

THE RUSSIAN EMPIRE AS A “CIVILIZED STATE”:

**International Law as Principle and Practice
in Imperial Russia, 1874-1878**

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Executive Summary

Domestically, the Russia Empire was not governed by the rule of law. Yet from 1870 down through 1917, it was precisely the Russian government that championed the cause that all states, including the Russian Empire, be brought under an emerging system of codified international law—specifically, a codified set of the rules and customs of land warfare. This working paper examines why the Russian government initiated this project in the period from 1872 to 1874, culminating in the 1874 Brussels Conference. The paper then analyzes the effect of this project to codify the “laws of war” on how Russia conducted the 1877-1878 Russo-Turkish War. This paper, like the larger study, studies the elaboration of norms of conduct and measures the attempt to implement them in practice.

Introduction

Among the Great Powers of Europe in the nineteenth century, one—Imperial Russia—denied the very principal of a law-based state. The *Fundamental Laws of the Russian Empire*, codified in 1832 and in force down to 1906, held quite unambiguously that “the All-Russian emperor is an autocratic and unlimited Monarch.” Yet from 1870 down through 1917, it was precisely the Russian government—notoriously not governed by law at home—that championed the cause that all states, including the Russian Empire, be brought under an emerging system of codified international law. This project seeks to address this paradox. It is composed of two distinct areas of analysis. First, I examine how international law emerged as a discipline in Imperial Russia and came to flourish there. The second vector seeks to measure the extent to which these normative principles were embodied in actual policy. I attempt to measure this by analyzing the extent to which international law informed Russian occupation policies. Here I discuss the first stages of Russia’s commitment to codifying the laws and customs of war, and provide an overview of how this commitment informed Russia’s conduct during the Russo-Turkish War of 1877-78.

I. International Law as a Discipline

International law as such, rather than custom or purely bilateral agreements between states, took form and became codified only in the nineteenth century.¹ It emerged from a series of conferences and agreements over the latter half of the nineteenth century: the 1864 Geneva Convention; the 1868 Petersburg Declaration, banning explosive bullets; the 1874 Brussels

Conference on Proposed Rules for Military Warfare, and the conference's resulting declaration on the laws and customs of war; the Institute of International Law's Manual of Laws of Land Warfare, issued in 1880; the Hague Conference of 1899, producing the Laws of Land Warfare (1901) and the Second Hague Conference of 1907.

International law—and specifically law of war—did not mean the end of war. Many specialists in international law believed war was natural and inevitable. Rather, it sought to define and codify it so that its conduct avoided gratuitous violence. But whatever their views on war itself, nearly all legal thinkers agreed that if international law posited an abstract ideal too far in advance of actual practice, it would be a dead letter. Their concern was to make international law *applicable*. Thus, it had to accommodate itself to existing codes of conduct. Law of war, then, was not intended to do away with war, but to regulate it. After all, international law in the nineteenth century meant essentially law between states—and the defining attribute of state sovereignty was precisely the right to go to war.²

In this period, the Russian Empire played a preeminent—indeed, precocious—role in the codification and extension of international law. Russia convened the 1868 Petersburg Convention, chaired by Russia's reformist War Minister, Dmitrii Miliutin. This Petersburg Declaration formally confirmed that while states had the right to wage war, combatants should seek to eliminate gratuitous violence (in this case, weapons designed expressly to cause horrendous wounds.) The Russian government organized and convened the 1874 Brussels Convention in order to produce a code of the laws and customs of war.

The 1874 Brussels Conference did not result in a ratified code, as its planners had hoped. Differences between Germany, which demanded unconditional obedience from an occupied population, and Belgium and Holland, which insisted on limitations for the occupying power but

no obligations for the occupied population, proved impossible to resolve. Even after the conference's conclusion, and out of the public eye, Russia continued to press for the ratification of a code of land warfare. Through summer 1877, the Russian government continued to lobby for the convocation of another conference to finalize the draft code.³

Russia was also the power that convened the First Hague Conference in 1899 and the Second, in 1907. When Russia issued invitations to the 1899 Hague Conference, its official summons proposed the 1874 code as basis of discussion for an agreement on land warfare. (Again at the 1899 Hague Conference, the articles on occupied territory were the major point of dispute, largely between Germany, on the one hand and Belgium and Holland, on the other.

The "Martens' declaration" was framed precisely to overcome this loggerheads.)⁴ The Hague Convention essentially confirmed the earlier 1874 code. Finally, in April 1915, it was at the Russian government's initiative that the Allied Powers—Great Britain, France, and Russia—issued a note to the Ottoman Empire on the Armenian Genocide, threatening individual prosecution of state officials for "crimes against humanity"—the first such reference to "crimes against humanity" attested in international relations.⁵ In all these cases the Russian government did more than simply issue the invitations; it also defined the conference agenda and prepared the draft materials for discussion.

This period, the latter third of the nineteenth century, saw an interesting shift in the foundations for international law. International law had long been justified on grounds of positive law or on that of natural law. Positive law, however, limited the range of international law only to those spheres that fell under existing formal agreements; natural law, while broader, was also notably vaguer and usually relied on invoking God's role in establishing the natural order. The latter third of the nineteenth century, the period when law of war as a set of

normative prescriptions emerged, witnessed a shift away from justifying law solely on precedent or on divine will. As Fedor Martens, Russia's most influential and important thinker on international law, held: "The advocates of natural law made it so abstract that it was useless to statesmen; the positivists, on the other hand, turned theory into a handmaiden of practice." Martens instead championed the idea that "contemporary international law is the expression of the cultural life and recognition of law by the peoples of civilized Europe."

Thus law was not limited only to that which had been ratified by treaty or precedent. As international law shifted from precedent or divine foundations, the circle of states that might participate in the "community of civilized states" expanded beyond the Great Powers of Europe. Martens' definition of international law limited it to those peoples who met Martens' standard of "European civilization"; yet such standards conceivably could expand as other peoples embraced such norms. International law, asserted Martens, was not limited only to Christian peoples.

"No," he continued: international law "can be recognized and observed independent of a country's dominant religious convictions, so long as the relevant people or its ruling classes share the views of the rational ends of human existence and the purpose of the state, views that have been developed by the age-old culture of civilized European nations." All laws, he asserted, "have the same source—the idea of truth and justice, which are innate [*prisushchaia*] to human nature."⁶ (Such rhetoric had consequences: Russia's conduct during the Boxer Rebellion in 1900-1901 was predicated in part on the recognition that the laws of war should extend to China—a view that notably differed from that of the German government.)⁷

These views were more than simply fig leaves to mask European hegemony. Martens, in his important 1899 "Martens declaration," which served as the preamble to the Hague Convention's agreement on laws of war, derives from these principles. Moreover, Martens'

understanding of international law determined the Russian government's commitment to observe the precepts of international law in two cases with powers that other European states often claimed did not fall under the category of "civilized nation": Turkey in 1877-78 and China in 1900-1901.

In 1874, the Russian government had invited European states to discuss codifying the laws and customs of land warfare. In convening the 1899 Hague Conference, the Russian government extended invitations not only to European powers, but to independent "Eastern" powers as well: Siam, Persia, China, and Japan. Russia's primary delegate to the conference judged one of the conference's great successes to have been the impact of this gesture on these states.⁸

Many Russian scholars at the time affirmed that there was "a specific tradition in Russian politics" for pressing for the development of institutions of international law and adjudication.⁹ In the 1870s, Russian scholars such as Martens contrasted what they portrayed as Russia's principled conduct with that of Britain, which indeed opposed the codification of laws of war and particularly for sea warfare. But from the 1880s Russian scholars of international law increasingly came to contrast a Russian approach in international law with what they portrayed as a more militaristic German approach. (Other non-Russian scholars as well have noted the peculiarities of German treatments of international law, especially their emphasis on "military necessity.")

Russians argued that the German claim that military necessity took precedence over all else in fact amounted to a denial of international law as a principle.¹⁰ Russian participants held the German government's hostility to the "cause of peace" responsible for difficulties with both the First and Second Hague Conferences.¹¹ For over thirty years Martens campaigned against

the position that military necessity could abrogate the laws of war, a view increasingly identified with Germany. In his study of the Brussels Conference, Martens invoked Carl von Clausewitz as his authority that war did not represent an existential state in its own right, but necessarily unfolded and had meaning only within political parameters.

Martens also criticized the tendency to draw on Charles Darwin for analogies of social life. Darwin used the phrase “struggle for survival,” argued Martens, only “for convenience and as a metaphor.” Martens’ understanding fully conformed to the standard Russian reception of Darwin, which was quite distinct from that in Germany and Britain.¹² Thus a sense emerged among Russian legal scholars and officials that there existed a specifically Russian understanding of international law, a view they widely proselytized in publicistic and scholarly works.

Existing scholarly literature on international law recognizes Russia’s curiously prominent role. Geoffrey Best, author of one definitive study, literally scratches his head: Russian policy is so curious that it is an “intriguing problem.” Martens himself, Best finds, “is a bit of an oddity.”¹³ As a rule, existing treatments dismiss Russia’s interest in international law as insincere and ephemeral, motivated either by fiscal and military considerations or the personality of the autocrat.

Such works generally argue that Russia acted to limit armaments and establish a system of international arbitration either 1) to relieve the Russian treasury from having to fund an arms race it could not afford; or 2) as a commitment resulting from the foibles of a crackpot Nicholas II. Within the literature on imperial Russia, there are several excellent treatments of the Russian legal tradition, but they neglect international law and generally have a different focus: the law

and its relationship to liberalism.¹⁴ Russian treatments of this topic, for their part, tend to be congratulatory and hagiographic.¹⁵

To be sure, financial considerations played a role in Russia's commitment, especially regarding the Russian government's proposals for arms reduction to the 1899 Hague Conference.¹⁶ But Russia derived no obvious financial gain from its three-decade long campaign (1874-1907) to bring about a code of the laws and customs of land warfare. It is equally true that Nicholas II felt a personal commitment to ideals of peace. But the Russian empire's activity in the sphere of international law dated from the reign of Alexander II (ruled 1855-1881) and continued unabated through to Nicholas II. By the time Nicholas II came to the throne in 1894, a vibrant community of scholars of international law had already developed in Imperial Russia, proud of its traditions and institutionally ensconced in the leading universities and the imperial government's ministries, especially within the Foreign Ministry.

The government was not alone in championing international law in Imperial Russia. It came also to occupy an important place among Russian educated society, for whom the pursuit of international law addressed important professional and domestic agendas. International law allowed certain sectors of Russian educated society, on the one hand, to uphold and promote the principle of law within an autocratic political order.¹⁷ In an obituary of Martens, his most beloved student—Boris Nol'de—concluded that Martens' most significant achievement was his activity as “an energetic and authoritative exponent of the idea of law in our foreign relations.”¹⁸

At the same time, however, it allowed them to stake a claim—despite Russia's autocracy—to Russia's preeminence in a field reserved explicitly for “civilized nations.” As Martens proclaimed in 1879, “We have the entire right to assert that whatever state brings the cause of the [1874] Brussels Conference . . . will claim first place among those states which

understand the true goals of modern civilization and which respect the lawful aspirations of civilized peoples.”¹⁹ Martens’ book argued that, by virtue of its actions in the Russo-Turkish War (see below), Russia had in fact earned the right to claim “first place” among civilized states.

International law thus became a way for one sector of Russian educated society to negotiate its relationship with “the West,” providing a fulcrum for arguing within Russia for a political order more like Europe’s, while proudly affirming Russia’s unambiguous role as a leading civilized nation to those Europeans who might doubt it.

