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## THE BURDENS OF SUBJECTHOOD: THE OTTOMAN STATE, RUSSIAN FUGITIVES, AND INTERIMPERIAL LAW, 1774–1869

### Abstract

This article analyzes the changing treaty law and practice governing the Ottoman state's attitude toward the subjects of its most important neighbor and most inveterate rival: the Russian Empire. The two empires were linked by both migration and unfreedom; alongside Russian slaves forcibly brought to the sultans' domains, many others came as fugitives from serfdom and conscription. But beginning in the late 18th century, the Ottoman Empire reinforced Russian serfdom and conscription by agreeing to return fugitives, even as the same treaties undermined Ottoman forced labor by mandating the return of Russian slaves. Drawing extensively on Ottoman archival sources, this article argues that the resulting interimperial regulations on unfreedom and movement hardened the empires' human and geographic boundaries, so that for many Russian subjects, foreign subjecthood under treaty law was not a privilege, but a liability.

In June 1822, Mehmed Selim Pasha, as governor of Silistre Province, was responsible for guarding the Ottoman Empire's long border with Russian Bessarabia. Just across that border lay the Russian army, which had defeated the sultans' forces time and again, and tensions between the two empires were running high that summer, in the midst of a revolt by Ottoman Greeks that the Sublime Porte believed Russia was supporting. But for the moment, the two empires were at peace, and Mehmed Selim faced a different problem: Russian soldiers were coming across the border, not as massed invaders, but "in threes and fives," as fugitives. As Mehmed Selim explained to his superiors, they had "long before" been forced into the Russian army, but now sought refuge by fleeing to the Ottoman Empire. This was not a new situation; two years earlier, Mehmed Selim had received orders to return such deserters to Russian officials—who were usually eager to receive them. But now, he requested new orders from the Porte, which soon commanded him to wait for a time, "looking the other way" (*iğmaz-ı ayn*) from the soldiers' flight.<sup>1</sup>

Mehmed Selim's dilemma contradicts two common views of the 19th-century Ottoman Empire: that its legal engagement with foreign subjects was primarily a matter of granting them privileges through extraterritoriality; and that its foreign relations were conducted reluctantly and under pressure, especially from Russia.<sup>2</sup> Here, the Ottoman

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state sometimes acquiesced to, and occasionally resisted, Russian requests to act on Russian subjects against those subjects' will. The legal evolution that created the framework in which Mehmed Selim and these soldiers acted is a story of identity as constraint rather than license; of the hardening of both geographic and human boundaries; and of imperial collaboration in controlling unfree labor.

From the late 18th through the mid-19th century, the Ottoman and Russian empires drew on Islamic legal traditions, commercial treaties (capitulations), and peace agreements to construct a framework that, officially, put an end to the centuries-old tradition of fugitives from Russian service seeking asylum in the sultans' domains. For the most part, these agreements targeted military deserters, but they also covered fugitives from serfdom and other forms of service. Their enforcement, whether against large groups or, more commonly, a single individual, depended on defining and proving Russian subjecthood. But, while French or British subjecthood carried more benefits than costs, affording special treatment in the Ottoman legal system, Russian subjecthood was, for many of that empire's natives within the Ottoman Empire, more a burden than a blessing. Based primarily on documents from the central Ottoman archives in Istanbul, this story sheds light on the changing relationship between subjects, their states, their labor, and the law, and on the process of demarcating human and geographic boundaries between states in the interimperial context of the Black Sea.

#### FOREIGN RELATIONS AND FLIGHT FROM SERVICE

The legal relationship between the Ottoman Empire and the maritime Christian states of western Europe was long regulated by commercial agreements, the capitulations. These treaties (which were initially temporary and renewable, but became permanent in the mid-19th century) granted French, British, Dutch, and other foreign subjects, and their Ottoman-born protégés, privileges that included lower tariffs, immunity from the *cizye* tax levied on non-Muslims, and the right to remove their disputes from Ottoman *kadi* courts. In much of the existing historical literature, this is told as a story of privilege, accorded to a small number of relatively wealthy foreigners who were clearly outside Ottoman society in their language, dress, and religion, but who were given a special place within the Ottoman legal system through the capitulations.<sup>3</sup>

However, most residents of the 18th- and early 19th-century world were less fortunate, and few were free in any modern sense.<sup>4</sup> In a world of increasing mobility, fraught legal questions arose when slaves sought freedom by crossing imperial or domestic boundaries in the Anglo-American, French, and Iberian Atlantic world.<sup>5</sup> Such questions were also relevant to many who were not legally slaves. As Alessandro Stanziani has argued, "the range of forms of labour expressed a continuity. There were subtle gradations, rather than an outright opposition, between free and forced labour."<sup>6</sup> Russian serfdom is the most famous of such intermediate forms of labor,<sup>7</sup> but most 18th-century militaries also depended on unfree labor, in the form of conscripts. It was common for European Christian states to reinforce each other's conscription systems through peacetime agreements (cartels) to return deserters. States also returned deserters, along with prisoners of war, when conflicts ended, and sometimes through formal extradition treaties in peacetime.<sup>8</sup>

Russian conscription was renowned as particularly harsh. Conscripts, chosen by lot from the pool of eligible young men, were often considered dead by their families,

because service was lifelong. (It was shortened to twenty-five years in 1793, which still amounted to a lifetime for many.<sup>9</sup>) Even for those not in the military, serfdom and other legal mechanisms meant that “[e]very Russian was bound to his or her recorded residence, and it was a crime to be somewhere else.”<sup>10</sup> The result was a phenomenon of “flight” (*begstvo*)—the “unauthorized departure by all those bearing a tax burden or in enserfed dependence, the condition of all peasants and townspeople.”<sup>11</sup> The Russian state worried constantly about flight, both military and civilian, because it deprived the state of manpower and taxes, landlords of labor, and both of the ability to impose even greater demands on the populace.<sup>12</sup>

Many fugitives took shelter with Cossack hosts who resided south and southwest of the Muscovite heartland, but imperial decrees followed them. The Don Cossacks were repeatedly ordered to give up fugitives, and soon this became a condition of the “deal” by which Cossack elites maintained their power and autonomy within the empire.<sup>13</sup> Control over flight and migration advanced “the privileges of both [Cossack and central elites] at the expense of ordinary Russians.” Ordinary Cossacks, though not enserfed or conscripted, “were unfree in a different way. They each owed a lifetime of service to the tsar and empire.”<sup>14</sup> As the center tightened its control over the Cossack hosts, they too sometimes fled, especially after Catherine the Great (r. 1762–96) dissolved the Zaporozhian *Sich* in 1775.<sup>15</sup> The Ottoman Empire was a major destination for these fugitives, as it was for large groups of Nekrasovtsy/Old Believers; there may have been 10,000 Russian speakers in the Ottoman Balkans by the early 19th century.<sup>16</sup> Their presence attracted more fugitives; indeed, the Transdanubian (*Zadunaitsy*) Cossacks “actively encouraged” migrants to join them.<sup>17</sup> In addition to these border crossings, it will be seen below that even in the Ottoman capital of Istanbul, servants accompanying Russian diplomatic missions sometimes deserted and stayed in Ottoman territory.

The Russian state faced a similar problem on its western frontiers, where Polish landlords attracted the labor of Russian fugitives through lower taxes and the absence of conscription. Here, as in the southern borderlands, the Russian state sought “to close the frontier and thereby to enable the Russian government to impose heavier burdens on subjects who could not escape.” Robert E. Jones argues that Russia participated in the 1772, 1793, and 1795 partitions of Poland partly to eliminate the threat of flight.<sup>18</sup> Indeed, the Russian army conscripted deserters found in Poland during the partitions, and in 1783, a special military expedition sought out fugitives and intimidated Polish landlords.<sup>19</sup>

The Ottoman Empire, like Poland, had neither a conscript army nor a large unfree agricultural population, and therefore had little incentive to participate in reciprocal agreements for the return of deserters.<sup>20</sup> But the Ottoman Empire did have its own large-scale system of forced labor, in the form of household and galley slavery, and many Ottoman slaves were originally Russian subjects.<sup>21</sup> The risk of enslavement, coupled with religious differences, may have made the Ottoman Empire less attractive than Poland to Russian fugitives, but they came nonetheless. As late as 1841, Russian soldiers in the Caucasus deserting into Ottoman territory were directly enslaved after crossing the border, “literally walk[ing] into slavery.”<sup>22</sup> Some may have preferred life in Ottoman captivity, while others may have hoped eventually to escape back to Russia, knowing that tsarist law freed any serf who returned from foreign captivity.<sup>23</sup> Russian slaves were common in the Ottoman Empire through the late 18th century, and indeed

slavery was one of the primary ways in which the two empires' histories were linked. Tatar slave raids into Russian territory helped prompt a number of conflicts between the two empires, and until 1783 it was the treaties ending these wars, rather than commercial capitulations, that legally regulated Russo-Ottoman relations.

