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# Captives or Prisoners: Society and Obligation in Medieval Iberia

*Cautivos o prisioneros: sociedad y obligación en la Iberia medieval*

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**Abstract:** There are important differences between the medieval captive and the modern prisoner of war. While, in each instance, their societies desire their liberation and restoration, the medieval captive lacked the framework and protection of international law and so had to rely upon the charity of friends and neighbors and the self-interest of their captors. Medieval Spanish society, nonetheless, endeavored to facilitate these exchanges by promoting filial obligations, protecting a captive's property and establishing mechanisms to facilitate exchanges and ransoming. In addition, Christian and Muslim rulers included captives among the items to be negotiated during periods of truce.

**Keywords:** captive, prisoner, ransom, Medieval Iberia

**Resumen:** Hay diferencias importantes entre el cautivo medieval y el prisionero de guerra moderno. Aunque en ambos casos la sociedad quiere su liberación, al cautivo medieval le faltaba la protección de la ley internacional; por lo tanto, éste tenía que depender de la caridad de los amigos y vecinos tanto como el interés de sus captores. Sin embargo, la sociedad medieval española intentaba facilitar los intercambios de prisioneros mediante la promoción de las obligaciones filiales, la protección de los bienes de cautivos y la creación de mecanismos para facilitar el intercambio y el rescate. Finalmente, los reyes cristianos y musulmanes incluían la liberación de los cautivos en las negociaciones durante los períodos de tregua.

**Palabras clave:** cautivo, prisionero, rescate, Iberia medieval

In 1949, in the aftermath of the horrors experienced during World War II, four international treaties were signed in Geneva, Switzerland to address the proper conduct of states during times of military conflict. These so-called Geneva Conventions, along with protocols signed in 1977 and 2005, constitute our modern understanding of legitimate behavior toward civilians, the wounded, medical and religious personnel, and those taken and held as prisoners of war. To act outside of or in contravention of these conventions –as for example, in the mass genocides of the recent conflicts in the Balkans or Rwanda or in the brutal beheadings trumpeted on the Internet by al-Qaeda– places nations and individuals beyond the pale of civilized behavior, meriting the label of terrorism.

The third of these conventions addresses prisoners of war. These individuals are explicitly recognized as coming under the jurisdiction and authority of a state and so individuals who are their captors act only as delegated agents of that governmental authority. Governments that hold prisoners have the obligation to treat them in a humane fashion, that is, without physical or mental torture. Thus, the United States, in justifying water-boarding and other forms of torture used against captured agents of al-Qaeda, specifically claimed that these individuals were not prisoners of war because they did not act as agents of any recognized state. Thus, as terrorists such individuals were exempt from the provisions of the Geneva Conventions<sup>1</sup>. In the main, however, the modern assumption is that warfare is an act of state, that soldiers are agents of the state, and that the state has certain obligations toward not only its own agents but also those of opposing powers.

This statist approach to the issue of prisoners of war, however, is a relatively modern phenomenon that dates back only to the mid-nineteenth century. It is likely a product of two phenomena: the modern notion of individual rights propagated by the French Revolution and the advent of permanent military forces that increasingly has made warfare an act of state. Pre-modern and medieval conflict was less defined, with state action intermingled with irregular forces of various types which straddled the boundary between the legal and illegal. Consequently, the status of those taken prisoner as a result of violence is considerably murkier. The intent here is to examine the status of such prisoners in medieval society, particularly in medieval Iberia, with an eye to understanding what rights, if any, such prisoners had and what obligations society accepted toward them.

In medieval Iberia, particularly from the twelfth century onward, warfare took on some religious overtones. As a consequence, the prisoners of war that appear in

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<sup>1</sup> See, for example, Douglas JEHL, *U.S. Action Bars Right of Some Captured in Iraq*, The New York Times, October 26, 2004, available online at [http://www.nytimes.com/2004/10/26/politics/26detain.html?\\_r=1&scp=1&sq=prisoners%20not%20subject%20to%20geneva%20conventions&st=cse](http://www.nytimes.com/2004/10/26/politics/26detain.html?_r=1&scp=1&sq=prisoners%20not%20subject%20to%20geneva%20conventions&st=cse) (accessed July 31, 2010).

the sources were for the most part defined by their religious status, as either Muslims or Christians. Thus, in Christian sources, it was understood that captives were Christians held by Muslims, and vice versa. The occasions of capture were numerous on both land and sea. Battles and sieges were capable of producing the largest number of captives but these events were unusual and sporadic<sup>2</sup>. More common were raids by sanctioned forces, such as municipal militias or privateers, and those who operated without official authorization, such as bandits and pirates. In the twelfth century, the primary zone of capture can be located along a lengthy land frontier that stretched across Iberia from the center of Portugal to northern Valencia; in the thirteenth century, this narrowed to the borderlands surrounding the Nasrid kingdom of Granada<sup>3</sup>. Consequently, after the conquest of the Algarve, Andalusia, Murcia, Valencia and the Balearic Islands by Christian kingdoms, the frontier of conflict was increasingly at sea where fishermen, the residents of coastal villages, and the crews of merchantmen and war galleys were at risk of capture.

The study of medieval prisoners of war and their fate can be approached from two perspectives. The first is that of the law which establishes a theoretical status for captives and defines the extent of society's formal obligations toward those detained by others. The second is that of practice –what do we know exactly about the treatment of such prisoners and how realistic were their expectations of liberation? Turning to the first of these, we find a basic contrast in the treatment of captives between Christian and Islamic law. In one area, however, both legal traditions are in agreement. The law of neither society accords to captured individuals –whether combatants or non-combatants, male or female, adult or juvenile– the provisional status found in the Geneva Conventions. This modern usage presumes that the end of hostilities will also terminate the confinement of all prisoners of war. In medieval usage, to the contrary, those taken captive in war became slaves –to be distributed as booty among the victors, to be sold for profit in the marketplace, or to be offered the possibility of liberation through the payment of a ransom or an exchange for another prisoner. Apart from this agreement regarding the legal status of prisoners of war, however, the two legal traditions diverge. Christian custom tends to focus upon the fate of Christian captives, while Muslim law tends to focus upon non-Muslims taken

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<sup>2</sup> For example, Castile's raid upon the Muslim port of Salé in 1260 was said to have yielded over 3,000 Muslim captives, and the Marinid victory over Castile at Ecija in 1275 some 7,830 Christian captives. Ibn 'Idhārī, *Al-Bayān al-Mugrib fi Ijtisār ajbār Muluk al-Andalus wa al-Magrib*, trans. Ambrosio HUICI, Tetuán, 1954, 2: 269-271.

<sup>3</sup> For captives on the frontier between the Kingdom of Castile and Granada, see F. VIDAL CASTRO, *El cautivo en el mundo islámico: visión y vivencia desde el otro lado de la frontera andalusí*, in José MARTÍNEZ MOLINO - Francisco TORO CEBALLOS (eds.), *II Estudios de Frontera*, Jaén, 1998, pp. 771-823; and M. ROJAS GABRIEL, *La Frontera entre los reinos de Sevilla y Granada en el siglo XV (1390-1481)*, Cádiz, 1995, pp. 204-234.

captive. Neither tradition paradoxically has much to say about Muslims who become the captives of Christians.

