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Violence, Protection and Commerce

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4 Violence, Protection and
5 Commerce
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8 Corsairing and *ars piratica* in the Early Modern
9 Mediterranean

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11 *Wolfgang Kaiser and Guillaume Calafat*
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15 Like other maritime spaces, and indeed even large oceans such as the
16 Indian Ocean, the Mediterranean was not at all a ‘no man’s sea’ – as
17 the sea in general appears, opposed to territorial conquest and occupa-
18 tion of land, in a prominent way in Carl Schmitt’s opposition between
19 a terrestrial and a ‘free maritime’ spatial order.¹ Large oceanic spaces
20 such as the Indian Ocean and smaller ones such as the Mediterranean
21 were both culturally highly saturated and legally regulated spaces.²
22 The Inner Sea has even been considered as a matrix of the legal and
23 political scenario of imposition of the Roman ‘policy of the sea’ that
24 had efficiently guaranteed free circulation and trade by eliminating
25 the pirates – Cicero’s ‘enemy of mankind’³ – who formerly had infected the
26 Mediterranean. Convergence between Roman and Islamic legal tradi-
27 tions seemed to ensure, after the decline of the Roman Empire, a zone of
28 free maritime navigation and trade.⁴ This ‘Inner Sea’ was made of other
29 regional inner seas, gulfs, channels and straits – as represented (a shared
30 feature) in Early Modern European, Islamic and Ottoman cartography.
31 The Mediterranean has been, from the medieval glossators of Roman
32 Law to the main protagonists of what has been called the ‘hundred
33 years battle of the books’⁵ of the sixteenth and seventeenth century,
34 conducted most prominently by Hugo Grotius, Serafim de Freitas and
35 John Selden, a rich fund of examples and situations, and indeed a labo-
36 ratory to forge, according to specific contexts and divergent interests,
37 in a kind of *ars combinatoria*, both the arguments for free navigation at
38 sea and free use of its riches and, on the contrary, legitimate control of
39 territorial waters. It is with the emergent concept of ‘jurisdiction’, to
40 fight against piracy and protect free navigation and free use of maritime
41 resources, that the practical manifestations of *imperium*, that is, the full

1 exercise of power and a domanial appropriation of a maritime space,
2 were argued and justified.

3 Both interpretations combine the obligation of protection (against
4 piracy) and the right to exercise justice (jurisdiction). The claim of
5 a *dominium maris* signified the definition of maritime boundaries, a
6 liberty of navigation under control and constraint, reserved fishing
7 rights and the right to impose taxes on passing ships. These were
8 competing claims: Venice's maritime dominion, the Golfo di Venetia
9 (as the Adriatic Sea was mainly indicated on contemporary maps),
10 passionately defended by for example Paolo Sarpi during the 1610s,⁶
11 was contested by the jurists in the Kingdom of Naples who reduced it
12 to the near coastal zone (the district between Venice and Chioggia).
13 The claim of a *dominium maris* could make the common distinction
14 between controlled territorial waters and free 'high seas' inappropriate
15 in the Mediterranean, for instance in the case of medieval Genoa. The
16 *Signoria* claimed not only to control the navigation in its coastal waters
17 (*juxta terram*) but also to exercise a regional hegemony in the 'sea of
18 Genoa' by defending navigation and the right to exclude another
19 (*ius excludendo altri*) on the High Sea's (*per pelagus*) lanes and constrain-
20 ing competitors to a coastal passage and to the payment of a tax in
21 exchange of protection. In this complicated Mediterranean situation, it
22 seems to be difficult to characterise corsairing that was after all part of
23 a whole set of forms of exercising legitimate power, as 'extra-territorial
24 violence'.⁷

25 Other elements add to the complexity of the medieval and Early
26 Modern Mediterranean: the competition between European powers,
27 including the Atlantic powers, with their own legal traditions, including
28 the customary maritime traditions, compiled in late medieval and Early
29 Modern times, such as the Catalan *Consolat de Mar* in the Mediterranean
30 and the *Rôles d'Oléron* in the Atlantic and the copresence of Roman,
31 Byzantine and Islamic law, often neglected in the narratives of the his-
32 tory of the law of nations and maritime law.⁸ A whole literature has
33 described the process of increasing state control and 'civilising' warfare
34 between European powers in the medieval period. Yet, recent research,
35 mainly concerned with intra-European wars, has shed new light on the
36 reality of warfare and stressed the fact that violence in the Early Modern
37 period was not random, brutal and irrational, but followed highly ritu-
38 alised practices in wartime, including suspension of conflict, avoiding
39 violence by payment and maintaining of communication and trade.⁹
40 This is also true for the conflicts opposing the European powers to the
41 Ottoman Empire, the rising force in the Early Modern Mediterranean,

1 contested by the Habsburg Monarchy and the old and new (Dutch and
2 English) European and indeed Mediterranean powers.

3 The complexity of different levels and conflicting goals makes the
4 Mediterranean an interesting and at the same time difficult case:
5 competitive empire-building – the Habsburg composite monarchy
6 and intercontinental empire, the expansion of the Ottoman Empire,
7 Portuguese, English and Dutch empire-building in Asia and the
8 Atlantic – the making of territorial states and the competition for trade
9 in the Mediterranean. Last but not least, conflict and cooperation on
10 the regional and local level were intertwined. In the late medieval and
11 Early Modern Mediterranean there was no hegemonic power and there
12 was no synchronised chronology that could structure a single master
13 narrative, whether in terms of a ‘clash’ between Islam and Christendom
14 or of progressive violence-controlling and state-building or the process
15 of quasi-natural European domination of the Mediterranean. Thus,
16 instead of a synthetic overview, we will discuss some contrasting fea-
17 tures of corsairing and commerce, of violence and state-building. We
18 will argue that violence indeed was a *stimulus* of exchange in the late
19 medieval and Early Modern Mediterranean. In particular, the conflict-
20 ual relations between, on the one hand, the North African Regencies
21 of the Ottoman Empire, the so-called Barbary States, and, on the other
22 hand, the European powers constituted a domain of regulation and
23 legal innovation.