II. Fedor Martens

Martens, chair of international law at St. Petersburg University and advisor to the Imperial Ministry of Foreign Affairs, was one of the foremost figures in the development of international law in this period. He was active from 1870 until his death in 1909. He was born in Parnu, Lifland (what is now Estonia) to Baltic German parents. After both parents died in a cholera epidemic when he was nine, he was raised in the orphans’ home of the Peter and Paul Lutheran Church in St. Petersburg. He blamed his lack of high aristocratic birth for his failure to secure a permanent post in the Foreign Ministry. With the end of the Russia’s reformist era with the death of Alexander II in 1881, Martens felt his efforts were increasingly unappreciated by the Russian government.²⁰ For excellence in his studies, he received a scholarship to the St. Paul German school in St. Petersburg. He attended St. Petersburg University, where he again excelled in his studies. Upon graduation, he entered the Russian Foreign Ministry.

In addition to representing the imperial government on the world stage, he also held the chair of international law at his *alma mater*, St. Petersburg University. His two-volume *Sovremennoe mezhdunarodnoe pravo tsivilizovannykh gosudarstv* (Contemporary International

Law of Civilized Nations), published in 1882-83, went through five Russian editions and was translated into German, French, Spanish, Serbian, Japanese, as well as Chinese and Persian. It was one of two texts on international law recommended to applicants in preparing for the diplomatic examination for the Russian Foreign Ministry.²¹

Holding the chair of international law at Russia's premier university, Martens trained several generations of Russian specialists in international law. Among the most prominent were Baron Boris Nol'de and Andrei Mandel'shtam [André Mandelstam]. Martens considered Nol'de his brightest protégé.²² Like Martens, Nol'de was of Baltic German background; unlike Martens, he boasted a high aristocratic background. Upon graduation from St. Petersburg University, Nol'de was immediately attached to the Ministry of Foreign Affairs, where—again, unlike Martens—his high birth facilitated rapid advancement. In 1907 Martens took Nol'de as his aide to the Second Hague Conference.²³ Due in part to his close relations with Sergei Sazonov, the Russian Foreign Minister, Nol'de came to play a very influential role in the First World War, in his post as director of the Ministry of Foreign Affairs legal advisory department. In that capacity he shaped policy both as the interpreter of international law during wartime and as an important advisor on Russia's conduct in occupied territories.

Andrei Mandel'shtam, another protégé of Martens, was Russia's leading specialist on Ottoman affairs from the turn of the twentieth century through 1917.²⁴ He was a major force behind the abortive 1914 reform agreement for Ottoman Armenia.²⁵ In emigration after the 1917 Revolution, both Nol'de and Mandel'stam played important roles in elaborating the relationship between international law and the status of refugees and especially insisted on the applicability of the category "crimes against humanity" in relation to the Armenian genocide.²⁶

In 1899, Martens was one of the three primary Russian delegates to the Hague Conference. There he chaired the second sub-commission of the Conference, charged with issuing a code of the laws of land warfare—for which the Commission took as its groundwork the 1874 draft code. (Martens viewed the Hague Conference as legitimizing his cherished “child,” the 1874 draft code.)²⁷ Martens is in fact credited with saving the First Hague Convention from the fate of its predecessor by drafting a statement on international law that proved acceptable to all participants.

This “Martens Declaration,” incorporated as a preamble to the 1899 Hague Conference’s “Regulations Concerning the Laws and Customs of War on Land,” held that combatants and even civilians enjoyed protection of international law even in circumstances not spelled out explicitly in treaty or positive law. “Populations and belligerents,” the declaration holds, “remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience.”²⁸

The foundations of this declaration reflected the changing fulcrum of legitimacy, and conformed fully to Martens’ own views, as expressed earlier in his 1882-1883 textbook. In fact, however, Martens was not the initiator of the preamble; it was proposed initially by the Belgian delegation, which requested that Martens proclaim it in order to bridge differences within the sub-commission. Ironically, Martens considered his achievement at the conference to have been passing the convention on land warfare—and viewed the declaration’s significance largely as a means to that end.²⁹ Regardless, this formulation—bearing Martens’ name and identified with his activity—has been reproduced in most subsequent twentieth-century declarations and conventions on international law.

III. The 1874 Brussels Conference

Martens was only a young man when he laid the groundwork for his “legitimate child,” the 1874 code on land warfare. Martens frequently overstated his own role in international affairs—following the Second Hague Conference, he was crushed when he failed to receive his anticipated Nobel Peace Prize.³⁰ But about the Brussels Conference he was not wrong. Its draft code served as the foundation for the conventions approved at the 1899 and 1907 Hague Conferences. Beginning in 1872, when he was merely a 28-year old minor official, Martens won over both his superiors in the Foreign Ministry as well as the reformist War Minister, Dmitrii Miliutin, with his program for a conference devoted to establishing a code of land warfare.³¹

Two events inspired Martens’ proposal. First, he was emboldened to appeal to the influential War Minister because of Miliutin’s role in the 1868 St. Petersburg Declaration. This was the first formal convention banning a new form of weapon.³² Of equal significance was the justification for the ban on such weapons: “the laws of humanity.”³³ Martens explicitly invoked this principle in proposing a formal code on land warfare to Miliutin.³⁴ It was the experience of the Franco-Prussian War, in which two “civilized states” engaged in mutual recriminations regarding violations of the customs of war that served as the immediate impetus for Martens’ proposal in 1872. On a study tour throughout Europe, he found himself near the French border in 1870-1871, where he “collected all possible material which characterized the conduct of both combatants.”³⁵

Why did two indisputably “civilized” states in 1870-71 repeatedly violate the customs of war? Martens did not believe such conduct cast doubt on existence of laws of war—or of progress in general. Charges of violations of the law of war in this conflict resulted, in his view,

not from intent, but in large part from disagreements in interpretation that became polemically heated in the course of the war—hence the necessity to codify conduct during peacetime.

Martens believed that the other major cause for violations of the laws of war among civilized nations was the soldiers' simple lack of familiarity with the laws and customs of war. It was precisely during this period that Europe witnessed the near-universal shift from professional armies to armies of short-term civilian conscripts, who had little extended familiarity with military customs. The Russian program at the 1874 Conference—predicated entirely on the views of the young Martens—was to produce a general code of the laws and customs of war which states were already observing. That is, it meant to codify, not prescribe conduct. The end goal of the 1874 Conference, as the Russians saw it, was for each state on its own to produce a military manual, incorporating the general rules of the 1874 Convention, for their respective militaries.³⁶

To demonstrate the feasibility of such a code, Martens explicitly invoked Francis Lieber's 1863 code for the Union Army during the U.S. Civil War and employed it as a blueprint for his own draft.³⁷ This draft was submitted for approval to Alexander II; a committee headed by Miliutin, for the War Ministry, and Baron Jomini, for the Foreign Ministry, used the draft as the foundation for the official Russian draft code for the 1874 Brussels Conference.³⁸

The Russian delegation was led by Baron Jomini (for the Foreign Ministry) and General Leer (for the War Ministry). Martens initially was not part of the Russian delegation—he was added later, to counter the demonstrated utility of Caspar Bluntschli to the German delegation.³⁹ In his instructions to Leer, Dmitrii Miliutin indicated that the most difficult issue at the

conference was likely to be the question “*to whom does the right of combatant belong, in the case when a war is one of peoples [narodnaia voina],*”⁴⁰ when the population, or a portion of it, has taken up arms”?⁴¹

He was entirely right. The issue of the rights and duties of both the occupied and the occupier, and specifically the question of whether an insurgent population in occupied territory should be considered lawful combatants, was indeed the apple of discord at the conference. Russia’s draft code initially placed many obligations on the occupied population, with few formal limits on the occupier. Under the pressure of Belgium and Holland, however, the declaration which emerged from the Brussels gathering placed greater emphasis on the rights of the occupied and more obligations on the occupying power.

In particular, the 1874 declaration recognized the population of an occupied region that rose *en masse* as lawful combatants. Germany—very much viewing the question through the lens of the 1870-71 Franco-Prussian War—could not make peace with this and certain other provisions.⁴² Russia, however, moved to the position of Holland and Belgium.⁴³ Among other arguments, the Russian delegation pointed out that Russia’s own liberation from Napoleon in 1812 had employed partisan formations of armed serfs, led by officers.⁴⁴

At the conference and in secret negotiations afterwards, Germany insisted that lawful combatants should be considered only those wearing uniforms by the eighth day after the start of hostilities, and in direct subordination to a supreme commander-in-chief—two criteria that would have made *francs-tireurs* unlawful combatants.⁴⁵ Moreover, several German scholars and generals argued that it was impossible both to conduct a war successfully *and* observe the laws of war. Such thinkers argued that military necessity in such cases took absolute precedence over

any considerations for the law and customs of war. As a result of these differences, the conference issued a declaration, but was unable to formally ratify a convention.

IV. The Russo-Turkish War, 1877-1878

Martens believed that it was possible to wage war successfully while observing the laws of war. Even in the Thirty Years' War, he argued, it had been possible to observe rudimentary norms and to win. He pointed to the precedent of Gustavus Adolphus, "the most dangerous enemy of Catholic obscurantism," who alone in the Thirty Years' War "reminded his forces about humanitarian conduct and respect for the life and honor of the unfortunate enemy civilians."⁴⁶ Obviously, Martens' Lutheran upbringing is much in evidence in his lionization of Gustavus.

But what of modern war? Martens—and the Russian government—soon had an opportunity to demonstrate that one could wage war successfully while observing the norms discussed at the Brussels Conference. The Russo-Turkish War of 1877-78 was, among other things, an attempt by the Russian government to demonstrate the feasibility of the principles set forth in the unratified Brussels Declaration.

Unfortunately for the Ottoman Empire, attempts to codify the proper conduct of war came precisely at the time that it increasingly formalized its reliance on irregular formations (Circassians and "Bashi-Bazouks" in 1876-1878; later, after 1894, the Hamidiye formations and Kurdish detachments). Irregular forces, in the eyes of the Ottoman government, were better than no forces at all. But farming out the monopoly of state violence to irregular forces came with two significant disadvantages. First, such forces did not observe many of the customs of warfare between legal combatants, traditionally recognized by regular military formations. Second, the

increased employment of such units came at precisely the moment that the law of war—prompted to a great degree by disputes over the status of *francs-tireurs* in the Franco-Prussian War—was seeking to draw rigorous boundaries between legal belligerents and non-combatants. The widespread discussions of the “laws of war” during the Franco-Prussian War and then again in 1874 made charges of “violations,” “atrocities,” and “deviations from civilized norms” concrete in a new way.

For the Russian government, as well as for many in Russian educated society, the Russo-Turkish War of 1877-78 marked a watershed in the observance of international law. Upon the war’s outbreak, the Imperial Senate issued a decree that set out the conventions Russia committed itself to observing. Russia promised to uphold the 1864 Geneva Convention. In doing so, Russia became the first European state to formally recognize the Red Crescent as an analogue to the Red Cross.⁴⁷

The Russian government further committed itself, in the final point of the Senate decree, to observe the general principles of the 1874 Brussels Conference’s “Proposed Laws for Land Warfare.” This Senate decree made observance of the 1874 declaration henceforth a formal precedent for the Russian military.⁴⁸ Russia proclaimed that it would observe the parameters of the Brussels Convention even though the declaration had not been ratified as a formal convention and its precepts were therefore not binding.⁴⁹ Moreover, it would extend the observance of the laws of war—usually reserved for “civilized states”—to a state that many did not consider to be “civilized.”

