians to obey the sultan's wishes, and the kapudan pasha told them on the bailo's behalf to free the slaves that had been taken during the 1624 raids and refrain from further attacks.

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<sup>113</sup> BAC 251/4, 126 (no date).

<sup>114</sup> BAC 251/5, 27 (B/1034).

<sup>115</sup> ASV Senato, Dispacci Costantinopoli (SDC) 101, fol. 179a-184b (Jan. 1625 m.v.); 207a-211a (24 Jan. 1625 m.v.); 225a-229b (7 Feb. 1625 m.v.); 239a-243b (7 Feb. 1625 m.v.); 264a-283a (contains translations of many of the Ottoman documents, 21 Feb 1625 m.v.). Copies of the Ottoman documents themselves are in BAC 251/5, 55-61, all dating to around mid-February 1626.

<sup>116</sup> SDC 101, fol. 179a.

The Tunisians, however, were defiant. In response to accusations regarding a number of more recent seizures of Venetian ships, they argued that they had done so only in reprisal and to compensate themselves for the loss of several of their galliots to Venetian patrols. The bailo retorted that Venice's taking of the galliots was solely due to the Tunisians' stealing and was justly done, in accordance with the rules of the *ahdname*.<sup>117</sup> He called attention to what he called the injustice of the situation, especially as the sultan had already made his wishes with regards to the slaves clearly known.

The meeting ended without resolution, but the continuing Tunisian intransigence in the presence of the Ottoman officials and the delegation's responses to the points raised by the bailo and the kapudan pasha laid the groundwork for the next round of diplomatic maneuvers. As the efforts at this first meeting had failed, the kapudan pasha and bailo determined that the grand vezir would be asked to prepare a *telhis*, a veziral petition for a sultanic decree. In order to debunk the Tunisians' excuses and strengthen the *telhis* and the decree that it would ultimately generate, the kapudan pasha informed the bailo's dragoman that he would first procure a *fetva* from the *şeyhülislam* on which to base the *telhis* to the sultan. The plan was to move fast enough to be able to present the resultant materials to the Tunisian delegation during the ongoing negotiations.<sup>118</sup>

Just as in 1624, the Venetians would solicit the aid of the *şeyhülislam*, but this time they went through the kapudan pasha. And this time, in place of a letter from the *şeyhülislam*, they received three interconnected *fetvas* to make their point. By the time he wrote his dispatch of January 24, 1626, the bailo Zorzi Giustinian had received a copy of Zekeriyazade Yahya Efendi's *fetvas*. The opinion he obtained was favorable,

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<sup>117</sup> SDC 101, fol. 179b-180a.

<sup>118</sup> SDC 101, fol. 181a.

notwithstanding the contrary efforts of the Tunisian delegation, which had attempted to sway the mufti to their side when they learned of the kapudan pasha and bailo's efforts. Instead, their counter-arguments had provided fodder (as their negative responses had during the first meeting) for the opinion itself, which broke down the lines of reasoning by which they had "maintained the justice of their *corsi*" against Venetian ships and shores, as well as their excuses for keeping the Venetian slaves. The resultant *fetva* was thus the product of extensive, personal negotiation with the *şeyhülislam* from all sides rather than an anonymously requested, quickly composed opinion. As the bailo understood it—quite accurately, in fact—the *fetvas* found that the Tunisians' actions were "illicit according to their laws, not just the invasion of the places and ships but the taking of the subjects" and that the Venetians' taking of some of their galliots was not a valid reason for "sustaining a *corso* against us."<sup>119</sup>

In these *fetvas*, which were also later preserved in manuscript collections of his *fetvas*, the *şeyhülislam* Zekeriyazade Yahya Efendi ruled unambiguously that it was absolutely forbidden to raid and enslave the subjects of a power with which the sultan wished to have peace; that, moreover, if there had been a prior bad act on the part of that power and the attack had been a reprisal, it was still forbidden without the sultan's express permission; and finally, if someone had purchased such an illegally enslaved person with their own money, this did not entitle him to keep the slave, but that person must be released immediately.<sup>120</sup>

The legal reasoning behind these opinions is discussed at length in Chapter 4, but it is important to note here that these *fetvas* were requested directly by Ottoman officials

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<sup>119</sup> SDC 101, fol.207a.

<sup>120</sup> BAC 251/5, 60 (undated).

in consultation with the Venetian bailo.<sup>121</sup> The *şeyhülislam*'s expansive response to the kapudan pasha's prompt set the tone for everything that followed, directing through his *fetvas* the shape of the arguments the Ottoman center made in order to effect the desired resolution and reassert its religious and political authority over the rebellious leaders who had challenged it on both fronts. His *fetvas* were passed on to the kapudan pasha, who composed a letter of his own around its arguments, which he then forwarded to the *kaymakam* so that it might form the basis for the petition to the sultan. By February 7, the efforts of the kapudan pasha and the bailo had borne fruit, and the letters from the *kaymakam* and grand vezir, alongside the *şeyhülislam*'s *fetvas* were ready for presentation to the Tunisian delegation.<sup>122</sup> These were followed soon thereafter by the sultan's own lengthy decree, which built on the arguments of the *fetvas* and referenced them explicitly and repeatedly to explain why it was absolutely necessary to free the Venetian slaves immediately and refrain from further attacks on Venetian subjects. Because peace had been legally established—both in religious and sultanic terms (*şer'ene ve kanun'en*)—with Venice, raiding Venetian lands and enslaving Venetian subjects “as if [Venice] were an enemy state” was under no circumstances acceptable. The recipients were admonished to obey the litany of sultanic orders and decrees that had preceded this one and especially the *şeyhülislam*'s “exalted *fetva*” and free the Venetian slaves. All the documents were presented during the negotiations with the Tunisians in Istanbul and

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<sup>121</sup> Even if we did not have the bailo's dispatches—which inform us that it was the kapudan pasha who made the request—the accompanying imperial decree makes it clear that the request came from within the administration. Furthermore, *fetvas* requested by the sultan or members of the imperial council tended to begin with certain rhetorical flourishes that are absent from *fetvas* requested by people outside the administration. Although foreigners could directly obtain *fetvas* themselves, it was not uncommon for the Venetians to indirectly request *fetvas* by petitioning the grand vezir or the sultan to ask the mufti for the *fetva*. This tactic is attested elsewhere. For a French, non-piracy related example, in which the mufti actually suggested this course of action, see *CSP*, vol. 9, 454.

<sup>122</sup> SDC 101, 207a.

were also dispatched directly to Tunis by messenger around the middle of the month. The messenger, a certain Ahmed Ağa, had orders to remain in Tunis and coordinate the release of the Venetian slaves still held there.<sup>123</sup>

Thus, with central control in North Africa waning and maritime chaos rising, the Ottoman government harnessed the prestige of the *şeyhülislam* and deployed his *fetvas* to support its decisions and give secular policies a veneer of religious legitimacy. This they did in concert with Venice, resulting in a detailed exposition of the Ottoman center's views on the legality of Tunisian raiding activity and a clear explanation of what was considered to be crossing the line. As Ottoman, Tunisian and Venetian representatives met in Istanbul to argue about the status of the Venetian slaves, these letters and *fetvas* were intended to apply a different kind of coercive pressure to Tunisian leaders and nudge them toward the resolution desired by the two imperial centers. The goal was to harmonize the negotiated, inter-state law of the *ahdnames* with Islamic law in the face of the many external challenges to the former that were, at times, justified in North Africa with the latter. But this temporarily united diplomatic front, with Venice and Istanbul aligned against Tunis and the *şeyhülislam's fetva* diplomacy shaping the conversation, belied Venice's growing frustration with the Porte over its inability to rein in its North African subjects.

### **The System Breaks Down: Rising Tensions and the Failure of Diplomacy, 1625-1645**

In a period of pronounced Ottoman naval weakness—in the summer of 1625, Cossack raiders forced their way into the Bosphorus and torched the Istanbul suburb of

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<sup>123</sup> BAC 251/5, 55-6 (CA/1035).

Yeniköy while North Africa pirates burned down the Ottoman customs house at the port of Iskenderun—Venice was forced to take measures to defend herself.<sup>124</sup> Shortly after the Iskenderun attack in 1625, Venice began to assign warship escorts to convoy some of the more valuable shipping coming to and from the Eastern Mediterranean.<sup>125</sup> However, the increased assertiveness on the part of the Venetian navy inevitably led to friction with Ottoman naval units, especially since the intentions of distant ships could rarely be ascertained before it was too late. The *ahdname*'s requirement that Venetian vessels lower their sails as an expression of “friendship and obedience” had not been discontinued, but it was a near-suicidal demand by the mid-1620s.

These tensions exploded into violence in 1627, when Venetian galleys led by the admiral of Crete assaulted a number of Ottoman ships that they mistook for pirates at the Adriatic island of Andize, taking prisoners and goods. The Ottoman ships were, in fact, imperial naval vessels that had been patrolling for pirates, commanded by the *sancakbey* of Andize, Perviz Bey, and the skirmish led to a strongly worded letter from Sultan Murad IV to the doge demanding that the Venetians return the men and material and observe the provisions of the *ahdname* concerning how Ottoman and Venetian vessels should conduct themselves when they met at sea. The sultan reported that he had already dispatched orders to the border districts forbidding reprisals, and he asked the doge to do the same.<sup>126</sup> The kapudan pasha, Hasan, sent his own letter in response to the incident to the doge. The Venetians had long cultivated Hasan, and the Ottoman admiral acknowledged the fact that the Venetians had congratulated him when he had been promoted to admiral. Hasan recognized that the doge had complained repeatedly about

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<sup>124</sup> See Chapter 1.

<sup>125</sup> BAC 251/5, 104 (CA/1034).

<sup>126</sup> BAC 251/6, 1 (CA/1036).

piracy in the past and he claimed to be doing everything he could to rid the seas of the pirates “for the sake of friendship,” but he insisted that Venice would have to abide by the *ahdname* and ensure that Venetian ships approach Ottoman ships in peace.<sup>127</sup>

However, tensions remained high, culminating a decade later in the most serious diplomatic debacle since the end of the war for Cyprus. The Venetians remained the target of North African pirates wherever they sailed, and the raiders of the Adriatic continued to harass them. Although the Ottoman government scored successes in retrieving some number of Venetian slaves and goods from North Africa in the 1630s, some of its decisions would not have inspired confidence in Venice. In 1637, for example, the Ottoman central administration rotated the former *beylerbeyi* of Tunis—a largely ceremonial position—to a high-ranking position in the Morea. Not long after, however, it was reported that collaboration between North African pirates and officials in the Morean ports of Modon, Koron, and Anavarin had spiked.<sup>128</sup> Who could be surprised that posting an Ottoman official with ties to Tunis in an area already prone to engagement with pirates would lead to increased cooperation across the Mediterranean and a rather more lax attitude regarding the importance of upholding the *ahdname*? A year later, an incident in the Adriatic brought the two powers to the brink of war.

The Avlonya incident of 1638 was a stress-test of the *ahdname* that both sides failed. That summer, a joint fleet of 16 Algerian and Tunisian galleys marauded up and down the Adriatic coast of Southern Italy, before crossing over to raid Venetian Dalmatia. In response, Venice assembled a formidable force to chase down the pirates, sending 30 vessels from Crete under Marino Capello to engage them. At the same time,

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<sup>127</sup> BAC 251/6, 3 (no date).

<sup>128</sup> BAC 252/8, 5-6 (ZA/1046).

Maltese and Tuscan corsairs were pillaging in the Eastern Mediterranean, prompting the kapudan pasha to summon the aid of the North African galleys. They had changed course to answer the call when they met the Venetian fleet near the mouth of the Adriatic, prompting the North African ships to make sail for Avlonya. In contravention of the *ahdname*, the port city willingly allowed the North African raiders to take shelter under the cannon of its fortress, but much to the surprise of the local Ottoman government, after a time the Venetian fleet resolved to pursue them into the harbor. They bombarded the town and captured all 16 ships. One was towed back to Venice as a prize and the others were sunk; all the galley slaves were freed. Sultan Murad IV was furious.

Although Avlonya had flagrantly violated the *ahdname* and Venice had the right according to the *ahdname* to pursue and destroy pirates, the attack on Avlonya and forceful entry of its harbor were viewed as a grave violation of Ottoman sovereignty. Relations were immediately suspended; Venetian representatives in Istanbul and throughout the Empire were arrested. If it had not been for the fact that Murad IV was busy attending to the reconquest of Baghdad, he might have chosen war. It took a massive indemnity from Venice, return of the Algerian ship taken as prize, and ultimately the timely death of the sultan to clear the air.<sup>129</sup> But the episode showed how shaky the peace had become.

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<sup>129</sup> Victor Mallia-Milanes, "From Valona to Crete: Veneto-Maltese Relations from the late 1630s to the Outbreak of the Cretan War," in *Malta: a case study in international cross currents: proceedings of the First International Colloquium on the History of the Central Mediterranean held at the University of Malta, 13-17 December 1989* (Malta, 1991), 159-173. Intriguingly, the Ottoman chronicler Ibrahim Peçevi, writing during the Cretan War, offered an account of the incident that is surprisingly sympathetic to the Venetians (though in light of the ongoing war, he referred to them as "enemies") in which he suggested that the Ottoman fortress commander in Avlonya may have invited the Venetian attack: "According to what some people said, at that time the Avlonya castellan (*dizdar*) sent word to the enemy fleet (i.e. the Venetians) informing them that these were *levend* ships that neither obey the Padişah nor protect the Ottoman ships they meet and that they are one big meeting of rebels," Ibrahim Peçevi, *Peçevi Tarihi*, Bekir Sıtkı Baykal, ed. (Ankara, 1999), vol. 2, 428.

Over the preceding decades, the Ottoman government had done a less than stellar job preventing North African piracy against Venice, and it had consequently spent a massive amount of money in restitution. A document preserved in the Topkapı Palace Archives, and probably produced specifically for the sultan's consumption, lists the names of all the large Venetian ships taken by Algerian and Tunisian pirates between 1613 and 1638, their headings, where they were captured, and the damages associated with each. Twenty-eight ships were listed—the majority of which were taken in the vicinity of Crete—along with hundreds of captives. The total damages were estimated at the staggering sum of 5,000,000 *guruş*.<sup>130</sup> By way of comparison, the estimated annual revenue of the customs house of Iskenderun, the port of the bustling trading city of Aleppo, was 40,000 *guruş* in the 1620s.<sup>131</sup> It is not hard to imagine that Sultan Murad IV, in the aftermath of the Avlonya incident, had demanded that his bureaucrats find out just how much the peace with Venice had been costing his treasury.

In July of 1639, orders were sent out across the Mediterranean announcing the restoration of relations with Venice.<sup>132</sup> Crucially, Sultan Murad IV conceded a point to Venice, and issued a new *nişan* in 1639 concerning piracy that henceforth allowed the Venetians to defend against and destroy North African pirates without exception, and to pursue them into Ottoman ports if necessary; such an act would no longer be considered a breach of the *ahdname*. Furthermore, Ottoman officials who sheltered pirates would be dismissed, and North African corsairs were now to have the *ahdname*'s surety clause

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<sup>130</sup> TSMA.d 7687 (?/1048). The single worst year was 1628-9 (1038), with 1,000,000 in damages from five, richly laded ships.

<sup>131</sup> TSMA.d 1306.

<sup>132</sup> BAC 252/8, 40 (RA/1049).

applied to their ships as well when they entered Ottoman ports.<sup>133</sup> Thus, the *ahdname* was in effect once more, and cooperation regarding cases of piracy and illegal enslavement resumed.<sup>134</sup> When the *ahdname* was confirmed in 1641 upon the accession of Sultan Ibrahim, Murad IV's 1639-*nişan* was explicitly renewed at the very end of the document.<sup>135</sup>

But the peace did not last long. In 1644, a Maltese pirate attack on an Ottoman galleon sailing from Alexandria and carrying a rich cargo and numerous important personages, including the former chief black eunuch, provided the impetus for war when they landed on the southern shore of Venetian-held Crete to divvy up the booty. Notwithstanding the fact that the Ottomans were guilty of similar breaches of the *ahdname* on a regular basis, the event was interpreted as justification for war. Crete was the lynchpin of piracy in the Eastern Mediterranean, a frequent stopping point for both Catholic corsairs and North African pirates. Up until the last minute, the Ottomans swore their target was Malta, but in June of 1645, Ottoman forces landed on Crete, kicking off a 24-year war.<sup>136</sup>

### **Restoration: The Final Stage in the Evolution of Ottoman Anti-Piracy Law**

Candia surrendered in 1669, ending one of the longest sieges in history. When the Signoria appointed Alvise Molin, then in Crete, extraordinary ambassador to negotiate the peace following the capitulation of the city, he was furnished with gifts, money, and

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<sup>133</sup> The *nişan* is preserved in translation in Paul Rycault, *The History of the Turkish Empire from the Year 1623 to the Year 1677* (London, 1687), 72.

<sup>134</sup> BAC 252/8, 51; 54; 70 (1049-1050).

<sup>135</sup> Theunissen, 635.

<sup>136</sup> See Chapter 1.

copies of the *ahdnames* of 1540, 1573, and 1638, and all the imperial orders pertaining to piracy. Molin was meant to see to it that these were restored, along with open access to Ottoman ports. In addition to a decrease in customs dues, Molin was supposed to request that orders be sent to leaders in Dalmatia and Albania, as had been done in 1638, to keep borders quiet and suppress piracy.<sup>137</sup> The result of his efforts was a peace treaty formally concluding the war in 1669, organized now in the European style as a distinct list of articles, followed by a new *ahdname* in 1670. The content of the 1639 piracy *nişan* was now incorporated into the text, as it would be in every subsequent *ahdname* version.<sup>138</sup> The anti-piracy and slavery aspects of the *ahdname* were also recapitulated in a dedicated *nişan* in 1670.<sup>139</sup> This lengthy document marked the final stage in the evolution of Ottoman-Venetian maritime law.

With abundant reference to tradition and “ancient custom,” it confirmed the validity of all preceding *ahdname* regulations and renewed them. Freedom of travel and trade was reestablished. Sureties were to be taken from corsair ships that came to Ottoman ports, and fortress commanders were not to admit pirates who harmed Venetians to their harbors. All the earlier requirements about freeing Venetian slaves and returning Venetian ships and cargoes were repeated in full, along with the expansive permission that was first granted in 1639 for the Venetians to take whatever measures necessary to punish pirates in the event that local Ottoman officials were negligent in their duties. The requirement to send Ottoman pirates taken alive to Istanbul for punishment was dropped, though the Porte still promised to strongly punish captured pirates and corrupt officials in such a way that they would serve as an example for others.

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<sup>137</sup> Setton, *Venice, Austria, and the Turks*, 236.

<sup>138</sup> DeGroot, “Historical Development,” 594.

<sup>139</sup> ED 16/4, 1-2 (R/1081).

Yet what was most different about the 1670 document was the language, which had been decidedly modernized. It now conformed completely with international maritime usages. The *nişan* did not speak of “robber ships” or even of “levend” as it once had, but used only the more inclusive “*korsan*,” in light of the fact that Muslim and Christian pirates alike made use of Ottoman ports and harmed Venetian interests. In fact, the confessional identity of the pirates was not mentioned at all. The text spoke now of “when corsairs brought their prizes” to a fortress, whereas before terms like “prize” (*akdarma*) had never been used. It mentioned meetings between Venetians and North African pirates’ “*bortons*”—that is, *bertones*, the stout, three-masted sailing ships now favored by both North African and Atlantic pirates—“on the high seas,” additions that reflected the Mediterranean’s transition from oar to sail. Thus, in addition to recapitulating the anti-piracy legislation that had evolved over nearly two hundred years, the 1670 document adjusted it for the conditions of the age. It also recognized the *de facto* independence of the “corsairs of Tunis and Algiers” and placed them totally outside the protections of the *ahdname*.<sup>140</sup> But for most of the provisions, the *nişan* removed all the national and religious identifiers before the word *korsan*, so that there was now a completely uniform anti-piracy policy.<sup>141</sup> The Ottoman Mediterranean of 1670 hosted a far wider variety of trading nations—and pirates—than it had in 1570. Once more, the Ottoman government adopted the blanket view of pirates as the “common enemy of all.”

Fifteen years of peace separated the end of the war for Crete from the Morean War, when Venice decided to join the anti-Ottoman pile-on initiated by the Ottomans’ failed siege of Vienna in 1683. The conflict with Venice stretched from 1684 to 1699 and

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<sup>140</sup> Ibid.

<sup>141</sup> It was a lasting policy; a document issued nearly eighty years later after a spate of Tripolitan and Cretan pirate attacks is substantially similar in language and content to the 1670 decree. See the Epilogue.

added a maritime theater to the Ottomans' land-war with the Habsburgs and their allies. The settlement at Karlowitz in 1699 confirmed the ultimately short-lived Venetian reconquest of the Morea and the Ionian island of Lefkada (Ayamavra), both of which were retaken in the final Ottoman-Venetian War of 1714-1718.<sup>142</sup> Between 1670 and 1684, however, the *ahdname* was in effect. Although anti-Venetian piracy persisted throughout the peacetime years, the Ottomans displayed a newly proactive attitude against piracy in the areas that were still effectively under their control in the 1670s and early 1680s. This did not include North Africa, but along the Adriatic and Ionian coasts, the Ottomans took measures that had little precedent. In particular, the surety clause of the *ahdnames* and anti-piracy *nişans* was now interpreted extremely broadly. In its earliest manifestation in 1482, it had only applied to vessels associated with the imperial navy. In 1639, this had been explicitly expanded to include North African corsairs making use of Ottoman ports. In 1670, it reached its logical conclusion, and sureties were henceforth demanded from all captains. For the first time, the Ottoman government began demanding sureties from all ship owners on the Adriatic in the 1670s, regulating ship-building and usage in a way it never had before. Thus, orders were sent at the start of the sea season in 1673 to all levels of the provincial hierarchy in the Adriatic and Ionian districts, which included problem areas like Ayamavra and Ülgün (Dulcigno), to summon everyone in their districts who owned a boat. Those who used their boats for trade were required to obtain a certificate from their local *kadi* (*hüccet*) showing that they had secured guarantors. The names and descriptions of all the guarantors in the districts were then to be sent to the Porte for central registration. Anyone who failed to follow the

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<sup>142</sup> However, Lefkada was returned to the Venetians by the Treaty of Passarowitz of 1718, in which the Venetians otherwise renounced their claims to the Morea and Crete. Henceforth, Venice held all the Ionian Islands, ending once and for all the persistent Ottoman pirate threat emanating from Ayamavra/Lefkada.

procedure or engaged in piracy was to have his boat destroyed.<sup>143</sup> Similar orders were dispatched right up until the start of the war.<sup>144</sup>

Consequently, this marked the final stage in the implementation of the *ahdname* protocols, just as 1670 marked the final stage of their theoretical development. By essentially disavowing North Africa and making the *ahdname*'s anti-piracy provisions ecumenical, the Ottomans had in essence washed their hands of responsibility for North African piracy. They maintained their obligation to deny pirates markets and shelter and to return stolen goods and slaves, but otherwise stepped back from interdiction assurances and restitution guarantees. Nevertheless, the vigorous new stance against pirating in the Adriatic through broader enforcement of the surety clause, however fleeting, demonstrated how Ottoman thinking on the issue had evolved. Whereas surety had once been a means of ensuring that corsairs and regular naval units stuck to the right targets, it now served officially to prevent ship owners from engaging in raids altogether.

## **Conclusion**

Beginning in the late fifteenth century and continuing for the next two hundred years, Ottoman and Venetian diplomats, administrators, and jurists developed a comprehensive system for dealing with the consequences of piracy and the illegal capture and enslavement of each other's subjects. The treaty law that emerged in the sixteenth century served as the basis for every subsequent agreement brokered between the

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<sup>143</sup> BAC 252/10, 35-6 (M/1084).

<sup>144</sup> BAC 252/10, 59; 92-7; 252/12, 24; 26.

Ottomans and foreign powers, creating an inclusive system of maritime law that encompassed the entire Eastern Mediterranean.

Indeed, the procedures enshrined in Ottoman-Venetian agreements affected maritime codes of conduct between the Venetians, the English, and others. In the face of rising English piracy in the early seventeenth century, for example, Venetian negotiators in London extracted the promise in 1605 that when English ships met Venetian ships in the Adriatic, they would strike their sails and send over their boat; failure to do so would indicate hostile intent. When the Venetians tried to have the English commit to striking their sails in the wider Mediterranean, as they did for the Ottomans, the English refused, as it would be an acknowledgement of superiority, but they noted that, in order to send over their boat—which they still agreed to do—the ship would have to take in sail anyway.<sup>145</sup> Likewise, around the same time, the Venetians increasingly adopted the practice of taking “caution-money,” that is, surety, from English ships stopping at their ports to ensure good behavior.<sup>146</sup> What made sense in dealing with the Ottomans ultimately made sense everywhere.

The provisions of these treaties were frequently breached by both sides. Ottoman subjects proved to be the most egregious offenders in this regard, and the early modern Ottoman central government’s efforts to prevent piracy were scattered and usually ineffective. Nevertheless, the Ottoman government did expend significant amounts of political capital and financial resources to obtain the release of illegally enslaved Venetian subjects and effect the return of Venetian ships and cargoes, as the *ahdnames* required. And yet, when the Ottoman government was desirous of war, Venetian

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<sup>145</sup> CSP, vol. 10, 242, 245-6, 261.

<sup>146</sup> CSP, vol. 10, 193.

breaches of the treaty prior to the invasions of Cyprus in 1570 and of Crete in 1645 provided convenient excuses. These facts understandably led distant European observers to look on the treaties with some skepticism and occasionally to misrepresent their provisions.

Alberico Gentili wrote in the early seventeenth century that, while “the Turk has a treaty with Venice and is a friend” and “this treaty and this friendship do not embrace pirates,” the fact that the Ottomans protected “pirates everywhere and always” made them enemies just as much as the pirates.<sup>147</sup> He could hardly be blamed for espousing this view, given the unrestrained predations of North African pirates and, of course, the prejudices of his employer—the Spanish Crown. But Gentili’s own views on piracy were entirely consonant with and grew out of those framed in the Ottoman-Venetian treaties that he strategically disparaged. Gentili declared pirates the “common enemies of all mankind” and asserted that sovereigns had the absolute right, if not the duty, to destroy them as violators of natural law.<sup>148</sup> This view had been expressed in the *ahdnames* since 1482 which, as we have seen, were themselves channeling Roman piracy law and the pronouncements of Cicero. Custom and sultanic decrees explicitly provided the sources of legal authority on which the *ahdname*’s maritime provisions were founded, not religion.

Indeed, the Ottoman-Venetian agreements formed a body of law that acknowledged past precedents and built upon them in response to changing maritime conditions and cases. They regulated all aspects of contact and provided mechanisms to defuse situations that emerged on difficult to control frontiers. Furthermore, in response

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<sup>147</sup> Gentili, *Hispanicae advocatiois*, 112-3.

<sup>148</sup> Gentili, *De iure belli*, passim. See Benton, *A Search for Sovereignty*, 124-7.

to the legal cognitive dissonance brought about by the quasi-sovereign nature of the North African port cities, which came to a head with the clash at Avlonya in 1638, the Ottomans ultimately retracted the protections of subjecthood that had previously been extended to their corsairs, putting them once more outside the state system. The Ottomans were an integral part of the European-Mediterranean legal and diplomatic community; Ottoman-Venetian maritime law both predated the writings of seventeenth-century European jurists and later responded to and incorporated them. The 1670 versions of the Ottoman-Venetian piracy laws brought the regime full circle, restoring full freedom of navigation and a uniform code of conduct regarding piracy that did not recognize any difference on the basis of religion or state origin.

Grotius and Gentili may not have cited the “Turkish treaties” any more than Muslim jurists claimed authority from Roman law or the writings of St. Augustine, but the origins of the international law that they expounded upon were first and foremost Mediterranean, negotiated, and shared. For their own constituencies, the shared Ottoman-Venetian maritime law was situated in the respective religious, legal, and cultural traditions, but it otherwise transcended them. The Ottomans were quite willing to harness the religious authority of the *şeyhülislam* to influence their own subjects and lend an aura of Islamic legitimacy to the *ahdnames* in the domestic sphere, but they made no attempt to introduce religious law (nor could they) to the texts themselves. Gentili, who on the matter of war with the Ottomans, wrote, “let the theologians keep silence about matters which are outside their province,”<sup>149</sup> would have approved of the secular basis of Ottoman-Venetian treaty law.

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<sup>149</sup> Gentili, *De iure belli*, 57.

The new “international” law was not imposed from above by theorists, but rather was the product of Mediterranean piratical incidents that created diplomatic problems and of the subsequent negotiating and repositioning that followed to resolve the conflicts. The *ahdnames* provided an organized, comprehensive system for dealing with the consequences of maritime violence and uncontrollable non-state actors, one that was shared between the Ottoman Empire and its European treaty-partners: the English, Dutch, French, Ragusans, and Venetians. Nevertheless, early modern Mediterranean piracy was not simply an inter-state issue. Piracy had internal legal consequences for the Ottomans which the *ahdnames* could not address. The matter of piracy as an internal affair, experienced by Ottoman-subject victims and confronted by Ottoman administrators, jurists, and judges, is the subject of the following chapters.

### Chapter 3

#### Ottomans Enslaving Ottomans

In the spring of 1574, a detachment of Ottoman naval irregulars, *levend*, descended on the Aegean island of Naxos in their swift galliots.<sup>1</sup> The small, oar-driven craft quickly made for land and, with their shallow draft, drew up close to the shore before disembarking a raiding party. Fanning out, the *levends* quickly seized as many people as they could, especially women and children, and dragged them back to the waiting ships. Almost as soon as it had started, the raid was over; the galliots drew back from the beach and turned to the east. The wails of those who had lost their loved ones provided the only evidence of what had happened.

Another successful raid complete, one of several in a brief cruise of the Cyclades islands, the galliots had to traverse not much more than one hundred miles of open water to reach the Anatolian coastline. There, they offloaded their catch of Christians and Jews and, claiming they were legitimate captives (*esirdir deyü*), sold them as slaves to waiting buyers.<sup>2</sup> Amphibious slave-raiding was nothing new in the early modern Mediterranean,

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<sup>1</sup> *Levend* is the word used most often in the Ottoman sources on which this chapter is based to describe Ottoman naval irregulars, pirates, and corsairs, whether based in the Aegean, the Eastern Mediterranean, or North Africa, whether obedient to the state's commands or not. Thus, for the sake of simplicity, I have elected to use the word *levend* throughout this chapter and avoid questions about whether they were, or considered themselves to be, corsairs vs. pirates, etc. For more on the history of the word and its many meanings, see Chapter 1.

<sup>2</sup> BOA *Mühimme Defteri* (hereafter MD) 24: 744/277. The case continues in MD 26: 132/51, 133/52, 697/243, 713/248, and in *Mühimme Zeyli Defteri* (hereafter MZD) 2: 52/21. The narrative here is a composite of the accounts contained in these six decrees. Nicolas Vatin mentions the first decree in his article "Une affaire interne: Le sort et la libération des personnes de condition libre illégalement retenues

and it helped feed the demand for slaves in Ottoman markets. But Naxos was neither an enemy territory, nor a possession of one of the Ottomans' Christian treaty partners. Naxos was an Ottoman island in 1574, and its inhabitants were tax-paying, Ottoman subjects.

The 1574 raid on Naxos was representative of a troubling phenomenon—the illegal enslavement of Ottoman subjects by Ottoman pirates and naval irregulars, bandits and border guards. Both in terms of Islamic and Ottoman sultanic law, the enslavement of non-Muslim Ottoman subjects, *zimmis*, was patently illegal, in contrast to the enslavement of “enemy infidels” (*harbi kafir*), which was technically permissible under Islamic law even if it was often forbidden in practice. This phenomenon, endemic to the islands and coasts of the Eastern Mediterranean basin and to the land frontiers of the empire, both east and west, was not a new problem. Such cases were attested throughout the empire in the sixteenth century.<sup>3</sup> However, in the fog of war surrounding the 1570-1573 conflict with Venice, the 1574 reconquest of Tunis, and in their aftermath, incidents like that at Naxos became tragically common across the Ottoman Mediterranean.<sup>4</sup>

The restoration of peace with Venice in 1573 and the establishment of a truce with Spain in 1580 actually increased the danger to those Christian Ottoman subjects settled on the Aegean islands, the rugged Morean coastline, and the distant Adriatic-

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en esclavage sur le territoire ottoman (XVI<sup>e</sup> siècle),” *Turcica*, 33 (2001), 149-190, but he appears to have been unaware of the subsequent decrees, which are found in different volumes. The latter entry, in MZD 2, is from the series of originally misfiled, entirely uncatalogued *mühimme* registers that follow their own numbering system because they were rediscovered only after the original *mühimme* series had been classified. On the *mühimme defters* generally, see below.

<sup>3</sup> See Vatin, “Une Affaire Interne,” which covers cases of illegal enslavement from throughout the empire during the third quarter of the sixteenth century.

<sup>4</sup> The term “fog of war” originated in the writings of the Prussian military theoretician Carl von Clausewitz (d. 1831), who described the problems for military planners posed by confusion, chance, and insufficient or inaccurate intelligence in his incomplete, posthumously published *Vom Kriege*.

Ionian littoral. As fear of another engagement like that at Lepanto in 1571 gave way to concerns over marauding Catholic pirates, and as the Ottomans became embroiled in successive land wars, the Ottoman government increased its reliance on both *levends* and local galley squadrons to serve as the empire's first line of defense and its primary source of marine intelligence. This outsourcing meant that the same people responsible for protecting the Ottomans' maritime interests were often best placed to damage them, while the capacity of the imperial navy to defend the coasts deteriorated in light of more pressing financial and military concerns on land. In the intervening years separating the wars for Cyprus and Crete, when the predictable chaos of annual pirate cruises into the Eastern Mediterranean replaced large-scale naval operations, cases of Ottoman subjects being carried off by unscrupulous Ottoman pirates and sold in distant markets as if they were legally enslaved "enemy infidels" were frequently recorded in the register books of the Ottoman central administration.<sup>5</sup> This chapter follows the Ottoman administrative response to such incidents. Because slavery was legal in the Ottoman Empire and the constant importation of slaves was a necessary part of a system in which manumission

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<sup>5</sup> These are the Ottoman *mühimme defterleri*, or "important affairs registers." Extant from the mid-sixteenth century, they are logs of nearly all the Ottoman central administration's outgoing correspondence. Rescripts of decrees to judges, district and provincial governors, military leaders, and letters to foreign rulers fill the pages. Though we lack copies of original petitions and inbound reports, the resulting orders from the center usually identify whose letters they were responding to and recap the events that precipitated their issue. Many of the volumes were rebound—sometimes quite haphazardly—in the nineteenth century, and volume numbers do not reflect a continuous chronologic progression of their contents, so decrees in MD 28, for example, might post-date some of those in MD 32. There is also often bouncing around within any given volume, but a higher volume number usually means later.

This chapter is based primarily on research in this series, covering the period roughly from 1554 to 1645 (there are some significant gaps in the record for the first half of the seventeenth century). With some exceptions, the first 73 registers in the series (up to 1595) were catalogued by the archivists of the BOA in the mid-twentieth century, with typewritten, bound books containing brief summaries of each entry in modern Turkish orthography; these have not been published or digitized and are not indexed, so they must be read in their entirety at the archive. A handful of registers have been published in transcription and modern Turkish translation; as for the remainder, including the entirety of the *mühimme zeyli defter* series (discussed above), these must be read in the Ottoman Turkish original. On the value of the *mühimme defters* to the historian, see Geza David, "The Mühimme Defteri as a Source for Ottoman-Habsburg rivalry in the Sixteenth Century," *Archivum Ottomanicum*, 20 (2002), 167-209.

was encouraged and slave status was not inherited, there was always demand for slaves in Ottoman domains. Peace with Venice and truce with Spain did not lessen this demand, but it did reduce the number of legally available sources of slaves in the Mediterranean and simultaneously left large numbers of naval irregulars with fewer opportunities for licit plunder—an unfortunate combination for many Ottoman Christians settled on the frontiers.

The distinction between who could and could not be legally enslaved was as much a question of juridical subjecthood as it was of religious identity. For example, arbitrary political lines imposed from above, not cultural or linguistic differences, separated the Slavs subject to the Habsburgs, who could be legally enslaved in times of conflict, from the Slavs within Ottoman borders who could not be. However, because early modern subjecthood could be difficult to prove, non-Muslim Ottoman subjects made a convenient target for slave-raiders. So long as slavery was an acceptable institution in Ottoman society, preventing the abuse of the system of legal imports was functionally impossible. Nevertheless, the Ottoman government tried.

When the Ottoman administration in Istanbul was informed of incidents like that at Naxos, it typically responded by sending out orders to locate and free the slaves and punish those who had captured them and those who had facilitated their sale on land. In this sense, the Ottoman procedure for handling the enslavement of its own subjects by other Ottomans on Ottoman territory was functionally the same as when the representatives of foreign powers complained that their own treaty-protected subjects had been wrongfully taken captive. Rescripts of orders of both types appear in large numbers in the *mühimme defterleri*. Yet this was “an internal affair,” as Nicolas Vatin refers to it

in his aptly titled article.<sup>6</sup> Ottoman Christians taken captive had no *bailo* like the Venetians' to press the issue at the Porte; someone from within the Ottoman milieu had to notify the center if it were to act. Although there was no risk of a diplomatic incident in such cases, the state had a number of very good reasons to actively prosecute them.

Islamic law provided one. Ottoman Christians and Jews, by virtue of paying a tax signifying their acceptance of Ottoman overlordship, were *ahl al-dhimma*, or *zimmis* in Ottoman usage, people of the pact. This pact could be repudiated, *nakz-i ahd*, which might mean the loss of protected status and implicitly of Ottoman subjecthood.<sup>7</sup> But so long as Ottoman subjects paid their taxes and obeyed their sovereign, they were to have the full protection of both Islamic and sultanic law against enslavement. Thus, their pact (*ahd*) rested on firmer legal ground than the secular, negotiated provisions of the treaties (*ahdname*—the essential concept of “pact” is present in both instances) granted to powers like Venice, Dubrovnik, or France that, with little or no basis in Islamic law, guaranteed their subjects' safety. The enslavement of Ottomans was perhaps the most serious violation of the sultan's contract with his subjects.

Beyond respect for the law, the sultan had a moral obligation to prevent the oppression of his flock (the *reaya*) and to uphold the “Circle of Equity,” in which it was his provision of justice that bound them to him. By the logic of early modern Ottoman political theory, justice was the purpose of the state and the *reaya* the source of its wealth; the failure to provide them with justice broke the circle and undermined the

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<sup>6</sup> Vatin, “Une Affaire Interne.” Besides the present chapter, Vatin's article remains the only study of the illegal enslavement of Ottoman subjects.

<sup>7</sup> A detailed discussion of these concepts can be found in the next chapter.

foundations of the state.<sup>8</sup> Furthermore, the government needed to assert and preserve its monopoly on violence, especially religious violence, in the face of the challenge posed by difficult to control, semi-independent actors. Thus, the failure to protect *zimmis* from enslavement, and to respond vigorously when they were, constituted a grave blow to the center's authority and legitimacy.

Economic and administrative concerns also demanded a strong governmental response. It would be difficult to overestimate the extent of the financial and psychological damage to a community that suffered a raid like that at Naxos. The loss of even small numbers of villagers might have a profound effect on local economic conditions and could seriously undermine the relationship between government and governed. Moreover, the Ottoman government needed to avoid providing islanders and coastal residents with more reasons to help passing enemy ships.<sup>9</sup> The basic need to maintain order in distant territories and safeguard tax-paying subjects who were a crucial source of revenue also meant that the state needed, in the interests of both justice and the fisc, to respond to such incidents.

At the same time, however, the Ottoman administration had to balance the rights of its subjects with its broader security needs, which employing naval irregulars served, and the limits of its coercive power on distant frontiers. The result was that the center was compelled to tolerate a certain amount of low-level, illegal violence directed at its own subjects as well as others in the late sixteenth and seventeenth-century Ottoman Mediterranean. It dealt with the most egregious cases as they arose rather than risk

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<sup>8</sup> On the "Circle of Equity," see Boğaç Ergene, "On Ottoman Justice: Interpretations in Conflict (1600-1800)," *Islamic Law and Society*, 8 (2001), esp. 57, fn. 13.

<sup>9</sup> This was a frequent complaint; see below.

upsetting the established order on the periphery with more proactive and heavy-handed (and likely expensive and ineffective) attempts at policing.

Violent slave-raiding acts, such as the events on Naxos, tell us a great deal about the relationship between the imperial center, its coastal possessions, and the men ordered to govern and protect them. More than just stories of center-periphery relations, these occurrences demonstrate the continuing “tension” between subjecthood and religious identity in the Eastern Mediterranean.<sup>10</sup> They reveal how “Ottoman” pirates chose their targets, the methods pirates used to pass off their Ottoman captives as legal slaves, and the ways in which the central state learned of and responded to acts that were not only illegal, but threatened its tax base and internal security. They forced Ottoman administrators to find new ways to define political and religious boundaries and make their subjects legible in an increasingly muddled Mediterranean. In the previous chapter, in order to better understand early modern inter-state law and diplomacy, we explored how Ottoman and Venetian negotiators handled piracy. Now, in order to better understand how the Ottoman government managed and classified its geographically, linguistically, religiously, and culturally diverse empire, we must examine how it handled Ottoman-subject pirates and their Ottoman-subject victims.

Beginning with the prosecution of the Naxos incident, this chapter adopts the perspective of the Ottoman central administration to explore these issues of legal identity and administrative limitation and what they meant for both captive Ottomans and the Porte during the decades of declared peace in the Mediterranean between 1570 and 1645, contrasting the situation in the Aegean with the more remote Adriatic-Ionian frontier

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<sup>10</sup> That is, what Molly Greene refers to as “the tension in the Mediterranean between the claims of religion and the reality of state sovereignty,” in *Catholic Pirates and Greek Merchants*, 19; 115.

region.<sup>11</sup> Regional comparison provides the analytical framework for this chapter. The administration of the Ottoman Empire was not geographically neutral, and the problems associated with piracy and amphibious slave-raiding laid bare this fact. A comparative approach, rather than a chronological one, brings into relief the various reasons why the Ottoman response to the Naxos raid, discussed below, was not replicable elsewhere. Though cases of illegal enslavement were addressed on a more or less ad hoc basis, the Ottoman government clearly had a fairly standard policy for dealing with them. Nevertheless, regional variations, distance from the center, and changing political circumstances significantly impacted the effectiveness of these efforts. As a result, geographic and political considerations necessarily affected the strategies and legal rhetoric the Porte employed to coax compliance, as well as the assiduousness of its attempts to exact punishment. Crucially, whereas it is apparent from the imperial council's decrees that it wished to prevent such abuses from occurring in the first place, the sultans' words rarely seem to have been backed up with the kind of credible threat of coercive force that might have given raiders sufficient pause.

### **The Naxos Affair: Ottoman Victims of Ottoman Piracy in the Aegean**

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<sup>11</sup> There are several reasons for ending this chapter's analysis with the invasion of Crete: From 1645-1669, the Ottomans were at war with Venice and for much of that time lost effective control of their Aegean island territories to the Venetians. Though Ottoman authority was reestablished after the conclusion of the war, it was tenuous, and lost once more in many locales during the resumption of hostilities from 1684-1699. Certainly piracy and corsairing continued apace in the eastern half of the Mediterranean during this period, but the relationship of the Ottoman central administration with these territories was changed and the activities of Ottoman-aligned corsairs and irregulars in these theaters were often officially sanctioned. Furthermore, around 1648, the *mühimme defterleri* series was split, and responses to petitions from ordinary subjects were henceforth recorded in a new series, called the "complaints registers," or *şikayet defterleri*, which, unfortunately for the researcher, tend not to contain the entirety of the resultant decrees. These considerations, and the fact that by the second half of the seventeenth century Christian pirates were the far greater threat to Ottoman coastal communities and shipping in most of the Eastern Mediterranean, mark 1645 as a logical stopping point. The intra/post-Cretan War period is taken up again in subsequent chapters.

By the 1570s, the Ottoman reliance on *levends*, based locally or deployed from North Africa, for maritime security had exposed the vulnerability of predominantly Christian Ottoman coastal possessions to attack. Mobilization of the imperial fleet based in Istanbul was a costly and time consuming affair and it could not be everywhere at once, so *levends* and various galley squadrons based on the mainland or attached to the governors of important islands like Rhodes and Mytilene were largely responsible for providing coastal defense in specific districts and protecting the annual grain convoys between Egypt and Istanbul.<sup>12</sup> These squadrons were not large enough, however, to provide an effective deterrent to either Muslim or Christian pirates, and the geography of the Aegean, with its multitude of safe harbors and hiding places, did not help. The vulnerability of some areas in the Aegean was compounded by the fact that local Christian populations were widely seen as sympathetic to the enemy. Many had been found guilty of providing aid to the Christian fleets during the 1570-1573 war with the Holy League and, later, of supplying Catholic pirates with information and grain.<sup>13</sup>

As we shall see, this is a point where the legal distinction between traitorous *zimmis* and “enemy infidels” appeared somewhat blurred on the ground. Given that *levends* were at times ordered to pacify rebellious Aegean islands and punish treasonous *zimmis*, that a number of these islands had only become “Ottoman” in 1566, that some had been briefly recaptured by Venice during the war (a pattern that would be repeated in the next century), and that few of them had any Muslim settlement or identifiable

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<sup>12</sup> For example, MD 67: 244/92, 245/93. See also Colin Imber, “The Navy of Süleyman the Magnificent,” *Archivum Ottomanicum*, 6 (1980), 216 on the sea season, 255-260 on the squadron bases and their organization.

<sup>13</sup> MD 16: 305/156, 448/232, 655/373; MD 19: 5/2; 27: 368/161.

Ottoman governing institutions, the fact that Ottoman *levends* returned to them again and again to raid should not come as a surprise. Whether it was in retaliation for perceived past wrongs, because the islands were not really “Ottoman,” or just because the islanders made easy targets, *levend* attacks in the Aegean became especially common throughout the 1570s and 1580s and—even though the number of *levends* formally serving the Empire dramatically decreased after this point—continued well into the seventeenth century.<sup>14</sup> The revolving door of Ottoman irregular naval service combined with the ambiguity of Ottoman administrative terminology complicated the situation. While some of the *levends* implicated in amphibious raids and attacks on shipping held simultaneous commissions and drew salaries from the government, others had served formerly but were entirely freelance at the time, and still others called *levend* in the records may have never had any formal or informal affiliation with the Ottoman government at all. Sometimes the circumstances of the case clarify who the *levends* were and what their relationship was with the Ottoman government, but often enough they do not; indeed, the Ottoman administration often appears to have been similarly in the dark. And while *levend* at least generally meant a Muslim pirate, even this was not always clear, and cases of Ottoman Muslims and Christians working in concert in the seizure of Ottoman victims were not unknown.

To avoid detection long enough to sell their captives, the *levends* took them far from their homes. And because *zimmis* from comparatively isolated islands and coasts

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<sup>14</sup> The question of the “Ottoman”-ness of the Aegean islands is a central concern of Nicolas Vatin in “Iles grecques? Iles ottomans?” in his and Gilles Veinstein’s edited volume, *Insularites Ottomane* (Paris, 2004), 71-89. See also Colin Heywood’s contribution to the same volume, “Ottoman Territoriality Versus Maritime Usage,” 145-173. On the number of *levend* serving the Ottoman Empire, estimated by the Grand Vezir Koca Sinan at around 70 in 1591—down from a high of 350 in the 1570s—see Pal Fodor, “Between Two Continental Wars: The Ottoman Naval Preparations in 1590-1592,” *In Quest of the Golden Apple* (Istanbul, 2001), 175.

would be unlikely to speak any Turkish, it would have been difficult for them to communicate their free origin to potential buyers.<sup>15</sup> More importantly, with no ties to the community to which they had been forcibly brought, it would have been extremely difficult for them to legally prove their free origin in the courts, which depended on the testimony of trustworthy witnesses. Once such a crime had been perpetrated, someone with sufficient interest and access had to notify the Porte of what had happened. Only then could the state begin the process of resolving the problem.

In the spring of 1574, this began with a letter.<sup>16</sup> Naxos and the surrounding islands comprised the Duchy of the Archipelago, a vestige of the Fourth Crusade established by Venetian adventurers in 1207. Ruled independently by Venetian and then Veronese dukes, it passed into the direct control of the Ottomans in 1566 when Selim II deposed the last duke of the Crispo house and bestowed the title on his confidant, the Jewish banker and Iberian exile Joseph Nasi (aka Yasef or Yusuf Nasi in Turkish).<sup>17</sup> Nasi, referred to in Ottoman documents as the “Duke of Naxos (*Nakşa dukası*),” did not rule over his archipelagic mini-state directly but usually remained at court in Istanbul. Naxos, now formally Ottoman, was administered by a deputy, and the political, religious, and social structures that had been in place prior to 1566 remained largely intact. There was no Turkish or Muslim settlement on the island in 1574, and Naxos would not have an Ottoman judge, a *kadi*, until 1579, when Nasi died and the “duchy” was dissolved into

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<sup>15</sup> MD 52: 285/115.

<sup>16</sup> MD 24: 744/277.

<sup>17</sup> On the Ottoman and pre-Ottoman history of Naxos, see B.J. Slot, *Archipelagus Turbatus* (Leiden, 1982), vol. 1, passim, esp. 88-108. For more on Nasi, see Cecil Roth, *The Duke of Naxos* (Philadelphia, 1948). See also Safvet, “Yusuf Nasi,” *Tarih-i Osmani Encumeni Mecmuası*, 16 (1912), 982-993.

the larger, seaborne province controlled by the kapudan pasha, the imperial admiral.<sup>18</sup> Despite this, from the standpoint of the Porte, the inhabitants of Naxos were *harac veren reaya*, tax-paying Ottoman subjects no different from those on the Greek mainland or in Anatolia and deserving of the same protections. After the raid, Nasi's deputy must have sent word to his master. Nasi himself then formally submitted a petition to the sultan recounting what had happened on Naxos and its sister islands; he requested an immediate investigation into the events, a search for the enslaved Naxiotes, and their safe return home.<sup>19</sup> At this, the central government acted.

On 3 Safer, 982 (May 25, 1574), the center dispatched orders to all the district governors (*sancakbeys*) and *kadis* in the province of Anatolia informing them that *levend* galliots had abducted many women and children from Naxos and sold them in Anatolia as if they were legal captives (*esir*). Because these people were of free origin (*hurri'l-asl*), it was imperative that the recipients launch an immediate investigation in accordance with the duke's petition and locate the Naxiote slaves. It went without saying that time was of the essence; slaves, once sold, resold, and brought deeper into the Anatolian countryside, might never be found. The Porte ordered the *sancakbeys* and *kadis* to check in all the villages and settlements in their districts to determine if there were any Naxiote slaves there. If such a slave were found, they were to bring the person to the local court where, in accordance with Islamic and Ottoman law, they would determine on a case-by-case basis if in fact that person was a Naxiote and thus an illegally enslaved Ottoman subject. If so, they were to free the slave immediately. Slaves who had

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<sup>18</sup> See Safvet, "Nakşa (Naksos) Dukalığı, Kiklad Ataları," *Tarih-i Osmani Encumeni Mecmuası*, 23 (1913), 1444-1457; Slot, 98-107. There had been a small Muslim garrison on Naxos after 1566, but it was removed in 1569 due to friction with the locals and accusations that it was abetting *levend* piracy in the area.

<sup>19</sup> MD 24: 744/277.

converted to Islam during their captivity were to be released and left to their own devices, while those who were still in their previous condition (*kendü halinde*), that is, had remained Christian (or Jewish), were to be freed and turned over to the representatives of the duke and the state who would see to it that they were repatriated to Naxos. At the same time, the sultan warned the recipients that converts to Islam should not be allowed to backslide into infidelity and that legal slaves (*sahih esir olanları*) should not be taken from their Muslim owners simply because they opportunistically claimed to be of free origin.<sup>20</sup> In other words, the authorities were to ensure that all Naxiotes be freed, but only those who had not converted to Islam would be transported together back to their homes. The new Muslims, now free, could go wherever they wished and might be able to get back to their places of origin on their own, but the state would not do anything that would facilitate apostasy, which returning them to the predominantly Christian islands of the Cyclades almost certainly would. The state's initial decree thus mirrors closely those issued in instances of enslavement of Venetians, Ragusans, and other treaty-protected foreigners who were, in all cases, ordered freed but actively returned to their homes only if they had not converted.<sup>21</sup>

Results were rapid. Within a month, numerous slaves from Naxos and the surrounding islands had been identified, and the government sent a *çavuş* (an imperial messenger) named Tahir to the Anatolian districts with two fresh decrees and orders to remain on the scene and oversee the process of gathering the slaves and returning them to their homes. Interim reports sent to Istanbul indicated that a number of Naxiote captives sold there had indeed already converted to Islam, and so, true to the earlier order, the

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<sup>20</sup> Ibid.