By the end of the 18th century, this treaty law increasingly served not to link separated populations (as did the capitulations with western European states) but rather to divide populations with long historical ties, by regulating the unfree labor that helped form such ties. From 1739 onward, these agreements abolished the practice of paying ransoms for captives held in private hands, putting the burden on the Ottoman state, after each war, to coerce its own subjects to give up their slaves.<sup>24</sup> In the 1740s, 1770s, and 1790s, Ottoman commissioners and Russian dragomans went door-to-door in Istanbul, while messengers carried liberation decrees down the main military routes of the empire. The treaties exempted converts to Islam from return, which led the states to define new, politically simplified tests for conversion. It will be seen that the two states, in these same treaties, deployed the same legal and diplomatic tools to regulate cross-border military deserters and civilian fugitives (*firaris* in Ottoman) from Russian state and private service.<sup>25</sup>

#### THE EVOLVING TREATY FRAMEWORK

This process began during the reign of Catherine II. Inspired by a "populationist" imperial ideology, she sought settlers for the southern territories of New Russia acquired after her forces' triumph over the Ottoman Empire in the 1768 War (which ended in 1774) and the resulting Treaty of Küçük Kaynarca.<sup>26</sup> Among a diverse array of settlers, some were slaves freed from the Ottoman Empire,<sup>27</sup> while others were returning fugitives. To advance this policy, Catherine issued an amnesty in 1779, which became the model for a series of proclamations in 1782, 1787, 1793, 1801, and 1814. Those who returned would be pardoned, she decreed, and would have the freedom to choose their "way of life."<sup>28</sup> In the Convention of Aynalı Kavak, signed in March 1779 to clarify the borders set at Küçük Kaynarca, the Ottomans agreed to hand over those Zaporozhian Cossacks who wished to take advantage of the amnesty.<sup>29</sup> Those who desired to stay in Ottoman lands were to be moved deeper inland, away from the Danube and the Black Sea—perhaps to prevent these remaining fugitives from attracting others to join them. Not all Cossacks were in fact forced to relocate, but later in 1779, perhaps under official pressure, some petitioned the Porte to be resettled away from the Danube, for example in Greece.<sup>30</sup>

If amnesty constituted a "carrot" for fugitives, the Treaty of Küçük Kaynarca also gave the Russians a "stick" to use against them. Article 2 of the agreement provided that, after the exchange of ratifications, neither empire would accept, or allow to take refuge, any subject of the other state who had committed a crime, "disobedience, or treason." Each state would return, or at least expel, any fugitives who did enter its territory, upon the other state's request. The treaty exempted those Christians who converted to Islam in the Ottoman Empire, and those Muslims who converted to Christianity in the Russian Empire.<sup>31</sup> This conversion exception paralleled that of the treaty's Article 25, which required the return of all captives and slaves, except for converts.<sup>32</sup>

With both carrot and stick in hand, the Russians pushed their fugitive-recovery campaign into the Ottoman tributary principalities of Moldavia and Wallachia. In 1782,

they established the first foreign consulate in Bucharest, under a diplomat of Georgian descent named Sergei Lashkarev. It was probably not a coincidence that Lashkarev, who spoke Ottoman Turkish, Persian, and Arabic, had previously served as a dragoman attached to the embassy in Istanbul, where he enforced the Treaty of Küçük Kaynarca's provisions for the freeing of slaves. Accompanied by a team of Ottoman commissioners, Lashkarev had spent 1774–75 searching Istanbul households, finding and freeing thousands of Russian and other Christian captives (after certifying they had not converted to Islam), over the objections of their Muslim, Christian, and Jewish owners.<sup>33</sup> Now, in the principalities, he again sought to retrieve Russian subjects—but here, those subjects had come to the sultan's lands by their own volition, not as slaves.

Toward the end of 1782, Lashkarev sojourned for two months in the Moldavian capital of Jassy/Yaş/Iași, near the Russian border. There, he gathered at least 132 Russian subjects, “mostly deserters,” who wished to take advantage of the amnesty, and he secured orders from the Porte for local Ottoman authorities not to interfere with their return.<sup>34</sup> When dealing with fugitives who had arrived after peace was made, and who did not accept the amnesty, Lashkarev could also draw upon the treaty to mobilize the Ottoman state to coerce the fugitives.<sup>35</sup> For example, probably at his request, the Russian envoy to Istanbul, Yakov Bulgakov, informed the Porte in April 1782 that two cavalymen and one infantryman had deserted to the Ottoman town of Balta, where the Ottoman *kaymakam* had sent them to the fortress of Bender to serve as artillerymen. Based on Article 2 of the Treaty of Küçük Kaynarca, Bulgakov requested their return, and the Porte accordingly sent orders to the authorities in Bender—who reported that they had searched for these men unsuccessfully.<sup>36</sup> In mid-1783 the Ottomans sent similar orders for the return of fugitive Don Cossacks to the fortress towns of İsakçı, İsmail, Özü, Hoca Bey, İbrail, and Tolçı—and again, the authorities found none.<sup>37</sup> Whether this was true, or simply a way for the local Ottoman commander to retain the services of trained military men in his retinue, the Porte had clearly established that it was willing to use the terms of the Treaty of Küçük Kaynarca against Russian military deserters whose border-crossing was not an attempt to escape after committing a crime, but was itself the crime.

These principles, worked out in the immediate aftermath of the Treaty of Küçük Kaynarca, remained the legal framework for fugitives well into the next century, even as other agreements built on them. In 1783, Sultan Abdülhamid I (r. 1774–89) officially granted commercial capitulations to Russia for the first time, and these again contained provisions about flight. Article 2 of the capitulations specified that both sides' subjects who “fled from service or from a ship” were to be returned immediately, unless they had converted to the dominant religion of their new state after deserting.<sup>38</sup> While all capitulatory states theoretically received the same privileges—the early modern equivalent of “most-favored nation” status<sup>39</sup>—the wording of this provision makes clear what was at stake in the Russo-Ottoman context. A 19th-century French translation refers to “any of the subjects or any sailor” (*quelqu'un des sujets ou quelque matelot*), but the officially approved Russian text is sharper, dealing with any “servant or sailor” (*sluzhitel' ili matros*).

The Ottomans and Russians returned to war in 1787, but the peace Treaty of Jassy, signed 9 January 1792, explicitly renewed both the Treaty of Küçük Kaynarca and the capitulations—and thus, the Ottoman state's commitment to return fugitives.<sup>40</sup> In July 1793, the voyvoda of Moldavia wrote to the Porte, noting that in addition to Poles and

Habsburg subjects from the Bukovina (annexed from the Ottoman Empire in 1775) who were migrating into his territory, forty Russian soldiers had crossed the Dniester River, fleeing their posts. The Russian consul in Yaşı, Ivan I. Severin, requested the return of these deserters. The voyvoda noted that the Porte had previously instructed him to return fugitives who came before peace was made, but had said nothing about those who arrived after the treaty. (He was apparently confused about the relevant treaty law, because the Treaty of Küçük Kaynarca explicitly referred to fugitives arriving in peacetime.) Grand Vizier Melek Mehmed Pasha rather ambiguously commanded that orders be issued “according to the treaty,”<sup>41</sup> presumably meaning the voyvoda was told to send back these forty soldiers. The fact that the voyvoda took it for granted that deserters who came *during* wartime would also be returned suggests that the Treaty of Küçük Kaynarca (as renewed at Jassy) was interpreted to mean that, in peacetime, any Russian subject who had arrived since 1774 was to be returned.

Indeed, as the Russian army withdrew from Moldavia after the 1787 war, the Russian chargé d'affaires in Istanbul, Aleksandr Khvostov, made repeated requests for military deserters and “others” who remained behind to be handed over to Severin. The Porte responded with orders to the Moldavian voyvoda, in early 1793, in the fall of 1794, and again in the summer of 1795, quoting not only the Treaty of Küçük Kaynarca’s extradition provisions, but also the portion of Jassy that required the release of slaves<sup>42</sup>—perhaps suggesting that some deserters might have been enslaved.

As the 19th century dawned, the Ottoman and Russian empires became allies for the first time, in response to the French invasion of Ottoman Egypt in 1798.<sup>43</sup> Even before the Russian Black Sea squadron passed through the Bosphorus to aid the Ottomans in September 1798, the Porte reiterated its promise to return any deserters.<sup>44</sup> This was made explicit in two formal treaties of alliance, signed in 1799 and 1805.<sup>45</sup> Because desertion from the Russian military would weaken the allied forces, the treaties declared, deserters would be arrested without excuses by the Ottoman authorities. Converts to Islam were again exempted. The Porte sent orders to officials around the Aegean to enforce the agreement.<sup>46</sup> The peaceful presence of Russian ships in Ottoman waters was exceptional, but these rules resembled the general principle, in western European international law, that forces passing through a friendly country remained under their own officers’ authority, and were not subject to the host country’s laws.<sup>47</sup>

Overall, however, it was the Treaty of Küçük Kaynarca’s terms that regulated the more common questions that arose when fugitives crossed the two empires’ land borders. The Porte repeatedly cited the treaty’s provisions, both explicitly and implicitly, during this period. In early 1799, the Ottomans ordered Mehmed Pasha, commandant of Hotin, to return all Russian subjects who arrived, in accordance with the “border law” (*hukuk-ı hemcivariye*).<sup>48</sup> A year later, Russian diplomats in Istanbul complained that their consul in Moldavia had learned that twelve Cossacks in military service had crossed the Danube, under the pretense of a fishing expedition, and the Porte accordingly ordered the commandant of İsmail to return these men and other deserters.<sup>49</sup> The return of deserters became, it seems, fairly routine—so much so that el-Hac Hasan Ağa, an Ottoman official sent to return deserters along the border in 1804, complained to the Porte that, because the Russians were negligent (*tekasül*) in guarding their border outposts, soldiers deserted across the ice every winter.<sup>50</sup> In other words, Hasan apparently felt that if he was to bear the burden of finding and returning Russian deserters, the Russian state

should at least minimize that burden by preventing its soldiers from deserting in the first place.