24 **Piracy, corsairing and naval warfare**

25 *Ars piratica* (the art of piracy) was a traditional feature of Mediterranean
26 port cities. It was an important part of the urban economy of Béjaïa on
27 the Algerian shore in the fourteenth and fifteenth centuries. Those who
28 engaged in it were people of modest origin – workers (*lavrador*), retail-
29 ers (*tender*) or artisans in the textile sector (*canelador*, *texidor*) – which
30 means that the exercise of *piraticam artem* was probably a part-time
31 activity.¹⁰ In the case of Béjaïa, piracy was directed in particular towards
32 the coastal regions of Andalusia and Valencia and its goal was, in the
33 context of the violent conflict called *Reconquista* in European histori-
34 ography, to seize booty with maritime operations or terrestrial *razzias*
35 (raids). Booty especially meant human booty, that is, captives to be sold
36 into slavery or, expecting higher gains, offered to be ransomed by their
37 families or institutions of their hometowns or countries.

38 The terms ‘pirate’ and ‘corsair’ seem to be used indistinctively in the
39 sources, including the granting of licences for corsairing by the king
40
41

1 in late medieval Aragon.¹¹ Furthermore, the flourishing of ‘piracy’ or
 2 ‘corsairing’ has been linked to both the weakening of state power – for
 3 example, in Sicily after 1350, where autonomous lordships seem to
 4 have developed the practice of *piraticam artem*¹² – or, on the contrary,
 5 has been related to enforced political control by the authorities, such
 6 as in the Béjaïa of the fourteenth and fifteenth centuries and under the
 7 Hafsîd dynasty in Ifriqiya (Tunisia).¹³ We find the same simultaneous
 8 use of the two terms ‘corsairing’ and ‘piracy’ also in Sicilian sources of
 9 the sixteenth century where citizens of Trapani, in this case, too, people
 10 of modest social position, fishermen and sailors, engaged in corsairing
 11 and piracy in Barbary (*exercendi cursum et artem piraticam in partibus*
 12 *Barbariae*) with a licence from the authorities.¹⁴

13 Piratical activity was endemic in the coastal regions of the Mediterranean,
 14 linked to economic difficulties and political crisis, civil war and weak state
 15 control, such as in France during the religious wars in the second half of
 16 the sixteenth century. The famous Spanish composer Francisco Guerrero
 17 was, for example, captured twice in 1589 on the return from his pilgrim-
 18 age to Jerusalem, by impoverished French gentlemen – ‘Lutherans’ in
 19 his eyes – first in the Camargue and a second time on the shores of the
 20 Languedoc: ‘During our travel . . . the danger did not come from the Turks,
 21 the Moors or the Arabs, but exclusively from the French.’¹⁵

22 It is the licence issued by an authority considered as legitimately exer-
 23 cising – indeed delegating – sovereign rights of repression (*represailles*)
 24 against subjects of the enemy that makes the difference between an
 25 ordinary sea robber and a corsair. In the context of European maritime
 26 warfare, merchants and other people invested risk capital in *artem pirati-*
 27 *cam exercendi*,¹⁶ directed for instance against the Spaniards, Catalans,
 28 Genoese or Venetians, as the enemies were spelled out in a *lettre de*
 29 *marque* issued in 1512 in Provence.¹⁷

30 Corsairing may thus be considered as institutionalised, legitimate
 31 and regulated violence.¹⁸ But why do we find in contemporary sources
 32 simultaneously the use of the term *piratica ars*? It seems that this was
 33 meant to designate the shared goal of this specific activity – booty.¹⁹
 34 As for pirates, the objective of corsairs was primarily the rich cargo
 35 of merchant ships and captives, not warfare against other corsairs or
 36 armed naval forces. This was the argument of corsairs from Provence
 37 in the sixteenth century who refused to fight against other corsairs: ‘in
 38 the fight of corsair against corsair you just win empty casks’ (*de cossari*
 39 *à cossari non si gassanho que barilh*).²⁰ Booty became a legitimate prize,
 40 stated a posteriori, in the context of justified warfare and the claim to
 41 exercise sovereign rights of *represailles*.

1 Licenced corsairing offered to these entrepreneurs of violence – as to
2 the *condottieri* of the Italian Renaissance – an opportunity to acquire rep-
3 utation and legitimacy. At the same time, princes, sovereigns, authori-
4 ties could thus cope with their weakness by delegating – a dissimulating
5 term, as they were delegating something that they were incapable of
6 making use of – the use of public power to licenced private persons
7 who thus become public actors. The instrumental use of violence, as
8 corsairing against enemies and competing powers has been character-
9 ised, is an important part of a mercantilist politics of power and an
10 essential element of empire-building and state-formation through the
11 offer of efficient protection. In the Indian Ocean, the Portuguese sold
12 licences called *cartazes* – an Arab word integrated into Portuguese in the
13 sixteenth century – that is, protection for ships against violence, fore-
14 mostly the violence of the protectors themselves. As put by Jan Glete:
15 ‘Europeans used violence to get monopoly rights to trade, they sold pro-
16 tection to Asian and European merchants and ships and they sold their
17 superior technology for war to Asians who were in conflict with other
18 Europeans and other Asians.’²¹