Indeed, one reason for the war was outrage over the widespread atrocities (the “Bulgarian horrors”) committed by the Ottoman government. Russia’s commitment to these guidelines, then, was not predicated on the principle of reciprocity. Rather, the war in 1877-78 provided an

opportunity for Russia to demonstrate that a state could both win a war and simultaneously observe the newly-codified laws of war. Motivated by Martens' progressive and reformist belief that soldiers simply had to be acquainted with the laws and customs of war, the Russian military published its own guidebook for its soldiers, in question and answer form, on the laws and customs of war.

This catechism on international law drew heavily on the Brussels Conference proposals. With the explicit approval of War Minister Miliutin, the guide first appeared in *Voennyi sbornik*, the War Ministry's official organ, and then also as a separate handbook.⁵⁰ (It did so again at the outbreak of the Russo-Japanese War, in 1904.)⁵¹ To familiarize its soldiers also with the Geneva Convention, on the eve of the Russo-Turkish War the Russian government solicited Carl Lueder, author of *Die Genfer Convention*, to compose a short guide on the Convention for distribution to the Russian troops.⁵²

While Britain contested Russian claims for civilized conduct in this war,⁵³ the Institute for International Law issued a finding in September 1877 that praised Russian observance of the laws and customs of war and condemned Ottoman violations, especially that government's failure to issue any guidelines to its troops regarding the laws and customs of war.⁵⁴ Russian officials and publicists believed that their army in 1877-1878 had set a new standard for observing the laws of war. Russian writers, Martens first and foremost, proudly pointed to the Russian Army's treatment of Ottoman prisoners,⁵⁵ its policy of paying for supplies (usually in cash, rather than in credit), and overall observance of the laws of war.

In his 1879 book *The Eastern War and the Brussels Convention*—dedicated to the “glorious Russian Army”—Martens emphasized the Russian Army's generally good conduct in terms of requisitioning and payment. In fact, the problem of requisitioning was significantly

eased by the fact that a large portion of the Muslim population had fled its lands. The harvest on lands abandoned by Muslims became a reservoir upon which Russian officials could draw to supply both their forces as well as the influx of Bulgarian refugees from beyond the Balkan mountain chain. In his general textbook on international law, Martens proudly contrasted Russian conduct in occupied Turkey in 1877-78 with Prussian conduct in occupied France in 1870-71.⁵⁶

One major area for the application of international law of war in this conflict was the law of belligerent occupation.⁵⁷ Prior to 1874, the Russian military had no formal guidelines for occupation. The 1874 Brussels Conference provided the impetus to formalize the instructions for the aims and conduct of the Russian Army during occupation.⁵⁸ When the Russian Army then did go to war in 1877, it endorsed almost entirely the principles found in the 1874 Brussels Declaration, including those on occupation. Indeed, certain foreign critics viewed the Russian occupation administration as an extension of new understandings in the field of international law which had been championed by Russia in the 1874 Conference.⁵⁹

The Russian government committed itself *almost* entirely to the Brussels principles regarding occupation. The 1877-78 war also saw the crystallization of an important aspect of Russian thinking on international law and in Russian political culture more generally. In Bulgaria from 1877 to 1879, Russian authorities departed from one of the general understandings of the law of occupation by changing the existing administrative and legal structures. Laws of occupation held that existing law and custom should be retained insofar as possible. Russia's policy of reform in Bulgaria was predicated, Russian authorities claimed, on the nature of the war: rather than Russian aggrandizement, its goal was rather "the liberation" of the Bulgarians. Indeed, Alexander II's proclamation to the Bulgarians declared Russia's aims to be the

establishment of “those sacred rights, without which the peaceful and proper development of your civic life is inconceivable.” The tsarist occupation regime in Bulgaria sought to implant “independent national administration in Bulgaria, founded on the principles of self-government and satisfying the spirit and needs of the people summoned to their new life.”⁶⁰

One way of understanding the Russian government’s project in Bulgaria, is as a laboratory for realizing the civic reforms that Alexander II and his progressive bureaucrats had been pursuing in Russia, but which had become stymied at home by 1877.⁶¹ Such an agenda is suggested by the personnel charged with overseeing the administration of Bulgaria. At Dmitrii Miliutin’s suggestion, Alexander II established a new post for the active army: a head of civil affairs [*zaveduiushchii grazhdanskimi delami*], existing under the commander in chief. This post was intended only for the Balkans; its powers did not extend to the Caucasus theatre. The man placed in charge of the new civil affairs administration was Prince Vladimir Cherkasskii. A close friend of several leading liberal Slavophiles, he had played an important role in drafting the 1861 Emancipation decree which abolished serfdom in Russia.⁶² In that capacity, he worked alongside Nikolai Miliutin—the beloved brother of War Minister Dmitrii Miliutin—and Iurii Samarin. Cherkasskii then served as one of Nikolai Miliutin’s major partners in implementing the 1864 peasant reform in Poland, which benefited peasants at the expense of the Polish nobility [*szlachta*] and which was pointedly proclaimed on the same day as the 1861 emancipation of the Russian serfs: February 19. Until Nikolai Miliutin’s retirement for reasons of health, Cherkasskii served as head of the commission for internal and spiritual affairs in Poland.

There was a historical precedent of reform activity carrying over from abroad to the domestic front: the activity of Pavel Dmitrievich Kiselev, who oversaw reforms in the Romanian principalities in 1828-1829, had then drawn up a series of reforms for state peasants in the

Russian Empire.⁶³ (Kiselev, coincidentally, was the uncle of Dmitrii and Nikolai Miliutin.) Kiselev's 1828-1829 organic statutes for the Danubian principalities in fact served as guidelines for Russian reforms in Bulgaria in 1878-1879.⁶⁴ Only by taking seriously this reform agenda can one understand the prescriptive nature of Russian administrative pronouncements for occupied Bulgaria in 1877-1878, which invoked "civil administration" and "civic life" far more often than Orthodoxy or Pan-Slavism.

In 1876 Cherkasskii wrote a personal appeal to Dmitrii Miliutin, brother of his deceased former colleague, asking the war minister to find some use for his talents in the upcoming struggle. The Russian government immediately appointed Cherkasskii head of the Russian Red Cross for the duration of the war. Miliutin, in consultation with Alexander II, then also tapped Cherkasskii to head the newly-conceived post of head of civil affairs for the active army.⁶⁵ Cherkasskii was selected in part to build bridges to educated society [*obshchestvo*], especially in Moscow, which had become increasingly critical of the government. Cherkasskii for a time (1869-1871) had served as elected mayor [*gorodskoi golova*] of Moscow and was close to Ivan Aksakov and other leading members of the Slavic Benevolent Societies.⁶⁶

But it was also hoped that he could accomplish for Bulgaria what he, Iurii Samarin, and Nikolai Miliutin had accomplished in Poland with the 1864 peasant and land reforms. From the vantage point of 1876, the reforms in Poland appeared to have succeeded. In discussing his appointment, Alexander II explicitly charged Cherkasskii "to act in Bulgaria exactly as he had [acted] in the Polish kingdom."⁶⁷

Cherkasskii certainly conceived of his task in these terms. In a letter to Miliutin accepting the post, he expressed regret that Iurii Samarin, with whom Cherkasskii had collaborated on both the 1861 emancipation and 1864 Polish reforms, was no longer alive to

work alongside him in this new task.⁶⁸ Nicholas Miliutin, his other compatriot, had passed away in 1872. Cherkasskii himself would die at his post, literally on the day of the San Stefano Treaty, February 19, 1878—the anniversary of the promulgation of both the 1861 and 1864 reform decrees. Cherkasskii's aide was another compatriot from the era of Polish reforms—Dmitrii Gavrilovich Anuchin, a career military man who specialized in introducing reforms to the peripheries of the Russian Empire.⁶⁹

Members of educated society viewed Cherkasskii's task in Bulgaria as an extension of his earlier reform activities in Poland.⁷⁰ The Russian government attempted—if unsuccessfully—to establish a civic order, one that ideally would incorporate both Christians and Muslims, so long as they all agreed to accept Bulgarian citizenship.⁷¹ Both the Russian-brokered Treaty of San Stefano and the later Treaty of Berlin guaranteed the property rights of Muslims, even those who had fled from areas that now passed under Bulgarian control. In general, the Russian Civil Administration dealt with such questions “with dexterity and sensitivity.”⁷²

Yet if his reputation as a reformer was responsible for Cherkasskii's appointment, it also stymied his abilities to carry out his role. While War Minister Dmitrii Miliutin was a great supporter, nearly all the rest of official Petersburg viewed him with suspicion—as a representative of Moscow's *obshchestvennost'* [educated—and critical—society], as a reformer, and as someone who allegedly held radical views. The Ministry of Foreign Affairs was also wary of him and his new post, fearing (rightly) that he and Miliutin were seeking to limit the role of the Foreign Ministry's diplomatic chancellery, also attached to the Commander in Chief.

While Miliutin and Alexander II secured his appointment, Cherkasskii was to serve under the commander in chief, Grand Duke Nikolai Nikolaevich, Emperor Alexander II's younger brother. Grand Duke Nikolai Nikolaevich and other members of the military were cool to the

idea of the new post of head of civilian affairs, preferring that the army oversee occupation issues. They deliberately tried to keep Cherkasskii at a distance and ignore him insofar as possible. Moreover, Grand Duke Nikolai Nikolaevich's chief of staff, General Artur Adamovich Pokoichitskii, was a major Polish magnate who resented Cherkasskii's role in the 1864 reforms.⁷³ However well-disposed War Minister Miliutin was, only the commander in chief, Grand Duke Nikolai Nikolaevich, could provide the troops necessary to oversee order behind the lines. And such troops were not forthcoming in the first months.⁷⁴

To justify its actions in Bulgaria, Russia claimed on narrow legal grounds that laws of occupation—and hence limits on reordering civic life in occupied territories—did not apply to regions that an occupier never intended to return to the power that had previously controlled it. In the Franco-Prussian War, German forces had established different occupation regimes in Alsace-Lorraine than for the rest of France on precisely these grounds. For analogous reasons, Cherkasskii had authority over the Balkans, but his powers did not extend to the Caucasus theatre.

More broadly, Russian officials asserted that the region was in a state of anarchy under Turkish rule and lacked any properly constituted civic organs. There simply was no proper civic rule to which to return it. Most grandiosely, however, Russian officials claimed that the liberationist goal of the war not only permitted, but *obligated* Russian forces to grant the Bulgarians proper administrative institutions. This despite the fact that Martens himself conceded that the Russian government knew more about Ceylon than it did about the existing administration of Bulgaria and wishes of its inhabitants.⁷⁵

For Balkan Muslims, however, the actual experience of the war and occupation little resembled Russia's reformist plans. There was a massive out-migration of Muslims from Bulgaria. One scholar has estimated that in three years, from 1877 to 1879, seventeen percent of the Muslim population of Bulgaria perished and another 34 percent became permanent refugees.⁷⁶ British diplomats in 1877-78 conveyed the Porte's view that Russian authorities aimed at expelling the entire Muslim population from the occupied territories.⁷⁷ At times British officials themselves expressed the view that Russian forces sought "to drive the Turkish race out of the provinces they have occupied, and to replace it by the Slav."⁷⁸ There were on firmer ground in arguing that Russian units either helped foment atrocities by Bulgarians or stood by passively when they occurred. Here the Russians, particularly in regard to Cossack formations, faced a situation somewhat analogous to that confronting the Ottoman state.