<sup>21</sup> See Chapter 2.

government reiterated that these slaves were to be emancipated and left to “do what and go where they wished,” but they were not to be permitted to apostatize.<sup>22</sup> In the first of the decrees Tahir brought with him, dated 5 Rebiülevvel, 982 (June 25, 1574) and addressed to the *kadis* of Anatolia, who had now taken the lead in carrying out the government’s orders in the affair, the government again ordered that those whose Naxiote identity could be confirmed in the courts and had not converted were to be returned to their homes. Furthermore, earlier reports back to the center had revealed that, in the process of locating the Naxiote slaves, a number of slaves from Chios (Sakız, Ottoman since 1566) and Euboea (Ağriboz, Ottoman since 1470) had also been found; the government now ordered that these illegally enslaved Ottoman subjects also be freed according to the same principles.<sup>23</sup>

Nevertheless, the process was not so simple. The sultan’s original decree from late May had met with local resistance. Slaves were a significant investment, and the government did not usually compensate owners who had acquired illegal captives; finding out who had purchased Naxiote slaves proved easier than compelling the recalcitrant owners to swallow the financial loss. Unconcerned with their slaves’ origins and having paid good money for them, owners were refusing to hand their newly acquired slaves over. A large part of Tahir *çavuş*’s mission was thus to shore up the local *kadis* and ensure compliance with the center’s directives. Moreover, the central government was interested in more than just having the slaves returned; it wanted to identify and punish those responsible for the problem. This meant the offending *levends* and those men in Anatolia who had acted as their local contacts and had ignored the

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<sup>22</sup> MD 26: 132/51

<sup>23</sup> Ibid. Unfortunately, we are never told how many captives were initially taken, nor how many Naxiote slaves were found.

official procedures or forged the customs documents necessary for importing legal slaves.<sup>24</sup>

The illegal enslavement of Ottoman subjects required more than just pirates to capture them; men in the local administration, customs officials, slave market regulators—someone on the receiving side had to be complicit for the transaction to be mutually profitable. As the local representatives of Ottoman power and legal authority, the law enforcement role fell to the *kadis* and the men they commanded. While *kadis*' posts were frequently rotated, they and those who served in their offices were inextricably tied up in local politics. Thus, Tahir's presence would have been a powerful reminder to both *kadis* and local officials (not to mention stubborn slave owners) of the sultan's continued interest in seeing the case justly resolved. In the second decree Tahir *çavuş* brought with him, registered three days after the last one, the Anatolian *kadis* were ordered to coordinate their investigations with Tahir and find the culprits. If any of the guilty were members of the local landed cavalry (*sipahi*), they were to be imprisoned; all others were to be sent together in shackles and chains (*kayd ve bend*) to the capital, escorted by Tahir *çavuş*, for more severe punishment.<sup>25</sup>

The sources do not mention whether anyone was ever found guilty of enslaving the Naxiotes, but Tahir remained in Anatolia well into winter, reporting back to the center on the progress of his investigation into the whereabouts of enslaved Ottoman subjects.<sup>26</sup>

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<sup>24</sup> MD 26: 133/52. This decree, the third relating to the incident, is the first to mention finding and punishing the culprits. Intriguingly, it also adds a wrinkle to the description of the raid's perpetrators, now suggesting that it was a combined force of some Ottoman Muslim and "enemy infidel" pirates (*levend taifesi ve harbi kafirlerden bazisi...*). Nothing more is said about the composition of this group, its origins, or its motives in choosing Naxos. None of the subsequent decrees relating to the incident repeats this assertion.

<sup>25</sup> Ibid.

<sup>26</sup> The final decree in the Naxos affair, MZD 2: 52/21, is dated 28 Şaban, 982 (December 13, 1574). This is the date that the decree was handed to the messenger. Allowing significant time for the decree to arrive and

What had begun as a search for illegally enslaved Naxiotes at the behest of Nasi had snowballed into a much larger hunt for illegally enslaved Greeks (*Rum*) of all sorts. As summer turned to fall, Tahir reported further difficulties in carrying out his orders due both to the impossibility of finding legally admissible (that is, Muslim) witnesses in the area who could attest to the status of contested slaves in the courts and to the large numbers of Greek slaves held in the area, most of whom were probably legally owned.<sup>27</sup> Without the presence of witnesses, it was impossible to legally prove the free origin of the captives in the Islamic courts—a fact of which those involved in the illegal slave import business must have been fully aware. Moreover, it seems that word had spread concerning Tahir’s slave-hunting activities, and the relatives of illegally enslaved Ottoman Greeks held across the region, hearing of the state’s ongoing efforts, hurried to open cases with the courts to prove the free origin of their kin. Faced with this overwhelming situation, Tahir appealed to his masters in Istanbul for further instructions.<sup>28</sup>

The response was a blanket order to identify **all** Greek slaves in Anatolia whose provenance was suspect. So, to summarize, orders had initially been sent in late May to release the captives recently taken from Naxos and the surrounding islands. In late June, the search was expanded to include other tax-paying Ottoman Greek subjects enslaved by pirates, specifically those from Chios and Euboea, and Tahir *çavuş* was dispatched to coordinate the process with the *kadis*, aid them in their investigations, and overcome

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then for the orders to be carried out (described below), it is safe to assume that Tahir was still on the case for at least a couple of months after this date.

<sup>27</sup> MD 26: 713/238: *lakin ol vilayetde müslüman şahid bulunmamağla ispata mümkün olmayup*—“but since Muslim witnesses cannot be found in that province, it is not possible to confirm [their identities].”

<sup>28</sup> MD 26: 697/243, 713/248. The first of these decrees was canceled before being sent; the second reiterates the content of the first and expands it somewhat. Both are addressed to Tahir and the Anatolian *kadis*, but their instructions are directed to Tahir.

local resistance. Now October, the Porte ordered Tahir to expand his search and work with the *kadis* in Anatolia to separate out all Greek slaves of doubtful legal ownership from the larger Greek slave population.

By this point it was clear that the conventional method of determining the legality of someone's slave status in the courts was not working; the necessity of having reliable Muslim witnesses and certain standards of proof, not to mention the deluge of cases, meant that justice was not being served. So, in a move indicative of Ottoman administrators' willingness to flexibly interpret and apply Islamic law, the Porte changed the standards. Tahir had noted in his previous report that many of the owners lacked the legal papers that came along with the purchase of a legally imported slave.<sup>29</sup> Now these papers, or their absence, would supply the new standard of proof.

As a result of the invasion and conquest of Cyprus just a few years earlier in 1570-1571, there were significant numbers of legally enslaved Cypriot Greeks in Anatolian districts. Thus, a key factor in determining a slave's status would be whether the slave owner possessed the required paperwork affirming that the *pencik* (or *penc-i yek*) tax on imported slaves had been paid and that the owner had the legal right to own the slave, whose provenance was thereby confirmed. Where slaves' relatives had opened cases with the courts claiming wrongful enslavement, slave owners who lacked the necessary papers would have their slaves taken away. In this decree, dated 14 Cemaziülahir, 982 (October 1, 1574), the central government ordered Tahir and the Anatolian *kadis* to record the names of all non-Cypriot Greek slaves whose legal import could not be proven in court and whose legal ownership was otherwise suspect, to take

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<sup>29</sup> MD 26: 713/248: *temessük ve penc-i yek kağıdları yokdur deyü bildirmişsin.*

them from their owners, and to send them together to Istanbul along with a list of their fathers' names, mothers' names, and the names of their villages of origin.<sup>30</sup>

Although the issue of the abducted Naxiotes was still ongoing, with so many more illegally enslaved persons turning up, the Porte decided to collect them all and sort it out in Istanbul, where it could keep a closer eye on the proceedings. It was possible that the state might eventually determine that some of these people were in fact legal slaves, but if an owner lacked the appropriate paperwork, his possession of the slave was still illegal. The *pencik* document benchmark was also being applied to the Naxiote slaves, who were otherwise being handled separately, probably due to Nasi's special interest in the case and to the fact that their release had originally been Tahir's primary mission.

The victims of the Naxos raid, as in most similar operations, were primarily women and children. Children, in particular, posed problems for courts and administrators trying to sort out legal from illegal slaves. All the difficulties inherent in proving freedom that would trouble even adult, Turkish-speaking captives were compounded in the instance of child captives, who could hardly be expected to understand their legal status or be able to convey their origins to those looking for them. Moreover, the susceptibility of children to suggestion would also have an impact on their fates, as masters might urge those of appropriate age to convert to Islam and thus short-circuit their return (though not their emancipation) if found. Well-sequestered women and children would presumably find it extremely difficult to make contact beyond the harem and over their masters' objections with the sultan's men or the courts to contest their enslavement. Nevertheless, we know that significant numbers of Naxiote women and

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<sup>30</sup> MD 26: 713/248.

children did end up before the courts.<sup>31</sup> The documentation is too sparse for us to know with certainty whether it was because Tahir and those following his orders went door-to-door among those suspected to have purchased Naxiote slaves, but this seems a likely possibility.

In the final decree on the matter, addressed to all the *kadis* of the provinces of Rumelia and Anatolia and to Tahir, dated 28 Şaban, 982 (December 13, 1574), the Porte informed the recipients that one of Nasi's men, a *zimmi* named "Marko," was being sent from Naxos to the districts where it was known that Naxiotes had been sold.<sup>32</sup> Marko, it seems, was being sent to help root out captive Naxiotes, especially the boys and girls who might have been missed previously—it seems likely that some slaves had already been released and sent home. Though the decree does not specify precisely how he, Tahir, the *kadis* and their subordinates were expected to find the Naxiotes, Marko's local knowledge and language skills would naturally enable him to identify those from Naxos, separating out the right Greeks from the wrong Greeks. But Marko's testimony alone would not constitute adequate legal proof, and the Porte was no longer entirely willing to entrust the issue to the local courts. Thus, in all the freedom suits Marko brought before the courts, Tahir was ordered to ensure that the contested captive boys and girls be considered from Naxos if their masters could not produce *pencik* papers. The Porte relied on the expertise of the *zimmi* Marko but applied the papers test as the temporarily acceptable legal standard of proof. This procedure would have also served as a safeguard against the overzealous seizure of slaves from their masters, which the Porte was always anxious to prevent.

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<sup>31</sup> Ibid.

<sup>32</sup> MZD 2: 52/21.

The slaves Marko and Tahir identified as Naxiote according to the Porte's new standards were to be taken from their masters and—so long as they had not converted—released into the custody of Marko. Once assembled, Tahir was ordered to send, as before, the contested captives and their criminal masters together with Marko to Istanbul where their cases would be heard and decided “in accordance with Islamic law” (though again, where and by whom was not specified).<sup>33</sup> It is not clear what role, if any, Marko would play in the adjudication of their fates, but it is tempting to assume that once in Istanbul, any evidentiary hiccups complicating the release of individual Naxiotes would be smoothed over by the Porte and Nasi's influence there.

Converts, if proven to be from Naxos, were to be immediately emancipated (*azad*), but they were not to be given back to infidelity, nor were they to be sent to Istanbul. It is intriguing that, in a way, the law validated the enslavement of those who had converted, insofar as they were formally “emancipated” while those who did not were simply freed (*itlak*). The documents say nothing of the matter, but this might imply that those emancipated converts, though no longer slaves, might remain with their erstwhile masters who—if they had not been arrested—were now legally their patrons.<sup>34</sup> If so, captive youths and women in particular, if induced to convert, might find their situations post-emancipation remarkably similar.

The Naxos affair of 1574 was exceptional in some respects, but also characteristic of how the early modern Ottoman administration responded to cases of illegally enslaved Ottoman subjects. The Porte's involvement began in much the same way that a case involving illegally captured foreigners would, and its initiation was also fairly typical for

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<sup>33</sup> Ibid.

<sup>34</sup> On the matter of the legal and social relationship of emancipated slaves and their former masters, see Chapter 4.

instances involving Ottoman subjects. The peculiar political situation of Naxos between 1566 and 1579, when it was nominally still a duchy, meant little as far as the resolution of the problem. The question of the extent to which the Aegean islands were really “Ottoman” may very well have had some impact on their being targeted in the first place, but it was irrelevant from the legal perspective.<sup>35</sup> Likewise, Nasi’s influence at court may have played some role in the speed with which the state acted and the resources it deployed to locate and return the captives, at least initially, but it does not account for the expansion of Tahir *çavuş*’s mission.

Tahir *çavuş* was engaged in Anatolia for at least six months and probably considerably longer.<sup>36</sup> The Naxos affair is not especially unusual as far as the crime or the initial administrative response. What is remarkable are the large number of decrees associated with the case and the continued interest from the center in redressing the problem of large numbers of wrongfully taken, illegally enslaved Greek Ottoman subjects. The fact that we have any knowledge of the resolution of the case is exceedingly unusual. Normally, the sources preserve only an initial decree and nothing more, leaving us to wonder whether or not the orders were met with any response.<sup>37</sup> Tahir *çavuş*’s

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<sup>35</sup> On which question, see above. As far as the terminology employed in Ottoman documentation, it is clear that the government did not see any legal or practical difference between its non-Muslim subjects in the Aegean and those elsewhere.

<sup>36</sup> The first decree in the case was dispatched on May 25, 1574. The second and third were registered on June 25 and June 28, 1574, respectively; Tahir brought both with him to Anatolia. The fourth decree was dispatched on October 1, 1574, and the fifth and final decree was dispatched on December 13, 1574. Again, even after allowing some time for the latter decree to arrive, it might have taken weeks or longer for Tahir to coordinate with local officials to carry out his orders, and longer still to escort the slaves (and any apprehended criminals) to Istanbul.

<sup>37</sup> That said, the fact that the decrees involved in the Naxos affair are spread out across three non-consecutive register books (one of which is in a different archival fond) should give some indication of how difficult it can be to reconstruct the administrative response to such incidents. The source record is incomplete and not always well-organized, so conclusions about how much follow-up initial complaints typically received are necessarily tentative. Furthermore, there were often multiple levels of communication emanating from Istanbul; the grand vezir, the *şeyhülislam*, the kapudan pasha and any number of other important dignitaries were regular letter writers who responded to petitions and exercised

mission proves that, at least in this instance, they were. Tahir, together with the Anatolian *kadis*, successfully located Naxiote slaves, overcame local resistance, and saw some sent home. Further, he coordinated the release of many more slaves and dealt with unknown numbers of individual cases in multiple courts before the central government decided to change the standards of proof and have all the remaining contested slaves transferred to Istanbul for sorting out. This conclusion of Tahir's mission and of the whole drawn-out Naxos affair demonstrates that once the central government determined that the matter could no longer be dealt with effectively on the local level, it decided to bring the matter to the central government. Sadly, the registers of the government's outgoing orders do not (nor would they be likely to) say anything more on the matter. But what accounts for the extraordinary attention given to this issue? The fact that this case exploded into one involving illegally enslaved Greeks from numerous other islands and coastal possessions besides Naxos and took months to resolve should not surprise us when we consider the time and place—Anatolia in 1574.

### **Aegean Amphibious Slave-Raiding in the Fog of War, 1570-1574**

The *levends*, so crucial to the war effort against Venice and her Holy League allies, had been flooding the Aegean since the beginning of the decade. In the fog of war, they could just as easily raid the places they were tasked to protect and expect to get away with it. Thus, in September of 1570, not long after Ottoman land forces stormed

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power, but none of their correspondence is preserved in the Ottoman central archives in Istanbul, so it is impossible to know what involvement, if any, other layers of the administration may have had in response to incidents that only involved Ottomans. Only the decrees of the imperial council, issued in the name of the sultan, survive.

Nicosia, Istanbul received reports that *levend* galleys traveling between the eastern Peloponnese and Anatolia had landed on Andros and taken grain and three hundred captives; at the same time, a detachment of *levend* galliots abandoned the imperial fleet, raided Lemnos, and sold their captives in Anatolia. When some of the galliots were beached there due to contrary winds, they were asked to produce their papers (*temessük*), which they lacked. The commander of the naval squadron based at Kavala was ordered to apprehend any *levends* who oppressed Ottoman subjects (*reaya*) and to inform the Porte of their crimes, but not to interfere with any *levend* ships that appeared to be performing their duties properly, such was the need for their services.<sup>38</sup>

As the slaves began to flow into Anatolia from Cyprus in the fall of 1570—nearly all the inhabitants of Nicosia were put to the sword or sold off—the opportunities for black market slave dealing increased dramatically. Legally imported slaves were subject to the aforementioned *pencik* tax, derived from the traditional one-fifth of the booty owed to the sultan, and this was a tremendous source of income for the state in times of conquest.<sup>39</sup> Needless to say, pirates illegally seizing Ottoman subjects did not pay this tax, but with Greek Cypriot slaves pouring into the Ottoman heartland, even a centralized bureaucracy as accomplished as that of the early modern Ottomans was hard pressed to keep track of the flood. By late October of 1570, the central government was already aware that entrepreneurs were selling off Ottoman Greeks in the Anatolian ports nearest to Cyprus and passing them off as legitimate Cypriot captives, but in wartime it was difficult to muster the manpower necessary to completely suppress the problem.

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<sup>38</sup> MD 14: 544/388; Svatopluk Soucek, “Naval Aspects of the Ottoman Conquest of Rhodes, Cyprus, and Crete,” *Studia Islamica*, 98/99 (2004), 238-249.

<sup>39</sup> See Alan Fisher, “The sale of slaves in the Ottoman Empire: Markets and state taxes on slave sales, some preliminary considerations,” *Boğaziçi Üniversitesi Dergisi*, 6 (1978), 149-174.

Although the government ordered its field commanders to deploy men to the southwest Anatolian ports to ensure that *reaya* were not sold as slaves and, implicitly, that the appropriate taxes were paid, the multitude of safe harbors in Anatolia where *levends* could offload captives meant that the center's efforts could never be fully successful.<sup>40</sup> It should come as no surprise then that Tahir *çavuş* encountered so many Ottoman Greeks of free origin in servitude in 1574 Anatolia. The investigation of the Naxos incident provided the impetus to sort out some of the wrongs that had taken place over the preceding years.

The enslavement of Ottoman subjects did not decrease after the conquest of Cyprus concluded with the surrender of Famagusta on August 1, 1571. The near total destruction of the Ottoman navy at Lepanto on October 7, 1571 left the Ottoman state deprived of many thousands of skilled and experienced sailors, soldiers, oarsmen, master gunners, and captains. Although the Ottoman government managed to rebuild its fleet on an even larger scale over the course of the winter offseason—an incredible logistical accomplishment that astounded contemporary observers and modern historians alike—no amount of money could make up for the loss of experienced men.<sup>41</sup> The North African contingents that participated in Lepanto came out of the engagement with the fewest losses, and the *levends* who had been active elsewhere in the Eastern Mediterranean at the time were also unaffected by the defeat. Now the Ottoman government turned to these men to look to the Empire's maritime security while the imperial arsenal worked furiously to rebuild.

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<sup>40</sup> MD 14: 799/565.

<sup>41</sup> See John Guilmartin, *Gunpowder and Galleys* (Annapolis, 2003), 262-4.

No one knew that the Battle of Lepanto would never have a sequel. As the sea season of 1572 drew near, Istanbul was especially concerned that the *levends* be prepared to engage with the enemy and constantly report back on the movements of the Christian fleets.<sup>42</sup> There were very real fears that the combined forces of the Holy League would return to wreak havoc on Ottoman coasts, and the administration was prepared to provide as much logistical and material support as it could to its naval leaders and irregulars throughout the Eastern Mediterranean to ensure their readiness.<sup>43</sup> The *levends* were crucial to Ottoman plans at this juncture, and here the story becomes somewhat more complicated than unscrupulous pirates simply seizing opportunities for profit.

During the war, many Aegean islands were briefly retaken by the Venetians, and the enthusiasm with which some of the islanders helped the occupiers did not go unnoticed in Istanbul or among the fleet commanders whose ships patrolled and ultimately retook the islands. Unsurprisingly, some of the islands seen as most complicit with the enemy and most hostile to Ottoman ship captains were the same ones that had previously been victims of *levend* attacks and would be again, including Lemnos, Andros, and Naxos, which had also suffered a devastating raid in 1567. In the spring of 1572, the Ottomans reasserted themselves in the Aegean and, for some *levends*, the time for retribution had come. On Andros, antipathy to Ottoman *levend* captains had taken a particularly ugly turn, when the ships of the brothers Veli and Memi Reis were blown off course and ran aground on the island. The islanders took the opportunity to enact revenge for earlier wrongs, emptying the ships of their weapons and stores and imprisoning the crew. They then sent word to a nearby island where a “Frank” ship was loitering, and

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<sup>42</sup> MD 16: 360/188.

<sup>43</sup> MD 16: 558/315.

turned over some of the captives, killing eighteen who tried to escape. The unfortunate captains' brother, himself likely a seaman, informed the center of what had happened and now Andros was on the list of islands that the imperial admiral would be visiting on his Aegean tour, and he had orders to see to it that the remaining Ottoman captives be freed and the responsible islanders punished.<sup>44</sup> Similar dramas played out on Lemnos and Naxos, where islanders accused of helping the enemy were ordered identified and punished.<sup>45</sup> Although the admiral of the fleet, the kapudan pasha, was the recipient of these orders, the tasking for individual islands might fall to small flotillas of irregulars.

The orders to punish the islands went out in May, 1572.<sup>46</sup> By June, it had become clear that the pacification of the islands and the punishment of the traitors had spiraled out of control. The central government quickly found it necessary to remind the admiral—who was to pass on the content of the decree to the captains, sailors, and soldiers under his command—that the “rebellious” islands were still Ottoman and their inhabitants were Ottoman subjects and not enemy soldiers. They were to round up the traitors and treat them as criminals (*mucrimler gibi*), throw them in chains, and put them to the oar, but it was absolutely not permissible to capture or sell the islanders “like captives who have been exported from the Abode of War” (*dariülharbdan ihrac olunan esirler gibi*). The admiral and those below him could use the criminal subjects on the ships, but they could not sell them (*mucrim olan reayayı satmayup*).<sup>47</sup> The legal distinction was an important one; aiding the enemy was certainly considered reprehensible and traitorous, a serious criminal act worthy of death or a very short life as

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<sup>44</sup> MD 16: 214/109.

<sup>45</sup> MD 16: 305/156, 655/373 (Lemnos); MD 19: 5/2 (Naxos).

<sup>46</sup> MD 16: 305/156; MD 19: 5/2.

<sup>47</sup> MD 19: 196/90.

an oarsman, but it did not change one's subjecthood.<sup>48</sup> Nevertheless, this was a subtle distinction conveniently and frequently ignored. *Levend* captains were doing exactly what they were being warned not to do. In June, 1572, a *levend* captain named Recep Reis raided Euboea, doing a great deal of damage and taking men, women, and children captive. Again, the state sent orders to the admiral stating that the troublemakers on the island should be put to the oar but that their wives and children must be left in peace; it further clarified that on the islands in the area where the revolt persisted, the ringleaders should be killed and their possessions destroyed, but unless they tried to go over to the enemy—literally, flee to the infidels—their women and children should not be touched.<sup>49</sup>

Even as the islands of the Aegean were brought firmly back under Ottoman control, *levend* attacks continued. In March, 1573 it was reported that a number of *levend* frigates raided Samos and took captives whom they sold in Anatolia; the admiral was ordered to apprehend the culprits and free the slaves.<sup>50</sup> In April, the state issued a decree concerning nine girls and boys who were snatched from the shores of the *kaza* (jurisdiction) of Menvasye in the district of Mizistre (present day Mystras in the Morea) by a *levend* captain known as Küçük Hoca and spirited clear across the Aegean to be sold in the coastal Anatolian district of Urla. In this case, a number of *zimmis* from the jurisdiction went all the way to Istanbul to plead their case. Meanwhile, the government had somehow learned that the children had been held in Urla by someone named Hacı Ali, presumably Küçük Hoca's local contact and distributor. Thus, it ordered the *kadi* of Urla to find and release the slaves, reminding him that it was not the sultan's wish that his

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<sup>48</sup> The legal questions raised here, especially regarding the nature of Ottoman subjecthood, are dealt with in detail in Chapter 4.

<sup>49</sup> MD 19: 211/99.

<sup>50</sup> MD 21: 434/179.

tax-paying subjects (*haracgüzar reaya*) be enslaved or sold, and to arrest and imprison Hacı Ali and the pirates who had provided him with the slaves.<sup>51</sup> Given the delay involved in communicating with the center over long distances—especially in the case of the petitioners coming from the Morea to Istanbul—it is likely that both of these cases took place in the late winter, when the kapudan pasha would still be with his fleet in Istanbul and unable to provide much protection.

The *levends* were active year round. Each year, as winter approached, the imperial fleet returned to Istanbul to wait out the storms. As the fleet withdrew, the government sent orders to the squadron commanders at Kavala, Euboea, Chios, and Siğacık (near Izmir) to ensure that the *levends* that remained in those parts not oppress the people in its absence, but with little success; similar cases were reported in the following year.<sup>52</sup> In late March, 1574, it was reported that Euboea had been hit again; *levend* captains had taken twenty-five *reaya* and, claiming they were *harbi esir*—that is, enemy infidel captives—sold them around Aydın and, again, in Urla. The state ordered the *kadi* of Urla and the *bey* of Aydın to find the slaves, take them from whoever held them, and return them to their homes.<sup>53</sup> It is unclear if the state's orders were heeded. If we recall Tahir *çavuş*'s investigation, which began only a few months later, and the Euboean and Chiote slaves he encountered, we might assume that the matter was not satisfactorily resolved. The *kadi* of Urla may have undertaken only a desultory investigation; Urla was a popular site for offloading illegal slaves, and it is possible that the *kadi* was in on the action, or he may have been too weak to pursue the matter against local opposition. Such considerations likely played a part in the Porte's later decision to transfer jurisdiction in

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<sup>51</sup> MD 21: 624/261.

<sup>52</sup> MD 23: 367/174.

<sup>53</sup> MD 24: 114/39.

the Naxos affair from the local courts to Istanbul. Ultimately, it took the capture of some Naxiotes and constant pressure from the imperial center and its representatives on the ground, over the course of several months, to secure the freedom of numerous Greeks illegally kept in bondage in Anatolia.

Despite something approximating a happy ending for some Greek captives towards the end of 1574, the phenomenon of Ottoman subjects snatched from coasts and boats and illegally sold as slaves persisted in the Aegean in numbers that dwarfed anything before the beginning of the decade. Even Naxos was raided again in 1579, with men put to the oar on Ottoman pirate ships and women put to work in their captors' homes.<sup>54</sup> As before, the slaves were ordered found and freed, but here we do not have any subsequent decrees. Joseph Nasi, at this point in his final months, was still titular duke, but we have no way of knowing how closely the case was pursued and whether or not any of the captives ever made it back to Naxos.

By the early seventeenth century, cases of illegal enslavement in the Aegean appear far less frequently in the *mühimme defterleri*, though local and long-distance piracy remained a serious and oft-reported problem. This probably reflects a drop in the actual number of such incidents from the highs of the 1570s. After 1580, official employment of *levends* decreased markedly and freelancers focused their efforts elsewhere.<sup>55</sup> One reason for the decrease in reported incidents of Ottomans enslaving Ottomans in the Aegean had nothing to do with the drop in numbers of *levends*: as the conquest of Cyprus and the pacification of the Greek islands receded further into the past,

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<sup>54</sup> MD 37: 836/75.

<sup>55</sup> Fodor, "Between Two Continental Wars," 175.

it would have become increasingly difficult for slave dealers to sell newly enslaved Greeks in Anatolian markets and hope to get away with it. By this point, nearly the entire Greek-speaking world was part of the Ottoman Empire and those parts that were not belonged to Venice, with which the Ottomans were at peace between 1573 and 1645. There were no more large influxes of Greek prisoners of war or a slave market saturated with Cypriot Greeks to provide cover for illegal human trafficking as they had in the 1570s. Whether Ottoman Greeks or Venetian-subject Greeks from Crete or the Ionian islands, there was no place in the interwar years whence they could be legally enslaved. At the same time, however, the Adriatic and Ionian coasts still reported numerous cases of Ottoman subjects being illegally enslaved, as disorder on the frontiers, distance from the imperial center, significant numbers of locally based *levends*, and persistent political weakness continued to invite abuse—this kind of problem certainly had not disappeared.

In all locales, it is extremely unlikely that all such cases were reported to the central government; some were handled locally, some were never handled at all. Capturing and selling Ottoman subjects as slaves only made sense if it could be reliably profitable and done with an acceptably low amount of risk. After all, the attention given to the Naxos affair was exceptional; the administrative response described above probably represents the best-case scenario of the government's capabilities. The relative proximity of Western Anatolia and the comparative strength of central control there in the mid-1570s meant that the Porte could apply continuous and meaningful pressure and correspond with its men on the ground faster and more reliably than elsewhere. The same could not be said for places more remote, or periods more politically tumultuous, when the Porte might not be willing or able to spare the manpower to dispatch the number of

orders it would take—each required its own messenger—or keep enough trusted men on the ground long enough to see them carried out. It is hard to imagine the Porte sidelining the local *kadis* and ordering the transfer of large numbers of contested captives and criminal captors from, for example, the Adriatic coast to Istanbul.

But people victimized by pirates and others who lost loved ones in amphibious raids could appeal to a number of authorities for help. The sultan was of course the highest authority, but they could turn first to the local *kadi*, district governor, various Christian religious authorities with pull in the right places, or, in the Aegean, to the kapudan pasha.<sup>56</sup> All might be faster and more effective than the central government in handling cases where time was of the essence, and in such instances, the center would never be informed or involved. It is possible that cases of this sort in the Aegean, in addition to occurring with less regularity than they had previously, were also increasingly dealt with locally, keeping the central government completely out of the loop.<sup>57</sup>

In contrast, because local government figures—from customs agents to district governors—frequently perpetrated, and often enabled, illegal slaving on the Adriatic frontier and along the Ionian and Morean coasts—and on a scale unlike anything ever seen in the Aegean—there the need to appeal to the imperial center for justice remained unchanged.<sup>58</sup>

### **Disobedient Corsairs and Illegal Captives on the Adriatic-Ionian Frontier**

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<sup>56</sup> The matter of victims of piracy and illegal enslavement in the Ottoman courts is taken up in Chapter 5.

<sup>57</sup> We can only get rare glimpses of how the illegal enslavement of Ottoman Greeks was handled on the local, individual level, mostly through court records and documents held in monastic archives.

<sup>58</sup> Paradoxically, distance from Istanbul meant that the central government was the only party reliably willing and able to address such cases, though that distance also meant that its coercive powers were limited. The *mühimme* records clearly demonstrate the difficulties the central government and its agents faced in having decrees enforced on the Adriatic. See also Bostan, *Adriyatik'te Korsanlık*.

Along the Adriatic frontier's complicated jumble of borders and across the many miles of coastline, there was often little to distinguish the subjects of one power from another. Unscrupulous pirates and border guards, aware of this fact, could conveniently and safely raid their own shores and the interior for plunder and captives—usually Christians ostensibly no different from those subject to the Habsburgs or Venice. In contrast with the Aegean, such people, once taken prisoner, had only to be carried off a short way from their homes before their captors could easily pass them off as *harbi kafir* (enemy infidels from the *darülharb*) instead of *zimmis* and thus legitimate *esir* (captives) for sale.<sup>59</sup> Nowhere else in the empire were the divisions between *darülharb* and *darüislam* as complicated as on the Adriatic frontier, but their definitions—except in the unique case of Dubrovnik<sup>60</sup>—were relatively straightforward. Ottoman *reaya* were still supposed to be off-limits.

Ottoman subjects wronged in this way might have little recourse for their own release or the restitution of their property. Unless they were able to gain access to a court with a sympathetic judge or their local government was informed of events quickly enough and was sufficiently motivated to act decisively, captives and plunder might irretrievably disappear into the vastness of the empire. Even then, as we have seen, that was often not enough. Distance from the imperial center and a permanent, underpaid, poorly supervised military presence on the borders and along the coasts exacerbated the problem. The Ottoman government could not do without these men stationed along the

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<sup>59</sup> MD 52: 744/281 (28/S/992).

<sup>60</sup> On which, see Nicolaas H. Biegman, *The Turco-Ragusan Relationship: According to the Firmans of Murad III (1575-1595) Extant in the State Archives of Dubrovnik* (The Hague, 1967), 30-1.

borders and at strategic points along the Adriatic, Ionian, and Morean coasts, but neither could it fully control them.

The Porte had long been forced to tolerate a certain amount of illegal violence from its servants in order to preserve its broader security arrangements and intelligence gathering mechanisms, but the system often teetered on the edge of collapse through the early seventeenth century. Unruly locally-stationed irregulars were joined by long-distance pirates from North Africa and England, district governors rushed to share in the profits of illicit piracy and slave-raiding, and a new crop of amphibious strongmen disinclined to compromise with the center established themselves outside the main ports and along inaccessible stretches of coast. Venetian and Ragusan ships and shores were among the most frequent targets of raiding in the region, but here too Ottoman subjects, Muslim and Christian, suffered greatly from the post-Lepanto rise in violence, often (though not always) at the hands of other Ottomans.<sup>61</sup> In order to understand why this occurred and why the Ottoman administrative response to the illegal enslavement of Ottoman subjects differed here in cases which, on the surface, appeared similar to those in the Aegean, we must first explore the relationship between *levends*, trade, topography, local and central government. We start by examining the Ottoman Adriatic pirate port par excellence: Avlonya.

### **Portrait of a Pirate Port: Avlonya in Perspective**

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<sup>61</sup> This chapter does not examine the impact of Uskok raiding or Ottoman counter-raiding in the North Adriatic, and it largely leaves aside the border violence characteristic to the Veneto-Habsburg-Ottoman frontier; instead, it concentrates on the South Adriatic, the Ionian coast, and the western and southern shores of the Morea and treats them as a single, albeit diverse, regional unit due to certain similarities in experiences, administrative and military structures, and, crucially, treatment from the center. My focus on this region to the relative exclusion of the North Adriatic was determined for the most part by the Porte's own interests as reflected in the registers of its decrees.

One of the most important bases in the early modern Adriatic for pirate raiding and trading in captives, the Ottoman Albanian port of Avlonya (Valona, present-day Vlorë) appeared frequently in the previous chapter, a near constant scourge to Venetian and Ragusan shipping and a leader in disregarding Ottoman imperial directives. Taking a closer look at this problematic port allows us to better understand the Ottoman center's troubled relationship with the periphery and the ways in which the illegal enslavement of Ottoman subjects defined it. Located on the Albanian coastline at a narrow point at the southern end of the Adriatic, Avlonya's gradual transformation from a relatively prosperous commercial port to a forward base and entrepot for corsairs towards the end of the sixteenth century reflects many of the causes of the great increase in piracy during the period and the difficulties faced by the distant Ottoman center in imposing its will on its recalcitrant servants.

Its story is in many respects quite similar to that of other formerly marginalized Ottoman Adriatic ports, like Draç (Durazzo, present-day Durrës), revitalized to an extent and sustained by the trade in stolen goods and captives offloaded by pirates. In the second half of the sixteenth century, Avlonya began to lose commercial importance and, with the establishment of Split as a viable transit port after 1590, survived primarily as a naval base. Moreover, increasing piracy in the Adriatic reinforced this decline. It drove more and more merchants to abandon the sea for trade routes on land and employ the more secure short-hop transit ports in the north to traverse the Adriatic, thereby further accelerating the southern Ottoman ports' descent into commercial irrelevance.<sup>62</sup>

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<sup>62</sup> Bostan, *Adriyatik'te Korsanlık*, 36.

Local administrators in a declining port, deprived of adequate customs revenue (and presumably the bribes that would accompany it), would logically see facilitating, or at the least turning a blind eye to, piracy as the best way to supplement their shrinking incomes. With the drying up of licit commerce, the port's survival and that of its denizens, sailors and permanent residents alike—the entire local economy—would depend on making up the shortfall through piracy. One might note that Senj, base of the infamous Uskok corsairs, underwent a similar transformation, with similar causes, after the Ottoman conquest of the port's hinterland in the late fifteenth century.<sup>63</sup> Ultimately, the embrace of piracy for economic survival in the Adriatic—though its practitioners might not have articulated their motives or justified their actions in this manner—and the Mediterranean *corso* in general must be understood as, to quote Pal Fodor, “the attempt of impoverished societies excluded from the mainstream of development to compensate themselves—at least in part—for the losses caused by the commercial ascendancy” of others.<sup>64</sup>

Thus, pirates based in or stopping at Avlonya captured the ships of Venetians and others, brought them back to Avlonya, and sold their contents and crews there. Its prime strategic position at the narrow southern end of the Adriatic turned the entrance to the sea into a dangerous gauntlet. By serving as a base for “local” Ottoman pirates and a revictualing station for longer distance raiders from North Africa and England and providing a market for their stolen goods and captives, Avlonya became a major hub on

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<sup>63</sup> Catherine Wendy Bracewell, *The Uskoks of Senj: Piracy, Banditry, and Holy War in the Sixteenth Century-Adriatic* (Ithaca, 1992), 108-9.

<sup>64</sup> Fodor, “Maltese Pirates, Ottoman Captives,” 223.

the Adriatic and Mediterranean piracy networks in the late sixteenth and early seventeenth centuries.<sup>65</sup>

Of course it was understood that the *levends* would raid enemy shipping and shores and share the spoils with their partners on land. The legitimacy of the *corso* was not challenged in this respect, and the *levends* based in Ottoman Adriatic ports had a more or less acceptable corsairing target right across the water in the land and people subject to the Spanish viceroys in Naples and Sicily. Even when peace was reestablished with Venice in 1573, the *levends* were encouraged to raid the ships of Spain and the Pope whenever the opportunity presented itself. Essentially the entire Italian coast outside of Venice was fair game, separated from the Ottoman side at some points by little more than a hundred miles of water.<sup>66</sup> But the role of Avlonya and other ports expanded far beyond that of facilitating the legitimate privateering of locally stationed squadrons of *levends* on the state payroll. By opening itself to the English (who made their Mediterranean debut in the 1580s), the North Africans, and other *levends*, it made long-distance piracy in the Adriatic possible and profitable. No longer limited by how much they could haul back to their home ports or the number of days' worth of provisions they could store, pirates could loiter in the area indefinitely, repeatedly offloading their prizes at port, taking on fresh supplies, and heading back out for more booty.<sup>67</sup>

This situation was not entirely acceptable to Istanbul. However, distance from the center and heavy reliance on the *levends* for maritime security complicated any efforts by the government to bring its servants into line. This was certainly the case in wartime, as

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<sup>65</sup> Bostan, *Adriyatik'te Korsanlık*, 36; Alberto Tenenti, *Piracy and the Decline of Venice: 1580-1615*, trans. Janet and Brian Pullan (Berkeley, 1967), 19; 24; 81-2.

<sup>66</sup> Tenenti, *Piracy and the Decline of Venice*, 17-21; Bostan, *Adriyatik'te Korsanlık*, 36.

<sup>67</sup> Suraiya Faroqhi, "The Venetian Presence in the Ottoman Empire (1600-1630)," *Journal of European Economic History*, 15 (1985), 362; Tenenti, *Piracy and the Decline of Venice*, 19-21, 56-7.

the case of a captain named Kara Hoca makes clear. In a decree dated February 13, 1571, Kara Hoca, one of the commanders of the volunteer *levends* based around Avlonya, was promoted to the *azab ağalığı*, basically chief of the local *levends*, with daily pay of 100 *akçe*; his charge was, along with the other volunteer *levend* captains in the area, to “protect the places in those parts that need protection and guarding and endeavor so that no damage may come to a single place from the Venetians; never stop spying and following to [learn] whatever there is, whether the circumstances of their fleets or other plans and preparations and continuously inform of correct news.”<sup>68</sup> Such were the most critical duties of the *levends* on the state payroll, and it appears from subsequent orders that Kara Hoca was relatively diligent in this regard.<sup>69</sup>

Nevertheless, just six months later, on August 9, 1571, Kara Hoca was implicated in the capture and “transgression” of seven or eight Ragusans. He was ordered to return the Ragusan captives and admonished not to interfere with the rights of the ships of Dubrovnik.<sup>70</sup> Given that the Ottoman order was only issued in response to a petition from Dubrovnik, it is fair to say that the incident in question actually occurred some time earlier. Kara Hoca of course would have been fully aware that Dubrovnik was an Ottoman tributary and that its subjects were considered by the center to be full-fledged Ottoman *harac veren reaya*,<sup>71</sup> that is, tax paying subjects, but this was evidently no impediment to his seizing the merchants. While the Ottoman order in response to his transgression was unequivocal in its expectations, there was clearly no question in this instance of disciplinary action; indeed, just days earlier, Kara Hoca had been tasked with

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<sup>68</sup> MD 14: 1261/ 863 (18/N/978).

<sup>69</sup> MD 14: 361/255 (14/RA/978); MD 16: 633/ 358 (9/RA/979).

<sup>70</sup> MD 15: 693/ 81 (17/RA/979).

<sup>71</sup> As in MD 40: 61/30 (25/Z/986); also, see below.

an important reconnaissance mission.<sup>72</sup> Faced with the prospect of upsetting its immediate security needs in wartime, the Ottoman administration could do little more than tell *levends* like Kara Hoca to behave.

When peace with Venice was at hand in 1573, the *levends* and others on the Adriatic frontiers who had lived through the conflict were skeptical. When the central government ordered the Avlonya *azablar ağası*, presumably still Kara Hoca, to release his Venetian captives, he objected that they would give vital intelligence to the enemy in Messina and Venice that would put them at risk. He was subsequently ordered to stay alert and be cautious, but to strictly and faithfully uphold the stipulations of the treaty.<sup>73</sup> Many *levends* like Kara Hoca also had friends and relations who were still in Venetian captivity and therefore must have resented the peace imposed upon them from afar.

If anything, the central administration's ability to control the *levends* was even shakier in peacetime. The flagrant lack of respect shown by some *levends* to the representatives of Ottoman authority was manifested in the murder of Sinan, *kadi* of Belgrade and *müfettiş-i emval* (treasury inspector), in Avlonya in the spring of 1584. In the course of the subsequent investigation, suspicion fell on the *levend* captain Yaya Aşık, who witnesses attested had openly declared his intention to kill the *kadi* and who was already implicated in other murders. However, Yaya Aşık was a powerful character, operating two frigates with 50 to 60 *levends* under his command; members of the local landed cavalry (*sipahis*) were suspected of colluding with him. In a tacit acknowledgment

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<sup>72</sup> MD 16: 633/358 (9/RA/979); Kara Hoca continues to appear in the records after this, such as in MD 21: 315/ 130 (20/L/980), where he is involved in the efforts to arrange an exchange of his Venetian captive, the "Körfus Baylosu," for the release of several Ottomans including Kara Hoca's brother Kadri Reis—also a sea captain— and a payment of 1000 filori. Here, the divan orders the bey of Avlonya to ensure that the money and captives are received before the bailo is released and that the money is then turned over to the state.

<sup>73</sup> MD 21: 763/324 (981).

of the considerable strength of their target, the Ottoman central administration instructed the *kadi* of Avlonya, the judge inspector of Belgrade, and Piyale, former admiral (*kapudan*) of the naval squadron at Avlonya to take the accused and other suspected persons into custody by any means possible and, failing that, to do whatever could be done in its place.<sup>74</sup>

It is not clear why Yaya Aşık and his accomplices decided to kill Sinan, but it seems likely that the *kadi*, in his capacity as treasury inspector, had somehow interfered with their plans or profits. Perhaps the outsider Sinan had tried to bring a reformist agenda to Avlonya that threatened the status quo and a pre-existing, cozy relationship between the *levend* and local officials. Evidently, the power and prestige of Sinan's office did not give the Avlonya *levend* captain and his co-conspirators much pause, nor did the prospect of the inevitable imperial reaction to their crime. Istanbul's failure to maintain a credible threat of coercive force on the frontier, to effectively prosecute this affront or supply sufficient, loyal manpower to destroy the offending party speaks volumes about the limits of Ottoman central control on the Adriatic frontier and the enormous challenges facing local leaders tasked with independently taking on members of the highly mobile paramilitary groups formerly expected to defend them.

Yaya Aşık was not the first *levend* captain at Avlonya to become sufficiently powerful to flagrantly disregard authority. In 1577, a captain named Hasan Duka was charged with a laundry list of offenses. Not only had he murdered Yedi Hoca, the scribe of Bastik castle, and several others—he had captured and enslaved numerous Christian Ottoman subjects and forced them to row the ships under his command, seven and nine-bench frigates which he then used to capture passing Venetian and Ragusan ships, whose

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<sup>74</sup> MD 53: 41/18 (7/CA/992).

crews, in turn, he enslaved. The governors of Avlonya and Elbasan were ordered to have him apprehended and investigate the charges.<sup>75</sup>

The case of Hasan Duka at Avlonya is entirely typical of “local” piracy in the region. The archetype was a decommissioned or unemployed naval captain turned local strongman who, along with the paramilitaries under his command, was able to operate openly in the area, intimidating or killing those who might oppose him while likely maintaining profitable relationships with a number of officials who could provide material support or run interference for a price. Starting small, Hasan Duka and his men assembled their unfree workforce by raiding local villages, short-hop shipping and small fishing boats. The band of pirates then used their slaves’ labor to move onto bigger targets, Venetian and Ragusan merchantmen carrying cargoes of greater value and crews that could fetch greater ransoms—ransoms that would be in most instances paid, because treaty or no treaty, it was preferable to pay and go home rather than to risk permanent enslavement while awaiting diplomatic intervention. Just like in the early stages of the pirate life-cycle described by Mustafa Ali, with time operations like Yaya Aşık’s and Hasan Duka’s grew in size, as the number of ships and slaves available to row them grew with each taking and new *levends* joined up. With their local connections and support networks and a constant supply of passing prey, however, Hasan Duka and his men had no need to venture far out to sea. Waiting patiently on the beach, they could dart out in their small, swift vessels whenever a tempting target appeared. No one was stopping them.

The reinvention of Avlonya as a port catering to pirates depended as much on the involvement of the local administration as it did on the activities of the pirates

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<sup>75</sup> MD 29: 476/202 (Selh/ZA/984).

themselves. Indeed, without their complicity, Avlonya would not have been able to take on the role it did. Undoubtedly someone like Hasan Duka had numerous allies, and probably more than a few had official positions. Even though local administrators could not prevent piracy in the region or restrain determined *levends* without significant resources from the center, they could have denied the pirates a market for their goods and dungeons for their captives or moved to confiscate booty brought to shore. To the contrary, local officials in Avlonya and other Ottoman Adriatic ports (much like those in non-Ottoman ports elsewhere in the Adriatic) often actively participated in pirating ventures, bankrolling operations or buying up captives and stolen property. In some cases, they planned the pirating expeditions themselves.<sup>76</sup>

### **An Official Problem: Local Government Complicity**

Not only were local government officials a major part of the piracy problem, some were ready, when confronted by a crackdown from the center, to defend themselves and their interests with force. In 1605, a coalition of *levend* from the port of Nova (Herceg Novi) on the Adriatic and North Africa organized by a number of highly placed administrators in Draç captured a Venetian barge, killing some of the crew and enslaving the rest. Ship, captives, and goods were then towed to Draç, and most of the Venetian captives were ransomed. When the government learned of the officials' involvement, it ordered the *kadi* of Draç and the *kaymakam* (sub-governor) of the *sancakbey* of Elbasan, Ali Kethüda, to apprehend and punish the *levend* and the officials who protected them,

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<sup>76</sup> For example, MD 26: 180/68 (17/RA/982); MD 46: 602/267 (2/Z/989); MD 53: 41/18 (7/CA/992); BOA *Ecnebi Defteri* (hereafter ED) 13: 101-2/27 (6/C/1014); ED 13: 493-4/ 99 (8/M/1022); see also Bostan, *Adriyatik'te Korsanlık*, 36-42; Faroqhi, "The Venetian Presence," 346-8, 361-3.

providing a list of their names. However Ali Kethüda did not come with sufficient backup for his task; the group he had come to arrest joined together and murdered the unfortunate man, then rapidly sold off the remaining slaves and goods they held from the Venetian barge while they still could. This brazen act of defiance enraged the government. The *sancakbey* of Avlonya was ordered to do what Ali Kethüda could not and bring the perpetrators to justice.<sup>77</sup>

Regional and district governors on the Adriatic and Ionian coasts had a great deal of discretionary power and minimal supervision, so those who were sufficiently enterprising could, if so inclined, make quite a profit during their tenures. For example, in 1591, the previous *sancakbey* of the district of Karlieli (present-day Agrinio), Mustafa, was found to have been “disobeying the noble *şeriat* [i.e., Islamic law]” by “always committing corruption” and working in concert with the “rebel *levends*” based at Ayamavra (Santa Maura) castle on Lefkada island; he had been equipping *levend* frigates for raids, enslaving Ottoman subjects from his district and from nearby islands and coasts, and using them to build galliots which harassed passing merchants—all while in office.<sup>78</sup> The Ottoman government learned about his criminal activities only after he had been routinely rotated out of his position and his successor, Murad, informed it of what had been happening. The Porte instructed Murad and the castellan (*dizdar*) of Ayamavra castle to see to it that any captives held there be immediately freed, to put a stop to the Ayamavra *levends*’ attacks on Ottoman islands and merchants, and to write if the problem persisted. But of course, the activities of the *levend* stationed at Ayamavra castle were not news to its castellan, and since no attempt was made to replace him and no force

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<sup>77</sup> Bostan, *Adriyatik'te Korsanlık*, 41-2; ED 13: 101-2/27 (6/C/1014).

<sup>78</sup> MZD 4: 403/186 (20/ZA/999).

was sent to restrain the men who sheltered their ships under his cannon, the decree may have had only a limited impact if any.

Indeed, Ayamavra had been a problem zone for over twenty years and would continue to be so, and the Ionian coastline extending from the southern tip of the western Morea to Ayamavra was especially perilous for Ottoman subjects largely due to its *levend* forces. In the spring of 1573, for example, *levends* based at the Ayamavra castle were reported to have built frigates and were using them to raid Ottoman subjects settled in the area. In response, the *kadi* of Ayamavra was ordered to record the names of the *levend* responsible and forward the list to the divan.<sup>79</sup> Shortly thereafter Mehmed, *bey* of the Morea, informed the government that pirates, “*levend korsanlar*,” sailing from Ayamavra and Inebahtı (Lepanto) had been plundering his district and taking Ottoman captives. The *bey* of Inebahtı was ordered to apprehend the pirates and put them to the oar.<sup>80</sup> Clearly, not all Ottoman governors were engaged in piracy, and even those who were likely did not appreciate having their districts impoverished by the piratical predations of their neighbors, but complaints to the center seem to have accomplished little.<sup>81</sup> The recipients of these orders certainly knew about the *levend* raiding beforehand—it is inconceivable that they did not—and were either partially responsible for it or incapable of stopping it. They might have argued, if pressed, that if they did not participate and take their cut, someone else would. The fact that the *levend* still fulfilled a vital security function and, more importantly, that some control over them was better than

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<sup>79</sup> MD 22: 30/12 (21/M/981).

<sup>80</sup> MD 22: 332/172 (26/RA/981).

<sup>81</sup> Ottoman intra-governmental correspondence does not survive, so we have no way of knowing what sort of relations these governors had with one another and how they might have worked independently of the center to resolve disputes, though there can be no question that they did so from time to time.

none, meant that the center would respond to the most egregious excesses but otherwise left its district governors in peace.

Thus, Murad, the new *sancakbey* of Karlieli in 1591, may have had more honor than his predecessor, but piracy in the area continued apace, and his office would eventually be occupied by one far worse than the man he had replaced. History repeated itself in 1617, when the Porte responded to a letter from a new *sancakbey* of Karlieli, Hasan, about the depredations of his predecessor, Mahmud, and his deputy. While some might organize pirating ventures that would take Venetian captives in contravention of the treaty, Mahmud did them one better during his time in power. A 1617 decree to his successor Hasan and the local *kadi* reveals that Mahmud, beyond the usual abuses of stealing from those he ruled, demanding money, and so forth, had come up with an interesting innovation. He had seized numerous Ottoman subjects from every village in his district and put them to the oar on his own ship. Then he forced them to row the ship down to North Africa, where he exchanged them, his captive Ottoman subjects, for “*küffar esir*,” that is, the North African corsairs’ infidel captives who had been **legally** enslaved.<sup>82</sup> It is essentially the early modern equivalent of money laundering—but with slaves. We have discussed only a small sample of the numerous cases in the late sixteenth and early seventeenth centuries of passing *levends* raiding Ottoman coastal possessions, capturing Ottoman non-Muslim subjects, *zimmis*, who were supposed to be protected under Islamic (and Ottoman) law, and selling them in distant ports as if they were legally enslaved *harbi küffar*, enemy infidels. But for one who wanted to actually keep large numbers of slaves, or sell them closer to home, Mahmud’s technique made sense.

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<sup>82</sup> MD 82: 114/57 (9/L/1026).

Mahmud's efforts to exchange his local captives for slaves with acceptable legal provenance reveal the extent to which Ottoman subjecthood was a serious concern for human trafficking operations, one that could not be easily ignored. By trafficking his captives across the sea, he quite literally disposed of the evidence of his crimes; for the cost of a roundtrip voyage, he came back from North Africa with a shipload of slaves that could be openly sold for cash in local markets, kept, or traded without subterfuge. Mahmud's trans-Mediterranean slave-laundering operation also provides evidence for the kinds of complex, long distance connections and illicit commercial relationships that Ottoman provincial leaders in the Adriatic and North Africa were able to establish with each other, independent of the center and contrary to its wishes. Presumably neither Mahmud nor his contacts in North Africa were especially concerned about intervention from Istanbul; there is no evidence that any attempt was made to retrieve the villagers from Mahmud's district. Ports like Tunis were sufficiently outside the purview of the Ottoman center that such efforts would be fruitless and would require the expenditure of scarce diplomatic capital that otherwise had to be reserved for coaxing the release of wrongfully captured European notables. As for the slaves imported from North Africa by Mahmud, there was nothing objectionable about their capture, enslavement, or sale that would require government action.

The abuse of authority to make slaves from subjects extended further inland as well. One strategy used by regional officials or their subordinates to legitimize plundering *reaya* villages and carrying off their inhabitants was to accuse them of insurrection. As Ottoman policy towards rebellious locales was usually to view them as having essentially abandoned the *darüislam*, the government routinely ordered that

disobedient towns or villages, if they did not promptly resubmit, be destroyed, the “troublemakers” (viz. most or all adult males) slaughtered, the women and children enslaved, and the moveable property and livestock carried off.<sup>83</sup> Intriguingly, the central government, as we have seen, did not fully apply this policy during the pacification of the Aegean islands in the early 1570s and did not authorize universal enslavement there, but to little effect. Undoubtedly many of those charged with such duties approached their task with some enthusiasm, as the opportunities for officially sanctioned, comparatively low-risk pillaging were fairly limited in the wider Adriatic frontier region and all the more so in times of formal peace.

