

Cambridge History of International Law
Ottoman Empire: War & Peace
Chapter Draft
Will Smiley & Aimee Genell
April 25, 2022

The Ottoman Empire, like its early modern counterparts, was made by and for war.¹ From its origins as a small emirate in north-central Anatolia in the fourteenth century to its heyday as an empire spanning three continents, the Sublime Porte launched campaigns on land and sea. The dynasty was, clearly, interested in conquest, and this is often explained by reference to religion. The desire to expand and spread Islam is often cited as a founding principle, and inherent motivation—even a *raison d'être*—of the empire.² Indeed, scholars once went so far as to call the Ottoman Empire a “near-perfect military society” (though this is no longer the consensus).³ Therefore, a discussion of war and peace, or the laws of war, is almost inseparable from the fundamental questions of Ottoman history. In this chapter, we will explore what Ottoman elites perceived to be the rules governing war and peace, primarily *jus ad bellum* but with some reference to *jus in bello*. Overall, we will argue, while Ottoman ideas and practices changed over time, but there was a consistent through line of justifying wars through particular grievances (even when these were transparent pretexts for conquest) and making and keeping peace agreements (even though the Porte preferred to dictate the terms).

It is common, in these discussions, to begin with the canonical sources of Islamic law. After all, the Ottoman dynasty was Muslim, as were most high officials and military servitors. The Islamic legal tradition, reaching back to the early middle ages, constructed a sophisticated edifice of rules governing war and peace, codified in religious opinions (fatwas) and scholarly treatises (*fiqh* manuals). The law turned on a binary division between the lands of Islam (the *Dar al-Islam*) and the lands of non-Muslims (the *Dar al-Harb*). The Ottoman state embraced this tradition, and officially endorsed one school of interpretation, the Hanafi. It is therefore tempting to start from the text and the theory, and to start from within the empire. What did the Ottomans believe, and how well did they practice it? This chapter, however, will take a different approach. We will begin from Ottoman state practice, rather than from theory. In other words, we will look for answers about Ottoman ideas about war and peace by asking the questions that scholars usually ask in constructing customary international law: what was the state’s practice, and what did those in charge of policy say they believed was legally meaningful or binding (*opinio juris*)?⁴

In doing so, we will keep in mind several vital insights about early modern Ottoman history that emerge from recent scholarship. First, the Ottoman Empire was not *just* Islamic. It

¹ Virginia H. Aksan, *Ottoman Wars 1700-1870* (London: Longman, 2007); Gábor Ágoston, *Guns for the Sultan* (Cambridge: Cambridge University Press, 2005); Rhoads Murphey, *Ottoman Warfare, 1500-1700* (New Brunswick, N.J.: Rutgers University Press, 1999); more generally see Charles Tilly, *Coercion, Capital, and European States, AD 990-1992*, Rev. ed (Cambridge, MA: Blackwell, 1992).

² Paul Wittek, *The Rise of the Ottoman Empire: Studies on the History of Turkey, 13th-15th Centuries*, ed. Colin Heywood (London: Routledge, 2013).

³ See Peter F. Sugar, “A Near-Perfect Military Society,” in *War: A Historical, Political and Social Study*, ed. L.L. Farrar (Santa Barbara, CA: University of California Press, 1978). For a more recent reconsideration, see Aksan, *Ottoman Wars*, 45.

⁴ For others who have taken such a perspective, see e.g. Aksan, *Ottoman Wars*; Murphey, *Ottoman Warfare, 1500-1700*; Joshua M. White, *Piracy and Law in the Ottoman Mediterranean* (Stanford, CA: Stanford University Press, 2017); Viorel Panaite, *The Ottoman Law of War and Peace: The Ottoman Empire and Tribute Payers* (Boulder, CO: East European Monographs, 2000).

was the heir to multiple cultural and political heritages, including Turkic, Mongol, Byzantine, Roman, and others that emerged in the unique medieval Anatolian borderlands.⁵ The Ottomans did not rule an island, so we cannot examine the dynasty's conceptions of law and war as if they were a purely internal development. It takes two to fight, and it takes two to make peace. Thus it should not be surprising that Ottoman ideas about war-making and peacemaking developed in conjunction with, and were inspired by, those of their neighbors and enemies.

Second, to the extent that Islam did inform Ottoman understandings, we must be careful of attributing more to religion itself than we would in other contexts. As Virginia Aksan has emphasized in looking at Ottoman warfare, "it has always been assumed that religion was the sole *modus vivendi* of the Ottomans," even though in scholarship on other early modern empires, "[r]eligious concerns were generally dismissed as irrelevant, or peripheral, to the concerns of *realpolitik*."⁶

Finally, the Ottoman Empire was always enmeshed in a larger context. The empire formed, flourished, and died through interactions with outside groups and powers, of various types. In the fourteenth century, the Ottoman state emerged from the Anatolian borderland milieu; in the sixteenth century, the empire was part of a colossal rivalry for imperial ascendancy in the Mediterranean; by the eighteenth century, the Porte was playing a critical role in the European balance of power; and in the nineteenth century, only the world of European diplomacy and international law kept the Ottoman Empire from destruction and partition. Moreover, even these contexts were never a simple matter of "in" and "out," with a sharp line between the sultan's domains and those outside. Such a dividing line is assumed in the classical Islamic legal distinction between the *Dar al-Islam* and the *Dar al-Harb*, and also in modern international law's understanding of sovereign nation-states as actors. But for most of Ottoman history, the central state uneasily managed borderlands and vassals that were neither fully "in" nor fully "out" of the empire.⁷ The Ottoman state's ideas about war and peace emerged within such a borderland, but as the empire grew it sought to tame and control borderland practices.

With these insights in mind, and looking at the *longue durée* of Ottoman history, several key themes emerge. First, to be clear, Ottoman ideas and practices changed. There was no single, fundamental "Ottoman" approach. However, what appears most constant is not the meaning of Islamic law, but the importance of two more secular rules that might be seen as the building blocks of the Ottoman law of war and peace. First, the Ottoman dynasty felt that wars required justification, to be provided in terms of concrete grievances against those they attacked. These might be real or pretextual, but they were almost always provided. Second, the Ottoman dynasty expected to, and did, conclude agreements of peace, whether this meant verbal oaths secured by

⁵ See Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton: Princeton University Press, 2011), 117–48; Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective* (Cambridge: Cambridge University Press, 2008); Stephen Kotkin, "Mongol Commonwealth? Exchange and Governance across the Post-Mongol Space," *Kritika: Explorations in Russian and Eurasian History* 8, no. 3 (2007): 487–531; for diplomacy in particular, see Güneş Işıksel, *La Diplomatie Ottomane Sous Le Règne de Selim II : Paramètres et Périmètres de l'Empire Ottoman Dans Le Troisième Quart Du XVIe Siècle* (Paris: Peeters, 2016); A. Nuri Yurdusev, ed., *Ottoman Diplomacy: Conventional or Unconventional?* (Basingstoke: Palgrave Macmillan, 2004).

⁶ Aksan, *Ottoman Wars*, 3.

⁷ Matthew H. Ellis, "Over the Borderline? Rethinking Territoriality at the Margins of Empire and Nation in the Modern Middle East (Parts I-II)," *History Compass* 13, no. 8 (2015): 411–34; see also Sabri Ates, *Ottoman-Iranian Borderlands: Making a Boundary, 1843-1914* (Cambridge: Cambridge University Press, 2013); Brian J. Boeck, *Imperial Boundaries: Cossack Communities and Empire-Building in the Age of Peter the Great* (Cambridge: Cambridge University Press, 2009).

honor, unilateral grants to vassals, or written treaties negotiated between equals. Religious commitments and the Islamic legal tradition were always important, but often they served to modify, challenge, or (more often) to bolster these secular rules. Therefore this chapter will, contrary to most scholarship, start with the secular rules and discuss Islamic principles as and when necessary. Finally, as noted, the meaning of these rules changed over time. In many ways these changes tracked the power of the Ottoman Empire. The dynasty embraced more egalitarian approaches in its rise to power, turned to more unilateral and domineering practices in its heyday, and turned back to a sort of egalitarianism as it lost power.

The Ottoman emirate (as it was called at first, before it became an empire) took shape in the fragmented borderlands on the edge of the Byzantine Empire in Anatolia, in the aftermath of the Mongol invasion that shattered the Seljuk Sultanate of Rum. While the nature of the early Ottoman emirate has attracted great scholarly debate, it is clear that Osman, the founder of the dynasty, gained power, prominence, and prosperity as head of a band of seminomadic warriors who launched plundering raids against wealthier, settled communities.⁸ Most of his targets were Christian, and most of his allies were Muslim, but his raids did include Christian warriors as well. The acquisition of plunder and slaves provided an obvious material motivation for these raids, which were a common practice for central Asian nomads, for centuries, as they moved into more settled areas of the Middle East and Eurasia. However, there was much more to the Ottoman emirate's motivations and justifications than ruthless, reductionist pragmatism.

Most obviously, plundering raids were the defining feature of what medieval Anatolians called *gaza*. In its most general outlines, the idea of *gaza* drew on canonical Islamic law, which postulated a sharp distinction, and confrontation, between the world ruled by Muslims (the *Dar al-Islam*) and the world ruled by non-Muslims (the *Dar al-Harb*). Wars by Muslims against the non-Muslim inhabitants of the *Dar al-Harb* could be, under some circumstances, *jihads*, or holy wars.⁹ This was a useful way to describe the early Ottoman state's raids, and later conquests: the Ottoman dynasty was Muslim, and most of their enemies were Christian (especially the Byzantines, who were the most dominant and tempting target early on).

However, *gaza* was at best vaguely inspired by canonical Islamic law, rather than a strict implementation of it. As Cemal Kafadar has shown, Osman had Christian allies in his *gaza*, and some of his contemporaries even drew up rules allocating a share of the booty to Christian allies. By contrast, a canonical *jihad* was a Muslim activity. Participation in a *jihad*, at least a defensive one, could become incumbent on every Muslim male. But *gaza* was inherently offensive, and was not seen as required.¹⁰ Perhaps *gaza* should be seen, to use Robert Gordon's terms, as at most a "vernacular" idea of the law.¹¹

Arguably, one could go further, and term it an entirely different type of law, a code of honor shared between Christians and Muslims and only loosely attached, by the latter, to the *sharia*.¹² An unwritten code of honor linked Muslim and Christian warriors in the Anatolian borderlands. This drew on Islamic law, but also on Byzantine traditions; as Kafadar argues,

⁸ Cemal Kafadar, *Between Two Worlds: The Construction of the Ottoman State* (Berkeley: University of California Press, 1995); Wittek, *Rise*; Rudi Paul Lindner, *Nomads and Ottomans in Medieval Anatolia* (Bloomington: Indiana University Press, 1983).

⁹ See Majid Khadduri, *The Islamic Law of Nations* (Baltimore: Johns Hopkins University Press, 2001); Kafadar, *Two Worlds*, 79–80; Mohammad Fadel, "International Law, Regional Developments: Islam," in *Max Planck Encyclopedia of Public International Law* (Oxford: Oxford University Press, 2010).

¹⁰ Kafadar, *Two Worlds*, 80.

¹¹ Robert W. Gordon, "Critical Legal Histories," *Stanford Law Review* 36, no. 1/2 (1984): 57–125.

¹² Kafadar, *Two Worlds*, 62–63.

“[t]he actual behavior of the gaza-minded must be a combination of canonical codes that they were familiar with (not necessarily accurately, and primarily through oral transmission), emulation of examples known to them personally or through gazi lore, and various other considerations arising from the particular circumstances of the moment as well as shared norms of conduct such as honor and glory.”¹³ These norms especially prized oaths, loyalty, and generosity toward defeated foes.¹⁴

Such codes of conduct could also provide a type of *jus in bello* for borderland warfare, not only in the early Ottoman era but for centuries afterward (hence, this paragraph will momentarily look forward, before returning to the chronological narrative). Right down through the early eighteenth century, war captivity along the Ottoman frontiers was regulated by systems of customary law. While these differed from place to place—from the Caucasus Mountains to the Black Sea steppes to the Hungarian borderlands to the Mediterranean Sea—in each case there were understandings that those taken in war, on both sides, could be sold into slavery, or ransomed, or exchanged for other captives. These procedures were typically governed by local customary systems—what Géza Pálffy, writing of the Hungarian context, calls the “customary law of the border zone.”¹⁵ The rules of ransoming became so intricate that “professional prisoners” emerged who moved back and forth, collecting ransoms and standing surety for their payment.¹⁶ In the Don steppes, likewise, ransom agreements could be enforced by the honor-based system of *baranta*.¹⁷ In the western Balkans, Muslim and Christian warriors formed bonds of brotherhood (*pobratimstvo*) that endured **endured** through, and gave rules for, captivity.¹⁸ Even at sea—amidst the Mediterranean maritime raiding known as the *corso*—the exchange of captives had rules that were understood (even if sometimes breached) by both sides.¹⁹ To be sure, religion played an important role. On the Ottoman side, the release of Muslim captives was a religious imperative, the taking of non-Muslim slaves was religiously permissible, and ransoming drew upon the forms, institutions, and language of Islamic law.²⁰ But in each case, the scholarship on ransoming and captivity makes clear that the rules were not unilaterally made by Ottoman Muslims; they were forged by peoples on both sides of the (often fuzzy) frontiers. As a result, those rules drew on principles of custom and honor recognizable by Muslims, Christians, and Jews alike.

