

**From Commercial Custom to International Law:  
The Shrinking Business of Ottoman Captivity, 1730s-1870s**

Will Smiley  
Yale Law School

Abstract

In recent years, scholars of the Mediterranean, Middle East, and Eurasia have challenged the predominant “clash of civilizations” narrative, by showing myriad connections between societies and cultures of the Ottoman Empire and its Christian neighbors. One such connection came through captivity: the ransom, exchange, and enslavement of captives formed a system of multi-religious, multi-lingual, multi-ethnic commerce which linked Ottoman frontier populations with their Habsburg and Romanov neighbors. My paper will explore the decline of this system in the Ottoman Empire in the eighteenth and early nineteenth centuries. The frontier law which had regulated the *commerce* of captivity, I argue, was replaced by an inter-imperial law regulating the *politics* of captivity—a change which was not without cost for captives.

I begin by sketching the complex business which connected captors, captives, and their families through networks of profitable brokers and intermediaries. These networks were regulated by elaborate systems of customary law, worked out between different cultures, religions, and formal legal systems.

Using Ottoman, Russian, and British archival sources, I show how this system was challenged, beginning in the 1730s, by an increasingly robust system of treaty law between the Ottoman, Habsburg, and Russian central states. Most notably, treaties abolished the payment of ransoms—the linchpin upon which the commerce of captivity depended, as it provided profits for both captors and intermediaries. Using an anecdote from Ottoman Bosnia, I suggest that those intermediaries were crowded out, as captives’ political identities became more important than their individualized values for sale or ransom. One result was a recognizable modern “prisoner of war” system, and steadily improving treatment for Russian soldiers captured in battle.

This de-commodification, however, did not mean that warfare in the Ottoman-Russian or Ottoman-Habsburg borderlands became any less brutal overall. Instead, violence shifted to those captives who had no political value to replace their lost economic value: rebellious Ottoman subjects, at first men but later women and children as well. By the early nineteenth century, the Ottoman state unleashed irregulars against Serbs and Greeks, and later, against Bulgarians and Armenians. The de-commodification of captivity left those outside the strict control of the central state with no incentive to keep captives alive. This story suggests, then, that the de-commodification of captivity served to shift, more than to curtail, the brutality of warfare in the Ottoman Empire, and especially its borderlands.