Thus, it should come as no surprise that some enterprising officials took it upon themselves to identify “rebellious” villages and punish them without first notifying Istanbul. One such case, which evidently did not escape the notice of the Porte, is described in a decree to the *kadis* of Iskenderiye (Shköder) and Ipek (Peć) dated May 18, 1579. Men of the *sancakbey* had come upon the village of Klemente in the district of Iskenderiye—at the time peaceful and not in a state of revolt—and pillaged it, killing some of the women of the village and enslaving others. After the survivors of the village complained of their treatment, protesting that they had been minding their own business, the *kadis* were instructed to investigate the reason for the unwarranted attack.<sup>84</sup> Only a few months earlier, a decree sent to the *bey* of Iskenderiye on January 26, 1579 had indicated that a number of villages in his district previously identified as on the brink of rebellion had in fact paid their taxes (*cizye ve rusum*); thus, the *bey* was ordered not to

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<sup>83</sup> Some examples: MD 14: 1353/914 (17/N/978); MD 28: 265/109 (25/B/984); MD 35: 876/345 (8/N/986).

<sup>84</sup> MD 36: 701/266 (21/RA/987).

attack these villages and carry off their children.<sup>85</sup> Can we assume that the *bey*, impatient with his obedient *reaya* and the consequent lack of profit, decided to invent a rebellion to crush? All these slaves were ordered found and freed. With this background, Mahmud's complex slave-laundering scheme of 1617 takes on a new significance; higher officials who wished to traffic in Ottoman subjects, like the pirates of the Aegean, could employ the sea to ostensibly wash them of their subjecthood.<sup>86</sup>

The tone of cease-and-desist orders sent from Istanbul to officials on the Adriatic suggests that, at least from the perspective of the central government, there was no wink-and-nod situation with respect to their piratical activities. Orders sent were often concerned with preventing support being given to corsairs in the form of provisions or providing markets for goods or captives. Repeatedly in the later sixteenth and seventeenth centuries, Ottoman officials along the Adriatic coast were warned not to support or participate in unauthorized raiding on land or sea, and they were ordered to prevent unauthorized shipbuilding and to burn ships built without permission or belonging to those with reputations as pirates.<sup>87</sup> The fact that these orders were repeatedly sent out, indeed the frustration with disobedient officials is palpable in some *fermans* (imperial decrees), reveals the clear problems that the administration had with enforcement. That said, many of the petitioners to the central government regarding cases of piracy and illegal enslavement were local judges and district and provincial governors; many struggled mightily to protect their the inhabitants of their domains from pirates and border raiders and, sometimes, neighboring governors. Nevertheless, potential gains for

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<sup>85</sup> MD 36: 139/46 (28/ZA/986).

<sup>86</sup> Ottoman jurists rejected the notion that travel by sea could negate Ottoman subjecthood, but in practice, it would be difficult for an Ottoman non-Muslim to prove Ottoman subjecthood once far removed from his or her place of origin. This issue is discussed at length in the next chapter.

<sup>87</sup> For example, MD 24: 596/ 224 (20/M/982); MD 26: 135/53 (8/RA/982); MD 26: 180/ 68 (17/RA/982).

the pirates and their partners on land must have outweighed the risks, especially as a credible threat from the center was lacking in the late sixteenth and early seventeenth centuries. Indeed, as has been already noted, it is not clear that local administrators would have been able to completely stamp out piracy in their areas even if they wanted to.

Local officials—castellans, customs agents, judges, members of the imperial cavalry and janissaries tasked with providing security—were routinely accused of complicity in acts of piracy and often of direct participation in them. Piracy in and around the mouth of the Adriatic was not just haphazard and opportunistic. Operations were often planned far in advance, highly sophisticated heists that relied on detailed intelligence concerning the course, size, armament, and cargo of specific targets and involved coalitions of naval forces based locally and coming from longer distances, typically North Africa, that were arranged by powerful, well-connected members of the provincial government, including district governors, who would receive a large share of the profits. This fact of course complicated the central government's efforts to enforce its treaties with Venice and others; Venetian counter-intelligence and proactive diplomacy meant that the Ottoman center sometimes learned of planned operations before they happened and was able to squelch them, but the unfortunate experience of Ali Kethüda in 1605 serves as an example of what could happen when such efforts failed.<sup>88</sup> The mechanisms for providing restitution in these kinds of cases were described in the previous chapter; now we will focus on the patterns of piracy on the edges of the Ottoman Mediterranean, their implications for law enforcement, and their impact on Ottoman coastal communities.

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<sup>88</sup> Bostan, *Adriyatik'te Korsanlık*, 41-2.

## **Patterns of Piracy: The Rise of the Coastal Strongman**

Piracy and amphibious slave-raiding in the Adriatic-Ionian frontier region, just as in the broader Eastern Mediterranean, broadly took one of two forms: “local” piracy and “long-distance” piracy. Although the boundaries between the two were fluid—local pirates could become long-distance pirates and vice versa, and there was a continuum of professionalization within the “local” rubric—the differences were significant. The distinction was described at length in Chapter One, but it is time to return to the issue here, for local and long-distance piracy coexisted uniquely along the Adriatic-Ionian frontier. There, the long-distance piracy umbrella includes the corsairs from North Africa and the pirates from England who raided the sea-lanes leading into the Adriatic along the Albanian and Morean coasts and in the open water separating the Greek mainland from Crete. These raiders made great use of ports like Avlonya for resupply and sale of stolen merchandise. They undoubtedly had business relationships with and were familiar to officials resident in the region, but they were not permanently based there and were not typically invested in the functioning of local government. Long-distance pirates certainly did indulge in shore raids—the 1574 raid on Naxos is a prime example—but in the Adriatic-Ionian region, they were the least of the worries of Ottoman subjects settled along the coasts and the near interior. Rather, the “local” pirate was their scourge.

To the extent that scholars have examined piracy in and around the Adriatic, they have typically failed to distinguish between the many types of local and long-distance

piracy in the region.<sup>89</sup> There are a number of obvious reasons for this. First, Ottoman scribes did not employ consistent terminological distinctions between the two, though context often provides clues. Second, and more importantly, the most desirable prize sought by both sorts was the same: Venetian (and to a lesser extent, Ragusan) shipping. But an exclusive focus on “European” victims and an over-reliance on European sources<sup>90</sup> have obscured the long-distance/local dichotomy and an important intermediate step characteristic of local piracy along the Adriatic, Ionian, and Morean coasts: in order to generate revenue, to acquire manpower to build and propel ships, and to intimidate potential opposition, local pirates captured their Ottoman compatriots, selling them to local buyers or keeping them to form a subservient workforce to build ships and pull oars. They, more so than their long-distance coworkers, compromised the Ottoman center’s relationship with its periphery. They threatened the durability of its peace agreements with foreign powers and the stability of Ottoman coastal society itself.

“Local” pirates were not just those based in ports like Avlonya, Ayamavra, and Draç who were recruited by or worked with local government and may have continued to serve its needs in legitimate security and intelligence capacities while moonlighting as sea-raiders attacking both licit and illicit targets. Beginning in the later sixteenth century and increasing rapidly in the first quarter of the seventeenth century, local strongmen like the aforementioned Hasan Duka of Avlonya became a common part of the coastal power

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<sup>89</sup> E.g., Suraiya Faroqhi, “Ottoman Views on Corsairs and Piracy in the Adriatic,” in Elizabeth Zachariadou, ed., *The Kapudan Pasha: His Office and His Domain* (Rethymnon, 2002), 357-371; idem., “Venetian Presence,” Bostan, *Adriyatik’te Korsanlık*; Tenenti, *Piracy and the Decline of Venice*. These scholars certainly do recognize that there were pirates based locally out of ports like Avlonya alongside those coming from further afield, but they do not acknowledge the broad spectrum of “local” piracy (which encompassed salaried naval irregulars and fully independent amphibious sea bandits) nor the fact that not all of these raiders were “legitimate” corsairs who sometimes attacked illegitimate targets.

<sup>90</sup> Cf. Bostan, *op. cit.*, who relies on Ottoman documents held in the Venetian archives but in so doing overlooks the side of Adriatic piracy that had nothing to do with Venice or the Uskoks and everything to do with local power dynamics.

structures. These strongmen were often decommissioned naval irregulars or lower-level members of the Ottoman military-administrative establishment—janissaries, sipahis, *çavuşes*—who took advantage of local power vacuums or the opportunities provided by their offices in the absence of close supervision, but sometimes they were men from outside these backgrounds who succeeded in accumulating power and attracting others to their banner by means of daring, reputation, or some other combination of factors. Most were Muslim, but some were Christian. They shared much in common with the bandit leaders of the Balkans and Anatolia and with the *celalis*, former irregular infantry turned brigands whose rampages and revolts convulsed much of the empire in the late sixteenth and early seventeenth centuries.<sup>91</sup> But these were not simply roaming bandits.

The coastal strongmen who established themselves on the outskirts of the main towns, supported by gangs numbering in the teens to dozens, were truly amphibious criminals who operated in more or less fixed zones and for many—at least at first—subterfuge of the sort practiced by the governor of Karlieli, Mahmud, was unnecessary. For example, Avcı Oğlu, Kara Mustafa, Karaca Bali, and Aksak Hoca, pirates operating out of small skiffs (*kayık levendleri*) in the district of Albanian Iskenderiyye, were brazen enough to forgo selling their Ottoman Christian captives, the product of numerous coastal raids. Instead, they kept them as their personal slaves, subsequently settling on land with their Ottoman Christian captives still openly in their service. Such a state of affairs could

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<sup>91</sup> *Celali* is the umbrella term used to describe the participants in a series of desultory revolts and widespread brigandage that began in the 1590s and continued through the first quarter of the seventeenth century, as demobilized irregular infantry from the Long War (1593-1606) with the Habsburgs, denied the privileges accorded to members of the permanent military class, returned to the Anatolian countryside armed and unemployed and began to ravage it. Though the Balkans experienced very similar disorders, the brigandage there is not usually called *celali*. See Fikret Adanır, “Heiduckentum Und Osmanische Herrschaft. Sozialgeschichtliche Aspekte Der Diskussion Um Das Frühneuzeitliche Räuberwesen in Südosteuropa,” *Südost-Forschungen*, 41 (1982), 43–116. Cf. Karen Barkey, *Bandits and Bureaucrats: the Ottoman Route to State Centralization* (Ithaca, 1997) who entirely ignores the Balkan parallels to the situation in seventeenth-century Anatolia.

only occur with a degree of willful ignorance on the part of local officials, though it is impossible for us to know whether this was due more to collusion with or intimidation by the pirates. Thus, when the Porte ordered the *beys* of the surrounding districts—Avlonya, Karlieli, Selanik (Salonica), and Ohri (Ohrid in present-day Macedonia)—to find and imprison the offending *levend* and the slaves they had made in the summer of 1574, they were also instructed not to supply *levend* with grain, to warn the soldiery of the provinces not to give aid to such people, and to imprison those who did.<sup>92</sup> Alas, this was easier said than done, and unlike the Naxos affair that same summer, there was no happy ending for these pirates' captives.

As for this quartet of “local” pirates, with time and continued success, they graduated to, or perhaps returned to, “long-distance” status and established slave-trading networks with Egypt and North Africa that enabled larger scale human trafficking with less danger of interference from the government. They next appear in our sources five years later, in the summer of 1579, having disposed of cargoes of captives taken from villages near Shkodër in Albania in the markets of Alexandria, Egypt (Mısır İskenderiyyesi), and they were suspected of doing the same in Tripoli, Tunis, and perhaps even Algiers.<sup>93</sup> And this time, the Porte was not going to be satisfied by sending an angry letter. Echoing Tahir *çavuş* and Marko's mission to Anatolia in search of Naxiotes, the imperial council dispatched a *zimmi* named “Irenc” to Egypt to work with the *kadis* in the district of Alexandria to locate the illegally captured Ottoman Albanians, arrange their

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<sup>92</sup> MD 26: 135/53 (8/RA/982).

<sup>93</sup> Copies of the decree in question were sent to the *beylerbeyis* of these three provinces, suggesting that the center believed that some of the captives may have ended up in those ports and/or that the pirate quartet was splitting its time between one or more of the North African regencies and its former base on the Albanian coast.

release through the courts, and escort them back to their homes.<sup>94</sup> Much like the slave-laundering governor Mahmud nearly forty years later, the quartet's trans-Mediterranean operations were intended to sidestep the problems associated with selling too many Ottoman-subject captives too close to home. But the story invites the question: why was the Porte willing to send someone all the way to Egypt to hunt for illegally enslaved Ottoman Albanians when it was unwilling or unable to do so in the captives' own backyard?

If we think back to the stories of Yaya Aşık, Yedi Hoca, and Ali Kethüda—murdered Ottoman functionaries who had, in one way or another, interfered with the normal patterns of illicit coastal trade—the answer becomes clear. There was some hope that the envoy Irenc might succeed in his mission in Alexandria, Egypt; there was little to no chance that he would in Alexandria (Iskenderiyye), Albania. Part of the problem was that, by the time the Porte learned of the occurrence of actions serious enough to warrant a response on the Adriatic-Ionian coast, the culprits were already too well entrenched and too powerful to confront directly without committing to an open conflict, and in most cases the government had to be content with scolding and negotiation.<sup>95</sup> Following the career trajectory of one of these *levend* strongmen, a “rebel” by the name of Ahmed active in the early seventeenth century around the port of Draç in the district of Elbasan, we see why this was so.

Ahmed began his criminal career in the hinterland of Draç. A man with no identifiable prior connection to the Ottoman military, Ahmed started out as a small-scale brigand. He and his gang terrorized the villages in the area, raiding repeatedly and

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<sup>94</sup> MD 36: 722/274 (21/RA/987).

<sup>95</sup> The same holds for Ottoman North Africa. Istanbul might send slave-hunting men to Anatolia or Egypt, but it was more likely to rely on diplomacy, on negotiating and cajoling, in Tunis, Tripoli, and Algiers.

carrying off women and children, raping, murdering, and stealing livestock and movable goods. With the labor from their captives and the money earned from their sale, Ahmed was able to set his sights on the big time: piracy. He had a frigate constructed from scratch, with which “he plundered passing Venetian merchant ships and murdered Muslim and infidel merchants and others on board and stole [their] property.” The extent of Ahmed’s depredations was such that, by the end of the summer of 1604, it had had a serious impact on trade and, “due to fear of the aforementioned rebel, merchant ships did not venture out onto the surface of the sea.” All the while, Ahmed gathered more *levend* under his command and continued his raiding and slave-taking on land, “roaming day and night in the fashion of the *celalis*, committing acts of corruption and depravity.”<sup>96</sup>

Ultimately, the *sancakbey* of Elbasan sent a letter to the Porte informing it of the dire situation in his district, and it responded with a decree addressed to him and the *kadi* of Draç in late September, 1604. But how long had this been going on before he did so? Many months at the least, possibly years. Certainly the *kadi* in Draç had to have known about Ahmed from the beginning; disorder on this scale simply could not have escaped his attention. The center ordered the *sancakbey* and the *kadi* to investigate the claims, to find and free the abducted Ottomans “in accordance with Islamic law (*şer'*),” and to capture the murderers and apply the punishments required by Islamic law should they be found guilty.<sup>97</sup> However, the center did not offer any suggestions as to how, precisely, governor and judge were supposed to accomplish all of this. Its decree was thus

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<sup>96</sup> MD 76: 371/143 (3/CA/1013).

<sup>97</sup> MD 76: 371/143 (3/CA/1013).

completely divorced from reality.<sup>98</sup> The *sancakbey* and *kadi* were expected to investigate when the *sancakbey* himself was the one who had reported the problem; if there had been a point when he could have done something about Ahmed, it had long since passed. What he needed now was not an investigation; he needed a small army. At what point had Ahmed's activities become intolerable and why?

Certainly Ahmed was no poster-child for those who argued that the frontier raiders were simply carrying on the old Ottoman *gazi* tradition of attacking the infidel enemy as required by custom and Islam; his victims were not only Venetian merchants and Ottoman Christian villagers, but Muslims too. Some historians have ascribed religious motives to the Ottoman sea raiders of the Adriatic and North Africa and some contemporaries did indeed defend their actions in this way, but the sources do not give Ahmed and those like him the chance to explain themselves.<sup>99</sup> As we shall see in the next chapter, the Ottoman government and its juridical establishment were aware of these kinds of claims and formulated a legal response to them, but Islamic legal opinions and rhetoric from the center were an inadequate deterrence. Ahmed was a harbinger of things to come, as "local" Ottoman piracy intensified along the Adriatic-Ionian coasts and spread across the Morea in the first quarter of the seventeenth century.

By 1618, officials in the Morea acknowledged that piracy had risen markedly in the area and that they were increasingly ill-equipped to combat it.<sup>100</sup> At the same time, becoming a victim of piracy was increasingly ecumenical, and Muslim merchants were

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<sup>98</sup> Ordering the recipients to "investigate," even if the recipients were the ones who had requested the decree, was a standard cliché in Ottoman imperial commands, but it rings particularly hollow in instances like this.

<sup>99</sup> Panzac, *Barbary Corsairs*, 21-2; Bostan, *Adriyatik'te Korsanlık*, 18-9; Faroqhi, "Venetian Presence," 383.

<sup>100</sup> MD 82: 233/113 (7/C/1027).

not safe from their co-religionists' attacks, though they were unlikely to be sold into slavery.<sup>101</sup> By 1631, the regional situation had so deteriorated that a *çavuş* by the name of Yahya, the beneficiary of a *zeamet* (revenue-bearing land grant) worth 27,000 akçe annually near Angilikasri in the Morea, had established a criminal empire that would have impressed even Ahmed. "He is," the kapudan pasha Mustafa declared to the Porte, "a rebel and a criminal (*ehl-i fesad*) and a murderer and a frigateer oppresser (*firkateci zalim*)."<sup>102</sup>

Operating three frigates, he and his men had been kidnapping and raping their way up and down the Morean coast for some time when they came to the seaside village of Anatolikos to raid. There they took property and cash and carried off twelve *reaya*, Ottoman Christian subjects, in chains. It just so happened, however, that this village was among those whose tax revenues supported the grand vezir, Hüsrev Paşa. The targeting of Anatolikos village got the attention of the *kadi* of Angilikasri and ultimately of the kapudan pasha, at which point the *kadis* of Londra and Kalamata spoke up. They reported to the kapudan pasha that Yahya *çavuş* had been, in true amphibious fashion, going through their jurisdictions village by village with 40-50 men in tow, abducting women and young girls and had killed a janissary who stood in their way. Mustafa, the kapudan pasha, then assembled these accounts and submitted a petition to the Porte detailing these offenses and requesting that Yahya be formally stripped of his *zeamet* and punished. This the Porte duly ordered, and to give Yahya neither succor nor time once he had been captured and his guilt proven in court.<sup>103</sup>

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<sup>101</sup> MD 82: 108/54 (24/N/1026).

<sup>102</sup> MD 85: 115/ (11/C/1040).

<sup>103</sup> MD 85: 115/ (11/C/1040)—*asla eman u zaman vormeyüp*.

Thus, in this case which directly affected the financial interests of members of the ruling elite, the Porte was informed of events after Yahya touched a nerve with his raid on lands paying out to the grand vezir, but once again, nothing happened until after Yahya had become a formidable power in his own right. Unlike in the case of Ahmed above, however, Yahya's zone of activity was close enough to that of the kapudan pasha to draw his wrath. The admiral's petition to the Porte was not asking for guidance or support. It was a request to rubberstamp a decision already made to crush the rebellious messenger's personal pirate flotilla. The proximity to the kapudan pasha's area of operations, the fact that Yahya was a *çavuş* (a highly esteemed position in the imperial service), and the impact of his raids on the grand vezir's purse made it both possible and necessary to respond with force to the affront, but this—as we have seen—was not the norm in the Adriatic-Ionian-Morean piratical theater.

## **Conclusion**

Throughout the late sixteenth and seventeenth centuries, the Porte had to engage in a precarious balancing act in its coastal possessions. The illegal enslavement of Ottoman subjects demanded a response, but differing political, military, and communications circumstances dictated various approaches. The administrative reaction to the Naxos affair in 1574 was essentially the gold standard for what the Ottoman government could do and the extent to which it could intervene locally to have Ottoman subject captives found, freed, and returned to their homes. Even then, the Porte's agents encountered significant resistance, and the process of recovering the slaves was slow and

frustrating, encumbered in part by the presence of so many more illegally enslaved Ottomans who had been overlooked in previous, desultory sweeps. As for the pirates themselves, there is no indication that they were ever caught or punished.

The situation was far worse for illegally enslaved Ottomans abducted along the Adriatic, Ionian, and Morean coasts. Distance from Istanbul and a complex relationship with local officials and (para-)military leaders meant that efforts to prevent piracy or free captives were compromised from the start. Although the Ottoman government employed a similar legal vocabulary in its decrees, ordering always that contested slaves be identified and released “in accordance with Islamic law” without specifying what this really meant, it is unclear whether or how it expected its commands to be carried out when their recipients doubled as culprits.

The Ottoman government engaged in a complex calculus about how much coercive capital it could afford to expend in a given situation and acted accordingly. Even as it responded with principled outrage whenever the situation dictated, it was willing to tolerate a certain amount of frontier violence as a sort of pressure-release valve for the security forces it needed to maintain in the region, and this applied equally to the Aegean. How much illicit violence was too much? There was no easy way to quantify it, but like pornography, the Ottoman government knew it when it saw it. A 1624 letter from the *şeyhülislam*—the Ottomans’ chief jurist—to the *beylerbeyi* of Bosnia, for example, noted that a recent pirate attack on Venetians ought not to be compared with previous attacks which had been smaller and could be disregarded. This one, he said, demanded resolution.<sup>104</sup> Thinking about rising piracy and the phenomenon of Ottomans enslaving Ottomans in the post-1571 Mediterranean as a symptom of decline oversimplifies the

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<sup>104</sup> ASV BAC 251/4, 127 (c. 10/25/1624).

problem. The Ottomans, just like their imperial neighbors, faced innumerable military threats, dynastic turmoil, and a staggering financial crisis during the decades separating the wars for Cyprus and Crete. And the Ottomans still needed slaves; how could they effectively stamp out the illegal slave trade while otherwise encouraging the annual import of massive numbers of captives? Ultimately, the difference in responses to piracy and amphibious slave-raiding in the Aegean and the Adriatic and from year to year was not a matter of decline. It was triage.

Piracy in the Mediterranean generally and in the Adriatic-Ionian zone especially was a many-headed hydra. In order to understand the Ottoman administrative response to piracy in the eastern half of the Mediterranean, it is essential to deconstruct the local/long-distance dynamic and its ties to local government and law enforcement. Only then do the differences in Ottoman administrative measures become comprehensible in terms more complex than “decline,” and only then can the efforts of Ottoman jurists to theorize a new maritime law be understood in their proper context. The Ottomans’ willingness to flexibly interpret Islamic law, as seen in the handling of the Naxos case, was further demonstrated by its pragmatic legal and administrative response to piracy in the open sea and on the edges of its empire in an age of limited naval resources and political decentralization. Thus, beginning around the turn of the seventeenth century, the Ottoman government increasingly articulated its response to the problems posed by pirates and slaves through Islamic legal opinions rather than force.

## Chapter 4

### When Zeyd Sailed to the ‘Abode of War’

**Question:** While Captain Zeyd is cruising towards the Mediterranean with his ship, he encounters the ships of enemy infidels. They seize Zeyd’s ship. Afterwards, near the island of Cyprus, the ships of the *ehl-i Islam* [i.e., an Ottoman naval detachment] happen upon the infidel ships and they prevail [in the ensuing conflict]. They take Zeyd’s ship from their hands. If, after taking full possession of it, they sell it to Amr, and if Zeyd now finds his ship in Amr’s possession, after providing proof [of his prior ownership], can he, according to the *şeriat*, take [it] from Amr’s possession for free? **Answer:** Yes.<sup>1</sup>

This *fetva* of Zekeriyazade Yahya Efendi, Ottoman chief *mufti* (*şeyhülislam*) between 1622 and 1644 with two two-year interruptions, is unusual in some respects, and typical in others. Unusual is its mention of specific place names, the Mediterranean Sea and Cyprus; typical are the simple language and the deliberate phrasing that spotlight the particular point of law at issue and anticipate the jurist’s terse, affirmative response. A *fetva* (Arabic: *fatwa*) is a non-binding legal opinion delivered by a qualified Islamic jurist, a *mufti*, in response to a specific, non-hypothetical query and in accordance with the precepts of that mufti’s school of Islamic jurisprudence (Ott. Turkish: *mezheb*; Arabic: *madhhab*). Though the silences in texts such as this can be maddening to the historian, taken together the *fetvas* of the *şeyhülislams* elucidate a legal worldview that was particularly Ottoman and provide unrivaled insights into the legal quandaries that acts of maritime raiding posed for both the Ottoman administration and its subjects,

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<sup>1</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 107a. All translations are mine.

demonstrating how the sometimes conflicting precepts of Islamic law and the prerogatives of the state were reconciled. In their collected form, *fetvas* like this served as a two-lane bridge between the imperatives of classical Hanafi Islamic jurisprudential theory and the pragmatics of early modern Mediterranean reality. Lived experience percolated up into legal precedents through *fetvas* which were informed as much by secular policy and political necessity as by Islamic law. These *fetvas*, in turn, were reproduced and disseminated such that they directly impacted the lived experience of others on land and sea. Together, *mufti* and *fetva*-text mediated the complex, multi-directional encounter between the law, the individual, and the state, guiding them together through dangerous, uncharted waters.<sup>2</sup>

This chapter explores how the early modern Ottomans understood the sea in religious-legal terms and how that understanding evolved in the context of increasing lawlessness in the seventeenth-century Mediterranean. In particular it asks, how did Ottoman jurists respond to the new problems and challenges posed by violence at sea and how did they deploy the tools of Hanafi jurisprudence to cope with a political, legal, and

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<sup>2</sup> This chapter is based on manuscripts of Ottoman *seyhülislam fetva* collections from the late-sixteenth to eighteenth centuries held at the Süleymaniye Library in Istanbul. They are: the *Fetava* of Ebu Su'ud Efendi (d. 1574), the *Fetava-yı Sunullah Efendi* of Sunullah Efendi (d. 1612), the *Fetava-yı Muntehabe* of Hocazade Esad Efendi (d. 1625), the *Fetava-yı Yahya Efendi* of Zekeriyazade Yahya Efendi (d. 1644), the *Fetava* of Karaçelebizade Abdülaziz Efendi (d. 1657), the *Fetava* of Minkarizade Yahya Efendi (d. 1678), the *Fetava-yı Ali Efendi* of Çatalcalı Ali Efendi (d. 1692), the *Fetava-yı Feyziye* of Feyzullah Efendi (d. 1703), the *Behçetü'l-Fetava* of Yenişehirli Abdullah Efendi (d.1743), and the *Neticetü'l-Fetava*, compiled by Dürrizade Mehmed Arif Efendi (d.1810). In most cases, multiple manuscripts of each were consulted. No sixteenth-century collection has been published in its entirety, and the earliest published seventeenth-century collection is that of Çatalcalı Ali Efendi (the earliest manuscript is dated 1689). Published late-seventeenth- and eighteenth-century *fetva* collections mostly appeared in the late nineteenth century in Ottoman Turkish. Only those of Ebu Su'ud Efendi (selections, published by M. Ertuğrul Duzdağ as *Seyhülislâm Ebussuud Efendi fetvaları ışığında 16. asır Türk hayat* (Istanbul, 1972)) and Feyzullah Efendi (Istanbul, 2009) have been transcribed into modern Turkish orthography and no collection has been translated in its entirety into any other language. Aside from that of Ebu Su'ud Efendi, the unpublished collections have hardly been studied. This chapter marks the first time that most of these *fetvas* have ever appeared in print in any form, and it is the first attempt to systematically study the Ottoman *siyar fetvas* in the maritime context.

military situation that had no historical precedent and demanded novel solutions? Though the Ottoman muftis worked within the Hanafi school, issuing opinions consistent with centuries of tradition, they were nevertheless confronting questions that their predecessors had never seen in a theater of law—the sea—that defied the rigid dichotomy of the standard Islamic binary division of the world into a zone of peace, the realm of Islam, and a zone of continuous war.<sup>3</sup> Their rulings touched not only on the disposition of disputed property, of ships, slaves, and cargo, but also on the fates of converts and apostates, on the rights of Ottoman corsairs to their spoils, and the rights of Ottoman subjects not to become part of them. Crucially, they tackled the complex question of holy war at sea, supporting the state’s monopoly on religious violence and implicitly denying the mantle of religious justification to the Ottoman independent actors, pirates and slave raiders, who in abrogating Ottoman treaties would claim it in peacetime.

Unlike a *kadi* (judge), a mufti does not rule on lawsuits, hear evidence, or take witness statements; his responsa turn only on his *mezheb*’s accepted view of the legal point in question. On the local level, a town’s mufti might simply be an indigenous elder esteemed for his knowledge but with no official position, in contrast to the alien, state-appointed *kadi*. But even in such instances, there was often a symbiosis between them, as litigants and judges alike turned to muftis to provide authoritative legal opinions that would bolster their cases or strengthen their rulings.<sup>4</sup> Under the Ottomans, the mufti of

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<sup>3</sup> Majid Khadduri observed that “few subjects has the juristic literature of Islam treated so inadequately as salt-water warfare,” *War and Peace in the Law of Islam* (Baltimore, 1955), 109. To the extent that jurists confronted the issue—and, as we shall see, Ottoman jurists were no exception—they did so by means of analogy or on the basis of prevailing custom, 112.

<sup>4</sup> For background on fatwas and muftis generally, see Muhammad Khalid Masud, Brinkley Messick, and David Powers, “Muftis, Fatwas, and Islamic Legal Interpretation,” in Masud, Messick, and Powers, eds., *Islamic Legal Interpretation: Muftis and their Fatwas* (Cambridge, 1996), 3-32. On the connection between

Istanbul became the *şeyhülislam* (Arabic: *shaykh al-Islam*), the head of the Ottoman *ulema* (the Islamic learned class) and, by the mid-sixteenth century, a figure at the pinnacle of the Ottoman legal and religious hierarchy with authority over a broad array of appointments and great personal and moral influence over political and religious policy. But the primary duty of the *şeyhülislam* was, as the Empire's chief mufti, to issue *fetvas* to all comers.<sup>5</sup> Anyone from anywhere within the Empire and without, regardless of class, confessional affiliation, or subject status, could theoretically submit a query to the *şeyhülislam*. As the most respected source of authoritative, Islamic legal opinions in the Empire, the *şeyhülislam*'s *fetvahane*, the *fetva*-granting office, received all manner of questions, from curious Muslims looking for clarifications on correct religious observance to the Sultan looking for justification for war, from Ottoman Armenian Christians engaged in contentious international litigation to the Venetian ambassador hoping to strengthen a petition for an imperial decree.

As the importance of the *şeyhülislam* increased over the course of the sixteenth century, a bureaucracy began to grow to facilitate *fetva*-granting (*ifta*) on a larger scale. During the 29-year tenure of the *şeyhülislam* Ebu Su'ud (1545-1574), this bureaucracy was expanded and further institutionalized, taking on the basic form that persisted until the dissolution of the Empire. This coincided with an expansion of the duties, power, and prestige of the office itself, owing in large part to Ebu Su'ud's earlier career in the upper echelons of the judicial establishment and his long friendship with Sultan Süleyman I (r. 1520-1566) and later his influence over the latter's son and successor Sultan Selim II (r.

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kadi and mufti in the Ottoman context, see Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany, 1994), 79-83.

<sup>5</sup> R.C. Repp, *The Mufti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London, 1986), 196, passim; Colin Imber, *Ebu's-Su'ud: The Islamic Legal Tradition* (Edinburgh, 1997), 13-14.

1566-1574). Though most later *şeyhülislams* did not enjoy relations as intimate or tenures as long as those of Ebu Su'ud, the prestige of the institution, its duties, its supporting bureaucracy, and the career path that could lead to it were firmly established. Critically, most *şeyhülislams* of the early modern period came to their position, like Ebu Su'ud, not through previous careers as muftis, but as judges in one of the Empire's most important posts (e.g. Istanbul, Bursa) and/or as one of the two military judges (*kazasker* or *kadiasker*) of the Empire with a seat on the imperial council (*divan-i hümayun*).<sup>6</sup> This meant that they, unlike ordinary muftis, already had extensive experience putting the law into practice and reconciling the sometimes contradictory requirements of Islamic and sultanic law (*şeriat* and *kanun*, respectively), and were familiar with imperial policy and the inner workings of government. Ebu Su'ud was eulogized in his day for having successfully reconciled *şeriat* and *kanun*, and it was in part through his *fetvas* and those of his successors that this process was accomplished and sustained.<sup>7</sup>

The *fetvahane* of Ebu Su'ud and his successors was managed by a permanent staff of trained jurists headed by the *fetva emini*, the chief clerk. The questioner (*müstefti*) submitted his query (and, from the seventeenth century, his fee) to one of the clerks of the *fetva* office who would reformulate the question in the prescribed manner in consultation with the *fetva emini*. The question was distilled to its essence. Names were replaced with standardized aliases (Zeyd, Amr, Bekr, Beşr, etc. for men; Hind, Zeyneb, Hadice, etc. for women) and superfluous details were stripped from the question to bring the particular point of law at issue into relief. The new question was usually posed in such a manner that it could be answered simply yes (*olur*) or no (*olmaz*). Fair copies were prepared and

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<sup>6</sup> Imber, *Ebu's-Su'ud*, 12-15. For brief biographical sketches of all the Ottoman *şeyhülislams*, see Abdülkadir Altunsu, *Osmanlı Şeyhülislamı* (Ankara, 1972).

<sup>7</sup> Imber, *Ebu's-Su'ud*, 51.

then often pre-sorted by the *fetva emini* into “yes” and “no” groups in anticipation of the *şeyhülislam*’s final ruling; indeed, more complicated questions were divided on the same page into an initial question with one or more follow-up questions that presupposed the mufti’s response to the first one. The *şeyhülislam* wrote in his ruling below the answer prompt (*el-cevab*) and then his signature. Except in cases of *fetvas* requested by important dignitaries or the sultan, when the *şeyhülislam* might write both the question and the answer himself—and indulge in a more lengthy response—the *şeyhülislam* would have no contact with the questioners and no knowledge of their identities.<sup>8</sup> He might not even have to read their questions. In this manner, the *fetvahane* could produce several hundred *fetvas* a day—Ebu Su’ud claimed to have dispensed with a staggering 1,412 *fetvas* between morning and afternoon prayers one day and 1,413 on another—and return completed *fetvas* to questioners within a few days.<sup>9</sup>

Few original *fetvas* survive. But *fetva* collections (*mecmua*), usually compiled after the death, dismissal, or retirement of a prominent *şeyhülislam*, preserve a broad sample. Nearly all of the *şeyhülislam fetva* collections produced in the late-sixteenth, seventeenth, and early-eighteenth centuries were composed by one or more of their *fetva eminis*. The *fetva eminis*, spared the political wrangling that the *şeyhülislams* had to contend with at the top of the imperial hierarchy, often held their positions through the tenures of multiple *şeyhülislams*.<sup>10</sup> They and their staff provided continuity in the sphere of *fetva* production even when political turmoil resulted in rapid changes at the top.

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<sup>8</sup> The Ottoman *fetva* and the Ottoman *fetva*-granting institution was first described in detail by Uriel Heyd in “Some Aspects of the Ottoman Fetva,” *Bulletin of the School of Oriental and African Studies*, vol. 32, no. 1 (1969), 35-56. This study has not been superseded nor, indeed, has any scholar seriously revisited the issue.

<sup>9</sup> Heyd, “Some Aspects of the Ottoman Fetva,” 46.

<sup>10</sup> *Ibid.*, 48.

The fact that the *fetva eminis*, accomplished jurists responsible for overseeing the wording of the questions and anticipating the mufti's answers, were also the primary producers of *fetva* compilations implies that their selections reflect not so much the opinions of a particular *şeyhülislam*, but the consensus of a stable bureaucracy. Furthermore, the post of *fetva emini* was a stepping stone to high ranking judicial positions and to the *şeyhülislam* post itself;<sup>11</sup> a number of seventeenth-century *fetva* collections were compiled by a sitting *şeyhülislam* from the *fetvas* of the *şeyhülislam* whom he had served as *fetva emini* some years earlier.<sup>12</sup> Ottoman *fetva* collections were extensively reproduced and recompiled; they were widely disseminated and often heavily annotated. They had a sizable readership in learned circles and provided ready, up-to-date guidance to judges, provincial muftis, and private individuals alike.<sup>13</sup>

### **Murky Waters: Abode of Islam, Abode of War, and Ottoman Islamic Law at Sea**

Ottoman *fetva* collections are arranged topically, with an Arabic table of contents and chapters (*kitab*) corresponding to the traditional organization of *fiqh* (Islamic

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<sup>11</sup> Including Esiri Mehmed Efendi, Mehmed Ataullah Efendi (see below), Yenişehirli Abdullah Efendi, and Vassaf Abdullah Efendi. See Heyd, "Some Aspects of the Ottoman Fetva," 48.

<sup>12</sup> For example, Mehmed Ataullah Efendi (d. 1715), whose collection, titled in some manuscripts *Fetava-yı Ataiye*, is actually a collection of the *fetvas* of Minkarizade Yahya Efendi. Miscataloging of manuscripts has led to some confusion among scholars, who have mistaken the *fetvas* for his own. Comparison with other manuscripts of Minkarizade's *fetvas* easily disproves this.

<sup>13</sup> In some, the compilers also added proof-texts in Arabic—essentially citations—showing what canonical works of Hanafi *fiqh* were used (or could be used) to support the *fetva*. Some manuscripts have additional proof-texts and supplementary *fetvas* written in the margins by later users. For an example of the extent of their dissemination, the libraries of Bosnia alone preserve over 20 manuscript copies of the *Fetava-yi Ali Efendi* of Çatalcalı Ali Efendi (d. 1692). See Selma Zecevic, "On the Margin of Text, On the Margin of Empire: Geography, Identity and Fatwa-text in Ottoman Bosnia" (Ph.D. dissertation, Columbia University, 2007), 196.

jurisprudence) manuals and allowing for easy reference.<sup>14</sup> The material we are interested in here generally falls into the *kitab al-siyar*, an extremely broad chapter that deals with the conduct of state and incorporates questions concerning *gaza* and  *Jihad* (holy war), the taking of captives, relations with foreign powers, travel between the *darüislam* (“the Abode of Islam”) and the *darülharb* (“the Abode of War,” i.e., the lands not under Muslim rule), the rights and responsibilities of non-Muslim subjects (*zimmi*) and of resident foreigners carrying a safe-conduct (*musta'min*), and so forth.<sup>15</sup> Though true, indiscriminate piracy should, according to classical Hanafi jurisprudence, be handled under the section dealing with highway robbery (which, incidentally, usually immediately precedes the *kitab al-siyar*), in no Ottoman *fetva* collection is such a case clearly identifiable there. In spite of the fact that piracy resembles highway robbery both in practice and in punishment—conceived as a crime against the state, it merits administrative execution (*siyaset*)—cases emanating from all manner of maritime raiding are confined to the *kitab al-siyar*.<sup>16</sup> On reflection, the reasoning becomes clear: highway robbery is intrinsically an internal affair. Conversely, piracy, corsairing, and all other forms of naval conflict occur in the murky waters separating the *darüislam* and the *darülharb*, putting it firmly within the jurisdiction of *siyar*.

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<sup>14</sup> Şükrü Özen, “Osmanlı Döneminde Fetva Literatürü,” *Türkiye Araştırmaları Literatür Dergisi*, vol.3, no.5 (2005), 252-3; Imber, *Ebu's-Su'ud*, 57; Emine Ekin Tuşalp, “Treating Outlaws and Registering Miscreants in Early Modern Ottoman Society: A Study on the Legal Diagnosis of Deviance in şeyhülislam Fatwas” (M.A. thesis, Sabanci University, 2005), 17-18. Colin Imber provides an excellent and brief introduction to how Ottoman *fetva* production and compilation worked in the post-Ebu Su'ud era, with examples, in “Eleven Fetvas of the Ottoman Sheikh ul-Islam 'Abdurrahim,” in Masud, Messick, and Powers, eds., *Islamic Legal Interpretation: Muftis and their Fatwas* (Cambridge, 1996), 141-9.

<sup>15</sup> Hilmar Kruger, *Fetva und Siyar* (Wiesbaden, 1978), 31-33. Kruger's work is the only analysis of the Ottoman approach to *siyar*, but it is based on the published Ottoman collections of the late seventeenth and eighteenth centuries. It does not comment on the peculiar development of the maritime corpus of *fetvas*.

<sup>16</sup> Muhammad Hamidullah, *Muslim Conduct of State* (Lahore, 1961), 186; see also Imber, *Ebu's-Su'ud*, 89-91.

Motion, either along or across the invisible line separating those two domains, is at the center of most *fetvas* in the *siyar* sections and all of those concerning conflict and captivity. The Arabic *siyar*, most often rendered as “the conduct of state,” especially vis-a-vis other communal entities, is the plural of *sira*, which carries a number of meanings, including “biography” (this remains its most common usage in contemporary Arabic). But the original meaning of *siyar* was “motion,” connoting travel.<sup>17</sup> This kinetic quality is evident in the Ottoman *siyar fetvas*, where the outcome of a particular case often turned not on the circumstances of the originating act of seizure, but on whether or how the line between *darülislam* and *darülharb* was crossed after the fact.

A couple of examples will serve to illustrate this point:

**Question:** An enemy infidel takes Captain Zeyd’s ship. After he *imports* it into the *darülharb*, the possessor of that ship in the *darülharb* gives [it] to Amr who is a Muslim [merchant] with safe conduct. When he *exports* [the ship back] into the *darülislam*, can Zeyd take [the ship] from Amr’s possession for free? **Answer:** No, he can take it for its value.<sup>18</sup>

**Question:** After infidels capture Zeyd’s ship with irresistible force, if they sell it and turn it over to Bekr without *importing* it into the *darülharb*, can Zeyd take his ship from Bekr for free? **Answer:** Yes.<sup>19</sup>

In both *fetvas*, taken from the collections of Zekeriyazade Yahya Efendi (in office, 1622-1623, 1625-1632, 1634-1644) and Minkarizade Yahya Efendi (in office, 1662-1674) respectively, the circumstances of the initial seizure are identical. Zeyd’s ship is captured by “enemy infidels,” the catch-all for non-Ottoman non-Muslims, within the *darülislam*. Nothing is said about who the enemy infidels are or whether they are part of

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<sup>17</sup> Majid Khadduri, *The Islamic Law of Nations: Shaybani’s Siyar* (Baltimore, 1966), 39. Abu Hanifa (d. 768), eponymous founder of the Hanafi *madhhab*, was known to have used the term in its present juristic function, and it was the Hanafi jurists who popularized and expanded it. Muhammed al-Shaybani (d. 804), disciple of Abu Hanifa and, after his death, of Abu Yusuf, authored two treatises on *siyar* which laid the foundation for much of the Hanafi thought that followed.

<sup>18</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 106b-107a.

<sup>19</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 25a.

a regular state navy, semi-independent irregulars/licensed corsairs, or fully independent pirates; in religious-legal terms, the distinction was irrelevant, just as it often was in practice.

But in the first case, the enemy infidels bring the ship back with them across the divide into the *darülharb* before they transfer possession, while in the second case, they do not. It is this detail that determines the outcome of both cases, allowing Zeyd to reclaim his ship from Bekr in the latter example, even though Bekr had paid for it, while preventing him from doing so in the former, even though Amr had acquired it for free, since Amr had received it in the *darülharb* and brought it back into the *darüislam* in his possession. The forceful removal of property from the *darüislam* to the *darülharb* voids pre-existing ownership ties when it is brought back into the *darüislam* in the possession of another.<sup>20</sup> We will return to the legal implications raised here later, but for now let us focus on the semantic choices of the framers.

Whether for ships or slaves, the authors of Ottoman *fetva* questions usually used the words *idhal* (to import) and *ihrac* (to export, to extract) for the transitive process of transferring something into or out of one of the two domains into which the entire world was divided. While the Turkish transitive verb *getürmek* “to bring” was used occasionally in similar examples, the aforementioned Arabic words, deployed with the Turkish auxiliary verb *etmek* (and sometimes with its causative suffix), seem to suggest a more forceful and deliberate act. The infidels did not sail or “go” with the captured ship, nor did they “take” the ship to the *darülharb*—they “imported” it to the *darülharb* and Amr, in turn, “extracted” it from there into the *darüislam*. Without overemphasizing the

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<sup>20</sup> For examples of the rationale behind this, see Khadduri, *Shaybani's Siyar*, 130-3, 152, 160-8. Ownership ties within the *darülharb* are not technically recognized, and both persons and property in that realm can legally be taken and claimed by Muslims (that is, they are *fay'* for the Muslims).

importance of the Ottoman authors' word choices, it is critical to note again that the actual act of crossing between the two worlds, and not the originating encounter, is made into the real traumatic act here and the one on which the mufti's decision hinges. The phrasing of our second example, in which the ship's continuous presence within the *darüislam* is framed as a negative—the infidels sell the ship to Bekr without first importing it (*idhal etmeden*) into the *darülharb*—makes it immediately clear to the reader what the crucial factor in this case is.

These examples might evoke for us the image of a tug-of-war, in which someone must be dragged from her natural place in the world across a thin line in the sand and, in that finite instant and in that definable place, the act of being brought over to one side and out of the other is accomplished in full. But this was a juristic fantasy. Though the Hanafis' absolute binary conceptualization of the world did not allow for any physical or political middle ground—they rejected the notion, accepted by some of the other *madhhabs*, of a *dar al-sulh* or *dar al-'ahd* (Arabic for “Abode of the Truce/Treaty”) for tributary, but still independent states<sup>21</sup>—political and administrative realities shattered this strict dichotomy in practice. Politically, the Ottomans maintained a mutually beneficial arrangement with the Adriatic city-state of Dubrovnik that treated it exactly as *dar al-sulh*, though a great deal of juristic back-bending was required to show that it, in fact, was not, leading to frequent confusion over whether or not Ragusan merchants were actually *zimmis* (they weren't).<sup>22</sup> On the ground, Ottoman borders were not always well-defined and were subject to change without notice. Those unfortunate enough to be settled on the borderlands between the Ottomans and the Habsburgs in the sixteenth and

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<sup>21</sup> See Nicolaas Biegman, *The Turco-Ragusan Relationship* (The Hague, 1967), 30-1. For more on the concept of *dar al-'ahd*, see Halil Inalcık, “Dar al-'Ahd,” *EI2*.

<sup>22</sup> Biegman, 30-1.

seventeenth centuries, for example, often found themselves doubly taxed and the victims of interminable raids and counter-raids launched from both sides.<sup>23</sup> And in the Mediterranean Sea, the idea of an observable, fixed boundary between the *darüislam* and the *darülharb* was never entertained, as the *fetvas* themselves demonstrate. “Control of the sea” as a strategic goal was entirely anachronistic for the early modern Mediterranean, where the standards of shipbuilding and the tactics of war favored amphibious maneuvers, necessitated frequent re-victualing, and limited seaborne activity to the six months out of the year when good sailing weather was assured.<sup>24</sup>

So then what did these labels mean in Ottoman practice, when Islamic legal theory had such an enormous blindspot? How were *darüislam* and *darülharb* defined and understood at sea as useful ontological categories? Here again we look to the *fetvas* for an answer, returning to the example from Zekeriyazade Yahya Efendi with which we opened the chapter:

**Question:** While Captain Zeyd is cruising towards the Mediterranean with his ship, he encounters the ships of enemy infidels. They seize Zeyd’s ship. Afterwards, near the island of Cyprus, the ships of the *ehl-i Islam* [i.e., an Ottoman naval detachment] happen upon the infidel ships and they prevail [in the ensuing conflict]. They take Zeyd’s ship from their hands. If, after taking full possession of it, they sell it to Amr, and if Zeyd now finds his ship in Amr’s

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<sup>23</sup> For more, see Geza David and Pal Fodor, eds., *Ransom Slavery along the Ottoman Borders* (Leiden, 2007). On land and sea boundaries between the Ottoman Empire and Venice and the problems caused by pirates and slaves in the spaces in between, see Maria Pia Pedani, “Beyond the Frontier: The Ottoman-Venetian Border in the Adriatic Context from the Sixteenth to the Eighteenth Centuries,” in Almut Bues, ed., *Zones of Fracture in Modern Europe: The Baltic Countries, the Balkans, and Northern Italy* (Wiesbaden, 2005), 45-60.

<sup>24</sup> John Francis Guilmartin, *Gunpowder and Galleys: Changing Technology and Mediterranean Warfare at Sea in the Sixteenth Century* (Cambridge, 1980), passim. Nevertheless, Ottoman policymakers clearly recognized the concept of maritime sovereignty in certain circumstances: the early modern Ottoman state jealously guarded its exclusive access to the Black Sea and denied foreign navigation rights until military defeats by Russia in the late eighteenth century forced a change in policy. At the same time, the Ottomans accepted Venetian claims to maritime sovereignty in the (North) Adriatic and even adopted the Venetians’ styling of it as the “Gulf of Venice” (*Venedik Körfezi*) in their internal administrative documents.

possession, after providing proof [of his prior ownership], can he, according to the *şeriat*, take [it] from Amr's possession for free? **Answer:** Yes.<sup>25</sup>

This example, as noted above, is unusual (though not unique) in its use of geographical place-names. Ottoman *fetva* questions only rarely maintain superfluous details (though the historian is always grateful when they do), so the reader must ask what evidentiary role “the island of Cyprus” is playing in the affirmative decision. In terms of the actual legal reasoning involved, this *fetva* is identical to that of Minkarizade Yahya Efendi quoted earlier, in which Zeyd's ship, after capture, was not taken to the *darülharb* before sale and thus was reclaimed without cost to Zeyd, in spite of the fact that Bekr had purchased it in good faith. Here, the geographical details stand in for “*darüislam*,” which does not appear at all in the text. Zeyd's ship is captured by the enemy infidels while en route to the Mediterranean, from which we might infer that it was intercepted somewhere in the southern Aegean, perhaps en route to Alexandria. When the ship is retaken by the Ottoman naval patrol within sight of Cyprus—an Ottoman territorial possession since 1571—the ship is still within the *darüislam*. This conforms with the classical Islamic position that jurisdiction extends into coastal waters at least as far as one can see the top of a ship's mast from the shore, or about six miles.<sup>26</sup> Since most early modern Mediterranean maritime engagements took place within sight of land, just like the one described in the *fetva*, the determination of whether one was technically within the *darüislam* or not would be, in most cases, relatively straightforward. But what would it have taken, as a legal benchmark, for Zeyd's ship to have been considered legally “entered” into the *darülharb*? And how might capture in the open sea have complicated the ruling?

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<sup>25</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 107a.

<sup>26</sup> Hassan Khalilieh, *Islamic Maritime Law: An Introduction* (Leiden, 1998), 138.

Since most *fetvas* use only the *darüislam/darülharb* :: “import”/“export” formulae, either because the specific circumstances in the original query were legally unambiguous or because they were not germane to the decision, the answers to these questions are not usually indicated. However, the preservation of both the ship’s original course and its specific point of re-capture in the preceding example attests to the persistent confusion surrounding these issues and their ongoing importance for *fetva*-requesters, litigants, and judges. The urgent need for more concrete answers also explains the presence of another unusually detailed *fetva* in Zekeriyazade Yahya Efendi’s collection, in which a ship bound for North Africa is intercepted at sea and boarded by enemy infidels who seize Zeyd’s goods and his slave (the “property” at issue in this case) and *import* them to Malta, described as part of the domains of war (*diyar-ı harbiyyeden Malta’ya idhal...*). When the slave, released from Malta, is re-captured elsewhere in the *darülharb* and is brought once again into the *darüislam*, Zeyd is unable to reclaim him from his new owner without cost.<sup>27</sup>

Thus, this *fetva* makes clear what one might already suspect from numerous other examples: in the case of an engagement in the open sea, it is not until the ship or property is actually brought into port that the *darülharb* has been legally entered. In other words, returning to our previous example, the mention of Cyprus there is not telling us that the ship is **in** the *darüislam* so much as it is confirming that it has **not yet left it**. Though ships do possess a degree of “territoriality” on the high seas according to some interpretations of Islamic law<sup>28</sup> the Ottoman jurists do not recognize a transfer of jurisdiction at the moment that a ship is overrun and put under new command, but only

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<sup>27</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 105b; MS Kasidecizade 276, fol. 104b-105a. This *fetva* is preserved in slightly different form in the two manuscripts.

<sup>28</sup> Khalilieh, *Islamic Maritime Law*, 136.

after it has been brought into an enemy port and is thus securely in their possession. Given the unending cycle in the seventeenth-century Mediterranean of capture, re-capture, sale, capture, re-capture, and so forth of both ships and captives, encapsulated in the *fetvas* and borne out by the historical record, this view was only logical. Even though Ottoman jurists deployed the full range of authoritative Hanafi jurisprudential texts to justify their opinions, evidenced in part by the Arabic proof-texts added after-the-fact to some *fetva* collections, the works they cited never really confronted these issues. Maritime law of this sort was in fact largely uncharted territory. Despite the rigidity of Hanafi doctrine regarding the absolute binary division of the world, Ottoman jurists displayed remarkable flexibility in finding applicable, real-world legal solutions in areas of the law that had not been adequately theorized before. In the dynamic and increasingly dangerous maritime environment of the late-sixteenth and seventeenth-century Mediterranean, the Ottoman *şeyhülislams* and their staffs met the challenge of defining the practical legal boundaries of the *darüislam* and the *darülharb* at sea when it was necessary, while preserving enough ambiguity to avoid the appearance of conflict with established Islamic legal theory when it was not.