Unlike Christian practice, the redemption of captives within Muslim society was never institutionalized; liberation generally remained a work of individual piety. The Qur'an itself recognized ransoming as a legitimate work of mercy; it lists alms to those in bondage—slaves as well as captives—as among the good works ordained by God<sup>4</sup>. Nur al-Din, who in the twelfth century controlled a broad swath of territory from northern Iraq to Egypt, vowed to devote twelve hundred dinars to the ransom of soldiers from North Africa held by western Crusaders precisely because, far from home, these Muslim captives did not have access to alms that ordinarily would have come from their families and friends. He did not do this out of any political obligation. Consequently, apart from bilateral exchanges of prisoners that were a part of treaties negotiated between Christian and Muslim princes, the ransoming of Muslim captives depended upon charity, and usually that of local communities. Professional ransomers, such as the *exeas* and *alfaques* in Spain, who would negotiate such liberations, were normally private individuals contracted by families, not public officials in service of a king<sup>5</sup>.

Muslim legal sources, however, pay a great deal of attention to the status of Christians, Jews and others taken prisoner in times of conflict. Since such captives had unconditionally lost their liberty, their captors could utilize their labor, use them as diplomatic bargaining tools, execute them, or gain profit by offering captives the possibility of being ransomed. The question of what to do with captured prisoners of war appeared very early in Islamic history. In AD 624, Muhammad was asked to decide the fate of seventy non-Muslim Arabs taken captive by his army. These, incidentally, included his own uncle, a cousin and a son-in-law. The prophet, lacking any revelation from God at this point, asked his advisors for their opinions. Some argued for mercy, that the prisoners should be permitted to ransom themselves; others counseled death. While Muhammad, in this instance, permitted the prisoners to purchase their freedom, the debate among Muslim jurists on this issue continued and was framed by these two positions<sup>6</sup>.

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<sup>4</sup> Qur'an 9/60.

<sup>5</sup> Raoudha GUEMARA, *La libération et le rachat des captives. Une lecture musulmane*, in Giulio CIPOLLONE (ed.), *La liberazione del 'cattivi' tra christianità e islam. Oltre la crociata e il ḡibād: tolleranza e servizio umanitario*, Vatican City, 2000, pp. 341-2; see also Selim Hassan ABDEL WAHAB, *Captives Waqf in Syria and Egypt (491-589 H./ 1097-1193 A.D.)*, in Giulio CIPOLLONE, pp. 559-560. See also A. GARCÍA SANJUAN, *Frontera, jibād y legados piadosos en al-Andalus (siglos X y XI)*, in José MARTÍNEZ MOLINO-Francisco TORO CEBALLOS (eds.), *III Estudios de Frontera*, Jaén, 2000, pp. 323-324.

<sup>6</sup> Attiya Ahmed AL KOOSY, *Prisoners in Holy War between Theology and Law, a Muslim reading of the fifth-sixth century of Hijira – Eleventh-Twelfth Christian Century*, in Giulio CIPOLLONE, pp. 622-623; Raoudha GUEMARA, *La libération*, p. 335.

Within Islamic law, furthermore, not everyone is a legitimate captive. The spirit of the Qur'an seems to suggest, first of all, that no one can be captured outside of a valid war – a jihad. This form of conflict would require authorization by a legitimate authority; it must be a war of defense; and the enemy must have been offered and then refused the opportunity to become a Muslim. Within these parameters, how are captured individuals to be treated? In general, the Qur'an allows Muslims the option of taking prisoners only after an enemy force has been seriously weakened, to the point of being subdued. The implication is that prisoners from a viable force still dangerous to the Muslim army should be executed and only those taken from a defeated enemy should be offered the possibility of ransom<sup>7</sup>.

During their period of confinement, legitimate captives are supposed to be treated with dignity and those who agree to accept Islam are to be freed as an act of charity, without payment of a ransom. The Qur'an even includes imprisoned captives, alongside orphans and Muslim paupers, as legitimate objects of charity; it is pleasing to God that they be fed. The ransom itself is to be negotiated between the captive and his Muslim master<sup>8</sup>.

Medieval jurists refined these general principles by seeking to define more precisely various categories of captives. Al-Wanšarīsī (1431-1508), a late medieval jurist from North Africa, distinguished between male and female captives; among the former he made a further distinction between adults, minors and those who were old or wounded. The thirteen authorities that he cites, who wrote between the ninth century and his own time, debated whether able-bodied adult men should be killed or kept as slaves, who could then be ransomed. Women and children, however, could be put to death only if they actively fought against Muslims and only on the field of battle. The elderly could be killed only if healthy and mentally fit. Otherwise, women, minors and those too weak to fight should be offered the possibility of liberation. Some jurists, however, argued that children should be freed only if they were accompanied by parents; others felt that children should never be sold for money but only used in prisoner exchanges. Most authorities argued prisoners could not be ransomed once they had been interned in an Islamic land. At that point, they could be used only as slaves or as prisoners to be exchanged for Muslim captives. This would seem to indicate that jurists saw redemption as something immediate; long-term captivity meant only slavery. Exceptions in these rules, however, were made for the lands in al-Andalus (Muslim Spain) – on the argument that ransom money was an important resource for defending Muslim lands from Christian at-

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<sup>7</sup> Qur'an, 47/4; «It is not fitting for a Prophet that he should have prisoners of war until he hath thoroughly subdued the land» Qur'an, 8/67. Raoudha GUEMARA, *La libération*, pp. 335-337

<sup>8</sup> Qur'an, 76/8; Raoudha GUEMARA, *La libération*, pp. 338-340.

tack<sup>9</sup>. Indeed, this exception proved generally to be true in the western Mediterranean where Christians, held in Granada or North Africa, oftentimes for years, were definitely candidates for redemption.

Christian sources, just as Muslim, pay scant attention to Muslims taken and enslaved as captives. In the great Alfonsine code, the *Siete Partidas*, Muslim captives are only recognized as one of three kinds of slave held in thirteenth-century Castile. (4.21.1)<sup>10</sup> The municipal law code (*fuero*) of Cuenca somewhat earlier recognized that such Muslim slaves could be employed as a form of ransom to be used to free Christians held as captives. Indeed, so important was this function that such Muslims taken as booty were exempted from the usual twenty percent tax levied on booty by the king. Furthermore, any citizen of Cuenca who injured a Muslim destined for such an exchange became liable for the payment of the Christian's ransom<sup>11</sup>.