However, the Russian command retained greater control over its forces and it did seek to establish official parameters of conduct. Cossack units were certainly prominent in pillaging, but they were Russian regular formations, unlike Bashi-Bazooks or Circassians. The British charged that "Russian Generals have issued no Proclamation promising protection to the lives, property, and honour of Mahommedans, and this has been added to the panic. Porte was convinced that this is done purposely in order to drive out the whole Mussulman population from the two invaded provinces."⁷⁹ In short, the charge was that the Russians were deviating from the newly codified expectations for the conduct of war. However, Russian guidelines for the administration of these territories from the very first—in documents drafted even before the war began—had called for freedom of conscience for non-Orthodox faiths, expressly including Muslims, "from the expressions of local fanaticism."⁸⁰

As it advanced, the Russian command issued repeated commands and published guidebooks enunciating these principles.⁸¹ In his guidelines to local administrators of occupied territories, issued in July 1877, Cherkasskii instructed that among the officials' main duties was "to preserve calm and order among the population in the army's rear; in forestalling and preventing any possible hostilities that may arise among the inhabitants of various nationalities; in the protection of the freedom of religion of all faiths, including the Muslim faith."⁸² The Muslim exodus from this region was triggered mostly by terrorization by Bulgarian militias and armed bands, at times with the connivance or acquiescence of Russian forces; by fear of the future political order; and, by discriminatory policies by the Bulgarian state after the Russian Civilian Administration had left.⁸³

Individual Russian units often stood by or were in collusion with Bulgarian violence.⁸⁴ Russian commanders, however, expressed disgust at Bulgarian attempts to loot and slaughter Turks.⁸⁵ The British consul in Varna reported in August 1878:

With regards to the refugees it appears that they are meeting with less difficulties from the Russians, who evidently see that the obstacles they encounter retard the evacuation [of the forts] they are so desirous to have quickly terminated . . . We hear rather less of outrages in the villages; every now and then, however, one is reported. This shows, I think, that the Russians, if willing, can suppress these disorders. They have sent out troops for this purpose, evidently seeing that the evacuation is retarded thereby.⁸⁶

British diplomats conceded that once the armistice had gone into effect, Russian forces secured order and property in Adrianople (Edirne) and complaints against the behavior of Russian troops in the rural districts ceased. However, they argued "the conduct of Bulgarians and Greeks towards the Mussulman villagers, instead of improving . . . is growing worse."⁸⁷

In fact, in the months after the cessation of hostilities, Russian officials in Adrionopol (Edirne) cared for over 45,000 Muslim refugees, distributing 130,000 bushels of wheat, corn and rye to the refugees. By the middle of 1878 Russian officials in Adrionopol (Edirne) began to dispatch groups of Muslim refugees, by rail, back to their original homes. Nearly 20,000 silver rubles were expended on rail transport for the refugees. By autumn 1878 Russian officials organized the departure of over 19,000 of the original 37,000 refugees. However, several thousand returned to Adrionopol, finding conditions there preferable to what they found at home.⁸⁸ In Tul'chinsk sanjak, where officials had received no direct instructions from their superiors, they "had decided to allow the Muslim refugees to return."⁸⁹ Thus, rather than seeking to ethnically cleanse the new Bulgaria, Russian forces actively sought to return Muslim inhabitants to these regions.

There was, however, one glaring exception. The Ottoman government had settled in Bulgaria a large portion of the Cherkess tribesmen after they had been expelled from Russia in the 1860s.⁹⁰ In 1875-1878 they had been conspicuous in the marauding and atrocities against the civilian population (Muslims as well as Christians). When Russian officials drew up their maps prior to the war, they singled out the areas and even the villages inhabited by Cherkess tribespeople. During the war such maps were of "great use" to both civilian affairs officials as well to military commanders.⁹¹ Once the war was over Russian officials formally banned the Cherkess from returning to their places of habitation in Bulgaria. Lists of returning Muslim refugees were checked to ensure that among them there were no Cherkess, or individuals accused of atrocities.⁹²

Such were the official decrees; but were they implemented? By and large, I believe they were. Russian conduct in 1877-1878, in any case, was certainly far more civilized than in 1914-1917 (especially regarding Galicia).⁹³ The Russian command issued orders restricting soldiers to their bivouacs and threatening punishment for any looting.⁹⁴ After the war ended, during the period of occupation (1878-1879), Russian forces frequently came to the defense of Turkish villagers and entire communities when they were attacked by Bulgarian or Greek crowds.⁹⁵

During the occupation of Bulgaria, Russian officials sought to police their policies through military courts. Russians even contended that these military courts introduced modern legal principles to the archaic and religiously differentiated Ottoman codes.⁹⁶ Given a preference for “calm and order” as well as motivated by an amorphous civic reform agenda, Russian forces tried fitfully to prevent terror and violence on the part of both Bulgarians and Turks. During the war and afterward, Russian military courts in areas under military occupation tried Turkish civilians for slaughtering Bulgarians and Greeks. During the war, some Russian units involved in military operations meted out swift punishment to Muslims accused of committing atrocities.⁹⁷

But Russian military courts, both during the war and during the occupation afterward, equally prosecuted Greeks and Bulgarians for massacring and raping Turks.⁹⁸ In November 1877, for instance, a Russian military court tried eighteen Bulgarians for the murder of thirty Turkish males and rape of four Turkish girls and women in the village of Kal’bunara. The court acquitted thirteen of the accused, but it convicted the five ringleaders, including the local Bulgarian Orthodox priest, and sentenced them to fifteen to twenty year terms of exile and hard labor in Siberia. The military appellate court rejected the petitions for amnesty from the defendants, including that of the Orthodox priest.⁹⁹ In August 1878 the Russian Emperor ordered that Russian military courts should impose their sentences without regard for political

factors, by which was meant favorable treatment of Bulgarians.¹⁰⁰ After hostilities ceased Russian courts ceased to have any jurisdiction over actions committed before the cessation of hostilities; later, the 1879 Treaty of Constantinople, resolving several issues from the 1878 Berlin Treaty, amnestied all Turkish subjects found guilty by military courts.¹⁰¹

The Russo-Turkish War extended also to Asiatic Turkey, where the Russian Empire gained the Kars and Batum regions. In Asiatic Turkey Russian officials declared, in accordance with the laws of war, that civilians would remain unharmed and their property inviolable if they offered no resistance. Unlike Bulgaria, which was slated for some form of independent or autonomous existence, Russian forces operating in Anatolia retained existing laws and administration.¹⁰² There was no equivalent of Cherkasskii's administration there.

Nor did the Russian government seek to pursue ethnic consolidation in the Caucasus. The Treaty of Constantinople (February 1879), clarifying certain points of the in 1878 Congress of Berlin, permitted, over the course of three years, the emigration of those Muslims who wished to leave areas newly-acquired by Russia.¹⁰³ As a result, there was a voluntary resettlement to the Ottoman Empire of nearly 140,000 Muslims from the territories newly acquired by the Russian Empire, and the settlement of up to 25,000 Armenians from the Ottoman Empire to Russia. Russian officials, however, strenuously tried to convince Armenians to remain in their places of settlement rather than to emigrate to Russia.¹⁰⁴

Russian conduct in 1877-78, then, was not a precursor to twentieth-century ethnic cleansing.¹⁰⁵ While ethnicity and religion clearly were factors in some decisions, Russian officials as often as not thought in terms of social status or the goal of upholding law and order.¹⁰⁶ In Bulgaria, for instance, a major factor in Russian treatment of refugees, both Bulgarian and Turkish, was not so much a desire for ethnic consolidation—this was not

pursued—as a desire to avoid famine among refugees and the resultant disorder. Similar considerations led Russian officials in 1878-1879 to lobby Armenians to remain in the Ottoman Empire, rather than to emigrate to Russia.

Conclusion

Russia clearly continued to believe that the Russo-Turkish War of 1877-78 was both fought for, and according to, higher principles. Martens wrote *The Eastern War and the Brussels Conference, 1874-1878* explicitly to demonstrate this point. It was equally obvious in the 1888 monument built in Moscow by the Grenadiers, on the tenth anniversary of the war's end. This monument, located near the Polytechnical Museum, has a working chapel within it. On its exterior there are four bronze friezes: one shows Bulgaria, represented as both a woman and a suffering man, enslaved; a second shows a Russian conscript receiving the blessing of his father as he goes off to war (the war was the first after the 1874 military reform had introduced universal conscription in Russia); the third presents a standing Ottoman irregular—Bashi-Bazook or Cherkess—abusing a prostrate Christian woman; and the final relief portrays a Russian soldier magnanimously helping a defeated Ottoman regular soldier. This then was one of the causes for which Russia fought in 1877-1878: for the “proper” conduct of war.

ENDNOTES

¹ Geoffrey Best, *Humanity in Warfare* (New York: Columbia University Press, 1980), pp. 128-215. For contemporary Russian treatments, see Fedor Martens, “Soobshchenie professora Martensa o neobkhdimosti opredeleniia mezhdunarodnykh pravil voiny” *Zapiski russkogo tekhnicheskogo obshchestva*, vyp. 4 (1881), pp. 308-335 and Vladimir Grabar’, “Pravo voiny,” *Entsiklopedicheskii slovar’ Brokgauza i Efrona* 24 (1898), 875-884.

² For explicit contemporary expressions of this view, see Fedor Martens, *Vostochnaia voina i briussel’skaia konferentsiia, 1874-1878* (St. Petersburg: Tipografiia ministerstva putei soobshcheniia, 1879), pp. 48-49; Baron Boris Nol’de, “Voina s tochki zreniia prava” in *Politicheskaiia entsiklopediia*, ed. L. Z. Slonimskii (St. Petersburg: P. I. Kalinkov, 1906-1907), 437-439; Baron S. A. Korf, “Sovremennaia voina i mezhdunarodnoe pravo” in *Voprosy mirovoi voiny*, ed. M. I. Tugan-Baranovskii (St. Petersburg: Pravo, 1915), 507-531, here at 507. (Nol’de and Korf had both been students of Martens.)

³ Arkhiv vneshnei politiki rossiiskoi imperii, Moscow (Foreign Policy Archive for the Russian Empire) [AVPRI], f. 133, op. 470 (1874 g.), d. 28, ll. 107-127 (Observations Allemands concernant le Projet de Bruxelles and Communication Allemande, 1875); ll. 205-211 (Communication Allemande, 1877); ll. 253-255 (Note au General de Schiveinitz, 1877); Rossiiskii gosudarstvennyi voenno-istoricheskii arkhiv, Moscow (Russian State Military-Historical Archive) [RGVIA], f. 401, op. 2/926, ll. 341-344, here at 343 (Baron Zhomini to War Minister Miliutin, 8 December 1875).

⁴ Rapport présenté au nom de la deuxième sous-commission par M. Rolin sur le Projet de Declaration concernant les lois et coutumes de la guerre sur terre (AVPRI, f. 133, op. 470 (1899), d. 62, t. 2, ll. 481-490); Martens diary, entry for 8/12 July 1899 (AVPRI, f. 340, op. 787, d. 5, ll. 53-53 ob.).