### **Contextualizing *Fetvas* and *Fetva* Collections in the Early Modern Ottoman Mediterranean**

Before moving deeper into the content and consequences of the *fetvas* and *fetva* collections, it is imperative that we examine further the institutional, political, and intellectual context out of which they arose and the specific needs they addressed. The

presence of a given *fetva* in a collection—selected from among the many thousands issued during an individual *şeyhülislam*'s tenure—can be explained by its ability to demonstrate the juridically correct ruling in an archetypical case that hinges on a specific point of law. A number of similar or related *fetvas* might be strung together in a series to illustrate where variations in circumstance would lead to variations in outcome. When numerous cases from a mufti's tenure might do, a particular *fetva* in a collection can be presumed to have been included because it showcased a juristic concept in a socially and legally relevant scenario with which the contemporary reader could identify and from which he could draw useful guidance, or because the *fetva* was issued in connection with a high-profile incident or controversy that was still part of the collective memory of the compilation's perceived audience and thus would reflect on the juristic legacy of the mufti in question (and his head clerk-cum-compiler).<sup>29</sup>

The head clerks/compilers of *fetvas*, as individuals involved in the original formation of the questions, the giving of the answers, and the selection and arrangement of the *fetvas* into tightly organized collections, were much more than just interested compilers. They and their office were the true authors of the collections and their content, which constituted a legal genre that was particularly Ottoman in form and function.<sup>30</sup> We have already noted that the personnel of the *şeyhülislam*'s *fetvahane* were, by the later sixteenth century, a professionalized cadre of bureaucrats who typically retained their

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<sup>29</sup> It is worth reiterating that the primary purpose of *fetva* collections was to provide guidance to readers—that is, they functioned as searchable reference works that indicated the appropriate response to legal problems. The fact that they were written in simple Turkish and logically organized made them easier to use and more accessible to native Turkish speakers than the complex Arabic jurisprudential works they often cited. Further, as Colin Imber suggests, “since the *fetvas* by and large present solutions to practical problems that had arisen in an Ottoman context, they may, at least to practicing members of the Ottoman legal profession, have seemed more relevant, if less revered than the classic works of *fiqh*. . . It is possible, too, to imagine students of the law familiarizing themselves with legal problems through the medium of Turkish *fetvas* before graduating to the authoritative Arabic texts.” Imber, “Eleven *Fetvas*,” 142.

<sup>30</sup> Tuşalp makes a similar argument, 19-23; see also Imber, “Eleven *Fetvas*,” 141-2.

positions irrespective of changes at the top, while the *fetva emini* (head clerk) might run the *fetvahane* for a number of *şeyhülislams* before being promoted to higher judicial posts or to the *şeyhülislam*ate itself. This continuity of personnel and policy in the Ottoman *fetva*-granting institution, and the institutional authorship of the *fetvas* and *fetva* collections themselves, means that changes in the content of the collections over time reflect less the whims or peculiar interests of individual compilers, but changes in social and political realities and the needs of the publics that consumed these works.

Thus, the prominence of issues having to do with maritime raiding in the seventeenth- and eighteenth-century sections on *siyar* corresponds with the dramatic increase in such occurrences during that period and reflects its powerful effect on law, imperial policy, and Ottoman society. Ebu Su'ud Efendi's *fetva* compilations, on the other hand, the product of his nearly three decades as *şeyhülislam* (1545-1574), have comparatively little to say about these matters; they are far more vocal on questions relating to the conduct of *gaza* and *jihad*. Indeed, instead of a *kitab al-siyar* they have a *kitab al-jihad* covering the same field, and it is only in the context of questions concerning ransom and organized naval campaigns that ships and sea appear.<sup>31</sup> Were the muftis actually receiving more questions concerning piracy and slave raiding in 1670 than they were in 1570? Probably. But that is not really at issue here. Rather, the compiler/clerks' inclusion of growing numbers of maritime-themed *fetvas* in the seventeenth- and early eighteenth-century collections—beginning in earnest with the collection of Sunullah Efendi (d. 1612)<sup>32</sup>—points to the fact that such examples would be

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<sup>31</sup> See Süleymaniye Kütüphanesi, MSS Ismihan Sultan 223, fols. 96a-99b and Ismihan Sultan 226, fols. 148a-153b.

<sup>32</sup> Sunullah Efendi (d.1612) followed a typical post-Ebu Su'ud career path. He was appointed Anadolu *kazasker* (military judge of Anatolia) in 1591, Rumeli *kazasker* (military judge of Europe) in 1592, and

both immediately relevant and genuinely useful for readers, especially for provincial judges in seaside districts who were increasingly likely to deal with these sorts of cases.

Ebu Su'ud Efendi, author of untold thousands of *fetvas*, undoubtedly handled questions similar to those appearing in the seventeenth-century collections of Zekeriyazade Yahya Efendi, Minkarizade Yahya Efendi, or Çatalcalı Ali Efendi, but they do not appear in his collections because the clerks who compiled them were writing for a different time, when the *guerre de course* was not yet a dominant motif in Mediterranean life. The exhaustively detailed *fetvas* they preserved dealing with the division of spoils and the fates of those who jumped ship in battle to avoid certain death,<sup>33</sup> though they retained importance for later readers, were the product of a period when few could have anticipated that the 1571 Battle of Lepanto would have no sequel. For contemporary observers, the period of major naval disengagement in the Mediterranean that followed that encounter, confirmed in the 1580 truce with Habsburg Spain and persisting until the Ottoman invasion of Crete in 1645, was nowhere visible on the horizon. By the time Zekeriyazade Yahya Efendi's collection came out in the middle of the seventeenth century, several generations had come of age in the new Mediterranean, where massive armadas of war galleys had given way to a seemingly endless array of self-interested actors of often indeterminate origin and dubious

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şeyhülislam for the first time in 1599, holding the position on and off until 1608 for a total of 5 years, 7 months, and two days in office. See "Sunullah Efendi," *İA*, and Mehmet İpşirli, "Şeyhülislam Sun'ullah Efendi," *Tarih Enstitüsü Dergisi*, 13 (1987), 209-256, for background on his life and career. His is the first collection that shows appreciable numbers of maritime *fetvas*. His is also only the second collection to appear after those of Ebu Su'ud (the collection of Hoca Saadeddin Efendi, who held the office immediately before Sunullah, came first, but it does not reflect the developments of the late sixteenth/ early seventeenth century like those of Sunullah and his successors, perhaps because he only held the post for a year). The two decades after Ebu Su'ud's death were marked by significant turnover in the şeyhülislam slot and were otherwise dominated by his protégés, including two of his former *fetva* clerks. From Sunullah Efendi on, however, there are always maritime *fetvas* in the *siyar* sections.

<sup>33</sup> Ibid. On the clerks behind Ebu Su'ud's collection, see Imber, *Ebu's-Su'ud*, 20.

allegiance, sailing in all manner of ships and engaging in raid and trade in equal measure. The bureaucrat-compilers behind his collection and those of his successors assembled manuals that, in their sections on *siyar*, confronted questions of very real significance that directly and indirectly affected the lives of numerous Ottoman and non-Ottoman subjects and had already had a marked impact on the conduct of government.

It is worth noting that the “protagonists” of the *fetvas* explicitly concerned with maritime raiding, usually Ottoman subjects or their slaves, are overwhelmingly the victims. A comparatively small number have Ottoman subjects filling the role of the original aggressor. Far more often they make an appearance RE-taking ships or captives from enemy infidels. Naturally, we ought not to assume from this very unscientific observation that Ottoman subjects (and their slaves) were overwhelmingly the victims of incidents of piracy in this period, though undoubtedly the numbers were significant. But it should drive us to ask who might request a *fetva* and under what circumstances and, on another level, what kinds of cases appealed to the compilers and helped contribute to their presumed goal of producing a comprehensive, useable volume. Perhaps unsurprisingly, outside of the *fetvas* of Ebu Su’ud, whose tenure came on the heels of one war with Venice (that of 1537-1540) and culminated in another (that of 1570-1573), the only collection with a substantial number of *fetvas* originating from Ottoman-initiated acts of maritime raiding and captive-taking is that of Minkarizade Yahya Efendi, whose tenure included the last seven years of the long war with Venice for Crete (1645-1669).<sup>34</sup> Although they followed a standardized format, *fetva* collections were, at least into the

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<sup>34</sup> See Süleymaniye Kütüphanesi, MSS Pertevniyal 341, Esad Efendi 1095. Further examples do appear in the collections containing *fetvas* dating from the last quarter of the seventeenth-century, such as that of Feyzullah Efendi (served 1688; 1695-1703), when the Ottomans were again battling the Venetians in the Mediterranean between 1684-1699.

early eighteenth century, very much a product of their times, and their content, rather than ossifying over time, changed to reflect contemporary legal concerns.<sup>35</sup>

But the specific juridical origins of the *fetvas* themselves means they do not in any way provide a fully representative sample of the full range of experiences and legal conundrums at sea, nor do they address or give voice to all the actors. For example, women are conspicuously absent from the maritime *fetvas*. Women do appear frequently as victims and captives in land-based *fetvas*, where the questions often revolve around the legality of their enslavement, the consequences of their conversion, or the limits of the sexual rights of their masters. But their total absence from the maritime *fetvas* is vexing, to be explained only with the assumption that the collections' land-*fetvas* say all that needs to be said about female captives and slaves that is distinct from the opinions concerning male captives and slaves (making the inclusion of *fetvas* about women in this arena superfluous) and that female *müsteftis* with questions relating to conflict at sea were probably exceedingly rare. Needless to say, a *fetva* had first to be requested before it could be included in a collection.

One important group for the history of maritime raiding that was **not** requesting *şeyhülislam fetvas* can be easily identified. Although the rulers and subjects of the *de facto* independent North African regencies could theoretically obtain *şeyhülislam fetvas*, they, the chief culprits of much early modern “Ottoman” piracy, would find little reason to do so. In peacetime, they would receive no support for their ventures, which flagrantly violated the anti-piracy clauses of the Ottomans' international treaties with foreign

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<sup>35</sup> By the later eighteenth century, most “new” *fetva* collections were compilations of *fetvas* from multiple earlier *şeyhülislams*. *Neticetü'l-Fetava* (by 1800) is one of the most prominent examples.

powers. This was equally true for the naval irregulars operating out of bases more directly controlled by the Ottoman central government.

An “Ottoman” pirate, that is to say an Ottoman subject responsible for seaborne raids without explicit government authorization, would have no reason to seek a *şeyhülislam fetva* which would inevitably condemn his actions. In times of conflict, when privateering was permitted and encouraged, corsairs and their accomplices would likely only seek *fetvas* if there were an after-the-fact dispute over distribution of the spoils back on land and/or in court. This is borne out by the collection of Minkarizade Yahya Efendi, whose tenure in office from 1662-1674 overlapped in part with the war with Venice, and whose collection does indeed contain *fetvas* of this sort.<sup>36</sup>

Indeed, outside of questions of faith and correct religious observance, most people requested *fetvas* to be brought into court to support their claims in an ongoing lawsuit.<sup>37</sup> Significant numbers were also requested to strengthen petitions for imperial decrees—a practice enthusiastically adopted by both Ottoman subjects of all confessions and diplomatic representatives of foreign governments.<sup>38</sup> Finally, numerous *fetvas* were issued in response to internal requests from high-ranking administrators or the sultan to legitimate major decisions of state or to bolster a decree. All three types can be found in the *siyar* sections. Though the identity of the original petitioner or his motive is (almost)

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<sup>36</sup> Süleymaniye Kütüphanesi, MSS Pertevniyal 341, fols. 24a-27a; Esad Efendi 1095, fols. 22a-27a.

<sup>37</sup> Gerber, *State, Society, and Law in Islam*, 80-3. That said, *fetvas* were not “evidence” in the way that witness statements were, but a positive *fetva* could have a strong impact on the judge; Gerber finds no instances of plaintiffs with supporting *fetvas* losing their cases.

<sup>38</sup> One finds numerous mentions in the Venetian dispatches of Venetian diplomats meeting with *şeyhülislams* to request *fetvas*. For examples of *fetvas* requested by the French, see Viorel Panait, “Western Merchants and Ottoman Law. The Legal Section of the Turkish Manuscript No. 130 from the Bibliothèque Nationale in Paris,” *Revue des Études Sud-Est Européennes*, 45 (2007), 45-62.

never stated in the collections, close readings allow for informed speculation.<sup>39</sup> Most of the *fetvas* that concern us here are likely the product of contentious litigation involving merchants disputing the ownership of ships and slaves after an incident of piracy or of requests from either central or provincial government officials attempting to coax frontier naval auxiliary forces into obeying the peace treaties in the absence of a credible threat of coercive force from the center. Interrogating and contextualizing the *fetva*-text allows us to determine what mediating role it was intended to play in its original issue, and what purpose its later presence in the collection was meant to serve.

### **Ships Seized at Sea: Disputed Property I**

Of the *fetvas* dealing with seaborne raiding, the majority are concerned with whether and under what circumstances the original owner or owners can recover their lost ship, cargo, or slaves. These almost certainly stem from ownership disputes, where the *fetva* in question was intended to support ongoing litigation or provide a means of settling the issue out of court. While there are no such examples in the collections of Ebu Su'ud, they are present in all the collections examined from the seventeenth and eighteenth centuries. At their most basic, they resemble the examples discussed above, in which the original owner is able to reclaim his property if it has not been removed from the *darüislam* but cannot do so without cost if it has changed hands within the *darülharb* before being brought back into the *darüislam*. The collections typically contain *fetvas* illustrating both outcomes. But real world business arrangements and political

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<sup>39</sup> A number of Ebu Su'ud's *fetvas* are followed by a line naming the questioner and the year of the request; the same is true for a very small number of eighteenth-century *fetvas*.

developments meant that property disputes were often considerably more complicated. The *fetvas* that stemmed from such cases can tell us a great deal about the developing "case-law" surrounding the adjudication of these kinds of disputes and, more importantly, the changing economic and political climate from which they originated.

Thus, the collection of Minkarizade Yahya Efendi contains a *fetva* that addresses the peculiar consequences of conquest and imperial expansion during wartime for the adjudication of such disputes:

[**Question**]: Enemies (*harbiler*) take Zeyd's ship. After they import it to the *darülharb*, the Muslims conquer [that part of] the *darülharb* and take the ship by force. If they bring [it] to the *darüislam*, can Zeyd take the ship for free before the division [of the spoils]? **Answer**: Yes.<sup>40</sup>

Under normal circumstances, as we have already seen, Zeyd would not be able to take back his ship for free. It was taken by force, brought into the *darülharb*, re-taken by force there, and then brought back into the *darüislam*. He would have had no recourse if it had been distributed or sold as part of the spoils. But because the territory where the enemy infidels brought the ship had been conquered in the interim—in this case, most likely a part of Crete or the Adriatic coast taken from the Venetians—and thus had become part of the *darüislam*, **before** the ship was recaptured, it was legally as if the ship had never left *darüislam*. As a result, Zeyd's claim was upheld. If the ship had been sold or given to another, Zeyd would have been able to take it for free. The decision, though grounded in established Hanafi Islamic legal theory, was entirely a product of its time and reflected the peculiar conditions that the grinding conflict with Venice created for arbitrating such

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<sup>40</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 24a.

cases.<sup>41</sup> The *fetva*'s inclusion in the collection meant the establishment of a new, authoritative legal precedent that could be referred back to by future readers, muftis and judges, when faced with similar circumstances.

Other *fetvas* were distinguished by demonstrating how contemporary business arrangements on land could affect the outcome of cases originating at sea. Many ships were owned as joint ventures with two or more partners, a fact which created a particular set of problems when such a ship was captured.<sup>42</sup> When one of the partners was also the ship captain, as was often the case, this could add another wrinkle to an already delicate situation. Zekeriyazade Yahya Efendi's collection is the first to address the issue:

**Question:** Zeyd and Amr are *zimmis* whose jointly owned ship Zeyd is about to use with Amr's permission when enemy infidels take that ship from Zeyd's possession. After they import it into the *darülharb*, Zeyd, as a *mustamin* (i.e. with a safe-conduct) goes to that domain. When he requests the ship from the enemy infidels, those infidels do not give the ship to Zeyd. If, in exchange for it, they give Zeyd a quantity of goods, now when Zeyd imports those goods into the *darüislam*, can Amr take some of those goods from Zeyd? **Answer:** No.<sup>43</sup>

At first glance, this case might seem extraordinary. How could Zeyd convince the "enemy infidels" to compensate him for the loss of his ship? In actuality, this *fetva*, issued between 1622 and 1644, indirectly hints at exactly how Zeyd might have been successful in demanding restitution and provides us with an important clue in the first few words. Zeyd and his partner are *zimmis*, that is, non-Muslim Ottoman subjects. Though we can only speculate, Zeyd and Amr are most likely Ottoman Greek Orthodox Christians whose ship was captured by Maltese corsairs. Because Zeyd was verifiably

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<sup>41</sup> The Arabic proof-text makes this clear, referencing the *siyar* chapter of the famed *Hidaya* of al-Marghinani (d. 1197).

<sup>42</sup> On the matter of partnerships in Ottoman Islamic law generally, based on research in the Bursa court registers, see Haim Gerber, "The Muslim Law of Partnerships in Ottoman Court Records," *Studia Islamica*, 53 (1981), 109-119.

<sup>43</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 107a.

Christian, they did not detain him further; if he had been a Jew he would have been enslaved. In the seventeenth and eighteenth centuries, corsairs based in Malta frequently captured ships owned and operated by Ottoman Christians, disregarding their directive to only despoil Muslims under a variety of pretexts. The Knights of St. John maintained a court on Malta for adjudicating claims of wrongful seizure, and numerous Ottoman Greeks went there to obtain redress and reclaim stolen property.<sup>44</sup>

This *fetva* collapses into a few lines proceedings that may have taken months or years, from the moment that Zeyd's ship was initially seized to the point when he arrived on Malta and initiated his suit. By this point, his ship might have changed hands too many times to be located or was unobtainable for some other reason, so Zeyd was compensated with a quantity of goods which he brought back with him. The *fetva* itself undoubtedly emerged from the litigation that ensued when Zeyd returned home and denied his former business partner's claim to a share of the goods commensurate with his initial loss from the jointly-owned ship. There is little question that the man behind the "Zeyd" alias requested the *fetva* to support his side in the suit; a businessman with the means to travel to and from Malta to pursue a claim must have been aware that Islamic law was on his side before denying his partner a share. Ultimately, the legal reasoning here is similar to the cases described earlier; once the property has been brought into the *darülharb* and is transferred (or something else is transferred in exchange for it) within that domain to someone else, his bringing it back into the *darüislam* voids any prior claims to full or partial ownership.

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<sup>44</sup> See Molly Greene's *Catholic Pirates and Greek Merchants* (Princeton, 2010) for an in depth study of the court.

Çatalcalı Ali Efendi's *fetva* collection returns to this issue of shared ownership, presenting a trio of parallel examples:

**[Question]:** Enemy infidels seize Zeyd and Amr and Bekr's jointly-owned ship with irresistible force. After they import it into the *darülharb*, if Zeyd buys the ship from the enemies and exports it to the *dar-ı Islam*, can Amr and Bekr take formal possession of their shares of the ship for free? **Answer:** They cannot.

**[Question]:** Enemy infidels seize Zeyd and Amr's equally jointly-owned ship with irresistible force and after they import it into the *darülharb*, when Zeyd arrives in the *darülharb* with a safe-conduct, the enemy infidels give the ship to Zeyd for free and surrender [it to him]. If Zeyd then exports [it] to the *dar-ı Islam*, when Zeyd says to Amr, "Give me half of the ship's value and take formal possession of half of the ship," can Amr say, "I'll take formal possession of half of the ship for free"? **Answer:** No.

**[Question]:** Enemy infidels seize Zeyd and Amr's equally jointly-owned ship with irresistible force and after they import it into the *darülharb*, when Zeyd arrives in the *darülharb* with a safe-conduct, the enemy infidels give the ship to Zeyd for free and surrender [it to him]. If Zeyd then exports [it] to the *dar-ı Islam*, can Amr give half of the ship's value to Zeyd and take formal possession of half of the ship? **Answer:** Yes.<sup>45</sup>

These *fetvas*, issued between 1674 and 1686, expand on the legal logic of our preceding examples. Here, we are not given any specific clues as to the identities of the litigants, but in the absence of evidence to the contrary, it is a safe assumption that they too are Ottoman Christians. In the first instance, Zeyd has ransomed back the ship that he owned in partnership with two others from the enemy infidels who captured it. Presumably he had accompanied the ship on its outward voyage and, after it was boarded, began negotiations with the pirates on a price for its return on the spot. Such pragmatic agreements were quite common in the early modern Mediterranean and, given the time, expense, and uncertain outcome of litigation (if it were even an option), appealed to ship-

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<sup>45</sup> Çatalcalı Ali Efendi, *Fetava-yı Ali Efendi ma an-nükul* (Istanbul, H. 1289 [=1872]), 213. The usage of the Persian *izafet* construction "*dar-ı Islam*" instead of "*darüislam*," as above, was not uncommon. The meaning is the same.

owners and pirates alike, allowing both parties to get back to business without further delay.<sup>46</sup> Since Zeyd bought his boat back on his own initiative and with his own money, it might not surprise us that his former partners could not reclaim their shares upon the ship's return to the *darüislam* without cost, but the subsequent examples reinforce the fact that their claims would have been vacated even if the ship had been returned to Zeyd for free.

The nearly identical phrasing and opposing answers of these *fetvas* suggest that they were issued in tandem. The particulars bear a strong resemblance to the *fetva* of Zekeriyazade Yahya Efendi, written some decades earlier and discussed above, though in this case the infidels hand over the ship in question instead of a quantity of goods of equivalent value. As in the previous cases, the circumstances surrounding Zeyd's reacquisition of the ship have deprived Amr of his right to claim his original share without cost. However, the final example makes it explicit that the law does recognize Amr's prior stake in the property in question and endows him with the right to reacquire ownership of his former share by handing over to Zeyd a sum equivalent to its value. The *fetva* makes it clear not only that the deal Zeyd offers Amr to buy back his share of the ship in the preceding example is lawful, but that Amr automatically possesses the right to repurchase his stake and thus reestablish the partnership more or less irrespective of Zeyd's wishes.

Çatalcalı Ali Efendi's *fetvas* on captured, (formerly) jointly-owned vessels helped to clarify the correct ruling in a rather delicate scenario, in which one or more partners would be legally stripped of his substantial investment even as his erstwhile ship lay safely moored in its home port. The decisions rewarded those who took the time and

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<sup>46</sup> See Chapter 1.

the risk to recover their stolen property in enemy territory. However, the legal right to buy back into a recovered ship that Ali Efendi's *fetvas* spelled out was no innovation; that legal principle was also at the center of many *fetvas* revolving around the return of captured ships and slaves that had been brought back into the *darüislam* by a third party. One such case from Zekeriyazade Yahya Efendi was discussed earlier. Nevertheless, a *fetva* and its follow-up from Minkarizade Yahya Efendi, Ali Efendi's predecessor in office, make it clear that the right to buy-back one's stolen property could be easily derailed:

**Question:** Enemies take over Zeyd's ship, take a known quantity of goods, and bring [them] to the *darülharb*. Afterward, if Amr, a merchant with safe-conduct, buys those goods from the enemies in the *darülharb* and exports them to the *darüislam*, can Zeyd take those goods for free? **Answer:** No, he can take [them] with [their] price.

**In that case:** If Zeyd and Amr disagree on the price of the goods, who has the [last] word? **Answer:** Amr.<sup>47</sup>

This *fetva*, one among many similar *fetvas* from the seventeenth and eighteenth century collections, makes its real point in the follow-up question. Having already legally established many times over that Zeyd cannot take back his goods (or his ship, or his slave) for free under such circumstances, it is reiterated that he can reclaim them for their price. If Amr had not purchased the goods, but had received them as a gift before importing them, the *fetva* would have indicated that they could be reclaimed for their *value*. In either case, if the two parties disagree on what the fair price should have been or what the value is, the law gives the benefit of the doubt to the person who actually possesses the property in question. Since the original owner has no legal obligation to buy back his former property, this rule gives the new owner some leeway in spite of the

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<sup>47</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 24a.

fact that he does have a legal obligation to sell it back if the original owner desires. Given the number of times that a ship or slave, once captured, could change hands, and the significant time that could pass in the interim, this type of ruling anticipates and short-circuits the potentially paralytic litigation that would arise if original owners of stolen property possessed an absolutely unconditional right to buy back their property. Once an ownership dispute has been resolved in the new owner's favor, it is for him to set the price; he cannot be legally compelled to change it, and if the former owner rejects it, the matter is effectively concluded from the standpoint of the law. In this way, the muftis ensured a degree of stability and predictability in questions of ownership on land, in spite of the continuing chaos at sea.

### **Slaves Seized at Sea: Disputed Property II**

At some point in the tense twenty years that preceded the 1645 Ottoman invasion of Crete, a Muslim merchant traveler—let us call him Zeyd—and his Christian slave—let us call him Amr—boarded a ship bound for the port-cities of the North African littoral. The voyage from the Ottoman center passed without incident until the ship, hugging the rugged coastline, was spotted by a Maltese flotilla loitering in the distance. As the corsairs' swift ships changed course to intercept the Ottoman vessel, the Muslim passengers on board convened to decide on a plan of action. Outnumbered, poorly defended, and with little hope of outrunning or outmaneuvering the corsairs' agile frigates, the Muslims rapidly concluded that their only option was to abandon ship and make for shore before the Maltese got within firing range. The reputations of the Maltese

preceded them; every Muslim traveler knew of and feared the fate that awaited those who survived the initial onslaught and became captive on Malta, where the most fortunate might languish in the dungeons for years awaiting their ransoms and the least would likely die rowing on the galleys of the Pope.<sup>48</sup> So the Muslims piled into the lifeboat and rowed for shore and safety as fast as they could, leaving their ship, their cargo, their personal possessions, and even their slaves behind to the Maltese. After the Christian corsairs finally drew up along the abandoned ship and boarded, they took stock of their newly acquired booty and captives, Amr among them, and then set course for Malta, ship in tow.

Once it became clear that Amr was a Christian slave, the corsairs released him and left him on Malta to do as he pleased. Amr determined to return to the homeland from whence he had been abducted and sold into Ottoman slavery some time before. Amr slowly made his way back, by land and by sea, through Christian Europe until he finally reached the lands of *Rus*, the Ukrainian steppe where he had been born. But Amr's extraordinary journey was not yet over, and it was about to take a terrible turn. A marauding party of Tatar raiders, on one of their habitual expeditions in the area, sacked Amr's settlement and seized Amr. Another successful raid concluded, the Tatars made their way back into Ottoman territory, where they planned to find buyers for their captives. Once there, they sold Amr to Bekr and turned him over.

Sometime thereafter, Zeyd, who had eventually returned home safely after his close encounter with the Maltese pirates, ran into Bekr with his former slave Amr. Though the sight of Amr again after so much time was indeed a shock, their crossing

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<sup>48</sup> On the latter outcome, see Salvatore Bono, "Achat d'esclaves turcs pour les galères pontificales (XVIe - XVIIe siècles)," *Revue de l'Occident musulman et de la Méditerranée*, 39 (1985), 79-92.

paths once both were back in the city was less surprising. Zeyd and Bekr, as men of a certain class, moved in similar circles. Zeyd immediately tried to reclaim Amr from Bekr, but Bekr resisted having his new investment taken from him. Zeyd could legally prove his prior ownership of Amr in court, having registered his property with the court after the initial purchase. However, a *fetva* was requested from the *şeyhülislam* which decided the case in Bekr's favor. Though the court, and the mufti, recognized Zeyd's prior ownership of Amr, the course of Amr's misadventures and the circumstances of his involuntary return to Ottoman territory meant that he unquestionably belonged to Bekr now. Zeyd could have Amr back, but he would have to pay for him. Amr was no longer the arbiter of his own fate, but property whose ownership was to be disputed in court and before the mufti.<sup>49</sup>

A number of cases involving the capture of Ottoman-owned slaves at sea, like the one narrated above, appear in the seventeenth and eighteenth-century *fetva* collections.

The legal principles involved in the jurists' decisions will by now be quite familiar to the

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<sup>49</sup> This *fetva* appears in slightly different form in the two manuscripts reviewed, though without any effect on meaning.

Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 105b (dated AH 1092) is the older of the two:

**Mesele:** Zeyd bir gemiye (11) binüb Magreb vilayetine giderken harbi keferemileri kodıklarında? Zeyd gemide olan sair (12) muslimin ile sandala girüb kenara çıkub sefineyi bıraktıklarında harbiler ol gemi (13) üzerine müstevli olduklarında içinde olan Zeyd'in esbabını ve abd-ı memluku Amr nasraniyi (14) ahz ve esir edüb diyar-ı harbiyyeden Maltaya idhallarından sonra Amr'ı gerü diyar-ı harbiyyeden (15) Rus diyarında Tatar taifesi ahz ve esir ve darülslama ihrac ve Bekr'e bey' ve teslim (16) eyleyseler hala Zeyd Amr'ı Bekr'in yedinde buldukda mukaddema abd-ı memluku idüğünü isbat (17) edecek Bekr'den mecanen almağa kadir olur mu? **El-cevab:** Mecanen alımaz.

MS Kasidecizade 276, fol. 104b-105a. (dated AH 1135):

**Mesele:** Zeyd bir sefineye binüb (21) Magreb vilayetine giderken harbi keferemilerine rast gelüb Zeyd sair musliman ile sandala (22) girüb kenara çıkub sefinelerin terk ettiklerinde ol sefineye korsan keferesi müstevli (23) olub içinde olan Zeyd'in esbabını ve abd-ı memluku Amr nasrani ahz ve esir edüb ~~ve darülslama ihrac~~ {*margin-1* diyar-ı harbiyyeden Maltaya idhallarından sonra Amr'ı diyar-ı harbiyyeden Rus diyarında (*margin-2*) Tatar taifesi ahz ve esir edüb dar-ı islama ihrac} (23) Bekr'e (105a-1) bey' ve teslim eyleyse hala Zeyd Amr'ı Bekr'in yedinde bulub mukaddema abd-ı memluku edüğünü bad el-isbat Bekr'den (2) almağa kadir olur mu? **El-cevab:** Mecanen alımaz.

reader. But slaves, unlike ships, possess free-will, self-propulsive capacity, and intrinsic, albeit mutable, legal identities. Though both can be bought, sold, stolen, used, owned and inherited, only slaves can convert or be manumitted. Because a slave can cease to be a slave, but a ship can only ever be a ship, the moment of capture underpinning each *fetva* is always a potentially transformative event for the slave. Thus, while such *fetvas* allow a closer look at Islamic legal theory in practice, and their inclusion in the *fetva* collections indicates their contemporary didactic function, their potential for social historical analysis is what most interests us here. Each one is, in essence, an anonymous biographical narrative in miniature.<sup>50</sup>

The preceding narrative, extrapolated (but not embellished) from a particularly rich *fetva*, details an astonishingly tragic story, from which we learn a great deal about how the passengers of a predominantly Muslim ship might respond to imminent boarding, about the origins and personal odyssey of one very unfortunate slave, and about the remarkably small circles in which men of means traveled. If we assume that the city of Zeyd, Amr, and Bekr was Istanbul, a chance encounter in its slave market or in its port district between two such men does not seem so unlikely. If nothing else, the story should drive home for us a sense of the incredible mobility of early modern travelers, the smallness of this world, and the cyclical, kinetic qualities of the stories encapsulated in the *siyar fetvas*.

The presence of slaves on early modern ships is attested in numerous sources and in numerous capacities. Certainly the largest number served as oarsmen on the galleys (though contrary to popular conception, Ottoman war galleys were never rowed

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<sup>50</sup> With scholarship on pre-modern, non-elite Ottoman slavery in its infancy and sources in short supply, the value of these *fetvas*, read critically, cannot be overemphasized.

exclusively, or even primarily, with slave or convict labor),<sup>51</sup> but slaves embarked on ships for less arduous purposes as well. Ottoman-owned slaves might travel with their masters in a general, personal service role, or they might travel independent of their masters and conduct business on their behalf. Even outside the realm of elite or palace slavery, it was not uncommon for slaves to be entrusted with substantial responsibility and a great deal of personal freedom.<sup>52</sup>

A *fetva* from the first half of the seventeenth century illustrates this latter sort of slavery:

**Question:** While Zeyd's wholly-owned slave Amr is trading by ship, if enemy infidel[s] seize Amr, when Amr somehow escapes after a period of time from the *darülharb* and comes again to his master (*mevlası*) Zeyd's side, can Zeyd legally [re-]enslave Amr? **Answer:** No.<sup>53</sup>

In this case, the slave Amr is engaged in maritime trade on his master's behalf. After he manages to escape (or perhaps is freed on account of being Christian), he actually returns to the *darüislam* and his master. This willful return (as opposed to being brought back across by force, as we shall see) is what makes Amr now a freeman. But the bond between them, legal and perhaps personal, is not entirely broken. Zeyd cannot legally re-enslave Amr, but he is still his *mevla*, now more in the sense of patron instead of master.

This is the same legal relationship they would have if Zeyd had manumitted Amr.

Because we do not know where Amr was originally from or how old he was when he was

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<sup>51</sup> See Emilie Thermopoulou, "Les Kurekci de la flotte ottomane au XVIIe siècle," in *The Kapudan Pasha: His Office and His Domain* (Rethymnon, 2002), 165-180; Mehmet İpşirli, "XVI. Asrın İkinci Yarısında kürek cezası ile ilgili hükümler," *Tarih Enstitüsü Dergisi*, 12 (1982), 204-248.

<sup>52</sup> Because manumission was common, often after a period of time that had been pre-determined and legally contracted (*mukatebe*) between master and slave in the case of "skilled" slaves, the incentive to serve faithfully could be very strong. Manumitted slaves typically continued to serve their former masters in a patron-client relationship. See Nur Sobers Khan, "Slaves without Shackles" (Ph.D. dissertation, Cambridge University, 2011), *passim*.

<sup>53</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 106a.

first abducted and enslaved, we can only assume that by the time he was captured by pirates, Zeyd's home had become, for personal or economic reasons, the only home to which he would or could choose to return. Though the *fetva* fixes Amr's changed legal status, his overall position in Zeyd's household would likely have remained relatively similar. And it is not hard to imagine that, once sailing weather returned, Amr would be back to conducting trade for Zeyd.

Another example, this one from Minkarizade Yahya Efendi (in office, 1662-1674), demonstrates again the inclination of at least some slaves, given a chance at a different fate, to return to their erstwhile masters:

**Question:** When Zeyd's slave Amr is going with the fleet with Zeyd's permission, [they] encounter enemy infidels. [They] seize Amr and when the ships part, Amr is freed without entering the *darülharb*. If he comes to Istanbul, can Zeyd [re-]enslave Amr? **Answer:** Yes.<sup>54</sup>

Besides the fact that Amr, as in the previous example, returns to his master's service voluntarily after being captured independent of him at sea, this *fetva* is intriguing because of how Amr comes to be captured in the first place. Amr embarks with the fleet (*donanma*) from Istanbul with Zeyd's permission. We do not know what Amr was supposed to be doing with it—perhaps serving as an oarsman—but the fleet in question must have set out from the imperial arsenal (*tersane-i amire*) during the final stages of the protracted conflict with Venice over Crete. Although the war finally ended with Ottoman victory in 1669, Ottoman naval reversals were not infrequent. Our *fetva* must date from some point between 1662 and 1669 and details an unsuccessful engagement, probably in the Aegean, with the Venetians or their allies, who liberated the Christian slaves they found on the spot and put them ashore before sailing off. For whatever

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<sup>54</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 24b.

reason, Amr returned to Istanbul of his own accord and, because he had not been brought to the *darülharb*, to servitude as well.

If some slaves had grown sufficiently accustomed to their lives—or if they could not remember life being any other way—to return to their masters’ side of their own volition, plenty of others could be counted on to make common cause with those who had liberated them or at least, as we have seen, to attempt to return to their former lives. But if the stories of such men found their way into the *fetva* collections, it was inevitably because they had failed. Naturally, joining in hostilities against the Ottomans put one at risk of re-capture. This *fetva*, in which the heirs of a deceased slave-owner tried unsuccessfully to claim a liberated and subsequently recaptured slave, aptly illustrates that risk:

**Question:** Enemy infidels capture Zeyd the *zimmi*’s Christian slave Amr. After they import [him] to the *darülharb*, Zeyd dies. Afterward, Amr boards a ship with the enemy infidels and while they are making war with the *ehl-i Islam* (i.e. the Ottomans), the *ehl-i Islam* seize Amr. If, after the division of spoils, [he] is marked as Bekr’s share, can Zeyd’s heirs take Amr [from Bekr] for free? **Answer:** They cannot, they can take [him] for [his] value.<sup>55</sup>

Due to the use of abstractions, it is impossible to tell here if Amr has joined up with the Venetians, since this *fetva* could date from the final seven years of the Cretan War (1645-1669), or if he is serving with some semi-independent Christian corsairing outfit. From the religious-legal perspective, and to some extent from the Ottoman administrative perspective in wartime as well, there was no difference. In any event, the encounter with the Ottoman naval force went poorly for Amr, who became part of the booty to be distributed among the victorious. Another case from the first half of the eighteenth century tells a similar story, in which the Christian slave of a frigate captain is freed when

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<sup>55</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 25a.

the frigate is captured and then the slave willingly joins the crew of the enemy vessel. When that vessel is captured in turn by the Ottomans, and when the frigate captain is himself freed from captivity, the slave is returned to him.<sup>56</sup>

Yet an initial encounter at sea was not always necessary to introduce Ottoman-owned slaves into the maritime *siyar fetvas*. Some fugitive slaves who fled across Ottoman land borders into enemy territory later joined up with Christian pirating expeditions. The disputes over ownership that took place after they were recaptured, as in the cases discussed above, brought them into our sources.

**[Question:]** Zeyd's [Muslim] slave Amr runs away after apostatizing. When he enters the *darülharb*, the enemies (*harbiler*) do not seize or bind him. Afterwards, when Amr goes out corsairing with the enemies, if the Muslims seize Amr with irresistible force, and if Zeyd finds Amr in someone else's possession, can he take him for free? **Answer:** Yes, but Amr is required to [re-accept] Islam. If he does not accept, he is killed.<sup>57</sup>

The presence of *fetvas* like this one in the *siyar* sections amidst those concerning ships and slaves taken at sea requires additional comment. Ottoman *fetva* collections, like the *fiqh* manuals on which their organization was modeled, typically contained an entire section dealing with fugitive slaves, *kitab al-'ibak*. Such sections usually immediately followed the *kitab al-siyar* and dealt with legally related issues, but they were nevertheless distinct. Whether or not the slave was recaptured inside or outside the *darüislam* (or had exited and re-entered of his or her own accord), whether he or she was Christian, Muslim, or an apostate, the *fetvas* dealing with the disposition of such slaves belonged to the *kitab al-'ibak*. Why then would a case of a fugitive slave who joins the enemy and is recaptured by the Ottomans at sea be placed in the chapter of *siyar*? The

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<sup>56</sup> In *Neticetü'l-Fetava*, Süleymaniye Kütüphanesi, MS Kasidecizade 278, fol. 87a.

<sup>57</sup> Çatalcalı Ali Efendi, *Fetava-yı Ali Efendi*, 211-212.

answer, it seems, is the sea itself. The presence of this *fetva* in the *siyar* section should cement for us how cases that involved the sea and piracy were automatically understood as belonging to that legal realm in the seventeenth and eighteenth centuries.<sup>58</sup>

In the above example, taken from the collection of Çatalcalı Ali Efendi, the fugitive slave Amr repudiates Islam before fleeing the jurisdiction. He is not molested in any way by the Christians on the other side of the border, but joins them willingly. We might guess that this is taking place somewhere along the Balkan frontier, but there is no way to know for sure. Amr participates in a Christian pirating expedition and, after an unlucky encounter with a superior Ottoman force, finds himself once again in Ottoman captivity. The reader might be surprised to see that here Zeyd is able to secure the return of Amr without cost, but this was the standard outcome for fugitive slaves who had fled the *darüislam* (or were recaptured within it) of their own accord and without compulsion. If the original owner can prove his prior ownership, the fugitive slave is returned to him. However, because Amr was formerly Muslim, he must first re-accept Islam, or he suffers the penalty for apostasy, which is death. Ultimately, the ruling here is no different than if the whole process had taken place on land. That is, if Amr had instead joined in a cross-border raid, the outcome would be the same, but the resulting *fetva* would not have been in the *kitab al-siyar*. Thus, the Ottoman jurists of the seventeenth- and early eighteenth-centuries continued to identify cases involving slaves and maritime violence as a *siyar* matter and one deserving of an increasingly prominent place in their *fetva* collections. As both the number and complexity of cases involving (re-)captured Ottoman slaves and the sea ballooned, so too did their representation in the *şeyhülislam*

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<sup>58</sup> The only exception to this rule is ransoming, which most often, though not always, appears in the *kefalet* (surety) section.

*fetva* collections relative to more conventional, dry land-centered content. The muftis' answers to questions concerning the sea hewed closely to those involving land, and they invoked the same classic authorities in their proof-texts. Nevertheless, administrative disorder along the frontiers, unchecked piracy, and multiple protracted struggles with Venice (1645-1669) and her allies (1684-1699, 1714-1718) meant that both muftis and *fetva*-compilers had to respond to the legal quandaries of the age with detailed guidance for readers unsure of how Islamic law would react to getting wet.

### **Ottoman Captors, Ottoman Captives, and the Question of Subjecthood**

The *fetvas* covered up to this point have been primarily concerned with property and questions of ownership, even as they have detailed the ordinary and extraordinary horrors of early modern seafaring in times of both war and peace. But ships, cargo, and Ottoman-owned slaves were certainly not the only casualties. Free Ottoman subjects—Christians, Jews, and Muslims—were frequent victims of piratical attacks on ships and shores. For most Ottoman Muslims (and Jews) captured by Catholic corsairs or pirates, to say nothing of those who lost their lives on the spot, their misfortune would have one of a few likely outcomes: they could be sold as slaves, they could be ransomed (which often enough was preceded by sale and use as a slave), or the pirate ship itself might be intercepted by an armed Muslim vessel before making port, resulting in their liberation. Except in unusual cases, as we shall see, none of these outcomes would provide any occasion for requesting or issuing a *fetva*. The Ottomans' non-Muslim subjects, the

*zimmi*s, on the other hand, were vulnerable to abuses that propelled them into our sources.

Preceding chapters have already dealt with the problem of illegal enslavement of Ottoman subjects by other Ottomans from the administrative perspective. Having examined how the administrative apparatus responded to complaints of such incidents, we now turn to the *fetva* collections to see how Ottoman jurists confronted the problems posed by a Mediterranean maritime environment where subjecthood still trumped confessional status in theory, but where mobility, absence of borders, and anarchy continually frustrated the efforts of the Ottoman center to enforce Islamic and imperial law.

While extralegal abuses of Ottoman non-Muslims were not unheard of in the interior, their vulnerability was greatly increased along the frontiers, where populations professing the same faith and speaking the same language straddled the shifting, porous boundaries between early modern states. Distance from imperial centers, higher priorities, and the prerogatives of local politics meant that imperial directives to honor both international agreements and the rights of the subject population could often be safely ignored for profit. This was not, it must be emphasized, a uniquely Ottoman problem, nor one confined to land.

The legal tension between subjecthood and confessional identity in Mediterranean space was manifested in the frequent victimization of Ottoman Greek Orthodox merchants by the Knights of Malta on the one hand, and of Ragusan and Venetian merchants—who were supposed to be protected—and Ottoman non-Muslims by Ottoman

and North African pirates on the other.<sup>59</sup> Jews, in all cases, were at risk. Nowhere was this tension greater than at sea, where the jurisdictional anchorage of land and the physical and legal security it provided were beyond reach. Put simply, an Ottoman Christian from an Ottoman village in Ottoman administered territory was a known entity. A Christian at sea could be, with a minimum of willful ignorance, construed as an “enemy infidel” and thus a legitimate target.

A *fetva* from Ebu Su’ud (d. 1574) will serve to illustrate how the transition from land to sea exposed this vulnerability to the unscrupulous:

**Question:** In order to come to Islam, Zeyd the *zimmi* boards the ship of Captain Amr. While they are coming to the *darüislam*, the captain wants to sell the aforementioned *zimmi*, saying “he is my slave.” If the *zimmi* proves his freedom to the captain’s face, is he freed? **Answer:** It is not permissible to interfere with someone who is undertaking emigration by his [own] choice.<sup>60</sup>

There is no incident of piracy here, simply an unscrupulous ship captain who sees an opportunity to profit off of one of his passengers. Zeyd is presumably a Christian Ottoman subject (Jews are almost always specified as such, to the extent that *zimmi* in Ottoman usage is a byword for an Ottoman-subject Christian) who has decided to convert. For this reason, he determines to travel to the Ottoman center. Why he would deem this necessary is not clear, but it is functionally irrelevant. Even if he were not planning to convert, Amr’s attempt to sell him off would have been equally forbidden. And if he had been a non-Ottoman Christian, that is a *harbi kafir* or enemy infidel, coming for the express purpose of becoming a Muslim, his enslavement also would not have been permissible (such cases do appear in Ottoman administrative documents, where the officials responsible for detaining the individual are admonished not to

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<sup>59</sup> This “legal tension” is a major focus in Greene, *Catholic Pirates and Greek Merchants*.

<sup>60</sup> Süleymaniye Kütüphanesi, MS Ismihan Sultan 223, fol. 99a.

interfere).<sup>61</sup> But here Zeyd is an Ottoman Christian who, once at sea, is threatened with sale and enslavement. To legally prevent this, it is incumbent upon him to prove his free origin. Implicitly, it would seem that the *zimmi* who was unable to prove this would be without recourse. But another example from Ebu Su'ud challenges this interpretation, suggesting instead that it is the captor who must be able to prove the captive's unfree—that is, non-Ottoman—origin, and that in ambiguous circumstances, the potential captive who claims Ottoman subjecthood should be given the benefit of the doubt.<sup>62</sup> As we have seen in earlier chapters, Ottoman pirates were not above raiding their own shores and other Ottoman ships and abducting Ottoman subjects who, illicitly and ostensibly “cleansed” of their Ottoman subjecthood by a short sea journey, were sold off to buyers in distant markets as if they were legally captured, enemy infidels. Here, Captain Amr is attempting to do just such a thing. So, why do we have a *fetva*?

After all, once Zeyd had provided his proof of free status to Captain Amr, the matter should have been closed. Amr, having seen the clear proof, should have apologized for the inconvenience and returned to commanding his ship, leaving Zeyd to spend the rest of the voyage in anticipation of his new life as a Muslim. It is precisely because this is not what happened that we have this *fetva*. In all likelihood, Amr did sell Zeyd into slavery, disregarding his proof and ignoring his protestations of free origin. However, slaves could and did make use of Ottoman courts to protest wrongful enslavement, and we will see how this worked in practice in subsequent chapters.<sup>63</sup> We have already discussed how litigants in Ottoman courts frequently requested *fetvas* to

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<sup>61</sup> e.g. BOA MD 19: 20/8 (3/M/980).

<sup>62</sup> Süleymaniye Kütüphanesi, MS Ismihan Sultan 226, fol. 152a.

<sup>63</sup> Cases of legal slaves claiming breach of contract, failure to manumit as promised, and so forth in the courts were fairly common.

strengthen their cases. There can be little doubt that “Zeyd” is the man who requested the *fetva*, and thus we can safely assume that Zeyd was indeed enslaved and, later, protested his condition in court and obtained a *fetva* from the *şeyhülislam* to support his case. The fact that the *fetva* lacks any narrative beyond the point of the presentation of proof does not contradict this interpretation. It stops there because, from the jurist’s viewpoint, that is where the relevant part of the case ends. The repetition of the word “*zimmi*” in place of “Zeyd” throughout the text emphasizes that aspect of Zeyd’s legal identity and highlights its importance for the final ruling. Ebu Su’ud’s answer, which eschews a simple “yes,” is notable. It provides **guidance**—a broad declaration that the willing traveler to/within Ottoman domains must not be molested.

But while the case behind Ebu Su’ud’s ruling is fairly clear-cut, many of those encountered by his seventeenth- and eighteenth-century successors were considerably more complex. They reflected the chaotic and uncertain nature of seafaring in the new, post-Lepanto Mediterranean. An “Ottoman” ship was not necessarily, or even usually, a **Muslim** ship, and its passengers, crew, and cargo often reflected the diversity—confessional, linguistic, and geographic—of the empire. This distinction was often disregarded by European pirates (whether Mediterranean Catholics or Atlantic Protestants) and others. We have already discussed a number of such cases, where Ottoman Christian ships were captured by Christian pirates, and their importance for adjudicating ownership disputes and conflicts over the division of restitution. However, not just the property, but the lives and livelihoods of Ottoman crewmembers and passengers came into the purview of the *fetva* collections of the seventeenth and early eighteenth centuries. Manifesting the same cyclical properties of many of the *siyar fetvas*

remarked upon above, the capture of an “Ottoman” ship by “enemy infidels” followed by its recapture by Ottoman forces could have grave implications for the non-Muslim Ottomans aboard, whose identities and allegiances were immediately suspect (or might be conveniently disregarded for the sake of a higher captive count and greater profits).<sup>64</sup> Before going further, we must pause to consider the nature of Ottoman subjecthood in the seventeenth century and how it was understood in religious-legal terms.

A simple *fetva* from Çatalcalı Ali Efendi makes clear that Ottoman subjecthood follows the *zimmi* who is removed from the *darüislam* by force:

**[Question:]** Enemies capture Zeyd the *zimmi*. After they import [him] into the *darülharb*, some people from the *ehl-i Islam* [i.e. Ottoman Muslims] take Zeyd from the enemies by force. If they export [him] to the *darüislam*, can they enslave Zeyd simply by saying “we exported [him] from the *darülharb* to the *darüislam*?” **Answer:** They cannot.<sup>65</sup>

This example, which presumably takes place on land, is of course equally valid at sea. However, the intrinsic legal ambiguities of the sea complicated matters. This was in part because the non-Muslim Ottoman’s status as a *zimmi* was itself contingent on a legal contract: the *zimmi* was literally a member of the “people of the pact” (Arabic: *ahl al-dhimma*), those non-Muslims who accepted Muslim rule and paid a tax (the *cizye*) in exchange for protection. A *zimmi* could repudiate the pact (*nakz-i ahd*) and give up his legal status as a *zimmi*, thereby becoming a *harbi kafir*, an enemy infidel. Some *zimmis*, much like the fugitive slaves mentioned above, did exactly this and joined the Christian pirates:

**Question:** Zeyd the *zimmi* repudiates the pact and goes over to the *darülharb* and enters a Christian pirate ship. While cruising in *corso* with the followers of the enemy, when they battle with a ship of the *ehl-i Islam* [i.e. the Ottomans], the *ehl-i Islam* overcome the frigate with the help of God. Since they seized [it] by

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<sup>64</sup> The Ottoman muhimme defters record numerous such cases.

<sup>65</sup> Çatalcalı Ali Efendi, *Fetava-yı Ali Efendi*, 207.

irresistible force, if they also seize Zeyd, can Zeyd simply say, “since I was previously a *zimmi*, I am of free origin,” and thus free himself from slavery?  
**Answer:** No.<sup>66</sup>

This *fetva*, and the many others like it that take place on land and sea, illustrates the contingent nature of Ottoman subjecthood. By rejecting the pact, the *zimmi* becomes an enemy and thus someone who can be legally enslaved. The same logic sometimes applied for rebellious Christian villages within Ottoman territory which, if they failed to submit, could be legitimately attacked and their inhabitants enslaved. Moreover, this was true not just for Ottoman non-Muslims, but for **all** Ottomans who abandoned the *darüislam* by choice. The Ottoman Muslim apostate who joins up with Christian pirates, once captured by the Ottomans, can be legally enslaved just like the former *zimmi*.<sup>67</sup>

So, on a ship that might have violently changed possession several times over the course of the sailing season, how could a *zimmi* caught up in the middle effectively demonstrate that he was not a willing participant in the preceding Christian takeover to men who, busy dividing the spoils, might be disinclined to listen? Ebu Su’ud’s *fetvas* might suggest that in ambiguous circumstances the *zimmi* is to be given the benefit of the doubt, but it is clear that even when the law and the jurists favored a certain outcome, the man with the sword usually had his way.

Lest we think that only *zimmis* were at risk in such circumstances, the *fetva* collections disabuse us of that notion. The fate that awaited the Muslim prisoners of Christian pirates was, if anything, less enviable than that of the “enemy” Christian captives amongst the Ottomans. One might reasonably assume then that the moment that a Christian pirate ship was captured (or recaptured, or re-recaptured) and its Muslim

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<sup>66</sup> Süleymaniye Kütüphanesi, MS Esad Efendi 1080, fol. 311b.

<sup>67</sup> Süleymaniye Kütüphanesi, MS Nafiz Paşa 311, fol. 62a. Intriguingly, in this *fetva*, the penalty for apostasy is not mentioned at all.

prisoners liberated would be an unquestionably auspicious one. However, the Muslim seapower behind such clashes, whether entirely independently operated or deployed on state orders, was not necessarily engaged in an altruistic, humanitarian mission. Beyond the conflicts over the spoils, slaves, cargo, and the ship itself, the liberators evidently often thought themselves owed more than the Muslim prisoners' gratitude for their efforts.

**Question:** Enemies capture Zeyd the Muslim. Afterwards, when they go out pirating, while they are using Zeyd on their ship [as an oarsman], the ship of the *ehl-i Islam* seizes the enemies' ship at sea by irresistible force and they export the ship and Zeyd into the *darüislam*. If Zeyd is freed from captivity, can Amr, captain of the aforementioned ship, say to Zeyd, "since [I] freed you from captivity, give me such and such amount of money," [and] force [him to do this]?  
**Answer:** No.<sup>68</sup>

In this eighteenth-century *fetva*, the captive Zeyd was being employed as a galley slave when the enemy ship was intercepted and seized by an Ottoman patrol. Though he was freed and returned to Ottoman territory, he was still vulnerable to the captain's demands for payment. As long as he was on that ship, how could he refuse? Obviously, there is no way that a liberated galley slave could have paid on the spot; rather, the captain was trying to force him to make an oral agreement to pay what was in effect a ransom as soon as he was able. The *fetva* probably stems from Zeyd's attempt to have the agreement legally voided after the fact.

The issue is a complicated one in large part because of the centrality of ransoming in the pirating economy. By and large, captives of all sorts were worth more for ransom than they were as slaves. And while some ransoms took years to contract and were complex, multi-party international transactions, others were agreed upon and concluded on the spot. Even when both the initial capture and the subsequent ransoming were in

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<sup>68</sup> Süleymaniye Kütüphanesi, MS Kasidecizade 278, fol. 88b.

clear violation of Islamic law, imperial law, and/or bilateral treaties, it was generally most agreeable for all parties to settle the matter as quickly as possible. The cases of the Ragusan merchants mentioned in the last chapter are just one example of how captor and captive could arrange ransom outside the bounds of the law. When faced with the alternative, it was always easier to just pay and go home.