¹³ Kafadar, 80.

¹⁴ Kafadar, 81, 126–27.

¹⁵ Géza Pálffy, “Ransom Slavery along the Ottoman-Hungarian Frontier in the Sixteenth and Seventeenth Centuries,” in *Ransom Slavery Along the Ottoman Borders: (Early Fifteenth-Early Eighteenth Centuries)*, ed. Géza Dávid and Pál Fodor (Leiden: Brill, 2007), 42–43.

¹⁶ Peter F. Sugar, “The Ottoman ‘Professional Prisoner’ on the Western Borders of the Empire in the Sixteenth and Seventeenth Centuries,” *Études Balkaniques* 7, no. 2 (1971): 82–91.

¹⁷ Boeck, *Imperial Boundaries*, 50–51; see also Brian J. Boeck, “Identity as Commodity: Tournaments of Value in the Tatar Ransom Business,” *Russian History* 35, no. 3/4 (2008): 259–66.

¹⁸ Wendy Bracewell, “Ritual Brotherhood Across Frontiers in the Eastern Adriatic Hinterland, Sixteenth to Eighteenth Centuries,” *History and Anthropology* 27, no. 3 (2016): 338–39.

¹⁹ White, *Piracy*.

²⁰ See Ahmed Akgündüz, *İslâm Hukukunda Kölelik-Câriyelik Müessesesi ve Osmanlı'da Harem* (Istanbul: Osav, 1995); Y. Hakan Erdem, *Slavery in the Ottoman Empire and Its Demise, 1800-1909* (Basingstoke: Macmillan, 1996); Ehud R. Toledano, *As If Silent and Absent: Bonds of Enslavement in the Islamic Middle East* (New Haven: Yale University, 2007); Nur Sobers-Khan, *Slaves without Shackles: Forced Labour and Manumission in the Galata Court Registers, 1560-1572* (Berlin: Klaus Schwarz Verlag, 2014); White, *Piracy*; Madeline C. Zilfi, *Women and Slavery in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 2010). White particularly emphasizes the role of *mufîs* and *kadis* in the Mediterranean.

These inter-religious codes of honor were important, even when they were inconvenient for Ottoman goals of conquest. For example, to return to the early Ottoman era, when Osman attacked the neighboring lord of Bilecik, with whom he had sworn an oath of friendship, Ottoman sources were keen to note that he had good reasons. One claim was that the lord had plotted against the emirate; another was that he had broken the code through arrogant behavior toward Osman.²¹ When attacking Muslim rivals, Ottoman rulers could claim that they had betrayed the dynasty, and undermined its *gaza* against infidels—marrying religious and secular reasoning.²²

Surely, these were more pretexts than reasons, but that is precisely the point. As Hathaway and Shapiro argue about early modern war manifestos, “The function of propaganda is to persuade. We can therefore tell what reasons people usually found persuasive by examining the reasons that propaganda offered to persuade them.”²³ The Ottoman chroniclers’ need to provide these reasons for Osman’s behavior shows that they, and probably he, felt that war needed some sort of justification, based on a concrete injury to the interests or honor of the Ottoman dynasty or state. Thus, early Ottoman ideas about the legality of war did not depend solely, or indiscriminately, on religious ideas of expansionism.

Just as the inter-religious code of the Anatolian borderlands depended on oaths, so did Ottoman relationships with states further away. As the Ottomans expanded, they entered a world of Mediterranean states, and adopted some of their customs. One of these the confirmation of friendship with other rulers by swearing a mutual oath of fidelity to an agreed-upon and negotiated text. That practice drew on Byzantine-Venetian and Venetian-Mamluk precedents.²⁴ These texts, called *ahdnames* or “pacts” in Ottoman Turkish, were in essence treaties. But they were not peace treaties, because they did not typically come at the end of wars; they were treaties of friendship, regulating commerce and relations. In Islamic legal theory, a non-Muslim state was an enemy, unless a temporary truce or peace was granted. But in Ottoman custom and practice, there was an ever-growing list of states with whom the Sublime Porte had, by default, friendly relations, secured by pacts, including Venice (with interruptions), France, Britain, the Netherlands, and even Byzantium (at times). These pacts were habitually renewed when new sultans (or foreign rulers) took power, and for some countries they were even made permanent from the sixteenth century onwards.²⁵ The subjects of these powers were protected people, or *müstemins*, when traveling in Ottoman lands, and the Ottoman state regarded their governments as friendly. Most of those states with whom the Ottomans concluded *ahdnames* in the early years were not land-based neighbors of the emirate or empire, but lay across the sea.

As the Ottoman emirate grew and became an empire, those land-based neighbors increasingly came under threat. Still, the dynasty and its elites felt the need to produce justifications for each war of expansion. They claimed to have gained lands from Germiyan through marriage, from Hamidili through purchase, and from Karaman through a defensive war.²⁶ This is not to say that the Ottomans respected a principle of proportionality—once a war began, for whatever reason or pretext, the emirate typically sought to conquer and subjugate the

²¹ Kafadar, *Two Worlds*, 85, 126.

²² Kafadar, 88.

²³ Oona A. Hathaway and Scott J. Shapiro, *The Internationalists: How a Radical Plan to Outlaw War Remade the World* (New York: Simon & Schuster, 2017), 42.

²⁴ Dariusz Kołodziejczyk, *Ottoman-Polish Diplomatic Relations (15th-18th Century): An Annotated Edition of 'Ahdnames and Other Documents* (Leiden: Brill, 2000), 5; see also White, *Piracy*, 107.

²⁵ Kołodziejczyk, *Diplomatic Relations*, 80–84.

²⁶ Halil İnalcık, *The Ottoman Empire: The Classical Age 1300-1600* (London: Phoenix Press, 2000), 14.

enemy. There was little correspondence between the “grievance” that allowed war and the “remedy” that the Ottoman state sought.²⁷ This was, after all, an empire intent on conquest.

In the exception that proves the rule, Bayezid I aimed to centralize power by launching aggressive and largely unprovoked attacks on vassals in Anatolia and the Balkans the late fourteenth century. This was seen by many contemporary Ottoman elites as “unscrupulous war” that went “against the good Ottoman tradition.”²⁸ It was seen as contributing to the alienation of Ottoman vassals that led many to turn against Bayezid, resulting in his defeat by Timur in 1402. When the Ottoman dynasty recovered power after Timur’s incursions, they returned to what Halil İnalcık called a “conservative” policy against vassals or rivals. Murad II, despite launching some aggressive campaigns, ended his reign preferring to defend the status quo.²⁹ Indeed, “[w]hen the Ottomans found it necessary to act against these Moslem states, they did their best to justify such actions in the eyes of the Islamic world.”³⁰

Murad’s son Mehmed II, the conqueror of Constantinople, is renowned his conquering zeal and his desire for universal empire—but even he felt the need to find pretexts for his conquests. Upon becoming sultan, Mehmed swore a lifetime oath to maintain his father’s friendship with Constantinople, and not to attack the city. Obviously, he did not keep this oath, but he did more than simply ignore it. Instead, he seized upon a diplomatic row: the Byzantines had taken in an Ottoman prince named Orhan, Mehmed’s second cousin and a possible claimant to the sultanate. Mehmed promised to pay the Emperor Constantine XI an allowance for Orhan’s maintenance. Mehmed did not pay on time, so the Byzantines sent envoys to complain—and more. They demanded that the funds be doubled, or else “the prince would be permitted to put forward his claim to the Turkish throne.”³¹ Mehmed, according to Greek sources, “seemed pleased with this convenient pretext for a final breach with Constantinople.”³² When Mehmed called together his viziers to make the final decision for the attack, too, he justified this as a form of preemptive defensive war; “the Byzantines might be weak,” he argued, “but, all the same, they had shown how well they could plot with the enemies of the Turks, and in their weakness they might put the city into the hands of allies who would not be so ineffectual.”³³ Obviously, Mehmed was bent on conquering Constantinople, and obviously he had strong ideological and religious reasons to do so. It was, famously, the “red apple” whose conquest would fulfill Islamic traditions and establish him as a world emperor. The point is not that these particular grievances were *really* the reasons for Mehmed to conquer Constantinople. The pretext was transparent, and surely Mehmed would have found another one had he needed to. But it *is* important that he felt some need to justify breaking his oath of peace, and that he justified it based on specific grievances against the Byzantines. Even at this peak moment of aggressive Ottoman imperialism, as Mehmed strode onto the world stage as a Muslim universal ruler, the idea that wars needed justification persisted.

²⁷ This stood in contrast to the “just war” doctrine of Thomas Aquinas, but would have been acceptable to the eighteenth-century European jurist Vattel. See Emer de Vattel, *The Law of Nations*, ed. Béla Kapossy and Richard Whatmore (Indianapolis: Liberty Fund, 2008), XIII § 195, <http://oll.libertyfund.org/titles/2246>.

²⁸ Halil İnalcık, “Ottoman Methods of Conquest,” *Studia Islamica* 2 (1954): 14–16; İnalcık, 104–5.

²⁹ İnalcık, *Ottoman Empire*, 20–21.

³⁰ İnalcık, “Methods,” 106.

³¹ Franz Babinger, *Mehmed the Conqueror and His Time*, ed. William C. Hickman, trans. Ralph Manheim, 2nd ed. (Princeton: Princeton University Press, 1992), 72.

³² Babinger, 76; see also Steven Runciman, *The Fall of Constantinople 1453* (Cambridge: Cambridge University Press, 1990), 65.

³³ Runciman, *Constantinople*, 74.

Mehmed claimed, after taking Constantinople, to be the Roman Emperor, with a right to reconquer all former Roman lands.³⁴ But this did not really translate into a literal justification for war—for example, when Mehmed, his son Bayezid II, and his grandson Selim I took the offensive against the Muslim Mamluk dynasty in Egypt, they articulated specific grievances.³⁵ Selim’s victory over the Mamluks in 1516-1517 did give the Ottomans another possible claim to universal dominion, since the Mamluks had ruled the Holy Cities of Mecca and Medina and harbored the last Abbasid Caliph.³⁶ This allowed subsequent sultans to cast themselves more easily as legitimate practitioners of *jihad*—but still, we will see, they continued to cite secular reasons for war.³⁷

The sultans of this era did substantially alter their rhetoric around *peace*-making. Beginning the late fifteenth century, the Ottomans began to cast the pacts they signed (*ahdnames*) not as negotiated texts to which both sides swore fidelity, but as privileges granted by the sultan to lesser supplicant rulers, subject only to his will and not to negotiation.³⁸ Foreign states were, therefore, on a similar footing with autonomous Ottoman vassals like Dubrovnik, Moldavia, and Wallachia; all received documents titled as *ahdnames*.³⁹ This stance was worthy of the dynasty’s new claims to universal imperial dominion—what ruler was an equal of the Roman Emperor or the Islamic Caliph? But it was more a pretense than a reality. The terms of Ottoman pacts continued to be negotiated with their interlocutors, even if the Ottoman text insisted that they were not.⁴⁰

The Ottomans’ claims of universal dominion are perhaps most memorable from the reign of Sultan Süleyman the Lawgiver/Magnificent (r. 1520-1566). (Such claims were of course not unique to the Ottomans; they were shared by almost every powerful state of the era.)⁴¹ By now the Ottoman dynasty articulated its claims to rule in detailed Islamic legal terms, exemplified by the fatwas (legal opinions) of the chief jurist (*şeyhülislâm*) Ebusuud.⁴² Ebusuud is often said to have harmonized sultanic law (*kanun*) with the *sharia*. In the sphere of warfare, he put sultanic power on firm religious ground—but this does not mean that he undermined the primacy of peace treaties, or of secular justifications for war. To the contrary, in many ways Ebusuud harnessed the Islamic legal tradition to justify a sultanic “monopoly on force”: only the sultan, his opinions insisted, could authorize a *jihad*.⁴³ Sultans did this frequently, using “the office of

³⁴ Inalcik, “Methods,” 26.

³⁵ Cihan Yüksel Muslu, *The Ottomans and the Mamluks: Imperial Diplomacy and Warfare in the Islamic World* (London: I.B. Tauris, 2014), 126–27, 137–39, 177.

³⁶ Alan Mikhail, *God’s Shadow: Sultan Selim, His Ottoman Empire, and the Making of the Modern World* (New York: Liveright, 2020).

³⁷ [This is incredibly striking—w the revision it could useful to explain why this interpretation matters. There is a kind of Ottoman pragmatism in dealing with neighbors and enemies throughout the chapter.]

³⁸ Kołodziejczyk, *Diplomatic Relations*, 5.

³⁹ Kołodziejczyk, 5; Panaite, *War and Peace*; Gábor Kármán and Lovro Kunčević, eds., *The European Tributary States of the Ottoman Empire in the Sixteenth and Seventeenth Centuries* (Leiden: Brill, 2013).

⁴⁰ White, *Piracy*, 107–8; Kołodziejczyk, *Diplomatic Relations*, 68, 72, 76. [W / revision - It would be valuable to extend this paragraph and offer an example. We could possibly add a paragraph on the incorporation of the M&W?]