⁵ On the novelty of the 1915 Allied note’s terminology, see Eric Myles, “‘Humanity’, ‘Civilization,’ and the ‘International Community’ in the Late Imperial Russian Mirror: Three Ideas ‘Topical for Our Days’” *Journal of the History of International Law* 2 (2002) 310-34, here at 319 and the literature cited in n. 52. Martens, in his 1882 textbook on international law (which was recommended reading to all those who took the Russian Foreign Ministry exam), had argued that, wherever possible, generic reprisals should be replaced instead by the punishment of the individual who had committed the violation of the laws of war; such violators were to be treated not as POWs, but as criminals and brought before a military court (Martens, *Sovremennoe mezhdunarodnoe pravo*, vol. 2, §121).

For excerpts of the official Russian diplomatic correspondence on this important note, see *Mezhdunarodnye otnosheniia v epokhu imperializma: Dokumenty iz arkhivov tsarskogo i vremennogo pravitel’stv* (Moscow: Gos.-Sot., 1935), series III, vol. 7, part 2 (24 March-23 May 1915), nos. 609, 724, 740, 797, 799 [German translation available in *Internationale Beziehungen im Zeitalter des Imperialismus*, ed. M. Pokrowski, trans. and ed. Otto Hoetzsch (Berlin: Reima Hobbing, 1935), identical document numbering]. Russian diplomatic correspondence on initiating the note and debates with the Allies over its wording is found in AVPRI, f. 151, op. 482, d. 3507. The initial justification for infringing on Turkey’s state sovereignty was the precedent of Great Power intervention in Syria in 1860 (*Mezhdunarodnye otnosheniia*, III.7.2., doc. 609 = AVPRI, f. 151, op. 482, d. 3507, l. 4). The initial Russian note spoke of the Ottoman government’s violations “against Christianity and civilization” (AVPRI, f. 151, op. 482, d. 3507, l. 9); the French government protested that--on account of the need “to take into consideration the sentiments of Muslim populations who live under [the French government’s] sovereignty”--the term “against Christianity” should be excised (AVPRI, f. 151, op. 482, d. 3507, l. 19); the Russian government then inserted the terms “against humanity and civilization” (AVPRI, f. 151, op. 482, d. 3507, l. 20). See also below on Andrei Mandel’shtam’s attempts to promote the cause of “crimes against humanity” in the interwar period, with specific reference to the Armenian case.

⁶ See Fedor Martens, *Sovremennoe mezhdunarodnoe pravo tsivilizovannykh narodov*, 2nd ed. (St. Petersburg: Tipografiia ministerstva putei soobshchenii, 1887), 2 vols., 1: 181-84, 14 and 2:437. On the history of the “standard of civilization,” see Gerrit W. Gong, *The Standard of “Civilization” in International Society* (Oxford: Clarendon Press, 1984); for interpretations of “civilization” in Russian works of international law, see Eric Myles, “‘Humanity’, ‘Civilization,’ and the ‘International Community’ in the Late Imperial Russian Mirror: Three Ideas ‘Topical for Our Days’” *Journal of the History of International Law* 2 (2002) 310-34, here at 320-24.

⁷ See Peter Holquist, “By Right of War”: The Discipline and Practice of International Law in Imperial Russia, 1870-1917,” unpublished paper. Martens wrote an important memorandum at this time, arguing that China should be treated as a neighboring state rather than as a colony.

⁸ AVPRI, f. 133, op. 470 (1899 g.), d. 62, t. 2, ll. 672-674 (Dépeche from de Staal to Foreign Minister Murav’ev, 19 July 1899): “the eastern powers . . . , entirely cognizant of the fact that they owed their attendance at the Conference to Russia alone, did not pass up an opportunity to express their commitment and gratitude. In this state of affairs one cannot but see one of the most significant political consequences of the Conference—clearly demonstrating all these states’ pull toward Russia and Russia’s natural role as hegemon over the East.”

⁹ Martens, *Vostochnaia*, p. 99; Aleksandr Gorovtsev, *Voina i pravo: Soobshchenie, pročitannoe v Obshchestve revnitatelei voennykh znaniĭ, 6 marta 1902 g.: Izdanie vtoroe* (St. Petersburg: Tipografiia V. F. Kirshbaum, 1910), pp. 54-55; see also Vladimir Grabar’, “Pravo voiny,” *Entsiklopidicheskii slovar’ Brokgauza-Efrona*, vol. 24a, 875-884; Boris Nol’de, “Gaagskaia konferentsiia mira,” *Politicheskaiia entsiklopediia*, 1: 498-504; G. Parfenov, “Vooruzhennyi mir,” *Slovar’ iuridicheskikh i gosudarstvennykh nauk*, eds. A. F. Volkov and Iu. D. Filippov (St. Petersburg: Obshchestvennaia pol’za, 1901), cols. 2297-2299; P. I. Chislov, *Sovremennoe pravo voiny: Posobie k leksiĭam v voennykh uchilishchakh* (Moscow: Tipografiia Men’shova, 1910), p. 2.

¹⁰ On the German school’s emphasis on “military necessity” in international law, see Best, *Humanity*, 145-147, 173-178 and John Horne and Alan Kramer, *Atrocities, 1914: A History of Denial* (New Haven, Conn.: Yale University Press, 2001), 140-74. While partisan, George Winfield Scott and James Wilford Garner, *The German War Code, contrasted with the War Manuals of the United States, Great Britain, and France* (Washington, D.C.: Committee on Public Information, 1918) [War Information Series no. 11], is also useful.

For Russian claims that the Germans had a particularly militaristic understanding, see the exchange of letters between Johann Caspar Bluntschli, Field Marshal von Moltke, Duke Nicholas Leuchtenberg, and Fedor Martens in *Revue de droit international et de législation comparée* 13 (1881): 79-84, 306-312; Martens, *Vostochnaia voina*, pp. 51-55 (indicting the statements of General von Hartmann in *Deutsche Rundschau* in 1877); V. E. Grabar’, “Voina i mezhdunarodnoe pravo,” *Uchënye zapiski imperatorskogo iur’evskogo universiteta*, no. 4 (1893): 21-45, here at 32-33; Vladimir Grabar’, “Voennaia neobkhodimost’,” in *Slovar’ iuridicheskikh i gosudarstvennykh znaniĭ*, 2109-2110; Vl. Grabar’, “Voina (v mezhdunarodnom prave),” *Novyi entsiklopedicheskii slovar’ Brokgauza i Efrona* (St. Petersburg-Petrograd: Brokgauz-Efron, 1911-1916), pp. 342-343; Korf, “Sovremennaia voina,” pp. 509-510. For an indictment of the inflated use of the argument of military necessity, see Fedor Martens, “Sonderabdruck aus ‘Deutsches Revue,’ Dezember 1904” (unpublished article, in Otdel Rukopisei Rossiiskoi Natsional’noi Biblioteki, St. Petersburg [hereafter, OR RNB], f. 123, ed. khr. 308, ll. 211-212), repeating a view Martens had expressed in 1881 in his letter to the *Revue*.

¹¹ Nikolai Bazili, “Memoirs,” ch. 1, p. 17 (Hoover Institution Archive on War, Revolution, and Peace, Nikolai Aleksandrovich Bazili Papers, box 17 [Bazili’s father, Aleksandr Bazili, was the force behind the Russian government’s decision to convene the first Hague conference and was one of Russia’s diplomatic delegates there; his son, Nicholas, attended the conference]); Martens’ diary, 30 January 1899 and 3 March 1907 (AVPRI, f. 340, op. 787, d. 5, l. 2 ob.; d. 9, l. 113). Martens detested Wilhelm II and the Prussian court (see, e.g., his diary entry for 6 April 1908).

¹² Martens, *Vostochnaia*, pp. 28-31 (Clausewitz), 16 (Darwin). Current scholarship supports Martens’ interpretation of Clausewitz: see Peter Paret, *Clausewitz and the State* (New York: Oxford University Press, 1976) and Michael Howard, *Clausewitz: A Very Short Introduction* (Oxford: Oxford University Press, 2002). On the Russian reception of Darwin, see Daniel Todes, “Darwin’s Malthusian Metaphor and Russian Evolutionary Thought, 1859-1917,” *Isis* 78 (1987): 537-551.

¹³ Best, *Humanity*, pp. 163, 164. For an excellent overview of Russian activity in the sphere of international law, see Eric Myles, “‘Humanity’, ‘Civilization’, and the ‘International Community’ in the Late Imperial Russian Mirror: Three Ideas ‘Topical for Our Days’” *Journal of the History of International Law* 2 (2002) 310-34; a critical resource

is V. E. Grabar, *The History of International Law in Russia, 1647-1917: A Bio-Bibliographical Study*, trans. W. E. Butler (Oxford: Clarendon Press, 1990). Most other general works neglect Russia's important role in this sphere: Sharon Korman, *The Right of Conquest: The Acquisition of Territory by Force in International Law and Practice* (Oxford: Clarendon Press, 1996); Eyal Benvenisti, *The International Law of Occupation* (Princeton: Princeton University Press, 1993); and, Karma Nabulsi, *Traditions of War: Occupation, Resistance, and the Law* (New York: Oxford University Press, 1999). A major exception is Doris Appel Graber, *The Development of the Law of Belligerent Occupation, 1863-1914: A Historical Survey* (New York: AMS Press, 1968; reprint of 1949 original). Graber very capably presents Russia's position to this issue, relying on Martens' prodigious publication record in French and German. (Nearly all of Martens' major works are available in English, French, or German, including his two-volume study of international law.)

¹⁴ E.g., Andrzej Walicki, *Legal Philosophies of Russian Liberalism* (Oxford: Clarendon Press, 1987); Jörg Baberowski, *Autokratie und Justiz: Zum Verhältnis von Rechtsstaatlichkeit und Rückständigkeit im ausgehenden Zarenreich, 1864-1914* (Frankfurt am Main: Vittorio Klostermann, 1996); Susan Heuman, *Kistiakovsky: The Struggle for National and Constitutional Rights in the Last Years of Tsarism* (Cambridge, Mass.: Harvard University Ukrainian Institute, 1998).

¹⁵ V. V. Pustogarov, “. . . *S palmovoi vetv'iu mira*”: *F. F. Martens—iurist, diplomat, publitsist* (Moscow: Mezhdunarodnye otnosheniia, 1993), recently translated as *Our Martens: F. F. Martens, International Lawyer and Architect of Peace*, ed. and trans. W. E. Butler (London: Simmonds & Hill, 2000); D. B. Levin, *Nauka mezhdunarodnogo prava v Rossii v kontse XIX i nachale XX v.* (Moscow: Nauka, 1982). Pustogarov in particular reproduces many of Martens' own self-aggrandizing claims.

¹⁶ See the preliminary discussion by the Ministry of War on the proposed program of the 1899 Conference: AVPRI, f. 133, op. 470 (1899 g.), d. 63, ll. 407-413; and the instructions from the Foreign Minister to Russia's principal delegate De Staal, *ibid*, l. 436.

¹⁷ For the explicit argument that Russia's achievements in the field of international law required a commitment to the rule of law in general and to defense of individual rights in the domestic sphere, see: Martens, *Sovremennoe mezhdunarodnoe pravo*, 1: v, 24, 184, 202, 207; and L. Slonimskii, “Voina i ideia mira,” *Vestnik evropy* (Nov. 1899), 341-55, here at 354. Martens welcomed the 1905 October Manifesto as a “salvation”: it transformed “autocratic and bureaucratic Russia . . . into a free, new, and constitutional Russia!” In his view, “the rule of arbitrariness, court intrigues, and administrative oversight has ended! Long live law-based freedom and order based on law!” (Martens diary, entries for 18 and 20 October 1905: AVPRI, f. 340, op. 787, d. 9, ll. 69, 70).

¹⁸ Boris Nol'de, “F. F. Martens,” *Russkaia mysl'*, Dec. 1909, 20-30, here at 20. Boris Nol'de became an important figure in Russia's oppositionist Constitutional Democratic Party.

¹⁹ Martens, *Vostochnaia voina*, p. 76; similarly, p. 117.

²⁰ Martens to M. N. Nikonov, 26 November 1879 (OR RNB f. 521, ed. khr. 88, ll. 14-15); Martens to Dmitrii Miliutin, 21 April 1882 and 24 August 1898 (Otdel rukopisei Rossiiskoi gosudarstvennoi biblioteki, Moscow (Manuscript Division, Russian State Library) [OR RGB], f. 169, karton 68, d. 42, ll. 9-10, 14-15ob.); Martens to Vaksel' [Waxel], 7/19, 8/20 August 1899; 16 December 1904 (OR RNB, f. 123, ed. khr. 308, ll. 86-89, 90-91, 134); Martens diary, entries for 30 January 1899, 21 July/2 August 1899, 29 July 1905, 14 September 1907 and *passim* (AVPRI, f. 340, op. 787, d. 5, ll. 1, 61-62; d. 9, ll. 31, 153).

²¹ Grabar, *History of International Law*, pp. 381-388, 442, 464-465; Grabar' does not list Chinese or Persian, but Nol'de does (“F. F. Martens,” 25). As a recommended text, see D. C. B. Lieven, *Russia and the Origins of the First World War* (New York: St. Martin's Press, 1983), pp. 87-89; the other text was Emile Bourgeois, *Manuel Historique de Politique Étrangère*.

²² See Martens diary, entries for 4 January, 3 March, and 7 April 1907 (AVPRI, f. 340, op. 787, d. 9, ll. 103-104, 105, 106, 132). See Nol'de's obituary for Martens: “F. F. Martens,” *Russkaia mysl'* Dec. 1909, 20-30.

²³ See Nol'de's account of the conference: Baron Nol'de, "Vtoraia 'konferentsiia mira': ocherk," *Vestnik evropy*, April 1908, 461-490.

²⁴ See Grabar, *History of International Law*, pp. 390-91; for his activity during World War One, see G. N. Mikhailovskii, *Zapiski. Iz istorii rossiiskogo vneshnepoliticheskogo vedomstva, 1914-1921* (Moscow: Mezhdunarodnye otnosheniia, 1993), 1: 89-92, 149-54, 364-66. Early in Mandel'stam's career, Martens intervened to help find him a teaching position, in order to supplement his small salary (Martens to Waxel, 8 September 1895: OR RNB, f. 123, ed. khr. 308, ll. 65-66).

²⁵ *Budushchee ustroistvo Armenii po ofitsial'nym diplomaticheskim dokumentam Oranzhevoi knigi, traktuiushchei reformy v Armenii. (Tret'ia oranzhevaia kniga.) [= Diplomaticheskii arkhiv tom VIII]* (Petrograd: "Osvobozhdenie," 1915), esp. part II, doc. 10; André Mandel'stam, *Le Sort de l'Empire ottoman* (Lausanne-Paris: Librairie Payot, 1917), pp. 206-245.

²⁶ On Nol'de and Mandel'stam, see Catharine Gousseff, "La distinction par le statut: les Russes et l'institutionnalisation du réfugié" (unpublished paper). The literature on Mandel'stam is growing: K. J. Partsch, "Die Armenierfrage und das Voelkerrecht in der Zeit des Ersten Weltkrieges. Zum Wirken von Andre Mandel'stam," in *Genozid und Moderne, vol. 1: Strukturen kollektiver Gewalt im 20. Jahrhundert*, eds. M. Dabag and K. Platt (Opladen, 1998); Dzovinar Kévonian, "Les jurists juifs russes en France et l'action internationale dans les années vingt," *Archives juives* 34 (2) (2001), 72-94; Dzovinar Kévonian, "Exilés politiques et avènement du 'droit humain': La pensée juridique d'André Mandel'stam (1869-1949)," *Revue d'histoire de la Shoah: le monde juif*, no. 177-178 (January-August 2001), 245-273; Lubor Jilek, "Violences de masse et droits de l'homme: Andrei Mandel'stam entre Constantinople et Bruxelles," *Les cahiers de la Faculté des Lettres de Genève*, 2000, 64-71.

Among Mandel'stam's key works in emigration on issues of human rights and genocide are: *Le Sort de l'Empire ottoman* (Lausanne-Paris: Librairie Payot, 1917), with an extensive discussion of the role of international intervention and international law in relation to the Armenian genocide; *Das armenische Problem im Lichte des Völker- und Menschenrechts* (Berlin: G. Stilke, 1931) [the Cornell Library copy bears an inscription in Russian from Mandel'stam "To Baron Boris Emmanuilovich Nol'de, with fine memories, from a former Foreign Ministry colleague"]; *Les Droits internationaux de l'homme* (Paris: Éditions Internationales, 1931).

²⁷ Martens to Waxel, 7/19 August 1899 (OR RNB, f. 123, ed. khr. 308, ll. 86-89, l. 89). Martens repeatedly referred to the 1874 Brussels declaration as his "beloved child"; with the ratification of the Hague Convention in 1899, he rejoiced that "the Brussels declaration—my beloved child of 1874—has been transformed from an illegitimate child into a legitimate and fully recognized one!" (diary entry for 8/12 July 1899, AVPRI, f. 340, op. 787, d. 5, l. 52 ob.)

²⁸ See Best, *Humanity*, pp. 163-166; on its role in the approval of the "Regulations," see *Rapport présenté au nom de la deuxième sous-commission par M. Rolin, sur le Projet de Déclaration concernant les lois et coutumes de la guerre sur terre* (AVPRI, f. 133, op. 470 (1899 g.), d. 62, tom 2, ll. 481-490, here at 482).

²⁹ Martens diary, entry for 8/12 July 1899 (AVPRI, f. 340, op. 787, d. 5, l. 53-53 ob.). The Belgians insisted on this addition, as they feared that otherwise an occupied population would be left bereft of any protection; Martens found the declaration itself full of "empty phrases."

³⁰ Martens diary, entry for 28 November 1907 and 28 November 1908 (AVPRI, f. 340, op. 787, d. 9, ll. 169, 196).

³¹ OR RGB, f. 169, karton 38, d. 2 (Martens to Miliutin, 25 April 1872); OR RGB, f. 169, karton 38, d. 4, l. 1 (Baron Jomini to Miliutin, 4 Feb. 1874); OR RGB, f. 169, karton 38, d. 4, l. 5 (Baron Jomini to Miliutin, 7 March 1874); Dmitrii Miliutin, *Dnevnik D. A. Miliutina, 1873-1875*, t. 1, ed. P. A. Zaionchkovskii (Moscow: "Pogrannichnik," 1947), entry for 2 April 1874 (p. 150).

³² OR RGB, f. 169, karton 38, d. 1: Mezhdunarodnaia voennaia komissiia po zapreshcheniiu razryvnykh pul' [International Military Commission for banning explosive bullets]. Russia had developed such bullets for use against artillery caissons, but had decided to forswear their use: see *Mémoire sur la suppression de l'emploi des balles explosives en temps de guerre (18/30 Octobre 1868)*. For the Petersburg Declaration, see James Brown Scott,

ed., *The Texts of the Peace Conferences at the Hague, 1899 and 1907, with English translation and appendix of related documents* (Boston: Ginn and Company, 1908), 381-82; see the treatment in Best, *Humanity*, 159-60.

³³ *Mémoire sur la suppression*, p. 7. At the First Hague Conference, the Belgian delegate Auguste Beernaert noted that the 1868 declaration was the first public act that invoked “the exigencies of humanity” in limiting the “necessities of war” (Beernaert to the First Commission, 26 May 1899, AVPRI, f. 133, op. 470 (1899), t. 1, l. 65).

³⁴ In his original proposal and later, Martens explicitly referred to the 1868 Conference as an inspiration: Martens’ proposal to Dmitrii Miliutin, 25 April 1872 (OR RGB, f. 169, karton 38, d. 2, ll. 1-4, here at l. 2 ob.); see also Martens to Dmitrii Miliutin, 3 October 1877; 24 Sept. 1878; 21 April 1882 (OR RGB f. 169, karton 68, d. 42, ll. 3-4ob; 5-6ob.; 9-10ob.).

³⁵ Martens’ proposal to Dmitrii Miliutin, 25 April 1872 (OR RGB, f. 169, karton 38, d. 2, ll. 1-4, here at ll. 1-1 ob.); also Martens, *Vostochnaia voina*, p. 63, n. 1. In this latter work, Martens directs readers to “the superior work on this war,” Rolin-Jacquemyns, *La Guerre actuelle dans ses rapports avec le droit interionational*.

³⁶ F. Martens, “Briussel’skaia mezhdunarodnaia konferentsiia 1874 g.,” *Sbornik gosudarstvennykh znanii* no. 1 (1874): 181-231, here at 186-188.

³⁷ Martens’ proposal to Dmitrii Miliutin, 25 April 1872 (OR RGB, f. 169, karton 38, d. 2, ll. 1-4, here at ll. 1-1 ob.); Martens’ initial draft of laws of land warfare (RGVIA, f. 401, op. 2/926 (1874), d. 47, ll. 11-28), in which Martens explicitly indicates which articles from the Lieber code serve as the basis for his own articles. In published articles on the conference, Martens drew attention to the significance of the Lieber code: F. Martens, “Briussel’skaia deklaratsiia o zakonakh i obychaiakh voiny,” *Voennyi sbornik* 18, no. 6 (1875): 213-293, here at 218-219; Martens, “Soobshchenie o neobkhodimosti” (1881), 317.

³⁸ Miliutin, *Dnevnik*, 1: 150 (entry for 2 April 1874); the final draft, in Russian and in the official French translation, is found in RGVIA, f. 401, op. 2/926 (1874 g.), d. 47, ll. 2-6b ob. (Russian), 147-157 ob. (French translation).

³⁹ Jomini, telegrams to Foreign Ministry (21, 25, 26 July 1874) and dépeche to FM (1/13 August 1874) (AVPRI, f. 133 (1874), op. 470, d. 27, ll. 611, 607, 608, 119). Jomini noted that the German delegation consulted Bluntschli “on all questions” (Jomini to FM, 8/20 August 1874, *ibid*, l. 151); Jomini believed neither he or Leer were a match for Bluntschli—hence they requested Martens (l. 608 ob.).

⁴⁰ The equivalent of the German *Volkskrieg*—P.H.

⁴¹ Miliutin’s instructions to Leer, 7 July 1874 (RGVIA, f. 401, op. 2/926 (1874 g.), d. 47, ll. 198-199 ob).

⁴² For the views of German military men and some specialists on international law, who viewed any form of civilian resistance as criminal, see Horne and Kramer, *German Atrocities*, 140-153. Martens criticized the conduct of German occupation authorities in 1870-71: *Sovremennoe mezhdunarodnoe pravo*, 2: 496-97, 500.

⁴³ See Jomini’s reports to the Foreign Ministry (AVPRI, f. 133 (1874), op. 470, d. 27) and Leer’s report to Miliutin on the course of the conference (RGVIA, f. 401, op. 2/926 (1874 g.), d. 47, ll. 303-306)

⁴⁴ The 6 July 1812 decree sanctioning the organization of the national militia (*opolchenie*) stipulated that its members serve under a noble or overseer; have a standard outfit; undergo military training; and, observe the laws of war (Martens, *Sovremennoe mezhdunarodnoe pravo*, 2: 481; see also Martens, “Soobshchenie o neobkhodimosti” (1881), 323). In 1877, the Russian government opposed German attempts to limit a *levée en masse*, citing public “sympathies based on our national traditions” (AVPRI, f. 133 (1874), op. 470, d. 28, l. 253).

⁴⁵ When Russia in 1875 proposed the convocation of a second gathering, to be held in St. Petersburg, other powers were invited to comment on the final draft of 1874. The German government repeated its opposition to the final 1874 draft when Russian officials approached the German and Austro-Hungarian governments independently in 1877 in an attempt to broker a compromise. The Russian government opposed these German attempts to revise the

1874 draft: AVPRI, f. 133, op. 470 (1874 g.), d. 28, ll. 107-127 (Observations Allemands concernant le Projet de Bruxelles and Communication Allemande, 1875)—the German government protested in particular to articles 9-10; ll. 205-211 (Communication Allemande, 5/17 March 1877). For the Russian response, see RGVIA, f. 401, op. 2/926, ll. 341-344, here at 343 (Baron Zhomini to War Minister Miliutin, 8 December 1875); AVPRI, f. 133, op. 470 (1874 g.), d. 28, ll. 253-255 (Note au General de Schiveinitz, 2 August, 1877).

⁴⁶ Martens, *Vostochnaia voina*, p. 23.

⁴⁷ See the fine treatment in John F. Hutchinson, *Champions of Charity: War and the Rise of the Red Cross* (Boulder, CO: Westview Press, 1996), 138-147; the Russian command instructed its soldiers that the Red Crescent was protected under the Geneva Convention and was to be treated as analogous to the Russian Army's Red Cross ("Prikazanie po voiskam deistvuiushchei armii no. 122" [14 July 1877], in *Letuchii voennyi listok*, no. 15).

⁴⁸ See the Russian War Ministry's discussions of point 7 of the formal Russian invitation to the Hague Conference of 1899 (Committee for preliminary discussion of the questions raised in the Ministry of Foreign Affairs' circular, 30 Dec. 1878: AVPRI, f. 133, op. 470 (1899), d. 63, ll. 399-415, here at 402-403).

⁴⁹ Martens, *Vostochnaia voina*, pp. 241-275; Senate decree reproduced as appendix 3.

⁵⁰ Colonel M. Piunovskii, *Zakony i pravila voiny po mezhdunarodnomu pravu* (St. Petersburg: Tipografiia Poletkina, 1877), originally published in the journal *Voennyi sbornik*; see also Martens, *Vostochnaia voina*, p. 275; Martens to Miliutin, 3 Oct. 1877 (OR RGB f. 169, karton 68, d. 42, ll. 3-4ob). In 1875, the same journal had published an extensive (eighty-page!) article by Martens on the Brussels Conference: Martens, "Briussel'skaia deklaratsiia o zakonakh i obychaiakh voiny," *Voennyi sbornik* no. 6 (June 1875), 213-93.

⁵¹ *Polozhenie o zakonakh i obychaiakh sukhoputnoi voiny: Zhenevskaiia konventsiiia 1864 g.; S.-Peterburgskaia deklaratsiia 1868 g.; Tri Gaagskikh deklaratsii 1899 g.* (St. Petersburg: Voennaia tipografiia, 1904), published by a 14 July 1904 order of the War Ministry.

⁵² Martens, *Vostochnaia voina*, 267.

⁵³ On the British press and government campaign asserting "Russian atrocities" during the war—and the general unreliability of these charges—see R. W. Seton-Watson, *Disraeli, Gladstone, and the Eastern Question: A Study in Diplomacy and Party Politics* (London: Macmillan and Co., 1935), 272-87. Unfortunately, the wonderful accessibility of the British diplomatic records—which Seton-Watson demonstrates were quite consciously partisan—have made them the basic source for many accounts of the war's conduct.

⁵⁴ "Observations et voeux deliberés le 12 septembre 1877," *Bulletin international des sociétés de secours aux militaires blessés publié par le Comité international de la Croix Rouge*, no. 32 (18 October 1877), 217-221; Russian translation reproduced in Martens, *Vostochnaia voina*, appendix 4. This finding was due in no small part to Martens' lobbying at the meeting in Zurich: Martens to Miliutin, 3 Oct. 1877 (OR RGB f. 169, karton 68, d. 42, ll. 3-4ob).

⁵⁵ For even well-disposed observers' criticism of the Ottoman forces' treatment of prisoners and the wounded, see Hutchinson, *Champions of Charity*, pp. 144-146.

⁵⁶ Martens, *Sovremennoe mezhdunarodnoe pravo*, 2: 500.

⁵⁷ Overall, see Graber, *Law of Belligerent Occupation*.

⁵⁸ AVPRI, f. 133, op. 470 (1874 g.), d. 27, ll. 415-416 (Minister of War Miliutin to the Director of the Ministry of Foreign Affairs, 16 June 1874). Miliutin was responding to a query from the Russian Foreign Ministry (l. 414), itself forwarding a query from the Belgian government regarding whether Russia had any standard guidelines or instructions for belligerent occupation (ll. 412-413). On questions of occupation, Miliutin referred the Foreign Ministry . . . to Martens! (Martens had never served in the military and was not an official of the War Ministry.)

⁵⁹ G. Valbert, “Le nouveau droit des gens et la Mission du Prince Tcherkassky,” *Revue des deux mondes*, 1 August 1877, 695-706. Valbert favorably invokes Théophile Funck-Bretano and Albert Sorel, *Précis du droit des gens* (Paris: Plon, 1877), in order to criticize the Russian position (endorsed by the Brussels declaration) on occupation. Valbert charges that the Russian views of international law prepared the ground for its occupation policy in Bulgaria.

⁶⁰ “Vozzvanie Gosudaria Imperatora k Bolgaram,” June 10, 1877, in *Sbornik materialov po grazhdanskomu upravleniiu i okkupatsii Bolgarii v 1877-1878-1879 gg.*, ed. Major-General N. R. Ovsiani, 6 vols. (St. Petersburg: Tovarishchestvo Khudozhestvennoi pechati, 1903-1907), 1: 3; RGIA, f. 932, op. 1, d. 218, ll. 3ob.-4.

⁶¹ I am indebted to Mikhail Dolbilov for discussions on this point.

⁶² See Princess O. Trubetskaia, *Materialy dlia biografii Kn. V. A. Cherkasskogo*, t. 1, kn. 1-2 (Moscow: Lissner i Geshele, 1901), esp. pp. 34-41 for his relation to the Slavophiles; and Richard Wortman, “Koshelev, Samarin, and Cherkassky and the Fate of Liberal Slavophilism,” *Slavic Review* 21, no. 2 (June 1962): 261-79.

⁶³ Hugh Seton-Watson, *The Russian Empire, 1801-1917* (Oxford: Clarendon Press, 1967), pp. 234-239, 298-302; A. P. Zablotskii-Desiatovskii, *Graf P.D. Kiselev i ego vremia: Materialy dlia istorii imperatorov Aleksandra I, Nikolaia I i Aleksandra II*, 4 vols. (St. Peterburg: Tip. M. M. Stasiulevicha, 1882).

⁶⁴ AVPRI, f. 322, op. 181/1, d. 1, l. 277; *ibid.*, d. 13, l. 19; AVPRI, f. 151, op. 482, d. 2133, l. 40

⁶⁵ Cherkasskii to Miliutin, 29 Oct. 1876 (OR RGB, f. 169, karton 77, d. 40, ll. 1-4); RGVIA, f. 846, op. 1, d. 1338, ll. 1-3 (Miliutin’s letter appointing Cherkasskii, 21 Nov. 1876) and ll. 4-6 (Instruktsiia Zaveduiushchemu, 16 November 1876); Miliutin, *Dnevnik D. A. Miliutina*, t. 2 (1876-1877) (Moscow: 1949), pp. 107-108; D. G. Anuchin, “Kniaz’ V. A. Cherkasskii i grazhdanskoe upravlenie v Bolgarii, 1877-1878,” *Russkaia starina* 83, no. 2 (Feb. 1895): 3-34, here at 18-21.

⁶⁶ Trubetskaia, *Materialy dlia biografii* and Wortman, “Fate of Liberal Slavophilism”; see also Cherkasskii’s correspondence with Ivan Aksakov, both as a friend and in Aksakov’s capacity as head of the Moscow Slavic Benevolent Society: Otdel rukopisei Rossiiskoi natsional’noi biblioteki, St. Petersburg [OR RNB], f. 14, nos. 30, 385, 440.

⁶⁷ Anuchin, “Kniaz’ Cherkasskii,” (Feb. 1895), p. 34; earlier, Alexander II had expressed a desire that “there, beyond the Danube, something similar would be done to what we accomplished in the Polish Kingdom” (25). See also N. R. Ovsiani, “Ustroiteli Bolgarii,” in *Blizhnii vostok i slavianstvo: Sbornik statei* (St. Petersburg: Russko-frantsuzskaia tipografiia, 1913), p. 7.

⁶⁸ Cherkasskii to Miliutin, 31 October 1876 (OR RGB, f. 169, karton 77, delo 40, ll. 19-22).

⁶⁹ See V. V. Cherkasov, ed., *Institut general-gubernatorstva i namestnichestva v rossiiskoi imperii*, 2 vols. (St. Petersburg: Izd-vo St. Peterburgskogo universiteta, 2001), 1: 291. Awarded a ceremonial sword for his bravery in suppressing Polish insurgents in 1863, Anuchin from 1864 headed the department of police in Poland, in which capacity he became acquainted with Nikolai Miliutin and Cherkasskii. From 1865 to the end of 1879 he held the post of governor of Radom province. After Cherkasskii’s death, he briefly succeeded him as the acting head of civilian affairs in Bulgaria and then as a delegate at the 1878 Berlin Peace Conference. From 1879 to 1885 he served as the Governor-General of Eastern Siberia, where he introduced administrative reforms and founded the East Siberian branch of the Imperial Russian Geographical Society. In retirement, Anuchin wrote the most detailed (and sympathetic) account of his Cherkasskii’s tenure as head of the civil affairs department.

⁷⁰ M. Solov’ev, “O iuridicheskom byte Bolgarii,” *Iuridicheskii vestnik: Izdanie Moskovskogo iuridicheskogo obshchestva* 10, no. 2 (Feb. 1878): 137-157, here at 139; “Protokol zasedanii Moskovskogo iuridicheskogo obshchestva,” *Iuridicheskii vestnik* 10, no. 5 (May 1878), 701-716, at 707.

⁷¹ RGVIA, f. 846, op. 1, d. 1338, l. 4 (Instructions to Head of Civilian Administration Cherkasskii, 16 November 1876); RGVIA, f. 846, op. 1, d. 1338, ll. 32-33 (Alexander II's Appeal to the Bulgarians, 10 June 1877); AVPRI, f. 322, op. 181/1, d. 13, ll. 30-35 (Questions and suggestions from Russian Imperial Commissar Dondukov-Korsakov and responses by Foreign Minister Gorchakov, 8 November 1878).

⁷² R. J. Crampton, "The Turks in Bulgaria," in *The Turks of Bulgaria: The History, Culture, and Political Fate of a Minority*, ed. K. H. Karpat (Istanbul: The Isis Press, 1990), pp. 45-46.

⁷³ Anuchin, "Kniaz' Cherkasskii," *Russkaia starina*, 83, no. 3 (March 1895), 4-8, 10-12; Ovsiany, "Ustroiteli," p. 10.

⁷⁴ OR RGB, f. 169, karton 77, d. 40, ll. 41-42 (Cherkasskii to Miliutin, 13 July 1877); ll. 43-50 (Cherkasskii to Miliutin, 20 July 1877).

⁷⁵ Martens, *Vostochnaia voina*, pp. 273-289; also Martens, *Sovremennoe mezhdunarodnoe pravo*, 2: 495. Despite their ardor for their fellow-Slavs, Russian forces were hampered by, among other things, a shortage of people who could actually speak Bulgarian. (Dondukov-Korsakov's solution was not to teach Russian officials Bulgarian, but teach more Bulgarians Russian: "Otchet po otdelu narodnogo prosveshcheniia," AVPRI, f. 151, op. 482, d. 2131, l. 33.)

⁷⁶ Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge: Cambridge University Press, 1996), pp. 152-156; figures in Kemel Karpat, *Ottoman Population, 1830-1914* (Madison: University of Wisconsin, 1985), pp. 70-75; and the much more partisan Justin McCarthy, *Death and Exile: The Ethnic Cleansing of Ottoman Muslims, 1821-1922* (Princeton, NJ: The Darwin Press, 1995), 60-91, estimate at 91.

⁷⁷ Layard to the Earl of Derby, 24 July 1877, in Bilâl N. Şimşir, ed., *Rumeli'den Türk Tarih Jurumu Basimevi/Emigrations turques des Balkans/Turkish Emigration from the Balkans: Documents*, 3 vols. (Ankara: Türk Tarih Kurumu Basimevi, 1989), 1: 157; also, Layard to Earl of Derby, 9 Jan. 1878 (1: 260). Layard, however, had his own definite agenda in his reporting: see Seton-Watson, *Disraeli, Gladstone, and the Eastern Question*, 203-213.

⁷⁸ Layard to Earl of Derby, 21 Jan. 1878 (Şimşir, *Turkish emigration*, 1: 283; reiterated later at 1: 583). Layard continues: "Such has been the policy of Russia in other countries which she has conquered"—a remarkably inaccurate statement regarding the multiethnic Russian Empire with its many Muslim subjects: see Robert Crews, "Empire and Confessional State: Islam and Religious Politics in Nineteenth Century Russia," *American Historical Review* 108, no. 1 (February 2003): 50-84.

⁷⁹ Layard to Earl of Derby, 18 Jan. 1878 (Şimşir, *Turkish emigration*, 1: 276; further correspondence on this issue, 1: 278, 283, 293, 298, 345). On this point, Layard was simply wrong.

⁸⁰ Instructions to the head of the Administrator for Civil Affairs under the Commander in Chief, 16 November 1876 (RGVIA, f. 846, op. 1, d. 1338, ll. 4-6 ob).

⁸¹ E.g., *Sbornik offitsial'nykh rasporyazhenii i dokumentov po Bolgarskomu kraiu: Napechatan po poveleniiu E. E. V. Glavnokomanduiushchego Deistvuiushcheiu Armiiu*, vols. 1-4 (found in RGVIA f. 846, op. 1, d. 1338); these decrees were also published in the army's official daily newspaper, *Letuchii voennyi listok*.

⁸² RGVIA, f. 846, op. 1, d. 1338, ll. 48-58ob.

⁸³ Crampton, "The Turks in Bulgaria," pp. 45-46, 48-55.

⁸⁴ E.g., RGVIA, f. 16139, op. 3, d. 1079: two Cossacks quartered with their regiment in Rushchuk collaborated with several local Bulgarians to rob the house of a wealthy Turk, killing the entire family except for a 14-year old. Several Bulgarians were convicted; the two Cossacks were acquitted due to lack of evidence.

⁸⁵ General Platov Zotov, commander of the IV Corps, prevented a band of Bulgarians from lynching Muslim prisoners by threatening to employ armed force against a Bulgarian crowd: see his diary entries, published in *Rusko-turskata voina 1877-1878 g.: dnevnitsi, spomeni, zapiski, korespondentsiia* (Sofia: Glavnoe upravlenie na akhrivite pri ministerskiiia s'vet na republika Belgariia, 1998), here at 82-83 (entry for 4 January 1878). Zotov's diary reads as a progressive disillusionment with Bulgarians, culminating in vitriolic diatribes about their ingratitude: see pp. 69-70 (13 December 1877), 78 (4 January 1878), 82-83 (24 January 1878).

⁸⁶ Reade to Layard, 21 Aug. 1878 (Şimşir, *Turkish emigration* 582-83)

⁸⁷ Calvert to the Marquis of Salisbury, 17 June 1878, in Şimşir, *Turkish emigration*, 1: 493-494.

⁸⁸ Adrianopol (Edirne) Military governor, "O bezhentsakh adrianopol'skoi gubernii" (RGVIA, f. 846, op. 16, d. 8908, ch. 24, ll. 21-34); for the city of Filippol, "Vedomost' bezhentsam turkam, nakhodiashchimsia v g. Filippole po svedeniiam, sobrannym k 26 maia 1878" (RGIA, f. 932, op. 1, d. 224, ll. 274-274 ob.)

⁸⁹ RGVIA f. 846, op. 16, d. 7191, ll. 97-99.

⁹⁰ See Peter Holquist, "From Expulsion to 'Civilian Affairs': The Russian Empire and War in the Shatter Zone of Empires, (1860-1880)," unpublished paper

⁹¹ Anuchin, "Kniaz' V. A. Cherkasskii," *Russkaia starina* 83, no. 3 (March 1895), p. 4.

⁹² RGVIA f. 846, op. 16, d. 7191, ll. 97-99; RGVIA, f. 846, op. 16, d. 8908, ch. 24, ll. 21-34.

⁹³ Peter Holquist, "'The Raid of a Wild Horde': The Forms and Sources of Russian Military Violence during the First Occupation of Galicia, 1914-1915," unpublished paper.

⁹⁴ Prikazanie po voiskam deistvuiushchei armii no. 138, published in *Letuchii voennyi listok* no. 8 (30 July 1877).

⁹⁵ E.g., RGVIA, f. 16139, op. 3, d. 8908, ch. 65; RGVIA, f. 16139, op. 3, d. 1260; RGVIA, f. 846, op. 16, d. 8624, l. 156 (raport komandira 4-oi roty 96-ogo pekhotnogo Omskogo polka: "during the entire time we were quartered in the village of Tatarikii, Turks from the neighboring villages approached me in order to ask for protection from the Bashi-Bazooks"); RGVIA, f. 846, op. 16, d. 8780, l. 5-6ob. (actions of General Staff officer attached to the Kotel' detachment)

⁹⁶ Solov'ev, "O iuridicheskom byte Bolgarii," 156-57; for directives establishing the courts and their functions, see *Sbornik materialov po grazhdanskomu upravleniiu v Bolgarii*, 1: 6-7, 58-63, 149-150.

⁹⁷ See the account of one execution of two Turks accused and convicted within the space of one day of committing atrocities: Alexander Verestchagin, *At Home and In War, 1853-1881: Reminiscences and Anecdotes*, trans. Isabel F. Hapgood (New York: Thomas Y. Cromwell, 1888), pp. 244-46. (Verestchagin was the brother of the artist Vasilii Vershchagin.)

⁹⁸ RGVIA, f. 16139, op. 3 (the military court of the active army and Russian occupation forces in Bulgaria, 1876-1879): for Russian prosecution of Bulgarians and Greeks for violence against Turks both during and after the war, often for crimes committed collectively, see cases dd.: 816, 938, 1012, 1208, 1239, 1258, 1260 (Greek inhabitants accused of an armed attack on a Muslim settlement, Jan. 1879), 1267 (Bulgarian inhabitants accused of armed assault on several Turkish settlements, Nov. 1878), 1311, 1316, 1318, 1439, 1782, 1790, 1791, 1795, 1797, 2159, 2577, 2608, 2661, 2668, 2669, 2837, 2850, 2858, 2883 (Bulgarians accused of trying to drown two Turkish children shepherds, Feb. 1879).

⁹⁹ RGVIA, f. 16139, op. 3, d. 2512, ll. 1-61.

¹⁰⁰ AVPRI, f. 322, op. 181/1, d. 13, l. 26 (War Minister Miliutin to Commander in Chief Totleben, 19 August 1878).

¹⁰¹ N. V. Mordvinov, "Iz zapiskok voenno-sudebnogo deiatelia," *Istoricheskii vestnik* no. 111 (March 1908), 856; amnesty granted in article 9 of the Treaty of Constantinople (text found in appendix 11 of B. H. Sumner, *Russia and the Balkans, 1870-1880* [Oxford: Clarendon Press, 1937], pp. 670-674).

¹⁰² "Vozzvaniia glavnokomanduiushchego k narodu," "Vozzvaniia Komanduiushchego korpusom k naseleniiu Erzerumskogo vilaieta," and "Prokomatsiia glavnokomanduiushchego k zhiteliam Erzerumskogo vilaieta," in *Materialy dlia opisaniia Russko-Turetskoi voiny 1877-1878 na Kavkazsko-Maloaziatskom teatre*, t. 1 (St. Petersburg: Izd. Voенno-istoricheskoi kommissii Glavnago shtaba, 1904), appendices, pp. 200-201; RGIA, f. 866, op. 1, d. 69, ll. 8-13 (Prikaz ot nachal'nika voenno-narodnogo upravleniia . . . vsem zhiteliam Chaldyrskoi kazy"); Otchet po upravleniiu Erzerumskogo rossiiskogo konsul'stav v g. Erzerume, 11 Oct. 1878 (RGVIA f. 1300, op. 2, d. 39, ll. 6-29).

¹⁰³ Article 7; treaty found in Sumner, *Russia and the Balkans*.

¹⁰⁴ "Otchet po upravleniiu Erzerumskogo rossiiskogo Imperatorskogo konsul'stva v g. Erzerume," Oct. 1878 (RGVIA, f. 1300, op. 2, d. 39, ll. 8-8ob., 17); Vice Consul Alfred Biliotti to the Marquis of Salisbury, Trebizond, Sept. 13, 1878; Proclamation of Lieutenant-General Lazarev to the Armenian population, *Journal de St. Pétersbourg*, 11/23 September 1878; Lieutenant-General Lazarev to Mushir Ismaïl Pasha, Kars, September 1/13, 1878; Acting Consul Lyall to the Marquis of Salisbury, Tiflis Feb. 8, 1879 (Bilâl N. Şimşir, ed., *British Documents on Ottoman Armenians*, vol. 1 (1856-1880) [Ankara: Türk Tarih Krumu Basimevi, 1982], pp. 205-206, 220-21, 228, 328-29); General Staff Lieutenant-Colonel Andrievskii, *Kavkazsko-turestskii raion: Voенno-geograficheskoe i statisticheskoe opisanie Kavkazskogo voennogo okruga: Voенno-statisticheskii ocherk: administrativnoe ustroistvo i naselenie* (Tiflis: Tipografiia shtaba Kavkazskogo voennogo okruga, 1908), pp. 74-75.

¹⁰⁵ Pace McCarthy, *Death and Exile* and Karpat, *Ottoman Population*.

¹⁰⁶ For instance, the watch detachments decreed by Russian forces were to be staffed by Bulgarians who "had a certain amount of property" (RGIA, f. 932, op. 1 d. 202, ll. 35-36).