The fate of Christian captives, however, is a major theme in legal and ecclesiastical sources within medieval Iberia. First of all, as in Islamic society, the ransoming of captives is framed as an act of charity. The practice of charity is a fundamental principle of all Abrahamic religions and for each the religious obligation to free captured coreligionists is strong. For Christians, the obligation of charity is not only rooted in the Old and New Testament teaching but is one taken up by numerous Church Fathers. Bishops, as fathers of the poor, emerge as principal dispensers of alms in the fourth century. While much charity in the early Middle Ages was of a symbolic character, a strong individual and community response to the needs of the poor arises in the twelfth century. This concern is a product of new urban environments, an incipient capitalism that widened the gap between rich and poor, and a new spirituality that prized simplicity and sharing. Reformers and canon lawyers, furthermore, began to argue that the needy, as the «poor of Christ», possessed an affirmative right to material assistance. This impulse toward charity provides an important ideological underpinning for all acts of ransoming as well as for the legisla-

<sup>9</sup> Ahmed BENREMDANE, *Al ʿYibād y la cautividad en los dictámenes jurídicos o fatwas de los alfaquíes musulmanes y de Al Wanšarīšī, en particular: el case de los musulmanes y de los cristianos de Al Andalus*, in Giulio CIPOLLONE, pp. 447-455; Milouda HASNAOUL, *La ley islámica e el rescate de los cautivos según las fetwas de al- Wanšarīšī e Ibn Tarkāt*, in Giulio CIPOLLONE, pp. 551-559

<sup>10</sup> There are several accessible editions of the *Siete Partidas*. In Spanish, there is: *Las siete partidas del rey Don Alfonso El Sabio*, 3 vols., 1971 reprint; Madrid, 1806; José Sánchez-Arcilla BERNAL (ed.), *Las siete partidas: el libro del fuero de las leyes*, Madrid, 2004. In English, there is the translation of Samuel Parsons SCOTT: *Las Siete Partidas*, Chicago, 1931; this has been reprinted with additional notes by Robert I. BURNS: *Las Siete Partidas*, 5 vols., Philadelphia, 2001. For the convenience of the reader who can use any of these editions, references to the laws are given in the text parenthetically. Thus, 2.10.2 refers to the second *partida*, the tenth *título*, and the second *ley*.

<sup>11</sup> James F. POWERS (trans.), *The Code of Cuenca: Municipal Law on the Twelfth-Century Castilian Frontier*, Philadelphia, 2000, pp. 34, 80, 169, 206.

tion which appears in Spain and elsewhere in Europe that addresses the needs of the poor in general and that of captives in particular<sup>12</sup>.

From the legal perspective, the idea of providing assistance to captives is first taken up in the municipal legislation of the twelfth century. As in the late twelfth-century *fuero* of Cuenca, the earliest citation of Christian captives seeks to facilitate the exchange of a Muslim captive for a Christian by regulating the price that could be charged for Muslim slaves used in such exchanges. In addition, if the Christian had been taken captive while on municipal militia service, towns agreed to provide to families free of charge a Muslim slave who had been taken as booty. This latter individual could then be exchanged for the captured Christian. There were also laws to protect a captive's property while he was absent, to establish a limited moratorium on whatever debts that he owed, and to define the obligations of wives and children toward a captured husband or father. Finally, the towns established basic regulations to govern the conduct of merchants and other intermediaries, called variously *exeas* and *alfaques*, who would travel into Muslim lands to facilitate a prisoner exchange or to negotiate a ransoming. On the municipal level, the intent was to shield a captive or his family from being taken advantage of or cheated by others. Thus, apart from providing a suitable exchange slave for militiamen, frontier communities declined to accept any corporate responsibility for liberating any resident of the town<sup>13</sup>.

These same topics are explored in much greater detail in Alfonso X's *Siete Partidas*, a law code promulgated for the Kingdom of Castile ca. 1260<sup>14</sup>. This large compendium of customary and Roman law represents the most complete statement of medieval Iberian practices regarding the captive, of his rights and of the obligations of others toward him<sup>15</sup>. In this code, the captive is specifically differentiated from other prisoners. The designation of prisoner is limited to Christians taken in a conflict against other Christian realms. These, as modern prisoners of war, were not to be executed, sold into slavery or subjected to excessive torture. The captive, on the other hand, is defined as a person who has been taken prisoner by some-

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<sup>12</sup> For a discussion of charity and Jewish captives, see Mark R. COHEN, *Poverty and Charity in the Jewish Community of Medieval Egypt*, Princeton, N.J., 2005, pp. 109-123. For an extended discussion of Christian ideas of charity and their application in medieval society, see James William BRODMAN, *Charity and Religion in Medieval Europe*, Washington, D.C., 2009, pp. 9-44. For Christian charity and ransoming, see Giulio CIPOLLONE, *Christianità-Islam: Cattività e liberazione in nome di Dio: Il tempo di Innocenzo III dopo 'il 1187'*, Rome, 1992, pp. 351-394.

<sup>13</sup> See my *Municipal Ransoming Law on the Medieval Spanish Frontier*, in *Speculum*, 60 (1985), pp. 318-330.

<sup>14</sup> The date for the promulgation has been disputed among various historians, with Joseph O'CALLAGHAN arguing for an earlier date, at some point between 1256 and 1265. See his *The Learned King: The Reign of Alfonso X of Castile*, Philadelphia, 1991, pp. 36-37.

<sup>15</sup> Interestingly, the topic does not appear in the other Alfonsine codes – the *Fuero real* or the *Espéculo de las leyes*; it is also absent from the near contemporary Valencian code of King James I: *Furs de Valencia*.

one of another religion. Because of the religious divide separating captive and captor, captives could be enslaved and maltreated. They lost all rights over property and connection to their family. Husband could be separated from wife, and parents from their children. (2.29.1) As in Islamic practice and foral law, the context into which the Christian captive is placed is one of charity. King Alfonso does not take any personal responsibility as king for the rescue of captives who are natives of his realms; the institutions of liberation are not tied administratively or institutionally to the royal court or to any other public institution within the kingdom. As in the *fueros*, the king's purpose in addressing the subject of captives is to use public policy to promote their liberation in the same manner that the king also sought to assist pilgrims, widows, minor and abandoned children, the feeble and the handicapped. King Alfonso, in short, encouraged his subjects to be charitable and used the law to forbid anyone to cheat or misuse a captive and his family.