Hasan's frustration was likely shared by other local officials, from whom the Porte demanded significant efforts, as it granted Russian demands to conduct sweeping searches of border districts between 1799 and 1804—not only for military deserters, but also for civilian fugitives.<sup>51</sup> The commandant of Hotin reported in January 1799 that, in accordance with orders, he had found 788 Russian subjects in his district—211 men, 185 women, and 392 children, most of them in family units. He handed them over to Russian officials, and promised to do the same for any who might arrive in the future.<sup>52</sup> But Russian officials believed this was only the beginning. In August, the Russian commander at Kamianets-Podilskyi/Kamenice sent an envoy to the voyvoda of Moldavia, complaining that over 7,000 Russian subjects were on Moldavian soil and should be returned. The voyvoda protested that this number was an exaggeration, and that many had already been returned. Again in 1802, Hotin commandant Ahmed Pasha reported that Russian officers claimed there were up to 2,000 fugitives residing in and near his city.<sup>53</sup>

The Ottoman and Russian empires again went to war in 1806, and now the Ottomans were happy to welcome deserters from the enemy army; in just the first few weeks of the war, the commandant of Silistre/Silistria reported, seventy to eighty deserters arrived in his lines.<sup>54</sup> But the 1812 Treaty of Bucharest restored both the peace and the laws against flight.<sup>55</sup> Russian petitions and Ottoman orders to border authorities from 1814, 1815, and 1820 show that the Ottomans resumed their obligations to find and return deserters, whether they had come during the war or arrived afterward.<sup>56</sup> These obligations were stated explicitly and implicitly; in discussions, the Porte referred to the wording of the treaties of Bucharest and Küçük Kaynarca, while the Russians invoked “law” (*hukuk*) and “neighborliness” (*hemicivariyet*) more generally.

Sultan Mahmud II (r. 1808–39), though, questioned the Russians' own “neighborliness” when Greek rebels led by Georgios Katakouzinos fled to Russian Bessarabia in 1821, following a failed uprising in Moldavia. As other Ottoman Greek subjects took up the cause of rebellion, and the conflict grew into the Greek War of Independence (1821–30), Ottoman officials suspected Russian involvement—especially as Russia refused to reply to repeated Ottoman requests to return Katakouzinos and his followers. It was in this atmosphere that Mehmed Selim requested instructions on how to deal with deserters, as mentioned at the beginning of this article.

He was right to suspect that Ottoman policy might be different in this context. The Divan referred the matter to Mahmud, noting the provisions of the Treaty of Küçük Kaynarca but also reminding him of Russia's failure to return Katakouzinos.<sup>57</sup> The Council suggested that the Ottomans “wisely,” but carefully, retaliate in kind, by giving the Russians false assurances of cooperation in the search for fugitives while secretly moving them deeper into Ottoman territory. And this is exactly what Mahmud did, ordering Mehmed Selim to “look the other way” (*iğmaz-ı ayn*), in hopes that many more Russian deserters, learning they would not be returned, would flee to the Ottomans.<sup>58</sup> Mehmed Selim followed these instructions in the spring of 1823, when a Russian lieutenant general at Kishinev/Chişinău requested the return of military deserters who had taken shelter both in Ottoman villages and with the Zaporozhian Cossacks who lived in Ottoman territory.<sup>59</sup> The Porte ordered the commandant of Tulcea/Tolçi to do

the same when, in December 1822, he reported that a number of Cossack families had crossed the Danube, fleeing conscription. They feared that the men among them would be imprisoned on their return if they did not enter military service.<sup>60</sup>

This was, however, a limited, measured, and relatively brief exception to the Porte's general commitment to returning deserters to the Russians. The next Russo-Ottoman wars—in 1828–29 and 1853–56 (the Crimean War)—followed the pattern set by previous conflicts. When deserters arrived during wartime, the Porte was happy to accept them,<sup>61</sup> but when peace was restored, the Ottomans quickly resumed the return of fugitives. Immediately after the 1828 war, for example, the Porte found and returned two deserters around Sofia who had likely remained behind as the Russian army passed through.<sup>62</sup> Archival documents show that Ottoman central and border officials—both upon request and on their own initiative—returned deserters as a matter of routine in 1835, 1838, and 1848.<sup>63</sup>

#### DEFINING THE CONVERSION EXEMPTION

As it was firmly established that the Ottoman state would return Russian fugitives, it became increasingly vital to define the most important exemption provided in the treaties: that of converts to Islam. This exemption was in keeping with the prevailing opinion in the Hanafi school of Islamic law (the Ottomans' preferred school) that foreign slaves who escaped to Muslim lands were to be returned, unless they had converted to Islam after passing into Muslim territory.<sup>64</sup> Following this principle, a 1706 Ottoman–Venetian treaty established that slaves held in Venetian territory who fled to the Ottoman Empire and converted to Islam would not be returned (though their owners would be compensated).<sup>65</sup> Thus, the Ottoman-Russian approach to cross-border flight and conversion had clear precedents in both Hanafi theory and Ottoman practice, with the Ottoman state applying the rules developed for runaway foreign slaves to other fugitives. The conversion exemption also fit Russian understandings, which closely associated subjecthood with faith—indeed, naturalization depended on an oath of loyalty that “borrowed freely from the Orthodox liturgical creed.”<sup>66</sup>

But if conversion was so vital, how was it to be defined and administered? The treaty terms governing the return of Russian subjects enslaved in the Ottoman Empire also contained an exemption for converts, and the two states drew upon the interpretations and implementation of these terms to define conversion for fugitives. To determine which slaves were Muslim, the Ottomans and Russians had, by 1774, adopted a simple test: an individual's religion was certified by his or her testimony, individually, before an Ottoman commissioner and a Russian dragoman (translator). Other evidence, including witnesses' testimony, was not admitted. Without such testimony to contradict them, even captives who had in fact converted to Islam years before, and lived as Muslims, could deny this, and then be categorized as Christians and returned to Russia under the treaty.<sup>67</sup>

This procedure had its roots in the commercial capitulations, and after expanding it to cover slaves, the Russian and Ottoman states also, in 1774, applied it to fugitives. Article 6 of the Treaty of Küçük Kaynarca, at the Russians' request, provided that any servant in the Russian embassy in Istanbul who wished to convert to Islam must do so by confessing the faith in the presence of a dragoman and “unbiased” (*bespristrastnyh*) Muslims. Moreover—reflecting what must have been common concerns for Russian



diplomats—servants’ confessions of Islam while intoxicated were declared invalid, and servants accused of misconduct or theft in the embassy could be received into Islam only after being punished for those offenses.<sup>68</sup>

This agreement was tested when either eighty-one or 100 servants attached to the embassy sent to Istanbul in 1775 under Prince Nikolai Repnin converted to Islam. The Ottoman chronicler Şem’dânîzâde Fındıklılı Süleyman Efendi celebrated this mass conversion as a sign of the Ottomans’ spiritual triumph in the face of temporal defeat, and even British diplomats recalled the extent of the “Apostasy” twenty years later.<sup>69</sup> Though these people converted in the manner specified by treaty, the Porte, according to the Greek Ottoman writer Elias Habesci, offered to return them out of fear of Repnin’s wrath—but the ambassador accepted only one, his painter.<sup>70</sup> Here, Russian power threatened to eclipse the treaty’s provisions, but after Repnin’s departure, conversion was again a secure option for servants. In August 1787, the British envoy Robert Ainslie noted that “the servant of a Russian civil officer in that Cancellaria [chancellery], went over to Constantinople [from the embassy district of Pera, across the Golden Horn], and, notwithstanding all the pains taken to persuade him to desist, made public profession of the Turkish Religion.”<sup>71</sup> A few years later, fourteen men attached to the Russian embassy sent to Istanbul after the 1792 Treaty of Jassy converted to Islam—a number so small, in relative terms, that Ainslie rejoiced.<sup>72</sup>

Conversion, and its potentially instrumental use to avoid returning to Russia, was also important for servants and soldiers who crossed the Balkan frontiers. In one undated report, Ottoman authorities noted that, while a fugitive servant near Bender was not subject to return because he had converted to Islam, the Russians nonetheless demanded any stolen property taken by this fugitive and others, as well as compensation for any goods (and even clothing) which could not be found.<sup>73</sup> In 1797, Russian ambassador to Istanbul Viktor Pavlovich Kochubei complained to the Porte that sixty-seven soldiers had deserted and fled—again to Bender—and that the commandant (*muhafız*) of Bender, Hüseyin Pasha, contrary to the treaties, had not returned these men when asked by the local Russian commander.<sup>74</sup> Furthermore, a few deserters who had eventually returned to the Russian side reported that Hüseyin had, during their time in Bender, rewarded them with gold coins, put them under the supervision of a (presumably Russian) convert to Islam, and sent them to invite other Russian soldiers to defect from outposts along the River Dniester. Hüseyin, these witnesses reported, now intended to move the other deserters to towns on the right bank of the Danube, deeper in Ottoman territory. Kochubei worried that more deserters, even 200 or 250, might come in the future. Returning them would be in the Porte’s own interest, he suggested, not only legally but also because these soldiers were useless to the Ottomans. They were, he said, “like beasts.”