Of course the ransom industry was not just lucrative for the pirates. Whole networks sprung up across the Mediterranean to facilitate the release of Muslims from Malta or Livorno and Christians from North Africa. In terms of Islamic law, the provision of bond and the securing of guarantors touched on a whole other side of legal theory which we shall not delve into here (such issues, in both *fiqh* manuals and *fetva* collections, appeared in the chapter on surety, or *kefalet*). It was perfectly acceptable, and expected, for captive Muslims to make entreaties to friends, relatives, or profit-seeking merchants to front the money for their release, a sum to which a certain amount would be added as the broker's fee. In the case of the aforementioned captain, the problem was not so much that he wanted money, but that no contract had been agreed upon prior to Zeyd's liberation. Another example, this one from Çatalcalı Ali Efendi clarifies the problem:

[**Question:**] After enemies capture Zeyd the Muslim, a Muslim merchant named Amr buys Zeyd from the enemies without Zeyd's permission for such and such amount of money (*akçe*). If Amr exports [Zeyd] into the *darüislam*, can he say to Zeyd, "give me that amount of money or I will enslave you"? **Answer:** No.<sup>69</sup>

Ali's *fetva* is instructive on a number of levels. For one, it shows how a Muslim merchant, presumably traveling with a safe conduct, could redeem fellow Muslims from their Christian captors in much the same way that traveling Christians could purchase the

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<sup>69</sup> Çatalcalı Ali Efendi, *Fetava-yı Ali Efendi*, 207.

freedom of their coreligionists in Ottoman slave markets.<sup>70</sup> But it also reveals how such transactions were not necessarily motivated by altruism. Here, as in the previous example, the problem with Amr's demand for payment is the absence of Zeyd's prior permission. If Zeyd had asked Amr to redeem him and had agreed to reimburse him for the expense, Amr would be justified in asking for payment and Zeyd would be liable to pay the agreed upon sum. In spite of the illegality of Amr's demand and, further, his outrageous threat to (re-) enslave a fellow Muslim, the existence of the *fetva* indicates that Zeyd must have acceded under duress before bringing the case before the mufti. For Amr's threat to have had any weight behind it, the oral exchange preserved in the *fetva* must have taken place at sea. Only on a ship would one Muslim's threat to return another Muslim to slavery be plausible. And only once securely on land would Zeyd be able to safely renege on his oral agreement with the merchant and petition the mufti (and perhaps the local court) to free him from any religious or legal obligation to pay.

**“Sultan of the Holy Warriors”:  
Central Authority and the Monopoly of Religious Violence**

*Fetvas* dealing with incidents of maritime violence that resulted in property disputes or disputes over whether and in what circumstances a captive could or could not be legally (re)enslaved comprise the majority of the opinions contained in the *siyar* chapters of the seventeenth and eighteenth century collections that involve the sea. They represented a growing problem and a pressing need for up-to-date legal guidance. But the Ottoman *fetva* collections, starting with that of Ebu Su'ud Efendi, also confronted a far

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<sup>70</sup> The seventeenth-century Ottoman traveler Evliya Çelebi did so himself on a number of occasions, redeeming Muslim captives during a trade mission to Split in 1660 and again on a tour of the Morea in 1670, see Dankoff, *An Ottoman Mentality*, 139-42.

larger issue than property disposition: that of what constituted legitimate raiding. Through *fetvas*—and through *fetva* collections—the *şeyhülislams* regulated the relationship between the government, raider, and potential booty. In particular, Ottoman jurists set out to define “holy war” in the Ottoman context, to delineate who was a “holy warrior,” and to fix in law what he could or could not do and to whom in that capacity. In a Mediterranean world where piratical actors on both sides of the confessional divide employed religious arguments to justify their actions, the *fetvas* demonstrate how the Ottoman state attempted to maintain its monopoly on religious violence. The *şeyhülislams*, as members of the Ottoman administration serving at the pleasure of the sultan and as the empire’s chief jurisconsults, were given the task of reconciling the requirements of Islamic law with the sometimes contradictory provisions of the Ottomans’ diplomatic agreements with foreign powers and the necessities of domestic politics.

The Ottoman state, which used the office of the *şeyhülislam* to make every conflict a “holy war,” employed a rather loose definition of what it meant to be a *gazi*, or holy warrior. “The one who fights,” according to Ebu Su’ud, “is truly a *gazi*.”<sup>71</sup> Indeed, every Ottoman war from at least Ebu Su’ud’s time onward was initiated by obtaining a *fetva* from the *şeyhülislam* to the effect that the war was required by the dictates of faith.<sup>72</sup> The impetus for such wars, at least with European powers, was never exclusively (or even primarily) religious, but obtaining religious sanction had numerous benefits, not the least of which could be justification for breaking a peace treaty that had not expired (as was the case with the 1570-1573 war with Venice over Cyprus). Ebu Su’ud’s

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<sup>71</sup> Süleymaniye Kütüphanesi, MS Ismihan Sultan 223, fol. 97a.

<sup>72</sup> Panaite, *The Ottoman law of war and peace*, 284-291.

statement defining the *gazi* as the one who fights for the Ottomans in an Ottoman war was not simply academic; it was imperial policy. The *fetva* containing that statement clearly came at the behest of the Ottoman government during the latter stages of the 1570-1573 conflict with Venice. Describing how, in a recent naval engagement—undoubtedly the Battle of Lepanto in 1571—a number of Ottoman combatants had fled the fighting and drowned, Ebu Su’ud responded to the question of whether or not such men qualified as martyrs. The answer was that those *gazis* who fought and died were martyrs, and that those who fled, whether they survived or perished, would suffer everlasting punishment for it.

It goes without saying that the state’s deployment of the vocabulary of holy war, with its promise of eternal reward for the brave, could be a powerful motivator. Conversely, the threat of damnation for cowardice was an important part of maintaining order on the battlefield. Ebu Su’ud’s *fetva* was widely disseminated. Perhaps it was read aloud to the soldiers. In addition to appearing in all the major collections of Ebu Su’ud’s *fetvas*, this particular *fetva* appears alone on the first page of a *defter* (register book) from the end of the war listing the names of those who had distinguished themselves on the battlefield with their bravery and the rewards, in pay and land, that they (or their heirs) received for their efforts.<sup>73</sup> The juxtaposition of Ebu Su’ud’s *fetva* defining a *gazi* with a government register book listing the names and rewards owed to the *gazis* of the war for Cyprus demonstrates the extent to which religious and imperial policy were intertwined

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<sup>73</sup> BOA A\_NŞT.D 1066, 1. The scribal notation below is dated 12/ZA/979—March 27, 1572. The entries on the following pages begin with orders dated several months earlier, at the start of Şaban 979 (mid-December, 1571). The war was not formally over, but Cyprus was fully secure and the campaign season had concluded when the first orders were recorded. The defeat at Lepanto was still quite fresh, however, lending further urgency to Ebu Su’ud’s words.

and how the *şeyhülislam* and his *fetvas* could serve as a tool of the state, strategically deployed to support political goals.

While the state was generous with the language of *gaza*,<sup>74</sup> that is, holy war, in times of conflict, it was equally assiduous in its withdrawal of it in peacetime. The same piratical act could be holy war or criminal rebellion, with the only and crucial difference being the presence or absence of sultanic approval. It denied *gazi* status to men who engaged in attacks against the “enemy infidels” without the express permission of the state, condemning them as troublemakers or rebels. The Ottoman government’s jealous protection of its sole right to initiate and engage in religious violence became increasingly important in the organized chaos of the seventeenth-century Mediterranean, when the freelance naval forces who had played such an important role in expanding Ottoman power across the sea in the sixteenth century became a diplomatic liability. Their continued attacks on Venetian shipping and taking of captives after the declaration of peace were a major sticking point in the relations between the two powers, costing the Ottomans millions of ducats in restitution over the course of the 1620s and 1630s and nearly igniting a war in 1638 after the Venetians, having chased a marauding North African flotilla back to the Ottoman Adriatic port of Avlonya, fired on the town, raided the port, and captured and sank a number of the ships.<sup>75</sup>

Numerous studies, whether of Islamic slavery generally, Ottoman slavery, or Mediterranean piracy, dispense with the matter of Islamic law with a perfunctory

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<sup>74</sup> The meaning of *gaza*, or *ghaza*, is more complex than “holy war.” Though it was often used in the Ottoman context synonymously with *cihad/jihad*, its original Arabic meaning is more closely tied to simple frontier raiding. The question of what *gaza* actually meant to whom and when is dealt with by Colin Imber in “What Does Ghazi Actually Mean?” In *The Balance of Truth: Essays in Honour of Professor Geoffrey Lewis* (Istanbul, 2000), 165-78, and also by Linda Darling in “Contested Territory: Ottoman Holy War in Comparative Context,” *Studia Islamica*, 91 (2000), 133-163.

<sup>75</sup> For a document detailing the financial costs of restitution in the 1620s and 1630s, see TSM.A.d 7687. The 1638 Avlonya crisis is discussed in Chapter 2.

statement asserting that, according to “Islamic law,” Muslims could legally enslave non-Muslims who were not protected, *cizye*-paying subjects of a Muslim power.<sup>76</sup> This was not exactly the view of the Ottoman government. Such cursory appraisals, while technically accurate, lack nuance and fail to acknowledge the work of Ottoman Muslim jurists that complicates this view. Moreover, uncritical assessments of this sort present Islamic law as an ossified monolith, rather than a dynamic and constantly evolving realm of discourse. Not only are there multiple schools of Islamic law, but individual jurists, even while acting within the traditions of their school and building on the interpretative framework they inherited, could respond to new problems and political exigencies with ingenuity.

The Ottomans did not enter into treaties with foreign powers lightly, and they took the terms of such treaties seriously. The treaties, *ahdname*, agreed upon with Venice and others were grounded in an understanding of reciprocity, and among the terms there was always an assurance that the subjects of the other power would not be enslaved and those presently in captivity would be found and freed. Through *fetvas*, Ottoman jurists reconciled the anti-enslavement articles of these treaties with a broader understanding of Islamic law that seemed to suggest that the enslavement of the subjects of any “enemy infidel” power was still licit.

That broad understanding of Islamic law accounts, in part, for why much modern scholarship has persisted in defining all “Ottoman” pirates as corsairs (even when they acted against the state’s wishes) and specifically as *deniz gazileri*, or holy warriors of the sea, whose commitment to the religious ideals of holy war compelled them to continue their attacks on Christian ships and shores (especially those belonging to Venice) in spite

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<sup>76</sup> See “‘Abd,” *EI2*.

of orders from the imperial center to cease and desist and respect the terms of the peace treaties.<sup>77</sup> Putting aside for the moment the Ottoman Turkish semantic issues, discussed in Chapter 1, that complicate any attempt to understand early modern maritime violence according to contemporary categorizations of state-sponsored (legitimate=corsair) and freelance (illegitimate=pirate) raiding—both types might be called *korsanlık* in Ottoman usage—I generally reject this view, not least because of the lack of source material to support it. The situation in the seventeenth century was not the same as in the sixteenth, when famous corsairs like the Barbarossa brothers secured the North African port cities for the Ottoman sultan, commanded imperial fleets, and were widely seen as exacting revenge against the Spanish for the injustices perpetrated against Andalusian Muslims. Pirates operating out of de facto independent North Africa in the seventeenth and eighteenth centuries were indeed corsairs in the eyes of local administrations, such as in Tunis or Algiers, which financed their expeditions and depended on their profits, but they were not necessarily seen as such in Istanbul when they failed to obey their suzerain. The “Ottoman” pirate attacks on Ottoman subjects of all stripes and on Ottoman institutions, such as the customs house of Iskenderun in 1624 and again in 1625,<sup>78</sup> not to mention the rather dubious religious credentials of many North African pirates who were Christian renegades (or even unconverted Christians) with prior experience as seamen,<sup>79</sup> call into question attempts to cast the phenomenon exclusively as a manifestation of perpetual religious conflict and reinforce the fact that things had changed in the post-Lepanto

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<sup>77</sup> For example: Bostan, *Adriyatik'te Korsanlık*; Daniel Panzac, *Barbary Corsairs*; and to some extent, Faroqhi, “Venetian Presence.”

<sup>78</sup> TSMA.d 1306, 1341.

<sup>79</sup> Adrian Tinniswood's *Pirates of Barbary: Corsairs, Conquests and Captivity in the 17th-Century Mediterranean* (London, 2011) tells the stories of a number of the English and Dutch raiders who set up shop in North Africa, many of whom eventually returned home following the promise of amnesty.

Mediterranean. But the question of how such sea raiders conceived of themselves and their actions, though worth asking, is not our focus. Of far greater importance is how the Ottomans' Islamic legal establishment understood and characterized the acts of such pirates in peacetime in the context of secular peace agreements.

Events at sea led to much of the articulation of Ottoman policy, and the government requested *fetvas* intended for consumption by the troublesome local officials and irregular naval units that have now been given by some scholars, and may or may not have themselves claimed, the title of *gazi*. A series of three connected *fetvas* from Zekeriyazade Yahya Efendi, spurred by an illegal raid and intended for a particular audience of Ottoman frontier raiders and their supporters in the local administration, reveals the state's total claim to the banner of holy war, the rejection of the validity of retaliation for a prior attack if it would violate a pre-existing treaty, and the absolute illegality of enslavement of captives taken in unauthorized raids.

**Question:** The ruler and the infidels of a place of the *dariilharb* reconcile and make a truce with his majesty, the Sultan of the *Gazis* and the *Mujahids*, may God almighty prolong his domain until the end of days. Without informing the center and when none of the necessary things were present, an expeditionary force from the *ehl-i Islam* went and, in contravention of the original order, raided and pillaged a number of the places in their territory. If they captured some of the infidels, can those captured infidels legally be enslaved and sold to another and owned and used? **Answer:** No.<sup>80</sup>

This initial *fetva* sets the stage: the sultan has already concluded a peace treaty with the infidels—in this case, the Venetians—when a frontier raiding party crosses the border to pillage and take captives. The problem is stated precisely. The raiders have contravened an imperial order to respect the truce, and they have committed the offense of acting without first consulting the central government and obtaining its permission. The

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<sup>80</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 106b; MS Kasidecizade 276, fol. 102a.

“necessary things” that were missing are explicit commands from the sultan to proceed. The contrast between the lofty language affirming the sultan’s holy warrior credentials and the implicit condemnation of the raiders’ actions reinforces the message that the initiation and prosecution of holy war is the exclusive domain of the sultan. The *fetva* is explicit about the captives, eschewing the standard “can he legally be enslaved?” in favor of an enumeration of each step of the process so that the anticipated “no” response encompasses not just the capture and enslavement, but also the sale, possession, and use of the captured infidels. There is no wiggle room here.

But the Adriatic frontier, where this case originated, was remote and populated with hostile groups, like the Catholic Uskok raiders, who operated independently from Habsburg and Venetian territory and were unconcerned with treaties signed in Venice, Vienna, or Istanbul. What if the Ottoman expeditionary force was retaliating against the most convenient target following a raid on its own territory? The first follow-up question addresses this:

**In that case:** They are accustomed to overwhelming and raiding those places and capturing its infidels and when it was asked of the mufti, they merely responded that “previously some of the infidels of that place had taken a ship from among the ships of the *ehl-i Islam*, and that’s why we did what we did.” If solely in consequence of that action they captured, and they captured for that reason, can they legally enslave and own the captives? **Answer:** If the truce is ratified, they cannot.<sup>81</sup>

The *fetva* categorically rejects the validity of reprisal as a justification for initiating a raid against the territory of a power with which the sultan wishes to have peace. The repetitive language maintaining that the capture of the Ottoman ship was the sole reason for the raid highlights the fact that this was not an adequate excuse; sultanic permission still must be obtained in order to raid and enslave the infidels. Relations along the Ottomans’ Adriatic

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<sup>81</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 106b; MS Kasıdecizade 276, fol. 102a.

borders were characterized by a pattern of raids and counter-raids on land and sea. The Ottoman government periodically held Venice responsible for the predations of the Uskoks and demanded their suppression, but local Ottoman authorities found it more expedient to raid Venetian territory in response to Uskok (and others') incursions—a full-scale attack on the Uskoks' stronghold at Senj would have been impractical—or to simply use them as an excuse for the piracy and cross-border raiding that they would have engaged in anyway and from which they derived much of their income.<sup>82</sup> The governments in Istanbul and Venice (and Vienna) were largely powerless to stop this activity and indeed may have been willing to tolerate it at a low level, but not if it would threaten peace at an undesirable time.

These *fetvas*, dating from the mid-1620s, came at a time when pirates operating out of the Adriatic ports were extremely active, the Uskoks had not been completely suppressed (though they had been weakened), North African attacks on Venetian targets were on the rise, and the attentions of the Ottoman central government were directed towards quelling rebellions in Anatolia, conflicts in Poland and Iraq, and recovery from a series of debilitating upheavals in the palace.<sup>83</sup> They thus harnessed the moral and religious authority of the office of the *şeyhülislam* to the demands of the sultan's government, admonishing local officials, pirates, and slave-raiders not to do what they were “accustomed” to doing. The mufti's answer makes it clear that the peace came first.

Nevertheless, the raid had been carried out, irrespective of the lack of prior approval. Whether or not the raiders had believed that theirs was a legitimate reprisal, the fact remained that captives had been taken in contravention of both the sultan's treaty

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<sup>82</sup> Bracewell, *The Uskoks of Senj*, passim; Bostan, *Adriyatik'te Korsanlık*, 97-112.

<sup>83</sup> For a chronology of the period, see Finkel, *Osman's Dream* (London, 2005), 200-223.

with the infidels and his imperial decree. What was to be done about the captives, who would have been distributed and sold off as slaves upon the return of the raiders? The final *fetva* in the series addresses this question:

**In that case:** That party sold some of the infidels that they had captured to Zeyd and Amr. When the officials want to take [the slaves] from their possession and free them because their enslavement was not permissible, can Zeyd and Amr legally (*şer'en*) prevent [the slaves] being taken from their possession just by saying, “we bought [them] from the ones who captured [them] with our money (*akçemizle*),” and paying for the enslavement? **Answer:** They cannot.<sup>84</sup>

This *fetva* reflects what was in fact Ottoman administrative practice, as we have seen in earlier chapters. Following the complaints of the Venetians or others that their subjects had been illegally enslaved, orders would be sent out from the imperial center to the local judge and other officials in the implicated district to investigate the matter, identify those responsible for the abrogation of the treaty, locate and free the captives and slaves, and allow them to return home. No ransom was to be demanded. The losers here (beyond, of course, the captives) are the slave owners who purchased the recently imported captives with their own money. They are deprived of their investment without compensation. The *fetva* make it clear that just because the buyers are themselves technically blameless in the matter, the enslavement and possession of the captives is no less illegal.

The ruling would have touched on a matter of very real significance to those living on the frontier, for cases like the one described in this series of *fetvas* were a regular occurrence. Given that slave-raiding is only profitable if someone buys the slaves, one might detect here a tacit warning to potential buyers to thoroughly investigate the provenance of their slaves. Zeyd and Amr bought their slaves directly from the raiders; even if pleading ignorance of the captives' origin were a viable, legal excuse (it was not),

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<sup>84</sup> Süleymaniye Kütüphanesi, MS Amcazade Hüseyin 254, fol. 106b; MS Kasidecizade 276, fol. 102a-b.

the mufti would be rightly incredulous of any protestations that the buyers were not aware of what they were getting. On the question of what to do with illegally captured slaves, the *şeyhülislam* toed the government line.

These *fetvas* simultaneously affirm the Sultan's claim to be a religious warrior, the "sultan of the *gazis*"—a title first associated with Orhan in the 1330s<sup>85</sup>—and deny that label to those actors who would try to enslave the subjects of the Ottomans' treaty partners. Going deeper, the mufti emphasizes that there can be no legal justification for engaging in a raid without the sultan's express permission, including retaliation, and he rejects borderland custom out of hand. Slave buyers, it is implied, ought not to create demand for or buy illegally captured slaves, or they risk substantial loss.

*Fetva* series—with an initial question and one or more follow-ups—are not uncommon (we have already seen one earlier in this chapter), but Zekeriyazade Yahya Efendi's is uncommon in its length and specificity. Though the answers are characteristically short, the detail and length of the questions suggest the mufti's personal involvement in their composition and a prompt from the highest levels of government. The fact that the concerns reflected in the series match those in numerous decrees dispatched to the Adriatic frontier demonstrates how the Ottoman administration used the *şeyhülislam*'s office, with all its prestige and moral authority, to bolster its political and diplomatic policies. We need not speculate on how this worked in this instance, for we know a great deal more about the origins and intended audience of these three *fetvas* than would otherwise be discernable from their reproduction in the *fetva* collections; this is because they are also preserved in the Venetian archival record.

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<sup>85</sup> Darling, "Contested Territory," 130.

Thus, we know that they were issued at the kapudan pasha's request and at Venice's urging early in 1626, after previous efforts to effect the return of hundreds of Venetian captives taken two years earlier from the Ionian Islands by a joint pirate force from Tunis and the Ottoman Adriatic port town of Nova had failed. These *fetvas* were sent out to the provincial governor of Bosnia (under whose jurisdiction Nova fell) and to Tunisian officials along with and subsequent to decrees relating to the specific incidents that the *fetvas* refer to in the abstract.<sup>86</sup> They may have been disseminated and read aloud to those the government thought needed to hear them. Other *fetvas* were generated in much the same way and were likewise later preserved in the *siyar* sections of *fetva* collections where they served to clarify law and policy for their readers, the second stage of the Ottoman *fetva* lifecycle.

The center's orders to cease raiding and free captives would come as no surprise, but they would not be popular—not with those accustomed to raiding by land and sea, not with the local officials who took a cut of the booty, not with the slave-dealers who turned large profits by buying fast and in bulk, not with the slave-owners who would lose their slaves. In a period when the center's coercive power on the frontier was at a low and non-compliance was a persistent problem, *fetvas* served as an indispensable support for its policies and explained, in religious-legal terms, what was and was not permissible. When “holy war” was indefinitely suspended by negotiated peace, it took the mufti of Istanbul to remind Ottomans what constituted real “holy war” and that the sultan's authorization was its *sine qua non*.

This approach made sense along the frontiers and in the lands where the coercive power of the Ottoman center was limited. This encompassed the Adriatic districts and

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<sup>86</sup> ASV BAC 251/5, 60 (undated). See Chapter 2 for more on this episode.

especially North Africa, home base for many of the Mediterranean's pirates. By the end of the sixteenth century, the port cities of Ottoman North Africa—Algiers, Tunis, and Tripoli—were more or less independent. The relationship between the city-states and Istanbul in the seventeenth century was extremely complex and volatile. They still acknowledged Ottoman suzerainty, and figurehead pashas were still sent as if to govern, but increasingly they determined their own foreign and domestic policy and conducted their own diplomacy. Nevertheless, they also sent units to support Ottoman naval campaigns, such as that for Crete (the pay and potential for booty likely motivating them more than any particular loyalty to the sultan). Istanbul recognized their value as naval auxiliaries and remembered their contributions in the great sea battles of previous generations, but it could exercise little direct control over them.

Thus, as in the case above, the Ottoman central government occasionally sent *şeyhülislam fetvas* in tandem with imperial decrees to governing officials in North Africa, when the subject of the order was likely to be unpopular and difficult to enforce from Istanbul. In 1577, a decree was sent to the governor and the *kadi* of Tunis in response to reports that the *defterdar* (treasurer) of the regency had abducted a number of Muslims and people of free origin and, claiming they were legitimate slaves (*esirdir diyerek*), sent them to his brother, presumably as a gift or to sell. In the text of the decree itself, the sultan ordered the recipients to ensure that the captives not be enslaved and to return them to their homes “in accordance with the *fetva* that has been given.”<sup>87</sup>

Though the rescript of the decree does not preserve a copy of this *fetva*, we can by now easily imagine its content and its intent. Here too the central government was prepared to mobilize the office of the *şeyhülislam* to produce *fetvas* that would strengthen

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<sup>87</sup> MD 30: 844/358 (21/R/985=7/8/1577).

decrees to officials in distant provinces and, by imbuing them with incontrovertible religious authority, ideally spur the recipients to act. We should take care not to interpret this simply as a desperate strategy to increase the likelihood of compliance, but as further evidence of the power and reverence associated with the *şeyhülislam* throughout the empire and of the direct link between that office and the Ottoman administrative apparatus.<sup>88</sup>

This link, and the complicated nature of the relationship between the Ottoman center and the North African regencies, are manifested in another unique *fetva* from Zekeriyazade Yahya Efendi, addressed to Tunis and Algiers at the sultan's instigation and ordering them to put an end to the war they were fighting with one another in 1628.<sup>89</sup> The scenario of the sultan effectively telling two of his nominal provinces to stop fighting one another by means of a *fetva* of the *şeyhülislam* is strange enough, but it is instructive in the way it again deploys the language of holy war. Once again, the "sultan of the gazis and the holy warriors" is invoked, this time before it is recalled that the "pious ones" of Algiers and Tunis were always distinguished by their commitment to holy war and their protection of pilgrims and merchants from the infidels who would enslave them. The appraisal does indeed reflect the duties of the "volunteer captains" to patrol the pilgrimage routes and convoy merchants, but the description is mobilized precisely because Tunis and Algiers are busy fighting one another, a state of affairs portrayed as contrary to both the dictates of the sultan and the faith. The *fetva* lauds the past holy

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<sup>88</sup> Further evidence comes from the fact that some parties requested *şeyhülislam fetvas* indirectly, by going through the imperial council instead of straight to the source. This could be done remotely, suggesting that in some instances, petitioners might have wanted not only to avoid the trip, but also to have the dual authority of a positive decree from the central government AND a supporting *fetva*.

<sup>89</sup> No date is provided in the *fetva*, but based on the years that Zekeriyazade Yahya Efendi was in office, the war has to be that of 1628, on which see J.M. Abu Nasr, "The Beylicate in Seventeenth-Century Tunisia," *IJMES*, 6 (1975), 74.

warrior status of the two regencies, but in doing so it reasserts the position of the sultan as “caliph of Islam” and their religious and political obligation to obey him. Not only are they neglecting their duties by fighting one another, they are committing an egregious affront to their overlord.<sup>90</sup> Thus, the *fetva* reveals again the strategic deployment of the vocabulary of holy war, in this case to coax Tunis and Algiers into making peace and returning to the service of the sultan. The implication, however, is unmistakable: what Tunis and Algiers do at sea for the sultan is holy war, but what they do without his authorization is most certainly not.

It is unclear what effect, if any, this *fetva* may have had. If an imperial decree was sent along with it, it was not heeded. The port-cities of North Africa acted according to their own interests after this, just as before, and armed conflict between the regencies continued to flare up periodically. Full-scale sieges of one city by the other took place in 1686, 1694, 1700, and 1705.<sup>91</sup> Unsurprisingly, *şeyhülislam fetvas* that can be reliably traced to North African petitioners are non-existent. The North African regencies were essentially separate political entities, and they could turn to their own chief muftis with questions if they had the need. Undoubtedly, a mufti in Algiers would not take issue with the capture of, say, a Ragusan ship the way that the Ottoman *şeyhülislam* would (and not just because a mufti in Algiers would likely belong to the Maliki school of jurisprudence); the muftis of the North African port cities were very much a part of the domestic political landscape and thus were likely to be enthusiastic supporters of corsairing.<sup>92</sup> In spite of the efforts of Istanbul to export the authority and influence of the

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<sup>90</sup> Süleymaniye Kütüphanesi, MS Kasidecizade 276, fol. 102b.

<sup>91</sup> Abu Nasr, “Beylicate,” 70-93.

<sup>92</sup> The issue of the relationship between ruling and religious authorities in the North African city-states, and of Maliki vs. Hanafi religious leaders, was complex and varied over time and from place to place. But in all

*seyhülislam*, North Africa remained for the most part outside his purview, and his attempts to reconcile Ottoman diplomatic and political priorities with Islamic law there fell flat.

But maritime raiding was not always an undesirable thing. Naval irregulars, including North Africa-based corsair captains, played a critical role in every Ottoman naval campaign. Besides their participation in major battles in support of the imperial fleet, their raiding of enemy ships and shores (which provided its own reward) was a valuable and perfectly acceptable contribution to the war effort. This too required regulation, and the *fetva* collections from times of war are not silent on the matter. Questions concerning fair distribution of booty and so forth were common and, as was often the case, unambiguous issues are often represented in the collections with land-based or non-specific *fetvas*. Nevertheless, the sea—and the way pirating expeditions were financed—meant that the muftis were confronted with areas of the law that required clarification. A *fetva* from Minkarizade Yahya Efendi, dating from the time of the Cretan War, gives us a glimpse of pirate tactics and shows how mufti and state tried to limit the illicit involvement of non-combatants in otherwise legal corsairing.

**Question:** Zeyd fills a frigate with *levend*. When they are going to overtake an enemy infidel ship at sea, he says to Amr, “You wait on shore and if the enemy infidels disembark on the shore, fight [them], and if I capture infidels, I’ll give you a share.” Amr takes some men by his side and waits by the shore and Zeyd draws up along the enemy infidel [ship] with the frigate and fights [them]. If [they] seize a quantity of captives, can Amr give me (*bana*) a share of the captives? **Answer:** No.<sup>93</sup>

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instances political leaders cultivated ties with the “indigenous” Maliki ulama, and chief muftis frequently held seats on the ruling councils and were party to major decisions of state. On the relationship between political leaders and the Hanafi and Maliki ulama in Tunis, see J.M. Abu Nasr, “The Tunisian state in the eighteenth century,” *Revue de l’Occident musulman et de la Méditerranée*, 33 (1982), 38-42.

<sup>93</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 25b.

The *fetva* describes an organized corsairing mission and a coordinated assault. Zeyd, the frigate's captain and possibly its owner, has recruited a crew of *levend*, the Ottoman catchall term for pirates, corsairs, and irregulars. The purpose of Zeyd's cruise is thus clearly piratical in nature—to find and capture enemy ships and profit from the sale of their cargo and crew. It would be understood that each member of the *levend* crew, fighters and sailors alike, would receive a share of the booty commensurate with their role and rank on the ship. Although the *fetva* does not identify the location of the engagement or the subject status of the enemy infidels, no legal objection to outfitting a ship for corsairing or attacking and enslaving the infidels is presented here: this is a legitimate raid carried out during a time of war, and its targets are to be seen, in both the religious and political sense, as fair game.

Like most Mediterranean engagements, even in the age of sail, the encounter takes place within sight of land. The Ottoman frigate captain has wisely anticipated the possibility that the crew of the target vessel, faced with the prospect of boarding by an adversary of superior strength, might abandon ship and make for the shore—much as the Muslim passengers did to escape capture when they spotted the Maltese flotilla in a *fetva* described earlier. As a result, he orders Amr to take some men and wait on land for just this eventuality. Amr and his men are promised their fair share of the captives even if they do not end up participating directly in the confrontation. And indeed, Zeyd's frigate successfully subdues the enemy ship before it can escape, rendering his precaution moot but Amr's contribution no less worthy of reward. The *fetva* makes it clear that even though Amr did not take any of the captives by his own sword, he was an integral part of the effort. At this point, the *fetva*'s central question is posed, and the jurist presents a

contrast: Amr has received his share of the captives, even though he did not actually have to fight for them, but he cannot allot a share of the captives to “me,” because “I” was not there to participate.<sup>94</sup>

The use of the first person here is extremely unusual, a rare artifact of the petitioner’s original question preserved by the *fetvahane* clerk who framed the question. But why? Who is represented by this pronoun and why is it not permissible for Amr to give him a share of the captives? More importantly, why is this *fetva* worthy of reproduction in Minkarizade Yahya Efendi’s *fetva* collection? The *fetva* is of course characteristically vague on the matter of the identity of the person behind the Turkish dative pronoun *bana*. While we should be careful not to ascribe too much significance to the fact that a first person pronoun sits in a spot that could just as easily have been filled with the standard third alias “Bekr,” it is nevertheless intriguing and telling in its undefined-ness. While the sultan is due his share of the booty acquired through legitimate raiding, non-combatants are otherwise not allowed to share in the spoils. The *fetva* emphatically announces to the reader, no matter who “you” are, “you” absolutely cannot take a portion of the captives. This would include officials on land who might be accustomed to taking a cut from returning expeditions, as well as private individuals and business partners who provided funding and expected a percentage of the booty. Such men, who did not endanger their own persons in operations which most certainly qualified as *gaza* and *cihad* in wartime, were not entitled to receive a share of the

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<sup>94</sup> In this somewhat confusing *fetva*, we know that “I” was not there to participate in the raid because the *fetva* does not specifically say otherwise, as well as from the content of the extended proof-text, discussed below; further, if “I” had been there, there would be no cause for a *fetva*, as the allocation of captives would have been licit.

captives. Amr earned his share of the captives, but it was not permissible for him to allocate a share (*hissa*) to anyone else.

This interpretation of the *fetva* might appear exaggerated, but for the presence of an extended Arabic proof-text citing two different Hanafi legal authorities. It is worth recalling at this point that the *şeyhülislam* was not obliged to provide citations for his opinions, unlike lesser muftis who were required to do so. The original issue of the *fetva* would not have contained any references. Nevertheless, many *şeyhülislam fetva* collections contain Arabic proof-texts, added by the author-compilers, to improve their usability and increase their authority. The collection of Minkarizade Yahya Efendi, compiled in the early eighteenth century by his *fetva emini* and later *şeyhülislam* Mehmed Ataullah Efendi, is such a collection. In most cases, a proof-text would provide little more than the name of the authoritative work and the section referenced. In this instance, more lines are devoted to explaining the rationale than there are in the actual *fetva*, giving us a glimpse of how Ottoman *şeyhülislams* employed the classic texts of Hanafi jurisprudence to confront pressing, contemporary problems. Two works are cited, the *Hidaya* of al-Marghinani (d. 1197) and *Fath al-Qadir* of Ibn al-Humam (d. 1459).<sup>95</sup>

Where the Ottoman Turkish *fetva* is vague, the Arabic proof-text is unequivocal:

“Partnership in bride-acquisition and hunting is not permissible and whatever he hunted or married belongs entirely to him exclusive of his master...partnership comprises the meaning of proxy and assigning proxy for the seizing of property (*al-mal*) is null and void.”<sup>96</sup>

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<sup>95</sup> The latter is in fact a commentary on the former.

<sup>96</sup> Süleymaniye Kütüphanesi, MS Pertevniyal 341, fol. 25b.

This declaration is attributed to the *Hidaya*'s section on partnership (*shirka*). The reader might note the resourcefulness of the *ṣeyhülislam*'s office in deploying a seemingly unrelated reference from the *shirka* chapter of the *Hidaya* to support a *siyar* section *fetva*, but it was not uncommon for the authors to cast a wide interpretative net to find authoritative support for their opinions. It is followed by the clarification, based on the *Fath al-Qadir*, that this sort of sharing is permissible for a single owner, but the transference of war booty to non-participants prior to the general division of the spoils is forbidden. Relating a tradition in which some of the combatants at the Battle of Badr (fought in 624 between the early Muslim community and the Quraysh) who failed to take captives themselves were allocated a share by the Prophet—the parallel with the story of Zeyd and Amr in the *fetva* above is obvious—this part of the proof goes on to emphasize that they could not allocate further shares from the undivided booty to others. In other words, if Amr were inclined to give some of his own captives to someone else in his capacity as sole owner, that would be his prerogative, but no one waiting back on land can legally claim or receive a share from the total spoils. By harnessing two different, classic sources of Hanafi *fiqh*, the jurist has supported both parts of the argument encompassed in the *fetva*: that partnerships of the sort suggested in the question are invalid and that allocating shares of booty to absent partners is forbidden.

It is crucial to recognize that this ruling, if actually observed, would turn the whole pirating industry on its head. The *fetva* and its proof-text expressly forbid partnerships that would entail *levend* acting as proxies for their financial backers on land, who might claim a fixed percentage of the ship's haul. Such arrangements characterized pirating and corsairing operations practically everywhere in the early modern

Mediterranean, on either side of the confessional divide.<sup>97</sup> Undoubtedly legal loopholes could be found to allow for some sort of profit-sharing, but the *fetva* clearly meant to discourage the deep, symbiotic ties between sea raiders and port officials and businessmen that enabled much of the piracy of the age and made it so difficult for central governments to stop when it was no longer politically useful. While we remain in the dark about who requested or consumed Minkarizade Yahya Efendi's original *fetva*, we can easily answer the question of why it was preserved in the *fetva* collection and why it received such a detailed explanation: the problem of illicit involvement in and profiting from maritime raiding—even in wartime—was a serious one of ongoing concern, and the *fetva emini-cum-compiler-cum-şeyhülislam* Mehmed Ataullah Efendi recognized the need for authoritative guidance among his far-flung readership. *Kadis* in coastal districts, who were often enough in on the action, might be expected to take note.

The preceding examples demonstrate how the issuance of *fetvas* and their inclusion in *fetva* collections helped to establish and clarify what did and did not constitute legally permissible raiding. Although some of this developed organically, the Ottoman government was responsible for shaping much of the discussion, in effect asking the questions and dictating the answers to the *şeyhülislams*, men who were first and foremost employees of the state. From the time of Ebu Su'ud Efendi in the second half of the sixteenth century onwards, the *şeyhülislam* was expected to reconcile the requirements of Islamic law with Ottoman secular law and, implicitly, with current Ottoman political, social, diplomatic, and military policies. This he did through *fetvas*, the only form of Islamic legal writing suited to the task. The *şeyhülislam* and the staff of

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<sup>97</sup> See Chapter 1.

his *fetvahane* crafted institutional opinions that rested on the accumulated scaffolding of centuries of Hanafi jurisprudence, but these jurists also responded to prompts from the sultan or his ministers and always found ways to provide the desired answers.<sup>98</sup> This entailed, for example, issuing a *fetva* declaring the 1570 invasion of Cyprus religiously obligatory when it was desired even though it meant breaking a peace treaty, just as all other Ottoman wars were initiated with supportive *fetvas*.<sup>99</sup>

Through *fetvas*, Ebu Su'ud and his successors developed over time a pragmatic, particularly Ottoman understanding of holy war and of piracy's relation to it that bent Hanafi legal theory to Ottoman political and diplomatic needs and emphasized its sole nature as a state enterprise. Holy war, *gaza* and *cihad*, was defined as any conflict initiated by the Ottoman sultan. As we have seen, the *şeyhülislams* specifically excluded unauthorized attacks and reprisals against "enemy infidels" from the holy war rubric, and the booty and captives derived from such attacks were deemed illegitimate. This dovetailed with Ottoman policy on the ground. Although naval irregulars and border raiders continued to target the subjects of powers with which the sultan had made peace, such as the Venetians in the period between 1573 and 1645, the Ottoman government repeatedly ordered the captives they illegally abducted freed and the goods they stole returned.

The Ottomans used *fetvas* as tools of internal and external diplomacy, attaching them to imperial decrees and letters to give them religious sanction and increase the

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<sup>98</sup> The concept of "legal scaffolding" was advanced by Sherman Jackson, who argues that though jurists in the post-formative period could innovate and respond to new problems with new solutions, they were not exercising *ijtihad*, since they were not turning to *usul al-fiqh* in support of their opinions but to the rulings of distinguished predecessors from within their *madhhab*. See Sherman Jackson, "Taqlid, Legal Scaffolding and the Scope of Legal Injunctions in Post-formative Theory Mutlaq and 'Amm in the Jurisprudence of Shihab al-Din al-Qarafi," *Islamic Law and Society* (3:2, 1996), 165-192.

<sup>99</sup> For a translation and analysis of this *fetva*, see Imber, *Ebu Su'ud*, 84-5.

likelihood of compliance, as well as to explain the religious-legal logic behind the orders. The bond between the office of the *şeyhülislam* and the Ottoman administration was such that distant petitioners could actually ask the imperial council for a *fetva* from the *şeyhülislam* instead of doing so directly. The provisions of the treaties the Ottoman government crafted with foreign powers had the force of law in Ottoman territory. When the situation demanded it—that is, when non-compliance was a problem—the *şeyhülislam*'s task was to give those treaties the force of Islamic law as well. These top-down *fetvas*, collected in the *siyar* chapters of widely disseminated *fetva* collections, reflected state policy in the realm of inter-state and maritime law, and they were intended to guide judicial praxis on the local level.

## **Conclusion**

In the early seventeenth century, as the sea became increasingly dangerous for Ottoman merchants and travelers, and as Ottoman naval mastery of it became an increasingly distant memory, Ottoman jurists responded with a novel body of legal opinions concerning maritime violence that developed progressively in complexity and specificity. United by a concern with the boundary between the *darülislam* and the *darülharb* and its crossing, the maritime *siyar fetvas* helped to clarify what those terms meant for a sea without borders; they compartmentalized acts of raiding and seizure that led to ownership disputes over ships and slaves into those where a previous owner could reclaim his property without payment and those where he could not; they reinforced the Ottoman Islamic understanding of Ottoman subjecthood as inherently voluntary and

contingent on obedience, but unaffected by involuntary or authorized travel by sea or to the *dariülharb*; and they drew the line between acceptable and unacceptable raiding practices, underlining the necessity of sultanic approval and the sultan's role as the gatekeeper of holy war. In their original issue, the *fetvas* discussed above were often intended to serve much like evidence in lawsuits or to support sultanic edicts. In their collected form, this chapter has argued, the maritime *siyar fetvas* were meant to provide authoritative guidance.

While there is nothing like “case law” or the concept of *stare decisis* in Islamic law, *fetvas*, at least in the Ottoman context, cannot be dismissed as one-off opinions that were only of academic interest and had no impact on the development of later opinions or on judicial conduct. Rather, *şeyhülislam fetvas* fulfilled precisely this function.<sup>100</sup> The preceding analysis has traced the progressive development and growth of maritime-related sections in *fetva* collections over the course of the seventeenth and early eighteenth centuries, focus conspicuously absent in earlier collections. The institutional nature of the office of the *şeyhülislam* and of the authorship of both *fetvas* and *fetva* collections demonstrates not only the ties with the state, but the extent to which many *şeyhülsilams* had worked for their predecessors, catalogued their juristic legacies, and built on them in their own tenures. Precisely because there was no multi-tiered court system in the early modern Ottoman Empire—certainly some courts ranked ahead of others or had greater prestige, but there were no formal appeals courts or a supreme court to establish precedents—the *fetvas* of the *şeyhülsilams* filled this gap in practice. *Kadis*

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<sup>100</sup> Masud, Messick, and Powers describe muftis' opinions as “the closest equivalent to the familiar Anglo-American legal mechanism of case-law precedent” in, “Muftis, Fatwas, and Islamic Legal Interpretation,” 4. See also Wael Hallaq, “From Fatwas to Furu: growth and change in Islamic substantive law,” *Islamic Law and Society*, 1 (1994), 29-65.

did not dispense justice arbitrarily, but neither did they look to earlier rulings to guide their decisions. In contrast, muftis did reference their predecessors, built upon earlier rulings, and created usable reference works. The acknowledged legal expertise and prestige of the *şeyhülislams* was one of the reasons that *fetvas* were such powerful evidentiary tools in the courts, especially as the majority of the courts' business was either notarial or in the realm of "family law."

For the new and inexperienced *kadi*, or one rotated to his first posting in a coastal district, adjudicating a complex ownership dispute over a slave formerly seized at sea by pirates might be a serious challenge. Unlike the contemporary English or the Maltese, the Ottomans lacked specialized admiralty courts staffed with judges accustomed to hearing exclusively those sorts of cases and familiar with the relevant legal theory. It seems more than likely, then, that the sudden appearance of large numbers of *fetvas* concerned with maritime violence in the *siyar* chapters of seventeenth-century *fetva* collections came about in part as a response to the pressing need of Ottoman judges in coastal districts for just this kind of guidance.

At the same time, however, a not insignificant number of court cases directly and indirectly involving piracy made their way to the Rumeli Sadaret Mahkemesi in Istanbul, the court presided over by the Rumeli *kazasker* (the chief military judge of Rumelia). This court, as we shall see, handled a preponderant number of cases brought by members of the *askeri* (military) class and the economic elite; though it cannot be thought of as a "high court" per se, the prominence of those who used it and of the judge who heard its cases meant that it was the venue of choice for many inter-jurisdictional cases, including those involving piracy and illegal enslavement. Though it cannot be said for certain, the

fact that this judgeship was among those that provided candidates for the *şeyhülislam* post, and that a number of *fetvahane* chief clerks were also promoted to this position, suggests that this court may have been one of the legal laboratories where Ottoman jurists—including future *şeyhülislams*—confronted the new social and legal challenges posed by the persistently unruly post-Lepanto Mediterranean.

Beyond this, the “sea judge” employed by the kapudan pasha on his flagship might have been the closest thing the Ottomans had to an admiralty court, but his jurisdiction did not extend beyond the kapudan pasha’s Aegean archipelagic province and there is almost no evidence for the quantity or nature of the cases he heard.<sup>101</sup> As no registers from the court survive—if they ever existed—it is impossible to say for sure how specialized these judges were in handling cases of maritime raiding in addition to the more mundane suits they ruled upon. Although we can be fairly certain they heard such cases, they too would have found cause to rely on the opinions of the *şeyhülislams*, either through *fetvas* issued in response to specific cases being heard in the floating court, or through the general guidance provided by *fetva* collections.

Although their opinions were rooted in the Hanafi legal tradition, the *şeyhülislams* of the seventeenth century were dealing with a new disorder in the Mediterranean unlike anything confronted by their predecessors, and they responded to the challenge creatively. Much of the time, their role was not so much to create new solutions as to reframe in an acceptable Islamic form and give religious-legal sanction to secular state policies or ancient Mediterranean maritime customs. The *fetva* was the Islamic legal tool employed, in the tradition established by Ebu Su’ud, to harmonize Islamic and sultanic

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<sup>101</sup> See Gilles Veinstein, “Les Documents émis par le kapudan paşa dans le fonds ottoman de Patmos,” 13-19 and Michael Ursinus, “Local Patmians in Their Quest for Justice: Eighteenth-Century Examples of Petitions Submitted to the Kapudan Paşa,” 20-23 in *Documents de travail du CETOBAC* (2010).

law, inter-state and customary law. Jurists reached deep into the centuries-old Hanafi jurisprudential tradition to support the Ottoman government's attempts to control unruly independent actors on the frontiers and to bring order to all manner of maritime legal chaos. Just as this chapter, in dealing with Islamic law and maritime violence, is a bridge of sorts between the preceding chapters that deal with the conduct of state on the macro-scale, its foreign relations and its internal administration, and the chapter to come that deals with the courts and individual experiences of piracy, captivity, and law, the *fetvas* of the seventeenth and early eighteenth-century *şeyhülislams* served as a bridge between state policies and Islamic law on the one hand and between individuals bringing questions to the *şeyhülislam* and to *kadis* throughout the empire on the other. Through *fetvas*, the *şeyhülislam*'s office managed the complex and fluid conjuncture of the state, Islamic law, the individual, and the sea.

## Chapter 5

### Piracy in the Courts, Or, How Mahmud Got his Ship Back

A janissary from Salonica, Mahmud ibn Ahmed, came to court in June of 1594 because he wanted his ship back. A 22-cubit *karamürsel*, a type of vessel powered by oars and sail, it had been carrying a cargo of salt and honey from the village of Izdin to Istanbul when it was attacked by two pirate ships just outside the port of Sikinos Island in the Cyclades. Mahmud abandoned ship and escaped before he was overtaken, but the pirates who made off with his ship and its cargo did not hold their prize for long. Shortly thereafter they happened across an Ottoman naval patrol commanded by a captain named Tireli Hasan and fled, leaving Mahmud's *karamürsel* behind. Captain Tireli Hasan had the ship towed back to Istanbul, where it was claimed for the sultan's treasury by its chief clerk, Mehmed Çelebi. Now Mahmud was in Istanbul in the court of the military judge of the European half of the Empire, the highest court in the land besides the imperial council, suing the clerk for its return.<sup>1</sup>

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<sup>1</sup> Rumeli Sadareti Mahkemesi, sicil #21, fol. 35a (23/N/1002) (hereafter RSM 21, 35a), published in transcription in Coşkun Yılmaz, ed., *Istanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi 21 Numaralı Sicil (H. 1002-1003/M. 1594-1595)* (Istanbul, 2011), 152-3. Between 2008 and 2011, ISAM published dozens of court registers from several Istanbul-area courts with both facsimiles of the originals, transcriptions into modern Turkish orthography, and a volume-specific concordance, making these valuable sources available to a broader specialist audience for the first time. Where I have used these published volumes, I cite both the original document and the published transcription. This is useful for consulting the manuscript original and is crucial in some instances because the project organizers made the unfortunate decision to translate Arabic entries in the record (Arabic was commonly used for certain types of transactions) into pseudo-Ottoman Turkish rather than transcribe the actual Arabic text.

After the pirates had sailed away, it was left to the Islamic courts of the Ottoman Empire to sort out the messes they left behind. Ottoman judges (*kadis*)—from the seaside districts most affected by maritime violence all the way to the imperial capital—had to sort out the competing claims of ship-owners, merchants, representatives of local and central organs of government, former and current captives, and sometimes even the accused pirates themselves. Moreover, *kadis* were not just magistrates, but also administrators in their districts. They were responsible for enacting government policies and coordinating law enforcement; crucially, they functioned as the principal conduit between the communities they served and the imperial center. In our study, the *kadi*'s court is where the macro and the micro meet, where individual and communal dramas impacted by imperial policies and legal, diplomatic, and military developments played out on the local level. The Ottoman courts applied Islamic and Ottoman sultanic law, but they were open to all, whether male or female, free or slave, Muslim or non-Muslim, Ottoman subject or foreigner.

While criminal prosecutions of suspected pirates did occur in some districts, the punishment of pirates was usually the prerogative of administrators, whether the local governor, the kapudan pasha, or the imperial council.<sup>2</sup> Rather, the majority of the piracy-related business in the courts was of a civil nature. Piracy led to suits over possession of or restitution for captured ships and stolen cargo, freedom suits from those claiming to have been illegally enslaved, registrations of or disputes over bonds posted to ensure the

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<sup>2</sup> Indeed, the punishment of criminals was not the primary role of the *kadi*, and criminal cases were often not a significant part of his caseload. That responsibility usually fell to the executive authorities. In instances where the Islamic courts did order extreme punishment or execution, the sentence usually had to be first approved by the local governor or the imperial council. See Eyal Ginio, "The Administration of Criminal Justice in Ottoman Selânik (Salonica) during the Eighteenth Century," *Turcica*, 30 (1998), 185-209.

good behavior of seamen or loans made to pay for ransoms, and court-enforced implementation of anti-piracy security measures decreed by the central or provincial governments. Looking at how the consequences of piracy were manifested in Ottoman courts gives us the closest possible glimpse of the individual experiences and local impact of piracy.

This would be reason enough to make use of court records, but in some instances, they also present an opportunity to investigate questions about legal procedure and jurisdiction in the early modern Ottoman Empire that have rarely been asked by Ottomanist historians in any context. Ottomanists have made use of court records to study social history for decades, but few have been interested in examining legal procedure, and fewer still in comparing how certain types of cases may have been handled differently across time and space.<sup>3</sup> Moreover, the matter of jurisdiction, which is a paramount concern in any maritime case, has rarely figured into the discussion.<sup>4</sup> Ottoman judges were the primary conduit through which Ottoman subjects interacted with their central and provincial governments, and judges and their subordinates were responsible

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<sup>3</sup> An exhaustive survey of works using *kadi sicilleri* as a source is beyond the scope of this project, but some examples include: Ronald Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean world, 1571-1640* (New York, 1993); idem., *Studies on Ottoman social history in the sixteenth and seventeenth centuries: women, zimmi and Sharia courts in Kayseri, Cyprus and Trabzon* (Istanbul, 1999); Boğaç Ergene, *Local court, provincial society and justice in the Ottoman Empire: legal practice and dispute resolution in Çankırı and Kastamonu (1652-1744)* (Leiden, 2003); Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley, 2003). Some works concerned with procedure are Ronald Jennings, "Kadi, Court, and Legal Procedure in 17th C. Ottoman Kayseri: The Kadi and the Legal System," *Studia Islamica*, 48 (1978), 133-172; Boğaç Ergene, "Why Did Ummu Gulsum Go to Court? Ottoman Legal Practice between History and Anthropology," *Islamic Law and Society*, 17 (2010), 215-244 ; idem, "Pursuing Justice in an Islamic Context: Dispute Resolution in Ottoman Courts of Law," *Political and Legal Anthropology Review*, 27 (2004), 51-71; Haim Gerber, *State, society, and law in Islam: Ottoman law in comparative perspective* (Albany, 1994). Jennings was among the first to make extensive use of Ottoman court records. Ergene, in the works cited here and below, has employed a comparative approach and, like Gerber, made extensive use of the tools of legal anthropology and detailed case studies to explore a variety of questions concerned with local practice.

<sup>4</sup> An exception is Abdurrahman Atcil, "Procedure in the Ottoman Court and the Duties of the Kadis" (M.A. thesis, Bilkent University, 2002), who devotes a small chapter (42-49) to the question of how litigants selected the kadi to hear their case, using *şeyhülislam fetvas* from the late sixteenth through early eighteenth centuries to clarify the issue. In general, the defendant in a given case had the right to select the kadi.

for disseminating and enforcing provincial and central government decrees and maintaining order. Their courts were in many locales communal nerve centers, sites of mediation and negotiation where, beyond criminal cases, sales, marriages, and inheritances were recorded.<sup>5</sup>

The Ottoman *kadi*'s role as judge, notary, and administrator has been remarked upon elsewhere, but the question of which court was competent to hear which kind of case has gone unasked in light of the fact that most courts, unsurprisingly, dealt only with matters taking place within their jurisdiction (*kaza*), the Ottomans' smallest administrative unit. The Ottomans did not have a multi-tiered court system; there was certainly a hierarchy of prestige, but there was no formal appellate process except to the imperial council, nor were there specialized courts like admiralty courts. But the question of jurisdiction was not always so simple. Cases involving piracy and illegal enslavement, which by definition took place in interjurisdictional space, exposed a source of legal tension that litigants, judges, and jurists had to work together to resolve.