The code, in terms not dissimilar from Muslim texts, thus describes ransoming as a work of piety and mercy. Captives, King Alfonso believed, should be liberated because the work of aiding a grieving neighbor pleases God. In his list of pious and meritorious works, Alfonso ranked the ransoming of captives as the most important, and exempted alms given for captives from restrictions that applied to other categories of gift. This even included the usual prohibition against the alienation of church property; here, the king ruled that parish property could be sold if the proceeds were used for the liberation of captives. (1.14.1; 5.4.9) This work also would be rewarded by God and human society because it inflicted harm upon the enemy. Here, evidently the king weighed the return of a Christian to the body politic as being strategically more important than any economic boost given Muslim society through the payment of a ransom. (1.23.7; 2.29.2) In this vein, those who were captured through their own negligence –admittedly a vague concept– or who converted and became Muslim were denied any benefits that accrued to legitimate captives. (2.29.9)

The king, first of all, sought to protect the captive's ownership of property. None of it might be sold or alienated during the term of captivity except for the purpose of liberating its owner. Earlier legislation placed a temporal limit upon the inviolability of a captive's property. For example, in 1114, an ecclesiastical synod meeting at Santiago de Compostela suggested that the possibility for a captive's liberation waned after a year by setting a maximum of one year on its protection for a captive's goods<sup>16</sup>. Advances in the infrastructure of liberation in the thirteenth century, however, might account for the elimination of this temporal limit in the *Siete Partidas*, where only death ended a captive's property rights. To ensure the preservation of these goods, and perhaps their value, for their eventual use in a ransom,

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<sup>16</sup> *Consilium compostellaneum*, cap. 22, in J. D. MANSI (ed.), *Conciliorum Nova et Amplissima Collectio*, Florence and Venice, 1759-98, 21: 122.



the code calls for their proper management -- by a close relative or else by an agent approved by the crown. A rescued captive was given four years after his liberation within which to make any claims of theft or malfeasance against those who had control over his property. (2.29.4-5) The ability of a captive to transfer property during the period of his incarceration, further, was limited; no bequests were to be considered valid unless executed before relatives --and surely this would be unlikely-- who could attest that the action was free of coercion. (2.29.6) Children who are born to a female captive, however, inherited whatever rights they would have to family property as if they had been born at home. (2.29.7)

The obligation to ransom belonged first to a spouse and a son, then to relatives, next to associates such as lords or vassals and friends, and finally to all fellow believers. (2.29.3) Wives who neglected the ransoming of a husband were held to forfeit their share of the marital property. (2.29.3) Offspring, or others named in a will, could be disinherited if they failed to attempt their kinsman's liberation. Instead, the property in question should be seized by the bishop and applied toward the ransoms of needy local residents. Elsewhere in the code, the bishop is named as the ordinary recipient of alms left to captives and it was his responsibility to distribute such legacies among the needy. (6.3.20; 6.10.5) The *Siete Partidas*, however, does not impose the obligation found in several *fueros* that sons stand hostage as substitutes for their fathers<sup>17</sup>.

Apart from formal negotiations for a truce or a treaty, which frequently included the release of captives, the business of negotiating a captive's freedom was a private affair in both Christian and Muslim society. One presumes that family members themselves might undertake such bartering if the site of captivity was reasonably proximate or if the family were able by dint of wealth or occupation to travel abroad. Such dealings, however, were likely beyond the ken of most families, who consequently were forced to seek the assistance of others. In one of the earliest instances, Count Ramón Berenguer of Barcelona named in 1104 several Jewish merchants to undertake the task of traveling into Islamic territory to negotiate the release of captives. In subsequent sources, these intermediaries come to be called *exeas* and *alfaqueques*<sup>18</sup>.

In Christian sources, these individuals first appear in the *fueros*<sup>19</sup>. In the twelfth century, they were frequently merchants who traveled in caravans or *requas* between

<sup>17</sup> This was common in the Cuenca-Teruel family of *fueros*; noteworthy is the absolute prohibition against the use of daughters in this fashion. See James W. BRODMAN, *Municipal Ransoming Law*, p. 324.

<sup>18</sup> Fritz BAER (ed.), *Die Juden in Christlichen Spanien*, Berlin, 1929, 1: 7-8, no. 13.

<sup>19</sup> The first reference is in the *carta puebla* or settlement charter of Belchite issued by Alfonso I of Aragon in 1116. Belchite, a frontier town intended to protect the flanks of the recently conquered city of Saragossa, was the site of a military confraternity and presumably an area where capture was particularly likely. See *Carta de población de Belchite*, in Tomás MUÑOZ Y ROMERO (ed.), *Colección de fueros*

Christian and Muslim centers of population and thus would be ideal agents for negotiating either a ransoming or an exchange of prisoners<sup>20</sup>. Since such trade, not just in captives but also in livestock and other goods, was useful to both sides, the *exeas* from the beginning traveled under royal protection. In the charter of Belchite, there was a sanction of a thousand *solidi* levied against anyone who would interfere in their travels. Just as their compensation for transporting livestock was regulated, so too was their fee for the captive trade: ten percent of the ransom paid or, for prisoner exchanges, one gold *maravedí*. In Castilian and Portuguese *fueros*, the term *alfaunque* appears in place of *exea*<sup>21</sup>. The thirteenth-century Alfonsine code deals with the *alfaunque* purely in a ransoming context. It defines him as an honorable agent, engaged in a work of piety, who had these basic qualities: honesty, generosity, an ability to speak different languages, courage, the ability to act without prejudice, and status as a property owner. Unlike in the *fueros* where these agents were private contractors, in the *Siete Partidas* they acquire a quasi-official status. They are to be appointed by the king or his representatives and they are required to swear an oath on the Gospels to fulfill their duty. To protect the interests of the captive, they are cautioned to travel by the most direct route, to guard carefully the money and goods being transported, and to limit their activities to trading for captives. They are sanctioned for delaying a ransoming or misappropriating funds destined for the payment of a ransom. (2.30.1-3) As in the *fueros*, these agents are to be paid for their services unless the *alfaunque* intended the act to be one of personal piety, he liberated a spouse or son, or he maltreated a captive. The example given of improper treatment is the rape of a female captive. (2.29.12) Captives, on the other hand, who failed to reimburse the agent for the ransom paid out or refused to pay the *alfaunque*'s fee were not to be enslaved. The *alfaunque*, however, was empowered to hold such a liberated captive in custody and use him as a servant for up to five years. (2.29.11) In the Crown of Aragon, in the late Middle Ages the *exea* also completed this transition from private agent into an official appointed by the crown, usually for a particular region<sup>22</sup>. While *exeas* were typically Christians, there are examples of Muslims be-

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*municipales y cartas pueblos de los reinos de Castilla, León, Corona de Aragón y Navarra*, Madrid, 1847, pp. 413-414.

<sup>20</sup> Stephen Bensch, however, argues that these intermediaries could be seasoned warriors, such as Bernat Marcús, who served in this capacity in the mid-twelfth century. See his *From Prizes of War to Domestic Merchandise: The Changing Face of Slavery in Catalonia and Aragon*, in *Viator* 25 (1994), pp. 72-73.

<sup>21</sup> James W. BRODMAN, *Municipal Ransoming Law*, pp. 327-329.

<sup>22</sup> In 1271, for example, Guillermo de Antisco was named *exea* in the Kingdom of Valencia by King James I and in 1272 Eximo Pérez de Osco, for the region beyond the Júcar. In 1300, Johan de Barbastro was named *exea* for Murcia and Granada. Jesús Ernesto MARTÍNEZ (ed.), *Catálogo de los documentos referentes al antiguo reino de Valencia, reinado de Jaime I*, Madrid, 1934, 1: 325, no. 1484; 1: 332, no. 1516; José María RAMOS Y LOSCERTALES, *El cautiverio en la Corona de Aragón durante los siglos XIII, XIV y XV*, Saragossa, 1915, pp. 155-156. In 1277, further, two Muslims were given royal permission to reside in Valencia in

ing used in this capacity. For example, the city of Valencia in the fifteenth century employed a Muslim merchant, Jucef Xupió, to negotiate ransomings and captive exchanges<sup>23</sup>.