19 In the Mediterranean, weakening the enemy through raids on the
20 coasts, capturing people and the seizure of ships at sea, was a general-
21 ised practice of competing powers that pretended to sovereignty, that
22 is, to the power to define what was legitimate corsairing and what was
23 criminal piracy and, if useful for them, to keep this difference unclear.²²
24 Efficient protection ensured lesser insurance costs, a protection rent
25 and, as Frederic C. Lane has put it, ‘profits from power’ for those
26 who offered protection.²³ This explanatory model still seems useful to
27 uncover the issues present in the competition of European powers in
28 Constantinople to obtain the best terms of trade and efficient protec-
29 tion in the Ottoman Empire. Moreover, the model highlights the role
30 of corsairing as part of the naval warfare between the European powers
31 in the Mediterranean.²⁴ The use of private investment in the exercise of
32 public violence through corsairing and the control of those entrepre-
33 neurs of violence was part of Early Modern state-formation as private
34 investment in state activities. The use of ‘private ships of war’ was a
35 weapon especially of minor sea powers or a consequence of the consid-
36 eration of naval warfare as secondary. Corsairing became important in
37 the War of the Great Alliance (1689–97) in which French corsairs – the
38 most prominent of whom was Jean Bart – captured about 4000 ships of
39 the enemy.²⁵ During the great European wars at the end of the seven-
40 teenth and beginning of the eighteenth centuries, licenced Mallorquin
41 and French corsairs were massively present in the Mediterranean

1 theatres of war.²⁶ Simultaneously, naval warfare during the Anglo-Dutch
 2 Wars of the seventeenth century also took place in the Mediterranean,
 3 with the Battle of Livorno in 1653 and the subsequent installation of
 4 the Royal Navy from the 1670s in Livorno, 1704 in Gibraltar and 1708
 5 in Menorca.

7 North African corsairing and its impact

8
 9 To what extent did the institutionalisation of piracy show signs of
 10 embryonic or even more developed state-formation in sixteenth-century
 11 North Africa and the Western Mediterranean? Corsairing shaped the
 12 commercial and diplomatic relations between Southern Europe (Iberia,
 13 the French kingdom and the Italian regional states), the Ottoman
 14 Empire and its dependent territories in North Africa. Fernand Braudel
 15 has called this endemic activity a 'secondary form of war' and indicated
 16 as its apogee the 'century of corsairing', from the Battle of Lepanto in
 17 1571 to the end of the seventeenth century.²⁷

18 Since at least the fifteenth century, in the context of the *Reconquista*,
 19 Muslim corsairs supported by the Ottomans operated from North
 20 African ports against Spanish ships.²⁸ After 1492 and for almost seventy
 21 years, North Africa became a theatre of violent conflicts between the
 22 Spaniards and the local sovereigns and authorities, from the Spanish
 23 conquest of Oran in 1509 up to the definite conquest of Tunis by
 24 'Ulūc 'Alī in 1574. It was the conquest of Algiers by 'Arūdj and Khayr
 25 al-Dīn Barbarossa (two brothers from Mytilene/Lesbos), first in 1517
 26 and 1519 and then definitively in 1529, combined with the occupa-
 27 tion, assisted by Turkish janissaries sent by the Ottoman Sultan, of the
 28 Peñon of Algiers and the expulsion of the Spanish garrison there, which
 29 opened the way for the expansion of the Ottomans in North Africa.
 30 Algiers, Tunis (which was conquered definitively in 1574) and Tripoli
 31 (conquered in 1551) were integrated as peripheral Regencies in the
 32 Ottoman Empire. On the Christian side, the settlement of the Knights
 33 of St John at Malta, established in 1530, had the mission of fighting the
 34 Turk and the 'Barbaresques', thereby giving an impulse to corsairing,
 35 reinforced by the foundation of the Tuscan Military Order of St Stephen
 36 in 1561.

37 In the sixteenth-century Mediterranean, naval warfare (*guerre d'escadre*)
 38 and corsairing (*guerre de course*) – the latter of which included coastal
 39 raids that occasionally could reach considerable distances inland – were
 40 intimately linked or better, different aspects of the practice of maritime
 41 warfare. The Algerian, and later the Tunisian and Tripolitan, corsairs

1 were sanctioned by the Ottomans and were integrated into and indeed
 2 commanded their marine forces. *Khayr al-Dīn* Barbarossa, the master
 3 of Algiers, was appointed First Governor (*beylerbey*) of the province of
 4 Algiers by the Ottoman Sultan and later Admiral (*kapudan paṣha*) of the
 5 Ottoman fleet. After the naval battle of Preveza (1538), the victori-
 6 ous Ottoman fleet under the command of *Khayr al-Dīn* cooperated
 7 with the French fleet, on the basis of the alliance between the French
 8 king and the Sultan in Constantinople. The Ottoman fleet raided
 9 Mahon on Menorca, besieged Nizza, attacked Ostia and conquered
 10 the Isle of Lipari in 1544. Immediately afterwards, 700 prisoners were
 11 ransomed in the secondary ports near Messina and then in Messina
 12 itself, which was transformed, with the permission of the vice-king, for
 13 some days into a 'bazaar', that is a slave market where the captives were
 14 offered to be ransomed by their families.²⁹