How and where were cases that involved maritime violence to be handled? Most such cases involved the transfer of contested property or persons to a new location, even if the parties to litigation themselves had not moved. Cases might be heard wherever a ship or slave was held, but it is clear that this was not always practical and, if we think back to the captives taken during the 1574 raid on Naxos discussed in Chapter 3, did not always serve the cause of justice. Piracy cases were by their nature interjurisdictional, and the need for trustworthy witnesses to provide testimony (given the limited

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<sup>5</sup> It should be noted that in most instances in the Ottoman Empire, the "court" was not in a specific building or courthouse but rather was an assembly (lit., *meclis-i şer'*) convened at the *kadi*'s house or in some other suitable structure. What made the "court" a court was the presence of the judge, his scribe, and witnesses to the proceedings.

evidentiary role of documents in Islamic law) and the often multi-confessional, multi-national (in the early modern sense) nature of the parties involved only complicated matters.<sup>6</sup> Questions of evidence and legal procedure ran up against jurisdictional issues when the sea separated the scene of the crime from principals who might be any permutation of Ottoman-subject or foreigner, Muslim, Christian, or Jewish.

This chapter explores how such cases were handled in the late sixteenth and seventeenth-century Ottoman Mediterranean across multiple venues, as well as how diverse parties, from slaves to monastic hegoumenes variously made use of the courts to advance their own or their communal interests. In so doing, we shall find cause to comment on individual experiences of piracy and legal identity in the early modern Mediterranean, as well as how Ottoman Islamic legal theory, elaborated concurrently by Ottoman chief jurists to meet the challenges of rising maritime violence, was applied in practice.

This task is not without its challenges, however. Ottoman court records, unlike those of contemporary early modern European courts, do not preserve reams of paper filled with depositions, affidavits, arguments, and so forth for each case. The record of a single case is instead usually a summary, recorded after the fact, that lists the names and origins of the principals, the basic claims presented, the testimony offered to support them, and sometimes the actual ruling. Only rarely does a single case record take up more than one folio page, even though it might represent extremely complex or high-stakes litigation that had dragged on for weeks, months, or even years. Moreover, Ottoman courts, in addition to hearing civil and criminal cases, also functioned as notaries. Ottoman court registers (*kadi sicilleri*) are thus filled with all manner of business

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<sup>6</sup> On the question of documents as evidence, see below.

transactions, inheritance inventories, manumission contracts, and so forth. In most such instances, the entry preserved in the register is a copy of the legal document (*hüccet*) issued to the principals, in which case very little can be surmised about the circumstances that led the parties to the court in the first place or the procedures that took place once they were there. The records thus represent only a portion of a conversation between parties that began before they entered the court and continued after they left; with Ottoman court records, we never have the whole story.<sup>7</sup>

Ottoman courts for the most part did not specialize in any particular type of case, so finding relevant cases can be a challenge that is compounded by the fact that the surviving registers are themselves scattered across many regional and national archives in the successor states of the Ottoman Empire. They are not catalogued. Growing numbers of registers from a selection of courts have been published in transcription or translation in recent years, along with indices, but the progress is piecemeal; this fact, combined with incomplete preservation of registers (for example, all of those from pre-modern Izmir have been lost), makes the systematic study of multiple courts across time and space impractical.<sup>8</sup> As a result, most scholars working with court records have chosen to focus

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<sup>7</sup> On which point, see Dror Ze'evi, "The Use of Ottoman Sharī'a Court Records as a Source for Middle Eastern Social History: A Reappraisal," *Islamic Law and Society*, 5 (1998), 35-56.

<sup>8</sup> For an extensive list of extant registers, see Ahmet Akgündüz, *Şer'îye sicilleri: mahiyeti, toplu kataloğu ve seçme hükümler* (Istanbul, 1988). In addition to the ISAM transcription project described above, Timur Kuran has overseen the publication of cases, with Ottoman transliteration and English and Modern Turkish summary translations, from fifteen seventeenth-century registers from the courts of Galata and Istanbul in Timur Kuran, ed., *Mahkeme kayıtları ışığında 17. yüzyıl İstanbul'unda sosyo-ekonomik yaşam/Social and economic life in seventeenth-century Istanbul: glimpses from court records*, 10 vols. (Istanbul, 2010). These two projects combined have opened up a wealth of material from early modern Istanbul for researchers. Beyond these two projects, Turkish M.A. students often complete transcriptions of individual *sicils* as their theses. An up to date list of such theses can be found by searching the thesis database of the YÖK.

on one court over a comparatively brief stretch of time, engaging in quantitative, qualitative, or microhistorical approaches.<sup>9</sup>

Nevertheless, investigating the impact of piracy in Ottoman courts requires us to work around these challenges, making use of a sample of registers from multiple courts across a wide range of years. Due to both imperfect preservation of registers, the tremendous amount of material to be sifted through, and the fecklessness of the pirates themselves, we must rule out a quantitative approach, but selective qualitative analysis and case studies will serve us well.

This chapter explores the intersection between piracy and Ottoman courts in three different venues: Istanbul, the Aegean islands, and Crete. We begin with several cases heard in the Ottoman Empire's highest-ranked court, the Rumeli Sadareti Mahkemesi in Istanbul. This court, I argue, came to fulfill some of the functions of an admiralty court by the end of the sixteenth century. Close examination of a number of piracy-related cases adjudicated by this court, starting with that of the aforementioned Mahmud ibn Ahmed, allows us to make some crucial observations about how Ottoman judges handled the evidentiary and jurisdictional issues associated with piracy and illegal enslavement in the imperial capital. Next, using documentary evidence produced by courts in the Aegean and preserved in Greek Orthodox monasteries on the islands of Patmos and Andros, we see how these monasteries and their dependents were affected by the epidemic of piracy in the first half of the seventeenth century and how they used the courts to document their efforts to protect Muslims from enslavement and to demonstrate their loyalty to the Ottoman sultan. Finally, we move to Crete, the final Ottoman conquest in the

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<sup>9</sup> Ze'evi, "The Use of Ottoman Shari'a Court Records as a Source," 38-9. Leslie Peirce's *Morality Tales*, which focuses on one year in the life of one court, is the archetypical microhistorical approach.

Mediterranean, using cases heard in the court of Candia from the latter decades of the seventeenth century to see how piracy was both supported and combatted in war and peace on this isolated outpost of Islamic dominion. In so doing, the range of individual and communal experiences of piracy in the early modern Ottoman Mediterranean is brought into relief alongside the differing legal and administrative approaches of local Ottoman courts to the problem.

## ISTANBUL

The court that heard Mahmud b. Ahmed's case in 1594 was the Rumeli Sadareti Mahkemesi, the court of the military judge of Rumelia in Istanbul. The military judge, known as *kadiasker* or *kazasker* (lit., "judge of the army"), was one of two (the other was the *kazasker* of Anatolia) with a seat on the imperial council. These two men were the highest ranking judicial figures in the Ottoman religious-legal hierarchy, responsible for overseeing nearly all judicial appointments in their respective halves of the empire, and their posts were often the final stepping stones on an increasingly rigid career path that led to the office of the *seyhülislam*.<sup>10</sup> In their capacity as judges, they presided over courts that primarily heard cases and registered business involving members of the *askeri*, or military class.<sup>11</sup>

Ottoman society was divided broadly into the *askeri* class, which included all members of the military and government and was not taxed, and the *reaya*, the flock,

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<sup>10</sup> On the *kazasker* generally, see Ismail Hakkı Uzunçarşılı, *Osmanlı devletinin merkez ve bahriye teşkilâtı* (Ankara, 1948), 228-241; for the judicial appointments he made, see Halil İnalcık, "The *Ruznamce* Registers of the *Kadiasker* of Rumeli as Preserved in the Istanbul *Müftülük* Archives," *Turcica*, 20 (1988), 251-275. For the aristocratification of the Ottoman *ulema*, see Baki Tezcan, "The Ottoman Mevali as 'lords of the law'," *Journal of Islamic Studies*, 20 (2009), 383-407.

<sup>11</sup> On Tuesdays and Wednesdays, when the imperial council, the *divan-i humayun*, was in session, the Rumeli *kazasker* heard cases at the Sublime Porte. On other days, he convened his *divan* at his home, Uzunçarşılı, 236.

which encompassed all other segments of Ottoman society.<sup>12</sup> That Mahmud's case was brought before the Rumeli *kazasker* is therefore not a surprise. Mahmud was, as a janissary, a member of the *askeri* class, as was the defendant, the treasury clerk Mehmed Çelebi.<sup>13</sup> And, of course, Mahmud's ship was already in Istanbul. Because the ship, the military judge, and the clerk were all in Istanbul, Mahmud would have to travel there if he was to retrieve it, though we are given no indication of how Mahmud learned that it was Tireli Hasan who had recaptured his ship (or even that it had been recaptured) or that it had been ultimately brought to Istanbul. We are not told how much time had elapsed since the original seizure, though it had probably not been very long, given that the ship was still held in the custody of the treasury.

This suit, between a janissary engaged in trade and despoiled by pirates on the one hand, and the chief clerk of the privy treasury on the other, shows us how some of the issues that were dealt with in theoretical terms by the *şeyhülislams* in their *fetva* collections were handled in Ottoman courts, in this case by a judge, Sunullah Efendi, who would himself become *şeyhülislam* a few years later and whose *fetva* collection was the first to deal with maritime violence at any length.<sup>14</sup> It reveals some of the unique evidentiary problems piracy posed and the procedures the court adopted to work around them.

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<sup>12</sup> Halil Inalcik, *An Economic and Social History of the Ottoman Empire: Volume One, 1300-1600* (Cambridge, 1994), 16-7

<sup>13</sup> RSM 21, 35a (23/N/1002); Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi 21*, 152-3. On selecting a court to hear the case, see Atcil, 42-9; according to the *fetvas* utilized by Atcil, in cases where only one of the parties was a member of the *askeri* class, an *askeri* defendant could insist on the *kazasker* hearing the case and in the same fashion a *reaya* defendant could refuse to have the case heard by the *kazasker* even if the plaintiff desired it.

<sup>14</sup> For more on Sunullah, see Mehmet İpşirli, "Şeyhülislam Sun'ullah Efendi," *Tarih Enstitüsü Dergisi*, 13 (1987), 209-256.

First among these—indeed the whole purpose of the suit—was determining whose ship was floating in the Istanbul harbor. Although Mahmud claimed that it was his property, Mehmed disputed his claim. Unrecorded here is on what grounds Mehmed denied that it was Mahmud’s ship. Was he denying that the ship in question had ever belonged to Mahmud, or was he implying that the pirates’ seizure of it and Captain Hasan’s subsequent capture of it meant that it was no longer his property? Ottoman court records only rarely mention the specific legal arguments proffered by the parties to a lawsuit. If Mehmed had argued the latter point, that the ship was not Mahmud’s by virtue of the change of possession, the question would have fallen—as we learned in the previous chapter—to whether or not the ship had left the *darüislam* and entered the *darülharb* before its recapture by the Ottoman naval force. Mahmud’s account of the incident, which must have been corroborated by Tireli Hasan, demonstrated unequivocally that the ship had not.

As this aspect of the narrative of the chain of events went undisputed, namely that Captain Tireli Hasan had taken the ship from the pirates shortly after they had taken it, giving them no opportunity to bring it into an enemy port, then there was no need to record that phase of the litigation in the case summary. Instead, the question on which the judge’s decision would turn became a very simple one: Was that ship in fact the same *karamürsel* that Mahmud had departed Izdin with, laden with salt and honey? But answering even this question was not entirely straightforward. Mahmud could not simply point to it and say, “yes, that’s my ship.” Proof was required, and even if he possessed documents affirming his ownership, these would not suffice; only the testimony of

trustworthy, Muslim witnesses would meet the evidentiary requirements of the court.<sup>15</sup> It was Mahmud's responsibility to provide the court with witnesses who could support his claims. How would the court handle the evidentiary phase of the proceedings?

"Since," the court scribe wryly noted, "the aforementioned ship was not something that could be presented in the court," the judge arranged for an ad hoc hearing to take place shipside. A retired judge from the district of Malkara named Mehmed Efendi was deputized to go to the spot where the disputed vessel was moored and hear the testimony of the witnesses Mahmud had designated. The defendant was represented at this hearing by an agent he had appointed for the task while Mahmud, it seems, remained behind. There, assembled at the wharf, the five Muslim witnesses for the plaintiff, Abdi Reis b. Nebi, Timur b. Abdullah er-Racil, Memi Reis b. Abdullah, el-Hac Halil b. Ilyas, and Cafer Bey b. Abdullah—all men with seafaring or administrative/military backgrounds to judge from their names and titles—indicated the ship in question and testified that "indeed this ship is the wholly-owned property of the aforementioned plaintiff Mahmud."<sup>16</sup> Because this testimony took place outside the courtroom, however, there was another stage in the process.

Any action of an Islamic court had to be witnessed by at least two Muslim men who had no interest in the case at hand; the names of these witnesses to a case, the

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<sup>15</sup> On the role of documents, see Jeanette Wakin, *The function of documents in Islamic law: the chapters on sales from Ṭahāwī's Kitāb al-shurūṭ al-kabīr* (Albany, 1972); Ergene qualifies Wakin's interpretation, which does not take into account temporal or regional difference, in Boğaç Ergene, "Document use in Ottoman courts of law: Observations from the sicils of Çankiri and Kastamonu," *Turcica*, 37 (2005), 83-111; see also idem, "Evidence in Ottoman Courts: Oral and Written Documentation in Early-Modern Courts of Islamic Law," *Journal of the American Oriental Society*, 124 (2004), 471-491. Ergene found that litigants' claims were rarely substantiated with written evidence, whether produced in the court or without. When documents were used, they were generally mentioned in the parts of the record describing claims and counter-claims but they were not employed further in the primary evidentiary section. Ergene also did not find any evidence, at least from Çankiri and Kastamonu, that the courts ever consulted their own archives, even when they could, to decide cases ("Document use in Ottoman courts of law," 88-9), though this finding should not necessarily be generalized for the entire empire.

<sup>16</sup> RSM 21, 35a (23/N/1002); Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi 21*, 152-3.

*şuhüdü'l-hal*, were always recorded in the registers below each entry. The ad hoc hearing at the docks was no exception to this rule, and the *şuhüdü'l-hal* there, el-Hac Hasan b. Abdullah and el-Hac Mustafa b. Abdurrahman, then became active witnesses back in the court of the Rumeli *kazasker*, testifying to what they had seen and heard once the regular proceedings resumed. They were, in essence, witnesses to the witnessing, called upon to affirm in court that the five witnesses of the plaintiff had in fact testified at the docks that the ship that they had indicated was the property of Mahmud; the five were not called upon to testify again. This somewhat convoluted situation, of two secondary witnesses testifying to what the plaintiff's witnesses had said, gives some indication of the crucial role of in-person witness testimony in adjudicating disputes; written depositions were neither practiced nor acceptable in such circumstances. Once the witnesses' bona fides were investigated and accepted by the court, their testimony was entered into the record and Mahmud ibn Ahmed's claim was upheld. He got his ship back.<sup>17</sup>

The entry was recorded on 23 Ramazan, 1002 (June 12, 1594), but there is no reason to assume that the entire case took place on that day. The summary of the proceedings obscures the likelihood that the litigation may have gone on for some time—there was almost certainly significant delay between the opening of the suit, the shipside hearing, the vetting of testimonies back in the Rumeli Sadareti Mahkemesi, and the final verdict—and it tells us nothing of the events that led up to the judge's involvement. However Mahmud learned that his ship was in Istanbul and in Mehmed Çelebi's custody, he undoubtedly would have attempted to recover it personally before going to the trouble and expense of bringing the matter to court. How had Mehmed reacted to Mahmud's claims, and were his refusals to return the ship based on doubt of the veracity of

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<sup>17</sup> Ibid.

Mahmud's story, his misunderstanding of the points of law that ultimately guaranteed the ship's return, or his desire to maintain possession of a valuable piece of property without regard to legal rights of ownership? How much time had transpired before the court heard his suit? How did Mahmud, who was a janissary in Salonica, locate his witnesses? What were their relationships with him, besides being fellow seafarers or military men? Did they have to travel far to fulfill their duties as witnesses? Moreover, what was Captain Tireli Hasan's role in this affair? Under other circumstances, he might have had claim to the ship himself, over and beyond those made by the representatives of the government.<sup>18</sup> Had he tried to exercise these, or had he acquiesced to the transfer to Mehmed Çelebi's custody willingly? Sadly, questions like these must go unanswered.

A similar case from the Galata registers shows exactly how the Rumeli *kazasker* delegated his authority to others and tells us a little bit more about how these kinds of cases were decided. In July, 1605, Marko, the dragoman of the Venetian bailo acting as the agent (*vekil*) of a Venetian businessman, Ayobandid, and the Venetian's business partner, Nikola, a *zimmi* from Athens, sued Memi Reis. The plaintiffs claimed that their jointly owned ship, after having been loaded for trade in Izmir and captured at sea by enemy infidel pirates, was now in the possession of Memi Reis. As Mahmud ibn Ahmed had done ten years earlier, they demanded its return. The suit was initially filed with the Rumeli *kazasker*, but because the disputed ship was moored in the Kürkçü Kapusu docks in the Galata district, the case was heard shipside "on behalf of" the Rumeli *kazasker*, Zekeriyyazade Yahya Efendi—who would later become one of the chief authors of

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<sup>18</sup> See Chapter 4.

maritime *fetvas* as *şeyhülislam*—by the *kadi* of Galata.<sup>19</sup> The opening of the entry for the case in the Galata register notes specifically that the parties to the case met on the quay in front of the disputed ship—just like the shipside hearing conducted by the retired judge mentioned in Mahmud’s case. Thus, even though Marko lived in Galata and the ship was there, the case had initially been brought to the Rumeli *kazasker*, perhaps because the defendant, who had the right to choose the venue, was a member of the *askeri* class. Due to the location of the ship, however, the *kazasker* delegated the evidentiary phase of the case to the Galata judge.

The case itself is fascinating for what it reveals about what Ottomans and their foreign partners did and did not understand about the emerging maritime law and how Ottoman jurists were beginning to reshape it. In making their appeal for the return of their ship, the plaintiffs understood well the importance of the *darülislam/darülharb* divide in their case. They therefore specifically claimed that the enemy infidel pirates had not removed the ship from the *darülislam* before its recapture which, as we have seen through numerous *fetvas* (including those of Zekeriiyyade Yahya Efendi), would have been the primary question in deciding such a dispute. Nevertheless, the plaintiffs had not prepared themselves well enough for the evidentiary phase.

The plaintiffs’ claims were handled separately. Once it was determined that the dragoman Marko had been appointed agent by the Venetian bailo but that no such permission had been given directly by the Venetian merchant whose interests he was actually representing, that is, Ayobandid, the court determined that Marko had no

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<sup>19</sup> Galata 27, 83a (Evahir/S/1014); Kuran, ed., *Social and economic life in seventeenth-century Istanbul*, 806-9. The English/Modern Turkish summaries in Kuran are less useful in this instance, for they leave out the initial involvement of the *kazasker*, the fact that the pirates were “enemy infidels,” and the competing *darülislam/darülharb* claims which were crucial to the case.

standing to sue on Ayobandid's behalf. His case was dismissed and he was excluded from the proceedings, though presumably he would be able to try again if he could properly establish legal agency (*vekalet*). The court next turned to Nikola, who was likewise suing for the return of his share of the ship and its cargo. Nikola claimed that the ship had departed Izmir, been captured by enemy infidel pirates, and ended up in the possession of Memi Reis without leaving the *darüislam*. The defendant, Memi Reis, countered that the ship had been captured by Algerian *gazis* (i.e. corsairs) in the *darülharb* who then sold it, after which it changed hands several times before being purchased by Hüsrevzade Mehmed Bey of Cairo. Hüsrevzade Mehmed Bey was subsequently killed, and Memi bought it from the deceased man's estate for 2400 *filori*. Memi added that he did not know Nikola. The chain of possession from initial capture to court case was thus long and complicated—no account was given of how much time had passed—but the crux of the matter was that the ship had been brought to the *darülharb* by force before being retaken and sold in the *darüislam* and that Memi had bought it from a known source for a known sum.

In order to win, the plaintiffs would have to bring evidence that challenged this interpretation of events. To support their case, the Athenian *zimmi* Nikola and his partner had brought over three witnesses from the Ottoman Muslim elite of Athens, including a *kadi*, a second generation *çavuş*, and a high-ranking janissary who all testified that they had heard Nikola and the Venetian merchant say that they had jointly bought a ship and later had seen Nikola and Ayobandid in the ship that was now lying before them in the docks below Galata, wherein again the plaintiffs stated that they had bought the ship and were using it “like they owned it.” This was all well and good, but the judge, making rare

reference to “books of jurisprudence (*fiqh*)” in the record, quoted an Arabic phrase stating that the court could not accept testimony to the effect that “we saw him using it in the manner of one who owns it” as actual proof of ownership.<sup>20</sup> He relied on this fact alone to reject their testimony, but more to the point, the witnesses could say nothing about what had happened to the ship after they saw it in Athens.

Mahmud ibn Ahmed’s witnesses in the previous case had been able to establish that the contested ship belonged to him—how they had done so differently from Nikola’s witnesses is not clear—but in that case it had already been adequately demonstrated that the ship had not left the *darüislam* thanks to the information provided by the Ottoman naval captain who had recaptured it. No such certainty existed here. Moreover, it is not even certain that the Galata *kadi* had a clear idea of what would have actually constituted entering the *darülharb* in this case. Plaintiffs, defendant, and judge may have entertained differing interpretations of where that line was and how it was crossed.

Despite the fact that Nikola and his partner clearly understood the importance of this distinction and had probably expended significant resources to bring their elite, Ottoman witnesses from Athens to Istanbul, these could neither definitively prove that Nikola was the previous co-owner of the ship in question nor that it had not left the *darüislam* after its initial capture. The testimony being insufficient to establish prior ownership to the satisfaction of the court (the official reason) or counter Memi’s claims (which would have been the next reason), the Galata *kadi* asked Nikola to provide further witnesses. As Nikola was unable to do so, the hearing was adjourned and the ship was left in the possession of Memi Reis.<sup>21</sup>

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<sup>20</sup> Ibid. I have not been able to trace the reference, which is not given.

<sup>21</sup> Ibid.

The matter was not necessarily concluded; the plaintiffs, if they could find more witnesses, might be able to take another shot at getting their ship back. In this 1605 property dispute occasioned by an act of Christian-on-Christian piracy in the Eastern Mediterranean, we see that both the Ottoman/Venetian-Christian plaintiffs and the Muslim defendant understood how crucial locating the maritime *darüislam/darülharb* divide would be to the outcome of their case. Yet the plaintiffs had failed to recognize what it would actually take to prove their claims, and the judge may not have been entirely sure himself. *Şeyhülislam fetvas* issued over the next few decades would help to change that.

If the reasons for the Rumeli *kazaskers* accepting the cases of *Mahmud v. Mehmed* and *Nikola v. Memi* were comparatively clear—the contested ships were in greater Istanbul and both defendants were members of the *askeri* class—they were less so in other cases. Why, for instance, did the court hear the piracy suit of Manolaki veled Anton, an Ottoman Greek sea captain, in 1617? Manolaki veled Anton was a resident of the European Bosphorus village of Yeniköy (which would be torched by Cossack raiders eight years later).<sup>22</sup> Yeniköy, as the court’s record noted, was in the jurisdiction of Galata. So why did he bring his suit to the Rumeli Sadareti Mahkemesi and not the court of Galata? And why did the court agree to hear a case brought by someone who was not a member of the *askeri* class?

The answer, it would appear, has to do with the nature of the case itself. Manolaki was suing a certain Anton veled Isbanoli who was a resident of Crete. Both men were Greek Christians, but while Manolaki was undoubtedly an Ottoman subject, Anton was

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<sup>22</sup> The attacks are discussed briefly in Chapter 2. For the impact of the Cossacks, see Victor Ostapchuk, “The Human Landscape of the Ottoman Black Sea in the Face of the Cossack Naval Raids,” *Oriente Moderno*, 20 (2001), 23-95.

probably a Venetian subject, as his origins on Venetian-held Crete would suggest. Even though neither man was a resident of Istanbul or a member of the askeri class, the interjurisdictional nature of the case and the international character of the seafaring litigants are what made the Rumeli Sadareti Mahkemesi the venue of choice in this instance and in others like it. We shall return to this point at greater length below. The case is worth quoting in full in order to get some idea of how the claims and counterclaims of these men were transformed by the scribe and entered into the record and how the court dealt with a complex case that had originated hundreds of miles away and, perhaps most surprisingly, fifteen years earlier:

A captain named Manolaki veled Anton who is a resident in Yeniköy in the district of Istinye, which is in the jurisdiction of well-protected Galata, sued Anton veled Isbanoli, who is a resident of the island of Crete, in the court, claiming: “In the year 1010 [i.e. July 1601-June 1602], I came with my ship to a port known as Siroz Cami in the Mediterranean to unload wheat. When I dropped anchor, the aforementioned Anton came to the aforementioned port with his ship in the manner of a merchant vessel and drew alongside as if to buy wheat from me. While [my ship was] lying at anchor, he engaged in piracy (*korsanlık edip*) and fired a cannonball, and my crewmembers and I escaped onto the shore. Once I fled, someone unloaded my 50,280 *kil*<sup>23</sup> of wheat that was inside my ship, took it, and left. Now I demand that the aforementioned [Anton] be questioned.”

After questioning, the aforementioned Anton stated: “In fact, when I arrived at the aforementioned place to buy wheat, I purchased and took possession of 3000 *kil* of wheat from the wheat on the aforementioned plaintiff Manolaki’s ship which I paid for with money. I gave and turned over its price of 180,000 akçe to the aforementioned Manolaki. I did not take it by way of transgression and I did not take more than 3000 *kil* of wheat.”

After interrogation, the aforementioned Manolaki denied in the legal manner that he had sold the wheat and taken into possession the price. When the aforementioned Anton was asked to provide proof of his claim, he was unable to do so. Since they differed, after the aforementioned Manolaki, as requested, took an oath by God who sent the Gospels and on Jesus, peace be upon him, the aforementioned Manolaki was asked in the legal manner to provide proof that the

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<sup>23</sup> *Kil* is a “bushel.” According to Redhouse, one *kil* is equal to 36.5 kilograms. If accurate, that would mean a total cargo of roughly 1,835 metric tons, a tremendous (and unlikely) load.

aforementioned Anton had taken more than 3000 *kil* of wheat by way of transgression, he also was unable to do so. After he was invited to take an oath, the aforementioned Anton, as requested, swore upon God who sent the Gospels and on Jesus, peace be upon him. What happened was written as required. Recorded in the middle of Cemaziü'l-evvel in the year 1026 [=mid-May, 1617].

Witnesses of the case:...<sup>24</sup>

This case, even more so than that of the janissary-cum-pirate victim Mahmud ibn Ahmed, raises many curious questions. Chief among them is what chain of events brought both of these men into an Istanbul court, standing before the highest ranking judicial figure in the Ottoman Empire, nearly fifteen years after the alleged theft of Manolaki's wheat occurred. The record hints at a drama of trade and betrayal knit together through trans-imperial networks of Greek merchants spanning the eastern half of the Mediterranean, from Venice to Istanbul; we have only a single page torn from a decades-long story, the beginning and end of which we can never know. Evidently Manolaki had previously met Anton or at least recognized Anton after the encounter. Had they done business together before the incident in 1601-2? Was it trade that brought Anton to Istanbul in 1617 and simple chance that led to a face to face encounter with his accuser in the streets surrounding the port or on the quay? One way or another, Manolaki discovered that the man he held responsible for the disappearance of his wheat was in town and compelled him to appear in court to answer the charges entered against him.

The incident Manolaki described resembled countless run-ins with pirates in the early modern Mediterranean. Ships were at their most vulnerable when lying at anchor in small island ports, where there was no cover and no space or time to maneuver. The accounts preserved in Ottoman court records support the assertion that pirate attacks were

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<sup>24</sup> RSM 35, 9a-b (Evasit/CA/1026).

far more likely to take place within or nearby a port than in the open sea. Just as with Mahmud ibn Ahmed several years earlier, Manolaki was calling in a small harbor when the pirate vessel approached. Although only Manolaki's attacker employed subterfuge to get in close, disguising himself as a friendly merchant and potential buyer—perhaps he was flying Venetian colors?—both sets of sea robbers announced their piratical intentions with a show of force once within striking range, driving the beset captains overboard to the safety of the shore.

Of course, Manolaki's attacker may not have been just assuming "the manner of a merchant vessel." As we have seen, the line between raid and trade was exceptionally porous in the early modern Mediterranean, and there is no reason to assume that the pirate here was not a merchant ship engaging in opportunistic raiding. It bears repeating that the question with regards to piracy is not a matter of who or what is a pirate, but when. Furthermore, it is intriguing that in this incident of small-scale peacetime piracy perpetrated by and against Christians, Manolaki was reported to have accused Anton of engaging in *korsanlık*; scholarly claims that this term refers strictly to "corsairing," with all its religious and state-supported connotations, must be qualified in light of the evidence from a broader array of sources, including court records like these. In any event, Manolaki was lucky to lose only his cargo and not his ship or his freedom.

Before turning to the question of what Manolaki hoped to achieve by suing Anton, let us first examine the handling of the case as reflected in the record. As usual, the entry begins by introducing the principals and their places of origin before fixing the type of case as a suit (*dava*) and transitioning into the plaintiff's opening statement. It must be emphasized that this statement, though presented as quoted speech, probably

bears little resemblance to the words Manolaki uttered in the courtroom, and the same holds true for Anton's subsequent rejoinder. For one thing, both men likely spoke before the court in Greek. They would have made their claims and counter-claims to the judge with the aid of an interpreter, who likewise would have translated the judge's questions from the Turkish and relayed their answers. Later, the court scribe composed an entry for the court's register books in which their statements, having already passed through this intermediary from Greek into Turkish, were condensed and reformulated to fit the particular legal and stylistic idiom of the early modern Ottoman court.<sup>25</sup> As such, these "quotes" may bear only a passing resemblance to what they actually said, but they probably accurately represent the substance—or at least the perceived substance—of the litigants' legal claims and the thrust of their strategies.

Manolaki, in describing the raid on his ship, identified Anton as the captain of the attacking ship and strongly implied that he was responsible for the theft of his wheat, but stopped short of accusing him of it. He may or may not have exhibited such restraint in his actual statement before the court, but the fact was that he had not seen his ship unloaded and could not state with certainty that Anton was the culprit, only that he had approached with hostile intent.<sup>26</sup> Thus, according to the record, Manolaki demanded that Anton be questioned in connection with the theft of his wheat, but he did not or was not allowed to demand restitution at this stage.

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<sup>25</sup> Many have taken note of the seemingly standardized language of Ottoman courts, for example, Peirce in *Morality Tales*, passim.

<sup>26</sup> Given the stated size of the cargo, a little skepticism regarding Manolaki's account might be in order. Where did he go after he fled the ship? It would have taken quite a bit of time to unload 50,280 bushels of wheat and a very large ship to carry it off. If the pirate Anton had a large enough ship to steal Manolaki's wheat, what prevented him from simply taking Manolaki's ship, cargo and all?

At this point, Anton was questioned by the judge and offered his own, sharply divergent account of events. Anton did not deny that he had visited the port or rendezvoused with Manolaki, only that he had taken any wheat by force. Anton asserted instead that he had come for the purpose of purchasing wheat and that he bought a particular quantity, 3,000 bushels, for a known price, 180,000 akçe, which was promptly and properly handed over. Both men, of course, could not be telling the truth. Following Anton's statement, a secondary phase of questioning occurred, and Manolaki denied (*inkar*) the veracity of Anton's counter-claim that he had bought and paid for a much smaller quantity of wheat. Manolaki's denial shifted the burden of proof to Anton, and the court asked him to provide evidence supporting his side of the story. Given that evidence in this case would have to be eyewitness testimony and that the incident took place fifteen years earlier in a port hundreds of miles away, Anton was unsurprisingly unable to do so. If Anton had categorically denied Manolaki's initial statement instead of offering his own—as Mehmed Çelebi had done vis-à-vis Mahmud ibn Ahmed—the burden of proof would have remained on Manolaki and he would have been asked then to provide evidence to substantiate his claims. As their accounts diverged so widely and Anton had failed to back up his story, the court now offered Manolaki the chance to take an oath.<sup>27</sup>

Oaths were a powerful tool in Islamic law; Manolaki would have won the case if Anton had not been willing to take the oath himself, even with his being unable to bring witnesses. Oaths were not undertaken lightly. Large-scale studies of Ottoman court

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<sup>27</sup> On the burden of proof and oaths, see Ergene, "Evidence in Ottoman Courts," 474. On oaths and swearing (of the other sort) in another Ottoman context, see James Grehan, "The Mysterious Power of Words: Language, Law, and Culture in Ottoman Damascus (17th-18th Centuries)," *Journal of Social History*, 37 (2004), 991-1015.

records reveal many instances of litigants being unwilling to take the oath, even when failing to do so meant they would lose their case and the other party lacked any evidence.<sup>28</sup> We should not forget that swearing to tell the truth on holy books remains a hallmark of many modern legal systems. The fact that plaintiff and defendant were Christians made no difference as far as legal procedure in the court, except for what they swore upon. When the judge asked Manolaki to take a solemn oath, upon Jesus and the Gospels, that he had not sold the wheat as Anton had claimed, Manolaki did so. Without evidence to the contrary from Anton, Manolaki's oath was legally admissible as evidence that he had not. But Anton's failure to substantiate his own version of the story did not mean that Manolaki had proven his case.

The court may not have accepted Anton's argument that he had bought the wheat, but without an admission of guilt from the defendant, the plaintiff would still have to prove that he had stolen it. Thus, Manolaki was next asked to provide evidence that Anton had taken the wheat by force which, unsurprisingly, he could not. Anton was then asked to swear an oath, likewise upon Jesus and the Gospels, that he had not committed the act of piracy of which he was accused. Once he did so, the matter was settled from the standpoint of the court. Neither man could meet the burden of proof. Both had taken solemn oaths that they had not done what the other man claimed. The case was dismissed and the proceedings were duly noted down in the court's registers.

Was Manolaki so ignorant of the Ottoman Islamic rules of evidence that he thought he could win a suit concerning a fifteen year-old incident of piracy without a shred of proof? This seems unlikely. Desire for restitution alone is an unsatisfactory explanation for Manolaki's decision to go to court. As much as he might have desired to

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<sup>28</sup> Gerber, *State, Society, and Islam*, 49-50.

be recompensed for his alleged loss, it seems far more likely that suing Anton in the Ottoman court was not intended as a means to achieving this end, but was the end itself. There is no way to know for sure what compelled people to bring their problems to court, but the chance to make accusations publicly and air grievances in the open must have served as a powerful motivator, even if there was no chance of winning.<sup>29</sup>

The world of Greek merchants and sailors in the Eastern Mediterranean was a closed and intimately connected one. When Manolaki ran into Anton again in Istanbul in 1617, he seized the opportunity to get some small measure of satisfaction by dragging the man into court and accusing him of piracy in front of a group of powerful and influential men. Beyond the judge and court officers, this included the *şuhudü'l-hal*, the witnesses to the proceedings who were typically members of the Ottoman Muslim elite. Word of the allegations leveled against Anton would not have remained confined to the courtroom. In a world where reputation and trust were paramount to survival in networks of trade, by having his accusation heard in court, Manolaki may have already won.

Manolaki and Anton were not the only non-*askeri* Christians affected by piracy to bring their business to the court of the Rumeli *kazasker*. For example, in May of 1633, a group of Ottoman Greek merchants from Naxos came to the court to make a declaration. They had been traveling from Naxos to Istanbul on the ship of Manol Reis with a cargo of locally-made cloth when they were raided at sea by enemy infidel pirates. All the merchants on board were *zimmis*—if the pirates in question were Catholic corsairs from Malta or Livorno, they were not opposed to despoiling Greek Christians—but not all of them lost their share of the cargo in the attack. The pirates had not been especially

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<sup>29</sup> Leslie Peirce makes a similar argument for going to court in some instances in *Morality Tales*. Daniel Lord Smail has observed the same phenomenon in the context of medieval Marseilles, see *The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264-1423* (Ithaca, 2003).

thorough in their plundering, so some of the traveling merchants were unaffected by the raid, while others had their stores completely emptied. This led to disputes among the merchants, with those who had lost everything arguing that those who had not should share in the others' misfortune. After arriving safely in Istanbul, the Naxiotes arranged for a court-appointed mediator, a deputy judge named Mustafa Efendi from the Rumeli Sadareti Mahkemesi, to come aboard the ship and supervise the redistribution of the remaining goods so that everyone shared in the loss fairly, in proportion to what they had brought. In this way, none among them suffered disproportionately from the pirates' attack and each retained some quantity of cloth to trade in Istanbul. Once this was accomplished to their satisfaction, the merchants disembarked and came to the court to register their arrangement, declaring that none of them had any outstanding claims, suits, or disputes and that they all had forfeited the right to future legal action. The court accepted their statement, and they were issued, upon their request, a legal document certifying this and carrying Mustafa Efendi's signature.<sup>30</sup>

The fact that a party of Ottoman-subject Christian merchants turned to the court of the Rumeli *kazasker* to resolve an internal dispute after suffering a pirate attack on the high seas attests to the level of awareness, among a broad spectrum of Ottoman seafarers, that this was the most appropriate forum for dealing with such matters in the capital. It is not immediately obvious why they would choose it otherwise. There were other Istanbul-area courts closer to the port districts and those were not theoretically intended for the exclusive use of the *askeri* class. And choose it they did, for there is no indication that the *kazasker* would have actively sought the business of petitioners like the Naxiote

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<sup>30</sup> RSM 56, 8a (Evail/ZA/1042); Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi 56 Numaralı Sicil (H. 1042-1043/M. 1633)* (Istanbul, 2011), 66-7.

merchants. Alternatively, it is entirely possible that other courts routinely referred such cases to him as a matter of course. Either way, it seems that by the late sixteenth century the Rumeli Sadareti Mahkemesi had become one of the preferred courts in Istanbul for hearing complex, interjurisdictional cases, especially those stemming from acts of piracy, and that its expertise in such matters was widely known throughout the Ottoman Mediterranean.

Other courts in the Istanbul area did hear similar cases. The district of Galata, which housed both the imperial dockyards and the foreign embassies, was home to many seamen and foreigners who, as plaintiffs and defendants, brought piracy-related business to the Galata court independent of the *kazasker*.<sup>31</sup> There is no question that there was significant jurisdictional overlap within greater Istanbul and for resident foreigners, Galata was closer to home and usually the court of choice.<sup>32</sup> Yet the fact that the Rumeli Sadareti Mahkemesi court opened its doors to non-*askeri* Ottomans and even non-Ottomans—who consciously chose this court in these instances, even when there were more convenient options—is striking, given the court’s mandate for dealing with the needs of the *askeri* class. The rank of its presiding judge may have had something to do with why it became a popular venue—certainly the *kazasker*’s previous judicial experience and seat on the imperial council meant that he had extensive familiarity with contemporary political, diplomatic, military, and legal affairs that may have been

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<sup>31</sup> So, for example, the janissary Hizir Bese sued the resident foreigner Manol Reis in Galata in 1604 (H. 1013) for the return of two cannon that had been stolen from his ship by pirates and had ended up on Captain Manol’s ship, *Social and economic life in seventeenth-century Istanbul*, 784-5 (Galata 25, 50a).

<sup>32</sup> In most instances, Galata would be the logical choice for maritime matters, whether or not they involved foreigners. Nicolas Vatin has found evidence of a sort of office of Muslim maritime legal experts, sailors rather than *ulema*, in Galata, well known enough to be consulted by Greek Orthodox Patmiotes engaged in business in Venice. See his “Ces Messieurs De Galata. Note Sur Deux Rapports D’expertise En Droit Maritime Rédigés En Août 1640 à Galata Au Profit D’un Capitaine Patmiote,” *Journal of the Economic and Social History of the Orient*, 49 (2006), 48–67. But just as the Patmiotes knew to obtain expert reports in Galata, others clearly knew to go to the *kazasker*.

desirable to litigants—but it says little about how and why the court came to assume this role. The matter of access cannot be dispensed with too easily, for the Rumeli *kazasker* usually heard cases at the Sublime Porte on the days when the imperial council was in session, and he would not have had his docket clogged with the suits of just anybody in that hallowed space.

Indeed, the fact that the Rumeli *kazasker* heard these kinds of suits from such a wide range of Ottoman and non-Ottoman petitioners cannot be explained simply as a sign of the random distribution of cases across the Ottoman justice system, for his court really was otherwise the exclusive preserve of the *askeri*. Normally, when there were multiple courts to choose from, the defendant had the right to select the *kadi* hearing the case, but the logical extension to this—borne out in contemporary *fetvas*—was that an *askeri* defendant could always choose the *kazasker*, not that anyone could.<sup>33</sup> Yet the normal rules of jurisdiction do not seem to have applied here. Rather, the court's openness to the Naxiotes and men like Manolaki was due to a conscious decision on the part of Ottoman legal authorities to have the Rumeli *kazasker* assume the responsibility for handling certain types of maritime and interjurisdictional issues. In the absence of specialized admiralty courts, the Rumeli Sadareti Mahkemesi may have become the de facto substitute as disputes stemming from maritime disorder began to stream into the capital. It is not clear to what extent cases that could have been heard in other towns, cities, or islands were kicked up to the Rumeli Sadareti Mahkemesi or if there was any formal or informal policy on the matter, but the examples given above show how the court adjudicated disputes that involved principals hailing from various other jurisdictions, the courts of which ought to have been available to them.

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<sup>33</sup> Atcil, 42-9.

However it may have been that the court of the Rumeli *kazasker* came to be the choice for piracy-related cases, the experience the judges gained there adjudicating real-world cases would serve them well in the later careers a great many of them had as *şeyhülislams*. For many, such as Sunullah Efendi and Zekeriyazade Yahya Efendi, their terms as Rumeli *kazasker* would have marked the first time they were exposed to the legal dilemmas posed by maritime violence. As we saw in the case of Mahmud ibn Ahmed, the decision there rested, as it did in so many of the maritime *siyar fetvas* of the seventeenth century, on the question of whether or not Mahmud's ship had entered the *dariülharb* before being recaptured. The judicial experience gained through deciding cases such as Mahmud's would have prepared these men well for the day when they assumed the role of the empire's chief jurist. It was through that experience in the legal laboratory of the Rumeli Sadareti Mahkemesi that these judges-cum-jurists formulated their approach to maritime law, which was later given form in their *fetva* collections. It may have been a coincidence that Sunullah Efendi, who decided Mahmud ibn Ahmed's case, was the author of the *fetvas* in the first collection to deal with piracy at any length, but the connection between this court, the *şeyhülislam* post, and the growing prominence of maritime *siyar*-section *fetvas* in the *fetva* collections starting in the early seventeenth century must be acknowledged. By the time a *kazasker* became the mufti of Istanbul in the late sixteenth and seventeenth centuries, he knew well the problems posed by piracy and the empire-wide need for guidance on the subject.

From the piracy cases discussed above, we see how some of the questions and concerns present in the seventeenth-century *fetva* collections were manifested in actual court practice and how they were adjudicated. Additionally, the Rumeli Sadareti

Mahkemesi heard a large number of freedom suits from illegally enslaved Ottoman subjects in this period.

The court's growing specialization in interjurisdictional cases would have made it an obvious choice for such suits, but the fact that many members of the askeri class were wealthy slave-owners and that a significant number probably acquired captives in raids in which they themselves participated might also account for the higher proportion of such suits in this court compared to its neighbors. Ottoman court records routinely include very large numbers of emancipation registrations, slave sales and disputes over the terms of pre-existing emancipation agreements, and the records of the Rumeli Sadareti Mahkemesi are no exception. Freedom suits, though nowhere near as frequent as this everyday slave-related business, were not very unusual, and other Istanbul-area courts also preserve evidence of slaves' successful and unsuccessful attempts to escape bondage through legal action. However, determining how the cases actually got to court and the procedure once they got there is difficult. This is because successful slave suits usually resulted not in a detailed record of court proceedings, but in a copy of the Arabic document issued by the court confirming that the slave in question had been proven to be "of free origin."<sup>34</sup> These formulaic documents tell us nothing of how persons became slaves, how they ended up before the court, or what precisely transpired once they were there.<sup>35</sup> However, other sorts of cases, including failed freedom suits, suits for return of

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<sup>34</sup> Certain types of documents, including manumission letters, emancipation contracts, and endowment deeds were routinely issued in Arabic according to long-established norms and following fairly rigid patterns in which the case-specific details could be essentially filled into the blanks. Otherwise, the everyday language of this court and its records was Ottoman Turkish.

<sup>35</sup> This is in marked contrast to freedom suits in other parts of the world. In early modern New Spain, for example, such suits often dragged on for years and produced voluminous records, on which see Brian Owensby, "Legal Personality and the Processes of Slave Liberty in Early-modern New Spain," *European Review of History: Revue Européenne D'histoire*, 16 (2009), 365–382, as well as his "How Juan and

payment by buyers whose slaves had previously been proven to be of free origin, and emancipation documents provide us with some clues.

If we think back to the Naxiote slave suits from 1574 discussed in Chapter 3, we will recall that the principal impediment to proving the “free origin” of the captives held in Anatolia was the absence of Muslim witnesses. The messenger Tahir reported to the Porte that because Muslim witnesses could not be found, it was impossible to confirm the Naxiotes’ identities as required by Islamic law, thus rendering the courts incapable of action. The Porte’s response had been to implement the “papers test,” checking to see if slave-owners possessed the *pencik* documents that showed that the necessary taxes had been paid and that the slave was legally imported. Yet the papers test was applied only in order to separate the slave from the master; it did not formally prove the slaves’ “free origin,” even though, with the expert testimony of Nasi’s man, Marko, it could be inferred. For this reason, the contested slaves were corralled and sent together to Istanbul, after which point it would appear that the central government arranged for their return home. In other instances of pirate-perpetrated illegal enslavement where the central government became involved and was capable of action, evidentiary issues with local courts might likewise be smoothed over, but in the many more cases of individual slaves who came before the courts to contest their captivity, the problem of evidence, of finding reliable Muslim witnesses, loomed large.<sup>36</sup>

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Leonor Won Their Freedom: Litigation and Liberty in Seventeenth-Century Mexico,” *Hispanic American Historical Review*, 85 (2005), 39–80.

<sup>36</sup> Non-Muslims could and did testify in Ottoman courts, but the testimony of Muslims was valued over that of non-Muslims. In suits between Muslims and non-Muslims, non-Muslim testimony against Muslims was often inadmissible. Since the law assumed slave owners would be Muslim and slaves non-Muslims at the time of their capture, in cases of contested enslavement, it appears Ottoman courts would consider only Muslim testimony.

That this was a challenge was no secret to the frontier raiders and pirates who captured Ottoman subjects and sold them into slavery. Proving Venetian or French subjecthood in the Ottoman courts would be an even greater challenge, but the *ahdnames* made it so that treaty-protected foreigners could usually circumvent the courts. The imperial council was formally the only court in the Ottoman Empire considered competent to adjudicate such cases, but cases of illegally enslaved Venetians did end up elsewhere. Whether heard in a regular court or in the imperial council, however, there is no question that the normal Islamic rules of evidence did not apply in the freedom suits brought by treaty-protected foreigners and their diplomatic representatives. Rather, the *ahdname* regime reigned in such matters. Thus, in 1605, a Venetian-subject Cretan slave named Yakomi was presented to the court in Galata alongside “Hamantomazi,” the agent of the Venetian bailo. Yakomi had been captured, most likely by pirates, and had ended up in the possession of the governor of Cyprus, Cafer Pasha. Somehow the bailo had found out about Yakomi, and the case was brought to the court in Galata. Loosely quoting from the *ahdname* text that “if the infidels living in the places belonging to Venice are seized somehow, in whoever’s possession they are found they shall be released,” the court ordered Yakomi freed in accordance with the *ahdname*’s provisions and gave him a certificate (*temessük*) attesting to his free and protected status.<sup>37</sup> Beyond the word of the Venetian bailo’s representative, it seems, no witness statement or special

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<sup>37</sup> Galata 27, 58a (1014); *Social and economic life in seventeenth-century Istanbul*, 482-3. This is the story with which the dissertation began. The Ottoman Turkish text (Arabic was not used in this *ahdname*-guided transaction) makes no mention of how Yakomi was captured, but his abduction from Crete and subsequent arrival in Cyprus strongly suggest the involvement of North African pirates who very likely raided the Venetian possession and then gave Yakomi as a gift to the Ottoman governor in Cyprus during a stopover there. Cafer Pasha was not present in the court nor was any representative of his acknowledged, nor in fact was any objection to Yakomi’s release registered, which might indicate that the transaction in Galata was largely a formality intended to procure the documents (i.e., the *temessük*) that would protect Yakomi’s freedom pending his return home, rather than a necessary step in the legal process towards release from slavery.

evidence was requested or presented to the *kadi*. None of the evidentiary requirements of Islamic law were fulfilled to prove the slave's Venetian subjecthood, nor, realistically, could they be.

Indeed, by the end of the sixteenth century, illegally enslaved foreigners, in addition to being freed mostly by executive decision, were routinely released to the custody of their state's representatives wherever they were found, rather than through being transferred through Istanbul.<sup>38</sup> Yet Ottoman court records do preserve evidence of some of those who fell through the cracks.<sup>39</sup> For example, in 1618, Rahime bint Abdullah, a converted female slave from Crete, was emancipated by her owner in the court of Istanbul.<sup>40</sup> Although possible, it seems unlikely that she was captured legally, given that 45 years had passed since the end of the war with Venice in 1573. No account was given of her enslavement, but a more likely explanation is that she was one of the many Venetian-subject Cretans captured in amphibious pirate raids over the preceding years and sold into slavery. A woman who Venetian authorities were unable to track down or never knew to look for, she ultimately converted to Islam, was emancipated and absorbed into Ottoman society. There were undoubtedly many more like Rahime.

Nevertheless, most of the court cases of disputed enslavement that I have found were brought by Ottoman subjects. More research is necessary, but the nature of these

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<sup>38</sup> See Chapter 2.

<sup>39</sup> Nur Sobers Khan's research in the Galata court registers has revealed the presence of very large numbers of slaves of European and especially Italian origin who had very likely been captured in piratical raids and were now part of the large community of slave and free laborers who worked in the nearby imperial arsenal. The outstanding majority of these, particularly during the period she studies—the 1560s and 1570s—were taken in legal raids, but it is a safe assumption that some wrongfully taken, treaty-protected foreigners slipped through the cracks. In later years, these numbers were likely supplemented with a great many more taken in raids of questionable legality.

<sup>40</sup> Istanbul Mahkemesi 3, 63a (15/B/1027), Arabic; Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri: İstanbul Mahkemesi 3 Numaralı Sicil (H. 1027/M. 1618)* (Istanbul, 2010), 368-9.

documents is such that cases can rarely be definitively linked to a piratical raid.<sup>41</sup> Those Ottoman Christians taken by pirates and sold in distant ports would have had an even harder time proving their cases, for in every successful case, the testimony of Muslim witnesses—who sometimes traveled great distances to testify—was key. For example, Mahmud ibn Pervane was freed on June 4, 1618 after four Muslim witnesses came from his village, Ustrumca, located roughly 130 km north of Salonica, to testify in court in Istanbul on his behalf. They affirmed that he was born free of a free mother (who was herself an emancipated slave) and a free father.

Their testimony overcame the objections of Mehmed Çelebi ibn Ömer, the man who had captured him, who denied Mahmud's free origins and thought him slave material.<sup>42</sup> Why Mehmed Çelebi ibn Ömer passed through Ustrumca and how it was that he and Mahmud ended up back in Istanbul cannot be said for certain, though it is probable that Mehmed lived in Istanbul and was on his way to or from some military mission when he decided to help himself to Mahmud. How Mahmud brought himself before the court and managed to summon his countrymen the long way from Ustrumca to testify is a far more salient question that we simply cannot answer. Did he somehow throw himself on the mercy of the court? Did it arrange for letters to be sent after he established his *prima facie* case?

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<sup>41</sup> For example, a case from the *Divan-i Ali* in eighteenth-century Egypt involves a slave named Fatima from Klis on the Adriatic coast suing for her freedom on the grounds that she was a freeborn Ottoman subject who had been illegally enslaved. Written in Arabic, it follows a similar pattern to the records from Istanbul and, like them, does not mention how she came to be in Egypt or how she had managed to have her case heard in Egypt's highest court. Nevertheless, we might presume that an amphibious pirate raid was the likely cause of involuntary journey from Klis to Cairo. See Sijill 1 of al-Diwan al-'Ali in the Egyptian National Archive, entry 331 (5/R/1155). I am grateful to James Baldwin for sharing a facsimile of this case with me.

<sup>42</sup> Istanbul Mahkemesi 3, 45b (10/C/1027), Arabic; Yılmaz, ed., *İstanbul Kadı Sicilleri: İstanbul Mahkemesi* 3, 289.

Similar cases suggest that many illegally enslaved Ottoman subjects used the occasion of their sale to bring their plights to the judges' attention. Slave purchases, as with any piece of expensive property, were routinely registered with the courts. This provided a rare opportunity for the slave to voice her objections openly and have them heard. For example, in November of 1633, Fatima Hatun bint Viko, originally from a village near Rusçuk in present-day Bulgaria, was freed in the Rumeli Sadareti Mahkemesi six months after her previous owner, Ayşe bint Mehmed, sold her to Mehmed Ağa b. Abdullah for 18,000 akçe. Several Muslim witnesses from her village traveled to the court to testify on her behalf, which suggests that the time it took for them to receive the summons and make the journey accounts for the six-month lag between the sale, which gave her the chance to file suit, and the hearing at which her freedom was declared.<sup>43</sup> As usual, how Fatima had been captured was not noted, but it is a safe assumption that the previous owner mentioned in the court documents, Ayşe bint Mehmed, was not her original captor.