While within *fueros* the motive behind the deliverance of lost townsmen seems to be practical and humanitarian, the *Siete Partidas* speaks of liberation within the context of Christian piety and charity. Ransoming is just one, albeit the most important, of a long list of works of mercy that are pleasing to God. However, the ranking, one suspects, grows out of the practical and humanitarian motivations found in the municipal sources. The emphasis evident in the Alfonsine code upon the religious character of ransoming must derive at least in part from the Church's involvement with this work. From the mid-twelfth century, bishops in Spain began to include ransoming among the other acts of crusade against Muslims by granting to those who assist in this work a modest indulgence of forty days. In the thirteenth century, kings, popes and private individuals listed the ransoming of captives among the important works of piety<sup>24</sup>.

The turn of the thirteenth century witnesses two important milestones in the Church's growing commitment to the rescue of captives. The first is the emergence of papal support. Losses sustained at the Battles of Hattin (Palestine) in 1187 and at Alarcos (Castile) in 1195, Yvonne Friedman argues, brought about a change of attitude toward captives in the western Church. This led to the widespread adoption of liturgical prayers asking God for the liberation of captives. In 1188, Pope Clement III made such prayers part of a liturgy for the Holy Land<sup>25</sup>. Papal concern for captives becomes particularly apparent during the pontificate of Innocent III (1198-1216). Against the background of Christian defeats at Hattin and Alarcos, Innocent faced the crisis of many thousands of Christians being held captive. He responded to this in 1198 by patronizing the new Order of the Holy Trinity and in 1199 by encouraging its members to attempt the ransom of captives in Morocco. Later in his pontificate, he showed a particular concern for captives being held in Egypt, asking the Melkite patriarch of Alexandria to see to their spiritual needs and prodding the Orders of the Hospital and Temple to negotiate for their release. In a letter of April, 1213 addressed to the patriarch of Alexandria, Innocent asks how any Christian could fulfill his obligation to love his neighbor while so many Christians

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order to negotiate the freedom of Muslim captives: Jesús Ernesto MARTÍNEZ, *Catálogo de Valencia*, 2: 65, no. 261. For other examples of *exceas* functioning as royal ambassadors, see Jarbel RODRIGUEZ, *Captives and Their Saviors in the Medieval Crown of Aragon*, Washington, D.C., 2007, pp. 122-123.

<sup>23</sup> Jarbel RODRIGUEZ, *Captives*, p. 123.

<sup>24</sup> See, for example, James W. BRODMAN, *The Rhetoric of Ransoming*, in James POWELL (ed.), *Tolerance and Intolerance: Social Conflicts in the Age of the Crusades*, Syracuse, 2001, pp. 45-46.

<sup>25</sup> Yvonne FRIEDMAN, *Encounter between Enemies: Captivity and Ransom in the Latin Kingdom of Jerusalem*, Leiden, 2002, p. 87.

were held in captivity<sup>26</sup>. While Innocent's successors do not appear to have been as deeply devoted to the liberation of captives, nevertheless, they supported the work by granting various indulgences to those who contributed alms to this work.

The second innovation of the early thirteenth century is the appearance of the redemptionist orders. While various military orders throughout the twelfth century assisted captives<sup>27</sup>, it is not until the thirteenth century that this work of charity became the principal apostolate of any religious association. The first of these was established in 1198 by the Frenchman, Jean de Mathe, and called the Order of the Holy Trinity. While it operated traditional shelters for the poor throughout western Europe, it defined the ransoming of captives as its other major activity. In the Middle Ages, it worked to liberate captives from Spain to Palestine. The second of the redemptionist orders is that of Our Lady of Mercy, founded ca. 1230 in Barcelona by Pere Nolasc. The Mercedarians became active in southern Italy, southern France and throughout Iberia. Both organizations not only negotiated directly for captives but also raised alms to support their own initiatives as well as to subsidize the efforts of families and other individuals to free friends and relatives. While alms and legacies for captives can be documented as early as the eleventh century, these charitable initiatives do not become organized and systematized until the onset of these two redemptionist orders<sup>28</sup>.

Another sign of the religious significance of the liberation of Christian captives is the appearance of miracle stories. A number of saints become associated with miraculous escapes from captivity: the Virgen of Guadalupe, St. Dominic, St. Isidore of Seville, St. Anthony of Padua, Santo Domingo de la Calzada but particularly Santo Domingo de Silos. The latter figure in the eleventh century gained renown as abbot of the Benedictine monastery of Silos in Old Castile. In the thirteenth century, he became associated with the ransoming of captives. At this time, a monk of Silos, Pero Marín, assembled a collection of some sixty-eight miracle stories that relate how various Christians, after their capture by Muslims, managed to escape through the intercession Santo Domingo. One can still view at Silos the shackles brought to the monastery by captives in gratitude for their liberation<sup>29</sup>.

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<sup>26</sup> Brenda BOLTON, *Perhaps you do not know?: Innocent III's approach to the release of captives*, in Giulio CIPOLLONE, pp. 457-461; see also PL 214: 828-830, no. 35.

<sup>27</sup> The efforts of the military orders are particularly notable in Spain, where the Orders of Santiago and Mountjoy operated hospices for captives. See James W. BRODMAN, *Military Redemptionism and the Castilian Reconquest, 1180-1250*, in *Military Affairs*, 44 (1980), pp. 24-27; and *Charity and Religion*, pp. 101-103, 108, 111, 115.

<sup>28</sup> For a convenient overview of the redemptionist orders, see James W. BRODMAN, *Charity and Religion*, pp. 150-172.

<sup>29</sup> Pero MARÍN, *Miraculous Romanzados*, in Sebastián VERGARA (ed.), *Vida y milagros del thaumaturgo español moysées Segundo, redemptor de cautivos, abogado de los felices partos, Sto. Domingo Manso, abad benedictino, reparador del real monasterio de Silos*, Madrid, 1726; Ángeles GARCÍA DE LA BORBOLLA, *Santo*

In addition, Alfonso X's *Cantigas de Santa Maria*, written in the mid-thirteenth century, notes not only the suffering of captives but also the Virgin Mary's role in effecting their liberation<sup>30</sup>.

What made the captive worthy of this ecclesiastical assistance, as a fit object of charity? Two issues seem to have been the most important. Among the hierarchy, particularly the popes, the principal concern was apostasy. The temptation to become Muslim must have been strong because Islamic law promised freedom to any who renounced their former creed and embraced Islam. This was an issue raised by Innocent III in his letters to the patriarch of Alexandria in 1212, and again in 1226 by Pope Honorius III in a letter to the archbishop of Tarragona<sup>31</sup>. It was a reality in 1340 when sailors captured from Castilian galleys chose conversion to Islam over death<sup>32</sup>. Papal rhetoric in letters seeking alms for captives places a particular emphasis upon the sufferings of captives and consistently characterize Muslims as religious enemies<sup>33</sup>. Jarbel Rodríguez posits a variety of reasons why a Christian captive might turn Muslim: ecstatic conversion based upon religious conviction, a perceived moral permissiveness in Islam, the emotional and intellectual vulnerability of young captives, a hope of economic gain, and even the fear of death. Most important, however, was the harshness of a captive's existence and the normal, human desire for relief from the burden of work and the misery of day-to-day life. Thus, the fear of apostasy expressed by popes and other ecclesiastics was a very real one<sup>34</sup>.