15 These coastal raids produced more captives than corsairing at sea and
 16 had demographical consequences in the areas concerned. Towns such as
 17 San Lucido (Calabria) or Vieste and Manfredonia in the Gargano (Puglia)
 18 experienced demographic losses of between 40 and 80 per cent.³⁰
 19 Coastal towns and settlements were most vulnerable, but spectacular
 20 raids, such as that in 1566 when 6000 Turks penetrated about a hundred
 21 kilometres into the hinterland of Francavilla (Puglia), showed that the
 22 corsairs had the capacity to launch attacks far inland. The goal of
 23 these raids was the capture of the local population – not necessarily
 24 to conduct them all into slavery, but to let them be ransomed directly
 25 by their families after their capture. The places where 'the white flag is
 26 erected and slaves are being ransomed'³¹ was part of a local knowledge
 27 and has marked the local toponymy: in Early Modern Andalusia the
 28 practice of immediate ransoming was called *alafia*, originally from an
 29 Arabic word meaning 'grace', 'pardon'. In Melilla, a Spanish *presidio*
 30 (garrison) in Northern Africa, we still find a *torre del Alafia*.³² The
 31 endemic practice of a partly terrestrial *artem piraticam* as a permanent
 32 threat is visible in popular belief and legend: for example, a black cat
 33 was considered in nineteenth-century Naples as a spy from Barbary.
 34 Ransom slavery was not a uniquely Mediterranean practice; it was also
 35 part of a specific frontier economy in borderlands between the Austro-
 36 Hungarian and the Ottoman empires.³³ For the Mediterranean, Michel
 37 Fontenay has proposed to use the contemporary term *corso* to designate
 38 this form of state-sanctioned maritime violence, which blurs the dis-
 39 tinction between corsairing and piracy.³⁴

40 With the technological change at the beginning of the seventeenth
 41 century – the shift from the galley to the bertone (a three-rigged,

1 originally North European, round-hulled sailing ship)³⁵ – the trade with
 2 captives became more important and more profitable than the tradi-
 3 tional slave trade (even if the French consul at Livorno in the seventeenth
 4 century continued to buy valid slaves for the king's galleys at Toulon
 5 and Marseilles).³⁶ At the apogee of the Mediterranean *corso* in the sev-
 6 teenth century, the corsairs from North Africa (Algiers, Tunis, Tripoli
 7 and the Moroccan port of Salé) armed about 100 ships of different types
 8 at any one time, while on the Christian side, estimates give about 40
 9 ships. Due to technological change and the arrival of North European
 10 sailors converted to Islam, North African corsairing extended to the
 11 Atlantic and the English Channel. Converted corsairs such as Simon
 12 Romero from the Canary Islands, a famous captain (*ra'īs*) of Algiers in
 13 the sixteenth century, operated between Algiers, Salé and the Canary
 14 Islands and cooperated in ransoming with English merchants residing
 15 in Cadiz who worked as *alfaqueques* or ransomers.³⁷ The most spec-
 16 tacular operation of Algerian corsairs was the famous raid on Iceland
 17 in 1627, but more important was the threat exercised by North African
 18 corsairing on navigation in the Channel and on the Atlantic routes of
 19 Dutch and Hanseatic trade.³⁸

20 In the Mediterranean, the threat of coastal raiding diminished in the
 21 seventeenth century when effective protection systems – equestrian
 22 patrols in Andalusia and improved fortifications and towers (the so-called
 23 Saracens towers) for defence and signalisation – came to cover the partly
 24 inhabited coastal zones of Andalusia, Liguria, Sardinia, Corsica and south-
 25 ern Italy. There were about 5000 towers in southern Italy and on the
 26 islands; in Sicily alone, historians have counted 137 towers, on average
 27 one tower about every eight to nine kilometres along the coast.³⁹

28 Corsairing added to the difficulties inherent in cross-cultural com-
 29 mercial interactions between Muslim and Christian countries. But,
 30 paradoxically, far from being a mere economy of booty and plunder and
 31 an obstacle for mercantile exchanges, corsairing in the Mediterranean,
 32 with its concomitant trade in captives and other booty, offered a trading
 33 platform that crossed religious, legal and normative boundaries.

34 It is impossible to give an overall estimate of the economic impact
 35 of corsairing with regards to the global volume of seaborne trade.
 36 Contemporary sources tend naturally to overestimate the impact of cor-
 37 sairing. In the Western Mediterranean, the first decade of the seventeenth
 38 century, the years of the war of Candia (1645–69) and the last decade of
 39 the seventeenth century were periods of intense corsairing. For example,
 40 French sources give for Tunis about 10 ships captured in 1611–12, 18
 41 French ships from 1652 to 1665 and 23 prizes from 1666 to 1672. For

1 Algiers, an estimate gives 963 ships from 1613 to 1622, of which 447 were
2 Dutch and 253 French.⁴⁰ The Trinitarian Pierre Dan estimated that the
3 Algerian corsairs from October 1628 to August 1634 had taken 80 French
4 ships of different types. From 1674 to 1677, the Algerians captured 191
5 French ships.⁴¹ Wijnant de Keyzer, Dutch consul at Algiers, estimated that
6 the Algerian corsairs between 1618 and 1620 had taken more than 100
7 Dutch ships, including 76 of 125 prizes in 1620.⁴² Finally, Thomas Baker,
8 English consul at Tripoli, reported that Tripoli corsairs from 1679 to 1685
9 took 71 ships (27 French ships representing 74 per cent in terms of value).⁴³
10 However impressive as these figures may seem, they represent only about
11 2 or 3 per cent of the total French commerce in the Mediterranean in the
12 seventeenth century.⁴⁴ French losses in the eighteenth century due to
13 European corsairing were even more limited.