⁴¹ Suraiya Faroqhi, *The Ottoman Empire and the World Around It* (London: I. B. Tauris, 2004), 8–9, 73–74; Kafadar, *Two Worlds*, 80; Anthony Pagden, *Lords of all the World Ideologies of Empire in Spain, Britain and France c.1500-c.1800* (New Haven: Yale University Press, 1998).

⁴² Colin Imber, *Ebu’s-Su’ud: The Islamic Legal Tradition* (Edinburgh: Edinburgh University Press, 1997). For the position of *şeyhülislâm*, see also R.C. Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (Atlantic Highlands, N.J.: Ithaca Press, 1986).

⁴³ White, *Piracy*, 184. See also Leslie Peirce, “Abduction with (Dis)Honor: Sovereigns, Brigands, and Heroes in the Ottoman World,” *Journal of Early Modern History* 15 (2011): 311–29.

the *şeyhülislam* to make every conflict a ‘holy war,’” in Joshua White’s words.⁴⁴ But the other side of the same coin was that if the sultan made peace with a particular non-Muslim state, then all Ottoman Muslims, including borderland raiders or irregular corsairs, had to respect that decision. Thus as White suggests, Islamic law served to bolster and reinforce the tradition of secular treaty-making.⁴⁵ To be sure, this view had a firm grounding in centuries of Islamic legal interpretation, which established that *jihad*, at least as an offensive sense, was the responsibility of the state, under the control of the leader of the Muslim community.⁴⁶ But its formal restatement by the chief jurist, whom the Ottoman dynasty insisted was the preeminent Muslim scholar of all, gave it an additional force as a key element of Ottoman thought about the law of war and peace.

Despite Süleyman’s pretensions, in many ways, Ottoman power on both land and sea had reached its geographical limits in this era. This was due to intensifying resistance from organized, militarily powerful Habsburg and Safavid Empires, and to the limits of logistics—it was difficult to sustain a campaign for more than one season, and a galley fleet, or an army on foot and horseback, could only go so far in a few months.⁴⁷ As a result, campaigns ended less often with conquest than with peace treaties. These were, in theory, granted unilaterally by the sultan, but in reality they had to correspond to the facts on the ground and the limits of Ottoman power. And terms that the Ottomans tried to impose were still subject to subversion or reinterpretation as they and their interlocutors (for example, Poland-Lithuania or Austria) exchanged texts.⁴⁸

As his ambitions faced these limits, Süleyman launched wars “at specific times for specific reasons.”⁴⁹ Moreover, he forged a durable alliance with a non-Muslim power, namely France, against their mutual enemies the Habsburgs. While this was certainly pragmatic, Christine Isom-Verhaaren has shown that it was not as revolutionary as it has often been seen; the Ottomans had long made tacit or explicit agreements with Christian powers. Moreover, the Ottomans explicitly defended this alliance, and their arguments reached back to earlier practices. The polymath Matrakçı Nasuh, whom Süleyman patronized, argued that an alliance with Francis against the Habsburgs was justified because of the latter’s oppression of Muslims in Spain. And, Nasuh also invoked the history of *gaza* and its multi-religious alliances and codes of conduct, arguing that the early Ottoman dynasty had often allied with Christians “to further their ambitions” in Anatolia.⁵⁰

When the French made peace with the Habsburgs at Cateau-Cambrésis in 1559, Süleyman cast this as a temporary expedient. In a letter to Francis, he conveyed his

⁴⁴ White, *Piracy*, 207; see also İnalçık, *Ottoman Empire*, 14.

⁴⁵ See White, *Piracy*; Joshua M. White, “Fetva Diplomacy: The Ottoman Şeyhülislam as Trans-Imperial Intermediary,” *Journal of Early Modern History* 19, no. 2–3 (2015): 199–221.

⁴⁶ Khadduri, *Law of Nations*; Adnan A. Zulfiqar, “Jurisdiction Over *Jihād*: Islamic Law and the Duty to Fight,” *West Virginia Law Review* 120 (2017): 427–68.

⁴⁷ Molly Greene, “The Ottomans in the Mediterranean,” in *The Early Modern Ottomans*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge: Cambridge University Press, 2007), 110–11; Murphey, *Ottoman Warfare, 1500-1700*.

⁴⁸ Kołodziejczyk, *Diplomatic Relations*, 72; Gustav Bayerle, “The Compromise at Zsitvatorok,” *Archivum Ottomanicum* 6 (1980): 6–51.

⁴⁹ Murphey, *Ottoman Warfare, 1500-1700*, 1; see also Gábor Ágoston, “Information, Ideology, and Limits of Imperial Policy: Ottoman Grand Strategy in the Context of Ottoman-Habsburg Rivalry,” in *The Early Modern Ottomans: Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge: Cambridge University Press, 2007), 75–103.

⁵⁰ Christine Isom-Verhaaren, *Allies with the Infidel: The Ottoman and French Alliance in the Sixteenth Century* (London: I.B. Tauris, 2011), 162.

understanding (or at least, his pretense) that the French king was disassembling, in order to rebuild his forces, and would soon return to the anti-Habsburg alliance.⁵¹ But Süleyman's own policy was hardly one of ceaseless warfare. Instead, after protracted conflicts, he signed two key treaties that established peace and defined borders for decades to come: Edirne (1547) with the Habsburgs, and Amasya (1555) with the Safavids. Zahit Atçıl attributes this policy largely to Süleyman's Grand Vizier Rüstem, whose goal was "to keep peace without losing any conquered land," and even sought a perpetual peace that would endure after Süleyman's death.⁵² (We will see that the desire to protect conquered land—particularly *Muslim* land and *Muslim* populations—remained the quintessential Ottoman *casus belli*, and the quintessential reason to resist peace treaties, for centuries to come.) To be sure, the Ottomans continued to fight both empires, but when launching campaigns they articulated particular grievances based on alleged treaty violations.⁵³ They expressed these grievances not only to their enemies, but also to those they saw as potential friends, like Queen Elizabeth of England.⁵⁴

While there was trade across the Ottoman-Habsburg frontier, there were also frequent wars, and the relationship tended to be regulated by peace treaties rather than commercial agreements. By contrast, the Ottoman state had a complex and often symbiotic relationship with Venice, even though they also sometimes clashed. Through this relationship, and its periodic breakdowns, we can see principles of maritime law and the law of war.⁵⁵ One particularly revealing moment was the beginning of the war for Cyprus in 1570. On this occasion, Sultan Selim II famously solicited a fatwa from Ebusuud, allowing the abrogation of the treaty of peace with Venice. The jurist ruled that a peace agreement that did not serve the best interest of Muslims—in this case, because Cyprus had once been Muslim land but was now in infidel hands—could be freely broken.

This might suggest that the Ottomans held peace treaties with non-Muslims to be worthless.⁵⁶ Yet as Güneş İşksel has noted, Ebusuud's fatwa was the exception that proved the rule: peace treaties were so important that only with a fatwa from the şeyhülislam himself could the sultan contemplate breaking them. Indeed, Ebusuud himself was more commonly associated with using Islamic law to uphold the authority of treaties signed by the sultan. Moreover, his fatwa was only invoked in later, seventeenth-century sources. At the time, both sultanic and vizierial letters to the Venetians, and contemporary Ottoman narratives, grounded the war on alleged Venetian treaty violations along the border in Dalmatia, and on claims that the Venetian authorities on Cyprus had aided corsairs who attacked Ottoman shipping. Only by taking Cyprus, the Ottomans claimed, could they redress treaty violations and secure their own subjects and commerce.⁵⁷ This presents a justification for war much more in keeping with the trend we have

⁵¹ See Süleyman's letter to Francis, and Isom-Verhaaren's commentary: Isom-Verhaaren, 139, 194–95.

⁵² Zahit Atçıl, "The Foundation of Peace-Oriented Foreign Policy in the Sixteenth-Century Ottoman Empire," in *Diplomatic Cultures at the Ottoman Court, c.1500-1630*, by Tracey A. Sowerby and Christopher Markiewicz (London: Routledge, 2021), 143, 145.

⁵³ Atçıl, 139, 141; a notable example was the beginning of the Long War in 1593: Mark L. Stein, *Guarding the Frontier: Ottoman Border Forts and Garrisons in Europe* (London: I.B. Tauris, 2007); Murphey, *Ottoman Warfare, 1500-1700*, 6–8.

⁵⁴ Claire Norton, "Iconographs of Power or Tools of Diplomacy? Ottoman *Fethnames*," *Journal of Early Modern History* 20, no. 4 (2016): 346–47.

⁵⁵ See generally White, *Piracy*; Molly Greene, *Catholic Pirates and Greek Merchants* (Princeton, N.J.: Princeton University Press, 2010).

⁵⁶ **I think someone actually argued this but I am blanking on who. Aimee, does this ring any bells?**

⁵⁷ İşksel, *Diplomatie*, 148–51, 158–60; White, *Piracy*, 123; Svatoopluk Soucek, "Navals Aspects of the Ottoman Conquests of Rhodes, Cyprus and Crete," *Studia Islamica*, no. 98/99 (2004): 233–36.

seen: both Ottomans and Europeans believed that states could judge for themselves whether their interlocutors had broken their pledges, and whether war was justified as a response.⁵⁸

The point here, again, is not whether these allegations were true, or even whether they were the ultimate motivation for Ottoman action—the point is that the Ottoman state felt the need to articulate these concrete grievances as a reason for war. Even in their own narratives, Ottoman chroniclers such as Gelibolulu Mustafa Âli and Selânikî Mustafa did not solely point to religion or universalism as justifications for the conflict. In the seventeenth century, as Işıksele shows, Ottoman chroniclers recast the war over Cyprus, emphasizing religious justifications and motivations. İbrahim Peçevi prominently cited Ebusuud’s fatwa, and pointed only to the goal of reclaiming land that had once been Muslim. This fit a larger trend: in the seventeenth century, Ottoman official ideology seems to have leaned more heavily on religious justifications for war than ever before. This was the golden age of Ottoman emphasis on *jihad*, exemplified by the religious zeal of the Kadizadeli movement, the reign of Mehmed IV, and the failed campaign against Vienna in 1683.⁵⁹ Sultan Mehmed IV (r. 1648-1687) distinguished himself from his contemporaries by describing himself as a *gazi*, intent on conquest and war with non-Muslims. Chroniclers described him as “wag[ing] jihad on the path of God” and following the example of the Prophet Muhammad.⁶⁰ Individual campaigns could take on more spiritual significance, as when Mehmed’s imperial council described an expedition against the Habsburgs as intended to “make known to the Christians the strength and vigor of Islam.”⁶¹

It is important to emphasize that this ideology of universal Muslim rule and *jihad* that the Sublime Porte emphasized in the seventeenth century was *not* simply a continuation of the medieval *gaza*. The new ideas were, first of all, imagined in new texts, justified more by early Islamic precedents than by the practices of Osman and Orhan. Moreover, as we have seen, *gaza* was not purely Islamic. It was inextricably linked to the borderland code of honor, to which both Muslims and Christians subscribed, and which drew on Turkic, Mongol, and Byzantine cultural legacies as well as Islamic. *Gaza* was oriented around offensive warfare, which might be permitted by the *sharia* but was not required, and it could include both Christians and Muslims as its targets. Canonical *jihad*, by contrast, was something undertaken exclusively by Muslims against non-Muslims, and it could become required if it was defensive (though it was certainly not always defensive). The role of religion in justifying war was therefore very different in the seventeenth-century Ottoman Empire than in the fourteenth-century, however tempting it may be to conflate these into a single unbroken tradition.⁶²

Moreover, even with the increased emphasis on religious rhetoric, Ottoman war and peace in the seventeenth century was still primarily a matter of treaties, and of wars launched for geopolitical reasons and accompanied by the articulation particular reasons (or pretexts). Sultan Mustafa I almost went to war to avenge an alleged Venetian “abrogation of the pact” in 1638. When his successor İbrahim eventually did go to war in 1645, launching the protracted war that gave the Ottomans control of Crete, he relied on the same justification that Selim II had used in

⁵⁸ Kołodziejczyk, *Diplomatic Relations*, 68; see also Hathaway and Shapiro, *Internationalists*; James Q. Whitman, *The Verdict of Battle: The Law of Victory and the Making of Modern War* (Cambridge, MA: Harvard University Press, 2012).

⁵⁹ See Marc David Baer, *Honored by the Glory of Islam: Conversion and Conquest in Ottoman Europe* (Oxford: Oxford University Press, 2008).

⁶⁰ Baer, 145–47.

⁶¹ Baer, 147.

⁶² See Kafadar, *Two Worlds*, 80, who explicitly aimed to offer a modification to the “gaza thesis” of Paul Wittek; Wittek, *Rise*. See also Lindner, *Nomads and Ottomans*.

attacking Cyprus: that corsairs used the island to facilitate attacks on Ottoman ships.⁶³ When Mehmed launched the campaigns that earned him the epithet *gazi*, he did so in the name of *defending* the empire's borders and the interests of pious Muslims. He sought to defend the Bosnian frontiers against alleged Venetian violations; to defend Muslim pilgrims from Arab nomadic harassment; and to punish Poland-Lithuania for breaking a treaty by "harassing the sultan's protégé, the Cossack military leader Doroshenko." Even though, as Marc Baer argues, Mehmed sought to "convert" the "religious landscape" of lands he conquered, making them Muslim, he did not intend at complete victory—but only to frighten the Poles "to dispatch an ambassador with terms of peace."⁶⁴ Overall, Mehmed's campaign secretary claimed that the sultan's wars "bring tranquility to Muslims because they secure the frontiers of the empire."⁶⁵ Even Vani Mehmed Efendi, the Kadizadeli leader whose religious zeal is often seen as motivating Mehmed IV's failed *jihad* against Vienna, cast holy war as something intended to defend Muslims against their enemies (foreign and domestic).⁶⁶ The rhetoric of religious war, in other words, went hand-in-hand with the rules of treaty-based warfare, rather than contradicting them.

This was particularly clear on the Habsburg frontiers, where Zahit Atçıl argues that the borders agreed to in the 1567 Treaty of Edirne took on a permanent, spiritual significance.⁶⁷ The line between Ottoman and Habsburg lands, according to the seventeenth-century traveler Evliya Çelebi, had been established by Süleyman himself, where he pitched his tent. For the state to campaign past that line was to risk disaster. When Mehmed IV did just that, and was met with a defeat at St. Gotthard in 1664, the British traveler Paul Rycaut claimed that many Ottomans saw this as an inevitable consequence of "violation of the Vow, and an injury to the sacred Memory" of Süleyman, who had decreed that his successors should "never...pass the Raba [River Rába/Raab], or place where the Turks received their defeat, without a solid and reasonable ground of War."⁶⁸

Mehmed IV, of course, violated the Rába line again two decades later, when his army under Grand Vizier Kara Mustafa Pasha besieged Vienna—and suffered a disastrous defeat in 1683. The ensuing War of the Holy League saw an extraordinarily rare alliance between all the Ottomans' Christian rivals: the Habsburgs, Poland-Lithuania, Venice, and Muscovy.⁶⁹ The Ottomans were forced to negotiate peace, culminating in the 1699 Treaties of Karlowitz with the first three powers, and the 1700 Treaty of Constantinople with Muscovy. These agreements have often been seen, following Rifa'at Abou-el-Haj, as a major turning point in Ottoman ideas of war and peace: they were permanent, they established clear boundaries for the empire, they marked the end of the idea of an "ever-expanding frontier," and they relinquished Muslim territory.⁷⁰

While all of this is true, when seen in the long history of Ottoman war they may not have been as momentous as once believed. There was certainly resistance to making peace in defeat. As Abou-el-Haj has shown, the Ottoman state and its propagandists justified these settlements

⁶³ White, *Piracy*, 162–63, 166–67; Baer, *Glory of Islam*, 154.

⁶⁴ Baer, *Glory of Islam*, 163–64.

⁶⁵ Baer, 165.

⁶⁶ Baer, 150–51.

⁶⁷ Atçıl, "Foreign Policy," 135.

⁶⁸ Quoted in Atçıl, 137–38.

⁶⁹ Murphey, *Ottoman Warfare, 1500-1700*, 10–11.

⁷⁰ Rifa'at A. Abou-el-Haj, "The Formal Closure of the Ottoman Frontier in Europe: 1699-1703," *Journal of the American Oriental Society* 89, no. 3 (1969): 467–75; Rifa'at A. Abou-el-Haj, "Ottoman Diplomacy at Karlowitz," *Journal of the American Oriental Society* 87, no. 4 (1967): 498–512; see also Aksan, *Ottoman Wars*, 26–27.

with examples from early Islam and claims that a temporary peace, advantageous to Muslims, could still advance *jihad*.⁷¹ But there were precedents for permanent peace agreements, for example with Poland, and for long, *de facto* indefinite periods of peace, for example with Venice.⁷² And it should be noted that the 1699/1700 treaties with the Porte's most intractable rivals, Austria and Muscovy, were for long periods but were *not* actually permanent.⁷³

The borders established at Karlowitz and Constantinople were certainly more precise than those of previous agreements, but there *was* a history of fixing at least general boundaries—and, as Atçıl argues, those with the Habsburgs took on a spiritual and legal significance for the Ottomans as early as the late sixteenth century. What was more important, particularly in the agreement with Muscovy, was that the demarcated borders ran through the steppe, forcing both states to wrestle with frontier populations like the Crimean Tatars and Don Cossacks who relied on crossing these permeable boundaries on raids. Through the eighteenth century, the struggle to bring such groups under control in the “middle ground” between empires challenged both the Ottoman and Russian states. This was a particularly modern challenge, but in some ways it continued the Ottoman effort to establish its “monopoly of violence” in the sixteenth century, discussed above.⁷⁴

What seems most exceptional in 1699/1700 was that the Ottomans had to give up substantial territory they had conquered, territory on which Muslims lived. This was a direct result of the military setbacks the empire suffered in 1683-1699. The Porte's negotiators played their hand skillfully, and insisted that whatever their Muslim lands their forces held, they would not give up; “unless specified, as in the case of the Podolian capital, no part of Muslim-held territory was negotiable.”⁷⁵ But the lands they had already lost militarily, were largely gone: the basis of the peace was the principle of *uti possidetis*, meaning that for the most part the side that had occupied territory by force, kept it. This was not in itself entirely new; the Ottomans had agreed to similar terms in the fifteenth century.⁷⁶ But now it meant that the Ottomans had to accept and recognize the loss of substantial Muslim settlements, such as Buda. This was a shock to Ottoman elites, especially after a century of rhetoric emphasizing *jihad* and ever-expanding frontiers.

However, this was probably not the reason why Karlowitz was so shocking. More important than the “end of expansion,” was that the empire had been defeated, and was forced to recognize *losing* prosperous territories—territories it had occupied for decades if not longer, and which already had substantial Muslim populations. Calls for a renewal of *jihad* after 1699/1700 perhaps should be seen not simply as demands to return to conquering aggressive holy war, but as pleas for the empire not to abandon *defensive* duty to protect those Muslim lands. Even the Crimean and Nogai Tatars, who clearly *did* want to resume aggression against Christian lands, couched their demands in defensive terms. Muscovy, they argued, threatened “the people of

⁷¹ Abou-el-Haj, “Ottoman Frontier,” 468; see also Aksan, *Ottoman Wars*, 27.

⁷² Dariusz Kołodziejczyk, “Slave Hunting and Redemption as a Business Enterprise: The Northern Black Sea Region in the Sixteenth to Seventeenth Centuries,” *Oriente Moderno* 25(86), no. 1 (2006): 80; White, *Piracy*.

⁷³ Abou-el-Haj, “Ottoman Frontier,” 467.

⁷⁴ Nancy Shields Kollmann, *The Russian Empire 1450-1801* (Oxford: Oxford University Press, 2017), 84–102; Boeck, *Imperial Boundaries*; Michael Khodarkovsky, *Russia's Steppe Frontier: The Making of a Colonial Empire, 1500-1800* (Bloomington: Indiana University Press, 2002); Abou-el-Haj, “Ottoman Frontier.” The term “middle ground,” used by Boeck, is originally from Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (Cambridge: Cambridge University Press, 1991).

⁷⁵ Abou-el-Haj, “Karlowitz,” 512.

⁷⁶ Abou-el-Haj, 499.

Islam” and had to be countered.⁷⁷ Yet in the end, despite the trauma of Karlowitz, and despite the opposition even of high officials like the Grand Vizier Daltaban Mustafa (in office 1702-1703), the Porte *did* uphold the agreements. They remained in force for years or decades, until superseded; the treaty with Poland governed relations with that state until it ceased to exist at the end of the century.⁷⁸

Nor should the Karlowitz/Constantinople treaties, in the light of recent scholarship, be seen a decisive break with an Ottoman tradition of settling disputes by war and the “equation of foreign policy with military adventure.”⁷⁹ The changing nature of Ottoman diplomacy before 1699 is beyond the scope of this chapter, but it was far more nuanced and flexible than simply presenting ultimatums backed by war.⁸⁰ And at the same time, the Ottoman Empire hardly abandoned war, including aggressive war, as a tool of policy after 1699. The Porte launched numerous campaigns through that century, and in doing so, it cited particular grievances more and more systematically as their reasons for war.

These were, as before, sometimes pretexts—but again, it is important that the Porte felt the need to invoke them. In 1714, Sultan Ahmed III sounded much like İbrahim in 1645 when he accused Venice of violating the Treaty of Karlowitz by aiding rebels in Montenegro and interfering with Ottoman shipping.⁸¹

Half a century later, the Porte went to war with Russia, and again it cited specific, secular grievances. On that occasion, in 1768, the Ottoman *reisülküttap* (de facto foreign minister) presented the British ambassador with a formal explanation of the Porte’s grievances.⁸² In European terms, this was a “manifesto,” the writing of which was its own genre, of great political significance, in the early modern period.⁸³

The manifesto, recently translated and published by Michael Talbot, offers a valuable and detailed glimpse of Ottoman legal reasoning. The Porte argued that war was merited because Russia had broken previous peace treaties, specifically those of 1720 and 1739. Those treaties, the Ottoman document contended, prohibited “anything that does any harm to the order of the ever-lasting peace.”⁸⁴ Russian actions in Poland, and specifically in Balta, had violated that peace. In particular, the manifesto claimed that the Russians had violated Ottoman territory around the town of Balta (in present-day Ukraine), killing over a thousand men, women, and children.⁸⁵ (Russian troops were passing through on their way to respond to Cossack and Polish revolts.)⁸⁶ The Porte noted that its grievances went beyond this offense, however: attempts had

⁷⁷ Abou-El-Haj, 473.

⁷⁸ Kołodziejczyk, *Diplomatic Relations*, 85.

⁷⁹ Abou-El-Haj, “Karlowitz,” 498.

⁸⁰ See especially A. Nuri Yurdusev, “The Ottoman Attitude toward Diplomacy,” in *Ottoman Diplomacy: Conventional or Unconventional?*, ed. A. Nuri Yurdusev (Basingstoke: Palgrave Macmillan, 2004), 5–35; Daniel Goffman, “Negotiating with the Renaissance State: The Ottoman Empire and the New Diplomacy,” in *The Early Modern Ottomans: Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge: Cambridge University Press, 2007), 61–74; Norton, “Fethnames”; White, “Fetva Diplomacy.”

⁸¹ Aksan, *Ottoman Wars*, 98.

⁸² Michael Talbot, “A Legal and Diplomatic Justification of the Ottoman Declaration of War against Russia, 1768: Legitimizing War within the Ottoman Empire,” *SHARLASource* (blog), July 20, 2017, <https://beta.shariasource.com/documents/2924>.

⁸³ Hathaway and Shapiro, *Internationalists*, 31–55.

⁸⁴ Talbot, “Declaration.” The translation is his.

⁸⁵ Talbot.

⁸⁶ Aksan, *Ottoman Wars*, 140.

been made to persuade Russia to “abandon its interference with the Poles,” to no avail.⁸⁷ Thus the Ottomans objected both to the broad direction of Russian policy, and to specific actions. Such arguments could have been made by any contemporary state—indeed, the complaint about Russia violating Ottoman territory 1736, when Tatars had crossed Russian-claimed Daghestan en route to aid an Ottoman campaign in Persia.⁸⁸ Likewise, Napoleon’s violation of the Prussian territory of Ansbach, while marching his forces to war with Austria, contributed to Prussia declaring war on the French ruler a few decades later.⁸⁹

The 1768 Ottoman manifesto went on to note that religious scholars had issued a fatwa justifying the campaign. Here again, religious law reinforced treaties and customs; the fatwa might have indicated that the war was religiously authorized, but the *reason* for it was a Russian violation of secular treaty obligations, not of religious edicts.⁹⁰ This illustrates the Porte’s general attitude toward war in the seventeenth and eighteenth centuries. By default, it was at peace with other powers, even its rivals and neighbors. The expectation was that every war would end with a treaty, not with conquest, and the terms of the treaties became increasingly regularized and expected. The peace treaties of Sistova (1791) and Jassy (1792) with Austria and Russia, for example, included commercial provisions alongside the more normal provisions ending hostilities. Those terms, too, became increasingly regularized, and expected.

Here again, the example of captivity can be instructive, and worth dwelling upon. We have seen that in earlier centuries, inter-religious systems of customary law were just as important to *jus in bello* as they were *jus ad bellum*. Likewise, as formal treaties became more regularized and standardized, transformations in captivity become apparent. Ottoman peace agreements since at least the sixteenth century recognized the existing practice of ransoming captives. The actual mechanics of ransoming were usually left to local networks and local rules. But over time, treaties made between sovereigns regulated ransoming, and extended it from the borderlands into the interior of the Ottoman Empire (and its neighbors). At first, in the sixteenth century, Polish ransoming agents were granted the right to travel throughout the Ottoman empire, and to issue similar assurances of safe passage to those they ransomed. The Porte also agreed that slaveowners would not demand higher ransom prices than they had paid to purchase their captives.⁹¹

In the treaties of Karlowitz, this regulation went further, mandating that ransoms be “just and reasonable,” and that Ottoman Islamic-court judges (*kadis*) would set prices if the parties could not agree on what that term meant.⁹² However, captives who had converted to Islam were not to be returned to their homelands—this rule may have been enforced previously, as a matter of local custom in at least some places, but now it was formal inter-state treaty law. Subsequent Ottoman-Austrian agreements clarified that children born to enslaved Christian women *could* be ransomed, and that Trinitarian monks who dedicated themselves to ransoming could travel freely

⁸⁷ Talbot, “Declaration.” Again the words are his translation of the Ottoman original.

⁸⁸ Aksan, *Ottoman Wars*, 103.

⁸⁹ Alexander Mikaberidze, *The Napoleonic Wars: A Global History* (Oxford: Oxford University Press, 2020), 200–201.

⁹⁰ Talbot notes that the term for breaking the treaty, *nakz-ı ‘ahd*, was itself derived from Qur’anic roots.

⁹¹ Kołodziejczyk, 241, 291, 541–42.

⁹² The captivity terms of the Venetian, Polish, and Austrian treaties, respectively, are found in Başbakanlık Osmanlı Arşivi, Divan-i Hümayûn Düvel-i Ecnebiye Defterleri, 16/4 p. 25, 55/1 p. 25, and 57/1 p. 25. For French translations, see Gabriel Noradounghian, ed., *Recueil d’Actes Internationaux de l’Empire Ottoman*, vol. I (Paris: Pichon, 1897), 182–96.

through Ottoman lands.⁹³ These rules had a double effect: they brought ransom under the control of central states and their treaties (at least in theory)—but they also extended the customs of ransoming from the borderlands deeper into the Ottoman interior. Thus customary border law expanded in scope even as it was co-opted by interstate agreements.

Over the course of the eighteenth century, however, Ottoman treaties began to supplant, rather than formalize, ransom. This began in the 1730s, after a war between the Sublime Porte and the short-lived Iranian empire of Nadir Shah. Nadir predicated his diplomatic efforts on the demand that the Ottomans recognize Shi'i Islam as a coequal school (Arabic *maddhab*) alongside those of Sunni Islam. In keeping with this position, he requested that the Ottomans release all captives, without ransom, since it was wrong for Muslims to enslave other Muslims.⁹⁴ Sultan Mahmud I agreed (despite refusing Nadir's overtures about religious unity). He ordered individual slaveowners to hand over their captives to state officials at the Islamic courts, receiving compensation.⁹⁵ A few years later, after the 1736-1739 Russo-Ottoman war ended, Empress Anna's representatives demanded the same captivity provisions, and Mahmud again agreed. All captives, whomever their owner, were to be returned without ransom.⁹⁶ Rather than a demand for equality between Muslims, the Russians' demands were based on their own state's demands for labor, its sense of religious duty to fellow Christians, its prior practices in wars with Poland-Lithuania, and most of all its growing military ascendancy over the Ottomans. The Ottomans, for their part, agreed in order to free the large number of their own subjects and soldiers in Russian hands.⁹⁷ The Porte, with constant Russian prodding, began collecting captives from Istanbul, other cities, and towns along the main military roads. Slaveowners were compensated, but many resisted or evaded.⁹⁸

These terms—immediate release of all captives on both sides without ransom—became a standard part of Ottoman-Russian treaties. They were repeated in the 1774 Treaty of Küçük Kaynarca (with some additions)⁹⁹ the 1792 Treaty of Jassy (copied almost word-for-word from Küçük Kaynarca),¹⁰⁰ the 1812 Treaty of Bucharest (with some technical changes),¹⁰¹ and the 1829 Treaty of Adrianople (largely similar to Bucharest).¹⁰² These terms also made their way

⁹³ Joseph Hammer-Purgstall, *Geschichte Des Osmanischen Reiches* (Pest, 1827), VII: 19, VII: 252; see also Karl Jahn, "Zum Loskauf Christlicher Und Türkischer Gefangener Und Sklaven Im 18. Jahrhundert," *Zeitschrift Der Deutschen Morgenländische Gesellschaft* 111 (1961): 63–85.

⁹⁴ Ernest S. Tucker, *Nadir Shah's Quest for Legitimacy in Post-Safavid Iran* (Gainesville, Florida: University Press of Florida, 2006); Ernest Tucker, "The Peace Negotiations of 1736: A Conceptual Turning Point in Ottoman-Iranian Relations," *The Turkish Studies Association Bulletin* 20, no. 1 (1996): 16–37. See also

⁹⁵ Başbakanlık Osmanlı Arşivi, Cevdet Hariciye collection, 7087; İzzet Sak and İbrahim Solak, *53 Numaralı Konya Şer'îye Sicili (1148-1149/1736-1737) (Transkripsiyon ve Dizin)* (Konya: Selçuk Üniversitesi Basımevi, 2014), 158–60, 650–52.

⁹⁶ An Ottoman copy of the treaty article is found in Başbakanlık Osmanlı Arşivi, Düvel-i Ecnebiye Defterleri collection, 83/1 p. 85. For an official Russian edition, see *Polnoe Sobranie Zakonov Rossiiskoi Imperii, 1649 Goda* (St. Petersburg, 1830), #7900; for an Ottoman French translation see Noradounghian, *Actes Internationaux*, 1897, I:261–62.

⁹⁷ Will Smiley, *From Slaves to Prisoners of War: The Ottoman Empire, Russia, and International Law* (Oxford: Oxford University Press, 2018), 64–65.

⁹⁸ Smiley, 65–71.

⁹⁹ Başbakanlık Osmanlı Arşivi, Düvel-i Ecnebiye Defterleri collection, 83/1 p. 62; *PSZRI*, #14164; Noradounghian, *Actes Internationaux*, 1897, I:331.

¹⁰⁰ Başbakanlık Osmanlı Arşivi, Düvel-i Ecnebiye Defterleri collection, 83/1 p. 85; *PSZRI*, 17008; Gabriel Noradounghian, ed., *Recueil d'Actes Internationaux de l'Empire Ottoman*, vol. II (Paris: Pichon, 1900), 20.

¹⁰¹ Noradounghian, *Actes Internationaux*, 1900, II:90.

¹⁰² *PSZRI*, #3128.

into Ottoman agreements with other states, beginning with the 1791 Ottoman-Austrian Treaty of Sistova.¹⁰³ In implementing this treaty, both parties explicitly drew on Russo-Ottoman precedents.¹⁰⁴ The same was true in 1802, when the Ottomans made peace with Napoleon following the latter's invasion of Egypt. The treaty terms were similar to those of earlier agreements, though more vague, and French diplomats specifically asked that he release process be conducted like those for Austrian and Russian captives.¹⁰⁵

Most of these treaties, of course, formalized Ottoman defeats. While the empire held its own early in the century, the 1768-1774 and 1787-1792 Russo-Ottoman Wars went badly for the Porte. Losing battles and relinquishing territory would be traumatic for any great empire, and after the grandiose pretensions of the previous centuries, it was hard for the Ottoman elite to accept a dictated—or even negotiated—peace.¹⁰⁶ But in legal terms, what particularly difficult for the Ottoman elite was that the Russians demanded the independence of Crimea. The Crimean Tatar Khanate was a long-time Ottoman vassal, and was vital to the empire both economically (the Tatars' raids were a source of slaves) and symbolically (the Tatars, unlike the Ottomans, could trace their lineage to Genghis Khan). Most importantly, it was Islamic territory, conquered and now inhabited by Muslims. There were fierce debates within the court about whether it was permissible to relinquish Muslim lands, and the Ottomans agreed to these terms only when faced with certain defeat. The treaty's defenders turned to the same arguments Naima had made almost a century earlier, invoking precedents from early Islamic history to justify a temporary peace.¹⁰⁷ These debates were renewed in 1783, when Russia went one step further and *annexed* Crimea. The court had seen clashes between “war” and “peace” factions before, but this one was vicious and consequential.¹⁰⁸ Many Ottoman elites believed this was a violation of the treaty that justified war, as well as a grave transgression against the interests of Muslims and of the empire. The Porte backed down from a fight, recognizing its military inferiority to the Russians, but the Ottomans did declare war four years later, seeking (and failing) to recover Crimea.¹⁰⁹

Two of the most astute Ottoman statesmen of this period—Ahmed Resmî and Ahmed Vâsîf—took the lessons of the era to heart, as Virginia Aksan and Ethan Menchinger have shown.¹¹⁰ Resmî, and later to some extent Vâsîf, came to believe that peace was the preferable, default state for empires and indeed for humanity, and that war should only be pursued temporarily, when necessary for clear purposes. Empires should be content within their boundaries, Resmî argued—and he saw European states as exemplifying this. This was a dramatic break with the expansionary, universalist, religious-inspired ideology of the seventeenth century. It was a sharp rejection of the Ottomans' traditional strategy, since Ottoman elites had often welcomed pretexts for war, believing that conflicts would end in victory and expansion. At the same time, Resmî's views were not entirely new; the Grand Vizier Rüstem, for example, had

¹⁰³ Noradounghian, *Actes Internationaux*, 1900, II:9–10.

¹⁰⁴ Başbakanlık Osmanlı Arşivi, Hatt-ı Hümayun collection, 1401/56477.

¹⁰⁵ Başbakanlık Osmanlı Arşivi, Düvel-i Ecnebiye Defterleri collection, 29/4 p. 36; Cevdet Hariciye collection, 3047, 5735, 6176.

¹⁰⁶ Ethan L. Menchinger, *The First of the Modern Ottomans: The Intellectual History of Ahmed Vasif* (Cambridge: Cambridge University Press, 2017), 36.

¹⁰⁷ Menchinger, 49–51; see also Virginia H. Aksan, *An Ottoman Statesman in War and Peace: Ahmed Resmi Efendi, 1700-1783* (Leiden: Brill, 1995).

¹⁰⁸ Faroqhi, *World Around It*, 74.

¹⁰⁹ Menchinger, *Modern Ottomans*, 90–95.

¹¹⁰ Aksan, *Ottoman Statesman*, 195–99; Menchinger, *Modern Ottomans*, 205.

advocated such an approach two centuries earlier.¹¹¹ What Resmî offered was a break with the pretensions of the seventeenth and early eighteenth centuries, and an intellectual apparatus far beyond Rüstem's pragmatism.

Despite these late eighteenth-century upheavals, the Ottomans continued to make war, and peace, in the same basic way they had before, if not for the same reasons. In 1768 and 1787, as before, the Ottomans declared war by invoking particular grievances, with the expectation not of total victory but of a negotiated treaty (they just hoped for a better negotiating position than they ended up with). It is easy to forget that the Ottomans *did*, contrary to their pretensions, have a long history of agreeing to negotiated peace settlements. When Ottoman elites were scandalized by the Treaty of Küçük Kaynarca, this was not because they objected to the *idea* of signing a peace treaty (that had happened many times before, for centuries), or because they rejected the legitimacy of the agreement. Their concern was that the sultan *should not have* agreed to these terms, not that he *could not*. Likewise, the Ottoman objection in 1783, when Catherine the Great annexed Crimea, was motivated by geopolitical and religious concerns about the loss of Muslim territory and populations, but it was grounded on the *treaty itself*. The Ottomans could claim, with some justification, that the Russians had broken the treaty. The question was about whether it was wise, or religiously required, to go to war to defend the treaty. Therefore here, as in the sixteenth century, it appears that arguments about Islamic law were fundamentally used to bolster, not to undermine, the legitimacy of the sultan's prerogative to go to war, or to make peace through treaties.

What connected the trauma of Küçük Kaynarca to that of Karlowitz was the loss of significant Muslim territory that elites saw as integral to the empire, whether Hungary or Crimea. In each case, Ottoman elites felt compelled by religion to recover the territory, and when they backed down from doing so, they stepped back not from an eternal *jihad* aimed at expanding borders, but from a defensive *jihad* defending Muslim territory and populations.

By the end of the eighteenth century, then, Ottoman elites were adjusting to a world in which they no longer had military superiority, and in which they might be forced into dictated agreements. This meant they might sometimes be forced to relinquish Muslim lands—something which they felt was religiously distasteful, but still within the sultan's power. This was a dramatic shift in imperial power, and it forced a fundamental reconfiguration of the dynasty's ruling ideology and legitimacy. But in other ways, war and peace went on as before: grievances justified campaigns, which ended with agreements that the sultan enforced. The nineteenth century saw Ottoman military power wane even further.¹¹² European empires increasingly set the terms of peace settlements and starting in the 1830s, in the aftermath of interstate warfare and internal rebellions, they imposed a variety of economic and political limitations on the full exercise of Ottoman sovereignty. Nevertheless, by the 1850s, the empire elevated treaty making within the diplomatic arsenal as the main tool to preserve imperial sovereignty in a world increasingly dominated by European economic and military power. In a stunning reversal, treaties now safeguarded what war had achieved in earlier periods. From the nineteenth century through the Treaty of Lausanne (1923) concluding the First World War, Ottoman diplomats, and later international lawyers, relied on European peace treaties to secure imperial lands.

In the aftermath of the Napoleonic Wars and the reorganization of the political order of Europe, the Ottoman empire found itself in a disadvantageous position vis-a-vis its neighbors to the west. Though the empire had fought alongside, and against, the major European powers

¹¹¹ Atçıl, "Foreign Policy."

¹¹² [Aimee's section starts here].

throughout the various coalitions making up the Napoleonic Wars, the Ottomans opted out of the peace settlement at Vienna (1814 -1815)—and thus were not initially a formal member of the new Concert of Europe. As Ozan Ozavcı has shown, the decision not to participate in the politics of peacemaking in Europe was contentious at the Porte and reflected an internal power struggle. The winning faction cast European “politics” (*politika*) as a space of intrigue and deception, and one that could only lead to a further erosion of Ottoman power in Europe.¹¹³ Despite the attempt to distance the empire from the new international order of 1815, rebellions in the Ottoman Balkans the early 1820s propelled the empire headlong into Europe’s orbit and into uncertain international legal terrain.

European military involvement in the Greek War of Independence (1821-1832) fundamentally changed the Ottoman relationship to Europe. The conflict resulted in on going European military intervention in domestic affairs, war with Russia (1828-29), independence for Greece, and for the first time, European imposed administrative autonomy for a handful of Ottoman provinces with Christian majority populations. European responses to the rebellion in Ottoman Greece were uneven and shifted over the course of the 1820s. As Will Smiley has argued, the most significant legal question that arose during the conflict was whether Britain, France and Russia were at war with the Ottomans—a question that had significant repercussions in the aftermath of Battle of Navarino in 1827, when the Allies destroyed the entire Ottoman fleet.¹¹⁴ Throughout the conflict, Britain eschewed and delayed declaring war while attempting to pursue a policy of neutrality. Whereas Russia already in 1821 issued an ultimatum demanding an end to the rebellion and its quick suppression, as well as protection of Orthodox churches and the pacification of the Wallachia and Moldavia. Russia broke diplomatic relations with the Ottoman court over the execution of execution of Pope Gregory in the spring of 1821. Throughout the rebellion, the European Allies floated a variety of legal theories to justify intervention without declaring war.¹¹⁵ At the same time, they insisted that administrative autonomy, guaranteed by the powers of Europe, would be imposed on Greece after the conflict ended.

Russia used the opportunity of the disturbances in Greece to compel the Ottoman to agree to the Convention of Akkerman (1826), which among other things confirmed vague promises of administrative autonomy given to Wallachia and Moldavia in the Treaty of Bucharest (1812). It also transformed the system of local governance in the Danubian Principalities. The Phanariot *voyvodas*, appointed from Istanbul, would be replaced with local elected elites. Russia also insisted that Serbia should have autonomy to the mix and extended autonomy, noting that it was “*ab antiquo*, subject and tributary to the Ottoman Porte.”¹¹⁶ Serbia had never been a “tributary” or had the status that Wallachia and Moldavia enjoyed. Russia also demanded the Ottomans confirm these privileges in an imperial edict. The Ottomans reluctantly agreed to these terms to limit Russian involvement in the Greek crisis, but when British, French, and Russian ships sank

¹¹³ Ozan Ozavcı, *Dangerous Gifts Imperialism, Security, and Civil Wars in the Levant, 1798-1864* (Oxford University Press, 2021). See too his “A Priceless Grace? The Congress of Vienna of 1815, the Ottoman Empire and Historicising the Eastern Question,” *The English Historical Review* 136, 583(December 2021): 1450–1476. See too Glenda Sluga, *The Invention of International Order: Remaking Europe after Napoleon* (Princeton: Princeton University Press, 2021).

¹¹⁴ Will Smiley, “War without War: The Battle of Navarino, the Ottoman Empire, and the Pacific Blockade,” *Journal of the History of International Law*, 18(2016): 42-69.

¹¹⁵ Smiley, *Ibid.*, p. 66.

¹¹⁶ Hertslett, *Map of Europe by Treaty*, October 7, 1826 - No. 131, “Convention between Russia and Turkey, explanatory of the Treaty of Bucharest” Signed at Ackermann 25 Sept./7 Oct. 1826; *Constitutional Charters of the Ionian Islands; Muahedet Mecmuası*.

the Ottoman fleet at of Navarino, Sultan Mahmud II (r. 1808-1839) cancelled the Akkerman Convention and closed the Bosphorus to ships from the Black Sea ships. Russia retaliated with war and immediately occupied the Wallachia and Moldavia and went to war to preserve Balkan autonomy. Russia justified the invasion arguing that the Ottomans had abrogated every treaty signed between the empires from 1774 to 1826, guaranteeing autonomy in the principalities. The lengthy war declaration asserted a new and durable idea into Ottoman-European relations—that international law guaranteed the territorial integrity of the Ottoman empire. Russo-Ottoman treaties, the war declaration argued, preserved “the integrity of its Frontiers, under the protection of the Law of Nations.”¹¹⁷ The empire declared *jihad* against Russia for having incited the Greek Orthodox community to war “and because this war has thus been caused by hostility towards the Islamic faith and therefore is a religious struggle.”¹¹⁸ It was the last time before the 1914 declaration of *jihad* that they empire would resort to religious justification for warfare against a Great Power.¹¹⁹

By the end of the war, Russian administrative demands were far more explicit. The Treaty of Edirne (1829) insisted on autonomy for Wallachia, Moldavia and Serbia, and stipulated that the Ottoman would accept autonomy in Greece according to the terms of the London Protocol (1829). The burdens Russia placed on the empire in the Treaty of Edirne (1829), informed the basis of the final negotiations on the status of Greece and especially the settlement in the Balkans. In 1830, Russia, Britain and France agreed to give Greece independence and to award autonomy to Moldavia, Wallachia, and Serbia, but it took several more years to hash out the details. In all these cases, European powers worked against the conservative order established in Vienna but justified the outcome in the Balkans the way Russia had in 1826 with Akkerman—autonomy was not only an existing Ottoman practice of rule, but it had also already been guaranteed in multiple treaties before the 1820s—even though European imposed autonomy was in fact an innovation and did not draw upon existing practices.

One of the key factors of the early days of the rebellion in Greece was the fact that the existing approach Ottoman foreign policy, and Ottoman relations with Europe more generally, was thrust into disarray. As Christine Philliou has demonstrated, diplomacy and actual correspondence between Istanbul and the courts of Europe broke down with the destruction of the Phanariot network in 1821.¹²⁰ The chief diplomatic conduits between European empires and the Ottomans—namely the chief imperial dragoman, the dragoman of the fleet, and the two *voyvodas* of Moldavia and Wallachia, all Phanariots—were removed from their offices, which disrupted communication.¹²¹ The fact that the Ottoman diplomatic corps remained in various states of disorder through the revolution enabled Russia, Britain and France, to impose rather than negotiate terms throughout the 1820s and early 1830s. The fact that Ottomans negotiated the status of Samos on far better terms than for Serbia and the Danubian Principalities, marked a revival of the newly reconfigured Ottoman foreign ministry and a new shift in the diplomatic dynamics between empires.¹²²

¹¹⁷ *Map of Europe by Treaty*, vol. 2, p. 779.

¹¹⁸ Quoted in Mustafa Aksakal, 'Holy War Made in Germany'? Ottoman Origins of the 1914 Jihad," *War in History*, 18, 2(April 2011), p. 189.

¹¹⁹ The Şeyhülislam would issue a fatwa and the sultan a declaration of *jihad* against the Greece in 1897. Aksakal, *Holy War*, p. 189.

¹²⁰ Christine Philliou, *Biography of an Empire: Governing Ottomans in the Age of Revolution* (Berkeley: University of California Press, 2011), chap. 4-5.

¹²¹ Philliou, *Ibid.*, p. 88.

¹²² *Ibid.* p. 109-117.

The outcome of the Greek rebellion demonstrated that it was not possible for the Ottomans to remain outside of the world European politics. The loss of Greece was a bitter humiliation, as were European imposed autonomies in the Balkans. European military intervention in Ottoman affairs, along with demands for administrative reforms and reorganization proved that the empire required something more than military power to manage Europe. The solution was found in a new activist diplomacy that increasingly adhered to the principles of international law and embraced treaties as a means to secure the empire. While Greece created the principal of joint European intervention on behalf of Ottoman Christians, the agreements resulting from the conflict also articulated the idea that international treaties protected Ottoman “territorial frontiers,” an idea that would become formalized as part of the system and laws governing Ottoman relations with Europe.¹²³ Nowhere is this shift clearer than in Ottoman interpretations and uses of the Treaty of Paris (1856) concluding the Crimean War.

The Crimean War (1853-1856) was one of the few wars the Ottomans successfully executed against Russia over the course of the eighteenth and nineteenth centuries and far more important, the outcomes shaped Ottoman approaches to warfare and peacemaking through the collapse of the state.¹²⁴ Despite the fact that Russia cast the war in religious terms, the Ottomans issued a declaration of war according to international legal standards—even as the Şeyhülislam issued a *fatwa* sanctioning *jihad* against Russia.¹²⁵ Instead of *jihad*, the Ottoman declaration of war focused on secular questions related to international law and non-intervention in the domestic affairs of other states. The text claimed that Russia had attempted to interfere with Ottoman imperial privileges bestowed upon the Greek Orthodox church, and that Russia had illegally occupied the Danubian principalities.¹²⁶ The declaration, which was published in the official state paper (*Takvim-i Vekayi*) on October 4, 1853, insisted that the empire had always scrupulously observed the terms of its European treaties, and never more so than in those adjudicated between the Russian and Ottoman empires—an argument that would become standard in Ottoman-European negotiations.¹²⁷ Moreover, the Ottoman justification for war was pitched as an explicit defense of sovereignty: “the Porte can no longer tolerate or endure the existing state of things, as well as the prolonged occupation of the Principalities, which are integral part of its Empire; the Ottoman cabinet, with the fixed and laudable intention of defending the sacred rights of sovereignty and the independence of its government, will resort to just Reprisals against a violation of treaties which it looks upon as a *casus belli*.”¹²⁸ Thus even before the Treaty of Paris was negotiated and signed, the Ottoman Foreign Ministry claimed treaty law protected and guaranteed imperial sovereignty.¹²⁹

Britain justified its intervention on behalf of the Ottoman empire in similar terms, arguing that that Russia had invaded and “assailed” Ottoman independence, and that Britain was acting in the interest the “independence of the states of Europe.”¹³⁰ In April of 1854, Britain, the Habsburg empire, France, and Prussia affirmed their commitment to ending the Russian

¹²³ See the Russian War Declaration in Hertslett, *Map of Europe by Treaty*, vol. 2, 138 p. 779.

¹²⁴ Candan Badem, *The Ottoman Crimean War 1853-1856* (Leiden: Brill, 2010), p. 3.

¹²⁵ According to Candan Badem, the Şeyhülislam issued a *fatwa* sanctioning *jihad*, but no formal declaration was made against Russia in 1853. Candan Badem, *The Ottoman Crimean War 1853-1856* (Leiden: Brill, 2010), p. 98.

¹²⁶ *Map of Europe*, vol. 2, p. 1171-1176. Noradunkyan, vol. 2. For the Russian counter declaration of war on October 20, 1853, see *Map of Europe*, Noradunkyan and *Muahedet Mecmuası*.

¹²⁷ *Takvim-i Vekâyi*, 1270, no. 648-649.

¹²⁸ *Ibid.*, p. 1176.

¹²⁹ We could add a section here on Prisoners of War to echo the earlier modern section of the chapter.

¹³⁰ *Ibid.*, p. 1187.

occupation of Moldavia and Wallachia and to maintain the “territorial integrity of the Ottoman empire”—a phrase that would be duplicated through subsequent peace treaties. In December, the Allies vowed to collectively guarantee “the privileges accorded by the sultans” to the Danubian Principalities and Serbia. The lumping together of Great Power territorial guarantees and imperial privileges issued by the sultan was prefigured by the negotiations over the status of Greece and the Balkan territories that gained autonomy in the 1830s, but it also anticipated the major articles of the Treaty of Paris concluding the Crimean War in 1856. Article VII., invited the Ottoman empire “to participate in the advantages of the public law and system (*concert*) of Europe” and guaranteed the empire’s territorial integrity and independence.¹³¹ While the Ottoman Foreign Ministry viewed that article as a major achievement, Article IX. immediately undercut the full exercise of Ottoman sovereignty. Non-intervention in Ottoman affairs was contingent upon the empire’s agreement to “ameliorate the condition of the Christian populations” of the empire, text that Ottoman negotiators opposed unsuccessfully.¹³²

The gap between the rhetoric of equality promised in 1856 and the continuation of European imposed restrictions on Ottoman sovereignty proved to be an obstinate source of tension between empires and among Ottoman and European international lawyers. The Capitulations, periodic military interventions on behalf of Ottoman Christians, Great Power guaranteed autonomous provinces, and later in the nineteenth century permanent military occupations of Ottoman territory in Tunis, Egypt, Bosnia, and Cyprus, as well as the Ottoman Public Debt Administration, all pointed to the fact that the Ottomans had not actually achieved sovereign equality with Europe in 1856—an issue that was clear in the process of negotiating the peace after the Crimea. As Umut Özsu has noted, Ali Paşa, the Grand Vizier and chief Ottoman representative at Paris, repeatedly argued that the Capitulations were at odds with the empire’s new status as a member of the European concert.¹³³ European representatives offered a vague promise to revisit the issue after the peace had been settled, but they never seriously returned to the question, despite the near constant efforts to do so by the Foreign Ministry.¹³⁴ For European international lawyers, the fissure between the text of the treaty inviting the Ottomans to join the

¹³¹ E. Hertslet, *Map of Europe by Treaty* (1875-91), , 1250-1265. In particular, see Article XII, p. 1254-55.

¹³² Umut Özsu, “Ottoman Empire,” in *The Oxford Handbook of the History of International Law*, ed. Bardo Fassbender and Anne Peters (Oxford: Oxford University Press, 2012), p. 437-438.

See Reform Edict of February 1856 (*islahat firmanı*) and Treaty of Paris, Article IX., Hertslet, 1255. Several Ottoman historians of international law have considered how the Treaty of Paris shaped Ottoman-European relations. See Umut Özsu and Thomas Skouteris, ‘International Legal Histories of the Ottoman Empire: An Introduction to a Symposium’ and articles especially, Berdal Aral, ‘An Inquiry into the Turkish ‘School’ of International Law,’ Will Hanley, ‘International Lawyers without Public International Law: The Case of Late Ottoman Egypt,’ in *Journal of the History of International Law / Revue d’histoire du droit international* 18 (2016); M. Palabıyık, ‘International Law for Survival: Teaching International Law in the Late Ottoman Empire (1859–1922),’ 78 *Bulletin of the School of Oriental and African Languages*, 2 (2015) 271; Esmeir, ‘On Becoming Less of the World’ 8 *History of the Present*, 1 (2018).

¹³³ Umut Özsu, “Ottoman Empire,” in *The Oxford Handbook of the History of International Law*, ed. Bardo Fassbender and Anne Peters (Oxford: Oxford University Press, 2012), p. 437-438.

See Reform Edict of February 1856 (*islahat firmanı*) and Treaty of Paris, Article IX., Hertslet, 1255. Several Ottoman historians of international law have considered how the Treaty of Paris shaped Ottoman-European relations. See Umut Özsu and Thomas Skouteris, “International Legal Histories of the Ottoman Empire: An Introduction to a Symposium” and articles especially, Berdal Aral, “An Inquiry into the Turkish ‘School’ of International Law,” Will Hanley, “International Lawyers without Public International Law: The Case of Late Ottoman Egypt,” in *Journal of the History of International Law / Revue d’histoire du droit international*, 18 (2016); M. Palabıyık, “International Law for Survival: Teaching International Law in the Late Ottoman Empire (1859–1922),” *Bulletin of the School of Oriental and African Languages*, 2 (2015); Esmeir, “On Becoming Less of the World,” *History of the Present*, 1, 8(2018).

¹³⁴ Proceedings of the Peace, p. 54.

so-called “family of nations,” and the reality of continued unequal treatment in international law was a dangerous precedent that had the potential to erode the foundation of nineteenth century positivist international law: international treaties and conventions. If treaties were among the main sources of the law, as well as its force—forged out of state practice and customary usage—the distance between the text of the treaty and actual practice had the potential to undermine the broader legal project.¹³⁵ But what troubled European positivist lawyers, was precisely what the Ottoman Foreign Ministry would draw upon to shore up Ottoman sovereignty.

The Treaty of Paris became the key text that shaped Ottoman legal claims in negotiations with Europe to defend the territorial integrity of the empire until the First World War. The Foreign Ministry, and later Ottoman international lawyers, argued that the treaty of Paris, along with the scores of treaties and conventions hashed out between neighbors over centuries of warfare, military alliances, commerce, and peacemaking, had squarely established the empire as a European power that contributed to the foundation of positive international law.¹³⁶ In the 1860s, international law was not yet at the entirely at forefront of Ottoman dealings with Europe, nor did the empire have a formalized system for the study of international law. Ottoman lawyers trained in France, Switzerland, England and Germany and international law was taught in an ad-hoc basis at the *Mekteb-i Mülkiye*, the School for Civil Service. That would change by the 1880s, when the Foreign Ministry committed to international law as the tool and strategy to hold onto imperial lands, superseding the Tanzimat rhetoric of equality and Westernization. What mattered in the 1860s was establishing equality in international relations, making Ottoman law and administration congruent with, or at least legible to, European institutions, and limiting European intervention in Ottoman affairs.¹³⁷ A new round of war with Russia from 1877 to 1878 would once again shift Foreign Ministry attitudes towards international law and its expediency in European diplomacy.

Between the start of local rebellion in Herzegovina in 1875 through the end of the Russo-Ottoman War of 1877-78, and the Congress of Berlin, Ottoman diplomacy rested on the territorial guarantees and non-intervention guaranteed in the Treaty of Paris. Domestic conflict in the Balkans brought the Great Powers to Istanbul with demands for further special privileges for non-Muslims and administrative autonomy for Bosnia, Herzegovina and Bulgaria—conditions that were greeted by the promulgation of the First Ottoman Constitution in 1876, which among other things stated explicitly in the first article that the autonomous provinces (the Danubian Principalities and Serbia), were integral part of the whole.¹³⁸ Ottoman Foreign Ministry officials in Istanbul and London rejected European autonomy proposals, arguing they “annihilated the authority of the sovereign” and cut against the non-intervention clause in Paris.¹³⁹ Sovereignty

¹³⁵ Aimee M. Genell, “Ottoman Autonomous Provinces and the Problem of “Semi-Sovereignty” in International Law,” in *Journal of Balkan and Near Eastern Studies*; Wood, Hugh McKinnon. “The Treaty of Paris and Turkey’s Status in International Law,” *American Journal of International Law*, 37:2 (April 1943), 262-274; Martii Koskenniemi argues that modern international law was a product of the late nineteenth century distinguishable from the agreements of Westphalia as much as Vienna (1815). For Koskenniemi, this field emerged only after a small group of liberal publicists began thinking of themselves as international lawyers and their ideas as distinct from contemporary diplomatic practices that had governed the legal relationship between the European empires. See *The Gentle Civilizer of Nations*.

¹³⁶ See Aimee M. Genell, “Ottoman Autonomous Provinces and the Problem of “Semi-Sovereignty” in International Law,” in *Journal of Balkan and Near Eastern Studies*.

¹³⁷ Hugh McKinnon Wood, “The Treaty of Paris and Turkey’s Status in International Law,” *American Journal of International Law*, 37: 2 (1943).

¹³⁸ *Kanun-i Esasi* (Istanbul: Matbaa-i Amire, 1292/1876).

¹³⁹ Musurus Paşa (Ottoman Ambassador to London) 25 January, 1877, 2546.

was incompatible with European interference in Ottoman administration. When Russia broke off diplomatic relations, declared war and crossed into imperial lands in 1877, Ottoman diplomats protested that Russia action was “contrary to the rules universally observed by civilized states” and against the “interest of European peace as in the interests of humanity.”¹⁴⁰ The Russian declaration of war justified intervention on the grounds that the Ottomans refused to implement administrative reforms on behalf of Balkan Christians, whereas the Foreign Ministry claimed that Russia threatened to destabilize the peace and security of Europe by abandoning the principle of non-intervention embedded in the 1856 Treaty.¹⁴¹

Peacemaking at the Congress of Berlin introduced a series of new principles in international law that would have far reaching consequences for the break-down of empires in the aftermath of the First World War. The signatories at the Congress recognized the independence of Serbia, Montenegro, and Romania—recognition was dependent on guaranteeing civic and religious rights for Muslim and Jewish citizens in the new states.¹⁴² Ottoman Bulgaria was divided into the Principality of Bulgaria under Ottoman “suzerainty” and Eastern Rumelia, an autonomous province on the model of Mt. Lebanon under Ottoman “sovereignty,” while Bosnia and Herzegovina were placed under Habsburg military occupation and Britain moved to occupy Cyprus. It was a catastrophe for the Ottomans. Not only had the empire lost critical agricultural lands in Europe, but a new round of Muslim refugees flooded into the empire, changing the demographic composition of the empire, testing state capacity and straining already depleted coffers. Despite the cataclysm, and the clear failure of the Treaty of Paris to stave off military intervention and European meddling in Ottoman domestic affairs, the Foreign Ministry doubled down on international law and European territorial guarantees as an instrument to preserve imperial sovereignty.

From 1856 through the Congress of Berlin, the Foreign Ministry had intermittently sought advice from European international lawyers on questions of public and private international law. After the disasters of the war, the Foreign Ministry established the Office of Legal Counsel (*hukuk müşavirliği istişare odası*), which was staffed by two permanent chief legal advisors, who authored scores of legal opinions to protect imperial sovereignty. While the first lawyer to hold the position was a German subject, every subsequent legal advisor was an Ottoman subject. Initially these lawyers were European trained, but by 1908 the chief legal advisors studied international law at the Imperial Law School (*mekteb-i hukuk*) in Istanbul.¹⁴³ During the same period, international law became part of the standard curriculum at the School for Civil Service and the Imperial Law

¹⁴⁰ Hertslet, *Ibid.*, “Turkish Manifesto in answer to Russian declaration of War, Constantinople, 26 April, 1877,” doc. No. 495, vol. 4, p. 2601.

¹⁴¹ **We could add a sentence or two about the question of jihad.** While the sultan avoided making an official proclamation for political reasons (Russia justified the war on the grounds that Ottoman Christians needed protection) the war was certainly cast in such terms in Istanbul—there were state sponsored publications on jihad for instance. See Mustafa Aksakal “Holy War Made in Germany?” According to British documents, the Foreign Office appears to have understood that a jihad was indeed proclaimed. I am not sure if the Şeyhülislam issued a fatwa or not? I would assume so, but I need to dig around. We could just leave it, but it may be valuable given the earlier discussions of jihad?

¹⁴² Emily Greble, *Muslims and the Making of Modern Europe* (New York: Oxford University Press, 2021), p. 29-30; Laura Robson, “Capitulation Redux: The Imperial Genealogy of the Post-WWI “Minority” Regime,” *The American Historical Review*, 126, no. 3, (September 2021):978–1000.

¹⁴³ Aimee M. Genell “The Well-defended Domains” in Lâle Can, Michael Christopher Low, et. al., *The Subjects of Ottoman International Law* (Indiana University Press, 2020).

School, which trained a generation of bureaucrats, lawyers, and intellectuals.¹⁴⁴ Textbooks produced for both schools, presented Ottoman approaches to international law as originating in Islamic practices of warfare. While claiming that the Islamic Law of Nations, or *siyar*, anticipated many of the *jus ad bellum* and *jus in bello* restrictions hashed out in nineteenth century codification of the laws of war, the more important story was rooted in the long history of war and peace between Europe and the Ottoman empire.¹⁴⁵ Institution building around international law paralleled efforts by the Hamidian state to shore up political control at the edges of the empire through expanding education and developing large scale public works projects, and generally expanding state power.¹⁴⁶ For much of the era after 1882, Foreign Ministry lawyers managed to keep direct European incursions into Ottoman domestic affairs at bay. They challenged the Capitulations more aggressively and asserted Ottoman sovereign rights in Macedonia, North Africa, and the Gulf.

The Foreign Ministry's new legal strategy first ran into trouble as a consequence of the Young Turk Revolution in 1908. While the Habsburg annexation of Bosnia and Herzegovina in October of 1908 threatened war, European inaction towards the crisis, as well as recognition of the Bulgarian claims to independence simply delayed the onslaught of violence. While astonished by European disregard for Ottoman territorial integrity in 1908, the loss of these Balkan territories did not immediately threaten the exalted position of international law in Ottoman diplomacy. It was only with the unprovoked Italian invasion of Ottoman Libya in 1911, that international law as the redeemer of imperial sovereignty began to fall out of favor.¹⁴⁷ Foreign Ministry lawyers crafted *jus ad bellum* and *jus in bello* arguments against Italy. They claimed that the Italians launched an illegal war against a sovereign state and violated the laws of war by using weapons prohibited by the Hague Conventions.¹⁴⁸ In order to redress these claims, Ottoman diplomats in European capitals requested mediation at the Hague, which the Netherlands refused. Europe's shocking disregard towards Italian aggressive warfare was a massive blow to international law—and not just in the Foreign Ministry but also among newspaper editors and public intellectuals.¹⁴⁹ In place of a Great Power peace Conference such as those at Paris in 1856

¹⁴⁴ Mustafa Serdar Palabıyık, "International Law for Survival: Teaching International Law in the Late Ottoman Empire (1859-1922)," *Bulletin of the School of Oriental and African Languages*, 78, 2(2015), 271-291; Berdal Aral "The Ottoman 'School' of International Law as Featured in its Textbooks," *Journal of the History of International Law / Revue d'histoire du droit international*, vol. 18 (2016).

¹⁴⁵ For example, İbrahim Hakki Paşa, *Tarih-i Hukuk-i Beyneddüvel* (Karabet ve Kasbar, İstanbul, 1303 [1885 or 1886]), p. 29 ← check title and page number—make sure not *medhal*. On Islamic Law of Nations, see Majid Khadduri, *The Islamic Law of Nations: Shaybani's Siyar* (Baltimore: Johns Hopkins University Press, 2002).

¹⁴⁶ Benjamin Fortna, *Imperial Classroom: Islam, the State, and Education in the Late Ottoman Empire* (Oxford: Oxford University Press, 2002); Michael Christopher Low, "Ottoman Infrastructures of the Saudi Hydro-State: The Technopolitics of Pilgrimage and Potable Water in the Hijaz," *Comparative Studies in Society and History*, 57, no. 4 (2015): 942–74; Mostafa Minawi, "Telegraphs and Territoriality in Ottoman Africa and Arabia during the Age of High Imperialism," *Journal of Balkan and Near Eastern Studies*, 18, 6(2016): 567-587; Pete H. Christensen, *Germany and the Ottoman Railways: Art, Empire and Infrastructure* (New Haven: Yale University Press, 2017).

¹⁴⁷ Mustafa Aksakal and Aimee Genell, "Salvation through War? The Ottoman Search for Sovereignty in 1914," Lothar Brock and Hendrik Simon, eds., *The Justification of War and International Order: From the Past to the Present* (Oxford: University Press, 2021).

¹⁴⁸ BOA/HR. HMS.İŞO. 203/25. 1329 Za. 12; See too *Cenevre Mukavelenamesi ve Mevaddı Müteferriasi* (İstanbul: Matbaa-yı Askeriye-Süleymaniye, 1327 [1911 or 1912]); Arifi (Kolağası), *Vakt-i Harpte Hukuk-i Milel* (Dersaadet: Keteon Bedrosyan Matbaası, 1327 [1911 or 1912]).

¹⁴⁹ Mustafa Aksakal, "Not 'by those old books of international law, but only by war': Ottoman Intellectuals on the Eve of the Great War," *Diplomacy & Statecraft*, 15, 3(2004), 507-54; Stefan Hock, "Waking us from this Endless

and Berlin in 1878, the Ottomans negotiated directly with the Italians and signed the Treaty of Lausanne under duress on October 18, 1912.¹⁵⁰ The Balkan successor states' surprise attack against the empire compelled the Ottomans to hastily agree to Italian terms, including the evacuation of Ottoman military officials and troops from Trablusgarb and Bingazi. Two days later, in order to maintain a future legal claim to Ottoman North Africa, the sultan extended complete administrative autonomy to Libya (*Trablus ve Bingazi kıt'alarına muhtariyet-i tamme verilmiştir*).¹⁵¹

From the start of the Young Turk Revolution in 1908 through the obliteration of the empire in the years after World War I, bureaucrats, lawyers, and parliamentarians and everyday imperial subjects were divided over how best to save the empire against European aggression and the new indifference towards the old territorial guarantees by treaty. The two most important political factions, the Committee of Union and Progress and the liberal opposition (*Hürriyet ve İtilaf Fırkası*) agreed that the empire needed saving but not on the means to do so.¹⁵² The Liberals, many of whom were members of the elite bureaucratic class and had broad non-Muslim support, favored administrative decentralization and the old conservative approach foreign policy that adhered to international law and reluctant but pragmatic compromise with European administrative demands. The CUP in contrast, was younger, much less elite, and far more closely aligned with the Ottoman military, and advocated administrative centralization along with burying ethnic and religious difference in favor of unbending loyalty to the empire. The crisis in Libya, followed by the Balkan Wars led directly to the Bab-i Ali Coup in 1913 when the CUP seized control of the government from *Hürriyet ve İtilaf* and dominated state policy until the party dissolved itself in October of 1918—though as Erik-Jan Zürcher has shown, the party lived on the nationalist movement after the war.¹⁵³

The CUP controlled government did not abandon international law in 1913, but it did radically shift how the state used the law in its dealings with Europe. Instead of the relying on the treaties for territorial guarantees, the government took a far more aggressive and approach that was more in line with Meiji Japan in the early twentieth century, which meant using international law from a position of power as a stick versus from a position of weakness.¹⁵⁴ The unilateral abrogation of the Capitulations on September 9, 1914 announced the new approach to international law, backed by a military alliance with Germany.¹⁵⁵ The letter sent to the European foreign ministries announcing the repeal of the Capitulations stated explicitly the they were contrary to the principles of international law: “Having thus freed itself from what was an intolerable obstacle to all progress

Slumber”: The Ottoman–Italian War and North Africa in the Ottoman Twentieth Century,” *War in History*, 26, 2(2017): 204-226.

¹⁵⁰ BOA/HR.SYS, 1555/5 61-66 “Osmanlı Devleti ile İtalya'nın Trablusgarb Harbı” 5 Zilkade 1330 [18 October 1912].

¹⁵¹ Sultan Mehmed V (Reşâd), “Fırman-ı Ali Suretidir” *Takvim-i Vekâyi*, 7 Zilkade 1330 [20 October 1912], no. 1258.

¹⁵² Ali Birinci, *Hürriyet ve İtilâf Fırkası: II. Meşrutiyet Devrinde İttihat ve Terakki'ye Karşı Çıkanlar* (Istanbul: Dergâh Yayınları, 2012); Ali Birinci, *Tarih Yolunda: Yakın Mazînin Siyasî ve Fikrî Ahvâli* (Istanbul: Dergâh Yayınları, 2001).

¹⁵³ Erik-Jan Zürcher, *The Unionist Factor. The Role of the Committee of Union and Progress in the Turkish National Movement (1905–1926)* (Leiden: Brill, 1984).

¹⁵⁴ Cemil Aydın, *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (New York: Columbia University Press, 2007); John Peter Stern, *The Japanese Interpretation of the "Law of Nations," 1854-1874* (Princeton: Princeton University Press, 1979).

¹⁵⁵ Mustafa Aksakal, *The Ottoman Road to War in 1914: The Ottoman Empire and the First World War* (Cambridge University Press, 2008); Feroz Ahmad, “Ottoman Perceptions of the Capitulations, 1800-1914,” *Journal of Islamic Studies*, 11, 1(2000), 1-20.

in the empire, the Imperial Government has adopted as basis of its relations with the other powers the general principle of international law.”¹⁵⁶ The following month, Enver Paşa, the Minister of War, ordered the Ottoman fleet to attack Russian ship “without a declaration of war.”¹⁵⁷ In mid-November of 1914, the jihad proclamation was hammered out in a series of Islamic legal opinions prepared by the Şeyhülislam and made public on November 14. The legal opinions, translated from Ottoman Turkish into Arabic, Persian, Urdu and Tatar, commanded Muslims in the Allied empires to rise up against their colonial rulers.¹⁵⁸ But far and away the clearest indication that the old approach to international law had been transformed was when İbrahim Hakkı Paşa—the former Legal Advisor to the Foreign Ministry, law professor and textbook writer, now Ottoman Ambassador to Berlin—announced to the European powers that the empire rejected all of the clauses in the Treaty of Paris (1856) and the Treaty of Berlin (1878) that limited the empire’s sovereignty.¹⁵⁹ He claimed the empire had seized the equality promised to it in 1856. The occasion for this announcement was the unilateral revocation of Mt. Lebanon’s autonomous status—the last of Great Power imposed autonomous provinces.¹⁶⁰

Making the peace in the aftermath of total war, famine, and genocide—followed by varied regimes of Allied occupation across Ottoman lands—was a fraught and staggered process that lasted the Armistice in 1918 until the summer of 1923. The Ottomans, along with the Habsburg empire and Germany sued for peace along the lines proposed in Woodrow Wilson’s 14 Points. When the Ottomans signed the Armistice at Mudros on October 30, everything was up for grabs. The C.U.P. became an immediate object of derision and was roundly criticized in the press and Ottoman parliament for the disasters of the war, corruption, war profiteering, and the Armenian massacres.¹⁶¹ Pre-war political factions reemerged, and members of the liberal opposition resumed control of the government. The sultan and cabinet attempted to work with Allied occupation and pinned blame on CUP for wartime disasters. In the early days of the occupation, government officials, parliamentarians, and newspaper editors, believed the occupations would end and the empire would remain. Before the opening of peace conference, and in preparation for it, there were public and internal government discussions about how to preserve the perceived gains made during the war—particularly the abolition of the Capitulations. Many agreed that obtaining equality in international relations was a prerequisite for a strong postwar state—a longstanding Hamidian era and C.U.P. foreign policy goal.

¹⁵⁶ United States, *Foreign Relations of the United States: with the Address of the President to Congress December 8, 1914*, 1922, 1090. Quoted in Ahmad, “Ottoman Perceptions,” p. 19.

¹⁵⁷ “Suchen Sie die russische Flotte auf und greifen sie sie ohne Kriegserklaerung an, so Sie sie finden.” Ali Kaşıyüğun, *Osmanlı Devleti'nin Birinci Dünya Savaşı'na Girişi*, 2015.

¹⁵⁸ Aksakal, “Holy War Made in Germany?”

¹⁵⁹ BOA/HR.HMŞ.İŞO./65/20 [1332.Te.17]. İbrahim Hakkı Paşa to Gottlieb von Jagow, 14 October 1916; Genell, “The Well Defended Domains,” 270-71; Ovacı, *Dangerous Gifts*, 359.

¹⁶⁰ We should probably add a short section on the Allied joint-declaration of May 24, 1915 and on the Armenian genocide more broadly with a sentence or two about the divan-i harb / Istanbul trials? Joint-declaration “In view of those new crimes of Turkey against humanity and civilization, the Allied governments announce publicly to the Sublime-Porte that they will hold personally responsible [for] these crimes all members of the Ottoman government and those of their agents who are implicated in such massacres.” Note: the original “crimes against Christianity and civilization.” PH article? I could also add a sentence or two about Brest-Litovsk, which was incredibly important for shaping Ottoman expectations at the Paris Peace Conference. We could add much more in the section on the Armistice, on the Treaty of Sèvres and Lausanne, but I am afraid of overburdening the chapter.

¹⁶¹ Yiğit Akin, *When the War Came Home: The Ottomans’ Great War and the Devastation of an Empire* (Stanford: University Press, 2018)

Intellectuals and state officials in the capital were stunned to learn about the Allied plans for partition of the Arab lands in the form of the mandates system. As the peace conference progressed, without Ottoman representation, the mood in Istanbul grew increasingly hostile towards the Allied occupation. The Ottoman delegation arrived in Paris in June of 1919, only a month after the Greek landing at İzmir/Smyrna, with a memorandum, prepared by Foreign Ministry lawyers, that outlined the future of the empire as a series of autonomous provinces and robust protections for non-Muslims.¹⁶² The memorandum was rejected outright. The following year, a new delegation was compelled to sign the Treaty of Sèvres. That treaty compelled the Ottoman government to give up territory not inhabited by “Turks.” The treaty began to work out the British and French mandates in the Arab provinces—territories that would be soon become British mandate Iraq, Palestine, Jordan, and French mandate Syria and Lebanon. Kurdistan would be given autonomy with the option of independence by referendum and an independent Armenia was created in the six eastern provinces, along with various “zones” of Allied influence. The Treaty fractured what remained of Ottoman attempts to save the empire by working in collaboration with the Allied occupation. Coincident with the official British occupation of the capital and the shutting down of parliament in mid-March 1920, scores of officials, including the Foreign Ministry lawyer who prepared the Ottoman memorandum at Paris, fled Istanbul to work with the nationalists in Ankara.

The nationalist victory against Greece forced the peacemakers back to the table at Lausanne. From the start of the conference proceedings in November of 1922, the Turkish delegation, headed by İsmet Paşa (İnönü), attempted to preserve all that had been gained during the years of external and internal warfare. International law questions related to the Capitulations, the Ottoman debt, the status of Mosul, the rights of ethnic and religious minorities in Turkey—secured either through minority rights treaties guaranteed by the League of Nations, or administrative autonomy—were subjects of intense debate and scrutiny. Many of these same questions had animated discussions in the aftermath of the Crimean War at Paris in 1856, at the Berlin Congress in 1878, at the Paris Peace Conference in 1919 and at the signing of the Treaty of Sèvres in 1920. In the earlier cases, the Ottoman Foreign Ministry embraced international law to mitigate the sting of European interference. At Paris and Sèvres, the lessons of Libya were on full display. Ottoman attempts to negotiate with the Allies led to lost territory, further limitations on sovereignty, demotion in the international arena, and invited outside interference in the domestic administration and law. Like the wartime government, at Lausanne international law would be used as a battering ram to assert equality, rather than a tool of compromise.

İsmet Paşa (İnönü) rejected Allied imposed limits on sovereignty that resembled older forms of European interference in Ottoman affairs. From the state’s perspective, administrative autonomy, minority rights protections and legal privileges for foreigners were off the table—arguments that were supported by legal opinions written by Mehmed Münir (Ertugün), the wartime Chief Legal Advisor at the Ottoman Foreign Ministry. The Turkish State, entered the negotiations at Lausanne on the theory on state death: “Whereas the Ottoman Empire has collapsed, the Government of the Grand National Assembly has been organized, and the new Governor of Turkey has taken the place of the Ottoman Empire, and inherited its national boundaries.”¹⁶³ Despite the theory that the Ottoman Empire had been destroyed, the Ankara delegation had operated with many of the same goals that had animated the wartime government

¹⁶² Cemil Aydın, *The Politics of Anti-Westernism*.

¹⁶³ TBMMZC, XXIV:311 (30 October 1922), Raul Bey.

under the CUP: end the Capitulations and other privileges for foreigners, incorporate the remaining autonomous provinces into the regular system of administration, and achieve true equality, not paper equality in international relations.

[conclusion]