The second basic motivation grows out of the biblical injunction to love one's neighbor. The definition of neighbor, however, is an elastic one. There are instances where the call to assist captives was quite broad and asked that one Christian help another merely on account of a shared faith; at other times, however, the definition of neighbor became more literal. In these cases, aid was limited only to those affiliated with one's own community.

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*Domingo de Silos y las milagrosas redenciones de cautivos en tierras andaluzías*, in Giulio CIPOLLONE, pp. 540-546; Joseph O'CALLAGHAN, *Reconquest and Crusade in Medieval Spain*, Philadelphia, 2003, p. 148. On the Virgen of Guadalupe, see Pilar GONZÁLEZ MODINO, *La Virgen de Guadalupe como redentora de cautivos*, in María Jesús BUXÓ I REY, Salvador RODRÍGUEZ BECERRA, León Carlos ÁLVAREZ Y SANTALÓ (eds.), *La religiosidad popular*, vol. 2, *Vida y muerte: la imaginación religiosa*, Barcelona, 1989, pp. 461-471.

<sup>30</sup> «A man from Lucena was taken captive; his captors tortured him, bound him in chains, and threw him in prison. He prayed to the Virgin of Sopetrán to release him. The doors of the prison opened and the man fled past the sleeping guards. He went to Sopetrán, near Hita. He reported the miracle and it was written down. People praised the Virgin». *Cantigas de Santa Maria*, 83.18. Available online at <http://csm.mml.ox.ac.uk/index.php?p=poemdtaview&rec=83> (accessed July 20, 2010).

<sup>31</sup> Brenda BOLTON, *Perhaps*, p. 459; J. MESNAGE, *Le christianisme en Afrique: Eglise mozarabe, esclaves chrétiens*, Algiers and Paris, 1915, p. 65.

<sup>32</sup> Diego CATALÁN (ed.), *Gran Crónica de Alfonso XI*, Madrid, 1977, 2: 288-290.

<sup>33</sup> James W. BRODMAN, *Rhetoric of Ransoming*, pp. 47-49.

<sup>34</sup> Jarbel RODRIGUEZ, *Captives*, pp. 84-90.

The love of neighbor as shown to captives was manifested through the giving of alms. This task was particularly important because for most captives the size of the ransoms demanded exceeded the means of a typical family<sup>35</sup>. Each of the redemptionist orders had a complex strategy to raise such funds. This included the development of a landed patrimony, whose income could be devoted to this purpose, the establishment of confraternities and spiritual ties that would bind groups and individuals to the orders, the dispatch of preachers to visit parishes in order to seek alms, and the placement of alms boxes at key locales in cities. Perhaps most effective was the use of recently ransomed captives whose personal testimony of their own sufferings was designed to loosen the purse strings of potential givers<sup>36</sup>. Bishops, as we have seen in the *Siete Partidas*, were the designed recipients in Castile of alms bequeathed to captives; in 1256 the archbishop of Tarragona relinquished this role in Catalonia to the Mercedarians<sup>37</sup>. In some cases, municipalities would be the agents for the collection of alms for captives. Most notable is the case of Valencia on Iberia's eastern coast, a city particularly vulnerable to the depredations of marauders. Beginning in 1323 the city organized the collection of alms and bequests for captives and then devised a system for their distribution among captives who were citizens of Valencia<sup>38</sup>.

Some families and individuals took personal responsibility for soliciting alms on their own behalf. Yet even these self-reliant individuals depended upon community assistance. One form that this took was the grant of a begging license, which exempted individuals for a period of time -- usually less than a year -- from the ordinary restrictions against mendicancy. Such licenses could be granted by local authorities or by the king. A study of these for the city of Girona in Catalonia set in the fourteenth century reveals such aid to captives who were held in a variety of ports in North Africa; similar privileges were accorded those who used the alms collected to construct coastal fortifications designed to ward off pirate attacks and so diminish future instances of captivity. In these cases, the licenses were a concession of the bishop of Girona, but the king of Aragon also issued similar privileges<sup>39</sup>.

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<sup>35</sup> For a discussion of the size of a ransom and the burden it placed upon a family, see Jarbel RODRIGUEZ, *Financing a Captive's Ransom in Late Medieval Aragon*, in *Medieval Encounters*, 9 (2003), pp. 166-170.

<sup>36</sup> On the use of captives, see James W. BRODMAN, *Ransoming Captives in Crusader Spain: The Order of Merced on the Christian-Islamic Frontier*, Philadelphia, 1986, pp. 98-100; Gillian Lee WEISS, *From Barbary to France: Processions of Redemption in Early Modern Cultural Identity*, in Giulio CIPOLLONE, pp. 789-808; Jarbel RODRIGUEZ, *Captives*, pp. 182-189.

<sup>37</sup> On testamentary bequests on behalf of captives, see Jarbel RODRIGUEZ, *Financing*, pp. 172-176. On the Mercedarian appropriation of ransoming bequests, see José María RAMOS Y LOSCERTALES, *El Cautiverio*, p. 179.

<sup>38</sup> Jarbel RODRIGUEZ, *Financing*, pp. 179-180.

<sup>39</sup> Eduard SIERRA VALENTÍ, *Captius de sarraïns. Llicències per demanar caritat dels bisbes de Girona (1376-1415)*, in *Anuario de estudios medievales* 38(2008), pp. 386-395; Jarbel RODRIGUEZ, *Financing*, pp. 172-173.

The principal form of ecclesiastical assistance to captives took the form of indulgences that were granted to individuals who contributed alms for this cause. While, as one would expect, many of these indulgences were addressed by bishops or the pope to Mediterranean communities most affected by captivity, these pardons, however, were remarkably wide in their dissemination. One would not think that the plight of captives would be at the forefront of the English social conscience, yet there is consistent evidence of ransoming indulgences being preached in England down until the onset of the Reformation. Not only were the redemptionist orders, the Trinitarians and Mercedarians, active in the kingdom, but English bishops gave licenses to individual captives, or their representatives, to raise alms. Notable are the several instances in the late Middle Ages of individuals, some English, some not, who had been captured by the Ottoman Turks, being authorized to collect alms and offer indulgences to those who responded to their pleas. In addition to these individual efforts, in the late 1420s, a general collection was taken up in England at the urging of Pope Martin V to benefit captives held in the Mediterranean region<sup>40</sup>.

Indulgences issued on behalf of captives, however, are far more prevalent in the Iberian peninsula than in England. One of the earliest dates from 1184 when the bishop of Cuenca granted forty-days remission to any who supported the Order of Santiago's ransoming efforts in his city<sup>41</sup>. It is not until the 1240s, however, that papal indulgences become a regular part of the fund-raising activities of the redemptionist orders. While Pope Innocent III, as we have seen, may have had a particular interest in the redemption of captives, with his successors this spiritual generosity became part of the general papal largesse dispensed to virtually every conceivable organization and institution within the western Church<sup>42</sup>. Nonetheless, the frequency and regularity of such papal concessions testify that the ransoming of captives was broadly recognized as a work of mercy appropriate to the Christian faithful<sup>43</sup>.

Iberia was also a central focus for the two ransoming orders. Each established houses in Portugal, the Crown of Aragon and Castile. While the Mercedarians were especially prominent in the Crown of Aragon, the Trinitarians outshone them in Castile where a network of houses dates from the early thirteenth century. One has the sense that during the apogee of the Reconquest during the first half of the thirteenth century, the concern for captives in the Peninsula was broad and

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<sup>40</sup> R.N. SWANSON, *Indulgences in Late Medieval England: Passports to Paradise*, Cambridge, 2007, pp. 58, 60, 70, 78, 142-147, 200-3, 403, 427, 462.

<sup>41</sup> Antonio Francisco AGUADO DE CÓRDOBA (ed.), *Bullarium equestris ordinis de Spatha*, Madrid, 1719, p. 30.

<sup>42</sup> R.N. SWANSON, *Indulgences*, pp. 30-32.

<sup>43</sup> For examples of papal indulgences, see James William BRODMAN, *The Trinitarian and Mercedarian Orders: A Study of Religious Redemptionism in the Thirteenth-Century*, Ph.D. dissertation, University of Virginia, 1974, pp. 269-71. See also, James William BRODMAN, *Ransoming Captives*, p. 100.

no discrimination among its victims is apparent. Increasingly after 1250, however, as political frontiers stabilized and as captivity became less a consequence of war and more one of raiding and piracy, a strong regional bias in the collection and disbursement of alms becomes apparent. Thus, Aragonese were ransomed with Aragonese alms, and Castilians with the support of their own community. In 1349, for example, King Peter IV of Aragon complained to the king of Granada that the latter had forced the Mercedarians to ransom certain captives who were not from his realm. In late medieval Castile, among Trinitarian houses, only those who contributed to the collection of alms could even participate in the Order's ransoming activities. Such bias toward immediate neighbors suggests, therefore, that charitable ransoming was never entirely grounded in a selfless religious ideology, but instead shaped by forces of community identity and solidarity that believed in a charity beginning at home<sup>44</sup>.

Apart from charity, the other principal recourse of the captive was his sovereign, who might negotiate his release much as a modern government would seek the return of prisoners at the end of any period of hostility. The principal cause of captivity considered during these negotiations was piracy and coastal raiding conducted by both Christian and Muslim corsairs. After a lull with the fall of the Umayyads in the early eleventh century, these maritime depredations reemerged in the thirteenth century and persisted as a fact of life in the western Mediterranean until the dawn of the nineteenth century.

The attempt to rescue such captives through the signing of treaties and truces grows out of the ability of Iberian Christian powers to project naval power upon the coasts of North Africa; Muslim leaders were induced to sign documents that, besides freeing captives, often promised tribute and commerce<sup>45</sup>. Captives, however, appear to have been a higher priority for the rulers of the Crown of Aragon than for those of Castile. Whereas the former actively sought the return of their subjects from Muslim hands, Joseph O'Callaghan identifies the typical Castilian approach as being very different. In treaties negotiated in 1320 and 1334 with the Kingdom of Granada, for example, Castilians merely sought a guarantee that captives who successfully escaped and fled to their homeland would be free from their former masters, although any Muslim property they took with them would be subject to repatriation.

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<sup>44</sup> For a discussion of this, see James William BRODMAN, *Community Identity and the Redemption of Captives: Comparative Perspectives Across the Mediterranean*, in *Anuario de estudios medievales*, 36 (2006), pp. 249-252. On the Trinitarians, see Paul DESLANDRES, *L'Ordre des Trinitaires pour le rachat des captives*, Toulouse and Paris, 1903, 2:136-137, no. 91, caps. 51, 53. On the Mercedarian complaint, José María RAMOS Y LOSCERTALES, *El cautiverio*, p. 285.

<sup>45</sup> For example, the Aragonese admiral, Roger de Llúria raided the Tunisian coast in the later thirteenth century, taking captives, ravaging the coast and ultimately forcing the ruler of Tunis to agree to a peace. See Maria Teresa FERRER MALLOL, *La guerra en cors amb els països musulmans occidentals en els primers anys del regnat de Jaume II*, in *Anuario de estudios medievales*, 38 (2008), pp 834-840.



Later treaties, however, contain the same provisions regarding the release of prisoners as found in those negotiated by the king of Aragon<sup>46</sup>.

Italian city-states, such as Pisa, had attempted the negotiated release of captives as early as the mid-twelfth century<sup>47</sup>, but there is no evidence for Iberian initiatives until the middle of the thirteenth. In 1257, for example, Guillem de Moncada was sent to Tunis by King James I of Aragon to ransom some Christians. The first diplomatic measures, however, were aimed merely at discouraging piracy. For example, an engagement of 1285 between Tunis and the Crown of Aragon pledged that neither ruler would allow captive subjects of the other to be sold in the slave markets of their realms. In the fourteenth century, however, treaties call for the repatriation of any subject taken captive during the anterior period of hostilities<sup>48</sup>. An early example dates from 1309 when King James II sent ambassadors to Egypt and to Bugia to negotiate the release of captives. Treaty negotiations with Tlemcen in 1319 demonstrate the importance of captives in more general negotiations. At this time, James II of Aragon instructed his ambassadors to adjust the length of the truce to be granted to the Muslim prince according to the number of captives he was willing to release – a ten-year pact in exchange for the liberation of two or three hundred captives but two or three years if only fifty Christians were freed<sup>49</sup>.

Were such negotiations fruitful? The answer is a qualified yes. In 1305, for example, James II wrote to the king of Tunis to report that one of his subjects, Simon Ricart, while en route back from Cyprus, captured a Muslim ship in the Gulf of Tunis. While Tunisians were among those captured, the Catalan captain justified his actions by asserting that the ship itself was not from Tunis and so not subject to the agreement that his monarch had made with Tunis' ruler. King James, however, is sufficiently skeptical of these claims to send to his Muslim counterpart a list of the

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<sup>46</sup> Joseph O'CALLAGHAN, *The Gibraltar Crusade: Castile and the Battle for the Strait*, Philadelphia, 2011, chapters 7, 8. In the fifteenth century, however, treaties become more specific in terms of demands for the release of captives. See M. ROJAS GABRIEL, *La frontera entre los reinos de Sevilla y Granada en el siglo XV (1390-1481)*, Cádiz, 1995, pp. 221-222. For a treaty of 1379, see J. SUÁREZ FERNÁNDEZ, *Historia del reinado de Juan I*, Madrid, 1977, vol. 1, p. 184.

<sup>47</sup> In addition, a treaty of 1231 between Tunis and Frederick II of Sicily called for the restoration of captives taken during time of peace. J. M. L. MAS LATRIE (ed.), *Traité de Paix et de Commerce et documents divers concernant les relations des Chrétiens avec les Arabes de l'Afrique septentrionale au moyen âge*, Paris, 1866, 2:26, 153.

<sup>48</sup> An example is the treaty signed in 1308 between James II of Aragon and the king of Bugia. J. M. L. MAS LATRIE (ed.), *Traité de Paix*, 2:301.

<sup>49</sup> Maximiliano ALARCÓN Y SANTÓN-Ramón GARCÍA DE LINARES (eds.), *Los documentos árabes diplomáticos del Archivo de la Corona de Aragón*, Madrid, 1940, p. 359; Antonio de CAPMANY Y DE MONTPALAU (ed.), *Antiguos tratados de paces y alianzas entre algunos reyes de Aragón y diferentes príncipes infieles de Asia y Africa, desde el siglo XIII al XV*, Madrid, 1786, pp. 73, 103; J. M. L. MAS LATRIE (ed.), *Traité de Paix*, p. 301. See also Juan TORRES FONTES, *Documentos del siglo XIII*, Murcia, 1969, no. 127 and Antonio BENAVIDES, *Memorias de Fernando IV de Castilla*, Madrid, 1869, vol. 2, pp. 205-206, no. 150.

captives along with a request that Tunisians among them be identified so that they and their property could be freed<sup>50</sup>. In another case, the king of Granada reported to James II in 1324 that Christians taken from Cartagena, Vélez de la Frontera and an Aragonese ship that ran aground near Almería would be freed because James II had proven them to be his subjects<sup>51</sup>.

On the other hand, a negotiated agreement was no guarantee that a captive covered by its provisions would actually be freed. In 1314, for example, the king of Tunis informed James II that he would not release the requested captives because, he asserted, they were not really Christian. In 1316, James II made the release of captives from Bugia conditional upon payment of the annual tribute that its Muslim ruler had agreed to pay to the king of Aragon<sup>52</sup>. A claim issued by the king of Granada in 1298 illustrates how complicated negotiated releases could become. Upon initial receipt of Granada's demand, James II agreed to free only those individuals who could be positively identified as subjects of Granada. Many of those so claimed, however, had already been sold off as slaves, often to a succession of owners. Thus, if a slave's current owner released him, that master would then lose the money he had used to purchase the slave unless he could recover that amount from a previous seller. If the captive had been owned by a succession of masters, one can only imagine the extent of the potential legal wrangling that would seem to discourage slave owners from cooperating with the king's diplomacy<sup>53</sup>. Even carefully negotiated agreements could leave subjects in captivity. In 1360, for example, the ruler of Tlemcen, threatened by the Marinids of Morocco, contracted for the services of four Aragonese galleys. Afterwards, however, the crews of these ships were imprisoned by the same Muslim ruler. The four crews are last heard of in 1369, imprisoned in Tlemcen. The signing of a new peace with Aragon in 1362, which called for a mutual release of captives, and embassies that had been sent to deal with this issue in 1366 and 1369 were not able to secure their liberation. Evidently a stalemate over the Aragonese demand that Tlemcen pay the sum of money specified for the galley service in 1360 negated any other diplomatic arrangements<sup>54</sup>.

Another problem is that no monarch could control all the actions of his subjects. Because Christian mariners were violating the peace that he had signed with Tunis, James II in 1294 required that ships sailing in Valencian waters post a mon-

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<sup>50</sup> Andrés GIMÉNEZ SOLER, *Episodios de la historia de los relaciones entre la Corona de Aragón y Túnez*, in *Anuari d'Institut d'Estudis Catalans*, 1 (1907), p. 216.

<sup>51</sup> Maximiliano ALARCÓN Y SANTÓN-Ramón GARCÍA DE LINARES (eds.), *Los documentos árabes*, pp. 18, 43.

<sup>52</sup> *Ibid.*, p. 295; Ángeles MASÍA DE ROS, *La Corona de Aragón y los estados del norte de África: política de Jaime II y Alfonso IV en Egipto, Ifriquía y Tremecén*, Barcelona, 1951, pp. 420-2, no. 135.

<sup>53</sup> María Teresa FERRER MALLOL, *La guerra*, p. 856

<sup>54</sup> María Dolores LÓPEZ PÉREZ, *Sobre la guerra y la paz: el acuerdo entre Tremecén y la Corona de Aragón*, in *Anuario de estudios medievales*, 29 (1999), pp. 529-542.

etary bond for their good conduct. A new treaty with Tunis in 1301, however, was followed by many reported instances of piracy committed by both Christian and Muslim captains<sup>55</sup>. In addition to pirates, a monarch also had to deal with insubordinate subjects. For example, despite pacts signed between James II and the rulers of Morocco and Granada in 1304, the count of Empuries claimed to be exempt from these agreements and in 1305 armed a ship that attacked both regions, ultimately taking thirty-two captives from the coast of Granada. James did get the count to release his captives in 1306, but only after he had agreed to pay the count an indemnity in exchange for their freedom<sup>56</sup>.

No one who has studied medieval or early modern captivity believes that more than a minority of captives achieved release through ransom, exchange, diplomatic negotiation, escape or religious conversion<sup>57</sup>. The fate of most captives was a life of misery in slavery. Yet, the development of charitable networks and diplomatic initiatives within medieval Iberia and elsewhere in western Europe demonstrates not only a normal human desire to aid kinsmen but also the acceptance by society of a religious and moral obligation to seek freedom for captives. The bond that tied a medieval captive to his society, however, was somewhat different than the one which protects the modern prisoner of war. While the latter can expect release upon the termination of hostilities, the medieval captive had no right to liberation because he had assumed the status of a slave. His liberation depended solely upon the charity of family and friends and the self-interest of his captors. The part played by government was ancillary. These diminished prospects, however, do not signify that the medieval captive was held in any less esteem by his countrymen than is the modern prisoner of war<sup>58</sup>. The sentiments of religion and family are very similar. Whatever differences that exist in their respective status or in their prospects for liberation are more a factor of structural differences in society. The medieval captive simply lacked the framework and protection of international law with its implied acceptance of certain basic, fundamental human rights. Indeed, in contemporary instances of captivity that occur outside the framework of declared war, the fate of these modern captives is much closer to that of their medieval counterparts.

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<sup>55</sup> Maria Teresa FERRER MALLOL, *La guerra*, pp. 840, 842-845.

<sup>56</sup> *Ibid.*, p. 862.

<sup>57</sup> For example, see James William BRODMAN, *Ransoming Captives*, pp. 113-15; Jarbel RODRIGUEZ, *Captives*, pp. 176-178.

<sup>58</sup> Indeed, Yvonne Friedman argues that Innocent III elevated the captive from failed warrior into heroic martyr, much as contemporary prisoners of war are now hailed as heroes upon their liberation. See her *Encounters*, p. 190.