14 Fontenay and Lemnouar Merouche have given supplementary
15 estimations of the impact of the 'corsairing industry' at Algiers and
16 Malta.⁴⁵ They conclude that even if the sister 'Republics of Corsairs'
17 were substantially engaged in these violent enterprises, this sector never
18 constituted the major economic domain and source of income. On the
19 whole, the benefits of corsairing were realised through the recycling
20 of the prizes (30 per cent) in the European ports of Marseilles, Genoa
21 and Livorno. For Malta, Fontenay has calculated that the income of
22 the landed property (600 *commanderies*) of the Knights of St John was
23 always more important than the profits from corsairing.⁴⁶ On the whole,
24 investment in corsairing could be individually rewarding – *Why not I?*
25 was the name of the ship of an English corsair in the Indian Ocean in
26 the seventeenth century⁴⁷ – but was globally deficit-producing. This is
27 true also for the activities of the Tuscan Knights of St Stephen, charged
28 with defending the Tuscan coasts and procuring slaves for the Tuscan
29 galleys. They captured about 10,000 slaves during the sixteenth and
30 the first half of the seventeenth centuries but declined afterwards as
31 armament had become too expensive.⁴⁸ This also explains why private
32 investors, for instance in Malta, present in the seventeenth-century
33 corsairing controlled by the Order of St John, turned their backs to it
34 in the eighteenth century and preferred to invest in trade.⁴⁹ Despite its
35 mission to fight against the Muslims, the activities of the Knights of
36 St John at Malta in the Eastern and Central Mediterranean were directed
37 against the Greeks who could be subjects of the Ottoman Sultan but
38 also of the Republic of St Mark, and thus threatened the Venetian trade
39 more than the religious enemy. Consequently, the Knights of St John
40 encountered severe opposition from Venice, France and the Papal States
41 (Ancona), all interested in a peaceful Levant trade.⁵⁰

1 It was the redistribution of wealth from the victims of corsairing to
2 those who offered financial services and who organised the recovery or
3 the recycling of ships and cargo that characterised the ‘economy of ran-
4 soming’.⁵¹ It was a stimulus for trade and constituted a complementary
5 and, in fact, securing element of normal trade and procured a religious
6 justification for the papal bulls that banned trade with the ‘infidel’. In
7 this sector we frequently find commercial association across religious
8 and cultural differences. Ransoming of captives was promoted with a
9 variety of private and institutionalised initiatives that resulted in an
10 increased demand for captives to ransom and created a dynamics
11 of capture and inflated prices. We will probably never know how many
12 captives were ransomed – private ransoming or the above mentioned
13 ransoming ‘on the spot’ are particularly difficult to grasp – but if
14 the figure of 1 million or so ‘white slaves’ seems to be exaggerated,⁵² the
15 estimate of about 180,000 from 1574 to 1644 may well be too low.⁵³

17 **Barbary legend and reality**

19 What was the impact of corsairing on state-formation? For the
20 European powers, in the Mediterranean as in the Atlantic, the mas-
21 sive distribution of licences for corsairing, a current practice in French
22 Mediterranean politics well into the eighteenth century, complemented
23 official warfare, testifying to the difficulty of financing standing armies
24 and permanent fleets.

25 It is in contemporary European discussion of the so-called Barbary
26 States that we find an ambiguous and ideologically oriented treatment
27 of piracy and corsairing. In fact, if European corsairs and the Knights of
28 St John were considered as honourable warriors against the ‘infidel’,
29 their brethren from North Africa were castigated as pirates. This labelling
30 aimed to delegitimise the North African corsairs, although they had
31 licences for corsairing from the pasha or bey and certificates from the
32 French consul. The European discourse mobilised the semantic ambi-
33 guities of the term ‘barbary’, which could refer both to the land of the
34 Berbers (that is, North Africa) and the adjective ‘barbarian’ in the sense
35 of uncivilised. The labelling of the North African polities as Barbary
36 also pointed to a presumed violent usurpation of power in Algiers and
37 Tunis by the Barbarossa brothers, although in reality it was comparable
38 to conquests by the Italian *condottieri* of the Renaissance.

39 The contemporary discourse on Algiers’ ‘Corsairs’ Republic’ and
40 corsairing as a state-controlled enterprise and a supposed main source
41 of income reflects this perception of an illegitimate regime based on

1 violence exercised by partly foreign forces (janissaries, ‘renegade’ cor-
 2 sairs or *raʿīs*). In fact, corsairing was supported by the Ottoman authori-
 3 ties who benefited from corsairing (as in Europe or Malta): the pasha or
 4 bey received 10 per cent (Tunis) or 12 per cent (Algiers) of the booty, but
 5 concerning the prizes sold by auction, half went to the private investors
 6 and the other half was divided between the captain, the janissaries and
 7 the sailors. The dominant forces also practiced a regime of violent tax-
 8 collecting through military campaigns in the North African hinterlands,
 9 the revenues of which were used for the payment of the janissaries,
 10 for instance. Against this background, modern historians from the
 11 Maghreb have analysed a particular ‘social formation’ in Tunis,⁵⁴ and
 12 Italian historians have considered corsairing as a major and specific
 13 feature of Barbary maritime economies.⁵⁵ Postcolonial Algerian histori-
 14 ans have interpreted corsairing as a violent response to the progressive
 15 exclusion of Maghreb ships from Mediterranean shipping dominated
 16 by the European powers⁵⁶ – a kind of anticipated resistance to a future
 17 colonial regime.⁵⁷