The dragoman of the Porte, Constantine Ypsilanti, agreed that these deserters should, in principle, be returned, but cautioned that an investigation was necessary. Perhaps, he suggested, they had converted to Islam, or would convert “upon becoming aware that they will be returned to Russia.” Kochubei agreed that he would not request the return of any who had converted, and suggested that—in accord with previous agreements—the fugitives’ religion would be established by questioning them in the presence of a representative sent by the Russian commander at Kamianets-Podilskyi. Both the Ottomans and the Russians, then, accepted that conversion would be determined by questioning in the manner developed to deal with slaves—and they both openly understood that

conversion might be used instrumentally by those who sought to avoid returning to service.

The Ottomans attempted to limit such instrumental conversion, just a year later, in the 1798 treaty of alliance. Geopolitics had changed the Porte's priorities; now that the two empires were allies, it was to its benefit to limit desertion from Russian service. Islamic law still prevented the Porte from returning those whom it recognized as having converted to Islam, but this did not mean converts' declarations of faith had to be honored immediately. Instead, the treaty specified that they would have to continue serving in the Russian military until peace was made, at which point "with regard to this type, the eighth article of the Treaty of Jassy is to be carried out."<sup>75</sup> Jassy's eighth article was, in fact, the article which regulated the return of captives, specifying in part that converts to Islam in the Ottoman Empire would not be returned.<sup>76</sup>

By referring to this article, the treaty of alliance seems to have indicated that the same conversion procedures would be used for Russian deserters as for enslaved Russian subjects: they would be questioned, after peace was made, about their faith, and their confession at that moment would be decisive. Once again, the phenomena of slavery and flight were linked, and the former provided a set of off-the-shelf rules that could be used to regulate the latter. This made it very difficult for a Russian deserter to remain in the Ottoman Empire through conversion: he would either have to wait to desert until after peace was made, or maintain his commitment to Islam for months or years, surrounded by Orthodox soldiers and officers who would likely pressure him to return to Christianity, until he could make a binding confession when peace was made with France. It is not surprising, therefore, that Ottoman orders commanding authorities on Crete not to accept Russian deserters omitted any reference to conversion.<sup>77</sup>

When the empires' relationship again soured, leading to a war in 1806–12, conversion once more became a way for wartime deserters to remain in the Ottoman Empire after the war ended, as the Ottomans again encouraged desertion from its enemy's forces. So, in the summer of 1812, 140 Russian deserters, living in the Ottoman shipyard-prison in Kasımpaşa alongside prisoners captured in battle, submitted a petition to the Porte asking that they be accepted as converts to Islam. The timing was important: the peace Treaty of Bucharest had been signed, and the Russian envoy Andrei Italinskii had arrived in Istanbul, but he had not yet been formally received by the Porte. These deserters must have known that their return to Russia was imminent, and the only legal way to avoid this was to convert—quickly. After paying careful attention to the customary conversion procedures, in order to counter possible Russian objections, Sultan Mahmud II accepted their conversion.<sup>78</sup>

As it became established, by treaty and custom, that converts to Islam would not be returned, an apparent paradox emerged for the Russian Empire's many Muslim subjects. The Treaty of Küçük Kaynarca stipulated that only those who converted to Islam *in* the Ottoman Empire were exempt from return—implying that those Russian subjects who were *born* as Muslims were not exempt. The 1798 treaty of alliance made this explicit: even while noting that conversion to Islam on Ottoman territory changed the status of Christian Russians, it also specified that those deserters who were "Muslims who are among the native subjects of the Russian State" *would* be returned. Russian Muslims were legally Russian subjects first, and Muslims second. The Ottomans may not have been eager to fulfill their treaty obligations in this regard, but they were prepared to do so.

In 1815, five Russian Muslim cavalymen—Tatars from Kazan—crossed into Ottoman territory. The border authorities recognized that the Russians would likely request their return, and sent the five men to Babadağı/Babadag for safekeeping.<sup>79</sup>

Many individual Muslim Ottoman subjects, unsurprisingly, were less willing to help return their coreligionists to Russian service. The Russian Major Aleksandr Grigor'yevich Rozalion-Soshal'skii, after being taken prisoner during the 1828 war, reported meeting a Russian Tatar who had deserted from the 32nd Jaeger Regiment, crossed the Danube, and settled down near İsakçı, marrying a Muslim Ottoman woman.<sup>80</sup> An undated Russian petition suggests other ways such Russian Muslim subjects might fit themselves into Ottoman society. The Russian chargé d'affaires in Istanbul requested the return of a man named Hasan bin Mehmed, "one of the Tatars who are among the native subjects of the Russian state," who had deserted from a Russian state-owned ship in the port of Izmir, and had become "attached" (*intisap*) to the household of an Ottoman subject named Mehmed Ağa.<sup>81</sup> "Attachment" was a crucial building block of Ottoman society; the word represented ties of patronage (as here), of family, and even of slavery, which "together construct[ed] the person's identity, indeed, set of identities."<sup>82</sup> For Hasan, knitting himself into Ottoman society this way offered a way out of Russian service—and Russian officers took strong measures against exactly this type of escape. While visiting a Russian ship in port at Izmir in the 1820s, the British traveler Adolphus Slade met a coxswain named Mustafa, a Muslim from the shores of the Caspian Sea, who reported that Muslim sailors were not allowed to go ashore in Ottoman ports—even to visit mosques during the month of Ramadan—for fear they would desert.<sup>83</sup> After conscription was made universal in 1874, the Russian state restricted emigration in fear that Muslims would flee. For those who did emigrate, the state made it difficult to renounce imperial subjecthood, and the military obligations that came with it.<sup>84</sup> Thus, treaty law and Russian domestic law together made Russian Muslims' political subjecthood more important than their religious attachments to the Muslim Ottoman sultan. Subjecthood imposed even more inalienable obligations of service on them than it did on Christian Russian subjects.

#### DEFINING RUSSIAN SUBJECTHOOD: QUESTIONS OF LAW AND FACT

Even among its Christian subjects, the Russian Empire harbored tremendous diversity, and as Eric Lohr has recently noted, "there was no universal citizenship; only separate citizenship deals that applied to separate groups."<sup>85</sup> The rules for fugitives, though, applied to *all* Russian subjects. The 1783 capitulations made this clear by using the word *Rossiyanin* (today referring to citizens of the Russian Federation), rather than *Russkie* (Russian-speaking Orthodox Christians from the Russian heartland).<sup>86</sup> Russian subjects, regardless of their groups' internal "deals," were to be treated uniformly outside the empire's borders; the only distinction was that, as noted, Christians retained the possibility of changing their status by converting to Islam while Muslims did not.<sup>87</sup> But this raised legal questions about which groups' members were Russian subjects, and factual questions about what evidence sufficed to prove that a given individual was a member of such a group.

The legal ambiguities came into focus in the 1797 discussions between Kochubei and Ypsilanti. After considering the question of conversion, Ypsilanti expressed another concern: while these deserters were all Russian soldiers, some might not be Russian subjects in the Porte's eyes. They might be Poles, conscripted from the territory Catherine had gained in the 1795 partition—which the Ottomans had not recognized. Kochubei assured Ypsilanti that the fugitives could not be Poles, because Polish soldiers were untrustworthy and therefore were not stationed near the Ottoman frontier.<sup>88</sup> This remarkable frankness suggests a shared, interimperial understanding of the imperatives of dealing with reluctant populations.

Kochubei's demurrals allowed the two states to dodge the Polish question in 1797, but as Ottoman officials searched border districts for fugitives at the turn of the century, it became unavoidable. In August 1799, the voyvoda of Moldavia protested that many of the 7,000 Russian subjects whom the Russian commander of Kamianets-Podilskyi claimed were in the Ottoman principality were in fact Poles.<sup>89</sup> The Russians—who asserted that whole villages of their subjects were visible along the road between Khotyn/Hotin and Iași/Yaș—replied that any Poles who came from areas annexed by Catherine in either the second (1793) or third (1795) partitions were Russian subjects. The voyvoda, avoiding the question of whether the partitions had ever been legal in the Porte's eyes, countered that any Poles who fled to the Ottoman Empire after the second partition had never taken Russian subjecthood and thus were “free to choose” (*fail-i muhtar*) to leave Poland.<sup>90</sup> To resolve this standoff, the voyvoda suggested to the Porte that it approve the return of Poles who arrived after the Ottomans were officially informed of the third partition, but not those who came before that date. The Porte agreed, specifying this date as 28 July 1797.<sup>91</sup> In discussions with the Reis Efendi on 6 April 1802, Russian Ambassador Vasilii Stepanovich Tomara tacitly accepted this distinction, which the Porte reiterated in subsequent orders to Moldavia and Wallachia in April and August of 1802.<sup>92</sup>

