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'Then a great misfortune befell them': the laws of war on surrender and the killing of prisoners on the battlefield in the Hundred Years War

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ABSTRACT
The Battle of Agincourt has been seen as glorious feat of arms for the English, and for Henry V in particular. However, for many historians, Henry's conduct was marred by his order for the killing of French prisoners, which has been characterised by some as a war crime. This paper examines how common were such massacres of prisoners, and whether such attitudes were shared by contemporaries. It has usually been considered that the ethics of chivalry and the laws of war forbade the deliberate killing of prisoners; how then could such conduct be justified?

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> Whoever should be involved in such clashes as the French and Portuguese were at Aljubarrota must bear the risks, if they do not wish to flee. It would seem that flight carries more danger than the heat of battle, for in fleeing you may be chased, caught and killed. In battle, when you see yourself bested you give yourself up and are then kept prisoner, because whoever is in prison is not dead.[1]

So wrote Jean Froissart, perhaps the foremost fourteenth-century chronicler of the mores of war and chivalry. The capture of prisoners has been seen as a vital part of large-scale pitched battles in the late Middle Ages, typified by the scrum at the close of the Battle of Poitiers, 1356, where, according to Chandos Herald's *Life of the Black Prince*, 'you could see many an archer, many a knight, many a squire, running on all sides to take prisoners.'[2] Contemporary reports suggest that perhaps as many as 2000 French men-at-arms were captured.[3] But was the taking of prisoners on the battlefield as commonplace as Froissart implies – and as historians have often assumed since? Was it acceptable within the customs of war to refuse to take prisoners? Or indeed, having taken them, were there circumstances in which it was acceptable to kill prisoners during the course of the battle?

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[1] Keira Borrill, trans., 'Jean Froissart, *Chronicles*', Book III, f. 240v, in *The Online Froissart*, eds. Peter Ainsworth and Godfried Croenen. Version 1.5 (Sheffield: University of Sheffield, 2013) http://www.hrionline.ac.uk/onlinefroissart (Accessed 17 December 2015).
[2] Diana B. Tyson, ed., *La vie du prince noir by Chandos Herald* (Tübingen: Niemeyer, 1975), 86.
[3] For this figure, see Chris Given-Wilson and Françoise Bériac, 'Edward III's Prisoners of War: the Battle of Poitiers and its Context', *English Historical Review* 116 (2001): 802–33 (802–4).

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The battlefield had always been a potentially lethal environment for common soldiers. Chivalric convention dictated that men-at-arms defeated on the battlefield should be spared, taken prisoner and ransomed; but common soldiers tended to be excluded from such niceties – partly because of their lack of chivalric status, and partly because they were too poor to be worth the trouble of capturing during the heat of battle. Consequently, when defeated on the battlefield, common soldiers were frequently, though not invariably, slaughtered out of hand.[4] However, by the end of the thirteenth century, the battlefield had become a much more deadly environment for men-at-arms too, due to the increasing effectiveness of foot soldiers.[5] Thus, the French chivalric classes suffered huge losses against Flemish militia armed with pole-arms at Courtrai in 1302; and the English came to grief against Scots footmen armed with long spears at Bannockburn in 1314 (a battle explicitly compared with Courtrai in the *Scalacronica*, written by Sir Thomas Gray, whose father had fought at Bannockburn).[6] More particularly, the employment by the English of large numbers of archers greatly increased the risks for their opponents. Archery, by its very nature, was indiscriminate in its lethality; and it was simply not possible to surrender to a body of archers who might be over 100 metres away. Thus Froissart commented of the English archers at Poitiers, 'they wounded and killed many men who were not able to come to any ransom.'[7]

There was also a real danger of being crushed to death by the press of bodies. The worst instance of this was perhaps at Dupplin Moor, 1332, where thousands of Scots suffocated when two divisions of their army charged down a constricted valley.[8] But similar crushes developed at other battles; for instance, the English chronicler Geoffrey le Baker describes how at Crécy, in 1346 'in the middle of the French army, many were crushed to death without any wound, smothered by the weight of the crowd.'[9] And the author of the *Gesta Henrici quinti*, who, by his own account, was present at the Battle of Agincourt, describes how in the French ranks 'so great was the undisciplined violence and pressure of the mass of men behind that the living fell on top of the dead, and others falling on top of the living were killed as well', with many 'lying crushed' between the heaps of the slain.[10]

[4] Andy King, '"According to the Custom Used in French and Scottish Wars": Prisoners and Casualties on the Scottish Marches in the Fourteenth Century', *Journal of Medieval History* 28 (2002): 263–90 (269–70); Rémy Ambühl, *Prisoners of War in the Hundred Years War: Ransom Culture in the Late Middle Ages* (Cambridge: Cambridge University Press, 2013), 38–9.

[5] See, for instance, Michael Prestwich, *Armies and Warfare in the Middle Ages: the English Experience* (New Haven: Yale University Press, 1996), 331–2; Clifford J. Rogers, 'The Military Revolutions of the Hundred Years' War', *Journal of Military History* 57 (1993): 241–78 (255–7); Kelly DeVries, *Infantry Warfare in the Early Fourteenth Century* (Woodbridge: Boydell, 1996).

[6] Sir Thomas Gray, *Scalacronica (1272–1363)*, ed. and trans. Andy King. Surtees Society, 209 (Woodbridge: Surtees Society, 2005), 75. To be precise, Gray's father fought in the skirmishing on the day before the battle, during which he was captured.

[7] 'Si blecerent et occistrent maints hommes qui ne porent venir a raençon': Valentina Mazzei, ed., 'Jean Froissart, *Chroniques*, Besançon, Bibliothèque municipale, MS 864', f. 174r., in *The Online Froissart*, eds. Ainsworth and Croenen.

[8] Ranald Nicholson, *Edward III and the Scots: the Formative Years of a Military Career, 1327–35* (Oxford: Oxford University Press, 1965), 87–9; Clifford J. Rogers, *War Cruel and Sharp: English Strategy Under Edward III, 1327–60* (Woodbridge: Boydell, 2000), 43–5.

[9] 'In medio exercitu Francorum multi compressi a multitudine honerosa sine wlnere opprimuntur': E.M. Thompson, ed., *Chronicon Galfridi le Baker de Swynebroke* (Oxford: Clarendon Press, 1889), 84; Michael Prestwich, 'The Battle of Crécy', in *The Battle of Crécy, 1346*, eds. Andrew Ayton and Philip Preston (Woodbridge: Boydell, 2005), 150.

[10] '… tanta erat indisciplinata violencia et pressura posterioris multitudinis, quod vivi super mortuos caderent et super vivos etiam alii cadentes interficiebantur', '[congeries] … interiacencium oppressorum': Frank Taylor and John S. Roskell, eds. and trans., *Gesta Henrici quinti: The Deeds of Henry V* (Oxford: Clarendon Press, 1975), 90, 91; the translation is reprinted in Anne Curry, trans., *The Battle of Agincourt: Sources and Interpretations* (Woodbridge: Boydell, 2000), 37.

These factors combined to ensure that in full-scale battle, even the armigerous classes and nobility might be killed before they had any opportunity to attempt surrender. But even those who did manage to survive long enough to do so might not have their surrender accepted.[11] The author of the *Gesta Henrici quinti* describes attempts by Frenchmen to surrender at Agincourt:

> Indeed, fear and trembling seized them, for, so it was said among the army, there were some of them, even of their more nobly born, who that day surrendered themselves more than 10 times. No one, however, had time to take them prisoner, but almost all, without distinction of person, were, as soon as they were struck down, put to death without respite, either by those who had laid them low or by others following after, by what secret judgment of God is not known.[12]

There is, of course, a degree of self-contradiction here. Few Frenchmen could have surrendered more than once, if 'almost all' were 'put to death without respite', as soon as they tried. However, the *Gesta*'s account receives some confirmation from Enguerrand de Monstrelet's description of the same battle. Monstrelet describes how the duke of Alençon engaged Henry himself in combat, but was surrounded by the king's bodyguard:

> Seeing that he could not escape death, [he] lifted his hand to the king of England and said 'I am the duke of Alençon and surrender myself to you.' But just as the king was ready to take his oath, he was quickly killed by the bodyguard.[13]

Monstrelet was a Burgundian chronicler, writing in the late 1440s, a good 30 years after the battle, and it is not clear what was his source for this incident. Nevertheless, it does suggest the great practical difficulties in attempting to surrender amidst the turmoil of a full-scale pitched battle.

At some battles, however, according to some accounts, a deliberate policy of no quarter was enforced by one side or the other. Indeed, the law of arms explicitly permitted the killing of those who tried to surrender under certain conditions. At Crécy – at least according to English accounts – Philip VI of France took the decision before the battle that no prisoners were to be taken, and he raised the royal *oriflamme* banner to signal this. The unfurling of the *oriflamme* was taken by the English as a sign that a legal state of *guerre mortelle* (a war to the death) was in force; under such a state of war, it was legitimate to take no prisoners.[14] Similarly, Henry Knighton's account of the Battle of Poitiers, which appears to have been derived from a contemporary newsletter from someone at the battle, records the raising of the *oriflamme*, which he vividly describes as 'the scarlet

Clifford J. Rogers, 'The Battle of Agincourt', in *The Hundred Years War (Part II): Different Vistas*, eds. L.J.A. Villalon and D.J. Kagay (Leiden: Brill, 2008), 95–9.

[11] On the rules and practice of surrendering, see Ambühl, *Prisoners of War*, 102–11.

[12] 'Invasit enim eos timor et tremor, nam fuerunt quidam ex eis, ut verbum erat in excercitu, etiam de nobilioribus eorum, qui se illo die plus quam decies reddiderunt. Sed nullus vacabat eos captivos recipere, sed fere omnes sine discrecione personarum, ut ad terram prostrati erant, vel a suis prostratoribus vel ab aliis insequentibus, nescitur quo occulto dei iudicio, sine intermissione dabantur in mortem': Taylor and Roskell, eds., *Gesta Henrici quinti*, 90, 91; Curry, *Agincourt: Sources and Interpretations*, 37.

[13] '… voiant qu'il ne povoit eschapper du péril de la mort en eslevant sa main dist au roy d'Angleterre: "Je suis le duc d'Alençon, et me rens à vous." Mais ainsi que le roy vouloit prendre sa foy, fut occis prestement par les dictes gardes': L. Douët-d'Arcq, ed., *La chronique d'Enguerran de Monstrelet*. 6 vols. (Paris: Société de l'histoire de France, 1857–62), 3: 119–20. The translation is from Curry, *Agincourt: Sources and Interpretations*, 168. Alençon's attempt to surrender is discussed by Anne Curry, *Agincourt: a New History* (Stroud: Tempus, 2005), 258–9.

[14] M.H. Keen, *The Laws of War in the Late Middle Ages* (London: Routledge & Kegan Paul, 1965), 104–5.

standard which is the token of death', adding that John II of France had 'issued an order that the life of no Englishman was to be spared except that of the prince [of Wales] himself'.[15] Chandos Herald's *Life of the Black Prince*, written towards the end of the fourteenth century, also records that before Poitiers, King John ordered his captains 'that you do not spare from putting [the English] all to death'.[16] It should, however, be noted that no French sources report such orders, or link the *oriflamme* with such a legal signal.[17]

French and Scottish sources do, however, report a similar decision taken at Verneuil in 1424. According to Walter Bower's *Scottichronicon* (written in Scotland in the 1440s), Archibald, earl of Douglas and newly created duke of Touraine, had it proclaimed to his Scottish, French and Lombard forces that 'under certain penalty, no one should capture Englishmen, but they were to be killed indiscriminately without any ransoming'.[18] This is corroborated by the French chronicler Thomas Basin, writing in the 1470s, who recorded that the English commander, John, duke of Bedford, had sent a herald to Douglas 'to determine what terms of war were to be observed that day' ('qualem belli condicionem illo die observare proponerent'). Douglas, arrogantly confident in the strength of his army, replied that he had no intention of taking any prisoners.[19]

The English chronicler Geoffrey le Baker, writing just a few years after Crécy, gives an intriguing explanation for Philip's alleged decision:

> The heroes of the French were so confident in the multitude of [Philip VI's] army, that particular individuals requested particular Englishman to be assigned to their prisons. … But the shrewd tyrant, fearing that they would be excessively preoccupied with the capture of nobles, and so would fight for the common victory only half-heartedly, ordered his standard, called the *oriflamme*, to be unfurled; for when this was raised, it was not permitted to take anyone alive, on pain of death.[20]

Accordingly, neither side took prisoners – and the French death toll was enormous. A similar explanation was offered for a similar decision made by King John I of Portugal, at Aljubarrota, in 1385. Froissart reports an account of the battle given to John of Gaunt by a Portuguese envoy:

> The king [of Portugal] commanded on pain of death by beheading that no one should hold anyone to ransom that day if we were victorious; either all were to die or all live. This instruction was for the best since, as the lords said, 'If we were to occupy ourselves in taking prisoners, we would become distracted and not pay due attention to what we should be doing. It is better for us to concentrate on fighting well, rather than succumb to an avaricious desire to

[15] 'vexillum rubium quod erat mortis signiferum'; ' … edidit preceptum ne quis Anglicus vite reservaretur, solo principe excepto': G.H. Martin, ed., *Knighton's Chronicle, 1337–96* (Oxford: Clarendon Press, 1995), 142, 143; for Knighton's use of a newsletter, see Martin, ed., *Knighton's Chronicle*, xxxv.

[16] 'Et si n'y aiez point de depart, Qe touz ne les mettez a mort': Tyson, ed., *La vie du prince noir*, 74.

[17] Philippe Contamine, 'L'oriflamme de Saint-Denis aux XIVe et XVe siècles: étude de symbolique religieuse et royale', *Annales de l'Est*, 5th series, 25 (1973): 179–244 (233).

[18] ' … nullus sub certis penis Anglos captivaret sed indifferenter sine quacumque redempcione occiderentur': Walter Bower, *Bower's Scotichronicon*, ed. D.E.R. Watt and others. 9 vols. (Aberdeen: Aberdeen University Press, 1987–98), 8: 126 (my translation).

[19] Thomas Basin, *Histoire de Charles VII*, ed. Charles Samaran. 2 vols. (Paris: Société d'édition Les Belles Lettres, 1933–44), 1: 98.

[20] 'Tantum securi fuerunt in multitudine sui exercitus heroes Francorum, quod singuli pecierunt singulas personas Anglicas suis carceribus mancipandas … set tirannus hastutus, timens ne circa capcionem nobilium redimendorum sui forent nimium ocupati, et proinde segnius ad communem victoriam hanelarent, iussit explicari suum vexillum quod vocatur Oliflammum, quo erecto, non licuit sub pena capitis aliquem capere ad vitam reservandum': Thompson, ed., *Chronicon Galfridi le Baker*, 82.

> take prisoners, and give it our all as good men must do whose heritage is at stake.' This pronouncement was accepted and adhered to.[21]

Consequently, 'more than four thousand true men-at-arms were killed in the field; none were held to ransom.'[22]

Of course, the extent to which chroniclers reflected actual battlefield practice is open to question; certainly, the testimony of chroniclers with the creative talent and imagination of Jean Froissart and Geoffrey le Baker cannot be relied upon without some corroboration. However, the explanations they offer are echoed in the writings of Geoffrey de Charny, a prominent French nobleman, and author of the *Livre de chevalerie*, a discourse on the practice of chivalry. Charny knew whereof he wrote, for the work was derived from years of personal experience of warfare (his career would culminate in his death at Poitiers – whilst bearing the *oriflamme*). He was not at Crécy, but his book was probably written not long after the battle, perhaps while he was in captivity in England in 1350–1. In discussing the faults to which men-at-arms might fall prone, he comments:

> It can also happen … that when there is action on the battlefield, there are a number of men who pay more attention to taking prisoners and other profit; and when they have seized them and other winnings, they are more anxious to safeguard their captives and their booty than to help bring the battle to a good conclusion. And it may well be that a battle can be lost in this way.[23]

Such concerns were certainly taken seriously by captains in the field. In July 1423, a series of ordinances were drawn up to govern the conduct of the Anglo-Burgundian army which had assembled at Auxerre (before marching on Cravant, where they defeated a Franco-Scottish army). One of these regulations stipulated that 'no one, of whatever estate, should be so insolent as to take prisoners on the day of the battle until it can be plainly seen that the field has been won', on pain of the death of both the unfortunate prisoner and his insolent captor.[24] Tito Livio Frulivisi's account of Agincourt depicts the English as acting along similar lines (though the source of his information is not clear):

> No one was captured; many were killed. At the mid-point, the English were increasingly eager to kill for it seemed that there was no hope of safety except in victory. … Indeed, it is said that once the French had yielded to death, and the certain victory of the English was apparent, the English spared the French and captured them, including many princes, lords and nobles.[25]

[21] Borrill, trans., 'Jean Froissart, *Chronicles*', Book III, f. 272v. For the battle and its background, João Gouveia Monteiro, 'The Battle of Aljubarrota [1385]: a Reassessment', *Journal of Medieval Military History* 7 (themed issue: Clifford J. Rogers, Kelly DeVries and John France, eds., *The Age of the Hundred Years War*) (2009): 76–103.

[22] Borrill, trans., 'Jean Froissart, *Chronicles*', Book III, f. 272v.

[23] 'Si peut avenir encores … que quant ce avient que l'en a afaire sur les champs, pluseurs sont qui regardent a prendre prisons et autre gaing; et quant il ont pris et autres biens, il ont plus grant volonté et desir de sauver leurs prisons ou leur gaaing que de secourir et aidier de mettre la journee a bonne fin. Et bien puet avenir que par tele maniere peut l'en perdre la journee': Geoffroi de Charny, *The Book of Chivalry of Geoffroi de Charny*, eds. Richard W. Kaeuper and Elspeth Kennedy (Philadelphia: University of Pennsylvania Press, 1996), 98, 99. For the date of composition, 22.

[24] ' … nul, de quelque estat qu'il fust, ne fust si hardy que de prendre prisonniers au jour de la bataille, jusques à ce que on voye plainement que le champ soit gaingné': Douët-d'Arcq, *La chronique d'Enguerran de Monstrelet*, 4: 160. Monstrelet here appears to be copying from a text of the ordinances, which presumably survived in the Burgundian ducal archives.

[25] 'Capitur nullus. Cæduntur multi. Anglicus vero postquam jam in medium acceptus est, ad cædum acrius accenditur, ut cui nulla præterquam in victoria salutis spes reliqua videbatur … Vero cum Galli jam leto dediti forent, et ipsa victoria certa videretur Anglicis, ecce cædi parcitur, Galli capiuntur, principes, domini, nobiles quamplurimi': Thomas Hearne, ed., *Titi Livii Foro-Juliensis, Vita Henrici quinti, regis Angliæ: accedit, sylloge epistolarum, a variis Angliæ principibus scriptarum* (Oxford: e Theatro Sheldoniano, 1716), 19–20. The translation is from Curry, *Agincourt: Sources and Interpretations*, 62.

A significant feature of Thomas Basin's account of Verneuil is his depiction of the opposing commanders conferring before the battle, to determine whether or not it was to be a *guerre mortelle*. Assuming this is accurate, it may suggest that such decisions had, by this stage, become a recognised part of the proper conduct of war. According to chronicle accounts, the declaration of a *guerre mortelle* by one side was generally reciprocated by the other. Thus, at Crécy, Edward III was said to have raised his own dragon standard in response to the raising of the *oriflamme*, to signal that his own men were to take no prisoners.[26] Similarly, at Verneuil, Douglas' decision meant that when his army was defeated, most of his men were killed, with few being taken prisoner. Jean Waurin, who was serving with the English army, recorded that the heralds reckoned the Franco-Scottish casualties at 6000 dead, 'of which there were a great number of Scots' ('desquelz il y avoit grant quantite dEscochois'), with just 200 prisoners. Waurin names 10 of these prisoners, and it is worth noting that none were Scots.[27] Similarly, the *Brut* chronicle claims that 'And ther was taken prisoner the duke of Alaunson, and many other lordes and gentiles of Fraunce; but Scottes that day wer slayn down right the substaunce of thame all.'[28] No contemporary chronicle suggests any reason why the Scots should have been singled out in this way. It may have been because Douglas was seen as a perjurer and rebel – for in 1421 (during negotiations for the release from English captivity of James I, king of Scots), he had sworn an oath to serve Henry V in France. Certainly, the English regarded Scottish aid to the French as a breach of the truce they had sealed with the newly released James I.[29] On the other hand, the disproportionate Scottish casualties may simply have been down to the fortunes of war and the disposition of the Scottish forces within the overall battlefield formation of the Franco-Scottish army.

The major exception to this reciprocity of *guerre mortelle* was Poitiers. Here, the Anglo-Gascon victors took numerous prisoners, notwithstanding that King John of France had raised the *oriflamme*.[30] It is tempting to speculate that, on this occasion, the Black Prince needed to reward the loyalty of his Gascon soldiers by allowing them to take prisoners for ransom, and that this outweighed the alleged French declaration of war to the death. In fact, on occasion, the declaration of *guerre mortelle* could be counterproductive. Bower considered that at Verneuil, Douglas' order contributed to his defeat, because at the height of the battle, when it looked as though the English might lose, some of the English men-at-arms would have surrendered; but instead, they fought on, because they knew

Tito was an Italian humanist, writing in England some 20 years after the battle; although he was in the household of Duke Humphrey of Gloucester, there is little to suggest that the duke supplied him with any information. Tito does appear to have relied heavily on the anonymous *Vita et gesta Henrici quinti*, but the *Vita et gesta*'s account of Agincourt does not include the details in this passage. David Rundle, 'The Unoriginality of Tito Livio Frulovisi's *Vita Henrici quinti*', *English Historical Review* 123 (2008): 1109–31; for the *Vita et gesta*'s account, see Curry, *Agincourt: Sources and Interpretations*, 71–4.

[26] Thompson, ed., *Chronicon Galfridi le Baker*, 83.

[27] William Hardy and E.L.C.P. Hardy, eds., *Recueil des croniques et anchiennes istories de la Grant Bretaigne a present nomme Engleterre par Jehan de Waurin*. 5 vols. Rolls Series 39 (London: Longmans, 1864–91), 3: 116, 118.

[28] Friedrich W.D. Brie, ed., *The Brut*. Early English Text Society, Original Series, 131, 136. 2 vols. (London: Kegan Paul, Trench, Trübner and Co., 1906–8), 2: 498.

[29] Michael K. Jones, 'The Battle of Vernueil (17 August 1424): Towards a History of Courage', *War in History* 9 (2002): 375–411 (406–7); for Douglas' dealings with the English, see Michael Brown, *The Black Douglases: War and Lordship in Late Medieval Scotland, 1300–1455* (East Linton: Tuckwell Press, 1998), 219. Jones suggests that the declaration of a *guerre mortelle* came from Bedford, rather than Douglas; however, there is no contemporary evidence to warrant this.

[30] Given-Wilson and Bériac, 'Edward III's Prisoners of War', 827–8.

about the proclamation. Similarly, according to Thomas Walsingham's account of Agincourt:

> The French had boasted that they intended to spare no one apart from certain named lords and the king himself; the rest they would kill or horribly mutilate. Our men were therefore goaded all the more to anger, and their spirits raised, so that they encouraged one another to face all eventualities.[31]

Deciding not to take prisoners was, of course, a rather different matter from taking them and then killing them once they were disarmed and captive. Froissart offers an alternative account of the Battle of Aljubarrota earlier in his work, which suggests that the decision to take no prisoners was made only after the battle had already started, and that men who had already been taken prisoner were deliberately killed, in cold blood. According to this account, an initial attack by the French contingent had been defeated, and many of the French captured. Then the main Castilian force advanced, led by their king. At this point, 'it was ordered that on pain of death, on the spot, any man who had taken prisoners must kill them immediately, and that neither the noble, powerful, nor rich among them should be spared'.[32] Froissart relates that over 300 prisoners were killed, adding that they would have fetched some 400,000 francs in ransoms. The killings were explained thus:

> The Portuguese and the English who had given this advice said, 'If we do not slay them they will escape whilst we are busy defending ourselves in combat, and then they will kill us. A man may never trust his enemy.'[33]

A similar justification was offered for perhaps the most notorious battlefield killing of prisoners of the Middle Ages, that at Agincourt.[34] The author of the *Gesta Henrici quinti*, who was present at the battle (and whose account was written probably about 18 months later), explained that just as the English thought the battle was over:

> A shout went up that the enemy's mounted rearguard, in incomparable number and still fresh, were re-establishing their position and line of battle, in order to launch an attack on us, few and weary as we were. And immediately, regardless of distinction of person, the prisoners … were killed … lest they should involve us in utter disaster in the fighting that would ensue.[35]

[31] 'Lactitaverant nempe Galli se nemini velle parcere preter quam dominis nominatis et regi ipsi; reliquos se perempturos vel membris horribiliter mutilaturos. Qua de causa nostri concitati magis ad iracundiam animos erexerunt et se contra casus omnes mutuo confortaverunt ': John Taylor, Wendy R. Childs and Leslie Watkiss, eds. and trans., *The St Albans Chronicle: the Chronica maiora of Thomas Walsingham*. 2 vols. (Oxford: Clarendon Press, 2003–11), 2: 674, 675 (see also 679). Walsingham was writing soon after the battle, and was generally well informed about events. On the other hand, it has to be said that his account was heavily influenced by classical models; his depiction of Agincourt may perhaps owe as much to the rhetorical flourishes of classical literature as the realities of the fifteenth-century battlefield.

[32] Borrill, trans., 'Jean Froissart, *Chronicles*', Book III, f. 240v.

[33] Borrill, trans., 'Jean Froissart, *Chronicles*', Book III, f. 241r.

[34] There has been much debate about Henry V's killing of prisoners; see (amongst many others), Christopher Allmand, *Henry V*. 2nd edn. (New Haven: Yale University Press, 1997), 93–5; Curry, *Agincourt: a New History*, 256–64; Juliet Barker, *Agincourt: the King, the Campaign, the Battle* (London: Little, Brown, 2005), 302–9; Rogers, 'Battle of Agincourt', 99–103; Craig Taylor, 'Henry V, Flower of Chivalry', in *Henry V: New Interpretations*, ed. Gwilym Dodd (Woodbridge: Boydell, 2013), 217–47 (233–6).

[35] 'Clamor factus est bellum equestre posterius hostium, in incomparabili et recenti multitudine, stacionem et aciem resarciri ad veniendum super paucitate et lassitudine nostra. Et statim captivi, non attenta differencia personarum … ne nobis in ruinam essent in venienti prelio, ceciderunt': Taylor and Roskell, eds., *Gesta Henrici quinti*, 91–2; Curry, *Agincourt: Sources and Interpretations*, 37. The authorship of the work is discussed in detail in J.S. Roskell and F. Taylor, 'The Authorship and Purpose of the *Gesta Henrici quinti*: I', *Bulletin of the John Rylands Library* 53 (1970–1): 428–64.

An even more deliberate and cold-blooded massacre of prisoners took place after the Battle of Halidon Hill, fought on the Anglo-Scottish border in 1333. The Scottish chronicler Andrew of Wyntoun, writing in the early fifteenth century (but drawing on an earlier fourteenth-century chronicle source), records that on the morning after the battle, Edward III ordered all of the prisoners to be slain.[36] This receives some confirmation from the chronicle of Meaux Abbey, Yorkshire, compiled by Abbot Thomas Burton at the end of the fourteenth century. After describing how 'the English archers wreaked the greatest slaughter' at the battle, Burton adds that, 'on the day after, the king ordered 100 prisoners … to be beheaded.'[37] No contemporary source offers any explanation for Edward's actions. One possibility is that the prisoners were executed as traitors to Edward Balliol (who Edward III regarded as the rightful king of Scots); but it is also possible that Edward III had ordered that no prisoners should be taken, and that this was a retrospective enforcement of his decision.[38] It is worth noting that according to the Bridlington chronicle (also compiled at the end of the fourteenth century, but based on an earlier work), Archibald Douglas, the Scottish leader at Halidon Hill, had proclaimed in a pre-battle speech to his men that 'nor should any ransom be granted, but princes and footmen alike shall perish this day' (though it has to be said that the Bridlington chronicler was not above putting speeches into the mouths of his protagonists).[39]

Significantly, while contemporaries might have regretted the killing of prisoners, they did not denounce such acts as contrary to the laws of war – unlike some modern historians.[40] The Bridlington chronicler's account could perhaps be construed as having been carefully constructed to exculpate Edward, by providing a justification for a massacre which is then passed over in tactful silence. On the other hand, the Scottish chronicler Andrew Wyntoun makes no suggestion that Edward's actions were in breach of the customs of war, commenting simply that it was 'a great pity to behold, those that might not help themselves in no manner, so to be slain without sparing'.[41] Nor does Thomas Burton consider it necessary to defend – or even comment on – the killings.[42]

Froissart commented that the killing of prisoners at Aljubarrota 'was truly a great shame';[43] and his comment that 'whoever is in prison is not dead'[44] – coming, as it

[36] F.J. Amours, ed., *The Original Chronicle of Andrew of Wyntoun*. Scottish Text Society 50, 53–4, 56–7, 63. 6 vols. (Edinburgh: W. Blackwood and Sons, 1903–14), 6: 12; Nicholson, *Edward III and the Scots*, 138.

[37] ' … Anglici sagittarii maximam stragem perfecerunt. In crastino vero 100 captivos pridie Edward captos rex iussit decollari': E.A. Bond, ed., *Chronica monasterii de Melsa*. Rolls Series 43. 3 vols. (London: Longmans, Green, Reader and Dyer, 1866–8), 2: 370. For the compilation of the Meaux chronicle, see Antonia Gransden, *Historical Writing in England, c.1307 to the Early Sixteenth Century* (London: Routledge & Kegan Paul, 1982), 358–60.

[38] Rogers, 'Battle of Agincourt', 100n.

[39] 'Nec cuiquam redemptio concedatur, sed principes et pedites pariter pereant isto die': William Stubbs, ed., 'Gesta Edwardi tertii auctore canonico Bridlingtoniensi', in *Chronicles of the Reigns of Edward I and Edward II*, ed. W. Stubbs. Rolls Series 76. 2 vols. (London: Longman and Co., 1882–3), 2: 115. For the Bridlington chronicle, see Gransden, *Historical Writing in England*, 113–15. The same chronicler remarks of the battle that 'few [Scots] were taken prisoner' ('pauci capiebantur'), though he adds that many managed to escape: he does not mention whether any were put to death: Stubbs, ed., 'Gesta Edwardi tertii auctore canonico Bridlingtoniensi', 2: 116.

[40] See, for instance, the comments on the killing of prisoners at Agincourt by Given-Wilson and Bériac, 'Edward III's Prisoners of War', 806–7: 'there can be no doubt that the killing of men who had surrendered in return for their lives … was contrary to everything that the law of arms decreed about the treatment of prisoners'; and Barker, *Agincourt*, 302: 'in chivalric terms, it was … reprehensible.'

[41] 'That to behald was gret pete, That mycht nocht help þaim self na thing, Sa to be slane without sparing': Amours, ed., *Original Chronicle of Andrew of Wyntoun*, 6: 12.

[42] Bond, ed., *Chronica monasterii de Melsa*, 2: 370.

[43] Borrill, trans., 'Jean Froissart, *Chronicles*', Book III, f. 240v.

[44] See n. 1, above.

does, just before his description of the killing of prisoners – could be read as an implicit criticism. Nevertheless, if criticism it be, it remains implicit. And Froissart by no means shrank from explicit criticism if he considered it warranted: as, for example, his forthright condemnation of the massacre ordered by the Black Prince at the siege of Limoges in 1370 – even though at Limoges, the Black Prince was acting entirely within the recognised bounds of law, for under the customs of war, the inhabitants of any town taken by storm could legitimately be slaughtered, as a condign and exemplary punishment for their rebellion in refusing to submit.[45]

French accounts of the battle of Agincourt, where they mention the killing of the prisoners, generally explain it in terms of military necessity – the same explanation offered by English accounts; Henry is said to have ordered the killing because of the threat of a new attack by the French (the precise nature of the threat varying between different accounts). The Burgundian chroniclers Jean le Fèvre and Jean de Waurin comment that it was 'a pitiable matter', but put the blame on a 'wretched company of the French who had caused the death of these noble knights'.[46] This may well have been an exercise in scapegoating, influenced by the agendas of French and Burgundian politics;[47] nevertheless, it is surely significant that no French source explicitly criticises Henry for his actions. These include Jean Juvenal des Ursins, a staunch supporter of Charles VII, who was probably writing during the 1430s or 1440s, while the war with England was still going on, and so had every reason to vilify the English. He explains the killings matter-of-factly: 'the French rallied themselves, which was a great misfortune, for most of the English killed their prisoners.'[48] Indeed, the attitude of most contemporaries to the killing of prisoners on the battlefield seems to have been summed up by a comment ascribed by the French chronicle of Saint-Omer to Edward III, during the Battle of Crécy. Some knights from the Empire who were serving in his company complained of the slaughter, saying to him:

> 'We greatly wonder that you should allow that so much noble blood should be expended; for if you took ransom, you would achieve a great part of your war, and huge ransoms would ensue.' And the king replied that they should not wonder, because it had been ordered so, and so it had to be.[49]

Captors sometimes showed a degree of reluctance to accept the killing of their prisoners. According to Wyntoun, on the day after Halidon Hill, many of the English disobeyed Edward III's orders: 'good men for pity saved their prisoners then, and so … many worthy knights were saved'[50] (though this may just have been intended to portray Edward as pitiless, by contrast with his own men). More cynically, le Fèvre and Waurin record that when Henry V ordered the killing of prisoners at Agincourt, 'those who

[45] Mazzei, ed., 'Jean Froissart, *Chroniques*, Besançon, Bibliothèque municipale, MS 864', ff. 332r–v; David Green, *Edward the Black Prince: Power in Medieval Europe* (Harlow: Pearson Longman, 2007), 91–4.
[46] Curry, *Agincourt: Sources and Interpretations*, 164.
[47] Curry, *Agincourt: a New History*, 262–4.
[48] ' … les Françoisse rallièrent qui fut un bien grand mal, car la pluspart des Anglois tuerent leurs prisonniers': Jean Juvénal des Ursins, 'Histoire de Charles VI, roy de France', in *Nouvelle collection des mémoires pour servir à l'histoire de France*, eds. MM. Michaud and Poujoulat. 1st series, 12 vols. (Paris: Éditeur du Commentaure analytique du Code civil, 1836–9), 2: 519.
[49] 'Moult avons grant merveille que vous souffres que tant de noble soit espandus car prendes les vis, vous en porries achiever grant partie de vostre guerre et en aries tres grant raencheon. Et li rois leur respondi que point ne sesmervillaissent car le cose estoit ensi ordenee et ensi convenoit elle estre': Michael Livingston and Kelly DeVries, eds. and trans., *The Battle of Crécy: a Casebook* (Liverpool: Liverpool University Press, 2015), 104 (my translation).
[50] 'For gud men for pete sauffit þare presoneris then; and sa quhat þare … sauffit were mony worthy knycht': Amours, *Wyntoun*, 6: 12.

had taken them did not want to kill them for they were all hoping to collect a large ransom from their prisoners.'[51] Although both were writing some decades after the battle, probably in the 1460s, both had been present on the day, and le Fèvre was with the English army (probably as a herald). His account is therefore likely to be accurate.[52]

One of the problems in analysing surrender in battle is determining precise numbers, for the taking of a prisoner was a private agreement between captor and captive; and chroniclers do not always provide reliable figures. However, increasingly, prisoners of war became subject to interference by the English crown. Indentures of war, for instance, came to include conditions specifying that prisoners of rank should be handed over to crown custody (although the captor could expect compensation).[53] And this provides us with some hard data concerning numbers of prisoners.[54]

We are particularly well informed about the prisoners captured at the Battle of Neville's Cross, fought near Durham, in 1346 – of whom the most prominent was David II, king of Scots.[55] In a newsletter written very soon after the event,[56] the English clerk Thomas Sampson gave a list of the killed and captured. Aside from David, the captives included 27 named individuals, 'and other persons, knights and esquires, to a great number, the names of which men are not yet known for certain'.[57] On 20 November (a month after the battle), Edward III had it proclaimed that, 'because in times before very great damages of various kinds have befallen us and our whole kingdom of England through the release of Scots, our enemies, captured in war', no prisoner taken at the battle was to be ransomed or released, under pain of forfeiture of life and limb, but all were to be handed over to the king's custody.[58]

Following this proclamation, some 54 named Scottish prisoners (excluding David) were ordered to be taken into crown custody. Naturally, there was a considerable degree of evasion; nevertheless, the crown went to considerable lengths to try to track down prisoners taken at the battle, including appointing several high-powered commissions of inquiry.[59] Certainly, all but six of those listed as captured by Sampson are also named as prisoners in crown records, as were several of those listed by Sampson as amongst the dead. Consequently, it is likely that the 54 Scottish prisoners listed in crown records comprised the majority, and possibly a large majority, of all those captured at the battle.

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[51] Curry, *Agincourt: Sources and Interpretations*, 163.

[52] Waurin's account of the battle is very closely linked to le Fèvre's, who was probably his source for events in the English army (both accounts are also partially based on Monstrelet's). For discussion of these sources, see Curry, *Agincourt: Sources and Interpretations*, 135–40.

[53] Ambühl, *Prisoners of War*, 52–3. For an example of an indenture including such conditions, see Curry, *Agincourt: Sources and Interpretations*, 436–8 (438).

[54] For the numbers of prisoners captured at Agincourt, Rémy Ambühl, 'Le sort des prisonniers d'Azincourt (1415)', *Revue du Nord* 89 (2007): 755–88; Ambühl, 'A Fair Share of the Profits? The Captors of Agincourt', *Nottingham Medieval Studies* 50 (2006): 129–50.

[55] King, 'According to the Custom Used in French and Scottish Wars': 281–2; Given-Wilson and Bériac, 'Edward III's Prisoners of War', 809–10; Ambühl, *Prisoners of War*, 56–7.

[56] Printed in Kervyn de Lettenhove, ed., *Œuvres de Froissart*. 25 vols. (Brussels: Victor Devaux et Cie, 1867–77), 5: 489–92.

[57] ' … et altres persons, chivalers et esquiers, a grant nombre, des queux homme ne sciet unquore les nouns en certein': Lettenhove, *Œuvres de Froissart*, 5: 491–2.

[58] 'Quia ante hec tempora dampna quamplurima per deliberationem Scotorum inimicorum nostrum de guerra captorum nobis et toti regno nostro Anglie diversimode evenerunt': D. Macpherson, J. Caley and W. Illingworth, eds., *Rotuli Scotiæ in turri Londinensi et in domo capitulari Westmonasteriensi asservati.* 2 vols. (London: Record Commission, 1814–19), 1: 677; Martin, ed., *Knighton's Chronicle*, 73.

[59] King, 'According to the Custom Used in French and Scottish Wars', 281–2.

The number of Scottish dead is more difficult to gauge. Sampson listed 28 named individuals as killed (though a number of them were, in fact captured), but put the total number of knights and men-at-arms killed at 'around 540, excluding those killed in the pursuit'.[60] Writing as he was in the immediate aftermath of the battle, his report does not appear to be subject to the customary chroniclers' hyperbole, and may be based on a count of the bodies – though interestingly, Sampson's figure accords well with numbers given in Scottish chronicles, such as Andrew of Wyntoun, who puts the Scottish men-at-arms killed at 500, plus another 500 killed in the skirmish before the main battle.[61] If these figures are at all reliable, it therefore appears that the number of Scottish men-at-arms taken prisoner was just a small fraction of the number who were killed.

The English army at Neville's Cross was made up entirely of northerners, fighting defensively. Therefore, the difficulties of transporting prisoners to a secure base would have been at a minimum. Furthermore, as most of them lived no more than three or four days' ride from the Scottish border, the ransoming of prisoners and obtaining payment would have been much easier than for Englishmen fighting on expedition in France. In other words, Neville's Cross might be a considered to be a battle where the conditions for ransoming prisoners were, comparatively speaking, ideal – particularly as there is nothing to suggest that the crown's policy of taking prisoners into royal custody was announced in advance. Nevertheless, comparatively very few Scots were allowed to surrender, and many were killed during the pursuit, when prisoners could have been taken without distraction from the immediate task of winning the battle.[62] This may perhaps suggest that in the heat of battle, the English actually preferred to kill Scottish men-at-arms rather than capture them. And of course, all this excludes the non-armigerous Scots, for whom no reliable casualty figures are available.

Conclusion

At most battles, the winning side did not have a deliberate policy of taking no prisoners, and the deliberate killing of prisoners was uncommon.[63] Nevertheless, the exigencies of the battlefield often meant that, even so, only a small proportion of the defeated was able to surrender themselves safely. Consequently, the majority of those on the losing side who did not manage to run away fast enough were likely to get killed, including even the very highest ranks of the nobility (such as King John of Bohemia, killed at Crécy, and Thomas, duke of Clarence, Henry V's brother, killed at Baugé).[64] And the chivalric ethos, which so thoroughly imbued the martial classes of Western Christendom, equated running away with dishonour.[65] Those who were defeated in battle therefore faced the likely but unpalatable prospects of either dishonour or death. And it may perhaps be that the daunting knowledge of the likely terrible personal consequences of

[60] '… entour V^{C} et XL des chivalers et gents d'armes qe furent occis a la bataille, forpris ceux qe furent occis a la chace': Lettenhove, *Œuvres de Froissart*, 5: 491.
[61] Amours, *Wyntoun*, 6: 180, 181, 184, 185.
[62] C.J. Rogers, 'The Scottish Invasion of 1346', *Northern History* 34 (1998): 51–69 (67).
[63] Ambühl, *Prisoners of War*, 102.
[64] See the comments of Given-Wilson and Bériac, 'Edward III's Prisoners of War', 807–8.
[65] Andy King, 'A Helm with a Crest of Gold: the Order of Chivalry in Thomas Gray's *Scalacronica*', in *Fourteenth Century England I*, ed. Nigel Saul (Woodbridge: Boydell Press, 2000), 21–35.

defeat was one of the factors which encouraged the avoidance of battle, which was such a feature of the era of the Hundred Years War.

The laws of war were customary law, open to re-interpretation based on practice; and while the process of ransoming prisoners, once they had been safely removed from the battlefield, was increasingly influenced by the procedures of contract law, the laws pertaining on the battlefield remained subject to the dictates of harsh military necessity. This was recognised by the French canonist Honoré Bouvet, whose *Tree of Battles*, written *c.*1387, was perhaps the most influential treatise on the customs of war in the late Middle Ages.[66] His work includes a discussion of whether captured enemy captains should be granted mercy – or not; after citing arguments from natural and civil law on both sides, he concludes:

> It is my opinion that he who in battle has captured his enemy, especially if it be the duke or marshal of the battle, truly, according to God and theology and the law of the decretals, should have mercy on him, *unless* by his deliverance there is danger of having greater wars.[67]

Throughout this period, a full-scale pitched battle remained an exceptional event, outside of the usual routine course of war;[68] and, in practice, exceptions to the usual rules governing the surrender and treatment of prisoners were generally accepted as an unfortunate necessity during such battles. Chivalry was – above all else – a martial ethic; and winning was what mattered. Or as Geoffrey de Charny put it, in a refrain repeated throughout his work: 'He who does best is most worthy.' In this context, the killing of prisoners in order to ensure victory in battle was evidently not considered unworthy.

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66 For the *Tree of Battles*, see N.A.R. Wright, 'The *Tree of Battles* of Honoré Bouvet and the Laws of War', in *War, Literature and Politics in the Late Middle Ages*, ed. C.T. Allmand (Liverpool: Liverpool University Press, 1976), 12–31; