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Author(s): P G Manson

Title: Prisoners of war through the ages

Date: 2009

Originally published as: University of Chester MA dissertation

Example citation: Manson, P. G. (2009). *Prisoners of war through the ages*.  
(Unpublished master's thesis). University of Chester, United Kingdom.

Version of item: Submitted version

Available at: <http://hdl.handle.net/10034/322920>

**PRISONERS OF WAR THROUGH THE AGES**

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**Dissertation presented in partial fulfilment of the  
degree of M.A. in Military History, University of  
Chester, 2009**

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## **Acknowledgements**

I would like to acknowledge the help and support given to me by my supervising tutor, Dr. Keith McLay, during the preparation of this dissertation, and throughout the course, together with the encouragement of my wife Sandra over the last two years.

# PRISONERS OF WAR THROUGH THE AGES

## Chapter I-Introduction

'Wars have taken place from the beginning of recorded time and in all parts of the world'<sup>1</sup> and the object of war has been described by Clausewitz as the 'destruction or defeat of the enemy.'<sup>2</sup> By this he meant '*vernichtung*' or the annihilation of the enemy, even to the point of extermination.<sup>3</sup> Necessarily, this involves the killing of enemy soldiers but it is not clear how Clausewitz's theory affects the issue of prisoners. The concept of total war and crushing defeat suggests there is no room for prisoners, or even civilisation,<sup>4</sup> in his theory of war, only extermination, but modern history shows that it is possible to achieve the objective of victory, whilst still taking prisoners, as witness the Allied victories of the Second World War. However, modernity in itself is not a guarantee of the enlightened treatment of enemy prisoners; Japanese and German forces committed atrocities in the same war, leading to the war crimes trials of Nuremberg and Tokyo.<sup>5</sup> There have been many transgressions of human rights since then, for example, in Iraq.<sup>6</sup> Perhaps the answer is that there are choices to be made when waging war and the fate of prisoners has and always will be dependent on a number of factors such as conventions, morality, historical context, local circumstances and the prevailing laws of war. It has

<sup>1</sup> Lawrence Freedman, ed. *War* (Oxford: Oxford U.P., 1994), p.3.

<sup>2</sup> Carl von Clausewitz, *On War*, transl. & ed. M. Howard and P. Paret (Princeton: Princeton U.P., 1976), p. 227.

<sup>3</sup> Hew Strachan, *Carl von Clausewitz's, On War, A Biography* (London: Atlantic Books, 2007), p.135.

<sup>4</sup> Clausewitz, *On War*, p.76.

<sup>5</sup> Geoffrey Best, *War and Law Since 1945* (Oxford: Oxford U.P., 1994), pp. 180-84.

<sup>6</sup> Michael Byers, *War Law: International Law and Armed Conflict* (London: Atlantic, 2005), p. 127.

even been suggested that perfect observance of the laws of war depends on 'an essential and chivalrous predisposition'<sup>7</sup> on the part of individuals prepared to take risks for humanitarian reasons. For others, the moral conduct of war is inhibited by the calculation of such risks,<sup>8</sup> as, 'in most battlefield situations, respecting the immunity of prisoners is likely to entail increased vulnerability.'<sup>9</sup>

Of course, in ancient times the fate of prisoners was usually less pleasant than that of their modern counterparts. War was normally fought to the death and prisoners of war did not exist as such.<sup>10</sup> The object would have been to destroy the enemy, even to the extent of extermination or genocide. An early Assyrian ruler, Tiglath-Pileser, described how he destroyed the city of Hanusa-'I cut off their heads like lambs, their blood I caused to flow in the valley.'<sup>11</sup> He was exulting in the destruction of his enemies and their city; for him, annihilation was both the object and the pleasure of war; there were no rules that limited warfare in the Near Eastern Kingdoms or moderated the destructive tendencies of their rulers.<sup>12</sup> The Bible, too, has many examples of warfare being waged without mercy. Moses urged the Israelites to 'save alive nothing that breatheth'<sup>13</sup> when waging war against the Hittites. In the war with Midian they slaughtered every man, boy and those women who had lain with a man.<sup>14</sup> The object was to destroy the enemy and wipe out their tribe or nation. The Egyptians of the New Kingdom only spared war prisoners for

<sup>7</sup> Best, *War and Law*, p.62.

<sup>8</sup> A.J. Coates, *The Ethics of War* (Manchester: Manchester U.P.,1997), p.31.

<sup>9</sup> *Ibid.*, pp. 31-32.

<sup>10</sup> Lawrence Malkin, in *The Reader's Companion to Military History*, ed. Robert Cowley & Geoffrey Parker (Boston: Houghton Mifflin Books,1996), p.368.

<sup>11</sup> Victor Davis Hanson, 'Genesis of the Infantry, 600-350 B.C.' in *Warfare*, ed. G. Parker (Cambridge: Cambridge UJ., 1995), p. 12.

<sup>12</sup> *Ibid.*, p. 13.

<sup>13</sup> *King James Bible*, Deuteronomy 20.16-17 (London: Eyre and Spottiswoode, 1958), p.213.

<sup>14</sup> *Ibid.*, Numbers 31.7 and 17, p. 182.

use as labour on their building projects, others being killed ceremoniously by the Pharaoh.<sup>15</sup> In the Far East, the Shang rulers of China (1523-1121 B.C.) sacrificed prisoners by decapitation<sup>16</sup> and during the Chou dynasty the blood of sacrificed prisoners was used to consecrate war drums.<sup>17</sup> However, ancient texts suggest that some South Asian warfare was highly ritualistic and prisoners were well treated.<sup>18</sup>

In Ancient Greece, there were no written rules of war but combatants did recognise a number of informal rules of engagement, or 'common customs of the Hellenes'<sup>19</sup> one of which was that prisoners of war should be offered for ransom rather than being summarily executed or mutilated. These customs were commonly applied in intra-Greek warfare from 700-450 B.C. but less often thereafter and never when fighting foreigners.<sup>20</sup> During the Peloponnesian Wars, when Paches took Notium he put to death all Arcadian and foreign troops captured.<sup>21</sup> If prisoners were spared this was usually so they might be sold as slaves<sup>22</sup> or used as labour in their stone quarries.<sup>23</sup> Plato said that any 'man who allows himself to be taken a prisoner may as well be made a present to his enemies; he is their lawful prey.'<sup>24</sup> In other words, a prisoner was just another item of booty to be disposed of as a hindrance or danger but, nevertheless, even Plato counselled moderation

<sup>15</sup> A.R. David, *The Egyptian Kingdoms* (Oxford: Elsevier, 1975), p. 118.

<sup>16</sup> John A. Lynn, *Battle, A History of Combat and Culture From Ancient Greece to Modern America*, (Boulder: Westview Press, 2003), p.35.

<sup>17</sup> Marcel Cranet, *Chinese Civilization*, transl. Kathleen E. Innes & Mabel R. Brailsford (New York: Alfred A. Knopf, 1930), p. 32.

<sup>18</sup> Lynn, *Battle, A History*, p.55.

<sup>19</sup> Thucydides 3.59.1, 6.4.5; cited in M. Howard, G.J. Andreopoulos & M.R. Shulman, eds. *The Laws of War, Constraints on Warfare in the Western World* (New Haven & London: Yale U.P., 1994), p.12.

<sup>20</sup> Howard et al, *The Laws of War*, pp.12-13.

<sup>21</sup> Thucydides, *History of the Peloponnesian War*, transl. R. Warner (London: Penguin Books, 1954), p.211 & p.334.

<sup>22</sup> Xenophon, *A History of My Times*, transl. R. Warner (Harmondsworth: Penguin, 1966), p. 334.

<sup>23</sup> Thucydides, *History*, p.536.

<sup>24</sup> Plato, *The Republic of Plato*, transl. Francis MacDonald Cornford (New York: Oxford University Press, 1967), p. 170

between Greeks.<sup>25</sup> To the Romans war was essentially unconstrained and prisoners were routinely slaughtered, enslaved,<sup>26</sup> made to fight in the arena, or paraded as trophies, like the British chieftain Caratacus.<sup>27</sup> At other times no prisoners were taken, as when Germanicus, fighting a German tribe, urged his men to kill all the enemy, as only their total destruction would end the war.<sup>28</sup>

Yet, there were isolated examples of a more enlightened attitude in ancient times. When the Treaty of Nicias ended the first phase of the Peloponnesian Wars, in 422-1 B.C., it provided for prisoner exchanges between Spartans and Athenians.<sup>29</sup> Admittedly, both were Greek states, but Polybus says the Romans reached a similar agreement with their deadly rivals Carthage to end the First Punic War.<sup>30</sup> Similarly, when Demosthenes of Athens was defeated by the Syracusans, in 413 B.C., his 6000 men were surrendered on condition that none were to be put to death, either summarily or 'by the lack of the necessities of life.'<sup>31</sup> This was an interesting agreement in the context of the development of rules for the treatment of prisoners because it recognised that, to survive, prisoners needed not only quarter but the necessities of life to sustain them in captivity. This was one of the first recorded agreements about the treatment of prisoners. In the following century, Alexander the Great fought numerous campaigns and took many prisoners who,

<sup>25</sup> *Ibid.*, pp.165-70.

<sup>26</sup> Howard et al, *The Laws of War*, p.27.

<sup>27</sup> Tacitus, *The Annals of Imperial Rome*, transl. M.Grant (London; Penguin, 1971), pp.266-67.

<sup>73</sup> Thucydides, *History*, pp. 359-60.and Plutarch, *The Rise and Fall of Athens*, transl. Ian Scott-Kilvert (Harmondsworth, Penguin, 1960), p.192.

<sup>30</sup> Polybus, *The Rise of the Roman Empire, Book 1, Chap. 62*, transl. Ian Scott-Kilvert (Harmondsworth: Penguin, 1979), p. 108.

<sup>31</sup> Thucydides, *History*, p. 533.

like the Scythians,<sup>32</sup> might be distributed as slaves or booty to his various units or simply massacred, like the Mallians.<sup>33</sup> Darius, the Persian King, was not averse to having prisoners impaled in their thousands for daring to rebel.<sup>34</sup> The position of prisoners was not much better after the Classical period and there were many centuries of darkness and inhumanity, with vicious battles like Brunanburh, in 937, when the field 'was slick with men's blood'<sup>35</sup> epitomising the attitude of absolute war with no quarter. In Visigothic Spain, prisoners were maimed and humiliated before being executed.<sup>36</sup> This attitude continued well into the era of Christian kingship but was tempered, slightly, in the early Middle Ages by the emerging concept of chivalry, which recognised that a knight should treat his equals honourably and should spare the lives of knightly prisoners in return for ransom. Honore Bonet,<sup>37</sup> and other writers, underpinned their chivalric treatises with references to the 'rules of war' which were conventions developed over a period of time and not of any binding nature, except as matters of honour. Nevertheless, war was a barbaric, bloody business and the lives of captured soldiers could be forfeit, *jure belli*, under these rules.<sup>38</sup> Even aristocratic prisoners might be slaughtered, as at Agincourt.<sup>39</sup> Chivalry took second place to pragmatism then, just as the Geneva Conventions have been ignored, at times, for similar reasons in the modern era by, for example, the Germans and Japanese in the Second World War.<sup>40</sup> As warfare

<sup>32</sup> Arrian, *The Campaigns of Alexander*, transl. A. de Selincourt (Harmondsworth: Penguin, 1971), p.205.

<sup>33</sup> *Ibid.*, p. 315.

<sup>34</sup> Herodotus, *The Histories*, transl. A. de Selincourt (London: Penguin, 1954), pp. 268-69.

<sup>35</sup> *Anglo-Saxon Chronicles*, transl. & ed. Anne Savage (Twickenham: Tiger Books, 1995), p. 122.

<sup>36</sup> Guy Halsall, *Warfare and Society in the Barbarian West, 450-900* (London: Routledge, 2003), p.228.

<sup>37</sup> *The Tree of Battles of Honore Bonet, Chapter 100*, ed. G. Coopland, (Liverpool: Liverpool U.P., 1949)

<sup>38</sup> *Itinerarium*, pp.218-9 cited in Christopher Tyerman, *God's War* (London: Penguin, 2007), p. 456.

<sup>39</sup> Ann Curry, *Agincourt, A New History* (Stroud: Tempus, 2005), p. 249

<sup>40</sup> Best, *War and Law*, pp. 180-84.

and society evolved after the Middle Ages, the attitude to prisoners gradually changed and exchanges became commonplace, either man for man or on a tariff basis.<sup>41</sup> Changes in warfare were underpinned by a developing philosophical and legal consideration of the issues involved and, over a period of time, a greater awareness of humanitarian issues led the international agreements of the 19<sup>th</sup> century onwards. The process of codifying the rules of war commenced in 1864, as a result of the pioneering work of Henry Dunant.<sup>42</sup> War is still bloody but most nations are bound by a variety of codes, treaties or international laws which have sought to regulate and humanise the treatment of prisoners of war,<sup>43</sup> who must now be provided with safe and sanitary accommodation, as well as sufficient food, medical care and access to mail.<sup>44</sup> These formal rules have now become almost customary in their application.<sup>45</sup>

Notwithstanding these European innovations, outside Europe, and in the colonial context, there were many situations where the norms of European warfare were not replicated. The slave trade dealt in many prisoners of war, as well as civilians, up to the 19<sup>th</sup> century. African kings had long enslaved and sold captives but this process accelerated with the Arab conquests of North Africa in the 7<sup>th</sup> century.<sup>46</sup> In the Americas, the Aztecs conducted their 'flower wars' to capture prisoners for sacrifice to their gods.<sup>47</sup> In the late fifteenth century, Ahuitzotl took this to an extreme when he sacrificed 20,000

<sup>41</sup> Philip Contamine, *War and Competition Between States* (Oxford: Oxford U.P., 2000), p. 186.

<sup>42</sup> M.N. Shaw, *International Law* (Cambridge: Cambridge U.P., 2003), p. 1054.

<sup>43</sup> Byers, *War Law*, p. 10.

<sup>44</sup> *Ibid.*, pp. 1058-60.

<sup>45</sup> David Kennedy, *Of War and Law* (Oxford: Princeton U.P., 2006), p.87.

\* Hugh Haraas, *The Slave Trade, The History of the Atlantic Slave Trade, 1440-1870* (London: Picador, 1997), p.44.

<sup>47</sup> B.R. Hamnett, *A Concise History of Mexico, Edition* (Cambridge: Cambridge U.P., 2006), p. 53.

Mixtec captives to the glory of his new temple.<sup>48</sup> Bernal Diaz related how Tlascalcan chiefs supported Cortes because the Aztecs made war on them every year and 'kill them or make them slaves',<sup>49</sup> an interesting example of how excessive brutality can have adverse military repercussions.

In primitive societies, war was often a ritual practised for its own sake.<sup>50</sup> Taboos, ceremony, sacrifice and honour were more important factors than territory or booty and war was not conducted in accordance with prevailing European moral standards.<sup>51</sup> For example, the Maring of New Guinea engaged in ritualistic warfare with other clans involving individual combat and the exchange of insults; when someone was badly hurt they usually stopped fighting.<sup>52</sup> In North America, the Nez Perce ritually tortured their captives<sup>53</sup> and the Apaches suspended them head down over burning fires until their brains roasted.<sup>54</sup> Jesuit missionaries described how the Huron treated a Seneca captive well, then tortured and burned him to death.<sup>55</sup> In New Zealand, the Maori war plan was to eat fallen enemy, apart from the heads which were to be kept as trophies. To these peoples a captive became part of a ghastly ritual of death and sacrifice and European rules did not apply.<sup>56</sup>

The historiography of 'prisoners of war' *per se* tends to concentrate on the World Wars

<sup>48</sup> Esmond Wright, ed. *The History of the World* (London; Hamlyn, 1985), pp. 557-558.

<sup>49</sup> Bernal Diaz, *The Conquest of New Spain*, ed. J. M. Cohen (London: Penguin, 1963), p. 154.

<sup>50</sup> D. Dawson, *The Origins of Western Warfare, Militarism and Morality in the Ancient World* (Boulder: Westview Press, 1996), p.13.

<sup>51</sup> *Ibid*, p. 16.

<sup>52</sup> John Keegan, *A History of Warfare* (London: Pimlico, 1994), p. 98.

<sup>53</sup> Maurice R. Davie, *The Evolution of War* (New Haven: Yale University Press, 1929), p. 299

<sup>54</sup> A.M. Joseph, ed. *The American Heritage Book of Indians* (New York: A.H. Publishing, 1961), p. 386.

<sup>55</sup> A. Courvoisier 'Le Moral des Combatants, panique et enthousiasme' in *Revue Historique des Armees*, 3, 1977, pp.7-32, cited in Keegan, *A History of Warfare*, p. 107.

<sup>56</sup> Keegan, *A History of Warfare*, p.106.

of the 20<sup>th</sup> century but other periods are also chronicled to an extent. However, there appear to be few works relating to prisoners of war which trace the evolution from the barbarity of the Classical period, through the Dark Ages, to the relatively benign treatment of prisoners in the 19<sup>th</sup> century. Information on this evolution has to be gleaned from a large number of disparate works relating to warfare and the jurisprudence of war. In the Classical world there are the works of historians and scholars like Thucydides,<sup>57</sup> Xenophon,<sup>58</sup> Tacitus,<sup>59</sup> Polybus,<sup>60</sup> and Arrian<sup>61</sup> which provide a context or reference int. In the Middle Ages, literature was starting to develop in Europe and works by Legnano,<sup>62</sup> Bonet,<sup>63</sup> Chamy,<sup>64</sup> Pisan<sup>65</sup> and Froissart<sup>66</sup> provide valuable insights into attitudes at that time. The *Anglo Saxon Chronicles*<sup>61</sup> and the chronicles of Henry of Huntingdon<sup>68</sup> provide much information on battles and the fate of prisoners. There are accounts of the Crusades in works by Thomas Aquinas,<sup>69</sup> Benedict of Peterborough,<sup>70</sup> and

<sup>57</sup> Thucydides, *History of the Peloponnesian War*, transl. R. Warner (London: Penguin Books, 1954)

<sup>58</sup> Xenophon, *A History of My Times*, transl. R. Warner (Harmondsworth: Penguin, 1966)

<sup>59</sup> Tacitus, *The Annals of Imperial Rome*, transl. M. Grant (London: Penguin, 1971)

<sup>60</sup> Polybus, *The Rise of the Roman Empire, Book I, Chap. 62*, Transl. Ian Scott-Kilvert (Harmondsworth: Penguin, 1979)

<sup>61</sup> Arrian, *The Campaigns of Alexander*, transl. A. de Selincourt (Harmondsworth: Penguin, 1971)

<sup>62</sup> Giovanni da Legnano, *Tractatus de Betto, de Represaliis et de Duello*, ed. T.E. Holland (Oxford: Oxford U.P., 1917)

<sup>63</sup> *The Tree of Battles of Honore Bonet*, Chapter 100, ed G. Coopland (Liverpool: Liverpool U.P., 1949)

<sup>64</sup> *The Book of Chivalry of Geqffroi de Charny*, eds. R. W. Keuper & E. Kennedy (Philadelphia: University of Philadelphia Press, 1996)

<sup>65</sup> C. de Pisan, *The Book of Deeds and Arms of Chivalry*, transl. S. Willard & ed. C.C. Willard (Pennsylvania: Pennsylvania State University Press, 1999)

<sup>66</sup> Jean Froissart, *Chronicles*, transl. & ed. G. Brereton, (London: Penguin, 1978)

<sup>67</sup> *Anglo-Saxon Chronicles*, transl. & ed. Anne Savage (Twickenham: Tiger Books, 1995)

<sup>68</sup> *The Historia Anglorum*, transl. & ed. D. Greenaway (Oxford: Clarendon, 1996)

<sup>69</sup> Thomas Aquinas, *The Stanma Theologica*, transl. by the Fathers of English Dominican Province (London: the Fathers etc., 1920-29)

<sup>70</sup> *Gesta Regis Henrici Secunda Benedicti Abbatis*, ed. Wm. Stubbs (London: Longmans, 1867)

William of Malmesbury,<sup>71</sup> as well as first hand accounts, such as the Damascus Chronicles.<sup>72</sup>

The treatment of prisoners in the Hundred Years war is the subject of a published dissertation by Elizabeth Waara of Wayne State University.<sup>73</sup> The Laws of War in the Late Middle Ages and chivalry are dealt with by Keen<sup>74</sup> and there are standard texts by Barlow<sup>75</sup> and others. Contamine's *War and Competition Between States*<sup>76</sup> has a valuable chapter on ransoms.

There is a dearth of literature about prisoners in the Early Modern period but again reference can be made to treatises and works on war to gain an insight into their treatment. Best's *War and Law Since 1945*<sup>77</sup> contains a chapter on the *Laws of War from Early Modern Times to 1945* and Howard<sup>78</sup> deals with restraints on the practise of war. There are valuable works by Parker<sup>79</sup> and Black<sup>80</sup> on contemporary warfare and Griffin's<sup>81</sup> recent book on the armies of Charles I contains useful information about military ordinances. The status and treatment of prisoners of war is also dealt with in

<sup>71</sup> William of Malmesbury, *Gesta Regum Anglorum*, ed. & transl. R. Mynors (Oxford: Clarendon Press, 1998)

<sup>72</sup> *The Damascus Chronicle of the Crusades*, transl. H.A.R. Gibb (London: Luzac & Co., 1932)

<sup>73</sup> Elizabeth R. Waara, *The Treatment and Disposition of Prisoners during the Hundred Years War* (Michigan: Ann Arbor, 1985)

<sup>74</sup> Maurice Keen, *The Laws of War in the Late Middle Ages* (London: Routledge & Kegan Paul, 1965)

<sup>75</sup> Frank Barlow, *The Feudal Kingdom of England, 1042-1216* (London: Longman, 1988)

<sup>76</sup> Philip Contamine, *War and Competition Between States* (Oxford: Oxford U.P., 2000)

<sup>77</sup> Geoffrey Best, *War and Law Since 1945* (Oxford: Oxford U.P., 1994)

<sup>78</sup> M. Howard, ed. *Restraints on War: Studies in the limitation of armed conflict* (Oxford: Oxford U.P., 1979)

<sup>79</sup> G. Parker, *The Military Revolution; military innovation and the rise of the West, 1500-1800* (Cambridge: Cambridge U.P., 1996)

<sup>80</sup> J. Black, *European Warfare, 1494-1660* (London: Routledge, 2002)

<sup>81</sup> M. Griffin, *Regulating Religion and Morality in the King's Armies, 1639-46* (Leiden: Brill, 2004)

works by Byers,<sup>82</sup> Kennedy,<sup>83</sup> Stone,<sup>84</sup> Lynn<sup>85</sup> and Contamine.<sup>86</sup> There are many standard works on military history, for example, Guy's *Tudor England*<sup>87</sup> and Geoffrey Parker's, *The Thirty Years War*.<sup>88</sup> Robin Higham's *A Guide to the Sources of British Military History?*<sup>89</sup> can point the way to other relevant material.

There are a number of American works which deal with the American Indian and Revolutionary wars, such as Cuneo's *Robert Rogers*.<sup>90</sup> Francis Abell's<sup>91</sup> book on prisoners of war has much information about the treatment of French and American prisoners during the French and Revolutionary Wars, some of it gleaned from local records and remembrances, and there is a recent work by Clive Lloyd<sup>92</sup> on a similar theme. These works on the French Wars, backed by much material in National Archives, provide a wealth of information about the early years of prison camps and point the way to the codified and regulated systems which eventually developed. There are also a number of specialist articles dealing with aspects of this subject including Henry J. Webb's *Prisoners of War in the Middle Ages*<sup>93</sup> and Laura L Becker's

<sup>82</sup> Michael Byers, *War Law: International law and Armed Conflict* (London: Atlantic, 2005)

<sup>83</sup> David Kennedy, *Of War and Law* (Oxford: Princeton UP., 2006)

<sup>84</sup> Geoffrey R. Stone, *War and Liberty, An American Dilemma, 1790 to the present* (New York: Norton, 2007)

<sup>85</sup> John A. Lynn, *Battle, A History of Combat and Culture From Ancient Greece to Modern America* (Boulder: Westview Press, 2003)

<sup>86</sup> Philip Contamine, *War and Competition Between States* (Oxford: Oxford U.P., 2000)

<sup>87</sup> John Guy, *Tudor England* (Oxford- O.U.P., 1988)

<sup>88</sup> Geoffrey Parker, *The Thirty Years War* (London: Routledge, 1997)

<sup>89</sup> Robin Higham, ed. *A Guide to the Sources of British Military History* (London: Routledge and Kegan Paul, 1972)

<sup>90</sup> John R. Cuneo, *Robert Rogers of the Rangers* (Ticonderoga: Ft. Ticonderoga Museum, 1988)

<sup>91</sup> Francis Abell, *Prisoners of War in Britain, 1756-1815, A Record of their Romance and their Sufferings* (London: Oxford U.P., 1914)

<sup>92</sup> Clive L. Lloyd, *A History of Napoleonic and American Prisoners of War, 1756-1815* (Woodbridge: Antique Collectors Club, 2007)

<sup>93</sup> Henry J. Webb, 'Prisoners of War in the Middle Ages', *Military Affairs*. 12, No.1 (1948), pp. 46-49.

*Prisoners of War in the American Revolution; A Community Perspective?*<sup>94</sup> both in 'Military Affairs.' *Napoleon's Lost Legions: French Prisoners of War in Britain, 1803-1814*<sup>95</sup> by G.

Daly is another journal article relating to prisoners of war.

What is lacking in the historiography is an account tracing and analysing the evolution which took place in the treatment of prisoners of war from the Middle Ages to the early nineteenth century. Between the two eras of the ancient world, with its barbarism, and the modern world, with its desire for humanitarianism and legal rights, lies a shadow world between the early Middle Ages and the early 19<sup>th</sup> century when, imperceptibly and in piecemeal fashion, with many interludes of naked aggression and barbarism, the old attitudes were replaced by a sense of enlightenment and a recognition that all prisoners of war should be protected. This dissertation, therefore, will seek to explore the development of the treatment of prisoners of war through the ages, starting with the Medieval period and finishing with the Napoleonic Wars of the late 18<sup>th</sup> and early 19<sup>th</sup> centuries. It will be argued that this period saw the gradual evolution of rules of war and codes of behaviour, which laid the groundwork for the process of moral debate and international agreement, culminating in the codification of formal rules, in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. The emphasis in this work will be on the British experience of prisoners of war at home and abroad, including the colonies.

Chapter 2 will start with the Medieval period, when rules and conventions started to emerge, which at that period were very much intertwined with the concepts and practices

<sup>94</sup> Laura L Becker, 'Prisoners of War in the American Revolution; A Community Perspective', *Military Affairs*, 46, No.4 (1982), pp. 169-173

<sup>95</sup> Gavin Daly, 'Napoleon's Lost Legions: French Prisoners of War in Britain', *History*, 89 (2004), pp.361 - 380.

of chivalry. Reference will be made to the published primary sources by Legnano, Bonet, Charay and Pisan mentioned earlier, which committed to writing their perceptions of the current rules of war. This was a time when the martial ideals of knighthood developed into an elite code of chivalry.<sup>96</sup> Chivalry was very much concerned with how knights treated each other and their obligations to their lords. Ransoms were important, as a way of ensuring that defeated knights were not simply slain, by giving their victors a financial inducement to spare them.<sup>97</sup> The fate of the common soldier was not a priority but, nevertheless, writers on chivalry did recognise that a Christian knight should not harm the weak or be cruel to prisoners,<sup>98</sup> It is in these writings that we see the first recognition that mercy and restraint might be part of a knight's obligations rather than matters dependent on the whim of a prince. The influence of the church on these issues will be considered and reference will be made to the chronicles of the period including Henry of Huntingdon's *Historia Anglorum*<sup>99</sup> and William of Malmesbury's *Gesta Regum Anglorum*.<sup>100</sup> Some primary source material concerning ransoms is also available in the National Archives.

Chapter 3 will focus on the Early Modern period, as Europe emerged from the Middle Ages and chivalry began to wane. However, although the knight died out the knightly classes continued to serve as officers in these new armies and some of the principles of chivalry survived in informal conventions or rules of war. Thus, prisoners were often taken and spared, there were rules for besieging towns and fortresses, tariffs were

<sup>96</sup> M. Keen, *Chivalry* (New Haven and London: Yale U.P., 1984), p. 1.

<sup>97</sup> Richard W. Kaeuper, *Chivalry and Violence in Medieval Europe* (Oxford: Oxford U.P., 1999), p. 169.

<sup>98</sup> Pisan, *The Book of Deeds and Arms of Chivalry*, p. 46.

<sup>99</sup> *Historia Anglorum*.

<sup>100</sup> William of Malmesbury, *Gesta Regum Anglorum*.

developed for the exchange of prisoners and officers sought to develop a code of 'gentlemanly' behaviour. However, the fate of common soldiers captured in battle was still very uncertain and there were no rules regulating how they were to be treated, particularly when religion was an issue. The religious wars of the mid 17<sup>th</sup> century, for example, saw many atrocities committed in Europe. Again, in civil wars, the treatment of prisoners was likely to be summary and harsh. The world was changing slowly and society was becoming more literate and more aware of issues affecting their lives, and those of others, but prejudice and religious bigotry was still prevalent, as was the general apathy concerning the fate of the unfortunates in society, including those caught up in wars. Primary sources include chronicles,<sup>101</sup> the National Archives (State Papers), Calendars of Parliamentary Committees,<sup>102</sup> military ordinances,<sup>103</sup> works of philosophers Iij\*el3entili,<sup>104</sup> Victoria,<sup>105</sup> Ayala<sup>106</sup> and Grotius,<sup>107</sup> letters from Cortes<sup>108</sup> and memoirs by Florange.<sup>109</sup>

Chapter 4 will consider how society and attitudes began to change in the 18<sup>th</sup> century, with the principles of the Enlightenment, but still running alongside religious bigotry and endemic violence. This was a period of continual wars between Britain and France, culminating in the Napoleonic Wars of the late 18<sup>th</sup> and early 19<sup>th</sup> centuries. By the end of this period armies were enormous, partly due to the development of conscription on the

<sup>101</sup> Elizabeth Hallam, ed. *The Chronicles of the Wars of the Roses* (Godalming: Bratuley Books, 1996)

<sup>102</sup> *Calendar of State Proceedings Domestic, 1581-90*, ed. Robert Leman (London: Longman, 1865)

<sup>103</sup> Early English Books Online, [Online] Available: <http://eebo.chadwyck.com/home>

<sup>104</sup> Alberico Gentili, *De Jure Belli, Libri Tres*, transl. J.C. Rolfe (Oxford: Clarendon Press, 1933)

<sup>105</sup> Francisci de Victoria, *De Indis et de Jure Belle Relectiones*, ed. E. Nye (Washington: Carnegie Institution, 1917)

<sup>106</sup> Balthazar Ayala, *On the Law of War*, transl. J.P. Bate (Washington: Carnegie Institution, 1912)

<sup>107</sup> Hugo Grotius, *DeJure belli ac pacts, Libri Tres*, transl. F.W. Kelsey (Oxford: Clarendon Press, 1925)

<sup>108</sup> Hernan Cortes, *Letters from Mexico*, transl. & ed., A.R. Pagden (London: Oxford U.P., 1972)

<sup>109</sup> *Memoires de Marechal de Florange*, eds. R. Goubaux & P.A. Lemoisne (Paris: Librairie Renouard)

Continent, naval powers fought wars all over the globe and the numerous engagements, allied to the sheer length of wars, led to the taking of many prisoners. These were a hindrance and expense but society was more sensitive to injustice and cruelty than before and books and newspapers made people more aware of what was happening. This more sensitive attitude and the fact that Governments had to cope with vast numbers of prisoners taken over a prolonged period led to the need for more formal, humanitarian rules for prisoners of war, which were promulgated by the British Government, for example, during this period. Nevertheless, injustice and hardship was still prevalent, as will be seen. The National Archives has over 5000 catalogue references to prisoners of war from 1500-1820. Records prior to 1793 relate mainly to French and American prisoners, such as lists of officers on parole in France, in 1710.<sup>110</sup> Calendars of State papers<sup>111</sup> are available, as are edited memoirs of some of the period's soldiers,<sup>112</sup> then-letters<sup>113</sup> and dispatches.<sup>114</sup> The works of great philosophers like Rousseau<sup>115</sup> and Vattel<sup>116</sup> will be referred to as evidence of their contribution to the changing face of war. Chapter 5 will briefly sum up the conclusions reached in the previous chapters and bring together the evidence and arguments to demonstrate how the treatment of prisoners of war evolved from the savagery of the relatively minor conflicts of the feudal armies of Middle Ages to the more enlightened principles of 18<sup>th</sup> century warfare, providing the

<sup>110</sup> TNA, PRO SP 34/17: Lists of French parolees in France.

<sup>111</sup> *Calendar of State Papers Domestic, 1702-3*, ed. R. Mahaffy (London: H.M.S.O., 1916)

<sup>112</sup> David Chandler, ed., *Military Memoirs of Marlborough's Campaigns 1702-1712 Capt. Robert Parker and Count Merode-Westerloo* (London: Greenhill, 1998)

<sup>113</sup> *The Marlborough-Godolphin Correspondence*, ed. H.L. Snyder (Oxford: Clarendon, 1975)

<sup>114</sup> *Wellington's Dispatches, 1799-1818*, Vol. X, compiled by Lt Col. Gurwood (London: John Murray, 1838)

<sup>115</sup> J.J. Rousseau, *The Social Contract*, transl. M. Cranston (London: Penguin, Classics, 1968)

<sup>116</sup> Emerich de Vattel, *Le Droit des Gens, ou Principes de la loi naturelle appliques a la conduite et aux affaires des nations et des souverains*, ed. J.B. Scott (Washington: Carnegie Institution, 1916)

foundations which would lead to the emergence of codified international agreements in the mid 19<sup>th</sup> century and the next.

By the end of the dissertation it is hoped that the reader will gain an understanding of the evolutionary process which led Western society from a cynical disregard for the lives of prisoners of war to a recognition that they were unfortunate victims of events and should be treated with humanity. From this platform of relatively humane, though still often quite harsh treatment of prisoners, evolved the formal agreements and codes which are intended to strictly regulate their treatment, often referred to as the Geneva Convention rules.

## Chapter 2-The Middle Ages

This chapter will examine the treatment of prisoners in the Middle Ages, contrasting the continued barbarity of warfare and the violence of life in general with the emergence of literature (romantic, philosophical and legal) and the martial ethos of chivalry, both of which contributed to a more considered view of war and its consequences. For the first time since the Classical period writers, philosophers and lawyers, many of them clerics, attempted to define the rules of war and how a prince ought to conduct it. Some of the principles enunciated related to the justification for war, and who should benefit from the prizes gained, but consideration was also given to moral issues, including the taking of prisoners and their treatment. Chivalry provided a regulatory and aspirational framework for the nobles and their knights, who dominated the military, political and economic landscape of the period, but the brutal nature of warfare was undiminished and it was normal for no prisoners to be taken, unless they had a ransom value. Ransoms were a distinctive feature of warfare of the Middle Ages.<sup>1</sup>

The Early Middle Ages, that period from the fall of the Roman Empire in the 5<sup>th</sup> century to the Norman Conquest of 1066, sometimes referred to as the Dark Ages, was a period characterised by violence, cruelty and continual warfare; 'warfare and the warrior ethos were .. .central to the ... middle ages'.<sup>2</sup> This is not to say that the Roman era did not contain any such vices. On the contrary, the Roman and preceding eras were undoubtedly

<sup>1</sup> Contamine, *War and Competition*, p. 164.

<sup>2</sup> Maurice Keen, *Medieval Warfare, A History* (Oxford: Oxford U.P.,1999), p.8.

cruel and the status of prisoners was clear; Roman Law stated that persons taken in a just war became slaves of the enemy.<sup>3</sup> The difference between the Roman and post-Imperial eras was that, without Roman control, the whole of Europe was open to invasion and the accomplishments of civilisation, including security and the rule of law, were lost or obscured.<sup>4</sup> New peoples entered Europe and new kingdoms were forged in the crucible of war.<sup>5</sup> Battles were bloody, hand to hand affairs and prisoners were not often taken. The Vikings, fierce, predatory warriors who spilled out from their crowded Scandinavian homelands in the 8th century and raided, then conquered, large areas of Western Europe, were typical of the period. Henry of Huntingdon called them 'a plague.'<sup>6</sup> Defeated warriors were normally slaughtered although, sometimes, they were sold into slavery, or ransomed.<sup>7</sup> An Irish chronicler recorded how Limerick was sacked by the Vikings, in 968, and, following 'a fierce...unsparing, implacable battle,'<sup>8</sup> the defenders were pursued into the fort 'and slaughtered.'<sup>9</sup> Despite their fearsome reputation, the Vikings were not always successful; after losing a battle in Ireland, in 926, two hundred prisoners were eheaded.<sup>10</sup> When the Vikings first attacked England, in 793, at Lindisfarne, the Chronicles recorded the 'brutal robbery and slaughter.'<sup>11</sup> On returning in force, in 835, the

<sup>3</sup> Maurice Keen, *Laws of War in the Late Middle Ages* (London: Routledge, 1965), p.156.

<sup>4</sup> *Anglo-Saxon Chronicles*, ed. & transl. Anne Savage (Twickenham: Tiger Books, 1995), p.73,

<sup>5</sup> Edward Gibbon, *The History of the Decline and Fall of the Roman Empire* (London: Bell & Daldy, 1867), p.216.

<sup>6</sup> *The Historia Anglorum*, p.273.

<sup>7</sup> P.G. Foote and D.M. Wilson, *The Viking Achievement* (London: Book Club Assocs., 1973), pp. 66-67.

<sup>8</sup> *The War of the Gaedhil with the Gaill*. ed. & transl. J.H. Todd (London: Longmans, Green, Reader & Dyer, 1867), p.77.

<sup>9</sup> *Ibid*, p. 78

<sup>10</sup> H.B. Clarke, 'The Vikings' in Keen, *Medieval Warfare*, p.47.

<sup>11</sup> *Anglo Saxon Chronicles*, p.25.

English kingdoms of the Anglo-Saxons entered a period of prolonged and bloody war with the invaders. The *Chronicles* refer to 'great slaughter,'<sup>12</sup> in 845 and later, in 851, the Vikings made 'the greatest carnage of a heathen army that we ever heard of.'<sup>13</sup> When King Alfred captured Viking crews, he was quite prepared to hang them out of hand.<sup>14</sup> It would have been unthinkable, in such a desperate struggle for survival, to release prisoners to fight and pillage again, too risky to hold them as slaves and impracticable to imprison them. When the Vikings returned in the 10<sup>th</sup> century, the barbarity continued; Canute fought the East Angles and all those who did not flee the battlefield were 'killed to a man.'<sup>15</sup> Later, whilst marauding along the coast, Canute ordered the mutilation of hostages 'in defiance of laws human and divine.'<sup>16</sup> This was an interesting comment from William of Malmesbury, in that his indignation took the form of an accusation that the Danes acted in contravention of some kind of law. It is easy to understand why a Christian monk would regard barbarity as a breach of 'divine' law but the reference to 'human' laws suggests not merely moral condemnation but a sense that what was done infringed some kind of universal rule of law. This was, perhaps, what, Gratian<sup>17</sup> would refer to as *the jus gentium*, the law common to all men based on natural reason, that is, on honesty and good faith.<sup>18</sup>

Malmesbury was writing in the 12<sup>th</sup> century and, as will be seen, there were indeed

<sup>12</sup> *Ibid.*, p.88.

<sup>13</sup> *Ibid.*, p.88.

<sup>14</sup> *Ibid.*, p.111.

<sup>15</sup> William of Malmesbury, *Gesta Regum Anglorum*, ed. & transl. R. Mynors (Oxford: Clarendon Press, 1998), p.317.

<sup>16</sup> *Ibid.*, p.311.

<sup>17</sup> *Decretum*, Pars 1, Dist I, c.ix, cited in Keen, *The Laws of War*, p.10.

<sup>18</sup> *Instituta Justiniani*, Lib.1.2 cited in Keen, *Laws of War*, p. 12.

changes in the perception of war taking place as part of the development of chivalry in this period. From the 11<sup>th</sup> century onwards, Western warfare was heavily influenced by the emerging ethos of chivalry. The role of the knight, 'a man of aristocratic standing ... with a war horse and the arms of a heavy cavalryman'<sup>19</sup> had become increasingly important. Chivalry was the code that developed to circumscribe the behaviour of these elite warriors, who dominated the battlefields of this period. The role of the knight in society and warfare started to be romanticised by the lyric poets and troubadours of Languedoc, who developed the concept of 'the valiant knight'<sup>20</sup> in the 12th century, but it was men of the church, in response, perhaps, to the commencement of the Crusades, who treatises on how knights should behave in the reality of the Christian world.<sup>21</sup> Thomas Aquinas<sup>22</sup> wrote in this genre during the middle of the 13th century, building on the framework of St. Augustine's doctrines of the 5<sup>th</sup> century. Their view was that only a 'just war' that is one waged by a public authority, or a 'holy war' one waged by divine authority, was permitted by God.<sup>23</sup> Churchmen emphasised the warrior's perceived role of upholding Christian values and protecting the weak in the feudal model of society, which imposed mutual obligations of service and obligation, hi all this, the defence of the and its values was paramount; 'chevalerie and clergie... were twin pillars of society.'<sup>24</sup> This can be seen in the formation of military orders of chivalry, such as the

<sup>19</sup> M. Keen, *Chivalry* (New Haven and London: Yale U.P, 1984 ), p.1.

<sup>20</sup> M. Keen, *Nobles, Knights and Men at Arms in The Middle Ages* (London: Hambledon Press, 1996), pp. 21-22.

<sup>21</sup> Keen, *Chivalry*, p. 3.

<sup>22</sup> *The Summa Theologica of Thomas Aquinas*

<sup>23</sup> Frederick Russell, *The Just War in the Middle Ages* (Cambridge: Cambridge U.P., 1975), p.2.

<sup>24</sup> *Chretien de Troyes, Cliges*, lines 30-44 cited in Keen, *Chivalry*, p.5.

Templars, in the 11th and 12th centuries.<sup>25</sup>

Although the influence of these religious writers was significant in the deeply pious, Early Middle Ages, their views can be expected to have been less influential, as time passed by and the Age of the Crusades disappeared, but both their religious sentiments and the romantic inclinations of the troubadours were welded into more practical and relevant form by a number of lay writers, who composed treatises on chivalry. One of the earliest of these was an anonymous poem called the *Or dene de Chevcderie*<sup>26</sup> composed around 1250; another is the *Book of Chivalry*<sup>27</sup> by Ramon Lull, from the same period. Lull emphasised the duty of the knight to defend the Church but also detailed his secular duties, such as defending the weak.<sup>28</sup> Giovanni de Legnano, writing in 1360, extended this principle saying that mercy should 'be shown to persons captured in a lawful war.. .unless by sparing them there is a fear of a disturbance of the peace.'<sup>29</sup> This was not an absolute pronouncement but a qualified one. He limited mercy to those taken in a 'lawful' war, thereby excluding those rebelling against their prince, as well as allowing prisoners to be killed if they threatened further harm. Legnano's authority for this proposition was a sentence in the 12<sup>th</sup> century work of Gratian, a canon lawyer.<sup>30</sup> It is significant, perhaps, that one of the earliest references to mercy should have its origins in Canon Law, as the

<sup>25</sup> *William of Tyre in The Templars*, eds. M. Barber & K. Bate (Manchester: Manchester U.P., 2002), pp. 24-26.

<sup>24</sup> Keen, *Chivalry*, p.6.

<sup>27</sup> *Ramon Lull's Book of Chivalry and the anonymous Ordene de Chevalerie*, transl. W. Caxton, ed. B.R. Price (Union City: Chivalry Bookshelf, 2001)

<sup>28</sup> Keen, *Chivalry*, p. 11.

<sup>29</sup> Giovanni de Legnano, *Tractates de Bella, de Represaliis et de Duello*, ed. T.E. Holland (Oxford: Oxford U.P., 1917), p.254,

<sup>30</sup> *Patrologiae Cursus Completus Decretum Gratiani*, cited in Henry J. Webb, 'Prisoners of War in the Middle Ages', p.46.

Church and its teachings were very influential in the Middle Ages. This was the Church giving spiritual and moral guidance to those involved in the prosaic business of war. Legnano's lead was taken up by other writers in the following years. Honore de Bonet, whose 'Tree of Battles' was written for the King of France towards the end of the 14<sup>th</sup> century, wrote that, although 'according to written law a man could at will kill his prisoner'<sup>31</sup> he did not believe that was still the position once a captive had been taken away from the battlefield, as jurisdiction then belonged to the Prince or Lord, according to law.<sup>32</sup> Christine de Pisan argued that, whilst a prisoner who had given his word should not escape, it would be permissible to do so if the captor had not treated him well; a prisoner should be treated 'humanely, as is his right, and not... like an animal, or worse than Saracen or Jew.'<sup>33</sup> This included having enough to eat and adequate lodging, as well as the expectation that a ransom would not be unreasonable.<sup>34</sup> Pisan's work was an influential book, which drew on the teachings of Legnano and the writings of Bonet. Here was a writer making it quite clear that part of the duty of a chivalrous knight was to be kind to prisoners and treat them with humanity. This went beyond the notion that prisoners should not be put to death and connoted an additional responsibility of humane treatment. This was, perhaps, a curious concept in an exceedingly violent age but, nevertheless, represented a standard to be aspired to by knights wishing to act in accordance with the principles of chivalry and it must be assumed that at least some of

<sup>31</sup> *Tree of Battles*, p. 152.

<sup>32</sup> *Ibid.*, p.152.

<sup>33</sup> *The Book of Deeds and Arms of Chivalry*, p.181.

<sup>34</sup> *Ibid.*, p. 180.

them carried the aspiration into practise, on some occasions at least.<sup>35</sup> However, the evidence suggests that the most likely beneficiaries of this idea of humanity were fellow knights, partly because of the camaraderie of warriors, and, partly, because the principle of quarter for defeated knights, whether on the battlefields or in tournaments, was inextricably linked with pecuniary advantage, in the form of ransoms.<sup>36</sup> Geoffrey de Charny died at Poitiers protecting the sacred banner of the kings of France.<sup>37</sup> In his most famous work, the *Book of Chivalry*, he set out at length the qualities required of a knight. He was very preoccupied with the ideas of honour and bravery, as well as the rituals of chivalry, but there were few references to mercy as such, although he did say that good knights should be 'tender and merciful toward those who need assistance.'<sup>38</sup> The reason was that mercy did not register as highly as honour and martial endeavour for knights of that period. Chroniclers like Froissart carried the spirit and ethos of chivalry into their accounts of contemporary wars and the latter was quite clear that his chronicles were written to 'encourage all valorous hearts and to show them honourable examples.'<sup>39</sup> The question is whether knights followed these precepts in practise. An early example, from the 12<sup>th</sup> century, occurred when King Stephen decided to spare the captured garrison of Exeter, despite criticism that clemency would send out the wrong signals to other garrisons.<sup>40</sup> Perhaps it was this criticism that later led him to hang the garrison of

<sup>35</sup> *Froissart*, p. 143.

<sup>36</sup> Frank Barlow, *The Feudal Kingdom of England. 1042-1216* (London: Longman, 1988), p. 258.

<sup>37</sup> *The Book of Chivalry of Geoffroi de Charny*, eds. R. W. Kaeuper and E. Kennedy (Philadelphia: Univ. of Pennsylvania, 1996), p. 17.

<sup>38</sup> *Ibid.*, p. 129.

<sup>39</sup> *Jean Froissart's Chronicles*, ed. G. Brereton (London: Penguin, 1978), p. 37.

<sup>40</sup> *The Historia Anglorum*, p. 709.

Shrewsbury, in similar circumstances.<sup>41</sup> When defeated at Lincoln, his opponents took care to preserve his life, and the lives of captured knights, but the townsfolk were butchered and the town sacked 'in accordance with the law that governs hostilities' the *jus militare*.<sup>42</sup> When Stephen's rival, Henry II, captured his castle of Crowmarsh, in 1153, he spared the knights but executed the archers.<sup>43</sup> This attitude to common prisoners can be seen again in Ireland, in 1170, after the battle of Waterford, which itself involved 'a massive slaughter'.<sup>44</sup> It was suggested the English could earn a fortune, and the goodwill of the natives, by ransoming their prisoners but it was concluded the Irish would not respect them for their leniency and, therefore, they were 'condemned to die, their limbs were broken and they were consigned to the cliff overlooking the sea'.<sup>45</sup> The capture of a town or fortress was thought to give the besiegers a right to put the defenders to death as a retaliatory measure, as an example to others, or to signify the displeasure of the victors, as when Louis XI ordered the execution of many Burgundians taken at Douai in 1477, to terrify others in the region.<sup>46</sup> After the sack of a town its inhabitants forfeited their liberty, property and even lives.<sup>47</sup> As Barlow says 'the chivalrous code was limited in its application'<sup>48</sup> particularly when towns or castles were taken.

<sup>41</sup> *Ibid.*, p. 713.

<sup>42</sup> *Gesta Stephani*, transl., K.R. Potter (London: Thos. Nelson, 1955), p.75.

<sup>43</sup> John Gillingham, 'An Age of Expansion' in Keen, *Medieval Warfare*, p.83.

<sup>44</sup> Giraldus Cambrensis, *Expugnatio Hibernica, the Conquest of Ireland*, ed., A.B. Scott & F.X. Martin (Dublin: Royal Irish Academy, 1978), p.59.

<sup>45</sup> *Ibid.*, p.63.

<sup>46</sup> *Comynnes*, ed. Mandrot (1901-3) pp.419-20, cited in Philip Contamine, *War and Competition Between States* (Oxford: Oxford U.P., 2000), p.168.

<sup>47</sup> Geoffrey Parker, *The Military Revolution, Military Innovation and the Rise of the West, 1500-1800* (Cambridge: Camb. Univ. Press, 1996), p.59.

<sup>48</sup> Barlow, *The Feudal Kingdom of England*, p.258.

The beginning of the chivalric period coincided roughly with the commencement of the Crusades, many of which involved military expeditions to the Holy Land, with the object of capturing Jerusalem and other holy sites. The inspiration was religious and stemmed from the encouragement and support of the Church. A crusade was a 'holy' war and not subject to even the minimal constraints of a 'just war', such as the rules of chivalry.<sup>49</sup> Despite their religious origins, they were conducted with scant regard for human life and there were many atrocities on both sides; 'normal chivalric mores were set aside during crusades.'<sup>50</sup> The capture of Jerusalem by the Crusaders, in 1099, was followed by a general massacre of the garrison and many of the population; 'the city was purified by the massacre of the infidel.'<sup>51</sup> Perhaps not surprisingly, when Roger of Antioch was defeated at the Field of Blood in 1119, the Moslems meted out similar treatment; 'not one man of them (20,000) escaped to tell the tale'<sup>52</sup> and all their prisoners were massacred the next day.<sup>53</sup> Emir Balak did the same, in 1123, when capturing Kharpurt; only the leader of the Crusaders, Baldwin, was spared because of the ransom he could pay and his Arminian troops 'were delivered over to tortures of various kinds.. .some were flayed alive.. .others burned alive... others for archery practise.'<sup>54</sup> Later on in the crusading era, Richard the Lionheart captured Acre and made a treaty with Saladin, which would have preserved the lives of the 3000 strong garrison but, when delays occurred, he had them 'slaughtered in

<sup>49</sup> Russell, *The Just War*, p.2.

<sup>50</sup> Norman Housley, 'European Warfare' in Keen, *Medieval Warfare* p. 134.

<sup>51</sup> *Gesta Regum Anglorum*, p.65l..

<sup>52</sup> *The Damascus Chronicle of the Crusades*, transl. H.A.R. Gibb (London: Luzac & Co., 1932), p. 160.

<sup>53</sup> Jean Richard, *The Crusades, 1071-1291* (Cambridge: Camb.U.P.,1999), p.136.

<sup>54</sup> *A History of Deeds Done Beyond the Seas, William of Tyre*, transl. E.A.Babcock & A.C.Krey (New York: Columbia Univ. Press, 1943), p. 544.

cold blood.<sup>55</sup> Richard was one of the first English Kings to issue written military instructions for his army, albeit a simple document containing just five regulations to preserve the morality and order of his crusaders.<sup>56</sup> Whilst murder, theft, drawing a knife in quarrel and provocation were prohibited, there were no explicit restrictions on the behaviour of troops in battle, or relating to the taking of prisoners or ransoms.<sup>57</sup> Even religion did not receive any attention until 1385, when Richard II included two articles designed to protect the consecrated host from being touched and churches from pillage and theft, upon pain of death.<sup>58</sup>

Ransoms were a recurring theme in the Middle Ages; common soldiers were habitually slaughtered but noble prisoners usually spared for ransom. The principle of ransoms was deeply embedded in knightly culture, as can be seen from the early tournaments.<sup>59</sup> The object was to capture and ransom opponents rather than to kill.<sup>60</sup> Sometimes war and tourneys were indistinguishable. For example, when Edward I was returning from the Crusades in 1273, he was challenged by the Count of Chalons to 'a contest of arms... known as a tournament.'<sup>61</sup> The Chronicles refer to the ferocity of the combat which

<sup>55</sup> *Baha Ad-Din, Arab Historians of the Crusades*, ed. G.E. Grunebaum (Los Angeles: Univ.of California, 1984), pp. 223-4.

<sup>56</sup> *Charter of King Richard I for the Government of those Going by Sea to the Holy Land, 1189*, transcribed by Francis Grose, *Military Antiquities Respecting A History of the English Army From the Conquest to the Present Time* (London: 1812), 1:63 in William Winthrop, *Military Law and Precedents, Vol.11* (Washington D.C: Beard Books, 2000), p. 903.

<sup>57</sup> *Ibid.*, p.6.

<sup>58</sup> *Statutes, Ordormances, and customs, to be observed by the Army*, reprod. in Grose, *Military Antiquities*, cited in Griffin, *Regulating Religion*, p.6.

<sup>59</sup> Keen, *Chivalry*, p.25.

<sup>60</sup> Juliet Barker, *The Tournament in England, 1100-1400* (Woodbridge: Boydell, 1986), pp. 140-141.

<sup>61</sup> Elizabeth Hallam, ed. *Chronicles of the Age of Chivalry* (London: Tiger Books, 1995), pp. 111-112.

degenerated into a brawl.<sup>62</sup> Tournaments attracted many knights some, like William Marshal, becoming rich from ransoms and booty.<sup>63</sup>

As ransoms were the most valuable gains of war, yet prisoners were living persons with wills of their own, the rules governing ransoms were complicated and frequently litigated, so quite a lot is known about them.<sup>64</sup> Whereas Roman Law made prisoners in a just war slaves, prisoners in the Medieval world were subject to customary rules and practices, set out in the treatises on war. Nevertheless, medieval theorists applied the Roman theory of unrestrained warfare to contemporary hostilities, thereby permitting wholesale slaughter or enslavement of non-Christian opponents.<sup>65</sup> Bonet, recognised the right of a knight to seek ransoms and booty.<sup>66</sup> Indeed, the idea of profiting in this way from individuals was rooted in the 'Laws of Antiquity' which stated that a soldier captured in a just war became the personal chattel of the captor, who could kill, enslave or dispose of him,<sup>67</sup> although Bonet did not believe that enslavement, as such, was permissible in a Christian society.<sup>68</sup> Furthermore, Bonet felt that ransoms should not be set so high as to ruin a man's family.<sup>69</sup> At the end of the day the ransom was a contractual matter between captor and prisoner; if the prisoner failed to honour his promises the

<sup>62</sup> *Ibid.*, p. 112.

<sup>63</sup> David Crouch, *William Marshall, Court, Career and Chivalry in The Angevin Empire, 1147-1219* (Harlow: Longman, 1990), p. 175.

<sup>64</sup> Keen, *Laws of War*, p.156.

<sup>65</sup> Howard et al, *The Rules of War*, p,28,

<sup>66</sup> *Ibid.*, pp. 164-5.

<sup>67</sup> Legnano, *Tractatus de Bella*, p. 269.

<sup>68</sup> *Tree of Battles*, p. 15 h

<sup>69</sup> *Ibid.*, p. 152.

repercussions could be serious, even resulting in public humiliation or judicial trial.<sup>70</sup> However, Bonet and others were of the view that the will of the Prince was paramount and he could intervene as, in theory, all profits of war could be claimed by him, as he had incurred the expense of it.<sup>71</sup>

Contamine has suggested that the gaining of profit from war, including taking prisoners for ransom, was symptomatic of the type of warfare practised in the Middle Ages and the evolution in the practices of booty and ransom taking was 'a remarkable manifestation of the growth of states from the military viewpoint.'<sup>72</sup> Princes and nobles conducted offensive wars for personal gain and their followers regarded the profit motive as an important incentive for participation, particularly when armies ceased to be raised on a purely feudal basis. When the opportunity to take prisoners arose, they would only do so to gain profit from ransoms and the proceeds would be theirs, or shared with their lord. This is in contrast to modern wars, which are normally fought by nation states with paid and/or conscripted soldiers, who, for reasons of efficiency and humanity, are expected to conform to the state's wishes and take prisoners in the state's name; in other words war is now a public not a private enterprise.<sup>73</sup> Contamine dates the use of the expression 'prisoner of war' from at least the early 15<sup>th</sup> century, suggesting there was a particular status to be attached to it by then.<sup>74</sup>

<sup>70</sup> Keen, *Chivalry*, p. 175.

<sup>71</sup> *Tree of Battles*, p.135.

<sup>72</sup> Contamine, *War and Competition*, p. 164.

<sup>73</sup> *Ibid*, p.163.

<sup>74</sup> *Archives Nationales, Paris*, XI a 4804, fo.178. *Comynes*, ed. Mandrot (1901-3) ii 79, cited in Contamine, *War and Competition*, p.164.

In the 15<sup>th</sup> century, when England and France were reaching the final death throes of the Hundred Years War, soldiers regarded war as a speculative business in which huge fortunes could be won.<sup>75</sup> Sir John Talbot, one of the English commanders, made considerable sums from ransoms, as when he reserved for himself the most important prisoners from the capture of Bordeaux, in 1452.<sup>76</sup> Not all the profit would have been Talbot's, as the King himself had a right to one third of all proceeds.<sup>77</sup> For a successful king, like Henry V, income from ransoms made a significant contribution towards the costs of war; for him 'the war itself proved profitable.'<sup>78</sup> Sometimes, there were disputes about profits from ransoms, or who should have possession of them. When Sir William Douglas and others were captured by the English in the struggles with Scotland, Anthony de Lucy had to petition the King, in 1333, as 'although the king has often ordered their return, this has not been done.'<sup>79</sup> The Scots too sought ransoms for captured English nobles like the Earl of Richmond.<sup>80</sup> Ransoms could be paid through intermediaries like the Frescobaldi and Mozzi of Florence, the Ammanati of Pistoja or the Buonsignori of Sienna. Sometimes a knight might help a friend on the other side to pay his ransom, as when Sir Hugh Calveley gave du Guesclin 10,000 francs, in 1367.

<sup>75</sup> K.B. McFarlane, 'The Nobility of Late Medieval England', p.21, cited in A.J. Pollard, *John Talbot and the War in France* (London: R.H.S.,1983) p. 102.

<sup>76</sup> Pollard, *John Talbot*, p.104.

<sup>77</sup> *Ibid*, p.106.

<sup>78</sup> Richard A. Newhall, 'The War Finances of Henry V and the Duke of Bedford', *The English Historical Review*, Vol. 36, No. 142 (Apr., 1921), p.180.

<sup>79</sup> TNA, PRO SC. 8/59/2936: Petition to the King and Council.

<sup>80</sup> TNA, PRO SC. 7/25/27: Papal bull of 1326 addressed to Edward II.

<sup>81</sup> TNA, PRO C. 47/13/1/7: Copy of bond by abbey and convent of Gloucester.

<sup>82</sup> W. McColly, 'Hugh Calveley, A Reassessment', *Transactions of the Hist. Soc. of Lanes. & Cheshire*, Vol. 136 (1986), p.158.

Even when noble prisoners were spared for their ransom value, they were not safe until the battle was over and formal arrangements could be made. In 1415, the English army seemed to be winning at Agincourt and took many noble French prisoners for ransom but, when the French concentrated for a counter attack, Henry V ordered their execution,<sup>83</sup> as he feared they might start fighting again.<sup>84</sup> This incident was an example of how convention and even potential gain could be set aside, in exceptional circumstances, for military reasons or expediency. However, there is evidence that, in some medieval battles, noble prisoners were freed almost immediately, to overcome the difficulty of guarding and transportation, upon promising to pay a ransom.

There are many records of ransoms being sought for Kings, Princes and great lords, as well as more humble knights. King John of France was ransomed for a huge amount after Poitiers<sup>86</sup> and King James of Scotland was another monarch who had to buy his freedom from the English crown.<sup>87</sup> Charles of Blois, Duke of Brittany, is an example of a great who agreed to pay a ransom for himself and his wife.<sup>88</sup> Even captured churchmen were not excused payment; Giles, Bishop of Noyon, undertook to pay Edward III the sum of 9000 gold crowns for his freedom.<sup>89</sup> A less exalted warrior, Henry de Oggel, petitioned King and Council for relief and payments due to him following his

<sup>83</sup> Ann Curry, *Agincourt, A New History* (Stroud: Tempus, 2005), p.249.

<sup>84</sup> *Henrici Quinti Angliae Regis Gesta*, ed., B. Williams (English Historical Society, 1850), pp.44-60, in *English Historical Documents, 1327-1485*, ed. A.R. Myers (Eyre and Spottiswoode; London, 1969), p.213.

<sup>85</sup> Elizabeth R. Waara, *The Treatment and Disposition of Prisoners during the Hundred Years War* (Michigan: Ann Arbor, 1985) p.10.

<sup>86</sup> David Green, *The Battle of Poitiers, 1356* (Stroud: Tempus, 2002), p.57

<sup>87</sup> TNA, PRO C. 47/22/11/33: Receipt for 1000 marks paid to Treasurer of Calais, 25 July 1426.

<sup>88</sup> TNA, PRO E. 30/74: Notarial certificate of ransom agreement

<sup>89</sup> TNA, PRO E. 30/145: Undertaking for ransom, 1360.

capture and ransom by the Scots.<sup>90</sup> The burden of paying a ransom was onerous, and could be crippling, as was the case with Lord Greystoke, captured by the Scots and required to pay a heavy ransom 'so ruinous it will ruin him forever.'<sup>91</sup> However, this was preferable to summary execution, which would otherwise have been the fate of most captives. In fact, in some wars it was never acceptable to take prisoners, even for ransom. The Flemmings sought to defend their small territories tenaciously, with mainly citizen infantry, and never took prisoners.<sup>92</sup> The Swiss were similar.<sup>93</sup> Even the French or English might not take prisoners for ransom in certain circumstances, such as in civil wars, crusades and in particularly desperate conflicts, like Crecy, when the French ordered no quarter.<sup>94</sup> In 1417, John the Fearless, Duke of Burgundy, expressly ordered that 'no-one, no matter what his rank, be bold enough to take prisoners on the day of the battle until it was seen that the field was won.'<sup>95</sup> This was a commander overriding the customs and inclinations of his troops to ensure that victory was not compromised by soldiers failing to concentrate on fighting, in order to line their pockets. At Towton, in 1461, several captured nobles were summarily executed.<sup>96</sup> At Bosworth also, 'a great company were killed in the chase.'<sup>97</sup> It was understandable that common soldiers would

<sup>90</sup> TNA, PRO SC. 8/165/8205: Petition to King and Council, 1319.

<sup>91</sup> TNA, PRO SC. 8/85/4221: Petition to John of Gaunt, 1380.

<sup>92</sup> *Chronique Normande du XIV Siecle* p.27 cited in Henry J. Webb, 'Prisoners of War in the Middle Ages' *Military Affairs*, Vol.12, No.1 (1948), pp. 48.

<sup>93</sup> Keen, *Chivalry*, p. 221.

<sup>94</sup> Howard et al, *The Laws of War*, p.32.

<sup>95</sup> *Schneer*, cited in Contamine, *War and Competition*, p.167.

<sup>96</sup> *Hearne's Fragment, Thomas Spott's Chronica*, ed. T. Hearne (Oxford, 1719), p.286, in *English Historical Documents*, p.290.

<sup>97</sup> *Polydore Vergil's Anglica Historia*, ed., H. Ellis (Camden Society, 1844), p. 221, in *English Historical Documents*, p.346.

show little mercy to their captives as they were not bound by any chivalric code, they were not equipped to keep prisoners and could expect no mercy themselves.<sup>98</sup> Froissart claimed that the Germans treated a captured knight badly; 'they will place him in chains of iron and throw him into the smallest prison cell they have to extort a great ransom.'<sup>99</sup> Here, there was no semblance or pretext of humanity or chivalry, just rampant greed. Prisoners might even be tortured or intimidated to hasten the agreement and deliverance of a ransom; John Bynham was thrown over the wall of Mont St. Michel, to frighten his fellow captives into agreeing to ransom demands.<sup>100</sup> However, it can be argued that, notwithstanding the pecuniary motives inherent in the practice, the taking of ransoms represented a step forward from the routine slaughter of all defeated warriors not able to make their escape from a battlefield or siege and, therefore, can be seen as part of the evolution in the treatment and perception of prisoners of war. Kaeuper argues that chivalry functioned as a restraining force,<sup>101</sup> at least as far as knights were concerned, because of a desire to limit casualties through truces, respites and ransoms.<sup>102</sup>

It has been suggested that the treatment of prisoners of war depended on a number of variables, such as the religion and culture of the participants, whether the conflict was large or small scale and whether the soldiers were professionals or conscripts.<sup>103</sup> Writers

<sup>98</sup> Henry J. Webb, 'Prisoners of War in the Middle Ages', *Military Affairs*. 12, (1948), p.49.

<sup>99</sup> Tales from Froissart, *The Constable of France...captures many English prisoners* (Online) Available: <http://www.nipissingu.ca/departementte>

<sup>100</sup> Waara, *Prisoners in Hundred Years War*, p. 163.

<sup>101</sup> Richard W. Kaeuper, *Chivalry and Violence in Medieval Europe* (Oxford: Oxford U.P., 1999), p.169.

<sup>102</sup> *Ibid.*, p. 170.

<sup>103</sup> Waara, *Prisoners in Hundred Years War*, p. 1.

like Bonet and Legnano tended to categorise warfare, frequently emphasising the concept of a 'just war' which only a lawful Prince could undertake,<sup>104</sup> leading warriors of the 13<sup>th</sup> century to make distinctions in the treatment of opponents they faced. Thus, the English usually treated the French as equals in the chivalric world, at least as far as fellow knights were concerned. The Hundred Years War was a political and dynastic struggle and there was often no personal animosity between opposing men at arms who were, therefore, more likely to act in a chivalrous manner and take prisoners for ransom.<sup>105</sup> In 1370, the Black Prince put to the sword all the inhabitants of Limoges when he captured the city. However, three French knights surrendered to the Duke of Lancaster crying 'we are yours... Act therefore to the law of arms'<sup>106</sup> and they were spared, suggesting that there was an accepted code of military conduct they believed would protect them as knights.<sup>107</sup> King John was treated well, at Poitiers, because he could produce a ransom and there are many other examples of knights being given clemency.<sup>108</sup> In contrast, after the same battle, many French captives were slaughtered by English archers, as they had no value.<sup>109</sup> The Scots, Welsh and Irish were often regarded as barbarians by the English<sup>110</sup> and, like Wallace, executed as traitors.<sup>111</sup> Paradoxically, the Scots tended to treat English prisoners well, because they felt they were engaged in a 'just war'.<sup>112</sup>

<sup>104</sup> Keen, *Medieval Warfare*, p.2.

<sup>105</sup> *Ibid.*, p.2

<sup>106</sup> *Froissart*, p.178.

<sup>107</sup> Keen, *Law of War*, p.1.

<sup>108</sup> *Froissart*, p. 143.

<sup>109</sup> *Ibid.*, p-137.

<sup>110</sup> Norman Housley, 'European Warfare' in Keen, *Medieval Warfare*, p. 134.

<sup>111</sup> James Mackay, *William Wallace* (Edinburgh: Mainstream Publishing, 1995), pp. 259-261.

<sup>112</sup> *Ibid.*, p.134.

In conclusion, the precise status of prisoners in the Middle Ages was not always clear.

Legnano says that 'the rule of *postilium* did not apply to persons, and persons were not sold and did not become slaves.'<sup>113</sup> The relationship, said Paris of Pozzo, was a contractual one founded on the oath made by the prisoner when captured 'that he shall be a captive and shall not be killed.'<sup>114</sup> Bartholomew of Saliceto confirmed this view adding that the prisoner was held 'as a pledge for the price of his ransom.'<sup>115</sup> The status of prisoners of war was strange and resembled the free status of a vassal, in that it incurred obligations like obedience but also conferred rights like protection and reasonable comfort.<sup>116</sup> What is clear is that the customs, conventions and rules of war which developed out of the practice of taking ransoms, together with the litigation which often arose to settle disputes, can also be seen as a first step in the jurisprudential protection of prisoners of war, which could be expanded and enhanced in a more enlightened age. Scholars like Huizinga<sup>117</sup> and Keen believe that the so called 'Law of Arms' based on the rules and ideals of chivalry developed as a result of the international wars of the late Middle Ages and 'paved the way for the notion of a law of nations.'<sup>118</sup> However, the code \s of chivalry had little to do with ordinary people and brought no transformation in Medieval Warfare, which was generally as bloody as before.<sup>119</sup> The practice of taking ransoms would, in fact, survive in a more systematic form in the tariffs and exchanges

<sup>113</sup> *John of Legnano* cited in Keen, *The Laws of War*, p. 157.

<sup>114</sup> Paris of Pozzo cited in Keen, *Laws of War*, p. 157.

<sup>115</sup> Bartholomew of Saliceto, cited in Keen, *Laws of War*, p. 163 .

<sup>116</sup> Keen, *Laws of War*. p.164.

<sup>117</sup> Johan Huizinga, *The Waning of the Middle Ages* (London: Penguin, 1955), p.205.

<sup>118</sup> Keen, *Laws of War*, p.247.

<sup>119</sup> *Ibid.*, p. 185.

which would develop in the Early Modern period, dealt with in the next chapter. However, there is little doubt that, in this feudal period, prisoners of war were regarded as chattels or booty and, as such, the property of their captors to be disposed of at will, notwithstanding that the Church, and some scholars advocated humane treatment, in appropriate circumstances. Generally, despite the views of writers like Gratian, Legnano, Bonet and Pisan that knights should act humanely, common soldiers were not considered yet to be human beings worthy of universal and unconditional protection and charity. In fact some would say that the dictum of these scholars was 'so often disregarded by combatants of all ranks that their words seem like cries in the wilderness.'<sup>120</sup>

<sup>120</sup> Henry J. Webb, *Prisoners of War*, p.49.

## **Chapter 3-The Early Modern Period,1500-1700.**

This chapter seeks to explain how attitudes to prisoners changed between 1500-1700. The Age of Chivalry had disappeared by the start of this period, due to revolutionary changes in the nature of warfare, such as the increased impact of massed infantry, as opposed to armoured cavalry, and the more widespread introduction of firearms.<sup>1</sup> Warfare changed drastically with the emergence of nation states, which employed larger, more professional armies equipped with firearms and artillery. In this period potentially greater killing power coincided with the gradual influence of more modern, post medieval, civilised attitudes to war and society in general. When exactly this 'military revolution' occurred has been the subject of much debate, with some dating it from the middle of the 16<sup>th</sup> century to the middle of the next,<sup>2</sup> as larger, more professional armies wielded greater firepower. Others date it rather earlier,<sup>3</sup> when gunpowder came into common use in the West and innovations in fortress design were developed in response, or, later, around 1660, with the emergence of more powerful, fiscal-military, nation states.<sup>4</sup> Some, like David Parrott,<sup>5</sup> even doubt whether a single revolution, as such, took place but what is clear is that many major changes took place in the way warfare was conducted in the post medieval period.<sup>6</sup> This period also saw the emergence of civil and international wars in

<sup>1</sup> Keen, *Chivalry*, p.1

<sup>2</sup> M. Roberts, *The Military Revolution, 1560-1660* (Belfast: Queen's University, 1956)

<sup>3</sup> G. Parker, *The Military Revolution: military innovation and the rise of the West, 1500-1800* (Cambridge: Cambridge U.P., 1996), p.5.

<sup>4</sup> J. Black, *European Warfare, 1494-1660* (London: Routledge, 2002), p.215.

<sup>5</sup> P. Bobbitt, *The Shield of Achilles: war, peace and the course of history* (London: Penguin, 2003), p.71.

<sup>6</sup> *Ibid.*, p.74.

which religion was a common and powerful denominator.<sup>7</sup> The purpose of this chapter is to examine how these changes affected the treatment of prisoners of war caught up in the great conflicts of this period.

By 1500 it is generally accepted that the Middle Ages had given way to new developments in warfare and society in general; chivalry as a major social and military ethos was either dead, or at least on the wane,<sup>8</sup> apart from a late flowering of court-centred pageants and tournaments.<sup>9</sup> Feudalism had long since all but disappeared and it was many years since feudal levies had played much of a part in international warfare, although they still played a part in 15<sup>th</sup> century civil conflicts like the Wars of the Roses.<sup>10</sup> Old social and political orders were changing and new, larger, states had started to emerge. Spain, for example, was unified by this time and had been 'carried to the front rank of European powers.'<sup>11</sup> In England a new and vigorous royal house 'enjoying considerable "power and authority'<sup>12</sup> had been founded by the Tudors. Henry VII's 'acumen',<sup>13</sup> followed by the radical policies of his son, resulted in the modernisation of the organs and institutions of the state.<sup>14</sup> Henry VIII profited from the religious upheavals which sundered much of Europe from the influence of the Roman Catholic Church.<sup>15</sup> He succeeded in separating England from Rome at a time when 'the atmosphere had been

<sup>7</sup> Richard S. Dunn, *The Age of Religious Wars, 1559-1689* (London: Weidenfeld & Nicolson, 1970), p. ix.

<sup>8</sup> J. Huizinga, *The Waning of the Middle Ages* (New York: Doubleday, 1924), p.93

<sup>9</sup> A.B. Ferguson, *The Indian Summer of English Chivalry* (Durham, N. Carolina: Duke U.P., 1960), p.126.

<sup>10</sup> Elizabeth Hallam, ed., *The Chronicles of the Wars of the Roses* (Godalming: Bramley Books, 1996), p. 255.

<sup>11</sup> David Starkey, *Henry, The Prince Who Would Turn Tyrant* (London: Harper Perennial, 2009), p. 139.

<sup>12</sup> Black, *European Warfare, 1494-1660*, p.94.

<sup>13</sup> John Guy, *Tudor England* (Oxford: O.U.P., 1988), p.79.

<sup>14</sup> Robert Hutchinson, *Thomas Cromwell* (London: Weidenfeld & Nicolson, 2007), p.266.

<sup>15</sup> Guy, *Tudor England*, p. 153.

worldly and cynical,<sup>16</sup> but these events contributed to the great religious wars in Europe, which, were noted for the ferocity of the participants, to each other and to civilians, caught up in them.<sup>17</sup> Michel de Montaigne, a classical humanist, thought that the Catholics and Huguenots, in trying to destroy each other, transformed themselves into 'beasts' rather than 'angels'.<sup>18</sup> He continually preached moderation and toleration, wondering whether civilized Europeans were really superior to the savage Indians of the New World. This view is, perhaps, justified by the many examples of atrocities and inhumane treatment meted out to Mexican tribes by the *conquistadores* of Hernan Cortes. It is true that the natives usually sacrificed captured Spaniards,<sup>19</sup> but Cortes retaliated by enslaving tribes, and burning prisoners.<sup>20</sup> On one occasion he arrested 50 suspected spies and cut off their hands as a warning.<sup>21</sup>

In the 16th century many of the cruelties inflicted in the wars of the earlier centuries still prevailed. For example, at the Spanish siege of Prato, in 1512, 12,000 Tuscan soldiers were killed, when the town was taken, and many were tortured for weeks to extract excessive ransoms from their relatives.<sup>22</sup> Nearer home, when part of the Spanish Armada was wrecked on the shores of Ireland, in 1588, Thomas Fitzwilliam, the Lord Deputy, ordered the slaughter of all survivors, although a handful of superior persons

<sup>16</sup> Dunn, *Religious Wars*, p.35

<sup>17</sup> *Ibid.*, p.209.

<sup>18</sup> *Ibid.*, p.210.

<sup>19</sup> Hernan Cortes, *Letters from Mexico*, transl. & ed., A.R.Pagden (London: Oxford U.P., 1972), p. 184.

<sup>20</sup> *Ibid.*, p.91.

<sup>21</sup> *Ibid.*, p.61.

<sup>22</sup> A. Krammer, *Prisoners of War* (Westport: Greenwood Publishing Inc., 2007), p.14.

were spared for their potential ransom value.<sup>23</sup> The State Papers duly recorded the ransom of Spanish prisoners from Ireland in 1591.<sup>24</sup> A letter from Sir Ralph Bingham to Walsingham recited how 1000 survivors had reached land only to be 'put to the sword'.<sup>25</sup> As Bingham later told the Queen, this avoided 'any extraordinary charge to your majesty'.<sup>26</sup> Prisoners taken at sea might be ransomed at a rate of one month's pay per man<sup>27</sup> and in some cases the Government were only too pleased to agree an exchange for a noble prisoner like the Prince de Subiaur, who was 'not worth the keeping'.<sup>28</sup> Prisoners landed in England seem to have fared better, being Imprisoned, although a Captain Cely plundered those in the Bridewell.<sup>29</sup> When the Rosario surrendered to Drake, some 400 soldiers and sailors were captured and allowed 4d *per diem* by the Council.<sup>30</sup> Some 226 Spanish prisoners were reported to have been put to work in the gardens of Sir John Gilbert.<sup>31</sup> The Armada massacre followed the pattern of an earlier Spanish incursion into Ireland, in 1580, when 800 Papal volunteers manned a temporary fortress in south-west Ireland, known as the Castello del Oro; on surrendering to a superior English force, having been promised fair terms, all but 15 were massacred in cold blood.<sup>32</sup> These events mirrored the view, still prevalent in many quarters, that prisoners were mere

<sup>23</sup> J. K. Laughton, ed., *State Papers relating to the defeat of the Spanish Armada* (London: Navy Records Society, 1894), Vol. 2, p.299.

<sup>24</sup> TNA, PRO SP 81/6, f. 199: Ransom of Spanish prisoners from Ireland.

<sup>25</sup> Laughton, *State Papers of the Armada*, p. 261.

<sup>26</sup> *Ibid.*, p. 301.

<sup>27</sup> *Calendar of State Proceedings Domestic, 1581-90*, ed., Robert Leman (London: Longman, 1865), p.542

<sup>28</sup> *Ibid.*, p. 284.

<sup>29</sup> *Ibid.*, p. 209.

<sup>30</sup> Paula Martin, *Spanish Prisoners: The Story of the Nuestra Senora del Rosario and her crew and of other prisoners in England.1587-97* (Exeter: Exeter U. P., 1988), p. 43.

<sup>31</sup> Laughton, *State Papers of the Armada*, pp. 263-4.

<sup>32</sup> C. Martin & G. Parker, *The Spanish Armada* (Manchester: Manchester U.P., 1999), p. 224.

commodities, or a specie of booty, to be disposed of at the captor's whim, like the English sailors condemned to serve in Spanish galleys.<sup>33</sup> Thus, when Philip of Cleves, Lord of Ravenstein, decided to draw up rules for the allocation of booty, around 1516, he said it was the responsibility of the marshal of the army to know 'all the booty, whether it be prisoners or inanimate booty.'<sup>34</sup> If prisoners were taken it was a matter for the commander to decide on their fate and written orders might be issued to the army to regulate the position, as in 1586, when Robert Dudley issued detailed orders to the English army, including what should be done with prisoners.<sup>35</sup> Soldiers were ordered to present such prisoners as were taken to their Captain, immediately upon their return to the camp, and were forbidden to 'kill them, or license them to depart, without commaundement or leaue from the Generall... vpon paine of being disarmed, and banished the Campe.'<sup>36</sup> It is interesting that the penalty for killing a prisoner without permission was banishment, not death, the latter being normal for a host of other offences. With regard to ransoms Dudley ordered that 'no Captaine shall sell or raunsome his prisoner without license of the Generall.. .vpon paine of losse of his prisoner, and imprisonment.'<sup>37</sup> This regulation recognised the practice of ransoms but sought to control it.

In many ways the practices of the 16<sup>th</sup> century were analogous to those of the late

<sup>33</sup> *Calendar of State Papers Domestic, 1591-94*, ed. M.A.E. Green (London: Longmans, 1867), p. 237.

<sup>34</sup> *Instructions de toutes manieres de guerrayer font par terre que par mer et des chases y servantes*, Cleves 1558, cited in Contamine, 'Ransom and Booty', p. 180.

<sup>35</sup> Robert Dudley, Earl of Leicester, 'Lawes and Ordinances Militarie (1586)', in *Renascence Editions* [Online] Available: <http://darkwine.uoregOn.edu/~rfaear/dudlevl.html>

<sup>36</sup> *Ibid*, Regulation 40.

<sup>37</sup> *Ibid*, Regulation 55.

Middle Ages<sup>38</sup> and Contamine quotes a number of interesting examples of sums gained through ransoms, including 10,000 francs for the Lord of Jamais, in 1521,<sup>39</sup> 3,000 ecus for the Lord of Vieilleville, in 1528<sup>40</sup> and the same sum for Martin du Bellay, in 1537.<sup>41</sup> Noble prisoners were often released, or paroled, to allow them to go home and raise their ransoms, with or without the giving of hostages, suggesting that the system could only work amongst men of honour, rather than the rank and file.<sup>42</sup> However, a king could help to pay the ransoms of his captured men, as the Regent Louise of Savoy did after the battle of Pavia in 1525.<sup>43</sup>

The concept of the 'good war', that is one sparing both civilians and prisoners of war, became fundamental in the early 16<sup>th</sup> century and the system of prisoner exchanges became general.<sup>44</sup> Thus, in 1553, the commanders of the French and Imperial forces in Italy made a landmark agreement concerning prisoners, whereby most officers were to be released on payment of a quarter's wages (the probable origin of the phrase 'to give quarter') and others on payment of one month's wages, plus the expenses of captivity; ordinary soldiers, once robbed of their possessions, were to be released.<sup>45</sup> This agreement not only recognised that in a 'good war' defeated soldiers should be taken prisoner, rather than slaughtered, but calculated ransoms on proportions of military salaries agreed by

<sup>38</sup> Contamine, 'Ransom and Booty', p. 184.

<sup>39</sup> *Memoires de Marechal de Florange*, eds. R. Goubaux & P.A. Lemoisne (Paris: Librairie Renouard), p.305.

<sup>40</sup> *Scapeaux*, ed. Michaud and Poujoulat (1838),9, cited in Contamine, 'Ransom and Booty', p. 185.

<sup>41</sup> *Du Bellay and Du Bellay*, ed. Bourilly and Vindry(1908-19),iii,383, cited in Contamine, 'Ransom and Booty', p. 185.

<sup>42</sup> Contamine, 'Ransom and Booty', p. 185.

<sup>43</sup> *Du Bellay*(1908-19),ii,3, cited in Contamine, 'Ransom and Booty', p. 185-6.

<sup>44</sup> Contamine, 'Ransom and Booty', p. 186.

<sup>45</sup> *Alembert and Diderot* (1765), 689, cited in Contamine, 'Ransom and Booty', pp. 187-8.

commanders, rather than sums based on personal wealth, extorted by individual captors. However, Contamine suggests that these rules were applied by commanders only to small scale engagements, rather than pitched battles and sieges, with rich prisoners still being subjected to old style, private ransoms based on wealth up to the beginning of the 17<sup>th</sup> century.<sup>46</sup> By then the same rules were being applied to all categories of prisoners in wars between the Spanish and the Dutch, with a formal convention being signed by 1599, the 'cuartel general', which stipulated that every captain should ransom or exchange his prisoners within 25 days.<sup>47</sup>

Evidence exists in State records testifying to the continuation of ransoms into the Early Modern period. Many of these records relate to legal proceedings, such as those instituted in 1529 against the Mayor and Bailiffs of Exeter, in respect of a ransom to be paid to the tXPrench for the release of the plaintiff, James Toker.<sup>48</sup> Proceedings were commenced, in 1515, regarding ransoms which had been paid in respect of William Raynchaste and others, who had been taken prisoner by the French.<sup>49</sup> In 1529, William Walworth, of Gravesend, sued the Mayor of London on a bond entered into in respect of his son, Robert, who had been imprisoned in La Rochelle.<sup>50</sup> Evidence of international agreements in respect of prisoners can be found in 1543, when the English and Scots agreed a treaty

<sup>46</sup> Contamine, 'Ransom and Booty', pp. 188-90.

<sup>47</sup> Howard et al, *The Rules of War*, p.36.

<sup>48</sup> TNA, PRO C. 1/694/27: Writ of certiorari and subpoena, Devon.

<sup>49</sup> TNA, PRO C. 1/457/30: Writ of 1515.

<sup>50</sup> TNA, PRO C. 1/692/11: Action on a bond, 1529-32.

for the ransom of prisoners.<sup>51</sup> The same year a group of Englishmen purchased seven Breton prisoners from foreign captors, for £25, in order to benefit from their ransoms.<sup>52</sup> Sometimes prisoners might be sought in order to exchange for prisoners in the custody of another country; in 1591 the earl of Nottingham directed captains having a letter of marque to seize and deliver, to the wives of Englishmen imprisoned in Spain, 30 Spaniards to be exchanged for them.<sup>53</sup>

Captives in civil conflicts, such as the supporters of Monmouth in 1685 were not treated as prisoners of war, but as traitors; 320 were executed following the Bloody Assizes of Judge Jeffreys.<sup>54</sup> Others, estimated at 841, were spared, because they had a marginal value of £10-£15 each, as slaves in the Caribbean.<sup>55</sup>

During this period, it was common practice to issue written instructions on how campaigns were to be conducted and how soldiers were to behave.<sup>56</sup> Henry VIII issued his *Instructions and Ordinances for the War*,<sup>57</sup> in 1544. Eight of the articles dealt with the taking, keeping and ransoming of prisoners. Robert Dudley issued similar instructions in 1586, as noted above, and his contemporary, the Earl of Essex, followed his example for the Irish campaign he conducted in 1599.<sup>58</sup> His instructions contained the 'Devil's

<sup>51</sup> TNA, PRO E. 39/85: Agreement.

<sup>52</sup> *Bills of Sale, Documents relating to the Laws and Customs of the Seas, 1205-1648*, ed. KG. Marsden (Navy Records Society, 1915), p. 154.

<sup>53</sup> Admiralty Court Exempl. 28, No.219 in Marsden, *Documents relating to -war at Sea*, p. 154.

<sup>54</sup> Lord Macaulay, *The History of England* (London: Longmans, Green & Co., 1867), p. 306.

<sup>55</sup> *Ibid.*, p.308.

<sup>56</sup> M. Griffin, *Regulating Religion and Morality in the King's Armies, 1639-46* (Leiden: Brill, 2004), p.6.

<sup>57</sup> Early English Books Online, 'Henry VIII's Statutes and Ordinances for the War (London: 1544)' in *Sovereign (1509-47: Henry VIII)* [Online] Available: <http://eebo.chadwyck.com/home>

<sup>58</sup> Early English Books Online, 'Laws and Ordinances of War, established for the good conduct of the service in Ireland (London, 1599)', in *Army* [Online] Available: <http://eebo.chadwyck.com/home>

Article' requiring each soldier to 'keep himself within bands of duty for the discipline of war shall be strictly kept,<sup>59</sup> a reminder that there were customs and rules of war which, though not written down, still applied and would be rigorously enforced.

Charles I also issued detailed orders for 'the good conduct of the service in Ireland'<sup>60</sup> and his favourite, Buckingham, did so for his campaign in support of the French Protestants, in La Rochelle.<sup>61</sup> By this time, Articles of war differed from those of the previous century because they were no longer based on the regulation of prisoners as property, but as persons.<sup>62</sup> It is interesting to note the extent to which the orders issued by, or on behalf of Charles I, incorporated many requirements of a religious nature, including on blasphemy, heresy and profanity, all punishable by death.<sup>63</sup> There was a marked obsession with religion at this period, evidenced by the wording of these orders. During the First Bishops war, in 1639, the Earl of Arundel's orders contained 88 articles, including 13 dealing with religion.<sup>64</sup> The goods of dead soldiers, in the King's army, were protected, but those of the enemy were fair game, although subject to rules set out in articles dealing with 'lawful spoils and prizes.'<sup>65</sup> Again, we see in this Early Modern period a view of war not far removed from that of the Later Middle Ages with its culture

<sup>59</sup> *Ibid.*, Article 37.

<sup>60</sup> *Ibid.*, 'Laws and Orders of War established for the good conduct of the service in Ireland' (Dublin, 1625).

<sup>61</sup> *Laws and Ordinances Military to be observed...in the Kingdom of France*, cited in Griffin, *Regulating Religion and Morality*, p.18.

<sup>62</sup> Barbara Donagan, 'Prisoners in the English Civil War', *History Today*, 41:3 (1991 :Mar.) p.28

<sup>63</sup> Early English Books Online, 'Lawes and Orders of Warre established for the good conduct of the service in Ireland' in *Army* [Online] Available: <http://eebo.chadwvck.com/home>

<sup>64</sup> Early English Books Online, 'Laws and Ordinances of War, for the better Government of his Majesty's Army Royal in the present expedition for the Northern Parts' (Newcastle: Barker, 1639), in *Army* [Online] Available: <http://eebo.chadwvck.com/home>

<sup>65</sup> *Ibid*

of booty and ransom. With the advent of the Civil Wars, orders became rather more practical and military<sup>66</sup> but, nevertheless, 'the regulation of morality was always high on the agenda of the Royalist high command.'<sup>67</sup>

During the Civil Wars, the treatment of prisoners varied considerably, depending on the circumstances of their capture, who they were and their status. The initial inclination of the King's Provost-Marshal was to treat Parliamentary prisoners as traitors but Parliament made it perfectly clear they would respond in kind if any were executed, so both sides adopted a policy of relative restraint;<sup>68</sup> 'honour and prudence militated against killing.'<sup>69</sup> So restraint in the Civil War was not just a matter of honour, in the chivalrous sense, but also based on 'its utility and its mutuality.'<sup>70</sup> Nevertheless, some prisoners, like the Earl of Derby, were executed, in his case because he was alleged to have presided over the massacre of civilians during the storming of Bolton, in 1644,<sup>71</sup> although the charges were probably unfounded.<sup>72</sup> Otherwise, formal executions were unusual, although there are a number of recorded instances, often involving Irish Catholics; Colonel Sydenham caused six Irishmen to be hanged at Warum and Sir Francis Doddington

<sup>66</sup> Early English Books Online, 'Orders and Institutions of War, made and Ordained by His Majesty and by him delivered to His general His excellence the earl of Newcastle' (London: Johnson, 1642), in *Army* [Online] Available: <http://eebo.chadwyck.com/home>

<sup>67</sup> Griffin, *Regulating Religion*, p.216.

<sup>68</sup> Howard et al, *The Laws of War*, p.53.

<sup>69</sup> Donagan, 'Prisoners in the English Civil War', p. 29.

<sup>70</sup> Barbara Donagan, 'The Web of Honour: Soldiers, Christians, and Gentlemen in the English Civil War', *The Historical Journal*, Vol. 44, No. 2 (Jun., 2001), p.367.

<sup>71</sup> G. Oemerod, *Tracts relating to Military Proceedings in Lancashire during the great Civil War* (Manchester: Chetham Society, 1844), p. 323.

<sup>72</sup> E. Broxap, *The Great Civil War in Lancashire, 1642-51* (Manchester: Manchester U. P.,1973), pp.122-24.

retaliated by hanging twelve of the captured garrison of Woodhouse.<sup>73</sup> After the siege of Colchester, in the Second Civil War, Fairfax ordered the execution of the two 'ringleaders', Sir Charles Lucas and Sir George Lisle.<sup>74</sup> This was unusual, and gentlemen taken in battle were normally imprisoned for a while and their estates sequestered, but later most were allowed to compound, that is to recover them on payment of a fine.<sup>75</sup> For example, Ormerod listed the main victims of Sequestration in Cheshire, including Lord Cholmondeley, who had to compound in the enormous sum of £7742, Lord Brereton-£1738, Sir Richard Grosvenor-£1250, Lord Kilmorrey-£2306, Earl Rivers-£1110 and Sir Thomas Smith-£2150,<sup>76</sup> Common prisoners might be persuaded to change sides, or be released after a while but, if they had property, they too might be subject to sequestration. Some, like Irish Catholic followers of the King might be executed out of hand and, of course, in certain circumstances no prisoners at all might be taken, usually in the aftermath of a siege when a fortress was taken. Again, this was more likely to happen in Ireland, where differences in religion and race, together with ancient grievances and enmities, often resulted in massacres, as when Cromwell took Drogheda in 1649.<sup>77</sup> At the siege of Wexford, the same year, the garrison were offered terms of surrender but, when they tried to seek better terms, the assault was renewed and the garrison and many of the townsfolk were killed 'with no moral or military justification.'<sup>78</sup> However, there were

<sup>73</sup> Tristram Hunt, *The English Civil War, At First Hand* (London: Phoenix, 2003), p.142.

<sup>74</sup> AW., p. 188.

<sup>75</sup> MA.E Green, *Calendar of the Proceedings of the Committee for Compounding with Delinquents*, (London: HMSO, 1889-1892), Preface.

<sup>76</sup> *Ibid*, p. LXIII

<sup>77</sup> M.O Siochru, *God's Executioner: Oliver Cromwell and the Conquest of Ireland* (London: Faber and Faber, 2008), pp.82-3.

<sup>78</sup> J.S. Wheeler, *Cromwell in Ireland* (Dublin: Gill & Macmillan, 1999), p.97.

examples of massacres in England; at the village of Barthomley, in 1643, members of the local garrison were killed by Royalist troops, after surrendering.<sup>79</sup> Interestingly, the Articles of War approved by Cromwell stipulated that 'None shall kill an enemy who yields and throws down his armes'<sup>80</sup> but this was obviously disregarded at times, particularly in the heat of battle or the storming of a fortress. When Limerick was taken by Ireton, in July 1651, a dozen defenders in an outlying fort were put to the sword, after quarter had been promised, prompting an angry commander to court martial the offending Colonel Tohill.<sup>81</sup> All prisoners had to be handed over to the Provost Marshal and it was forbidden to 'ransome or conceal a prisoner.'<sup>82</sup> Prisoners granted quarter were, however, often stripped of all their possessions, even their clothes, as happened after the surrender of Sherborne Castle to Parliamentary forces.<sup>83</sup>

Europe, meanwhile, had suffered from the convulsions of the religious wars, between 1618 and 1648, known as the Thirty Years War. Casualties, on and off the battlefield, were high, particularly where the sides were evenly matched, as at Jankov, in 1645, or when defeats were followed by hot pursuit and the slaughter of entire units.<sup>84</sup> Garrisons of towns taken by storm were likely to be slaughtered on the spot, as at Magdeburg, in 1631.<sup>85</sup> At Frankfurt, 3000 Imperial defenders were slain and their bodies 'were cast by heapes in great ditches above a hundred in every grave.'<sup>86</sup> Those lucky enough to be taken

<sup>79</sup> A. Crosby, *A History of Cheshire* (Chichester: Phillimore, 1996), p.61.

<sup>80</sup> C.H. Firth, *Cromwell's Army* (London: Greenhill, 1992), p.407.

<sup>81</sup> *Ibid*, p. 302.

<sup>82</sup> *Ibid*, p. 408.

<sup>83</sup> *Ibid*, p. 191.

<sup>84</sup> Geoffrey Parker, ed., *The Thirty Years War*, 2<sup>nd</sup> ed., (London: Routledge, 1997), p.182.

<sup>85</sup> Parker, *The Thirty Years War*, p. 180.

<sup>86</sup> *Monro Expedition*, 1,62,67,79-80,11,35, cited in Parker, *The Thirty Years War*, p. 180.

prisoner were sometimes exchanged, if they were important, like the Swedish general Tortensson, who was exchanged for Count Harrach, or ransomed like the entire Imperial General Staff, who were offered for 120,000 thalers, after Jankov.<sup>87</sup> By this time, in Europe, especially Germany, it was becoming normal to release captured common soldiers in return for a promise not to fight against the victor for a certain period, or to encourage them to change sides, which many did.<sup>88</sup> There were of course many excesses, even amongst the Swedes, whose discipline was governed by the Articles of War of Gustavus Adolphus, based on earlier codes of military law, but which could not prevent atrocities being carried out 'under the strain of privation or in the elation of victory.'<sup>89</sup> The Treaty of Westphalia, in 1648, is seen as something of a landmark in the history of the treatment of prisoners, as its provisions allowed prisoners to be released without ransom. Article CX providing that 'all Prisoners on the one side and the other, without any distinction of the Gown or the Sword, shall be releas'd after the manner it has been covenanted.'<sup>90</sup>

In 1665, English warships were seizing Dutch sailors and holding them as prisoners of war<sup>91</sup> but the traffic was both ways as, the following year, the English consul in Portugal to Lord Arlington that he was arranging for 160 English prisoners of war to be sent on from Faial, where seven Dutch Indiamen had arrived.<sup>92</sup> Algerian pirates were

<sup>87</sup> Parker, *The Thirty Years War*, p. 182.

<sup>88</sup> *Ibid.*, pp. 182-3.

<sup>89</sup> M. Roberts, *Gustavus Adolphus* (London: Longman, 1992), p. 103.

<sup>90</sup> The Avalon Project, Yale University. *Treaty of Westphalia* (Online) Available: [http://avalon.law.yale.edu/17th\\_century/westphal.asp](http://avalon.law.yale.edu/17th_century/westphal.asp).

<sup>91</sup> TNA, PRO SP. 84/174: Memorial from Van Beuningen to Louis XIV, Feb. 1665.

<sup>92</sup> TNA, PRO SP. 89/7 f. 243: Letter to Lord Arlington., Sept 1666.

always active in the ransom trade<sup>93</sup> and in the East there were reports that the Turks cut off the noses and hands of Christian prisoners of war who could not afford their ransoms.<sup>94</sup> In 1675 the Dutch made a formal treaty with the French for the exchange and ransom of prisoners taken at Maastrich, specifying tariffs for each prisoner.<sup>95</sup>

Whilst Kings and nations were embroiled in the dirty business of war, academics and lawyers were searching for an intellectual and legal framework by which it could be judged. The Medieval period had seen a juridical view of war very much intertwined with the religious doctrines of the universal church in Europe and thinkers like St Augustine<sup>96</sup> and Aquinas<sup>97</sup> sought to reconcile Scripture with the brutality of war by reference to the concept of the 'just war' that is one waged by lawful kings and princes.<sup>98</sup> Thomas Hobbes, in his *Leviathan*, sought to imbue that notion with the amoral view that war was consequence of individual and societal, acquisitive appetites and was, therefore, 'natural.'<sup>99</sup> In the 16<sup>th</sup> century, however, developments in jurisprudential thought led by Spanish jurists like Victoria challenged the 'just war' thesis, arguing, for example, that extending an empire, or differences in religion, could not justify war.<sup>100</sup> Moreover, war had to be proportionate and not ruin the people.<sup>101</sup> This led to the development of a theory of natural law which rejected specific Christian beliefs and laid the foundations for

<sup>93</sup> TNA, PRO SP. 71/1, f. 497: Petition from earl of Inichiquin for financial assistance from king, 1660.

<sup>94</sup> TNA, PRO SP. 84/169, f.200: Letter from Hague, 1664.

<sup>95</sup> TNA, PRO SP. 113/4, f. 10: Treaty made at Hague, 1675.

<sup>96</sup> *Epistola 47 (ad Publiculam) cf De Libero arbitrio 1,5*, cited in R.J. Regan, *Just War, Principles and Cases* ( Washington: Catholic Universities of America Press,1996), p.17.

<sup>97</sup> *Summa Theologiae II-II, Q. 64 A. 7*, cited in Regan, *Just War*, p. 17.

<sup>98</sup> Heinz Duchardt, 'War and International Law' in Philippe Contamine, *War and Competition between States* (Oxford: Oxford U.P.,2000), p. 280.

<sup>99</sup> Regan, *Just War*, p. 3.

<sup>100</sup> Francisci de Victoria, *De Indis et de lure Belle Relectiones*, ed., E. Nye (Washington: Carnegie Institution,1917),p.170.

<sup>101</sup> *Ibid*, p.187.

modern international law.<sup>102</sup> Another Spanish jurist, Ayala, argued that if a war was a just war on both sides, that is waged by princes in good faith, it was not permissible to unleash the full ferocity of war which, therefore, had to be regulated according to precise rules, such as treating prisoners humanely.<sup>103</sup> This theme was developed by the Italian lawyer Gentili, who argued that war and 'all the acts of war must be just'<sup>104</sup> and in accordance with the formalities and rules of war.<sup>105</sup> To him prisoners of war must, in compliance with humanity and the rules of law, be spared.<sup>106</sup> Thus, it is possible to discern in the writings of these jurists a shift in the legal attitude to prisoners of war. They were no longer regarded as things to be disposed of at the whim of their captors; they were persons with rights in law. This view was confirmed by Hugo Grotius in his *De Jure belli ac pacis*,<sup>107</sup> of 1625, which became a kind of handbook of international law and the conduct of war for 'the whole period of the *ancien regime*'.<sup>108</sup>

On the international scene, the 17<sup>th</sup> century saw the introduction of cartels, agreements providing for rapid exchanges of prisoners of equal rank, the prohibition of the practise of stripping prisoners of their clothes, allowances for prisoners upkeep and the exemption of certain classes of person, such as women and priests, from prisoner status.<sup>109</sup> If one side had more prisoners than another compensation could be paid at an

<sup>102</sup> Duchardt, 'War and International Law', p.284.

<sup>103</sup> Balthazar Ayala, *On the Law of War*, transl., J.P. Bate (Washington: Carnegie Institution, 1912), p.46.

<sup>104</sup> Alberico Gentili, *De Iure Belli, Libri Tres*, transl., J.C.Rolfe (Oxford: Clarendon Press, 1933), p.13.

<sup>105</sup> Duchardt, 'War and International Law', p. 287.

<sup>106</sup> Gentili, *De Jure*, p.216.

<sup>107</sup> Hugo Grotius, *De Jure belli ac pacis, Libri Tres*, transl., F.W. Kelsey (Oxford: Clarendon Press, 1925), p.763.

<sup>108</sup> Duchardt, 'War and International Law', p. 288.

<sup>109</sup> Contamine, 'Ransom and Booty', p. 191.

agreed rate per rank.<sup>110</sup> Louis XIV directed that, in future, all prisoners of war should be given up to the King, subject to a suitable reward to the captors, at least in relation to officers; for example, 400 livres was the rate for a cavalry colonel and 100 livres for a captain in the infantry.<sup>111</sup> Effectively, from then on prisoners of war became prisoners of the state in France.<sup>112</sup>

The age of Louis XIV is customarily accounted the beginning of an era of limited war and most of his campaigns were not characterised by the sort of excesses experienced in the Thirty Years War, many of which were attributable to a culture of pillage encouraged by poor logistical support, as well as excessive religious fervour.<sup>113</sup> Louis's counsellors would have been aware of the work of Grotius, so would have been anxious to avoid the sort of scorched earth warfare practised in Germany in the Thirty Years War.<sup>114</sup> Nevertheless, he was prepared to employ barbarous measures against his own Protestant subjects, who were not protected by the laws of war, and against the Protestant, Rhenish Palatinate in 1673-79, during the Dutch War, and in 1687, during the War of the League of Augsburg.<sup>115</sup> To an extent countries could coerce each other into acting in a civilised manner, as when Louis threatened reprisals against an English general if he shipped Irish prisoners for servitude in the West Indies.<sup>116</sup> Meanwhile, in 1690, Marlborough was prepared to give his word that the garrison of Cork would suffer no prejudice when they

<sup>110</sup> *Duchardt* (1987) esp. 24-8, 46-52, cited in Contamine, 'Ransom and Booty', p. 191.

<sup>111</sup> *Corvisier* (1971) cited in Contamine, 'Ransom and Booty', p. 192.

<sup>112</sup> Contamine, 'Ransom and Booty', p. 192.

<sup>113</sup> R.F. Weigley, *The Age of Battles, The Quest for Decisive Warfare from Breitenfeld to Waterloo* (London: Pimlico, 1991), p. 69.

<sup>114</sup> *Ibid.*, p. 70.

<sup>115</sup> *Ibid.*, pp. 70-71.

<sup>116</sup> George Clark, 'The Character of the Nine Years War, 1688-97', *Cambridge Historical Journal*, Vol. 11, No. 2 (1954), p. 177.

surrendered 'at mercy'.<sup>117</sup>

From the forgoing it can be seen that, initially, the Early Modern period was not distinguished by any markedly unproved treatment of prisoners of war, or in the likelihood of prisoners being taken in the first place. After all, it could be argued that 'control and restraint are alien to the nature of war'<sup>118</sup> the purpose of which is to destroy the enemy completely.<sup>119</sup> There were examples of continued ruthlessness in the pursuit of war, such as the English treatment of Armada prisoners in Ireland during the 16<sup>th</sup> century, and the status of prisoners of war was still equivalent to that of booty with survival depending 'on the whim of the captor'.<sup>120</sup> Moreover, this attitude was marked by a continuation of the system of ransoming wealthy prisoners. The excesses of the Thirty Years War in the 17<sup>th</sup> century hardly contributed to any improvement in the lot of prisoners, although, when they were spared, they might be released or exchanged. However, thinkers like Gentili and Grotius were advocating more humanity in war and their work can be seen in the generally more humane warfare practised during the second half of the 17<sup>th</sup> century.<sup>121</sup> Cartels were introduced and ransoms per se began to disappear as states gained more control of warfare.<sup>122</sup> The scale and ferocity of warfare continued to increase in proportion to developments in firearms and the expansion of armies, but the position of prisoners of war was becoming regularised and it was generally accepted, in

<sup>117</sup> Early English Books Online, 'Articles of Surrender,' *William III* [Online] Available: <http://eebo.chadwvck.com/home>

<sup>118</sup> M. Howard, ed. *Restraints on War: Studies in the limitation of armed conflict* (Oxford: Oxford U.P., 1979), p. 1.

<sup>119</sup> Clausewitz, *On War*, p.227.

<sup>120</sup> Robert C. Doyle, 'Prisoners of War: A Reference Handbook Review', *Journal of Military History*, 72 (2008), p.541.

<sup>121</sup> Duchardt, 'War and International Law', p. 287.

<sup>122</sup> Contamine, 'Ransom and Booty', p. 191

Western Europe, that their lives should be spared and they should not be ill-treated.<sup>123</sup> This new restraint on warfare was influenced by a number of factors, including changes in the composition of armies, which were now raised by the state rather than individuals, a decline in the bitter religious element of warfare, more reciprocity of treatment and a general awareness that European wars of the mid-seventeenth century had brought the continent close to self-destruction.<sup>124</sup> Prisoners of war were far more likely to be spared and, probably, exchanged or released than ever before, albeit their treatment would not be considered now as being at all liberal, and their wretched condition was only ameliorated by the natural desire of states to be relieved of their burden as quickly as possible. However, the horrors of the Middle Ages were a thing of the past and, in Europe, a more enlightened attitude to prisoners was taking shape.

<sup>123</sup> Parker, *The Thirty Years War*, p. 182

<sup>124</sup> Howard et al, *The Laws of War*, p.53.

## **Chapter 4- The Enlightenment 1700 to 1815.**

This chapter traces the history of the prisoner of war through the Early Modern period to end of the Napoleonic Wars, in 1815. The 18<sup>th</sup> century and a quarter witnessed a great expansion in the degree and complexity of warfare, as firearms completely replaced other weapons, and armies continued to grow in size. There was almost continuous warfare in Europe and beyond, in the emerging colonies of the Americas and India. Large numbers of prisoners were taken on land and sea from battlefields as diverse as western Europe and the wilds of North America. Simultaneously, the *Enlightenment* was bringing in new *ideas* and attitudes about how men should behave to one another and industrialisation, and other factors, intensified the magnitude of wars. The treatment and attitude to prisoners changed significantly during this period from the old fashioned exchange or ransom, prevalent for most of the 18<sup>th</sup> century, to the long term incarceration of prisoners of war, in the American and Napoleonic wars. By the end of the Napoleonic Wars, purpose built prisoner of war camps, governed by strict regulations, emerged as successors to the hulks of the earlier part of the period. This chapter will review that transition.

In the 18<sup>th</sup> century, warfare was regulated by a series of informal conventions, or usages of war, which had evolved over a period of time. These conventions have been described as 'a late Enlightenment consensus on the conduct of European warfare.'<sup>1</sup> Among officers there was often what Jeremy Black referred to as 'a pseudo-

<sup>1</sup> Geoffrey Best, *Humanity in Warfare: the modern history of the law of armed conflicts* (London: Methuen, 1983), p.38.

chivalry that reflected their sense of being members of a common profession and aristocratic caste<sup>2</sup> which helped to ameliorate the barbarity of war. Whereas common soldiers were often brutal in their treatment of each other, the good manners of officers, originating in the traditional code of aristocratic warriors, sometimes did serve as a restraint upon violence in the 18<sup>th</sup> century.<sup>3</sup>

Philosophers like Rousseau<sup>4</sup> and Vattel<sup>5</sup> theorised on the nature of war. Vattel argued that war was the process by which a legal claim was enforced by violent means<sup>6</sup> and, therefore, 'in all its abnormality a process compatible with natural law.'<sup>7</sup> However, he also argued that prisoners should be treated humanely by their captors and that, once a soldier had surrendered and been disarmed, nobody 'has the right to take away his life.'<sup>8</sup> This view was echoed by Rousseau, who argued that wars were state affairs and a commander's mandate allowed him to kill the enemy in arms, on behalf of the state, but once they were disarmed, the mandate ceased and they were now enemies 'over whose lives no-one can exercise a lawful claim.'<sup>9</sup> Vattel's attempts to establish legal rules, in the sense of norms of behaviour, thereby reducing atrocities, 'ultimately remained fragmentary and marginal'<sup>10</sup> but even he accepted that the 'humanization of war was initiated and achieved by the practice of war and not just by theory.'<sup>11</sup> In his manual of

<sup>2</sup> J. Black, *European Warfare, 1660-1815* (London: UCL., 1994), p. 230.

<sup>3</sup> Armstrong Starkey, *War in the Age of Enlightenment, 1700-1789* (Westport: Greenwood, 2003), p.93.

<sup>4</sup> J.J. Rousseau, *The Social Contract*, transl. M. Cranston (London: Penguin, Classics, 1968)

<sup>5</sup> Emerich de Vattel, *Le Droit des Gens, ou Principes de la loi naturelle appliques a la conduite et aux affaires des nations et des souverains*, transl. Charles G. Fenwick (Washington: Carnegie Institution, 1916)

<sup>6</sup> *Ibid.*, p.235.

<sup>7</sup> Duchardt, 'War and International Law', p.297.

<sup>8</sup> Vattel, *Le Droit des Gens*, p.280.

<sup>9</sup> Rousseau, *The Social Contract*, p. 57.

<sup>10</sup> Duchardt, 'War and International Law', p.297.

<sup>11</sup> Wolff (1900), 178, cited in Duchardt, 'War and International Law', p. 299.

1758, he argued that a state waging a just war has the right to take prisoners<sup>12</sup> and could exact a ransom if it wished.<sup>13</sup> However, Gavin Daly argues that the responsibility this principle placed on those in possession of prisoners was mitigated by the effect of conventions, which thus had practical, as well as moral, utility.<sup>14</sup> The first of these was the practice whereby a commander would often exchange prisoners, as soon as possible, for an agreed number of his own men in enemy hands. This recovered his own men and relieved him of the trouble and expense of keeping and guarding enemy prisoners and, after all, there was no special grudge against 'small fry'<sup>15</sup> in wars between kings. However, if one side held more prisoners than the other a general exchange might be refused and one side might offer an exchange based on man for man of the same quality, and ransom for the rest.<sup>15</sup> This was often the case with regard to naval prisoners in the 18<sup>th</sup> century, as Britain generally held far more prisoners than its enemies and was, therefore, unwilling to agree a disproportionate exchange, although anxious to recover its own prisoners to man its many ships.<sup>17</sup> Britain and France used ships known as *cartels* to convey repatriated prisoners, through ports like Morlaix and St. Malo.<sup>18</sup> The second was a system of parole, whereby an officer would be released, subject to his word as a gentleman not to engage in further hostilities. This harked back to the Age of Chivalry, reflecting the reality that all officers, at that time, were gentlemen with shared cultural

<sup>12</sup> Vattel, *Le Droit des Gens*, p.283.

<sup>13</sup> *Ibid.*, p. 286.

<sup>14</sup> Gavin Daly, *Napoleon's Lost Legions: French Prisoners of War in Britain, 1803-14*, *History*, vol.89, no.295 (2004), 361-80

<sup>15</sup> Michael Lewis, *Napoleon and his British Captives* (London: George Unwin, 1962), p.41.

<sup>16</sup> *Calendar of State Papers Domestic, 1702-3*, ed. R. Mahaffy (London: H.M.S.O.,1916), p. 266.

<sup>17</sup> Olive Anderson, 'The Establishment of British Supremacy at Sea and the Exchange of Naval Prisoners of War, 1689-1783', *The English Historical Review*, Vol. 75, No. 294 (Jan., 1960), p.88.

<sup>18</sup> TNA, PRO SP 42/121, f.284. Letter from Sick and Wounded Dept. re transport ships.

values<sup>19</sup> and grew out of the system of ransoms.<sup>20</sup> Against this was the inherent ferocity of war and the passions of those engaged in it which meant that the taking of prisoners was not the universal rule.

The contemporary attitude to prisoners at the beginning of the 18<sup>th</sup> century can be illustrated by reference to the War of the Spanish Succession (1701-14). Hostilities were normally suspended in the winter but sometimes cavalry units made surprise raids in search of plunder, or to harass the enemy. For example, in the winter of 1702-3 the French launched a retaliatory raid against a unit of Imperial hussars. They were not anxious to take any prisoners behind enemy lines and, therefore, slaughtered no less than 400 resting troops without the loss of a man.<sup>21</sup> There were many sieges during the war and the treatment of garrisons depended on the circumstances.<sup>22</sup> By convention of the day, garrisons were expected to hold out for 48 days but, if there was no prospect of relief, and the besiegers were in a position to commence a storm, the commander could surrender on the best terms possible.<sup>23</sup> At this point the defenders might beat the *chamade* to indicate they were willing to parley, or the attackers might do so to indicate that, unless the fortress was surrendered immediately, the defenders could expect no mercy.<sup>24</sup> The earlier the surrender the better the terms. When the garrison of Gravenbock was surrounded by superior Allied forces, the Governor offered to surrender with the honours of war but was informed by the English that they must either surrender, as prisoners at discretion, or they

<sup>19</sup> Best, *Humanity in Warfare*, p. 60

<sup>20</sup> Lewis, *Napoleon and his British Captives*, p. 43.

<sup>21</sup> Richard Holmes, *Marlborough, England's Fragile Genius* (London; Harper, 2008), p.220.

<sup>22</sup> *Military Memoirs of Marlborough's Campaigns 1702-1712* Capt. Robert Parker and Count Merode-Westerloo ed., David Chandler (London: Greenhill, 1998), p.24.

<sup>23</sup> *Ibid.*, p.25.

<sup>24</sup> *Ibid.*, p.73.

'need expect no quarter.'<sup>25</sup> The Governor surrendered. Later, when besieging Liege, Marlborough summoned the Governor of the Citadel to surrender on terms, but he refused, the Citadel was promptly carried by storm and, according to Captain Robert r, the garrison were 'cut to pieces.'<sup>26</sup> In contrast, the garrison of the nearby Charterhouse were allowed to march out 'with their hands in their pockets.'<sup>27</sup> This meant they could disperse unarmed.

In 1703, Count de Mornay recommended the exchange of Spanish and French prisoners of war for English prisoners.<sup>28</sup> In that year, Marlborough used the captured garrison of Huy to exchange for his own garrison of Tongres taken earlier in the year." .Pnsoners were troublesome and expensive, with special arrangements having to be made for their accommodation, whether in castles, such as Dover,<sup>30</sup> prisons or even private homes.<sup>31</sup> The Battle of Blenheim, in 1704, resulted in considerable carnage with the

French losing 34,000 men, including 14,000 prisoners, who needed to be guarded and fed.<sup>32</sup>

Marlborough was said by Saint Simon 'to treat them all, even the humblest, with the utmost attention'<sup>33</sup> but, in a letter to Godolphin, he confessed to difficulties in feeding them all.<sup>34</sup> Many of the dead were retreating French cavalry cut down by the pursuing Allied squadrons, of whom Robert Parker said, 'tis very rare that any quarter is

<sup>25</sup> *The Journal of John Wilson, an 'Old Flanderkin Sergeant' of the 15<sup>th</sup> Regiment*, (eds.) David Chandler and C.L.Scott, cited in D.Chandler et al, (eds.) *Military Miscellany II* (Stroud, 2005), p.36

<sup>26</sup> *Military Memoirs*, pp. 24-25.

<sup>27</sup> *Ibid*, p.25.

<sup>28</sup> TNA, PRO SP 34/2/31A, £55: Memorandum by Count de Mornay.

<sup>29</sup> *The Marlborough -Godolphin Correspondence*, ed., H.L. Snyder (Oxford: Clarendon, 1975), p. 223.

<sup>30</sup> *Calendar of State Papers Domestic*, 1702-3, p.575.

<sup>31</sup> *Ibid*, pp. 668-9.

<sup>32</sup> D. Green, *Blenheim* (London: Collins, 1974), p.113.

<sup>33</sup> Saint Simon, *Grands Ecrivains de la France* (Paris: Libraire Hachete, 1896), p.385.

<sup>34</sup> *The Marlborough-Godolphin Correspondence*, p.351.

Given . . . almost all of them were killed.<sup>35</sup> In full pursuit, cavalry took few prisoners; in the earlier action at the Schellenberg, many infantry were killed or driven into the Danube.<sup>36</sup> The captured at Blenheim were so numerous as to be a hindrance and so many officers were taken, including ten generals, that the normal arrangements for exchange on a rank for rank basis fell down.<sup>37</sup> Indeed, Marshal Tallard remained a prisoner in Nottingham<sup>38</sup> for the next eight years, with other general officers placed there and in Lichfield.<sup>39</sup> The successes were not all on one side, however, for Marlborough's triumphs in Northern Europe were counterbalanced by failures in Spain, where Galway was defeated by Berwick, in 1707, and lost 12,000 prisoners.<sup>40</sup>

As Captain-General of the army, Marlborough had numerous responsibilities, including that of French prisoners of war. Typical of the detail involved is a request he received from a young woman to marry one of the Blenheim prisoners. He arranged for his exchange for a British officer and they were married in 1709.<sup>41</sup> Often, officer prisoners were allowed to return home for short periods on parole<sup>42</sup> but many French officers abused this privilege by claiming serious illnesses.<sup>43</sup> Some simply did not return when their parole expired.<sup>44</sup> Others escaped, particularly from ports like Plymouth.<sup>45</sup>

<sup>35</sup> *Military Memoirs*, p.42.

<sup>36</sup> *The Letters and Dispatches of John Churchill, First Duke of Marlborough, Vol.1.* ed. Sir George Murray (London: John Murray, 1845), p.338

<sup>37</sup> Holmes, *Marlborough*, p. 297.

<sup>38</sup> TNA, PRO SP 34/5/46, f.84: List of French officers to accompany Mareschall de Tallard.

<sup>39</sup> *Calendar of State Papers Domestic, 1704-5*, ed. C.S. Knighton (Woodbridge: Boydell Press, 2005), p. 133.

<sup>40</sup> Holmes, *Marlborough*, p. 356.

<sup>41</sup> *The Marlborough-Godolphin Correspondence*, p.487.

<sup>42</sup> TNA, PRO SP 42/121 f. 194: List of French officers allowed parole in France.

<sup>43</sup> *The Marlborough-Godolphin Correspondence*, p.837

<sup>44</sup> TNA, PRO SP 41/4, f.259: List of French officers absent after prolongations expired, 1711.

<sup>45</sup> TNA, PRO SP 42/121, f.324: Letter re French officer who escaped from Plymouth.

Prisoners were regarded as an unwelcome burden, their sole usefulness being then-exchange value; Commissioners for Prisoners accompanied armies to make the necessary arrangements and cartels were established to specify the value of each class of prisoner by rank.<sup>46</sup> Thus, when Cadogan was captured at Toumai in 1706, he was soon exchanged for Baron Pallavicini, captured at Ramillies.<sup>47</sup> A general exchange was made possible in April 1709, when Allied prisoners from Almanza were balanced by the Frenchmen taken at Oudenarde,<sup>48</sup> Some 9000 French prisoners were taken there, including nearly 800 officers.<sup>49</sup> Soon after, the garrison of Lille surrendered on generous terms, 'having liberty to march home'<sup>50</sup> as Robert Parker reported, because Marlborough was anxious to move his forces elsewhere.<sup>51</sup> In 1709, just before Malplaquet, the citadel of Tournai surrendered 'on honourable terms'<sup>52</sup> and its garrison were allowed to go to France on parole, prior to being exchanged with the captured Allied garrison of Warneton.<sup>53</sup> Malplaquet was extremely bloody, with very few prisoners taken because, according to Marlborough, 'there was little or no quarter given.'<sup>54</sup> The evidence of this engagement is that a battle could still be fought so ferociously by each side that no thought was given to quarter, hence the few prisoners taken, although the memoirs of the soldier of fortune, Peter Drake, indicate that he was able to surrender to a British officer, after some

<sup>46</sup> Holmes, *Marlborough*, p.367.

<sup>47</sup> *The Marlborough-Godolphin Correspondence*, p.645.

<sup>48</sup> *Cadogan Papers*, cited in Holmes, *Marlborough*, p. 368.

<sup>49</sup> *The Marlborough-Godolphin Correspondence*, p. 1026.

<sup>50</sup> *Military Memoirs*, p. 82.

<sup>51</sup> *Articles pour la citadelle de Litte*, 9 December 1708, 'De Vault and Pelet VIII', p.661, cited in Holmes, *Marlborough*, p.404.

<sup>52</sup> *Military Memoirs*, p.85.

<sup>53</sup> Holmes, *Marlborough*, p. 421.

<sup>54</sup> *The Private Correspondence of Sarah, Duchess of Marlborough* (London: Henry Colburn, 1838), p. 364.

difficulties.<sup>55</sup> Notwithstanding a general climate of restraint in warfare, it was still not unusual in the middle of the 18<sup>th</sup> century for the storming of a fortress to be followed by slaughter of all the defenders, as at Bergen-op-Zoom in 1747.<sup>56</sup>

During the Seven Years War(1756-63) there was much correspondence between Britain and France concerning their respective prisoners. Responsibility for prisoners lay with the 'The Sick and Hurt Office' later, the 'Transport Office'.<sup>57</sup> The Seven Years War was fought not only in Europe, but in the emerging colonies, and European attitudes to prisoners were sometimes challenged by the practices of native allies and, indeed, by their colonial troops. At one stage the British commander in North America, General Amherst, ordered that all Amerindian prisoners should be put to death and General Wolfe extended this practice to Canadians dressed as Indians.<sup>58</sup> The justification for this policy was that Indians routinely killed their captives, often after being tortured.<sup>59</sup> Amherst detested Indians and used them in his own forces only because he believed the French feared them.<sup>60</sup> Even when commanders made European style treaties or agreements, their Indian allies might not respect the terms. When Fort William Henry surrendered to the French; on terms, in 1759, the Indian allies of the French massacred many of the Surrendering troops and civilians, carrying off others for ransom or torture.<sup>61</sup> Later in the year, the British were faced with a similar dilemma when they and their Iroquois allies

<sup>55</sup> Peter Drake, *Amiable Renegade: The Memoirs of Capt. Peter Drake*, ed. Sidney Burrell (London: Oxford U.P.,1960),p.167.

<sup>56</sup> Black, *European Warfare, 1660-1815*, p. 231.

<sup>57</sup> Clive L. Lloyd, *A History of Napoleonic and American Prisoners of War, 1756-1815* (Woodbridge: Antique Collectors Club,2007), p.23.

<sup>58</sup> Fred Andersen, *Crucible of War, The 7 Years War and the Fate of the Empire in British North America, 1754-66* (London: Faber & Faber.2001), p.182.

<sup>59</sup> *Ibid.*, p.543.

<sup>60</sup> John R. Cuneo, *Robert Rogers of the Rangers* (Ticonderoga: Ft. Ticonderoga Museum,1988), p.95.

<sup>61</sup> Anderson, *Crucible of War*, p.196.

defeated the French and their allies at La Belle Famille.<sup>62</sup> The Iroquois slaughtered and scalped many of the enemy and then demanded their share of the prisoners, for adoption or sacrifice; they were allocated 96 prisoners by Sir William Johnson who did, however, manage to recover 19 Canadian officers in return.<sup>63</sup> The garrison of Fort Niagara were persuaded to surrender and Johnson extended the protection of the surrender terms to non-combatants, as well as soldiers.<sup>64</sup> The prisoners were sent back to the colonies, where the governor of New York arranged for their dispersal, as paid labourers.<sup>65</sup> Some were persuaded to enlist in the British forces 'a practice increasingly regarded as dubious.'<sup>66</sup> When General Amherst later learned that a convention between Britain and France had been signed, in 1759, he ordered that the prisoners be traced and the convention applied strictly.<sup>67</sup> The use by the British of Indian auxiliaries, who could not be relied upon to adhere to European rules of war, was again a point of contention in the American Revolutionary War.<sup>68</sup>

In India, too, the French and British fought for supremacy. The fate of the prisoners in the 'Black Hole of Calcutta,' in 1756, was, perhaps, due more to carelessness than intent,<sup>69</sup> but harsh treatment of European prisoners by Indian princes was not unusual, unprotected as they were by any conventions or treaties, although scruples about ill-

<sup>62</sup> Tan K. Steele, 'When Worlds Collide: The Fate of Canadian and French prisoners taken at Fort Niagara, 1759', *Journal of Canadian Studies*, 39.3 (2005), p.9.

<sup>63</sup> *Ibid.*, p.11.

<sup>64</sup> *Ibid.*, p.27.

<sup>65</sup> *Ibid.*, pp.13-16.

<sup>66</sup> *Ibid.*, p.15.

<sup>67</sup> *Ibid.*, pp. 19-20.

<sup>68</sup> Andrew McFarland Davis, 'The Employment of Indian Auxiliaries in the American War' *The English Historical Review*, Vol. 2, No. 8 (Oct, 1887), p. 728.

<sup>69</sup> Linda Colley, *Captives, Britain, Empire and the World, 1600-1850* (London: Pimlico, 2003), p.255.

treating prisoners could easily be set aside anywhere 'under pressure of actual conflict.'<sup>70</sup> In the decades that followed, many difficult campaigns were fought and the numerous British prisoners taken had good reason to fear for their lives.<sup>71</sup>

The constant influx of prisoners of war into Britain, from 1756 onwards, were housed in borough jails, adapted buildings like the old pottery works in Liverpool, country houses like Sissinghurst and castles, such as Forton, to where 2000 prisoners were transferred in 1761.<sup>72</sup> Edinburgh Castle was used from 1756.<sup>73</sup> Millbay, near Plymouth, was one of the first purpose built prisons.<sup>74</sup> The Government were also forced to utilise prison hulks to supplement land based facilities. Some had been used as prison ships after the 1745 rebellion and others had been used for the accommodation of civilian prisoners.<sup>75</sup> From 1756, several obsolete men-of war were converted into prison ships for prisoners of war, although the widespread use of such ships did not happen until later in the century.<sup>76</sup>

French prisoners in Britain benefited from the French King's Bounty, which comprised money for their relief and to pay for their transport home, if exchanged, on a graduated scale based on rank.<sup>77</sup> However, the bounty was withdrawn in 1759, causing considerable hardship to French prisoners, which was only relieved by public subscription; the £7000

<sup>70</sup> *Ibid.*, p.282.

<sup>71</sup> *Ibid.*, p.276.

<sup>72</sup> Francis Abell, *Prisoners of War in Britain, 1756-1815, A Record of their Romance and their Sufferings*, (London: Oxford U.P., 1914), p.215.

<sup>73</sup> *Ibid.*, p.269.

<sup>74</sup> *Ibid.*, p.115.

<sup>75</sup> Lloyd, *Prisoners of War*, p.71.

<sup>76</sup> *Ibid.*, p.70.

<sup>77</sup> *Archives National*, cited in Abell, *Prisoners of War*, p.4.

collected in London provided shoes, breeches, shirts, caps and stockings.<sup>78</sup> The British rejected allegations of poor conditions, claiming that the French prisoners received virtually the same rations as British sailors. Officers on parole received an allowance of 1s a day, officers of privateers and merchants, 6d. a day.<sup>79</sup> It is obvious from the above that the Government attempted to regulate the rations prisoners received although, in practise, what they were actually given depended on the attitude and honesty of the men in charge of them. The French complaints were investigated by Monsieur de Kergan, an officer of the French East India Company, who broadly rejected most of them in 1758.<sup>80</sup>

Officers were normally allowed to have liberty of movement or 'parole' in designated parole towns, or even allowed home on parole pending the agreement of an exchange. The parole system was based on the prisoner's promise not to escape and was in place at the beginning of the Seven Years War. In 1757, the parole towns included Redruth, Bristol, Ashford, Dundee and Kinsale. Ports like Falmouth and Newcastle were used only for a short time, because of the ease of escape, but parole was strictly enforced and breach was regarded as a crime by the Governments of offenders, who were sent back.<sup>81</sup>

It was normal practise to exchange prisoners and cartel ships sailed from Dover, Poole, Falmouth, Calais, Havre, Morlaix.<sup>82</sup> There was much correspondence between Britain and France regarding exchanges in 1757 and, in the following year, correspondence about

<sup>78</sup> Abell, *Prisoners of War*, p.8.

<sup>79</sup> *Ibid*, p.4.

<sup>80</sup> *Ibid*, p.7.

<sup>81</sup> Abell, *Prisoners of War*, p.284.<sup>8i</sup>

<sup>82</sup> *Ibid*, p.25.

French officers who failed to return to Britain after their parole expired.<sup>83</sup> The British alleged that they sent 219 French officers but got back only 43 of their own. In turn the French claimed that their contingent were fit prisoners and not the invalids, boys and unknowns they claimed Britain returned.<sup>84</sup> During the Seven Years War, British Merchant crew and privateers were only given parole if they could find guarantors.<sup>85</sup> A cartel for the exchange of prisoners between Britain and France was agreed in 1761.<sup>86</sup> At the conclusion of the Seven Years War Louis XV set aside 20 million livres to redeem French prisoners.<sup>87</sup> As Vattel said, previously 'prisoners of war were obliged to redeem themselves; moreover the ransoms .. belonged to them (the captors). Modern practice conforms more closely to reason and justice.'<sup>88</sup>

During the Seven Years War the average number of prisoners of war held in Britain was 18,800, although in one year, 1762, there were 26,137. The total net cost of keeping these prisoners was £1,174,906.<sup>89</sup> It is evident that the cost of maintaining prisoners of war, in fairly basic conditions, was considerable and a drain on public funds at a time when expenditure on war was proving a great strain to the public finances and the National Debt was soaring.<sup>90</sup> Nevertheless, by this stage in history the British Government felt obliged to bear that expense, in the interests of its own prisoners and of common humanity. Measures were usually ad hoc, and often inadequate, but the

<sup>83</sup> *Ibid.*, p.27.

<sup>84</sup> *Ibid.*, p.28.

<sup>85</sup> *Ibid.*, p. 29.

<sup>86</sup> TNA, PRO SP 87/41/7, ff.12&13: Convention for exchange of prisoners.

<sup>87</sup> Jean Delmas, *Histoire Militaire de la France de 1715 a 1871* (Paris:Quadrige,1992), p. 10.

<sup>88</sup> Vattel. *Le Droit des Gens*, p.286.

<sup>89</sup> Abell, *Prisoners of War*, p.449.

<sup>90</sup> Daniel Marston, *Essential Histories: The Seven Years War* (Oxford: Osprey, 2001), p.83.

Government did accept responsibility, despite all the difficulties and the increasingly large numbers of prisoners taken. Paradoxically, the greater the success of the British forces, the more prisoners were taken and the greater the burden became. This burden would increase dramatically with the advent of the later French wars, when both the length of hostilities and the size of the forces deployed continued to increase, necessitating a new approach to the incarceration of prisoners in the early nineteenth century, as is explained later.

At the beginning of the American Revolutionary War, in 1775, Britain was struggling to accommodate its civil and political prisoners within its own islands and could no longer transport any to America once hostilities commenced. Consequently, the Government had to make greater use of hulks and, when the influx of American prisoners of war began, it decided to utilise the same facilities for them.<sup>91</sup> By 1778 there were 924 American prisoners held in Britain in poor conditions alleviated only by funds raised by public subscription.<sup>92</sup> In America itself, many American prisoners were incarcerated in prisons in New York, like the Bridewell, as well as in hulks at Wallabout Bay.<sup>93</sup> Prisoners included crews of American privateers and men from merchant ships, including French, Spanish and Dutch vessels.<sup>94</sup> At least sixteen hulks were utilised to accommodate the prisoners and many thousands died from neglect.<sup>95</sup> Wherever possible, exchanges of

<sup>91</sup> Lloyd, *Prisoners of War*, p. 79.

<sup>92</sup> Abell, *Prisoners of War*, p.48.

<sup>93</sup> Danske Dandridge *American Prisoners of the Revolution*, (Baltimore: Genealogical Publishing Company, 1911), p.227.

<sup>94</sup> Eugene L. Armbruster, *The Wallabout Prison Ships: 1776-1783*(Author New York, 1920), pp.14-23[Online] Available: <http://www.archive.org/stream/wallaboutprison00annbrich>

<sup>95</sup> Library of Congress, 'Letter from George Washington to Robert Digby' in *the George Washington Papers, 1741-1799* [Online] Available: <http://memorv.loc.gov/cgi-bin/quer/v/r7ammem/mgw>.'

prisoners were made, as it was beneficial to their captors, who were then relieved of the responsibility and costs. This system of exchanges was typical of the 18<sup>th</sup> century, as by now the massacre of prisoners was unusual. Governments were glad to be rid of prisoners and to recover their own in exchange. At other times parole was extended, particularly for officers, whose word of honour, not to escape, could be counted on.<sup>94</sup> Nevertheless, at times, Congress was outraged at what it considered to be inhumane treatment of its prisoners and warned Britain, in November, 1777, that it would retaliate if nothing was done.<sup>97</sup> The Articles of Capitulation, signed in October 1781 provided for the surrender of British troops, in York and Gloucester, who marched out with 'their swords drawn, trumpets sounding.'<sup>98</sup> Article V went on to specify that soldiers were to be kept 'as much by regiments as possible, and supplied with the same rations of provisions as are allowed to soldiers in the service of America.. .and that their officers may receive and deliver clothing and other necessaries for them.'<sup>99</sup> This was civilised treatment indeed following the cruel treatment of American prisoners of war, although Washington was adamant they should not be exchanged, as this would enable the British to use them in garrisons and thereby release more men for active duty.<sup>100</sup>

Generally, it is evident that rules and standards governing the treatment of prisoners of war had yet to be spelled out definitively in international law. The treatment of

<sup>96</sup> 'Revolutionary War Prisoners of War' in *the American Revolutionary War* [Online] Available: <http://www.myrevolutionarywar.com/pow/>

<sup>97</sup> Library of Congress, 'Letter from George Washington to Sir William Howe' in *the George Washington Papers, 1741-1799* [Online] Available: <http://memory.loc.gov/cgi-bin/query/r?animeni/mgw:>

<sup>98</sup> The Avalon Project, Yale University, *Articles of Capitulation, Article III*, [Online] Available: [http://avalon.law.yale.edu/18th century/art of cap 1781.asp](http://avalon.law.yale.edu/18th%20century/art%20of%20cap%201781.asp)

<sup>99</sup> *Ibid.*, Article V.

<sup>100</sup> Library of Congress, 'Letter from George Washington to William Heath' in *the George Washington Papers, 1741-1799* [Online] Available: <http://memory.loc.gov/cgi-bin/query/r?ammni/mgw:>

prisoners of war was a matter for the conscience of individual commanders and governments. This began to change, in 1785, when the United States and Prussia concluded a treaty that included the first guidelines for the humane treatment of prisoners of war.<sup>101</sup> They were not to be denied adequate rations and basic comforts nor 'be confined in dungeons, prison ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs.'<sup>102</sup> This groundbreaking agreement, a direct result of the recent American experience in the war against Britain, was a historic first step toward the multinational conventions that now protect prisoners of war.

Despite the violence of the French Revolution, the new rulers of France manifested a desire to break with the patterns of the past, whereby kings had dragged France into unnecessary wars. Instead they expressly renounced wars of conquest in their Constitution of 1791.<sup>103</sup> As a corollary of this enlightened view, they also declared that prisoners of war were under the special protection of the law and that 'unjustifiable severities, or insults, violence or homicidal assaults committed against prisoners of war will be punished.'<sup>104</sup> Moreover, prisoners of war were to be maintained at the cost of the public purse 'on a scale enjoyed by corresponding grades of French infantry in peacetime.'<sup>105</sup> is contrasted with the revolutionary view expressed by the Committee of Public Safety, in May 1794, that no quarter should be given to British and Hanoverian troops, an order

<sup>101</sup> Henry Wheaton, *History of the Law of Nations in Europe and America* (New York: Gould, Banks & Co., 1845), p. 306.

<sup>102</sup> *Ibid.*, p. 307.

<sup>103</sup> Best, *Humanity in Warfare*, p. 77.

<sup>104</sup> *Proces-verbal de l'Assemblée Nationale, Paris*, 4 May, 1792, vol. 8, pp. 76-78, cited in Best, *Humanity in Warfare*, p. 78.

<sup>105</sup> *Ibid.*, pp. 78-79.

ignored by the army in the field.<sup>106</sup> However, guaranteed subsistence for enemy prisoners was a significant change from the previous position that prisoners should be paid for by their own governments.

The legal status of prisoners in the wars of the late 18<sup>th</sup> century depended largely on . It was accepted practise to give quarter and, normally, prisoners were marched to some safe place of detention, although, sometimes, like Napoleon's Russian prisoners, they were disposed of on the way, if they were a burden or a danger.<sup>107</sup> How they were treated when they arrived depended on a number of factors, including the character of their gaolers, as well as the preparedness of the relevant government.<sup>108</sup> Generally, the treatment of prisoners of war was not very satisfactory during the Napoleonic Wars and in many battles, like Austerlitz, no prisoners were taken until near the end, when victory was sure.<sup>109</sup> In the Peninsular War, Spanish guerrillas often massacred French troops<sup>110</sup> and fewer than half of the 18,000 French prisoners taken at Baylen, in 1808, survived the horrors of the Cadiz hulks and the prison island of Cabrera,<sup>111</sup> although British and French prisoners generally fared better.<sup>112</sup> The likelihood of being slaughtered was still much greater in sieges than in open warfare, even in the early 19th century, and in the storming of towns like Zaragoza (1809) and Tarragona (1811) many thousands of troops

<sup>106</sup> Marc Bouloiseau, *The Jacobin Republic, 1792-94*, transl. J. Mandelbaum (Cambridge: Cambridge U.P., 1983), p.207.

<sup>107</sup> Eugene Tarle, *Napoleon's Invasion of Russia, 1812* (London: George Alien & Unwin, 1942), p.253.

<sup>108</sup> Best, *Humanity in Warfare*, p.125.

<sup>109</sup> Howard, *The Laws of War*, p.90.

<sup>110</sup> *The Young Hussar, The Peninsular War Journal of Col Thomas Wildman of Newstead Abbey*, ed. M. Birks (Brighton: The Book Guild, 2007), p. 74.

<sup>111</sup> Lloyd, *Prisoners of War*, p. 179.

<sup>112</sup> *Wellington's Dispatches, 1799-1818*, Vol. X, compiled by Lt. Col. Gurwood (London: John Murray, 1838), p. 597.

and civilians were killed, although the latter were supposed to be protected.<sup>113</sup> Double standards were evident when Napoleon was prepared to parole 2000 Austrian prisoners he could not feed, in 1796, but shot several thousand Turkish prisoners after the siege of Jaffa, in 1799.<sup>114</sup> However, as a professional officer of the *Enlightenment*, Napoleon was, generally, of the view that harm to the enemy should be confined to what was necessary, although he was particularly suspicious of English prisoners, who tended to be closely guarded.<sup>115</sup> His belligerent attitude to non-combatants, together with his insistence that discharged Hanoverian soldiers be regarded as British, for exchange purposes, led to the breakdown of exchange arrangements.<sup>116</sup>

In 1813, the victorious Prussians at Katzbach did not take any prisoners and the further East the conflict was, the more likely it was to be barbarous, as when the Russians stormed Izmail in 1790 and slaughtered 26,000 Turks or when their Cossacks killed 10,000 Frenchmen trapped at Beresina in 1812.<sup>117</sup> Despite these aberrations, the general trend during the late 17<sup>th</sup> century, and in the 18<sup>th</sup> century, was to treat prisoners better and large scale exchanges became common.<sup>118</sup>

Thus, the pattern that developed over the 18<sup>th</sup> century was a growth in the practise of concluding treaties for the exchange of prisoners, particularly the wounded and sick, with a gradual improvement in the treatment of prisoners of war, at least in relations between

<sup>113</sup> Howard, *The Laws of War*, p.93.

<sup>114</sup> *Ibid*, p.90

<sup>115</sup> *Ibid*, p.91.

<sup>116</sup> Lewis, *Napoleon and his British captives*, pp. 66-67.

<sup>117</sup> Black, *European Warfare*, p.231.

<sup>118</sup> *Ibid*, p. 231.

European powers.<sup>119</sup> However, when the American Revolutionary War broke out, followed by a renewal of warfare in Europe towards the end of the 18<sup>th</sup> century, special measures like the infamous hulks were needed to accommodate the large numbers of prisoners in captivity.<sup>120</sup> Pressures had intensified by the turn of the 19<sup>th</sup> century, with the advent of total war against Napoleon; the vast numbers of prisoners of war in Britain, 122,000 by 1814, forced the Government to build the first prison camps and to introduce detailed regulations relating to the care of prisoners.<sup>121</sup> The hardened attitude of France and Britain led to the confinement of prisoners for the duration of the conflict, sometimes for many years and often with considerable hardship.<sup>122</sup> Nevertheless, academics like Vattel and Rousseau were adamant that prisoners of war should be treated humanely and that their protection from ill-treatment was a natural human right,<sup>123</sup> a view shared increasingly by the public at large, many of whom were quick to respond to calls for subscriptions to aid prisoners in British camps and, indeed by governments who sought to regulate conditions in those camps.<sup>124</sup> Progress was being made, which would lead to the gradual development of humanitarian law or, as some would still term it, the *jus in bello*.<sup>125</sup>

<sup>119</sup> M.N. Schmitt & L.C. Green, eds., *The Law of Armed Conflict into the Next Millenium* (Newport: Naval WarCollege, 1998), p.300.

<sup>120</sup> Dandridge *American Prisoners of the Revolution*, p.227.

<sup>121</sup> Lewis, *Napoleon and his British captives*, p.48.

<sup>122</sup> G.G. Butler et al, *The Development of International Law* (New Jersey: Lawbook Exchange Ltd., 2003), p.208.

<sup>123</sup> R.C. Hingorani, *Prisoners of War* (New York: Oceana Publications, 1982), p. 6.

<sup>124</sup> Black, *European Warfare*, p.231.

<sup>125</sup> Kennedy, *Of War and Law*, p.83.

## Conclusion

This work has considered prisoners of war in the Classical era and then examined in more detail contemporary attitudes to those issues in three broad eras prior to the end of the Napoleonic wars. The purpose has been to identify those factors which changed (S the attitude to prisoners from the callousness of the earlier period to the burgeoning humanitarian spirit of the 19<sup>th</sup> century. It is clear that a number of factors could dictate the fate of prisoners, including custom, ritual, societal attitudes, religion, philosophical and legal discourses, treaties, pecuniary advantage, practical considerations, the nature of warfare and the passions of the combatants. These, and other factors, applied at different times in history, and in different campaigns and societies, to determine the outcome for captured warriors. As warfare and society evolved, there was a gradual improvement in their treatment, subject to many vicissitudes, lapses and inconsistencies, arising out of geographical location, cultural differences and sheer excess on the part of individuals or nations. After all, the granting of quarter can be a risk for a combatant who must, in doing so, act in an almost chivalrous way.<sup>1</sup> What is clear is that, in Western Europe, an increasing tendency towards humanitarianism, or at least pragmatism and mutual self-interest, developed from the Middle Ages onwards, which improved the fate of prisoners and ultimately, paved the way for the agreement of international rules for the humane treatment of prisoners of war.<sup>2</sup>

In ancient times, war was pursued ruthlessly; the object was what Clausewitz has

<sup>1</sup> Best, *War and Law*, p.62.

<sup>2</sup> Kennedy, *Of War and Law*, p.83.

described as 'the destruction or defeat of the enemy'<sup>3</sup> that is, annihilation. Any captured warriors were disposed of at the whim of their captors.<sup>4</sup> Their fate was usually death, often in conjunction with ritual torture and humiliation.<sup>5</sup> Ancient civilizations like the Egyptians<sup>6</sup> acted in this way but so did much later civilizations like the Aztecs<sup>7</sup> and more primitive, but relatively contemporary, warrior societies as the North American Indians.<sup>8</sup> Ancient European civilizations, like Rome and Greece, were just as cruel as more primitive societies and, if prisoners were spared, it was usually as slaves.<sup>9</sup> Only rarely were treaties agreed for the exchange or ransom of prisoners, most noticeably during the internecine wars of the Greeks.<sup>10</sup>

During the Dark Ages and into the Middle Ages the same pattern of warfare continued with opposing armies seeking to kill then: enemies and, occasionally, enslave or ransom them.<sup>11</sup> With the coming of the Middle Ages, and the re-emergence of books and scholars, thinkers like St. Augustine and Aquinas sought to define and limit war within a religious context.<sup>12</sup> During the 11<sup>th</sup> century the concept of chivalry evolved and continued to develop over the following centuries. Writers like Bonet<sup>13</sup> chronicled the rules of war, which originated in the custom and practise of warriors and kings influenced by the perceived rules of chivalry and the teachings of the Church. There were some attempts to protect non-combatants and prisoners from the

<sup>3</sup> Carl von Clausewitz, *On War*, transl. and ed. M. Howard and P. Paret (Princeton: Princeton U.P., 1976), p. 227.

<sup>4</sup> Malkin, *The Reader's Companion to Military History*, p.368

<sup>5</sup> Lynn, *Battle, A History of Combat and Culture*, p.35

<sup>6</sup> David, *The Egyptian Kingdoms*, p. 118 <sup>7</sup>Diaz, *The Conquest of New Spain*, p. 154.

<sup>8</sup> Davie, *The Evolution of War*, p. 299.

<sup>9</sup> Howard et al. *The Laws of War*, p.27.

<sup>10</sup> Thucydides, *History*, pp. 359-60. and Plutarch, *The Rise and Fall of Athens*, p. 192

<sup>11</sup> *Anglo-Saxon Chronicles*, p. 122

<sup>12</sup> Keen, *Chivalry*, p. 3

<sup>13</sup> *The Tree of Battles of Honore Bonet*,

consequences of war and to recognise the duties that Christian knights had towards their king, their church and to each other.<sup>14</sup> However, there was little recognition that ordinary soldiers should be protected and they were still regarded as a species of booty who could be disposed of at the whim of their captors. Non-Christian enemies could expect no mercy whatsoever and successive waves of Crusaders were renowned for their ferocity. Captured knights were regarded as property to be ransomed off for profit.<sup>16</sup> Ransoms even became an end of war in itself and many knights made their fortunes in this way; in its favour, it could be said that many escaped death because of the existence of the system.<sup>17</sup>

Warfare had changed dramatically by the end of the Middle Ages and there were many more ways of killing the enemy and in much greater numbers.<sup>18</sup> Armies grew in size and by the 16<sup>th</sup> century it was becoming more common for treaties of exchange to be made between opposing armies.<sup>19</sup> Prisoners could be exchanged or ransomed rather than butchered, although there were still many instances of barbarity, particularly where religion was an issue.<sup>20</sup> Sieges were often especially bloody as there was a recognition that a garrison which forced an assault could expect no mercy.<sup>21</sup> Civil disorders, too, usually ended in brutal repression and the execution of prisoners.<sup>22</sup> It was now commonplace for kings to issue Articles of War for each campaign.<sup>23</sup> Whilst there was a preoccupation with religion, basic rules were promulgated about the

<sup>14</sup> Legnano, *Tractatus de Bella*, p. 254,

<sup>15</sup> *Gesta Regum Angloru*, p.651

<sup>16</sup> Legnano, *Tractatua de Bello*, p. 269

<sup>17</sup> Contamine, *War and Competition*, p. 164.

<sup>18</sup> Keen, *Chivalry*, p.1

<sup>19</sup> Contamine, 'Ransom and Booty', p. 186,

<sup>20</sup> Laughton, *State Papers relating to the defeat of the Spanish Armada*, p.299.

<sup>21</sup> Krammer, *Prisoners of War*, p. 14.

<sup>22</sup> Macaulay, *The History of England*, p. 306.

<sup>23</sup> Griffin, *Regulating Religion and Morality*, p.6.

taking of prisoners and their safekeeping. Philosophers and lawyers were playing their part in theorising on the nature of war and the obligations of the participants, leading to a more restrained attitude to prisoners of war.<sup>24</sup> This trend faltered during the religious wars of the 17<sup>th</sup> century but the Treaty of Westphalia, in 1648, is seen as a landmark, with more restraint generally evident from then on.<sup>25</sup> By the 18<sup>th</sup> century exchanges were commonplace.<sup>26</sup> Ransoms still survived, but on a tariff basis for the benefit of states rather than private individuals.<sup>27</sup> The Enlightenment saw the continued development of the rules of war, which were well understood in Europe, if not far beyond.<sup>28</sup> Colonial warfare and the use of native irregulars put a strain on perceptions of humane rules of warfare but by the end of the century vast numbers of prisoners had been taken by European powers and the United States of America.<sup>29</sup> The official attitude of the relevant governments in prescribing a minimum standard of care was commendable, although there were many cases of ill-treatment by custodians.<sup>30</sup> Sometimes, the root cause of problems was accommodation, with prisoners being placed in old fortresses, hulks and improvised camps.<sup>31</sup> However, in Britain the vast numbers of French prisoners resulted in the construction of purpose built prison camps and the promulgation of strict rules for gaolers.<sup>32</sup> Prisoners were now often retained for the duration of the war, rather than being exchanged as soon as possible. It was this new landscape of nation states waging large scale wars and taking

<sup>24</sup> Victoria, *De Indis et de lure Belle Relectiones*, p. 170

<sup>23</sup> The Avalon Project, Yale University. *Treaty of Westphalia* (Online) Available: [http://avalon.law.vale.edu/17th\\_century/westpbal.asp](http://avalon.law.vale.edu/17th_century/westpbal.asp).

<sup>26</sup> Daly, *Napoleon's Lost Legions*, pp. 361-80.

<sup>27</sup> *Calendar of State Papers Domestic, 1702-3*, p. 266.

<sup>28</sup> Rousseau, *The Social Contract*, p. 57.

<sup>29</sup> Anderson, *Crucible of War, The 7 Years War*, p.182.

<sup>30</sup> Fitzpatrick, *Writings of Washington*, p.79.

<sup>31</sup> Abell, *Prisoners of War in Britain*, p.215

<sup>32</sup> Lewis, *Napoleon and his British captives*, p.48.

many thousands of prisoners needing to be incarcerated for long periods, which led to the development of international rules and treaties, in the 19<sup>th</sup> century, for the protection of those taken prisoner.<sup>33</sup> These first steps led eventually to the Geneva Conventions of the 20<sup>th</sup> century and the familiar humanitarian, legal landscape of today.<sup>34</sup> These conventions did not appear out of thin air; they were, as has been seen, the product of a long period of evolution in warfare, philosophy, jurisprudence and societal attitudes, as the status of prisoners changed from sacrificial objects, or disposable booty, to victims worthy of protection. There were many lapses on the way, as there are even today, but the evolution from random barbarity to legal, humanitarian regulation has been a clear trend from the Middle Ages through to the first international agreements in the 19<sup>th</sup> century. The influence of writers, philosophers and jurists like Gentili and Grotius<sup>35</sup> has been of tremendous significance but, so too, have changes in society and in warfare itself. Vattel<sup>36</sup> attempted to establish legal rules to regulate the conduct of warfare but even he accepted that the 'humanization of war was initiated and achieved by the practice of war and not just by theory.'<sup>37</sup> It is impossible to discard the human element in all this, as humans must make the decision to capture rather than kill. They will be guided by the current rules of war but perfect observance depends on the acquiescence of individual soldiers as 'in most battlefield situations, respecting the immunity of

<sup>33</sup> Shaw, *International Law*, p. 1054.

<sup>34</sup> Kennedy, *Of War and Law*, p.87.

<sup>35</sup> Duchardt, 'War and International Law', p. 287

<sup>36</sup> Emerich de Vattel, *Le Droit des Gens, ou Principes de la loi naturelle appliques a la conduits et aux affaires des nations et des souverains*, transl. Charles G. Fenwick (Washington: Carnegie Institution, 1916)

<sup>37</sup> Wolff(1900),178, cited in Duchardt, 'War and International Law', p. 299.

prisoners is likely to entail increased vulnerability.<sup>38</sup> This, in a nutshell, has been the history of prisoners of war through the ages; individual soldiers acting in accordance with their conscience and temper, constrained by the practicalities of the battlefield and by the orders issued to them which, in turn, have been influenced by the societal attitudes of the time and the great thinkers of the day. The result has been a gradual evolution from barbarity to international regulation and humanitarianism, culminating in the Geneva Conventions most countries recognise today.

<sup>38</sup> AJ. Coates, *The Ethics of War* (Manchester: Manchester U.P., 1997), p. 31-32.

# **BIBLIOGRAPHY**

## **Primary Sources**

### **The National Archives of the U.K. at Kew, Surrey.**

#### *State Papers Domestic, Anne*

(TNA): PRO SP 34/2,5      Sec. of State Letters, 1703-04.  
(TNA): PRO SP 41/4      Sec. of War Letters, 1711-13.  
(TNA): PRO SP/42/121      State Papers Naval, 1710-12.

#### *State Papers Foreign,*

(TNA): PRO SP 71/1      Barbary States, 1660.  
(TNA): PRO SP 81/6      German States, 1590.  
(TNA): PRO SP 84/169,174      Holland, 1664-65.  
(TNA): PRO SP 87/41/7      Military Expeditions, 1761.  
(TNA): PRO SP 89/7      Portugal, 1665.

#### *State Papers, Treaties*

(TNA): PRO SP 113/4/10      Gazettes and pamphlets, 1665.

#### *Special Collections*

(TNA): PRO SC 7/25      Papal bulls, 1326.  
(TNA): PRO SC 8/59,85,165      Ancient Petitions.

#### *Chancery*

(TNA): PRO C 1/457,692,694      Legal Proceedings, 1515-32.  
(TNA): PRO C 47/13,22      Proceedings, Foreign merchants.

#### *Exchequer*

(TNA): PRO E 30/74,145      Diplomatic Documents, 1356-60.  
(TNA): PRO E 39/85      Scottish Documents, 1543.

## **Printed Primary Sources**

*Anglo-Saxon Chronicles*, ed. & transl. Anne Savage (Twickenham: Tiger Books, 1995)

Aquinas, Thomas, *The Summa Theologica*, trans. The Fathers of the English Dominican Province (London: 1920-29)

Arrian, *The Campaigns of Alexander*, transl. A. De Selincourt, (Harmondsworth: Penguin, 1971)

Ayala, Balthazar, *On the Law of War*, transl., J.P. Bate (Washington: Carnegie Institution, 1912)

Bonet, Honore, *The Tree of Battles*, ed. G. Coopland ( Liverpool: Liverpool U.P., 1949)

*Calendar of State Proceedings Domestic, 1581-90*, ed. Robert Leman ( London: Longman, 1865)

*Calendar of State Papers Domestic, 1591-94*, ed. M.A.E. Green ( London: Longmans, 1867)

*Calendar of State Papers Domestic, 1702-3*, ed. R. Mahaffy ( London: H.M.S.O., 1916)

- Calendar of State Papers Domestic, 1704-5*, ed. C.S. Knighton (Woodbridge: Boydell Press, 2005)
- Calendar of the Proceedings of the Committee for Compounding with Delinquents*, ed. M.A.E. Green (London: HMSO, 1889-1892)
- Chamy, Geoffroi, *The Book of Chivalry*, eds. R.W. Keuper, & E. Kennedy (Philadelphia: University of Philadelphia Press, 1996)
- Churchill, John, *The Letters and Dispatches of John Churchill, First Duke of Marlborough*, ed. Sir George Murray (London: John Murray, 1845)
- Churchill, Sarah, *The Private Correspondence of Sarah, Duchess of Marlborough* (London: Henry Colburn, 1838)
- Cortes, Hernan, *Letters from Mexico*, ed. & transl. A.R Pagden (London: Oxford U.P., 1972)
- Baha Ad-Din, Arab Historians of the Crusades*, ed. G.E. Grunenbaum (Los Angeles: Univ.of California, 1984)
- The Damascus Chronicle of the Crusades*, transl. H.A.R. Gibb (London: Luzac & Co., 1932) Diaz,
- Bernal, *The Conquest of New Spain* , ed. J.M. Cohen (London:Penguin,1963)
- Drake, Peter, *Amiable Renegade: The Memoirs of Capt. Peter Drake*, ed. Peter Burrell (London: Oxford U.P.,1960)
- English Historical Documents, 1327-1485*, ed. A.R. Myers (Eyre and Spottiswoode: London,1969) *Memoires deMarechal de Florange*, eds. R. Goubaux & P. A. Lemoisne (Paris: Librairie Renouard) Froissart, Jean, *Chronicles*, ed. G. Brereton (London: Penguin, 1978)
- The War of the Gaedhil with the Gaill* , ed. & transl. J.H. Todd (London: Longmans,Green,Reader & Dyer, 1867)
- Gameray, Louis, *The Floating Prison: An Account of Nine Years on a Prison Hulk During the Napoleonic Wars*, transl. R. Rose (London: Conway Maritime, 2003)
- Gentili, Alberico, *De Jure Belli, Libri Tres*, transl. J.C. Rolfe (Oxford: Clarendon Press, 1933)
- Giraldus Cambrensis, *Expugnatio Hibernica, the Conquest of Ireland*, eds. A.B. Scott & F.X. Martin, (Dublin: Royal Irish Academy, 1978)
- Grotius, Hugo, *De Jure belli ac pads, Libri Tres*, transl., F. W. Kelsey (Oxford: Clarendon Press, 1925) *Gesta Regis Henrici Secunda Benedict! Abbatis*, ed. Win. Stubbs (London: Longmans, 1867)
- Herodotus, *The Histories*, transl. A. De Selincourt (London: Penguin, 1954)
- Historia Anglorum*, cd. & transl. D. Greenaway (Oxford:Clarendon,1996)
- King James Bible* (London: Eyre and Spottiswoode, 1958)
- Legnano, Giovanni, *Tractatus de Bello,de Represaliis et de Duelloe* , ed. T.E. Holland (Oxford: Oxford U.P.,1917)
- Lull, Ramon, *Booh of Chivalry and the anonymous Ordene de Chevalerie*, eds. W. Caxton, & B.R. Price (Union City: Chivalry Bookshelf, 200 1)

- The Marlborough- Godolphin Correspondence*, ed. H.L. Snyder (Oxford: Clarendon, 1975)
- Military Memoirs of Marlborough's Campaigns 1702-1712, Copt. Robert Parker and Count Merode-Westerloo*, ed. David Chandler (London: Greenhill, 1998)
- Maurice of Saxony, *Reveries or Memoirs upon the Art of War* (Paris, 1757)
- The Young Hussar, The Peninsular War Journal of Col. Thomas Wildman of Newstead Abbey*, ed. M. Birks (Brighton: The Book Guild, 2007)
- Pisan, Christine, *The Book of Deeds and Arms of Chivalry*, eds. S. Willard & C.C. Willard (Pennsylvania: Pennsylvania State University Press., 1999)
- Plato, *The Republic*, transl, Francis MacDonald Comford (New York: Oxford University Press, 1967)
- Plutarch, *The Rise and Fall of Athens*, transl. Ian Scott-Kilvert (Harmondsworth: Penguin, 1960)
- Polybus, *The Rise of the Roman Empire*, transl. Ian Scott-Kilvert (Harmondsworth: Penguin, 1979)
- Rousseau, J.J. *The Social Contract*, transl. Maurice Cranston (London: Penguin, 1968)
- Documents relating to the Laws and Customs of the Seas, 1205-1648*, ed. R.G. Marsden (Navy Records Society, 1915)
- State Papers relating to the defeat of the Spanish Armada*, ed. J.K. Laughton (London: Navy Records Society, 1894)
- Gesta Stephani*, transl. K.R Potter (London: Thos. Nelson, 1955)
- Tacitus, *The Annals of Imperial Rome*, transl. M Grant, (London: Penguin, 1971)
- Thucydides, *History of the Peloponnesian War*, transl. R. Warner (London: Penguin Books, 1954)
- Vattel, Emerich, *Le Droit de Gens, ou Principes de la loi naturelle appliques a la conduite et aux affaires des nations et des souverains*, transl. Charles G. Fenwick (Washington: Carnegie Institution, 1916)
- Victoria, Francisci, *De Indis et de lure Belle Relectiones*, ed. Ernest Nye (Washington: Carnegie Institutional?)
- Wellington's Dispatches, 1799-1818, Vol. X.*, ed. Lt. Col. Gurwood (London: John Murray, 1838)
- William of Malmesbury, *Gesta Regum Anglorum*, ed. R. Mynors (Oxford: Clarendon Press, 1998)
- William of Tyre, *A History of Deeds Done Beyond the Seas*, transls. E.A. Babcock & A.C. Krey (New York: Columbia Univ. Press, 1943)
- William of Tyre in The Templars*, eds. M. Barber & K. Bate (Manchester: Manchester U.P., 2002)
- Wotff, Christian, *Jus Gentium Methodo Scientifica Pertractatum*, transl. J.H. Drake (Oxford: Clarendon, 1934)
- Xenophon, *A History of My Times*, transl. R. Warner (Harmondsworth: Penguin, 1966)

## Secondary Sources

### Books

Abell, Francis, *Prisoners of War in Britain, 1756-1815, A Record of their Romance and their Sufferings* (London: Oxford U.P.,1914)

Anderson, Fred, *Crucible of War, The 7 Years War and the Fate of the Empire in British North America, 1754-66* (London: Faber & Faber, 2001)

Barker, Juliet, *The Tournament in England, 1100-1400* (Woodbridge: Boydell,1986) Barlow,

Frank, *The Feudal Kingdom of England, 1042-1216* (London: Longman, 1988)

Best, Geoffrey, *Humanity in Warfare: the modern history of the law of armed conflicts* (London: Methuen,1983)

Best, Geoffrey, *War and Law Since 1945* (Oxford: Oxford U.P.,1994)

Black, J., *European Warfare,1494-1660* (London: Routledge, 2002)

Black, J., *European Warfare, 1660-1815* (London: UCL, 1994)

Bobbitt, P., *The Shield of Achilles: war, peace and the course of history* (London: Penguin, 2003)

Bouloiseau, Marc, *The Jacobin Republic, 1792-94*, transl. J. Mandelbaum (Cambridge: Cambridge U.P., 1983)

Broxap, E., *The Great Civil War in Lancashire,1642-51*( Manchester Manchester U. P.,1973) Butler, G.G. et al,

*The Development of International Law* (New Jersey: Lawbook Exchange Ltd., 2003) Byers, Michael, *War Law: International law and Armed Conflict* (London: Atlantic, 2005)

Campbell, William W. ,*The Annals of Tryon County; or, the Border Warfare of New-York during the Revolution* (New York: Harper,1871)

Coates, A.J., *The Ethics of War* (Manchester: Manchester U.P.,1997)

Colley, Linda, *Captives, Britain, Empire and the World.1600-1850* (London: Pimlico,2003)

Contamine, Philip, *War and Competition Between States* (Oxford: Oxford U.P., 2000)

Cowley, Robert and Geoffrey Parker, eds., *The Reader's Companion to Military History* (Boston: Houghton MifHin Books, 1996)

Cranet, Marcel, *Chinese Civilization*, transls. Kathleen E. Innes and Mabel R. Brailsford (New York: Alfred A. Knopf, 1930)

Crouch, David, *William Marshall, Court, Career and Chivalry in The Angevin Empire,! 147-1219* (Harlow: Longman, 1990)

Crosby, A., *A History of Cheshire* (Chichester: Phillimore,1996)

Cuneo, John R., *Robert Rogers of the Rangers* (Ticonderoga: Ft.Ticonderoga Museum, 1988)

- Curry, Ann, *Agincourt, A New History* (Stroud: Tempus, 2005)
- Dandridge, Danske, *American Prisoners of the Revolution* (Baltimore: Genealogical Publishing Company, 1911)
- David, A.R., *The Egyptian Kingdoms* (Oxford: Elsevier, 1975)
- Davie, Maurice R., *The Evolution of War* (New Haven: Yale University Press, 1929)
- Dawson, D., *The Origins of Western Warfare, Militarism and Morality in the Ancient World* (Boulder: Westview Press, 1996)
- Delmas, Jean, *Histoire Militaire de la France de 1715 a 1871* (Paris: Quadriga, 1992)
- Dunn, Richard S., *The Age of Religious Wars, 1559-1689* (London: Weidenfeld & Nicolson, 1970)
- Firth, C.H., *Cromwell's Army* (London: Greenhill, 1992)
- Foot P.O. and D.M. Wilson, *The Viking Achievement* (London: Book Club Assocs., 1973)
- Freedman, Lawrence, ed., *War* (Oxford: Oxford U.P., 1994)
- Gibbon, Edward, *The History of the Decline and Fall of the Roman Empire* (London: Bell & Daldy, 1867)
- Green, David, *The Battle of Poitiers, 1356* (Stroud: Tempus, 2002)
- Green, D., *Blenheim* (London: Collins, 1974)
- Griffin, M., *Regulating Religion and Morality in the King's Armies, 1639-46* (Leiden: Brill, 2004)
- Guy, John, *Tudor England* (Oxford: O.U.P., 1988)
- Hallam, Elizabeth, ed., *Chronicles of the Age of Chivalry* (London: Tiger Books, 1995)
- Halsall, Guy, *Warfare and Society in the Barbarian West, 450-900* (London: Routledge, 2003)
- Hamnett, B. R., *A Concise History of Mexico* (2<sup>nd</sup> edn., Cambridge: Cambridge U.P., 2006)
- Higham, Robin, ed., *A Guide to the Sources of British Military History* (London: Routledge and Kegan Paul, 1972)
- Hingorani, R. C., *Prisoners of War* (New York: Oceana Publics., 1982)
- Holmes, Richard, *Marlborough, England's Fragile Genius* (London: Harper, 2008)
- Howard, M., & P. Paret, trans. & eds., *Carl von Clausewitz, On War* (Princeton: Princeton U.P. 1976)
- Howard, M., ed., *Restraints on War: Studies in the limitation of armed conflict* (Oxford: Oxford U.P., 1979)
- Howard, M., G.J. Andreopoulos, & M.R. Shulman, eds., *The Laws of War, Constraints on Warfare in the Western World* (New Haven & London: Yale U.P., 1994)
- Huizenga, Johan, *The Waning of the Middle Ages* (London: Penguin, 1955)

Hunt, Tristram, *The English Civil War, At First Hand* (London: Phoenix, 2003)

Hutchinson, Robert, *Thomas Cromwell* (London: Weidenfeld & Nicolson, 2007)

Jones, T & A. Ereira, *Crusades* (London: B.B.C., 1994)

Joseph, A.M., ed., *The American Heritage Book of Indians* (New York: A.H. Publishing, 1961)

Kaeuper, Richard W., *Chivalry and Violence in Medieval Europe* (Oxford: Oxford U.P., 1999)

Keegan, John, *A History of Warfare* (London: Pimlico, 1994)

Keen, Maurice, *Chivalry* (New Haven & London; Yale U.P., 1984)

Keen, Maurice, *The Laws of War in the late Middle Ages* (London: Routledge & Kegan Paul, 1965)

Keen, Maurice, *Medieval Warfare, A History* (Oxford: Oxford U.P., 1999)

Keen, Maurice, *Nobles, Knights and Men at Arms in The Middle Ages* (London: Hambledon Press, 1996)

Kennedy, David, *Of War and Law* (Oxford: Princeton U.P., 2006)

Krammer, A., *Prisoners of War* (Westport: Greenwood Publishing Inc., 2007) Lewis, Michael, *Napoleon and his British Captives* (London: George Unwin, 1962)

Lloyd, Clive L., *A History of Napoleonic and American Prisoners of War, 1756-1815* (Woodbridge: Antique Collectors Club, 2007)

Lord Macaulay, *The History of England* (London: Longmans, Green & Co., 1867)

Lynn, John A., *Battle, A History of Combat and Culture From Ancient Greece to Modern America* (Boulder: Westview Press, 2003)

Mackay, James, *William Wallace* (Edinburgh: Mainstream Publishing, 1995) Marston, Daniel, *Essential Histories: The Seven Years War* (Oxford: Osprey, 2001) Martin, C., & G. Parker, *The Spanish Armada* (Manchester: Manchester U.P., 1999)

Martin, Paula, *Spanish Prisoners: The Story of the Nuestra Senora del Rosario and her crew and of other prisoners in England, 1587-97* (Exeter: Exeter U. P., 1988)

Ormerod, George, *The History of the County Palatine and City of Chester*, ed, Thos. Helsby (London: Routledge, 1882)

Ormerod, George, *Tracts relating to Military Proceedings in Lancashire during the great Civil War* (Manchester: Chetham Society, 1844)

Parker, Geoffrey, *The Military Revolution, Military Innovation and the Rise of the West, 1500-1800* (Cambridge: Cambridge U.P., 1996)

Parker, Geoffrey, *The Thirty Years War* (London: Routledge, 1997)

Parker, Geoffrey ed., *Warfare* (Cambridge: Cambridge U.P., 1995) Pollard,  
A.J., *John Talbot and the War in France* (London: R.H.S.,1983)  
Rpgan, R, J., *Just War, Principles and Cases* (Washington: Catholic Universities of America Press, 1996)  
Richard, Jean, *The Crusades, 1071-1291* (Cambridge: Cambridge U.P., 1999)  
Roberts, M., *Gustavus Adolphus* (London: Longman, 1992)  
Roberts,M., *The Military Revolution, 1560-1660* (Belfast: Queen's University, 1956)  
Royster, Charles, *A Revolutionary People at War* (Chapel Hill: North Carolina: Univ.o f North Carolina Press, 1979)  
Russell, Frederick, *The Just War in the Middle Ages* (Cambridge: Cambridge U.P., 1975) Saint  
Simon, *Grands Ecrivains de la France* (Paris: Libraire Hachete,1896)  
Schmitt, M.N. & L.C. Green, eds., *The Law of Armed Conflict into the Next Millenium* (Newport: Naval War College, 1998)  
Shaw, M.N., *International Law* (5th edn., Cambridge: Cambridge U.P., 2003)  
Siochru, M.O., *God's Executioner: Oliver Cromwell and the Conquest of Ireland* (London: Faber and Faber, 2008)  
Smith, Denis, *The Prisoners ofCabrera: Napoleon's Forgotten Soldiers,1809-1814* (New York: Four Walls Eight Windows, 2001)  
Sorabji, R., and D. Rodin, *The Ethics of War* (Aldershot: Ashgate, 2006)  
Starkey, Armstrong, *War in the Age of Enlightenment, 1700-1789* (Westport: Greenwood, 2003)  
Starkey, David, Henry, *The Prince Who Would Turn Tyrant* (London: Harper Perennial, 2009)  
Stone, Geoffrey R., *War and Liberty, An American Dilemma, 1790 to the present* (New York: Norton, 2007)  
Strachan, Hew, *Carl van Clausewitz's, On War, A Biography* (London: Atlantic Books, 2007)  
Tarle, Eugene, *Napoleon's Invasion ofRussia.,1812* (London: George Alien & Unwin,1942),  
Thomas, Hugh, *The Slave Trade, The History of the Atlantic Slave Trade, 1440-1870* (London: Picador, 1997)  
Toller, Jane, *Prisoner of War Work, 1756-1815* (Cambridge: Golden Head Press, 1965)  
Tyerman, Christopher, *God's War* (London: Penguin, 2007)  
Waara, Elizabeth R., *The Treatment and Disposition of Prisoners during the Hundred Years War* (Michigan: Ann Arbor, 1985)  
Weigley, R.F., *The Age of Battles, The Quest for Decisive -warfare from Breitenfeld to Waterloo* (London: Pimlico,1991)

Wheaton, Henry, *History of the Law of Nations in Europe and America* (New York: Gould, Banks & Co., 1845)

Wheeler, J.S., *Cromwell in Ireland* (Dublin: Gill & Macmillan, 1999)

Winthrop, William, *Military Law and Precedents, Vol. II* (Washington D.C: Beard Books, 2000)

Wright, Esmond, ed., *The History of the World* (London: Hamlyn, 1985)

## **ARTICLES**

Anderson, OJive, 'The Establishment of British Supremacy at Sea and the Exchange of Naval Prisoners of War, 1689-1783', *The English Historical Review*, 75 (Jan., 1960), pp. 77-89.

Becker, Laura L., 'Prisoners of War in the American Revolution; A Community Perspective', *Military Affairs*. 46, No.4 (1982), pp. 169-173.

Clark, George, 'The Character of the Nine Years War, 1688-97', *Cambridge Historical Journal*, 11, No. 2 (1954), pp. 168-178.

Daly, Gavin, 'Napoleon's Lost Legions: French Prisoners of War in Britain', *History*, 89 (2004), pp.361-380.

Davis, Andrew McFarland , 'The Employment of Indian Auxiliaries in the American War', *The English Historical Review*, 2 (Oct., 1887), pp. 709-728.

Donagan, Barbara, 'Prisoners in the English Civil War', *History Today*, 41:3 (1991:Mar.), pp.28-35.

Donagan, Barbara, 'The Web of Honour: Soldiers, Christians, and Gentlemen in the English Civil War', *The Historical Journal*, 44 (Jun., 2001), pp. 365-389.

Doyle, Robert C., 'Prisoners of War: A Reference Handbook Review', *Journal of Military History*, 72 (2008), pp. 541-542.

Given-Wilson, Chris, and Francoise Beriac, 'Edward III's Prisoners of War: The Battle of Poitiers and its Context', *The English Historical Review*, 116 (Sept. 2001), pp. 802-833.

Lee, Wayne E., 'Early American Ways of War: A New Reconnaissance, 1600-1815', *The Historical Journal*, 44 (Mar., 2001), pp. 269-289.

McColly, W., 'Hugh Calveley, A Reassessment', *Transactions of the Hist. Soc. of Lanes. & Cheshire*, Vol. 136 (1986), pp.157-163.

Newhallj Richard A., 'The War Finances of Henry V and the Duke of Bedford', *The English Historical Review*, 36 (Apr., 1921), pp. 172-198.

Rowe, Benedicta, 'A Contemporary Account of the Hundred Years' War from 1415 to 1429', *The English Historical Review*, 41 (Oct, 1926), pp. 504-513.

Steele, Ian K., 'When Worlds Collide: The Fate of Canadian and French Prisoners taken at Fort Niagara,1759', *Journal of Canadian Studies*, 39.3 (2005), pp. 9-39.

Webb, Henry J., 'Prisoners of War in the Middle Ages', *Military Affairs* , 12, No.1 (1948), pp. 46-49.

## INTERNET

The Avalon Project, Yale University. *Treaty of Westphalia* [Online]. Available: [http://avalon.law.yale.edu/17th\\_century/westphal.asp](http://avalon.law.yale.edu/17th_century/westphal.asp)

The Avalon Project, Yale University. *Articles of Capitulation, Article in*, [Online]. Available: [http://avalon.law.yale.edu/18th\\_century/art\\_of\\_cap\\_1781.asp](http://avalon.law.yale.edu/18th_century/art_of_cap_1781.asp)

Early English Books Online, [Online]. Available: <http://eebo.chadwyck.com/home>

Eugene L. Armbruster, *The Watabout Prison Ships: 1776-1783* (Author: New York: 1920) pp.14-23 [Online] Available: <http://www.archive.org/stream/wataboutprison00armbrich>

Hugo Grotius, *De Jure belli ac pacis, Libri Tres*. Liberty Library of Constitutional Classics, 1625, Book 111 [Online]. Available: <http://www.constitution.org/gro/djbp.txt>

Library of Congress, 'Letter from George Washington to William Heath' in *the George Washington Papers, 1741-1799* [Online]. Available: <http://memorv.loc.gov/cgi-bin/querv/r7arimem/mgw>

Library of Congress, 'Letter from George Washington to Robert Digby' in *the George Washington Papers, 1741-1799* [Online] Available: <http://memorv.loc.gov/cgi-bin/querv/r7ammeni/mgw>

Revolutionary War Prisoners of War, in *the American Revolutionary War* [Online]. Available: <http://www.mvrevolutionarvwar.com/pow/>

Robert Dudley, Earl of Leicester, 'Lawes and Ordinances Militarie (1586)', in *Renascence Editions* [Online]. Available: <http://darkwing.uoregon.edu/~rbear/dudley1.html>

Tales from Froissart, *The Constable of France... captures many English prisoners* [Online]. Available: <http://www.nipissingu.ca/deparlmen1/historv/MUHLBEGER/FROISSART/tales.htm>