It was not only Poles whose group legal status raised questions. Ahmed Pasha, commandant of Khotyn, complained in 1802 that among the 2,000 fugitives whom the Russians claimed had settled around the city, many were not Russian but Habsburg (*Nemçeliü*) subjects who had migrated to the Ottoman Empire.<sup>93</sup> The Habsburgs, too, had taken part in partitioning Poland in 1795, and the Porte at least once ordered Vezir Hasan Pasha, commandant of Bender, to return fugitives from these newly acquired Habsburg lands.<sup>94</sup> The Danubian borderlands between these three empires were home to a great number of Orthodox Christian speakers of Slavic or Romanian languages, very few of whom carried identity papers—making it difficult for any state official to be sure of a person's subjecthood.<sup>95</sup> Hence, the Porte repeatedly reminded border officials to take care that they did not hand over “True subjects of the Sublime [Ottoman] State,” including Ottoman Bulgarians or other subjects living in the borderlands (*Bulgar ve Bucak reayası*).<sup>96</sup> The Ottoman state was also concerned about those among its subjects—especially Armenians—who had been taken to Russia as captives during the 1787 war, had remained there for as long as ten years, and then had returned. Presumably many of these people had learned to speak Russian, making it possible for Russian officials to claim them as Russian subjects.<sup>97</sup>

On the other hand, the Ottomans also insisted that some who were clearly native subjects of Russia were also not eligible for return, if they had lived in the Ottoman Empire for a long period of time. The Russians seem to have accepted this; they did

not attempt to uproot completely the Zaporozhian or Nekrasovite communities that had long been resident in the sultan's domains. To distinguish between those who did and did not have to return, the two states worked out a set of tacit understandings. In his discussions with Tomara in April 1802, the Reis Efendi asserted that the Porte was not obligated to return those who were "long settled" (*kadimî mutevattin*).<sup>98</sup> Tomara agreed in principle—perhaps because aged conscripts and serfs could not provide much useful service or tax revenue—but this left open the question of just how long a period of residence was necessary to become, in essence, a naturalized Ottoman subject.

Border officials seem to have improvised; on 17 August 1802, Ahmed Pasha of Khotyn informed the Porte that he had not returned several fugitives who certified that they had lived in the Ottoman Empire for ten or twelve years.<sup>99</sup> Again, in July 1804, Ahmed noted that he had ignored those fugitives found on Russian lists who had resided in Ottoman territory for ten to twenty years.<sup>100</sup> Much later, in response to Russian requests for the return of a number of households settled in the Sancak of Çıldır in July 1853, local officials investigated and affirmed that many of them were native Ottoman subjects. If they had been migrants living in Ottoman lands less than seven years, the officials commented, their return would have been necessary.<sup>101</sup> It seems that "naturalization" was understood to require somewhere between seven and ten years of residence, but it is unclear how Ottoman officials arrived at these numbers.

Intriguingly, the question was always whether individuals were Ottoman subjects (*reaya*); officials never discussed whether the people in question—all of them Christian—were protected non-Muslim taxpayers under Islamic law (Ottoman Turkish *zimmi*/Arabic *dhimmi*). No one asked if they had paid the canonically required tribute (*cizye*/*jizya*), even though, by Ottoman legal tradition, non-Muslims who were not protected by the capitulations (in other words, who were free Ottoman subjects) became liable for the tax after one year in the empire.<sup>102</sup> Perhaps Ottoman officials recognized that Islamic legal arguments would have little purchase with Russian diplomats, or perhaps one year was simply too short a time limit to be practically useful.

Beyond the legal question of which categories of people would be returned lay a factual question: which individuals fit into those categories? This was easiest to answer when Russian officials sought specific individuals whom they knew had fled—as when they asked in mid-1802 that the authorities of Khotyn search for a woman named Maria and her two children, who had reportedly emigrated to an Ottoman village called Kumarof.<sup>103</sup> On other occasions, such as in June 1804, Russian officials seem to have been accompanied by natives of the regions that fugitives had left (*hemşehri*), who presumably would recognize their neighbors' faces or at least their regional accents.<sup>104</sup>

Most often, however, evidence came from individual questioning of suspected fugitives, and sometimes of their neighbors. The procedures were repeated in nearly every order the Porte sent out: representatives of the Ottoman local authorities were to accompany an agent appointed by the nearby Russian border commander. Together, they would travel through the region in question, searching village-by-village for suspected migrants. Those they found would be interrogated, in the presence of both states' representatives, to establish their origins, the details of their residency, and, of course, whether they had converted to Islam.<sup>105</sup> Russian efforts to find fugitives within their own lands relied on similar interrogations,<sup>106</sup> as did Russo-Ottoman joint attempts to free slaves within the Ottoman Empire after each of their wars ended.

In the absence of universal identity documentation, however, there were many ambiguities in subjects' origins. This was particularly true for those whose languages were spoken, and whose religions were practiced, on both sides of the border: Bulgarians, Armenians, Kazan Tatars, and eventually Jews. Russian Jews, long immune to conscription, became liable for military service in 1827. Like other conscripts, many deserted or crossed the borders to escape, and Russian officials pursued them.<sup>107</sup>

In November 1864, Russian officials in Istanbul arrested six Jewish men, claiming they were fugitives from conscription—and setting off a legal and diplomatic struggle illustrating the factual ambiguities of subjecthood. Abram Moskovich, David Vatnikov, Mosko Vaks, Yanki David, Elie Milniskov, and Abram Hersch (as their names were transcribed in French) were dispatched to the Russian port of Odessa, where they remained imprisoned through the winter. In March, however, the Ottoman consul in Odessa, Felix Robert, protested that these men were in fact Ottoman, not Russian, subjects, and a month later a Russian court in Odessa concurred, ordering the Jews' release. Felix Robert, reporting the good news to Ottoman Foreign Minister Ali Pasha, expressed his dismay that the Russians could have made such a mistake, and pronounced himself “unable to fathom the right that a foreign authority could have to proceed to arrest subjects of the Sublime Porte on Ottoman territory” and to hold them for five months.<sup>108</sup> The Russians, of course, had had the right to demand such fugitives since 1774—but only after establishing that they were in fact Russian subjects. It may be that Robert was upset that these men, before their abduction from Istanbul, had not been certified as Russian subjects by Ottoman officials. Indeed, it seems that they, and Ottoman officials, had continued to insist that they were Ottoman subjects. The evidence presented to the Odessa tribunal is unknown, and the possibility remains that Moskovich and the others may have in fact been, by birth or residence, better classified as Ottoman subjects.

This would have been a preferable subjecthood to claim, because Ottoman Jews remained immune to conscription (paying the *cizye* instead) even after Mahmud II established a conscript army in 1826. This was due in part to Mahmud's prejudices about Jews' military effectiveness; when he was informed in 1827 that Russia had begun conscripting Jews, he commented that, “[a]mong the other sects, the Jewish sect due to weakness is a wicked and untrustworthy sect, so if it is true that the Russians are enlisting Jews, this will doubtless be a cause of disgrace.”<sup>109</sup> The Ottoman state sought its conscripts among its Muslim population, and sometimes Ottoman subjects sought to avoid military service by fleeing to Russia. It is unclear how fully the tsarist state fulfilled its reciprocal treaty obligations to return them. In 1867, Ottoman agents were sent to the Crimea to search for deserters, but the Ottoman consul at Kerch complained that Russian authorities were uncooperative.<sup>110</sup>

As in the Russian Empire, conscription in the Ottoman Empire went hand-in-hand with restrictions on movement, and an 1841 law required Ottoman subjects traveling domestically to obtain passports like their Russian counterparts. By the end of the 19th century, the term *fırrar* came to refer not simply to those who fled their duties but to all those who left their places of residence illegally or without proper documentation.<sup>111</sup> With regard to foreign fugitives, the 1869 law that defined Ottoman subjecthood specifically noted that those seeking to naturalize as Ottoman subjects could not be fleeing foreign military service<sup>112</sup>—formally incorporating treaty obligations into Ottoman domestic law. Even

as Ottoman social and political concerns came to resemble Russian concerns, and as the two empires embarked on somewhat parallel paths through the Tanzimat and the Great Reforms, treaty and customary law between the two states reinforced both their separation and the systems of unfree labor that they increasingly shared.

#### CONCLUSION

This legal framework was established through both peace treaties and commercial capitulations, but the Russo-Ottoman situation presents a very different picture from that commonly painted of the maritime powers' capitulations. Where those agreements sought to fit outsiders *into* Ottoman society, the Russo-Ottoman project aimed to pull them out.

The project proceeded through the signing, enforcement, and interpretation of treaties, making this shared Russo-Ottoman effort also different from the Russian approach to flight when dealing with Poland or with Cossack hosts. Rather than partitions or political "deals" with elites, Russian military ascendancy here was reinforced by treaty law. This went hand-in-hand with the "closing of the frontier," as the two states demarcated their borders and increasingly dealt directly with each other rather than through autonomous intermediaries such as the Crimean Tatar Khanate and the Cossack hosts.<sup>113</sup> But the project for the return of fugitives demonstrates that the extension of state power up to demarcated boundaries not only affected the frontier itself; it also changed the relationship between central states and those *within* their boundaries. A legal regime seeking to thwart flight, like modern efforts against illegal immigration, could only be maintained by finding and deporting those who inevitably did manage to cross the border.<sup>114</sup> This, in turn, meant drawing lines within the Ottoman Empire between those who were and were not subject to return, and the two states drew these lines principally with reference to Russian subjecthood, rather than religion. In the 17th century, Molly Greene has recently shown, the religious and the political uneasily coexisted as organizing principles in the Mediterranean.<sup>115</sup> Now, the Russians and Ottomans talked about both, but prioritized the political. This was shown by the fact that Russian Muslims were Russian subjects first and foremost, as it was not religion but *conversion* that mattered politically.