18 The image of violent state-building through military conquest or usur-
 19 pation, present in the expression ‘Barbary States’ with its connotations
 20 of illegitimate state-building,⁵⁸ and the violent origins of the riches of
 21 the rulers and the elites of these ‘Corsairs’ Republics,’ is supported by the
 22 prominent roles and extraordinary careers of some corsairs, converts to
 23 Islam, at the apogee of corsairing (1580–1660). At this time, we find
 24 Māmī Arnawṭ, an Albanian convert and commander of the Algerian
 25 fleet, who captured Miguel Cervantes in 1575 and specialised in the
 26 ransoming business.⁵⁹ We also find ‘Alī Bičenīn, who in the 1630s
 27 was the most important slave merchant in the Maghreb and in 1638
 28 destroyed the *Bastion de France*, a French concession for coral-fishing on
 29 the Algerian coast, with his private fleet, taking many captives. One year
 30 later, he took 1000 captives in a raid on the Calabrian coast. In Tunis,
 31 a convert from Albisola, near Savona (Liguria), Ustā Murād or Osta
 32 Moratto Genovese, became one of the most famous corsairs and the
 33 commander of the galleys of Bizerta before becoming the dey of Tunis
 34 (1637–40). Engaged in the slave trade, the ransoming business and the
 35 recycling of booty, he acquired landed property around and in Tunis,
 36 *mamluks* (slaves) and was present in trade *tout court*, selling for instance
 37 sugar to Corsican merchants in Livorno.

38 But these extraordinary adventures of Christian renegades do not give
 39 a realistic impression of the complex realities of power and its economic
 40 foundations. North African corsairing experienced contrasting develop-
 41 ments: the Moroccan Sultan enforced state control of armament and

1 corsairing at the end of the seventeenth century,⁶⁰ while in Tunis in the
2 second half of the eighteenth and at the beginning of the nineteenth
3 centuries, only one-quarter of corsairing was due to the state-organised
4 corsairing and three-quarters was financed by private investors.⁶¹ Recent
5 research on Algiers, Tunis and Tripoli has also shown the relatively limited
6 significance of corsairing compared to other economic sectors and
7 has highlighted the intense and mainly peaceful trade with the European
8 shores of the Mediterranean, as well as the asymmetries that worked to
9 the disadvantage of the merchants of North Africa and the inhospitality
10 towards them in the European ports.⁶² For example, the Regency of
11 Algiers in the eighteenth century became a place of massive exportation
12 of grain to France,⁶³ and the Regency of Tunis in the seventeenth
13 century was largely integrated in the trade networks of the Western
14 Mediterranean encompassing Tunis, Livorno and Marseilles.⁶⁴

15 Why did the Europeans not eliminate these ‘nests of pirates’, always
16 accused of not respecting the treaties concluded? Why did they, on the
17 contrary, continue to negotiate, to conclude peace and commercial treaties,
18 to pay tributes, to offer presents and to kiss the hand of the dey?
19 The first reason, as it appears in the contemporary diplomatic sources, is
20 that the European powers tried to direct Barbary corsairing against their
21 European competitors and thus to obtain an advantageous position. An
22 informal agent reported in 1663 to Louis XIV that the Algerians could
23 not live and survive without piracy; if the king of France would conclude
24 a peace treaty with them, ‘they would make war with all the other
25 States and would break the peace with England, which would have
26 important consequences in the actual conjuncture’.⁶⁵ This was a shared
27 argument, as the authorities in North Africa sought not to be at peace
28 with all European powers at the same time, something that explains the
29 survival of corsairing up to the beginning of the nineteenth century.⁶⁶
30 Second, a privileged position in the Ottoman Regencies in Northern
31 Africa would give access to the very profitable market of the recycling of
32 booty between Algiers, Tunis, Livorno, Genoa and Marseilles.

33 A third reason was the relationship of the Regencies to the Ottoman
34 Empire. One of the main interests of the European powers engaged in
35 the Levant trade and Mediterranean shipping was to obtain advantageous
36 terms of trade in the Ottoman Empire and to extend protection
37 for European merchants. A major change in the sixteenth-century
38 Mediterranean was the expansion of the Ottoman Empire, which placed
39 Algiers, Tunis and Tripoli under the distant suzerainty of Constantinople.
40 As the ‘Capitulations’ – a unilateral act of grace, according protection
41 and privileges to the Europeans – given by the Sultan to France in 1569,

1 England in 1580/1583 and the Dutch in 1612 did not ensure efficient
 2 protection against attacks by the Ottoman Regencies in the Maghreb,
 3 the European powers began progressively, starting with France and Tunis
 4 in 1605, to negotiate treaties of peace and commerce directly with the
 5 Regencies. Although Ottoman suzerainty was reaffirmed in the opening
 6 of these treaties in the seventeenth century and invoked in the negotia-
 7 tions, for instance with Hamburg in the eighteenth century, the North
 8 African Regencies nevertheless became autonomous actors (*personae*
 9 *morales*) in diplomatic relations.

10 European authors continued to denounce the North African Regencies
 11 as ‘nests of pirates’ and their activities as ‘African banditry’, but the com-
 12 peting European powers, most prominently France, the Netherlands
 13 and England, all concluded peace treaties with the Ottoman Regencies
 14 in the seventeenth century and, outside Ottoman suzerainty, with
 15 the Sultan of Morocco. These relations became a laboratory for the
 16 evolution of the law of the sea and the law of nations, and European
 17 authors gradually began to recognise the changes in the jurisprudence
 18 of the concluded treaties. The Irish lawyer Charles Molloy in 1682,
 19 in the third edition of his *De Jure Maritimo et Navali*, registered the shift in
 20 the position and treatment of ‘Pirates that have reduced themselves
 21 into a Government of State, as those of *Algier*, *Sally*, *Tripoli*, *Tunis*,
 22 and the like’ who should not ‘obtain the rights of solemnities of war.’
 23 ‘[N]otwithstanding this’, he continued:

24
 25 *Tunis* and *Tripoli* and their Sister *Algier* do at this day (though Nests
 26 of Pirates) obtain the right of Legation’ demonstrated by the treaties
 27 concluded by Britain with Tunis and Tripoli. This makes them not
 28 Pirates (enemies of mankind) but gives them the status of enemies
 29 (in war): So that now (though indeed Pirates) yet having acquired
 30 the reputation of a Government, they cannot properly be esteemed
 31 Pirates but Enemies.⁶⁷

32
 33 In 1737, the Dutch theorist of the law of nations Cornelius van
 34 Bynkershoek offered the clearest statement on the nature and sover-
 35 eignty of the North African states:

36
 37 The peoples of Algiers, Tripoli, Tunis, and Salee are not pirates, but
 38 rather organized states, which have a fixed territory in which there is
 39 an established government, and with which, as with other nations,
 40 we [i.e. the Staten-General] are now at peace, now at war. Hence they
 41 seem to be entitled to the rights of independent states.⁶⁸

1 Still, the Dutch jurist made use of a kind of jurisprudential law of
 2 nations, and the eighteenth-century theorists and compilers of a *ius*
 3 *publicum europaeum* considered a ‘law of Barbary’ differing from the
 4 European tradition. This should be linked to the major shift in power
 5 relations between the European powers and the Maghreb states in the
 6 second half of the seventeenth century, with the imposition of treaties
 7 on the three Regencies by England in the 1660s and the use of massive
 8 military violence – successive bombardings of Algiers in 1682, 1683 and
 9 1688 – by France.⁶⁹

10 The imposition of ‘terms of trade’ on the regencies, which could
 11 be called a juridical Europeanisation,⁷⁰ somewhat paradoxically made
 12 corsairing and ransoming a fabric of legal regulation and pragmatic
 13 innovation, leading to quite efficient paper protection. This comprised
 14 not only safe-conducts and trading licenses (*salvacondotti, patente, congé,*
 15 *charte-partie, bolletini di sanità*), lists of passengers and cargo and bills of
 16 lading (*police de chargement*, and so on), all of which were necessary for
 17 navigation and for entering the ports of the Mediterranean, but also the
 18 invention of ‘Turkish passports’ for ships from Denmark and Sweden
 19 and *passaventi*, sold by the French consuls in the Mediterranean ports,
 20 allowing verification of the origin of the ship in the North African
 21 ports.⁷¹ An even more astonishing feature of this invention of a ‘sea of
 22 paper’ were the certificates delivered by the French consul to the corsairs
 23 of Algiers or Tunis, attesting their quality and role in legitimate warfare,
 24 thereby distinguishing them from ordinary sea robbers or pirates.

25 Perhaps the most important innovation – introduced at the turn
 26 of the seventeenth century in the Capitulations accorded to France
 27 in 1597 and 1604, in the treaty between Tunis and France (1605), in
 28 that of Algiers with the Dutch Republic (1612) and reaffirmed in the
 29 treaties of the 1670s with Algiers and Tunis (France, England, the Dutch
 30 Republic) – was the principle that the flag of the ship protected not
 31 only the vessel itself but also the cargo belonging to subjects of enemy
 32 states (free ships-free goods). This principle was essential for the powers
 33 engaged in shipping, and in particular for neutral states. Thus, authors
 34 discussing the protection of neutral ships recognised, in a positive
 35 sense, the existence and practice of a ‘maritime law of the Barbaresques’.
 36 The North African corsairs, conceded the Danish Martin Hübner in
 37 his thesis *De la Saisie des bâtiments neutres* (On the Seizure of Neutral
 38 Vessels; 1759), respected the law of nations by waging war only on their
 39 enemies – Portugal, Spain and other Christian European states. Still call-
 40 ing them ‘plunderers of the sea’, he explained that the ‘Barbaresques . . .
 41 never engaged in hostile behaviour with friendly and neutral ships

1 regarding the ownership of their cargos . . . [T]he Danish, French,
2 Swedish, English and Dutch flags provide adequate protection for the
3 cargos.⁷² The introduction of this principle, accepted more generally
4 only in the nineteenth century, was accompanied by another innova-
5 tion, claimed insistently by all powers present in the Mediterranean: the
6 limitation of the rights of authorities to board and visit ships only for
7 the purpose of formal visits and the control of documents.⁷³

8 The abstract principle of protection was difficult to accept as it was
9 contrary to the customs of the sea, according to which the cargo of the
10 enemy was considered a legitimate booty, and the concrete procedures
11 of control were the object of divergent interpretations in different legal
12 traditions and practices. The European *topos* of the 'Barbaresques' as
13 notoriously unreliable, treaty-breaking pirates was not only far from
14 reality – their corsairing was perhaps the best regulated of all in the
15 seventeenth and eighteenth centuries in the Western Mediterranean –
16 but the *topos* was also an ideological expression of the asymmetries in the
17 relations between the European powers and the Ottoman Regencies.
18 The lack of respect and recognition of honour and rank demonstrated
19 by the European powers was a constant source of complaint of the
20 North African authorities, a circumstance that concurs with French
21 sources from the time of Louis XIV, who explicitly ordered that the
22 Maghreb Regencies should not be treated as equals. Evidence can be
23 found for the increasing inhospitality of European ports to Muslim
24 merchants from the Maghreb and the Levant, and there was a marked
25 lack of reciprocity concerning the right to free exercise of religion for
26 Christians in North Africa compared with Muslims in European ports.⁷⁴

27 In 1674, the dey of Algiers demanded that 'Turks' captive in Genoa,
28 Livorno or Spain who had fled to France, with which Algiers was at
29 peace, should not be enslaved or put on the galleys again.⁷⁵ We can
30 find examples of this practice in the petitions of Algerian slaves on
31 Genoese galleys addressed to the dey of Algiers: they had escaped from
32 the Genoese galleys and had fled to ships 'under the flag of France
33 because of the peace' but were subsequently sold back to Genoa.⁷⁶ A per-
34 manent reason for frictions and complaints was due to the fact that the
35 French consul at Livorno was authorised by Louis XIV to buy Algerian
36 slaves for the French galleys at Toulon – during peacetime with Algiers!