In such instances, the last buyer could sue to recover her losses from the seller of an illegally enslaved person—one good reason among many for registering the purchase in court with multiple witnesses—but the rapidity with which some slaves were bought and sold complicated the process. For example, the converted female slave Mülayim bint Ladin was freed in the Rumeli Sadareti Mahkemesi on August 15, 1594, after two Muslim witnesses testified to her and her parents' free origins.<sup>44</sup> Six weeks later, Fatima bint Iskender sued a certain Hasan ibn Abdullah in the same court for the 9,400 akçe she

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<sup>43</sup> RSM 56, 59a (Evasit/CA/1043), Arabic; Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi* 56, 270. Nov. 17, 1633.

<sup>44</sup> RSM 21, 49a (28/ZA/1002), Arabic; Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi* 21, 202.

had paid him to purchase Mülayim, whom she had then sold to el-Hac Ridvan who then went on to sell Mülayim to yet another person, after which point she had managed to establish her free origins in the court with her supporting witnesses. Since Mülayim's release, el-Hac Ridvan had claimed and received the price of the slave from Fatima bint Iskender, presumably having already returned the money to the person whom he sold her to, and now Fatima was trying to go back up the chain to recoup her loss.

Hasan claimed, however, that he had not sold Mülayim on his own behalf, but as the agent of a lady named Esmâ bint Husrev, to whom he had turned over the money, after which point his business with her had concluded. Once the truth of this was legally established, the proceedings were recorded at Fatima's request.<sup>45</sup> Now she would have to sue Esmâ bint Husrev if she was to recover the money. In any event, these two connected entries give some indication of just how frequently slaves could change hands and how difficult it could be to establish their provenance. Furthermore, the Arabic document establishing Mülayim's freedom says next to nothing about her circumstances leading up to her court-mandated emancipation. It is only because of Fatima bint Iskender's suit, recorded in somewhat more detailed Ottoman Turkish six weeks later, that we have some indication of the chain of events leading up to and following her release.

All these cases suggest the same pattern. An Ottoman Christian captured by frontier raiders, pirates, or corrupt officials is transported from her place of origin, sold and resold again, before a transaction in the big city between wealthy principals in the court enables the slave to finally make her voice heard. This much is clear. The mechanics of actually locating and summoning witnesses, not to mention the question of who paid for their journey, are not. To what extent did the courts assume these expenses?

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<sup>45</sup> RSM 21, 61b (15/M/1003); Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi 21*, 239-40.

Did the *kadi* waive his fees? Who arranged for the family of the victim to be notified and how? Did the slave remain with her master in the interim? If not, where was she lodged? If so, what was done to ensure her master did not sell her at first chance? The brevity of the resultant Arabic documents belies the complexity of these cases, which evidently required extensive fact-finding and multiple hearings and could drag on for months or longer, requiring as they did the testimony of Muslim witnesses who might have to travel from afar to perform their duty in court.

The witnesses were the key. Without them, a freedom suit was doomed, as it was in late November of 1594 for the slave-girl Ayşe, renamed Gülizar bint Abdullah by her master. She testified in the Rumeli Sadareti Mahkemesi that “I am of free origin from the village of Mustafa Paşa Köprüsü in Rumeli; my father, named Mustafa, is free and my mother, named Yeline, is free and my name is Ayşe. Even though my parents and I were not in any way enslaved, now the aforementioned Haydar uses me (*tasarrüf eder*) as property, saying ‘She is my slave.’ He should be questioned.”<sup>46</sup> Even mediated by the court scribe, her words are especially plaintive, the indignation and shame at her condition piercing through the formalized language of the court.

The use of the word “*tasarrüf*” hints at the sexual use of the female slave that was the master’s right and Ayşe’s regular torment. Her master, Haydar ibn Abdullah, was a guard who lived in a village in the jurisdiction of Üsküdar. It is not clear whether his position would have made him a member of the *askeri* class, but we are left to wonder how Ayşe/Gülizar managed to bring her case to the Rumeli Sadareti Mahkemesi and, again, why it was not brought instead to the court in Üsküdar. It is possible the court in

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<sup>46</sup> RSM 21, 75b (Evasit/RA/1003); Yılmaz, ed., *İstanbul Kadı Sicilleri: Rumeli Sadareti Mahkemesi* 21, 291-2.

Üsküdar transferred the case to the Rumeli Sadareti Mahkemesi, in recognition of its expertise in such matters. In any event, Haydar denied (*inkar*) Ayşe's claim, and when she was asked to provide evidence, she could not. Had the court given her a chance to try to contact friends or relatives from her village? Had letters been sent and gone unanswered? Without evidence, Gülizar's claim—for the court referred to her as Gülizar—could not be established, and thus it was ruled that her enslavement and use by Haydar was licit.<sup>47</sup>

Ayşe/Gülizar's failed freedom suit, recorded in Ottoman Turkish, gives us somewhat more information about her case, including her "quoted" statement before the court, than is typically available in the brief, formulaic Arabic documents that emerged from successful cases. More than anything else, however, her unfortunate experience is revelatory of the evidentiary challenges facing the illegally enslaved in Ottoman courts. The central government, if aware and involved, could help move things along, and the significant number of successful suits does suggest that there were established mechanisms for notifying and bringing distant witnesses to court even without administrative intervention.

But if the slave could not find any Muslim witnesses from her place of origin—whether neighbors, members of the local government, or family members—or compel them to travel to the court hearing her case, then there was little chance of a positive outcome. Depositions or other documentary evidence would not suffice to prove free origin in Ottoman courts; only in-person testimony from trustworthy witnesses would do. Given this fact, it is all the more remarkable that slaves did manage to appear before Ottoman judges and win their freedom. Nevertheless, Gülizar's experience demonstrates

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<sup>47</sup> Ibid.

that it was not enough simply to be heard. For those Ottoman captives taken far from their homes by pirates, the odds of them gaining access to the courts and proving their Ottoman subjecthood by the standards of Ottoman Islamic law—without substantial help from local or central government officials—would be slim indeed.

Evidence was thus the primary problem in adjudicating the freedom suits of Ottoman subjects and piracy-related cases. The limited admissibility of documents in Islamic law in favor of the testimony of trustworthy, impartial Muslims posed obvious problems for plaintiffs separated by force and the sea from the scene of the crime. Although the central government could be flexible in its interpretation and application of Islamic law, without its intervention the courts generally stuck to this guiding principle of Islamic legal procedure. The Rumeli Sadareti Mahkemesi may have been the highest court in the Empire and the best place for all manner of merchants, mariners, and slaves in the region to bring piracy and captivity related disputes, but it was bound by these rules and there is no evidence that it systematically circumvented them, even if the court occasionally deployed surrogates and used other creative techniques to facilitate witnessing.

As we shall see, the Rumeli *kazasker*'s influence and involvement in adjudicating piracy-related suits extended far beyond the ancient walls of Constantinople. Yet within the city's precincts, the maritime suits he heard were invariably of a civil nature; I have not found any evidence that the Rumeli Sadareti Mahkemesi ever tried and convicted accused pirates for their crimes. The task of punishing pirates brought to the center was left to the imperial council (on which the *kazasker* served, of course). But Ottoman courts did try pirates, and they did much more besides. The dynamic between courts and

community was different further from the imperial center, where the danger from piracy was more immediate and the stakes were often far greater than lost cargo and stolen ships. Even though Muslims made up a small fraction of the total population on the Aegean islands and post-conquest Crete, the Ottoman Christians settled in these places still made great use of the local Ottoman courts—often the most significant (and sometimes the only) manifestation of Ottoman authority—not just to settle disputes amongst themselves, but in order to interact with the center and perform their Ottoman-ness at key moments. In the Aegean, piracy provided the impetus for much of this activity during the first half of the seventeenth century. Leaving the capital behind, our next stop is the archipelago.

## AEGEAN

Outside of Cyprus and Crete, no complete court registers survive from the Greek islands that housed Ottoman *kadis* in the sixteenth and seventeenth centuries. The major Aegean ports are not much better represented: the records from early modern Izmir were consumed by fire and those from Salonica are available only from 1697 onwards.<sup>48</sup> However, monastic archives on islands like Andros and Patmos preserve a small but important sample. Ottoman administration on most of the Aegean islands was decidedly hands-off, with pre-conquest communal structures often left intact. On most islands, taxation rates were determined for the whole island, with the burden distributed internally

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<sup>48</sup> However, Eyal Ginio has accomplished a great deal with the eighteenth-century records from Salonica, including a study which demonstrates convincingly the importance (and feasibility) of utilizing court records to study the effects of piracy in the eastern half of the Mediterranean: Eyal Ginio, "Piracy and Redemption in the Aegean Sea during the first half of the Eighteenth century," *Turcica*, 33 (2001), 135-147. On the tragic loss of the records from Izmir, see Daniel Goffman, *Izmir and the Levantine World, 1550–1650* (Seattle, 1990).

and without significant interference from the center. The imperial admiral toured the islands that comprised his province annually, collecting the tax revenues due to him and, in some cases, administering justice.<sup>49</sup> There is also evidence for a “sea judge” who traveled with the admiral on his flagship for this purpose, and it is tempting to assume that he may have dealt with some of the piracy-related problems that were otherwise handled by imperial decree, but very little survives from this floating court.<sup>50</sup>

The rest of the time, islanders and monasteries had recourse to the *kadi* on their island or on whichever one was closest, and to their own communal and ecclesiastical institutions, which operated alongside and independent of the Islamic courts.<sup>51</sup>

Monasteries were often the largest landlords on the Aegean islands and played a key role in their governance. They were engaged in a constant dialogue with the *kadi* in whose jurisdiction they fell and through whom they communicated with the sultan’s government.<sup>52</sup>

The court-issued documents that survive in the Kaireios Library on Andros and in the archives of the Monastery of St. John on Patmos reveal the local manifestations and impact of piracy as well as the ways in which the monasteries attempted to articulate their

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<sup>49</sup> For an overview of Ottoman rule in the Cyclades, see Slot, *Archipelagus Turbatus*, ; Elizabeth Zachariadou, “The Sandjak of Naxos in 1641,” in *Osmanistik, Turkologie, Diplomatic; Festgabe an Josef Matuz* (Berlin, 1992), 329-342. On the kapudan pasha’s role as a provider of justice and punisher of pirates and criminals on the islands, Eugenia Kermeli, “The Right to Choice: Ottoman Justice vis-a-vis Ecclesiastical and Communal Justice in the Balkans, Seventeenth-Nineteenth Centuries,” in *Studies in Islamic law: a festschrift for Colin Imber* (Oxford, 2007), 187.

<sup>50</sup> See Gilles Veinstein, “Les Documents emis par le kapudan paşa dans le fonds ottoman de Patmos,” 13-19 and Michael Ursinus, “Local Patmians in Their Quest for Justice: Eighteenth-Century Examples of Petitions Submitted to the Kapudan Paşa,” 20-23, both in *Documents de travail du CETOBAC* (Paris, 2010).

<sup>51</sup> Kermeli, “The Right to Choice,” 165-210.

<sup>52</sup> For a brief overview of the relationship between the monasteries and the Ottoman center, see Elizabeth Zachariadou, “Monks and Sailors under the Ottoman Sultans,” *Oriente Moderno*, 20 (2001), 139-151; Eugenia Kermeli, “Central administration versus provincial arbitrary governance: Patmos and Mount Athos monasteries in the 16<sup>th</sup> century,” *Byzantine and Modern Greek Studies*, 32 (2008), 189-202. For Andros, see Elias Kolovos, “Insularity and Island Society in the Ottoman Context: The Case of the Aegean Island of Andros (Sixteenth to Eighteenth Centuries),” *Turcica*, 39 (2007), 49-122; for Patmos, see below.

loyalty to the Ottoman dynasty by documenting in court the occasions in which they protected endangered Muslims or ransomed them from Catholic pirates.<sup>53</sup> The monasteries were forced to engage in a precarious balancing act in the tumultuous first-half of the seventeenth century—by which time Christian pirates predominated in the region—fighting to allay Ottoman suspicions that they were sympathetic to the enemy and assiduously avoiding giving pirates (or Ottoman officials) any reason to make life harder for them or their Greek seafaring constituents. Thus, for example, the monastery on Patmos surreptitiously supplied Maltese pirates with intelligence about the movements of the Ottoman fleet even as it dutifully alerted Ottoman forces whenever pirates were in the vicinity. This was a dangerous game, part of which played out in the Ottoman courts on Andros and on Kos, in whose jurisdiction Patmos lay.

Both islands lay on strategically important sea lanes by which a tremendous amount of shipping, and thus pirates, passed. Andros, located east of Attica in the Cyclades, formed chokepoints with Euboea to the northwest and Tinos and Mykonos to the southeast; almost all shipping rounding the Morea and bound for North Aegean destinations like Salonica, or the bustling ports of Izmir or Istanbul, had to pass through the narrow straits above or below Andros. Tiny Patmos, on the northern end of the

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<sup>53</sup> The Ottoman documents of the Kaireios Library on Andros, most from the Hagia Monastery (also known as Zoodochos Pege, but referred to in Ottoman simply as *Aya manastırı*), were posted online, with facsimiles, transcriptions, and brief English summaries by Elias Kolovos. See <http://androsdocs.ims.forth.gr/>

Michael Ursinus, Nicolas Vatin, Gilles Veinstein, and Elizabeth Zachariadou have spearheaded a project to catalogue the Ottoman documents held by the monastery of St. John on Patmos and have published a number of articles based on their work, many of which include substantial corpora of documents. The most useful to us here, and the source to which we shall return repeatedly, is Vatin and Veinstein, “«Une bonté unique au monde»: Patmos et son monastère, havre des musulmans en péril (première moitié du XVIIe siècle),” *Turcica*, 35 (2003), 9-79, which includes transcriptions, French translations, and facsimiles of many documents. For more on the monastic archive, see also Vatin, “Note préliminaire au catalogage du fonds ottoman des archives du monastère de Saint-Jean à Patmos,” *Turcica*, 33 (2001), 333-338; idem, “Les patmiotes, contribuables Ottomans (XVe-XVIIe siècles),” *Turcica*, 38 (2006), 123-153; Zachariadou, “The Archive of the Monastery of Patmos as a Source of Ottoman History,” in *The Howard Gilman International Conferences II; Mediterranean Cultural Interaction* (Tel Aviv, 2000), 249-253.

Dodecanese chain, lay directly on the vital route to Egypt. Grain shipments departing Egypt and pilgrimage traffic to Mecca via Alexandria made this route especially valuable, while the many islands and safe harbors in the vicinity of Patmos made it especially vulnerable there. Like chum in the water, this long-distance traffic consistently attracted large-scale corsairing expeditions from Malta and Livorno.<sup>54</sup> Although by the beginning of the seventeenth century the majority of piratical incidents in the Aegean were perpetrated by Christian pirates and corsairs of many stripes, the Christian populations of the islands did not always escape these attacks unscathed. The Christian pirates may have been particularly interested in carrying off Muslim bodies, but booty was booty and they often took what they could get, especially when the monasteries in question did not accede to their demands to hand over Muslims under their protection.

It is clear that the monasteries were motivated by self-preservation as much as charity in offering protection to Muslims threatened by pirates and ransoms for those already taken. They were expected to do so, and they were held responsible when harm befell Ottoman Muslims in the areas they controlled. Yet performing these duties faithfully and consistently could be beneficial in troublesome times, especially when the monks had disputes with their tenants or local officials and they wanted the backing of the center. As a result, they made a point of going to their local Ottoman court and extensively documenting their efforts to protect Muslims against pirates and the damages they suffered as a result. Patmos was especially sophisticated in this regard, often obtaining depositions from everyone involved, which they had copied for their archives

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<sup>54</sup> Vatin and Veinstein, “«Une bonté unique au monde»”; Nicolas Vatin, “Les Patmiotes face à la piraterie entre le début du XVIIe siècle et la Guerre de Crète,” *forthcoming*.

and then forwarded via the *kadi* to the sultan as evidence of their loyalty.<sup>55</sup> In both cases, Ottoman courts provided the means for making the local consequences of piracy legible for both provincial administrators and the imperial center.

So it was that in December of 1604, a monk named Nofito came before the court in Andros to make a statement. Earlier, Musa Halife ibn Murad had been plying the waters off Andros in his boat along with another man, Cafer, when he entered the harbor of Gaurios on the western side of the island and was set upon by a pirate frigate that had been lying in wait. Musa either escaped or was put ashore, but the pirates held onto the boat and Cafer. Musa went straightaway to the monastery, which sent a monk to the pirates to broker Cafer's release. Twenty gold pieces changed hands for Cafer's freedom and another eight for Musa's boat. Now the monk Nofito requested that Musa, who was present in court that day in December, be questioned as to what had occurred, and Musa duly confirmed that the events had transpired as Nofito described. The proceedings were then entered into the court's registers and a copy was produced for the monks, in whose archives it was placed and where it remains today.<sup>56</sup>

This sort of small-scale piracy and on-the-spot ransoming was quite common, and Musa's decision to run first to the monks suggests that it was common knowledge on Andros that they would ransom Muslim captives. It is fairly likely that the pirates, who were creatures of habit and often cruised the same waters year after year, knew this too and hung around to take advantage of the rapid, seemingly guaranteed payoff.<sup>57</sup> It is not

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<sup>55</sup> Ibid.

<sup>56</sup> Kaireios Library, No. 51 (Evahir/B/1013).

<http://androsdocs.ims.forth.gr/documentsview.php?l=1&id=63>

<sup>57</sup> The English sailor Mr. Roberts, pressed into service on a Corsican-captained, Livorno-flagged pirate vessel in the early 1690s, described the regular, seasonal movements of the pirates back and forth between the Aegean Islands and the Eastern Mediterranean coasts and their on-the-spot ransoming practices in, "Mr Roberts's Adventures among the Corsairs of the Levant," 8-9.

clear from the report whether Musa actually escaped or the pirates let him go specifically so that he could arrange the ransom, but the latter would be in keeping with the pragmatism of a great deal of early modern Mediterranean piracy, which was really more of an extortion racket than anything else.<sup>58</sup>

But there was no guarantee that pirates and monks could come to terms on the matter of price. In July of 1629, a Muslim merchant from Andros named Mehmed bin Abdülmenan was transporting salt when he was captured by enemy infidel pirates. As a severe wind was blowing, the pirates dropped anchor in the harbor below the monastery, where they offered to ransom their prisoner. The monks sent word to the *kadi* of the island, Osman Efendi, and the governor's deputy on Andros, Mustafa Kethüda, that the pirates were anchored below the monastery and that they had Mehmed onboard their frigate. Osman and Mustafa wrote back, ordering them to pay up to 100 *guruş* to ransom Mehmed and warning that they would be punished if they did not. The monks duly collected 100 *guruş* which they dispatched to the pirates with Mehmed's wife, but the pirates demanded a greater ransom. Negotiations faltered and the pirates sailed off with the unfortunate Mehmed still in the hold. After a few days, as the news of Mehmed's abduction and the failed ransom attempt spread across the island, some local officials began to give the monks a hard time. As a result, "in order that no one might harass the monks of the aforementioned monastery with this excuse," the monks came to the court of Osman Efendi to have the preceding events recorded and a certificate (*hüccet*) issued

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<sup>58</sup> For the land-based equivalent to this sort of activity along the Ottoman-Habsburg frontier, see Peter Sugar, "The Ottoman 'Professional Prisoner' on the Western Borders of the Empire in the Sixteenth and Seventeenth Centuries," *Etudes Balkaniques*, 1 (1971), 82–91; Geza Palffy, "Ransom Slavery Along the Ottoman-Hungarian Frontier in the Sixteenth and Seventeenth Centuries," in Geza David and Pal Fodor, eds., *Ransom Slavery Along the Ottoman Borders: Early Fifteenth-early Eighteenth Centuries* (Leiden, 2007), 35–84.

attesting to their attempt, however unsuccessful, to buy Mehmed's freedom and exonerating them for its failure.<sup>59</sup>

The situation on Patmos around the same time was similar, but more severe. The pirates lurking off the Anatolian coast and amid the Dodecanese often prowled in packs and had larger and more valuable quarry in mind than the small boats engaged in insular cabotage. They would not be satisfied with holding a single Muslim prisoner for ransom. In October of 1625, the Ottoman *kadi* on Kos noted that the seas around Patmos were infested with enemy infidel pirates, but that the monks on Patmos had been diligent in sending letters to warn the nearby islands whenever the pirates passed.<sup>60</sup> A year later, maritime security had deteriorated further, and the *kadi* on Kos reported that because the Christian pirates were increasingly using the natural harbors on nearby islands as bases for attacks on Muslim shipping, the *zimmis* of Patmos had stepped up their warning efforts, appointing watchmen to guard the ports frequented by pirates day and night. Then, "when the damned infidel traitors' ships and lewend frigates come to those islands with the intention of taking Muslims ships," he wrote, "they send news to the [Ottoman] fortresses in the area and light a signal fire to warn the Muslim ships at sea."

Just a few days before, in early October, 1626, the Patmiotes had dispatched a small boat to Samos and a messenger to Rhodes—which housed an Ottoman naval squadron—to warn of the approach of four Maltese ships that had just emerged victorious from an encounter with an Algerian *bertone*. The *kadi* concluded his message with the observation that "the subjects of the aforementioned island are always giving the utmost,

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<sup>59</sup> Kaireios Library, No. 111 (10/Z/1038). (July 31, 1629)  
<http://androsdocs.ims.forth.gr/documentsview.php?l=1&id=123>

<sup>60</sup> Vatin and Veinstein, "«Une bonté unique au monde»,” 33, document cited as APO 15-11.

with their money and their lives, in the service of the faith and the state.”<sup>61</sup> As much as the *kadi* may have meant what he said, he did not write unbidden. His complimentary words about the monks’ devotion to their sultan and their tireless efforts to defend against pirates undoubtedly came at their express request, and the monastery retained a copy of this document and the others like it to be deployed as necessary. A few years later, a dramatic standoff with a powerful flotilla of Maltese galleons resulted in a sheath of documents.

It all started in April of 1630, when a ship captained by a *zimmi* named Sevasti (or Sevasto) entered the fortified harbor of Patmos, carrying nearly two hundred passengers from North Africa, including soldiers from Algiers, merchants, and a number of important Ottoman personages with government posts in the Aegean. The captain planned to take on water and re-tar the vessel, but the Patmiotes warned him that six or seven Maltese galleons had been sighted and would likely arrive soon. The captain, it was related, told them not to worry and that they would complete their maintenance operations within a day and be on their way. Nevertheless, they tarried for almost three days before seven Maltese ships appeared. The Turkish galleon was quickly evacuated, and the men and their goods crowded into the monastery for safety.

The Maltese demanded that the monks hand over the Muslims they were sheltering and threatened to torch the island if they did not. The monks refused, and the Maltese galleons spent several days pillaging and burning the storehouses on the shoreline, plundering approaching ships, carrying off livestock, and generally wreaking havoc all over the island. At the same time and at great risk, the monks dispatched a small boat to Leros, only 12 miles away, to warn the Ottoman fortress commander there

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<sup>61</sup> Ibid., 42-3, document cited as APO 20-20.

of what was going on, and to Chios, which housed an Ottoman naval squadron. Soon help was on the way, and the *levend* (i.e. irregular) forces from Chios pushed through to the monastery and ferried the besieged Muslims to safety. After the pirates had sailed off, the monks set about documenting the encounter that had resulted in so much damage to the infrastructure of the island and to the lives of its inhabitants.

In addition to reports from the *kadi* on Kos, the monks acquired numerous detailed witness statements from the men who had been holed up in the monastery, and corroborating accounts from the *kadi* of Samos, the commander of the fort on Leros, and the commanders of the fortress on Chios and of its expeditionary force that relieved the siege of the monastery on Patmos. All attested to the good service that the monastery had provided and to the damage the island had endured in order to protect the Ottoman Muslims from the captivity and martyrdom that the Maltese had in store for them. Copies of these statements and court reports were retained by the monastery as well as forwarded to the imperial center.<sup>62</sup>

The incident was not wholly unique, and the *kadi* on Kos would have occasion to write of the monks' piracy countermeasures and devotion to the Ottoman sultan several more times that decade. In all such cases, the monks did as they were expected to do and more, using their resources and their own merchant marine to supplement, even substitute for, the information gathering that the Ottoman navy had once performed but which its reliance on fair-weather galleys made inadequate to the all-season pirate threat.<sup>63</sup>

The start of the campaign for Crete in 1645 raised the stakes for the monasteries and the Aegean islanders. Ottoman naval superiority, once taken for granted in the

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<sup>62</sup> Ibid. The story is the main subject of Vatin and Veinstein's article. The original documents relating to the incident are on 34-5, 39-42, 46-7, 49-50 (APO 15-18, 20-6, 20-13, 20-43, 20-55).

<sup>63</sup> Ibid., 33-62, for the whole corpus of piracy-related documents from Patmos.

decades leading up to Lepanto in 1571, had evaporated over the more than 70 years that had passed since the last major naval operation in the Mediterranean. By 1650, Ottoman control of the Aegean was tenuous, and enemy fleets sailed through the archipelago with impunity. As in 1570-1573, control of various islands passed back and forth between Venice and Istanbul, and many found themselves doubly taxed as the rival fleets called in their ports to collect.<sup>64</sup> The monasteries in particular had to negotiate this uncomfortable position and balance whatever desires there may have been among the populace to support Christian Venice with the need to stay in the good graces of their Ottoman overlords. On Andros in 1650, the Hagia Monastery continued the tradition of protecting endangered Muslims much as the monastery of St. John on Patmos had done twenty years earlier, even though Ottoman control of the island had been temporarily lost. In June of that year, a Venetian ship using Ottoman prisoners as oarsmen docked on Andros, probably to acquire provisions. At this point, at least ten of the Muslims managed to escape the ship and sought shelter at the monastery. The monks hid them, provided them with food and water, and then once the opportunity presented itself, ferried the erstwhile prisoners on the monastery's caique across the narrow straits to Karystos on the southern shores of the more securely Ottoman-held island of Euboea, where they would be safe. As the Ottoman court on Andros was not active at this time, the monks arranged for the former captives to appear in court in Karystos and testify to the truth of what had happened.<sup>65</sup>

The monks had good reason to do this, for “some people had come to the monastery and, against the noble Sharia and in contravention of the illustrious kanun, had

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<sup>64</sup> Slot, 162-192, for the Cretan War period. This situation repeated itself during the Morean War of 1684-1699.

<sup>65</sup> Kaireios Library, No. 134 (1/B/1060). <http://androsdocs.ims.forth.gr/documentsview.php?!=1&id=146>

disturbed and oppressed us to a great degree.”<sup>66</sup> These were likely Ottoman aligned irregulars, and it was only thanks to the timely arrival of the kapudan pasha that the monks were spared more ill treatment. The challenges of the war and the absence of any strong political authority in the Aegean meant that the monks had to work even harder to position themselves as loyal Ottoman subjects. For this reason, the monastery also acquired a collective report from the Muslim community of Karystos attesting to the monks’ ongoing efforts to spy on behalf of the Ottomans, the numerous times they had sheltered and refused to hand over Muslim fugitives, and the help and protection they had provided “as much as possible” in the spirit of charity and friendship. This report would serve as the basis for a petition to the sultan for a decree meant to keep Ottoman naval forces from troubling them further.<sup>67</sup>

Thus, while the differences between the forms of piracy afflicting Andros and Patmos and their surroundings are clear from these court-produced documents, the monks’ strategies in using the Ottoman courts were remarkably consistent between the two islands and, in fact, on the mainland as well. The monasteries on the peninsula of Mt. Athos operated in much the same way in the seventeenth century, ransoming Muslims from the pirates active nearby and obtaining documents from local *kadis* after the fact.<sup>68</sup> But because the smaller, predominantly Christian Aegean islands were largely self-governing—and during the long war for Crete endured anarchy and regular visits from the fleets of both the warring powers—the efforts of the monasteries vis-à-vis the courts were crucial to maintaining their relative independence and to ensuring that the Ottoman

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<sup>66</sup> Kaireios Library, No. 135 (no date). <http://androsdocs.ims.forth.gr/documentsview.php?l=1&id=147>

<sup>67</sup> Ibid.

<sup>68</sup> Vassilis Demetriades, “Piracy and Mount Athos,” in Elizabeth Zachariadou, ed., *The Kapudan Pasha: his office and his domain: Halcyon Days in Crete IV, a symposium held in Rethymnon, 7-9 January 2000* (Rethymnon, 2002), 354-5.

center kept on a short leash any local actors and naval forces who might act against monastic interests.

Although the constant threat of piracy to Ottoman shipping and Muslim lives in the Aegean did not spare the Christian islanders or their institutions, it did provide the monasteries with regular opportunities to demonstrate their loyalty and usefulness. Nearby Ottoman *kadis* and their courts were central to this mission. What other piracy-related cases these judges may have heard cannot be determined from the surviving records. To answer the question of how Ottoman judges on a predominantly Christian island far from the imperial center handled the array of legal problems posed by piracy, we turn now to the example of post-conquest Crete.

## CRETE

Crete proved to be the Ottoman Empire's final enduring conquest, and it was not an easy one. Unlike Cyprus, which fell in little over a year, Venetian Crete's capital, Candia (present-day Herakleion), held out for a generation. The impunity with which Maltese pirates cruised in Cretan waters had furnished the excuse for invasion in 1645, but the Ottomans were to have little better luck in defending the island than their predecessors had after Candia surrendered in 1669.<sup>69</sup> During the war, the Ottoman navy did not distinguish itself against the Venetians, who were able to blockade the Dardanelles for much of the war. Although Ottoman supply ships were consistently successful in provisioning troops, the Ottomans were never able to prevent the Venetians from resupplying their besieged island capital by sea. Thus, even though Chania and

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<sup>69</sup> See Molly Greene, "Ruling an Island Without a Navy: A Comparative View of Venetian and Ottoman Crete." *Oriente Moderno*, 20 (2001), 193–207.

Rethymnon, the island's two other principal cities, had both fallen by 1647, the war continued for decades.<sup>70</sup> Ottoman courts were established in both cities following their conquest and an Ottoman judge even presided in the semi-permanent encampment outside of Candia, but records from these courts are incomplete.<sup>71</sup> Upon the surrender of Candia, the Ottomans established a *kadi* there as well, and it is to his registers that we look now to explore the experience of piracy on this island in the final decades of the seventeenth century.

Ottoman Crete was divided into three unequal jurisdictions centered on the three chief cities, all located on the northern coast of the island: Chania (Hanya), Rethymnon (Resmo), and Candia (Kandiye). The western third of the island fell in the jurisdiction of Chania, a chunk of the middle to smaller Rethymnon, and the entire eastern half of the island belonged to the jurisdiction of Candia.<sup>72</sup> Although Chania became the principal port of the island during Ottoman rule, Candia was the island's administrative center and thus its court was arguably the island's most important.<sup>73</sup> As Candia was responsible for the greatest amount of territory and was also the seat of government, the court there dealt with more of the administrative matters that concerned the central and provincial governments. For this reason, certain types of cases, including again those involving

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<sup>70</sup> For an account of the opening years of the war and the Venetian blockade of the Dardanelles, see Setton, *Venice, Austria, and the Turks*, 137-205; see also Ersin Gülsoy, *Girit'in fethi ve Osmanlı idaresinin kurulması (1645-1670)* (Istanbul, 2004).

<sup>71</sup> On the court of Candia beyond the walls, see Elias Kolovos, "A Town for the Besiegers: Social Life and Marriage in Ottoman Candia Outside Candia (1650-1669)," in Antonis Anastasopoulos, ed., *The Eastern Mediterranean Under Ottoman Rule: Crete, 1645-1840: Halcyon Days in Crete VI: a Symposium Held in Rethymno, 13-15 January 2006* (Rethymnon, 2008), 103-75.

<sup>72</sup> Gülsoy, 223-39, on the post-conquest administrative division of the island

<sup>73</sup> Greene, *A Shared World*, 23. In Nukhet and Nuri Adiyeye, "Newly Discovered in Turkish Archives: Kadi Registers and Other Documents on Crete," *Turcica*, 32 (2000), 447-8, the authors state that the kadi of Chania was considered the chief kadi of the island and was sometimes referred to as the "kadi of Crete," however the court in Candia seemingly vied for it in importance due to the city's position as the island's administrative center.

piracy, often ended up in the court of Candia even if they had taken place in the physical jurisdiction of one of the other two main *kadis*.

Cases from Crete not only show us how procedural and jurisdictional problems were handled on what the Ottomans self-consciously referred to as the “frontier of Islam,” they also reveal how the problems of piracy had changed by the late seventeenth century, especially on this crossroads of Mediterranean trade, where they were acutely felt.<sup>74</sup> The everyday dangers posed by Christian corsairing and the disconnect from the distant imperial center are especially apparent in the court registers, and both intensified when war with Venice (and much of the rest of Christian Europe) resumed in 1684, dragging on until 1699. The confessional and national diversity of the people who made use of the court also stands out. Although there was significant conversion on Crete—the outstanding majority of Cretan Muslims (and the Cretan janissaries) were born on Crete—Muslims were still distinctly in the minority.<sup>75</sup> If the examples from Istanbul show us how the highest court in the empire dealt with complex, interjurisdictional cases, those from Candia show us how the furthest Ottoman outpost in the Mediterranean handled them in an increasingly turbulent and hostile sea.

They also show us the more prosaic sorts of transactions brought about as a consequence of piracy, with merchant captains and accused pirates registering guarantors for their good behavior, victims despoiled of their property seeking debt relief, and relatives arranging ransoms for loved ones. These were examples of court business on the crossroads of the Mediterranean, on a predominantly Christian island engaged in trade in

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<sup>74</sup> Formulae declaring that Crete was on the “*serhad-i islamiyye*” and within the “*darüljihad*” appear frequently in the Candia court registers, especially in the opening statements of inheritance inventories (*muhallafat*), in the early years of the eighteenth century (i.e., following the conclusion of the Morean War in 1699). See, for example, Turkish Archive of Herakleion, Register 13 (hereafter TAH 13), 45 (1118).

<sup>75</sup> On the Cretan janissaries and the conversion question, see Greene, *A Shared World*, 36-44.

all directions and threatened by pirates from all sides. It was neither necessary nor practical to handle such business in Istanbul.

By the end of the war, all sides were eager to get back to business. This was especially true of Venice. Not long after Venetian forces evacuated Candia and peace was reestablished, Venice dispatched a consul to reside in the capital of its former possession and represent the needs of its merchants. In early June, 1671, a decree was dispatched from Istanbul to Candia regarding this consul that—like those sent out to at the bailo’s request to Ottoman authorities in places hosting Venetian consuls in the first half of the seventeenth century—specified his rights and duties. Copied into the court registers of Candia and disseminated among the local Ottoman officialdom, the decree also echoed the terms of the Porte’s 1670 anti-piracy edict.<sup>76</sup> In accordance with the *ahdname-i humayün*, in effect once more, Venetian subjects were to be given full rights of trade; they were not to be molested and the consul was not be interfered with in performing his duties. Unofficial “gifts” were not to be demanded from visiting Venetian ships or merchants. If a Venetian were illegally taken captive or a Venetian slave found, he was to be freed and, if not now a Muslim, turned over to the consul. Furthermore, “if outlaw corsairs from the Abode of War (*harbi korsan eşkiyası*) or Muslim *levends* captured and raided Venetian barques or ships at sea and brought them” to Crete, then “the *kadi* of the province along with the officers and people of the kingdom shall take those pillaged Venetian ships and their goods and men and cannons and horses from the hands of the corsair outlaws and they shall be turned over to the same Venetian consul in order to be sent to Venice.” As for the pirates, whether enemy Christians or Muslims, all efforts would be made to capture them so that they might be sent to the Sublime Porte for

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<sup>76</sup> On the dispatch of decrees upon the appointment of new Venetian consuls, see Chapter 2.

punishment.<sup>77</sup> Neither the Ottomans nor the Venetians had any illusions about the multi-confessional character of the pirate threat surrounding the island, nor was there any pretence that the conquest of the island had attenuated it. The Ottomans could not, and did not, promise to prevent piracy, only to do their best to right wrongs committed in the area. Even this was easier said than done, something the Venetians had tried to explain to the furious Sultan Ibrahim's representatives back in 1644.

Indeed, the restoration of peace after the surrender of Candia in 1669 did not spell the end of piracy around Crete. While Venetian-sponsored privateering temporarily ceased, all manner of sea raiders still prowled the waters around Crete and the Aegean alongside the dreaded Maltese, whose predations had inspired the invasion of Crete a generation earlier. Undoubtedly the merchants of Venice still suffered, but Ottoman subjects—including Cretan Greeks who had only recently acquired this legal identity—bore the brunt of this activity. The impact of mostly Christian piracy on mostly Christian ship captains, Muslim passengers and others during the interwar years is well attested in the Cretan court records. Maritime violence had a disruptive effect on territorial economic life as well, for losses at sea often led to financial disputes.

For instance, in Candia, a butcher named Abdi Beşe bin Abu Bekr sued a traveling Greek *zimmi* sailor named Yorgi veled Istamati for repayment of a loan on April 30, 1672. Yorgi had used the money loaned him to buy sheep elsewhere which he intended to import to Crete. Unfortunately for Yorgi, the ship he was traveling on back to Crete with his livestock investment was intercepted by enemy infidel pirates who relieved him of his sheep and all his other possessions. Yorgi offered this hardship as an excuse for nonpayment. Though duly recorded, the court did not bother to investigate Yorgi's

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<sup>77</sup> TAH 4, 8-9 (Evahir/M/1082).

story. Instead, noting that “it is best to have evidence of a loan according to the books of *fiqh*,” the court asked Abdi Beşe to provide proof of the outstanding debt. Abdi had probably registered the loan in the court, but it was the witnesses who upheld his claim that sealed the deal. Yorgi was ordered to pay up. Yorgi’s run-in with the pirates, however calamitous for him, did not release him from his debts.<sup>78</sup>

Abdi Beşe had been wise to register his loan to Yorgi with the court in Candia. Sea travel and finance were both unpredictable and sometimes treacherous pursuits, for which reason the Qur’an warned against the former and advised keeping a written record of the latter.<sup>79</sup> Both loans and surety agreements needed to be transacted before witnesses, preferably in the courts and resulting in a legal certificate, in order to be valid, as two janissaries would learn to their dismay the following year. Mehmed Beşe ibn Mahmud and Mehmed Beşe ibn Mustafa, arranged to ship their goods, valued between the two of them at 510 *guruş*, from Istanbul to Chania on the frigate of Mihali veled Manol, an Ottoman Greek ship captain. The frigate hugged the Anatolian coast on its way south before stopping at Chios. There, Captain Mihali recommended that the janissaries disembark because of the danger from pirates during the particularly perilous trans-Aegean passage. Presumably they could wait on the island for an Ottoman naval vessel to transport them the rest of the way instead. Mihali said that he would sail under the Venetian flag he had in his possession and, the men later claimed, he reassured them that if pirates did strike, he would recompense them for any losses. Mihali’s prescience probably saved the janissaries’ lives, but his Venetian flag provided scant protection

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<sup>78</sup> TAH 3, 174 (2/M/1083).

<sup>79</sup> On loans in the Ottoman court context, see Ronald Jennings, “Loans and Credit in Early 17th Century Ottoman Judicial Records: The Sharia Court of Anatolian Kayseri,” *Journal of the Social and Economic History of the Orient*, 16 (1973), 168-216.

against the pirates who attacked during the voyage from Chios to Chania. While some sea raiders may have respected the banner of St. Mark, most saw it as an invitation, the very temptation of a pirate, as Thomas Roe had put it some fifty years earlier.<sup>80</sup> Mihali escaped the encounter with his life and his ship, but the pirates—who may have searched below decks specifically for the goods of “Turks” or may have had them helpfully pointed out by the terrified captain or his crew—made off with all the janissaries’ goods. Sometime after both Captain Mihali and the two Mehmeds arrived safely in Crete, in September of 1673, they sued him in the court of Candia for compensation for their losses. Mihali, they claimed, had reneged on his side of the bargain.

But the court disagreed. Whether or not Mihali had seriously promised them that he would guarantee their goods, the plaintiffs had failed to establish a legally binding guarantee (*kefalet*), which had to be “clearly recorded in the legal books”—that is to say, in a court before a judge and witnesses.<sup>81</sup> And indeed, such guarantees do appear in the court’s registers. For instance, the records from the years of renewed conflict with Venice (1684-1699) attest to the French consul posting bonds (*kefil*) guaranteeing the safe arrival of French ships contracted to carry Ottoman dignitaries or their goods through the treacherous Cycladic gauntlet to Istanbul.<sup>82</sup> In contrast, the janissaries’ oral agreement with Mihali, if it had actually occurred, was not binding by Ottoman Islamic legal standards. Thus, “from the evidentiary perspective,” the judge concluded, “their suits were not correct.” The case was dismissed and the janissaries were ordered not to trouble Mihali further.<sup>83</sup> Here, the lack of documentary evidence, of a court-issued certificate of

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<sup>80</sup> See Chapter 2.

<sup>81</sup> TAH 5, 30 (5/C/1084). sept 17, 1673

<sup>82</sup> Greene, *A Shared World*, 76.

<sup>83</sup> TAH 5, 30 (5/C/1084).

surety, resulted in the court terminating the proceedings. No witness statements from either side were requested or provided. If the men had been able to establish that they had entered into a proper bond agreement by providing such a document, however, they undoubtedly would have been asked to provide witnesses to testify to its authenticity. Here, then, is the rare instance where the court's legal reasoning is specified and its demands for documentary evidence confirmed in the record. In cases relating to surety, it seems a document was required (though not always mentioned in the record) in order to establish the *prima facie* case and then witness testimony was necessary to authenticate it. But an oral contract for bond was neither verifiable nor binding by the standards of the court. Consequently, the janissaries would have to suffer their losses without restitution.

The case is interesting for other reasons, beyond the legal. For one, it demonstrates just how present the fear of pirate attacks was in the 1670s. Clearly Mihali and the janissaries believed that there was a very real risk of a run-in with pirates navigating between Chios and Crete and that the odds of making it through unscathed would be improved without the presence of the Ottoman Muslim military men on the ship. It also suggests the extent to which trust was crucial to shipping and passenger transport. Mihali may have been despoiled by pirates, but he just as easily could have stopped off in Milos, a popular pirate haunt, and sold the Mehmeds' goods for his own profit before concocting a story about a pirate raid. Moreover, incidents of Christian ship captains, who dominated Eastern Mediterranean seafaring by this time, betraying their Muslim passengers to enemy slave-traders were common enough to have entered the popular imagination in the later seventeenth century.<sup>84</sup> Yet trust remained crucial; even if

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<sup>84</sup> Andreas Tietze, "Die Geschichte von Kerkermeister-Kapitän, ein türkischer Seeräuberromane aus dem 17. Jahrhundert," *Acta Orientalia*, 19 (1942), 152-210.

it was breached in this instance, the janissaries had been willing to disembark at Chios with the understanding that their goods would be waiting for them whenever they arrived in Chania. Most journeys did not end in lawsuits, and merchants and passengers regularly put their fortunes and their lives in the hands of captains who were often chimeras.

After all, who was Mihali? The Ottoman court in Candia described him as a *zimmi*, but he carried with him a Venetian flag. Ship captains—including pirates—regularly carried and flew a kaleidoscopic array of flags to suit every situation, but let us assume for a moment that Mihali's possession of the banner of St. Mark was more significant than just another embroidered rag in a mariner's bag of tricks. If Mihali was a Cretan Greek from Candia—and we have every reason to assume he was, since the case was heard in Candia and not in Chania—then he had very likely been, until recently, a Venetian subject. Now nominally Ottoman, he still operated in a maritime world between these two poles, switching between Ottoman and Venetian juridical identities at will.

As far as defense against pirates, a better armed ship and the colors of St. George might have served him better, but the example of Mihali and those like him gives some indication of the liminal position of seafaring Ottoman Greeks in the seventeenth-century Eastern Mediterranean and especially after the conquest of Crete. That position, Christian but Ottoman, could be a danger but also a blessing at sea, as we have seen. Although they often fell prey to Catholic pirates, they usually survived the experience, and they could pass safely from the Abode of Islam to the Abode of War and back again through the increasingly dangerous legal vacuum of the sea in between. As for the pirates in this case, they were identified in the record only with the generic “enemy infidel” appellation. For

the purposes of Ottoman legal records, the hostile ships of enemy infidels were all the same and further distinction was unnecessary and irrelevant.

Mihali's erstwhile passengers, the traveling janissaries, had been wise to disembark at Chios and fortunate to make it across safely thereafter. Many others were not so lucky. Entries in the Candia records hint at a thriving ransom industry on Crete and suggest that proximity and the return of peace had made the island a staging area for the liberation of Muslim captives from Malta and beyond and a major node in trans-Mediterranean ransoming networks. Thus, Hizir ibn Ali, captive on Malta, contacted his associates in Istanbul who then contracted with two resident Christian foreigners (*müstemin*) based in Galata to travel there and redeem him. The agreement was registered in the court in Galata on May 10, 1673 (23 Muharrem, 1084), and then Hizir's Muslim associates and the ransom brokers together traveled to Crete.

A month later, the ransom brokers were in Chania and the two Muslims who had accompanied them to Crete appeared in the court of Candia to register the 650 *guruş* debt that Hizir ibn Ali would owe the brokers, supplying the document from the judge in Galata and two witnesses who could substitute for them and testify to the arrangement on their behalf once Hizir arrived, as they had to travel elsewhere.<sup>85</sup> Ransoms for Muslim captives on Malta were routinely arranged through intermediaries by friends and loved ones in their places of origin, and records in Istanbul and Salonica attest to the frequency of this trade and to the men, such as the French consul in Salonica, who facilitated it.<sup>86</sup> But the entrance of Crete into the Ottoman sphere would have made it an obvious way-

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<sup>85</sup> TAH 4, 256 (Evahir/S/1084).

<sup>86</sup> Ginio, *op. cit.*. The seventeenth-century Istanbul court registers contain significant numbers of such entries.

station for both brokers and returning captives, whether or not they called the island home.

In any event, the failure of the janissaries' suit against Mihali raises an important question. Just how much did seafaring Ottoman Christian (or, for that matter, Muslim) merchants and ship captains know about the evolving Ottoman Islamic maritime law? The scribe's aside in that case, that according to the authoritative works of Islamic jurisprudence, it is best to have some record of such things might be taken as an admonition: the janissary plaintiffs clearly should have known better. Being a Muslim by faith was neither a guarantee of nor a perquisite for knowledge of Islamic commercial law or of contemporary Ottoman legal understandings of how the sea divided the world. The case of Aleksı the Armenian merchant in 1684 suggests that, at least by the later seventeenth century, the answer to our question—how much did these people know of the points of law that would decide their cases?—could be quite a bit.

The Armenian named Aleksı veled Sekset who is engaged in trade in the city of Candia sued the Jew named David veled Nazan in the court. He stated:

“Previously, three bales of *astar* [course brown strips of cloth used for head wrapping], turban linen, twilled cotton, and unfinished striped cloth were loaded onto the frigate of a *zimmi* named Marko bin Yorgi in Izmir. When it was coming to Crete, it ran into enemy infidels (*harbi kefereye rast gelii*). After they seized the aforementioned ship with the aforementioned goods, **without entering the *darülharb*** [emphasis mine](*darülharba dahil olmadın*), they sold them on Milos. This David—who is now brought before the court—was among those who bought the goods. He is said to have bought 160 of my *astar*. Now I demand that David be questioned and that the aforementioned 160 of my *astar* be returned.”

After questioning, the aforementioned David responded, denying the claim: “I bought the aforementioned 160 *astar* in Rethymnon from a *zimmi* whose name is known for a known, recorded price, but legally. I had no knowledge that it was his property, loaded in Izmir on the aforementioned Marko bin Yorgi's frigate, seized by enemy infidels, and sold on the aforementioned Milos Island without entering the *darülharb*.”

When the aforementioned plaintiff Aleksı was asked to provide evidence for his claim, a continuance was requested in order to procure evidence and the case was postponed with a legal delay. If it is not possible to provide proof in some way, without proof they are ordered not to dispute the matter with each other. What happened was recorded as requested on 15 Recep, 1095 (=June 23, 1684).

Witnesses: ...<sup>87</sup>

The defendant David's denial of Aleksı's claim put the burden of proof on the plaintiff. In order to win his case, Aleksı would have to come back with evidence that the *astar* in David's possession had in fact been sold on Milos without entering the *darülharb* as he had claimed. However, as the *fetvas* discussed in the previous chapter demonstrate, he did not necessarily have to prove that it was David who purchased them there. If the stolen goods had never left the *darüislam*, Aleksı had the right to reclaim them from whoever had them, without regard to how they had acquired them. Were he successful, David would then be allowed to sue the person who had fenced the goods to recover the cost, much as those who had purchased illegally enslaved persons were allowed to reclaim their loss from the previous owner, but the "I didn't know and I bought it with my own money" excuse did not suffice to retain possession.

As we have seen, Ottoman court records rarely specify the legal reasoning employed by the judge to decide a case. Although court scribes' rendering of plaintiffs' statements were probably not faithful reproductions of what they actually said in court, the fact that Aleksı was recorded as having explicitly stated that the captured ship and stolen goods had not entered the *darülharb*—and that this phrase was repeated in David's denial—indicates that he actually framed his claim in this manner.<sup>88</sup> As such, it provides

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<sup>87</sup> TAH 4, 339 (15/B/1095).

<sup>88</sup> It is also possible he was prompted to do so by the judge, but it is still noteworthy that that specific legal argument was offered in the court and recorded by the scribe.

convincing evidence for his savvy understanding of the grounds on which his case would be decided, for if the *astar* had been sold in say, Messina,<sup>89</sup> and David had bought them there before selling them in Crete, Aleksi would have no case. Whether Aleksi had possessed this sort of knowledge all along or had consulted with Muslim legal experts before he appeared in court is less clear, but his legal positioning was entirely consonant with what had been appearing in contemporary *fetva* collections.

Indeed, evidence from both *fetvas* and court records suggests significant awareness among Ottoman seafarers, both Muslim and non-Muslim, of their rights under Ottoman Islamic law and a willingness to use Ottoman legal institutions and mores to their advantage. They were certainly well informed. Time and again, these sources reveal how efficiently news was exchanged across the sea and how interconnected the various merchant networks were, both with each other and with the buyers and sellers of goods stolen by pirates. How else could an Armenian merchant sojourning in Candia learn that a local Jewish merchant had, one way or another, acquired his stolen merchandise after its layover on Milos?

The “enemy infidels” in this case were, unsurprisingly, not identified as anything else in the record. But this does not mean that Aleksi did not know who they were. On the contrary, given the fact that he knew his cargo had been fenced in Milos, he probably knew much more about them than the Ottoman scribe in Candia had simply not bothered to write down. As far as the court was concerned, it only mattered that they were “enemy infidels.” Although Venice had declared war on the Ottoman Empire a few months earlier, there is no reason to assume the pirates in this case were Venetian privateers.

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<sup>89</sup> Though it is hard to imagine there being much of a market in Messina for coarse brown turban cloth.

Milos was a true pirate entrepot, a spot where goods stolen by pirates of every background were bought, sold, and traded by merchants of all stripes.<sup>90</sup>

This was a case of non-Ottoman Christian pirates seizing the goods of an Ottoman Christian merchant from an Ottoman Christian captained vessel and selling them on an island, nominally subject to the Ottomans, to other Ottoman non-Muslims. Raid and trade coexisted as symbiotic sides of the same coin in the early modern Ottoman Mediterranean. Neither religious antipathy nor political aims account for this sort of activity, even though Ottoman legal sources were customarily blind to or disinterested in differentiating between the various types of “enemy infidel” sea raiders. Nevertheless, the renewal of war with Venice—along with much of the rest of Europe—would lead to an intensification of maritime violence around Crete. Now, Ottoman judges in Candia would begin to take a little more note of who these pirates were and whom, if anyone, they served.

Crete enjoyed less than fifteen years of peace between the surrender of Candia in 1669 and the start of the “Morean War” in 1684. The return of war to the seas around Crete made maritime raiding and amphibious violence a clear and present danger for the inhabitants of the island. The threat did not come just from the long-distance corsairs who had long targeted merchant traffic in the area. It came from just offshore—and from within. After the surrender of Candia in 1669, the Venetians retained three heavily fortified islands on located strategic points just off the northern Cretan coast: Gramvousa on the far west, Souda just to the east of Chania, and Spinalonga in the east.

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<sup>90</sup> On Milos, see Slot, 169-170; d’Arvieux, vol.4, 327-335; see also Mr. Roberts, who wrote in the 1690s that “*Melo* is Inhabited chiefly by *Greeks*, who are Tributary to the *Venetians* and *Turks*: This isle is reasonably fruitful and large...It was represented to me to be a very Rich place...Nevertheless it is a place of great Rendevouz for Crusals [i.e. pirates], and thither they bring their Prizes, which causes a considerable Trade,” 25.

Consequently, these were spots where the Abode of War was quite literally a stone's throw away.

Gramvousa was betrayed by its Venetian commander to the Ottomans in 1691, but Venice retained Souda and Spinalonga until 1715. When Venice declared war on the Ottoman Empire in April of 1684, these three islands became major centers for anti-Ottoman Venetian privateering.<sup>91</sup> Yet the main practitioners came not from Venice, but from Crete itself. They were primarily Christian Cretan villagers who had, in Ottoman parlance, “rejected the pact” (*nakz-i ahd*) and gone over to the enemy to raid by land and sea, pillaging villages, enslaving Muslims, and capturing boats and ships.<sup>92</sup> They and those they attacked were mostly born and raised on Crete, for the Muslim-Christian divide on the island was primarily one between Orthodox Christians and converts, not Muslim immigrants from elsewhere in the Ottoman world.<sup>93</sup> Because Spinalonga, Souda, and Gramvousa were formally *darülharb*, the Cretans who joined the Venetian enemy were considered “traitors” (*hain*) who, by crossing over, had renounced their Ottoman subjecthood and its protections.<sup>94</sup> In many cases of raids on villages, it seems, the attackers knew their victims well. The damage this civil conflict caused to the social fabric on the island must have been significant. Some of its effects, along with the efforts of the Ottoman government on the island to combat the problem and to prosecute some offenders, were manifested in the court of Candia.