Slavery, too, had long connected the Russian and Ottoman empires, and as noted above, the same treaties which curbed flight used similar techniques to remove eastern Slavic slaves from Ottoman society. Both Ottoman and Russian systems of unfree labor had long drawn on eastern Slavic populations, but now the Ottoman system was delegitimized and undermined, while the Russian system was reinforced by treaty and custom. These divergent trajectories of different parts of Stanziani's unfree labor "spectrum" arguably paralleled and presaged later, and broader, developments in international law. The slave trade was banned by treaty, by customary international law, and eventually by a peremptory norm, binding on all states.<sup>116</sup> Serfdom, too, was eventually banned in the Russian Empire, and then by international treaty.<sup>117</sup> But conscription, and arguably other forms of state-sponsored forced labor, remained exempt from bans on forced labor.<sup>118</sup>

But before these developments, bilateral treaties in the 18th-century Black Sea reinforced forms of unfree labor that served state interests, particularly Russian state interests, and undermined those that did not.<sup>119</sup> The result was that, as the Black Sea

empires demarcated both their geographic and their human boundaries, Russian subjecthood became, for many, not a cherished privilege but a nearly inalienable burden.

## NOTES

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<sup>1</sup>Başbakanlık Osmanlı Arşivi (hereafter BOA), Hatt-ı Hümayun collection (hereafter HAT) 1164/46088.

<sup>2</sup>A parallel study emphasizing Russo-Ottoman cooperation, within a regional framework, is Andrew Roberts, "Imperial Confrontation or Regional Cooperation?: Bulgarian Migration and Ottoman-Russian Relations in the Black Sea Region, 1768–1830s," *Turkish Historical Review* 3 (2012): 149–67.

<sup>3</sup>See Turan Kayaoğlu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010); Maurits H. van den Boogert, *The Capitulations and the Ottoman Legal System* (Leiden: Brill, 2005); Reşat Kasaba, "Treaties and Friendships: British Imperialism, the Ottoman Empire, and China in the 19th Century," *Journal of World History* 4 (1993): 215–41. For the advantages foreign subjecthood could bring in the Ottoman Empire (and Morocco), and the ways individuals tried to claim it, see Jessica M. Marglin, "The Two Lives of Mas'ud Amoyal: Pseudo-Algerians in Morocco, 1830–1912," *International Journal of Middle East Studies* 44 (2012): 651–70; Cihan Artunç, "The Protégé System and *Beraltı* Merchants in the Ottoman Empire: The Price of Legal Institutions," working paper presented at *New Perspectives in Ottoman History* conference (Yale University, 9 November 2012); and David Edward Gutman, "Sojourners, Smugglers, and the State: Transhemispheric Migration Flows and the Politics of Mobility in Eastern Anatolia, 1888–1908" (PhD diss., Binghamton University State University of New York, 2012), 217–39.

<sup>4</sup>In thinking about identity under the capitulations from the "bottom up," I am inspired by the perspectives of Will Hanley, "Foreignness and Localness in Alexandria, 1880–1914" (PhD diss., Princeton University, 2007); Bruce Masters, "The Treaties of Erzurum (1823 and 1848) and the Changing Status of Iranians in the Ottoman Empire," *Iranian Studies* 24 (1991): 3–15; and Gutman, "Sojourners, Smugglers, and the State." Another look at the meaning of subjecthood for underprivileged foreigners in the Ottoman Empire is Malte Fuhrmann, "Down and Out on the Quays of İzmir: 'European' Musicians, Innkeepers, and Prostitutes in the Ottoman Port-Cities," *Mediterranean Historical Review* 24 (2009): 169–85.

<sup>5</sup>The famous English case *R. v. Knowles, ex Parte Somerset* (1772) Lofft 1, 98 E.R. 499, 20 S.T. 1, turned on the relationship between slavery and servitude when crossing intra-imperial borders; see George Van Cleve, "Somerset's Case and Its Antecedents in Imperial Perspective," *Law and History Review* 24 (2006): 601–45; and the responses to this article in the same issue by Daniel Hulsebosch and Ruth Paley. *Dred Scott v. Sandford*, 60 U.S. (19 Howd.) 393 (1857), dealing with similar issues within the United States, has achieved popular infamy. For the French Atlantic, see Sue Peabody, "There Are No Slaves in France": *The Political Culture of Race and Slavery in the Ancien Régime* (Oxford: Oxford, 1996); and Rebecca J. Scott, "Paper Thin: Freedom and Re-Enslavement in the Diaspora of the Haitian Revolution," *Law and History Review* 29 (2011): 1061–87; for the Iberian Atlantic, see Joseph P. Younger, "'Naturals of this Republic': Slave Law, Sovereignty, and the Legal Politics of Citizenship in the Río de La Plata Borderlands, 1845–1864," *Law and History Review* 30 (2012): 1099–1132. More broadly, my thinking about interimperial law is informed by Lauren Benton's work, particularly *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010).



<sup>6</sup>Alessandro Stanziani, "Serfs, Slaves, or Wage Earners? The Legal Status of Labour in Russia from a Comparative Perspective, from the Sixteenth to the Nineteenth Century," *Journal of Global History* 3 (2008): 202.

<sup>7</sup>See Peter Kolchin, *Unfree Labor: American Slavery and Russian Serfdom* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1987).

<sup>8</sup>I.A. Shearer, *Extradition in International Law* (Manchester: University of Manchester, 1971), 9; L.B. Schapiro, "Repatriation of Deserters," *British Yearbook of International Law* 29 (1952): 311–12. In late 19th-century customary international law, military desertion in and of itself became presumptively non-extraditable, as a "political offense," but some states overcame this presumption through agreements explicitly requiring the return of deserters—for example, an 1832 United States–Russian commercial treaty, which the U.S. Supreme Court enforced as late as 1902. See *Tucker v. Alexandroff*, 183 U.S. 424 (1902). Differing American and English legal understandings of subjecthood and its alienability also played a role in the famous impressment controversies that preceded the War of 1812; see James H. Kettner, "Subjects or Citizens? A Note on British Views Respecting the Legal Effects of American Independence," *Virginia Law Review* 62 (1976): 945–67.

<sup>9</sup>John L. H. Keep, *Soldiers of the Tsar: Army and Society in Russia 1462–1874* (Oxford: Clarendon, 1985), 161; see also Elise Kimerling Wirtschafter, *From Serf to Russian Soldier* (Princeton, N.J.: Princeton University, 1990).

<sup>10</sup>Brian J. Boeck, "When Peter I Was Forced to Settle for Less: Coerced Labor and Resistance in a Failed Russian Colony (1695–1711)," *Journal of Modern History* 80 (2008): 506.

<sup>11</sup>Quoted from E. I. Zaozerskaia in E. V. Anisimov, "The Struggle with Fugitives during the Reform Period," trans. Hugh F. Graham, *Soviet Studies in History* 28 (1989): 59.

<sup>12</sup>Wirtschafter, *From Serf to Russian Soldier*, 103–10; Keep, *Soldiers*; Alison K. Smith, "'The Freedom to Choose a Way of Life': Fugitives, Borders, and Imperial Amnesties," *Journal of Modern History* 83 (2011): 265–67; Robert E. Jones, "Runaway Peasants and Russian Motives for the Partition of Poland," in *Imperial Russian Foreign Policy*, ed. Hugh Ragsdale and Valerii Nikolaevich Ponomarev (Cambridge: Cambridge University Press, 1993), 115. Military and civilian flight were linked, as whole families sometimes fled to avoid conscription of their male members.

<sup>13</sup>Brian J. Boeck, *Imperial Boundaries: Cossack Communities and Empire-Building in the Age of Peter the Great* (Cambridge: Cambridge University Press, 2009), 209.

<sup>14</sup>*Ibid.*, 230.

<sup>15</sup>Avigdor Levy, "The Contribution of Zaporozhian Cossacks to Ottoman Military Reform: Documents and Notes," *Harvard Ukrainian Studies* 6 (1982): 374–77; Andrew Robarts, "A Plague on Both Houses? Population Movements and the Spread of Disease across the Ottoman–Russian Black Sea Frontier, 1768–1830s" (PhD diss., Georgetown University, 2010), 34–35, 156; Alexander Bitis, "The 1828–1829 Russo-Turkish War and the Resettlement of Balkan Peoples into Novorossia," *Jahrbücher Für Geschichte Osteuropas* 53 (2005): 512.

<sup>16</sup>Robarts, "A Plague on Both Houses," 162.

<sup>17</sup>Bitis, "Resettlement of Balkan Peoples," 513.

<sup>18</sup>Jones, "Runaway Peasants," esp. 115–16.

<sup>19</sup>*Ibid.*, 114; Keep, *Soldiers*, 147.