37 Frictions were the fruit of different interpretations of the nature of
38 the treaties, considered by the authorities on the Maghreb coast as an
39 expression of personal friendship, an 'amity pact' (*pacte d'amitié*) that
40 had to be constantly confirmed by visible signs and public attitude.
41 Thus, misunderstandings or misinterpretations of gestures as aggressive

1 postures in the context of an encounter at sea or the boarding of a ship
 2 could end in a violent fight and capture. A question not resolved by
 3 the treaties was the presence of passengers of a different origin to that
 4 of the ship, as signalled by its flag: 'If we find two or three strangers on
 5 a French ship, we don't say anything. But if there are more, we will
 6 capture our enemies without touching the cargo,' explained the dey of
 7 Algiers in 1674 to the French king. At the same time, the dey declared
 8 that French passengers on ships from Livorno, Genoa, Portugal, Spain,
 9 Holland or Malta were to be considered as enemies and would be cap-
 10 tured and enslaved. Living for 20 or 30 years in the country of an enemy
 11 and having married there, they had served the enemy and engaged
 12 in corsairing with him. Consequently, they were no more seen and
 13 accepted as subjects of the French king.⁷⁷

14 Increasing regulation, the production of certificates and other docu-
 15 ments and the invention of procedures thus could not eliminate the
 16 uncertainties linked with multiple identities and divergent interpreta-
 17 tions of rules and behaviour. Papers and procedures even created new
 18 possibilities for their opportunistic use and misuse or fraud. Indeed, a
 19 traffic with false documents and flags made the fortune of some port
 20 cities in the Atlantic and the Mediterranean, such as the 'Republic of
 21 Seven Flags' (Ragusa/Dubrovnik).

22 Yet if we seek 'persistent piracy' – the porosity of the distinction
 23 between corsairing, piracy and maritime violence in the interstices of
 24 naval warfare – it is not to North Africa but to the Aegean Sea and the
 25 archipelago of the Cyclades that we should look. These islands passed
 26 in 1540 under Ottoman rule but were difficult to control efficiently –
 27 the habitants often paid just the *kharādj* (tribute) to recognise Ottoman
 28 domination, and in war times, a tribute to Venice. In the second half of
 29 the sixteenth century, the archipelago became the theatre of Christian
 30 corsairing by the Knights of St John and St Stephen. A second period
 31 of mainly Christian corsairing was linked to the great wars of Candia
 32 (1645–69) and Morea (1684–99) between Venice and Constantinople.
 33 Privateers operated under the flag of Venice (from Dalmatia), Livorno
 34 (from Corsica), Malta (many from Provence) and so on. Many stayed on
 35 after the wars and the return of the isles to Ottoman rule, acting as true
 36 insular entrepreneurs of violence with little respect for the formal docu-
 37 ments of the Ottomans, regardless of whether they were Turks, Greeks,
 38 Armenians or Jews, or the Europeans they despoiled, selling their booty
 39 at Malta or Livorno. During the Morean War the archipelago became a
 40 theatre of the War of the Great Alliance (1688–97), with intense attacks
 41 by English, Dutch, Portuguese and Mallorquin corsairs on French

1 merchant ships. Corsairing diminished in the eighteenth century, but
 2 some French and Corsican entrepreneurs of violence still operated in
 3 the Aegean Sea under different flags, such as those of Venice, Livorno
 4 and Portugal.⁷⁸

5 This was a liminal situation, perhaps the most resembling to the
 6 somewhat romantic expectations and visions of pirates and their
 7 'republics' as alternatives to Early Modern state-formation. The reality
 8 was less romantic, however. In the Early Modern Mediterranean, as in
 9 other maritime spaces, sea robbery followed, as part-time activity
 10 in critical or desperate situations, economic and political conjunctures.
 11 As such, it was and remained a persistent social phenomenon but was of
 12 little consequence to regional maritime trade. Corsairing, though, as the
 13 legitimate exercise of violence and a 'secondary war' against enemies,
 14 highlights the inherent violence of state-building and its weaknesses, to
 15 be compensated with the mobilisation of private resources in warfare. It
 16 was as 'in-laws', inside the complex structures of power, in the context
 17 of competing claims to the exercise of jurisdiction and *imperium*, in a
 18 polycentric Mediterranean, that famous corsairs could assemble riches
 19 and make social and political careers, even to the point of becoming
 20 commanders of the Ottoman fleet and governors of Ottoman Regencies.
 21 It was with the Barbary corsairs – accused in European sources of violent
 22 usurpation of power and of being by nature untrustworthy – that the
 23 European powers developed the earliest modern forms of regulation and
 24 protection of the freedom of navigation and trade. The vector of this
 25 transformation of the Mediterranean was violence – the canons of the
 26 British and French vessels bombarding Algiers – which sustained a juridi-
 27 cal Europeanisation of the Inner Sea.

28 In the sixteenth century, a commander of the Ottoman fleet was pre-
 29 sented with a *salvacondotto* by a merchant when he visited a captured
 30 ship. He refused to have a look at it, saying 'this paper is for corsairs'.
 31 A century later, everyone had paper documents, also the Aegean pirates,
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