Some of those who joined up with the corsairs at the Venetian fortresses and were subsequently captured by Ottoman forces received the opportunity to rejoin society and

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<sup>91</sup> Greene, *A Shared World*, 70-1.

<sup>92</sup> The concept of *nakz-i ahd* was discussed in the previous chapter.

<sup>93</sup> Greene, *A Shared World*, 38-44.

<sup>94</sup> The Cretan registers specifically referred to these islands as being “in the *darülharb*” every time they were mentioned.

return to their homes. Surety (*kefalet, kefil*) as a form of bail contracted in the court provided the mechanism for this.<sup>95</sup> This process was often possible because much of the defense against the corsairs and “traitors” was locally organized, and captors had the freedom to choose what to do with their captives, including releasing them to their communities in exchange for payment, or the promise of it should the captured pirate fail to abide by the terms of their release. The central government might also intervene to give “traitors” a second chance. For example, on March 15, 1686, four *zimmis* came before the judge in Candia to stand surety for Papa Georgi veled Yani, an Orthodox priest from the village of Kazanos in the district of Pedyä who had joined with the “corsair and rebel traitors” (*korsan ve hain eşkiyasına*) operating out of Souda fortress.

Papa Georgi had been captured and imprisoned for a time against the wishes of the central government which, perhaps on account of his being a priest, ordered that he be freed. But the government required assurances that he would not repeat his previous bad behavior, so the four *zimmis*, local notables including another priest, stepped forward—or were summoned—to offer themselves as security that, from that day forward, Papa Georgi would remain in his village and would not join with the “damned infidels” or give them any aid, and that he and they would come to the court willingly if summoned. This they swore to do before the judge and Papa Georgi, who would have recognized that these men would very likely lose their fortunes or their freedom if he did not obey.<sup>96</sup>

However, the case of another pirate Papa Georgi eight years later—possibly but probably not the same individual—demonstrates that the redeemed sometimes skipped bail, leaving their guarantors in the lurch. This Papa Georgi had been captured by an

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<sup>95</sup> For more on this type of practice, see Hülya Canbakal, “Vows as Contract in Ottoman Public Life (17th-18th Centuries),” *Islamic Law and Society*, 18 (2011), 85–115.

<sup>96</sup> TAH 4, 382 (19/RA/1097).

Ottoman naval captain named Hasan while he was corsairing with the “enemy infidels” from Spinalonga. As Papa Georgi had abandoned his village for Spinalonga, just offshore but formally in the *darülharb*, he was himself considered to be an “enemy infidel.” He was thus Hasan’s property to dispose of as he wished. Hasan sold Papa Georgi to a janissary from Candia named Sefer Beşe for 262 *guruş*, and Sefer imprisoned the captured corsair in his dungeon. At this point, Papa Georgi’s mother Zabeta appeared and offered herself as her son’s guarantor, promising to pay Sefer 400 *guruş* should her son disappear or flee again to the enemy. The surety agreement was contracted in court with witnesses as required by Islamic law, and Zabeta’s money and person became security for her son’s freedom (*kefalet-i huviyye ve kefalet-i sahiha-i şerriyye ile kefil bi’l-mal ve kefil bi’l- nefis olmuşdu*), with Zabeta promising to make her son appear in court whenever summoned.

But Papa Georgi soon fled again, and Sefer called to collect his 400 *guruş* from Zabeta. When Zabeta refused, he sued her in the court of Candia. Although she denied the agreement, Sefer’s case was ironclad. Deploying the Muslim witnesses to the surety agreement, the sequence of events and legality of the arrangement were confirmed and Zabeta was ordered to surrender the money immediately.<sup>97</sup> The fact that Sefer agreed to parole his prisoner in the first place suggests that, like the present-day bail bondsman, there was potential for profit built into the arrangement whether Papa Georgi ran away or not—otherwise why would he pay 260 *guruş* and then free him?—but any form of interest or fees incorporated into such agreements (like the fees for ransom brokers for their services) was an extralegal addition and consequently would never be mentioned in the records.

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<sup>97</sup> TAH 8, 2 (11/Ş/1105). April 7, 1694.

The flight of our second Papa Georgi notwithstanding, it becomes clear that Ottoman administrators considered the system of surety to be an effective deterrent device when we consider its adaptation and large scale application across the island a few years after the first Papa Georgi was freed. As the numbers of men going over to Souda, Spinalonga, and Gramvousa spiked and their attacks began to cause more serious damage towards the end of the 1680s, the Ottoman government on Crete was forced to step up its efforts to keep Cretans in their villages and prevent the economic devastation from causing even greater flight to the side of the bandits. One of the most serious problems was that the professional military forces on the island were spread thin and the local defense militias in many seaside villagers, rather than performing their duties, chose to coordinate with (if not outright join) the pirates and Venetian-sponsored corsairs. Since Ottoman administrators lacked the manpower to increase the effectiveness of their defense forces, they relied instead on the threat of collective punishment, linking villages together in a system of mutual guarantorship that ensured the economic ruin and potential loss of life of village notables if their neighbors, friends, and families did not do their part to keep the peace.<sup>98</sup> Beginning in early April of 1689 and continuing for over two weeks, a steady stream of villagers from coastal districts across the island were paraded before the judge in Candia and an assortment of some of the island's highest-ranked administrators and were read the decree of Mehmed Pasha, governor of the island.

The government had been made aware that many of the guards manning the coastal watch towers, whose job it was to provide warning of imminent pirate attack, had instead been signaling the pirates to come ashore to raid; stealing money and carrying off

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<sup>98</sup> This sort of collective guarantorship became a common Ottoman strategy to combat banditry, on which see Suraiya Faroqhi, "Räuber, Rebellen und Obrigkeit im osmanischen Anatolien," *Periplus*, 3 (1993), 31-46; Canbakal, "Vows as Contract," 88-94.

Muslim villagers, pirates and corsairs provided their accomplices on land with a cut. Orders were now given stating that this kind of complicity would no longer be tolerated and that proper warning had to be provided. The tower operators were now expected to signal the appearance of any ship in the distance, whether merchant or suspected pirate, by raising a red flag during the day and by lighting a fire at night. As the appointment of guards was a local prerogative in most districts, the names and descriptions and worksites of all such guards were to be provided to the government of Candia immediately, so it would know whom to blame if pirates struck unopposed. The summoned notables were informed that they would be expected to organize a proper defense and that if any Muslims were seized from their village, they would have to pay the ransom.

Assembled before the judge, the successive groups of village notables—including priests, land owners, and local militia commanders—heard the decree and responded according to the script provided. “Most willingly” they agreed to its requirements, stating: “We find no fault in the decree of the sultan...henceforth we shall watch the towers carefully and not be negligent in protecting [the area] and if one of us is responsible, he should be severely punished.”<sup>99</sup> That said, the expectations of the government and the nature of its threats varied from the vague to the specific, as some areas—whether due to demographics or proximity to the enemy’s island fortresses—had proven more complicit and problematic than others. In the district of Pedyá, for example, from which the former corsair Papa Georgi hailed, the “cursed Venetians and rebel traitors from Spinalonga and Gramvousa” had been visiting great damage upon the Muslims in the area. Over forty-four men from fifteen villages in Pedyá were called in to hear the sultan’s decree. In addition to the new universal signaling policy—by fire or red

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<sup>99</sup> TAH 5, 299 (17/C/1100).

flag—the forty-four men were ordered not to give pirates food or provisions. The guards (*martolos*) among them should capture the pirates and traitor raiders if possible and, if not, send word of their movements to regular Ottoman military forces in the area. Martoloses in the district would be expected to provide surety (*kefil*), and those men they captured were to be handed over to the *divan-i Kandiye* (that is, the Cretan government) for punishment. All the notables were expected to do their part to prevent villagers from going over to the enemy and to protect Muslims from Christian attack. The assembled promised, “if we fail and are negligent, each of us should be punished, our old executed and young enslaved.”<sup>100</sup> In other words, failure in Pedyā would be interpreted as a rejection of Ottoman subjecthood, effectively transforming the district into *darūlharb*.

In all, eleven groups of villagers passed through the court in April of 1689, each one representing the most respected men in their districts, each of whom was required to stand surety for the other.<sup>101</sup> Although their oaths were framed in the record as having been offered “most willingly,” it requires little imagination to see the duress involved.<sup>102</sup>

To ensure that abductions of Muslims would cease, that villagers would stay put, and that

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<sup>100</sup> TAH 5, 299-300 (17/C/1100).

<sup>101</sup> TAH 5, 237 (20/C/1100), for Laşit district; TAH 5, 238 (20/C/1100), for Meranbelo district; TAH 5, 239 (25/C/1100), for Yerapetra district; TAH 5, 239 (Evahir/C/1100), for Istinye district; TAH 5, 240 (24/C/1100), for Monafoca district; TAH, 240 (29/C/1100), for Rizo district; TAH 5, 241 (20/C/1100), for Kenurya and Pirkofca districts; TAH 5, 299 (17/C/1100), for Maleviz district—this entry, it will be noted, predates those above and is more detailed regarding the damages wrought by “the damned to hell ships and frigates”; TAH 5, 299-300 (13/C/1100), for all the districts dependent upon Resmo, i.e. Rethymnon—the fact that this was transacted in Candia instead of in Rethymnon, which had its own kadi, reveals the Candia court’s primacy on the island and its intimate relationship with the executive; TAH 5, 300 (17/C/1100), for Pedyā district; TAH 5, 301 (10[sic?]/C/1100), also for Pedyā district. Obviously, the entries do not appear in the register in chronological order, with the final entry, for Pedyā, having taken place first. The villages from the district (*nahiye*) of Pedyā were dealt with in two batches; one is recorded as having taken place on 10 Cemaziulahir, 1100 (April 1, 1689—though this earlier date could be a typographical error) and the other on 17 Cemaziulahir, 1100 (April 8, 1689). After this, the groups came through in fairly rapid succession, with the final group from Rizo hearing the decree and providing guarantors on 29 Cemaziulahir, 1100 (April 20, 1689). Most entries have very large numbers of witnesses listed, often over 14, most of whom held high-ranking military/administrative positions.

<sup>102</sup> Or, as Canbakal (op. cit., 94) puts it, “there is good reason to suspect that vows that involved the state did not really depend on the freewill of the communities in question.”

the system of watch towers would actually provide warning instead of welcome, the lives and livelihoods of all the Christian Cretan notables were tied up with each other. Henceforth, the system of surety registration served not just as a form of shipping insurance or bail for redeemed pirates, but as a means for guaranteeing collective compliance with the Ottoman government's anti-piracy defense policies. It provided financial guarantees for the redemption of Muslim captives that placed the cost solely on their communities, holding them responsible for preventing their capture—much like the informal system in place in the Aegean in which local monasteries were expected to ransom and protect imperiled Muslims—and it specified the high price of failure to keep the pirates at bay. The notables' surety would be paid in blood.

The collective guarantorship strategy—arranged from a distance, orchestrated through the court, and involving an elaborate, faux-voluntary performance from the notables of nearly a dozen districts (*nahiye*) representing over a hundred villages—helped to establish collective responsibility for Crete's piracy problem. However, it was no substitute for a strong system of maritime defense organized around regular naval patrols, and, predictably, it did not spell the end of defections to the enemy either. Although the case of the second Papa Georgi in 1694 demonstrates the ongoing private use of surety agreements for parolling suspected pirates, and the continuing flight of villagers to the enemy, law enforcement sometimes took a harsher stand. Indeed, on April 10, 1694—just four days after the court heard Sefer Beşe's suit against Papa Georgi's mother—a janissary commander, Mehmed Beşe, and his men brought five "traitors" before the *kadi* in Candia for trial. The five men—one of whom, Mehmed ibn Mustafa, was a Muslim apostate—were all originally residents of Bistagi village who had long since gone over to

the Venetian-held fortress on Souda. They, along with 25 others, had been part of raiding party that had been looting and taking Muslim captives from the villages of Roufa and Vathiako when the Ottoman defense force led by Mehmed Beşe arrived on the scene. The raiders fled in the face of the superior force, but the five men were cornered at a mill in a nearby village and, after a brief firefight, were arrested. Now Mehmed Beşe asked the court to question the men and see to it that they be punished “according to the *şeriat*.” After the prisoners offered an “unforced declaration and confession” to the janissaries’ allegations, Muslim witnesses from the victimized villages testified that the defendants were habitual attackers who joined with the traitors at Souda to steal and capture Muslims. On the strength of this testimony and their own, uncoerced (or so the record said) confessions, the defendants were convicted and sentenced to row for life on the imperial galleys.<sup>103</sup> Intriguingly, with the exception of the apostate, the four other men were referred to as “tax-payers,” that is, as Ottoman subjects, suggesting that in this instance, the court felt that they had not abjured their subjecthood even though they associated with the “traitors” and were “proved thieves.” That being the case—though it is unclear why—theirs was treated as a criminal matter. Death was an option, but sale into slavery (which had been the case with the second Papa Georgi) was not.

A life sentence on the galleys was effectively a drawn-out death sentence, however, which might account for why the court did not call for the immediate execution of the apostate, Mehmed ibn Mustafa. It did so in other instances. But Yannis, aka Hüseyin, brought before the court in May, 1695, was a repeat offender. Yannis had been working with the enemy at Spinalonga for over seven years, serving as a guide for the Venetians and their Cretan allies in their amphibious assaults. The pattern was well

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<sup>103</sup> TAH 8, 132 (15/Ş/1105).

established: frigates regularly departed Spinalonga, hugged the coast, and then dispatched teams of 30-40 men to raid villages and abduct Muslims, for which purpose the local knowledge of men like Yannis was essential. On one such raid, the attackers ran into an Ottoman patrol, and in the resulting skirmish, Yannis was captured. Yannis, subsequently brought before the court, voluntarily confessed to the crimes he was accused of. Stating that he had participated in multiple raids, that he “did piracy” (*korsanlık edüp*) and helped to abduct Muslims, he pointed out Kara Mehmed, one of his kidnapping victims, since ransomed, who was present at the hearing. When he was previously arrested in connection with similar crimes, he said, he converted to Islam in the presence of the *kadi* of the Mirabello district and assumed the name of Hüseyin. His formal conversion had clearly been the price of his freedom, but he repudiated his new religion and name shortly thereafter and rejoined the cohort on Spinalonga. As a consequence of his crimes and his apostasy, to which he freely admitted, all agreed that his execution was necessary. However, it seems the court did not have the authority to order this punishment without executive approval, for the record concludes by noting that the governor of Candia had given his permission for the prisoner to be hanged.<sup>104</sup> As a pirate, traitor, and apostate, there would be no mercy for a man like Yannis. If the confessions he and those like him gave really were freely offered—for Yannis did not shy away from any of the charges laid before him in his statement—it would seem they did not expect any.

Apostates had to be executed unless they re-accepted Islam. Otherwise, the execution of pirates was optional and, at least on Crete, infrequently applied. After all, men with physical strength and experience at sea were more useful as oarsmen or slaves. When, in June of 1695, several armed men from an “enemy infidel” corsair galleon, the

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<sup>104</sup> TAH 8, 51 (Evahir/N/1105). Mid-May, 1695.

“Jerusalem,” were captured while looking for water by an Ottoman patrol in the Mirabello district, they were brought to the court in Candia and then, with the approval of the governor, sold as slaves at market for the benefit of the Ottoman soldiers who had arrested them.<sup>105</sup> Thus, as we have seen, the possible outcomes of capture in the act of piracy and banditry were conditional release, release with bond, imprisonment, service as an oarsman, enslavement, or death. These penalties were inconsistently applied, though most of the cases described up to now involved defendants who were participants in but not leaders of pirating expeditions. Nevertheless, it is evident from the surviving record that, at least in the mid-1690s, there was a spike in prosecutions of those involved in piracy and amphibious raiding. This may have been the result of increasingly effective patrolling by land and sea. So what happened when the Ottoman defenders of Crete caught a “big fish”?

The pirate admiral Stratis veled Manolis was definitely a big fish. The number of military officers—over twenty—filing charges against him in the court of Candia in June, 1695 bore witness to his successful career and to the many challenges that frustrated attempts to eradicate piracy in the area. The captains of three Ottoman frigates based out of Chania had captured Stratis along with seven others 25 days earlier while he was raiding (*korsanlık edüp*) near the island of Kythera with the four ships under his command. In so doing, they put a stop to a rash of attacks that could have been prevented several years earlier. In 1691, the fortress of Gramvousa was betrayed by its Venetian

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<sup>105</sup> TAH 8, 55 (15/ZA/1106), i.e. June 26, 1695. Intriguingly, in a case registered ten days earlier, another man from the same galleon was brought before the court. The same janissary commander who later brought in his compatriots, Mustafa Corbaci, testified that while on patrol three days earlier (i.e. June 13, 1695), the man, a certain Giovan Vresar, had approached him and his men; having escaped from the “Jerusalem” galleon, he asked for their protection. Giovan testified that what Mustafa had said was true, and the record concluded with the decision that “he is given permission by the governor of Candia to settle wherever he desires,” TAH 8, 55 (5/ZA/1106).

commander, Loukas Delarokas, to the Ottomans and Stratis was among the five high-ranking Venetian captives transferred to Ottoman custody in the process. Delarokas knew who Stratis was and warned the local Ottoman officials to keep him imprisoned and not to give him over to anyone unless they had an imperial decree from the sultan; arrangements were made by the governor of Chania, Ahmed Pasha, to have them transferred to Istanbul.<sup>106</sup> However, once Delarokas, his co-conspirator, and Ahmed Pasha were en route to Istanbul, the then-governor of Crete, Mehmed Pasha, freed all five men, including Stratis, in exchange for a 6000 *guruş* ransom.

It was a fateful mistake, for Stratis quickly became more dangerous than he had been before. Assembling four frigates, he began attacking villages between Candia and Rethymnon, carrying off 40-50 Muslims from each one. Soon he was sailing all around Crete, descending on remote stretches of coast from his base on Kythera, killing men, abducting women and children, and looting their belongings. He ransomed many of his captives and sold others. At the time of his arraignment, he was thought to still have some 60-70 prisoners on Kythera and was rumored to have shipped many of those he snatched off to Venice to work as slaves in the cannon foundries. He was enough of a threat that the court scribe allowed what sounds like the actual words of the plaintiffs enter the record when they said: “Thank God that thanks to the aforementioned Captain Derviş, in the service of the Faith and the Dynasty, this thief (*harami*) Stratis has been arrested, something that has freed the poor people of the island of Crete from his evil and brigandage.” They asked the court to sentence him to death and to inform the imperial council of its decision. After this, two military officers offered testimony confirming the

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<sup>106</sup> The whole story is recounted in TAH 8, 56 (ZA/1106). His receipt into Ottoman custody following the acquisition of Gramvousa and Ahmed’s transfer of possession is mentioned in TAH 8, 7 (L/1104), as is the involvement of the French consul in arranging transport between Chania, Candia, and Istanbul.

allegations.<sup>107</sup> No statement from Stratis was recorded. Due to the suffering caused by this man, the judge found, his execution was necessary and urgently required. However urgent it was, it would have to wait.

Evidently, the Porte was indeed informed of the court's ruling and decided that a hanging in the provinces would not do for a man like Stratis. In a decree composed in late December, 1695—six months after his conviction (the date of receipt is not listed)—the sultan ordered the governors of Crete and of Candia to “board him on a galley, when the opportunity arises, and send him safe and sound to Istanbul” for punishment, “because his transfer here is necessary.”<sup>108</sup> With language reminiscent of the *ahdnames*' provision that pirates captured by the Venetians be sent “safe and sound” to Istanbul for punishment so that they might be made into an example for others, the Ottoman center exercised its authority to punish prominent pirates itself.

Yet Crete was not simply ravaged by pirates and visited by travelers who already had been. It also supported its own anti-corsair corsairs. The line between a system of naval defense, which had clearly been lacking from the start of the war, and privateering was blurry. Semi-private concerns were, just as they had been over a century earlier during the Cyprus campaign, a cost effective means of ensuring a modicum of defense. Since enemy infidel frigates from Souda and beyond had been intercepting merchant shipping bound for Candia, Chania, and Rethymnon, in June of 1696, the central government ordered the governor of Candia to allow a certain Captain Mustafa from Monemvasia in the Morea access to the three old frigates lying in the port of Candia.

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<sup>107</sup> TAH 8, 56 (ZA/1106).

<sup>108</sup> TAH 11, 28-9 (15/CA/1107).

Mustafa had notified the Porte of the frigates' inactive presence and requested the right to operate them, which he was granted. Mustafa would repair, man, and employ the vessels to patrol the island and protect the sea lanes summer and winter.<sup>109</sup> Implicit in all this was that Mustafa, who was given access to the ships for free but would have to outfit them at his own expense, would be able to keep whatever prizes and booty he took in the process of defending Crete.

The war created all sorts of opportunities for piratical entrepreneurship. French participation, already noted in ransoming and the provision of local and long-distance transport, extended into this arena as well. A case from 1694 gives us a rare look into the organization of pirating ventures in the late seventeenth-century Ottoman Mediterranean and the pragmatic concerns of those involved, which transcended religious affiliation. It all started when a French merchant and ship captain named Renaud (referred to in the documents as “Ranav”), sued Captain Hasan, one of the Ottoman frigate captains active in patrolling the area and probably the same Captain Hasan who had captured and sold the fugitive Papa Georgi to Sefer Beşe several months earlier. In court, Renaud testified that:

“Four months ago (i.e., late June, 1694), according to the agreement (*temessiük*) in the aforementioned Captain Hasan's possession, we agreed that he would man my *saettia* (*şayta*—a fast, small to medium-sized vessel well-suited for coastal trading and raiding) and his two frigates with *levends* and we would sail to the Siteia coast to attack and fight the Mallorcan (*mayorken*) *saettia* that was pirating there. According to the agreement, if any damage were done to my *saettia*, he would give me 500 *guruş*, and if we captured the aforementioned Mallorcan *saettia* or his prize (i.e. a recently captured Ottoman ship) or his frigate or whatever other booty, half of whatever was taken would go to my *saettia* and half would go to his frigate and the *levends*. After this was said and decided and a group of Muslims witnessed it, we sailed to the aforementioned place where the Mallorcan robber *saettia* was. With a big battle and much slaughter, the Mallorcan abandoned the prize *saettia* and fled with his frigate. Thus, Captain Hasan took

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<sup>109</sup> TAH 11, 41 (8/ZA/1107).

the prize saettia with 8 enemy captives into his possession and after he brought them to Candia port, he sold the booty at auction for 1800 *guruş*. Of that 1800 *guruş*, the aforementioned Captain Hasan gave me only 170 *guruş*, sharing out the rest with his *levends* despite our agreement. I request that he be questioned and that justice be served in accordance with the document (*temessük*) in his possession.”<sup>110</sup>

After questioning, Captain Hasan responded that Renaud had accurately described their agreement and was correct that the sale of the prize ship, its cargo, and the slaves had totaled 1850 *guruş*, and he pointed out that they had done their accounting “in the presence of a group of Muslims and experts and together with the French consul.” However, he reminded Renaud that from this total, transfer costs and port fees had to be deducted which left only 1300 *guruş*, of which sum he said he had turned over half to Renaud—650 *guruş*—in that very courtroom. Renaud disputed this, but Captain Hasan provided witnesses who testified that the Frenchman had received his promised cut. Renaud was told to drop the matter, and the case was closed on October 20, 1694.<sup>111</sup>

In fact, the case was not quite so simple, for the cargo on the Mallorcan’s prize had belonged to a party of six Cretan janissary-merchants. Renaud may have agreed to lend his ship with the promise of easy money, but for Hasan and his compatriots, the motivation was more complex, a combination of the desire for profit but the need to rid the area of a specific threat. As Renaud’s statement makes clear, Hasan had specific intelligence that the Mallorcan pirate was off the coast of Siteia and had a prize ship in tow. He probably knew whose ship it was too. At the very least, he was clearly aware that the two frigates under his command were not adequate to the task of taking on the Mallorcan captain and his associates.

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<sup>110</sup> TAH 8, 20 (Evail/RA/1106).

<sup>111</sup> Ibid.

After the success of the expedition, the janissary-merchants demanded the return of their cargo of olive oil. It took some time to work out a solution, but a little over a month before Renaud's case was recorded—and therefore three months after the recapture of the prize from the Mallorcan—the janissaries came to the court of Candia to register the resolution to their dispute with Captain Hasan. They noted that, “after the Mallorcan saettia fled...when [Hasan] brought the [prize boat] to the port of Candia, since our goods onboard had not entered the *darülharb*, each of us sued.”<sup>112</sup> As we have seen, proving that a ship had or had not entered the *darülharb* was hardly straightforward, but since the Mallorcan pirate ship was still in Cretan waters when his prize was recaptured and there was no indication that it had been brought into any enemy port, the janissaries were well within their rights to demand its return. This of course would have rendered the privateering expedition with Renaud financially pointless (except for the value of the slaves), and the janissaries had to acknowledge that, if not for Captain Hasan and his partners, they would have nothing at all. Since the division of the shares had been previously arranged between Hasan, Renaud, and their men, it was determined through local mediation that in lieu of the return of their cargo, the janissary-merchants would share the proceeds from the sale of two of the Mallorcan slaves, totaling 350 *guruş*. In exchange, they agreed not to pursue any further claim against Captain Hasan.<sup>113</sup> They probably suffered some loss in doing so, but, like the merchants from Naxos who had endured a pirate raid en route to Istanbul and relied on a court-appointed mediator to distribute the burden equally among them, this was a pragmatic solution to the problem. The letter of Islamic law gave them some leverage over Hasan—because the ship and

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<sup>112</sup> TAH 8, 16 (Evahir/M/1106). Mid-September, 1694.

<sup>113</sup> Ibid.

their goods had not left the *darüislam*, they could reclaim them without cost—but actually proving their case would have been time-consuming and difficult.<sup>114</sup> Settling the dispute out of court through mediation made an accommodation possible that could not have been achieved before the judge (the janissaries would either prove their case and get their goods back or fail and get nothing) and acknowledged the perilous efforts of those they called “Muslim gazis.” Nevertheless, this means that, if the accounting presented in the documents was accurate and Hasan really did hand over 650 *guruş* to Renaud, then he and the *levends* he commanded had to make do with only 300 *guruş* split between them.

Putting aside the question of whether Renaud was being swindled or being greedy, the story raises a number of key points. One is the increasingly international character of piracy in the Eastern Mediterranean. As we have seen, the Ottoman court records normally refer to such characters only as “enemy infidels,” sometimes modified with a type of ship or the word “*korsan*” but often enough not. The entries relating to this expedition against the Balearic pirates tell us they were from Mallorca because it appears repeatedly in the principals’ statements and because the Ottoman-French privateering concern had this specific target in mind. This brings us to a second point: whether privateers or pirates, sea raiding was not necessarily haphazard, but rather was routinely planned in advance. The division of spoils and goals of the expedition were pre-determined and based on fresh intelligence concerning the location, course, and armament of the quarry.

More importantly, the case of Renaud and Hasan reflects both the deep involvement of the French in all aspects of late seventeenth-century Cretan commerce and the willingness of the resident French to cooperate in small-scale pirating ventures,

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<sup>114</sup> For the reasoning behind why they could theoretically reclaim their goods without cost, see Chapter 4.

even directed against their co-religionists. Renaud, it is worth noting, objected to not being paid enough but not to the sale of captured Catholic seamen in the slave market of Candia. Perhaps Renaud would play both sides of the coin and offer his services as a ransom broker to the enslaved Mallorcan pirates. After all, the French in Candia were already loaning money to Cretan Muslims to help liberate their own.<sup>115</sup> Regardless, the venture is intriguing, for Renaud provided the means for Cretan Ottomans to hunt down a lurking pirate ship, which made the Muslim *levends* who did it “*gazis*” in the parlance of the janissary-merchants and the court’s scribe. All benefited from the effort, both from the profits gained from the booty and from the temporarily reduced threat to merchant traffic and to the population resident in the area, unquestionably an ecumenical concern. Piracy had taken a severe toll on remote, poorly defended areas like Siteia, where the Mallorcan had been prowling: by this time, almost thirty years after the completion of the conquest, tax revenue from the district had dropped by 43 percent and large plots of land lay fallow.<sup>116</sup> The Ottomans, like the Venetians before them, simply lacked the resources to keep close watch over the vast stretches of Cretan coastline beyond the principal cities, but local government, paramilitary forces, and private investors could cooperate to mount an effective response to specific threats—especially if there was money to be made in the process. France was formally at war with Spain at this point. The Nine Years’ War (1688-1697) was ongoing, so Renaud could presumably legally engage in anti-Spanish privateering, but the cross-confessional dimension to this act of corsairing remains noteworthy, supplying further evidence that, at least in the Eastern Mediterranean, the vocabulary of intractable Holy War is insufficiently nuanced for the phenomenon.

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<sup>115</sup> TAH 8, 123 (15/N/1105). May 9, 1694.

<sup>116</sup> Greene, *A Shared World*, 68.

War in the Eastern Mediterranean formally ended in 1699 with the settlement at Karlowitz, though European privateering would resume in earnest, without the Ottomans, during the War of the Spanish Succession (1701-1713/4), and with the Ottomans and Venetians in opposition again from 1714-1718. Needless to say, the restoration of peace at the turn of the century did not spell the end of the pirate threat around Crete, which persisted irrespective of the wars intermittently raging on the continent. To bring us full circle, an entry in the Candia records from the early eighteenth century demonstrates how piracy can expose for us the confluence of local Ottoman judges, Aegean islanders, the Rumeli *kazasker*, the central government, the law and the sea.

In 1707, Mevlana es-Seyyid Yusuf was the *kadi* of Santorini. But he did not live there. The danger of being a prominent Ottoman functionary on a small, almost entirely Christian Aegean island frequented by pirates made the otherwise picturesque volcanic rock an unappealing place to live. He chose, instead, to reside in Candia during his tenure.<sup>117</sup> Nevertheless, in that year he found himself called upon to perform his judicial duties. A group of ten notables from the island, all *zimmis*, came by caique to Candia and told Yusuf that they had a suit waiting and asked him to come back with them to hear the case and decide it. Before departing, “in order that no harm might come from enemy infidels,” the notables were required to pledge themselves (*kefil*) as guarantors for Yusuf’s safety in “the court of the Muslims” in Candia. After this was done, Yusuf, his

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<sup>117</sup> Non-resident kadis were common in the seventeenth-century Aegean. Kadis were a permanent presence only on the larger islands (e.g. Rhodes, Chios, Mytilini, Andros), whereas those appointed to posts elsewhere were essentially traveling kadis who visited as necessary. As they were a visible, and often the only, Ottoman Muslim presence on many of the smaller islands, they were extremely vulnerable to Christian pirates and to the islanders who might, if angered, betray them to them. See Kermeli, “The Right to Choice,” 186.

small entourage, and the Santorine *zimmis* boarded the *caïque* and set sail. Santorini is roughly 130 kilometers from Candia. Today, the trip takes about three hours by ferry. In 1707, however, the journey could be the distance between freedom and slavery. Although the *caïque* traversed the Sea of Crete without incident, an enemy infidel *şayta* was lying in the port of Santorini when they arrived. Yusuf, his son, and four others who had accompanied him from Crete were taken captive, then sold to another set of “enemy infidels,” who brought them to Malta.

Two years later, the Maltese released Yusuf, probably so that he could arrange a ransom for himself and his compatriots. As Yusuf “left for the *dar-i Islam*,” his son and the four others remained behind on Malta. Once back in Candia, Yusuf informed the local government of the perfidy and injustices he had experienced. “In the legal manner,” he summoned his Santorine notable guarantors to the court in Candia and, to help resolve his case, he requested an imperial edict. Yusuf, having arrived in Santorini with 5-10 locals, clearly believed (perhaps not unfairly) that the men who had brought him to the island had given him to the infidels and should have done more to protect him; he probably suspected some degree of complicity. Between the outstanding business that Yusuf had originally been traveling to Santorini to decide and his own pending claim on the bond posted by the island notables, the Porte ordered him to stay put and, together with the governor of Candia, Süleyman Pasha, summon the Santorines to them. The cases that Yusuf, in his capacity as judge of Santorini, was supposed to have heard, he should now hear himself in Candia and decide them as required by Islamic law. As for the coming case involving the surety and his own captivity—and perhaps the question of whether anybody from Santorini deserved to be punished for allowing him to be captured—Yusuf

and the governor were to inform the Rumeli *kazasker*, Mevlana Ahmed, of the details of the case. The *kazasker* Ahmed would then send them his judicial decree (*'ilam*), in accordance with which justice would be done in Candia. The men were ordered to take pains that excessive demands for money not be made and that the islanders not be oppressed.<sup>118</sup>

Intriguingly, the sultan's decree was dated June, 1714—some six years after Yusuf had been captured and thus roughly four years after he had been released from Malta. Even allowing for the time it would take to compose a petition, dispatch it to the Porte and receive a response, this still leaves some unaccounted for years. It is thus safe to say we are missing an important part of the story, years in which Yusuf's son and his companions were still languishing in Maltese dungeons. Given Yusuf's unpleasant experience on Malta and the fact that he himself was both the judge for and a plaintiff against the inhabitants of Santorini, the Porte had a delicate and complicated situation to manage. Moreover, Santorini had evidently lacked a *kadi* this entire time; perhaps the islanders had had recourse to the court in Candia, but six years without a magistrate had undoubtedly created a backlog of litigation. Thus, Yusuf was being asked to again perform his duties as *kadi* of Santorini in spite of the long interruption caused by his captivity, but he clearly could not decide his own case, even as he still bore responsibility for applying the sentence. In an uncommon reflection of the inner workings of the Ottoman judicial hierarchy, we see how justice was triangulated across the sea between the imperial council, the local judge, and the *kazasker*. Even though Yusuf was in Candia, which of course had its own *kadi*, the Porte ordered the Rumeli *kazasker* to decide Yusuf's case remotely, and it expected Süleyman Pasha and Yusuf to apply his ruling.

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<sup>118</sup> TAH 2, 247 (Evahir/CA/1126).

Indeed, the *kadi* of Candia was not mentioned once in the imperial decree and presumably was to have no significant part in its implementation, though it was still copied (as most decrees were) into the registers of his court. We are left to wonder how exactly the *kazasker* could come to a decision regarding the case without being able to personally hear testimony. Nevertheless, the Porte's decree suggests that there were indeed procedures in place that enabled the empire's senior justice to be apprised of the details of complex interjurisdictional cases from a distance, allowing him to offer advisory rulings that could then be formally implemented, in accordance with the evidentiary standards of Ottoman Islamic law, by the local, subordinate *kadi*. Examining the consequences of piracy between center and periphery, therefore, exposes us to a whole side of early modern Ottoman justice and judicial structures about which, until now, we knew next to nothing.

## **Conclusion**

Ottoman court records provide us with our only source to retrieve the everyday experiences of Ottoman subjects and seaside communities affected by piracy. That the stories they tell are inevitably and inextricably bound up with the courts means that they also tell us a great deal about how piracy and law collided in the early modern Ottoman Mediterranean. Through them, we see how questions of jurisdiction were managed, how victims of piracy articulated their claims, and how the experience of and response to piracy manifested itself differently in different courts across time and space.

The consequences of piracy in the Mediterranean frequently washed up on the shores of the Marmara. Istanbul, as imperial capital and bustling port city, hosted more than its fair share of victims of pirate attacks who, willingly or not, arrived there despoiled or enslaved. As we have already seen, rising maritime violence in the seventeenth century led many to request *fetvas* from the *şeyhülislam* for guidance regarding their situations and the disposition of contested cargoes, ships, or slaves—*fetvas* which in their collected form helped provide guidance for others. For those with piracy-related litigation, however, the venue of choice in Istanbul became the Rumeli Sadareti Mahkemesi. The experience gained in handling such cases as Rumeli *kazasker* informed many of these jurists' later careers as *şeyhülislams*, familiarizing them with the myriad problems wrought by an increasingly turbulent sea.

Nevertheless, examining the adjudication of piracy-related cases in Ottoman courts exposes the gap between the theory espoused in the *fetva* collections and actual practice. The evidentiary requirements of Islamic law frequently frustrated the efforts of many plaintiffs affected by piracy who, time and again, found it difficult to substantiate their claims in Ottoman courts. This was especially true for the illegally enslaved, who needed Muslim witnesses to testify to their free origins. However, the rationale for going to court—that of the Rumeli *kazasker* in particular—could be more complex than the wish to win back one's ship, cargo, or freedom. As in the example of Manolaki veled Anton in 1617, who probably brought his fifteen year-old case to the court in order to tarnish the reputation of a rival, the motives of litigants in Ottoman courts were likely often considerably more complicated than they may appear at first glance.

In the Aegean, the courts of Andros and Kos provided venues for nearby monks to document their efforts to combat piracy and protect endangered Muslims. Doing so enabled the monks to perform their loyalty to the Ottoman sultan and interact with his government through the mediation of the local *kadi*. In an increasingly anarchic sea, such demonstrations of charity and kindness to Muslims in peril served as a subtle plea to Ottoman authorities to restrain their own naval irregulars who repeatedly, in times of war in the late sixteenth and seventeenth centuries, treated the archipelago like enemy territory. Indeed, the court-issued documents preserved on Patmos and Andros paint a picture of a maritime world in which predators big and small cruised the island sea openly and with impunity. The surviving record does not tell us how or if these Aegean courts handled disputes over stolen cargoes or prosecuted pirates, but it does reveal the striking similarities in the strategies the monks used vis-à-vis the courts, despite the differing nature of the pirate threats facing them.

Yet the legal, financial, and human impact of piracy in the seventeenth century appears most starkly in the court registers of Ottoman Crete. Victims and practitioners of maritime violence appear in abundance, alongside the local officials tasked with coastal defense against pirates and corsairs and the villagers caught in between the two. In addition to the disputes over stolen cargo that have their counterparts in the Istanbul courts, the Cretan registers reveal how the experience of sea raiding changed between periods of war and peace and the ways in which the local government's struggles to control the island's population, deter potential pirates, and punish others played out in the courts. They open a window onto the densely connected networks of merchants and ransom agents in the eastern half of the Mediterranean and Crete's key strategic position

therein. They show how the concerns of foreigners and locals coincided or clashed on the island and the great diversity of both pirates and victims in the region. Furthermore, they demonstrate how a great deal of the response to piracy and privateering was handled locally and without any interference from the center, but that in prominent cases, like that of Stratis in 1695, the sultan could and did exercise his prerogative to punish pirates in the imperial capital.

The records of Ottoman court encounters with piracy demonstrate convincingly that in the Ottoman Mediterranean, those who made use of the courts, whether Muslims, Christians, or Jews, often had access to significant knowledge of Islamic legal procedure and of the key questions—exemplified in the seventeenth-century *şeyhülislam fetva* collections—that would decide their cases. They thus positioned themselves strategically and made sophisticated arguments about the *darüislam* and the *darülharb* and the place of ships, cargo, and themselves in it. Ottoman political and military control of the Eastern Mediterranean maritime world was shaky and uncertain in the second half of the seventeenth century. What made this the Ottoman Mediterranean was not the actions of its navies or the faith of its inhabitants, but the fact that it was a unified, Ottoman legal space.

## Chapter 6

### Epilogue

On March 11, 1751, a lengthy decree arrived in Crete from Istanbul. Addressed to the pashas of Chania and Candia, the *kadis* of Chania, Rethymno, and Candia, and all the fortress commanders and relevant officials on the island, it was copied into the register book of the court of Candia upon its receipt. The imperial decree had been dispatched over two months earlier in late December, 1750, after meetings with the Venetian bailo, and it told a familiar story of piracy, slavery, and law transgressed in the Ottoman Mediterranean.<sup>1</sup> Earlier that year, 1750, two ships captained by Cretans had departed Chania and sailed for Tripoli. Their aim was to acquire Tripolitan flags—that is, to acquire license to practice the *corso* under the colors of Tripoli—and fighting men. There, they each embarked 300 *levends* on their ships and were joined by two more Tripolitan vessels, carrying 150 men apiece. The already formidable flotilla then rendezvoused with a formerly Venetian galleon, the “Askar Poline,” that had been captured the previous year by pirates from Tripoli in the waters of Lefkada (Ayamavra), the once dreaded Ottoman pirate stronghold in the Ionian Sea that had been, since 1684, a Venetian possession once more. Together the five fully-manned ships flying Tripolitan colors weighed anchor and sailed past Crete to prowl the waters below the Morea in

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<sup>1</sup> TAH 3, 332-5 (Decree dated Evahir/M/1164; arrived, 13/R/1164).

search of Venetian traffic coming and going from Cyprus and the Arab provinces “in the waters of my well-protected domains.”<sup>2</sup>

Ever since the repeated bombardments of Algiers, Tunis, and Tripoli in the last quarter of the seventeenth century, the North African port cities’ respective raiding activities had been severely curtailed.<sup>3</sup> The navies of France, Great Britain, and the Netherlands were strong enough to enforce the peace treaties that they imposed on the ports, and though they were sometimes breached, by 1750 Tripolitan corsairs were generally disinclined to pick a fight with any of these powers. But Venice still had no agreement with Tripoli, and she lacked the military strength to shell North Africa into compliance with the sultan’s *ahdname*, which Tripoli did not even pretend to respect. The ships of Venice were therefore a tempting target for those of Tripoli, the smallest and weakest of the “Barbary states.”<sup>4</sup> For a seafaring entrepreneur from Crete wishing to toe the line between *guerre de course* and outright piracy, sailing under Tripolitan colors made sense, in the same way that French pirate captains often obtained license from Malta or Corsicans from Livorno to legitimate their activities. The outstanding majority of maritime raiders of any faith or subjecthood looked for ways to position their activities within established legal norms, however tenuous, and the association with Tripoli, which thought of itself as at war with Venice, provided that legal cover. By this point, even

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<sup>2</sup> Ibid., 332-3.

<sup>3</sup> Panzac, *Barbary Corsairs*; Weiss, 72-91.

<sup>4</sup> On Tripoli in the eighteenth century, see Kola Folayan, *Tripoli during the reign of Yusuf Pasha Qaramanli* (Ile-Ife, 1979). In 1751, the same year the decree arrived in Crete, Tripoli’s frequent incursions into the Adriatic as part of its ongoing “war” with Venice led to armed (but mostly diplomatic) conflict between Venice and her sometime Adriatic rival, the Ottoman protectorate Dubrovnik, on which see Vesna Miović-Perić, “The conflict between Dubrovnik and Venice 1751–1754,” *Dubrovnik Annals*, 1 (1997), 71-96. The Ottoman administration in Istanbul was placed in the uncomfortable position of having to mediate between the competing claims of all three groups.

Ottoman subjects thought of Tripoli as an independent entity, rather than as a full-fledged province of the Ottoman sultan bound by his laws and diplomatic agreements.

During their joint cruise in the Ottoman Mediterranean, one of the Tripoli-flagged Cretan vessels, captained by Hanyalı Ismail (i.e. Ismail from Chania) unsuccessfully engaged one Venetian ship before capturing another that had been en route to Salonica in the waters off the Morea. He brought his Venetian prize back to Crete to share out the booty with the *levends* aboard his ship and his partners.<sup>5</sup> A little over a century after Maltese pirates stopped in Venetian-held Crete to divvy up the loot from a rich Ottoman galleon, provoking the Ottoman invasion of that island in 1645, Ottoman-North African pirates had done much the same thing with a Venetian prize on the same island. Sultan Ibrahim and his advisors had held Venetian authorities accountable for their failure to prevent the pirates from landing on a deserted stretch of the Cretan coast, and it was widely believed in Istanbul that Venetian officials had colluded with them. Now Venice could level similar accusations against the Porte for its subjects' breach of the treaty in Crete, though there was no question by this point of a Venetian military response. Like Venice in 1644-5, Istanbul in 1750 had limited capacity to prevent pirates, local or long-distance, from stopping in Crete. And there were more on the way. Hanyalı Ismail was just one in a recent upsurge of Cretan-cum-Tripolitan anti-Venetian piracy. At the same time, a captain named Giridli Hüseyin (i.e. Cretan Hüseyin) had had a 44-gun galleon built on the island and filled it with a complement of 300 Cretan *levends*. His plan was to intercept Venetian ships and merchants coming to and from Ottoman domains, to capture and enslave them, and make them "disappear."<sup>6</sup>

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<sup>5</sup> TAH 3, 333.

<sup>6</sup> Ibid.

Once the Venetian bailo in Istanbul learned of the recent predations of the Cretans, he followed the procedure that had been established for well over two hundred years. He submitted an official, sealed document to the Ottoman government recounting what had happened in Ottoman waters in violation of the peace and “in contravention of the imperial *ahdname* and the conditions of the noble *nişan*,” that is, the 1670 edict that had constituted the last major development in Ottoman anti-piracy law. The result was the Ottoman decree to the entirety of Cretan officialdom, ordering them to resolve the problem and respect the provisions of the *ahdname* and anti-piracy decrees, the substance of which it recapitulated at length. In spite of two wars (1684-1699; 1714-1718), the last ever fought between the Ottoman Empire and Venice, and the passage of eighty years, Ottoman-Venetian maritime law had hardly changed since then. Neither side was to do damage to the provinces and people of the other, compensation was to be provided when such damage did occur, and both sides’ merchants and ships were to be able to travel freely, in accordance with “ancient custom.” The long-established provisions promising that when cruising *korsans* came to Ottoman ports, they would not be allowed to harm Venetian interests, that they would be required to post bonds to ensure good behavior, and that those who violated these rules would be arrested and punished—all were repeated, along with Venice’s right to pursue and destroy North African pirates.<sup>7</sup>

Istanbul, besides reminding the recipients of long-standing policy, ordered them to seize those Cretans who dared to venture out to sea to attack Venetian subjects and ensure that the requirements of the *ahdname* be fully upheld. This was a task that required the involvement of the upper echelons of the island’s administration, but the order was directed especially at the fortress commanders and port officials who had

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<sup>7</sup> Ibid., 333-4.

permitted the construction of a heavily armed pirate galleon without authorization. Warships could not be built without the permission of the center. In the late sixteenth and seventeenth centuries, pirates on the Adriatic and Ionian coasts had frequently flouted these rules and built small frigates with which to raid, and it had only been after 1670 that the central administration had gone so far as to order all ship-owners on the Adriatic to register their craft with the government and provide bonds to prevent them from engaging in unauthorized raiding. But here, in 1750, a Cretan captain was overseeing the launch of a 300-man, 44-gun sailing ship—not a small, hastily constructed coastal cruiser—in the harbor of Chania. This vessel, to which local authorities had evidently turned a blind eye during its likely lengthy construction, was ordered by the sultan to be destroyed “since it was built without a noble order.” If, however, the galleon was already at sea, it was to be captured and sent to the imperial arsenal in Istanbul, where undoubtedly the sultan could find a better use for it. As for the captain “who dared to build it,” he was to be arrested and punished.<sup>8</sup>

Given that it was open season on Venice in Tripoli, the Porte ordered that anything arriving from the North African port be inspected upon arrival in Crete to be sure it did not belong to Venice. More importantly, the Porte ordered that no Ottoman subject be permitted to travel with his ship to Tripoli in order to obtain a flag, lest he take up arms against Venice and damage the “friendship” that existed between the two states. The Porte dispatched a decree to the same effect to the governor (*beylerbeyi*) of Tripoli, ordering him not to give privateering licenses to Ottoman subjects who arrived in Tripoli desiring to raid under Tripolitan colors.<sup>9</sup> Such an order, predictably, would have no

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<sup>8</sup> Ibid., 334.

<sup>9</sup> Ibid.

impact, for Tripoli had become even more independent than it had been during the late sixteenth and seventeenth centuries since the establishment of the Karamanlı dynasty in 1711.<sup>10</sup> By this point, then, the vexing question of the legal status of the North African ports—rebellious dependencies or independent sovereign entities?—that had troubled Ottoman and European jurists since the late sixteenth century was, at least in the case of Tripoli, somewhat resolved. In its own decree to the Cretan government, the Sublime Porte wrote of when “one of the subjects of my exalted state” (*devlet-i aliyeme tabi’lerinden biri*) went to Tripoli, implying in no uncertain terms that Tripoli and its people were not themselves at the time considered to be the sultan’s subjects.<sup>11</sup>

The incidents of 1750, involving Ottoman-subject pirates from Crete raiding Venetian ships for booty and captives under the guise of the Tripolitan *corso*, permit a valuable retrospective on the legal and administrative dilemmas posed by piracy in the Ottoman Mediterranean, even after the passing of its heyday. The words of the sultanic decree were quite deliberate, referring more than once to the “waters of my well-protected domains” when referencing the location of the pirate attacks, and making mention only of the prize taken by the Cretan—and thus indisputably Ottoman—captain. If any prizes were taken by the Tripolitan component of the flotilla, they were not mentioned. This reflected the more or less openly recognized independence of eighteenth-century Tripoli, but also the developments of seventeenth-century Ottoman inter-state piracy law which, by 1670, excluded the *korsan* of North Africa from the protections of Ottoman subjecthood and largely absolved the Ottoman sultan of responsibility for their activities except when they brought prizes or captives taken from

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<sup>10</sup> Folayan, *op. cit.*

<sup>11</sup> TAH 3, 334.

protected nations into Ottoman (excluding North African) ports. Pirates who did so were to be punished, illegally enslaved persons in their possession freed and wrongfully taken goods returned, but it was Venice's right and sole responsibility to defend her ships from pirates on the high seas.

Whereas the Cretan, Ottoman-subject mariners' participation in piracy and unauthorized construction of ships were considered to be crimes punishable by the Ottoman government, and the Cretan authorities were responsible for ensuring that the Venetian prize Hanyalı Ismail brought there be returned, the Tripolitan corsairs' violation of Ottoman territorial waters by seizing Venetian ships there—rather than the seizure itself—was viewed as their primary offense. Similarly, by the late seventeenth century, the Ottoman government had taken an increasingly dim view of French and English privateers conducting raids on the other state's shipping inside Ottoman harbors or near Ottoman coasts and had threatened both countries' merchants with dire consequences if they did not keep their maritime war confined to the high seas. In this case, the same views were expressed vis-à-vis Tripoli.

Ottoman obligations to protect Venetian shipping and provide restitution—as with the growing number of other states with which the Ottoman Empire now maintained diplomatic relations—extended only a few miles out to sea from Ottoman coasts. This understanding, dating back at least to 1670, was broadly consonant with the international maritime usage of the day and was the logical conclusion to the two hundred-year evolution of Ottoman anti-piracy law. What had begun in 1482 as a mutual agreement to suppress the predations of marauding “robber ships” had developed over time into a comprehensive system designed to meet the challenges of a sea that played host to a far

more diverse range of pirates and privateers than previously and where ubiquitous small-scale maritime raiding, once a side show during the almost continuous naval campaigns that had been the norm until 1574, had become the predominant form of seaborne conflict.

The Cretan, Ottoman-subject Muslims' decision to become anti-Venetian privateers with Tripolitan commissions in 1750 was echoed later in the century in a fashion far more disturbing to Istanbul. During the repeated conflicts with Russia in the eighteenth century, significant numbers of Ottoman Greeks obtained privateering licenses from Russia and began attacking Ottoman shipping. The question of whether these Ottoman-subject Greeks should be treated as pirates and traitors, lawful enemy combatants, or something else was only decisively answered during the 1787-1792 conflict, when Sultan Selim III's government chose the former path and executed Greeks as pirates in large numbers—even as they held other foreigners with Russian commissions as prisoners-of-war.<sup>12</sup> It was clear that Mediterranean maritime violence could still pose new and difficult legal questions.

For the most part, however, the internal Ottoman law surrounding piracy and amphibious slave-raiding that had its genesis around the turn of the seventeenth century had solidified by the early to mid-eighteenth century. This coincided with the downturn in the severity of the pirate threat during that period, but it was also part of a larger process in which the production of new *fetva* collections from the opinions of a single, recent *şeyhülislam* was replaced by a growing tendency to assemble new compilations from the “classic” opinions of multiple, earlier *şeyhülislams*. Although sitting

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<sup>12</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” (Ph.D. dissertation, Cambridge University, 2012), Chapter 5.

*şeyhülislams* continued to issue *fetvas* daily and to offer their opinions as jurisconsults to the imperial council, the extent to which they might influence judicial practice in the empire through their collected oeuvre declined sharply by the middle of the century. Over the course of the seventeenth century, however, the *şeyhülislams* had responded dynamically to the challenge of an increasingly chaotic sea, providing a beacon of legal guidance for those sailing into the murky waters that separated *darüislam* and *darülharb*. Whereas their sixteenth-century juristic predecessors—much like the contemporary Ottoman-Venetian *ahdname* drafters—had compiled collections suited to an age of large-scale galley conflict and booty acquisition through fleet actions, the jurists of the seventeenth century had to respond to the real-world problems of Ottoman Muslims, Christians, and Jews and resident foreigners trading and traveling in anarchic, pirate-infested seas.

The results of their efforts defy simple divisions of the early modern Mediterranean into opposing Muslim and Christian spheres, for the inner sea was home to multiple, overlapping legal orders, and Ottoman law, with its mix of secular and Islamic elements and internal and inter-state codes, was itself a plural legal system. Against the predations of pirates—unpredictable third-parties—Ottoman jurists and administrators were forced to define what constituted legal and illegal sea-raiding and to promote the importance of juridical subjecthood over confessional identity of victims as the primary category separating the two. The challenges inherent in enforcing this policy in a Mediterranean world in which the enslaveable enemy and the protected subject—neither of whom carried a passport or identity card—often worshipped the same way and spoke the same language; in which the sea could ostensibly cleanse the victim of his or

her subjecthood; in which the identities and allegiances of pirates themselves were fluid; and in which prizes and slaves taken at sea might change hands multiple times before entering port were great indeed. Detailing the Ottoman efforts to respond to these kinds of legal and administrative challenges and their ramifications for individual victims of piracy in ports and courts across the Ottoman Mediterranean has been the primary aim of this dissertation. Piracy, catalyst of war, inspiration of law, helped to make the eastern half of the inner sea the Ottoman Mediterranean through the endless cycle of catch and release that it spurred.

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