<sup>20</sup>Jones, "Runaway Peasants," 116, notes that the Russians and Poles had "distinct and incompatible ideas of statehood and government," though it may be going too far to apply this to the Ottomans, given the similarities in imperial governance north and south of the Black Sea.

<sup>21</sup>For an overview of the literature, see Will Smiley, "'When Peace Is Made, You Will Again Be Free': Islamic and Treaty Law, Black Sea Conflict, and the Emergence of 'Prisoners of War' in the Ottoman Empire, 1739–1830" (PhD diss., University of Cambridge, 2012), introduction and chap. 1.

<sup>22</sup>Y. Hakan Erdem, *Slavery in the Ottoman Empire and Its Demise, 1800–1909* (Basingstoke: Macmillan, 1996), 52.

<sup>23</sup>Daniel Brower and Susan Layton, "Liberation through Captivity: Nikolai Shipov's Adventures in the Imperial Borderlands," *Kritika: Explorations in Russian and Eurasian History* 6 (2005): 268.

<sup>24</sup>See Will Smiley, "The Meanings of Conversion: Treaty Law, State Knowledge, and Religious Identity among Russian Captives in the Eighteenth-Century Ottoman Empire," *International History Review* 34 (2012): 559–80; *idem*, "Let Whose People Go? Subjecthood, Sovereignty, Liberation, and Legalism in Eighteenth-Century Russo-Ottoman Relations," *Turkish Historical Review* 3 (2012): 196–228.

<sup>25</sup>The dictionary translation of *firari* is “fugitive” or “deserter.” In 18th- and 19th-century archival documents, it also described fugitive criminals or, more commonly, Ottoman soldiers who fled from combat. For other forms of migration, see James H. Meyer, “Immigration, Return, and the Politics of Citizenship: Russian Muslims in the Ottoman Empire, 1860–1914,” *International Journal of Middle East Studies* 39 (2007): 15–32; Alan W. Fisher, “Emigration of Muslims from the Russian Empire in the Years after the Crimean War,” *Jahrbücher Für Geschichte Osteuropas* 35 (1987): 356–71; Gutman, “Sojourners, Smugglers, and the State”; and Robarts, “A Plague on Both Houses.”

<sup>26</sup>See esp. Roger P. Bartlett, *Human Capital: The Settlement of Foreigners in Russia, 1762–1804* (Cambridge: Cambridge University Press, 1979); and, more generally, Simon Sebag Montefiore, *Potemkin: Catherine the Great's Imperial Partner* (New York: Vintage, 2005); and Isabel de Madariaga, *Russia in the Age of Catherine the Great* (London: Weidenfeld and Nicolson, 1981).

<sup>27</sup>Smiley, ““When Peace Is Made,”” 72–74.

<sup>28</sup>For the amnesty policy, see Smith, ““The Freedom to Choose a Way of Life””; see also James A. Duran, “Catherine II, Potemkin, and Colonization Policy in Southern Russia,” *Russian Review* 28 (1969): 29–30. Ottoman officials translated, and sent to Istanbul, an even earlier amnesty issued on 28 March 1778, in Catherine's name, by the Russian commander of Kilburn/Kinburn: BOA, Divan-ı Hümayun Düvel-i Ecebiye Evrakları collection 14/8.

<sup>29</sup>Gabriel Noradounghian, ed., *Recueil d'Actes Internationaux De l'Empire Ottoman* (Paris: Pichon, 1897), 1:342. This was declared to be in accordance with Article 2 of the Treaty of Küçük Kaynarca. As will be seen, that article did not mandate the *forced* return of any fugitives who arrived before peace was made.

<sup>30</sup>Alan W. Fisher, *The Russian Annexation of the Crimea, 1772–1783* (Cambridge: Cambridge University Press, 1970), 109.

<sup>31</sup>Treaty of Küçük Kaynarca, Article 2: for the Ottoman Turkish text, see BOA, Divan-ı Hümayun Düvel-i Ecebiyye Kalemî Defterleri collection (hereafter DVED), *defter* 83/1, pp. 144–45; for the Russian, *Polnoe Sobranie Zakonov Rossiiskoi Imperii, 1649 Goda* (hereafter *PSZRI*) (St. Petersburg, 1830), I/XIX:958–959 (#14,164). For a French translation, see Noradounghian, *Recueil*, 1:321.

<sup>32</sup>BOA-DVED 83/1, 151; *PSZRI*, I/XIX:965–966 (#14,164); Noradounghian, *Recueil*, 1:331.

<sup>33</sup>See Smiley, “Let Whose People Go,” 207–12.

<sup>34</sup>Demetrius Dvoichenko-Markov, “Russia and the First Accredited Diplomat in the Danubian Principalities, 1779–1808,” *Études Slaves Et Est-Européennes/Slavic and East European Studies* 8 (1963): 214.

<sup>35</sup>The amnesty provisions of the Treaty of Küçük Kaynarca arguably banned the punishment, but not the return, of wartime deserters. See Schapiro, “Repatriation of Deserters,” 314.

<sup>36</sup>BOA-CDH 15872; BOA-CHR 8706.

<sup>37</sup>BOA-CHR 7713; BOA-CHR 7714.

<sup>38</sup>*PSZRI*, I/XXI:940 (#15,757); Noradounghian, *Recueil*, 1:352.

<sup>39</sup>Van den Boogert, *The Capitulations*, 9.

<sup>40</sup>*PSZRI*, I/XXIII:289 (#17,008).

<sup>41</sup>BOA-HAT 131/5445.

<sup>42</sup>BOA-CHR 1738.

<sup>43</sup>See Kahraman Şakul, “An Ottoman Global Moment: War of Second Coalition in the Levant” (PhD diss., Georgetown University, 2009). See also Valeriy Morkva, “Russia's Policy of Rapprochement with the Ottoman Empire in the Era of the French Revolutionary and Napoleonic Wars, 1792–1806” (PhD diss., Bilkent University, 2010).

<sup>44</sup>Morkva, “Rapprochement,” 147, n. 13.

<sup>45</sup>The desertion article is found in a later, published, Ottoman version of the 1799 treaty but not in *PSZRI* or in Noradounghian, *Recueil*. The same article appears in the *Muahedat* and Noradounghian versions of the 1805 agreement, but that treaty is not found in *PSZRI*: *PSZRI*, I/XXV:500 (#18,797). Mahmud Mesud, ed., *Muahedat Mecmuası* (Istanbul, 1876), 4:24–25, 4:46; Noradounghian, *Recueil*, 2:24–26, 2:74–77. Similar terms appear in the 1799 British-Ottoman treaty of alliance: Noradounghian, *Recueil*, 2:31.

<sup>46</sup>BOA-CBH 5946; Şakul, “Moment,” 125.

<sup>47</sup>Henry Wheaton, *Elements of International Law: With a Sketch of the History of the Science* (Philadelphia, Pa.: Carey, Lea & Blanchard, 1836), 106.

<sup>48</sup>BOA-CHR 5464.

<sup>49</sup>BOA-CHR 4863.

<sup>50</sup>BOA-CHR 2483.

<sup>51</sup>BOA-CHR 2483.

<sup>52</sup>BOA-CHR 7756.

<sup>53</sup>BOA-CHR 5991.

<sup>54</sup>BOA-HAT 1070/43788.

<sup>55</sup>Noradounghian, *Recueil*, 2:87.

<sup>56</sup>BOA-HAT 1165/46092; BOA-HAT 1261/48331; BOA-CHR 4526.

<sup>57</sup>Alexander Bitis, *Russia and the Eastern Question: Army, Government, and Society, 1815–1833* (Oxford: Oxford University Press, 2006), 109; David Brewer, *The Flame of Freedom: The Greek War of Independence, 1821–1833* (London: J. Murray, 2001), 60. British diplomats also believed that the Treaty of Küçük Kaynarca was “certainly and most explicitly in favour” of the rebels’ return; see TNA-FO 78/100 #1.

<sup>58</sup>BOA-HAT 1164/46088.

<sup>59</sup>BOA-HAT 1164/46090D, E; BOA-HAT 1169/46242; BOA-HAT 1163/46022.

<sup>60</sup>BOA-HAT 1156/45869.

<sup>61</sup>BOA-HAT 1038/42996; BOA-HAT 1038/42996A; BOA-HAT 1075/43939D; BOA-HAT 1079/43964J; HRMKT102/67; İHR 103/5044.

<sup>62</sup>BOA-CHR 8112. Others did not return; see Adolphus Slade, *Records of Travels in Turkey, Greece, &c.*, 2nd ed. (London: Saunders and Otle, 1833), 495.

<sup>63</sup>BOA-AMKT 162/41; BOA-HAT 1167/46146; BOA-HAT 1170/46271; BOA-YB(21) 12/34.

<sup>64</sup>Mouradgea D’Ohsson, *Tableau Général De l’Empire Ottoman* (Istanbul: Isis, 2001), 5:89, 6:3. According to some authorities, conversion must have preceded escape.

<sup>65</sup>BOA-DVED 16/4, 78.

<sup>66</sup>Eric Lohr, *Russian Citizenship: From Empire to Soviet Union* (Cambridge, Mass.: Harvard University Press, 2012), 17–18.

<sup>67</sup>Smiley, “Meanings of Conversion.”

<sup>68</sup>E. I. Druzhinina, *Kiuchuk-Kainardzhiiskii Mir 1774 Goda: Ego Podgotovka i Zakliuchenie* (Moscow: Nauka, 1955), 233; Noradounghian, *Recueil*, 1:323; M. Münir Aktepe, ed., *Şem’dânî-Zâde Fındıklılı Süleyman Efendi Târîhi Mür’î’-Tevârih* (Istanbul: İstanbul Üniversitesi, 1976), 3:19–20.

<sup>69</sup>The National Archives of Great Britain (hereafter TNA), Foreign Office Papers collection (hereafter FO), 8/15 #6 (26/3/1794); Aktepe, *Şem’dânî-Zâde*, 2B:53, 3:39.

<sup>70</sup>Elias Habesci, *The Present State of the Ottoman Empire* (London: R. Baldwin, 1784), 405–406.

<sup>71</sup>TNA-FO 78/8 #16.

<sup>72</sup>TNA-FO 78/15 #6. He explicitly compared it to the recent Polish embassy, but not to the last Russian mission.

<sup>73</sup>BOA-CDH 15871.

<sup>74</sup>The next two paragraphs are based on BOA-HAT 178/7897. For Kochubei’s background, see Morkva, “Rapprochement,” 84–87.

<sup>75</sup>PSZRI, 1/XXV:500 (#18,797); Mesud, *Muahedat*, 4:24–25, 4:46; Noradounghian, *Recueil*, 2:76.

<sup>76</sup>Noradounghian, *Recueil*, 2:20; Mesud, *Muahedat*, 4:11; PSZRI, 1/XXIII:291, #17008.

<sup>77</sup>BOA-CBH 5946.

<sup>78</sup>See Smiley, “Meanings of Conversion,” 12.

<sup>79</sup>BOA-HAT 1169/46251A; BOA-HAT 1169/46251B. It is unclear whether they were actually returned. The Ottoman state accepted Muslim deserters during the 1828 War: BOA, Cevdet Askeriye collection (hereafter CAS) 48925.

<sup>80</sup>A. G. Rozalio-Soshal’skii, *Zapiski Russkogo Ofitsera, Byvshego v Plenu u Turok v 1828 i 1829 Godakh* (Kiev: Kharkovskii Chastnyi Muzei Gorodskoi Usad’by, 2006), 33.

<sup>81</sup>BOA-HAT 1445/59435.

<sup>82</sup>Ehud R. Toledano, *As If Silent and Absent: Bonds of Enslavement in the Islamic Middle East* (New Haven, Conn.: Yale University Press, 2007), 25.

<sup>83</sup>See Slade, *Records of Travels*, 492–93.

<sup>84</sup>See Meyer, “Immigration.”

<sup>85</sup>Lohr, *Russian Citizenship*, 20.

<sup>86</sup>PSZRI, 1/XXI:942–943 (#15,757). The reference came in an article banning the enslavement of Russian subjects.

<sup>87</sup>In modern terms, all Russian subjects, when abroad, were Russian “nationals”—sharing membership of the same state, regardless of their status within that state. See Paul Weis, *Nationality and Statelessness in*

*International Law*, 2nd ed. (Alphen aan den Rijn, Netherlands: Sijthoff & Noordhoff, 1979), 3–7; and Hanley, “Localness.”

<sup>88</sup>BOA-HAT 178/7897.

<sup>89</sup>BOA-CHR 1510.

<sup>90</sup>Ibid.

<sup>91</sup>BOA-CHR 1510; BOA-CHR 6546.

<sup>92</sup>BOA-CHR 6546; BOA-HAT 259/14932. Puzzlingly, slightly different dates appear in BOA-CHR 2119 and BOA-CHR 7775. For Tomara’s background, see Morkva, “Rapprochement,” 127–30.

<sup>93</sup>BOA-CHR 5991.

<sup>94</sup>BOA-CHR 7756.

<sup>95</sup>See Virginia H. Aksan, “Whose Territory and Whose Peasants? Ottoman Boundaries on the Danube in the 1760s,” in *The Ottoman Balkans, 1750–1830*, ed. Frederick F. Anscombe (Princeton, N.J.: Markus Wiener, 2006), 61–87.

<sup>96</sup>BOA-CHR 7775; BOA-CHR 6546.

<sup>97</sup>BOA-CHR 6546; BOA-CHR 7775.

<sup>98</sup>BOA-HAT 259/14932.

<sup>99</sup>BOA-CHR 1171.

<sup>100</sup>BOA-CHR 2483.

<sup>101</sup>BOA, İrade Hariciye collection (hereafter İHR) 100/4918.

<sup>102</sup>“Djizya,” *Encyclopaedia of Islam*, 2nd ed., [http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/djizya-COM\\_0192](http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/djizya-COM_0192) (accessed 26 September 2012). For an earlier controversy over this precise issue, see Tjijana Krstić, “Contesting Subjecthood and Sovereignty in Ottoman Galata in the Age of Confessionalization: The Moriscos and the Carazo Affair, 1613–1617,” *Oriente Moderno* (forthcoming).

<sup>103</sup>BOA-CHR 8173.

<sup>104</sup>BOA-CHR 2118.

<sup>105</sup>See, for example, BOA-CHR 1738.

<sup>106</sup>Anisimov, “The Struggle with Fugitives,” 64.

<sup>107</sup>Michael Stanislawski, *Tsar Nicholas I and the Jews: The Transformation of Jewish Society in Russia, 1825–1855* (Philadelphia, Pa.: Jewish Publication Society of America, 1983), 13–34, 169; Yohanan Petrovsky-Shtern, *Jews in the Russian Army, 1827–1917* (Cambridge: Cambridge University Press, 2009); Meyer, “Immigration,” 28.

<sup>108</sup>BOA, Hariciye Nezareti Tercüme Odası collection (hereafter HRTO) 7/325.

<sup>109</sup>BOA-HAT 1072/43867. For recruiting, see Virginia H. Aksan, “The Ottoman Military and State Transformation in a Globalizing World,” *Comparative Studies of South Asia, Africa and the Middle East* 27 (2007): 267–68. Nicholas I himself saw Jews as “suspicious and unscrupulous,” but stereotypes of their “glorious reputation as warriors,” along with Nicholas’s hopes that the army could “teach the unruly Jews the spirit of order, civic behavior, and obedience,” led him to conscript them. Stanislawski, *Nicholas I and the Jews*, 34–35.

<sup>110</sup>BOA-HRTO 328/45.

<sup>111</sup>Gutman, “Sojourners, Smugglers, and the State,” 62–63, 115–18, 125. The word is still used to refer to foreign asylum-seekers who leave their assigned cities of residence in Turkey: see Helsinki Citizens Assembly, *Information for People Applying for Refugee Status in Turkey* (Istanbul: Helsinki Citizens Assembly, 2007), 13.

<sup>112</sup>Michelle Campos, *Ottoman Brothers: Muslims, Christians, and Jews in Early Twentieth-Century Palestine* (Palo Alto, Calif.: Stanford University Press, 2011), 61.

<sup>113</sup>See generally Boeck, *Boundaries*.

<sup>114</sup>Paralleling this argument, Eric Lohr has recently contrasted the Russian state’s external, geographic boundaries with its internal “citizenship boundary.” Lohr, *Russian Citizenship*, 1.

<sup>115</sup>See Molly Greene, *Catholic Pirates and Greek Merchants* (Princeton, N.J.: Princeton University Press, 2010).

<sup>116</sup>Rhona K.M. Smith, *Textbook on International Human Rights* (Oxford: Oxford University Press, 2012), 248–52; David J. Bederman, *International Law Frameworks* (New York: Foundation Press, 2001), 98; L. Oppenheim, *International Law: A Treatise* (London: Longmans, Green, 1905), 1:346–47.

<sup>117</sup>See “Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,” *United Nations Treaty Series* 266 (1956): 3, <http://www1.umn.edu/humanrts/instree/f3scas.htm> (accessed 26 September 2012).

<sup>118</sup>“International Covenant on Civil and Political Rights,” *United Nations Treaty Series* 999 (1983), 171, Art. 8(3)(c)(i); J. Mervyn Jones, “Modern Developments in the Law of Extradition,” *Transactions of the Grotius Society* 27 (1941): 185; Smith, *International Human Rights*, 252; Lukas Knott, “Unocal Revisited: On the Difference between Slavery and Forced Labor in International Law,” *Wisconsin International Law Journal* 28 (2010–2011): 201–33. Flight from conscription, however arduous, is generally not recognized as grounds for refugee protections under international law. See United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (Geneva: United Nations High Commissioner for Refugees, 2011), 33–34. In the late 20th century, Soviet deserters—without formal legal protections—integrated into Afghan society in order to escape military service during that conflict. See Alissa J. Rubin, “Russians Seek Fate of Missing in Afghan War,” *New York Times*, 22 October 2012.

<sup>119</sup>As the title suggests, the recent account in Liubov Kurtynova-D’Herluggan, *The Tsar’s Abolitionists: The Slave Trade in the Caucasus and Its Suppression* (Leiden: Brill, 2010) is more sympathetic to the motivations of the Russian state when dealing with slavery within its own empire.

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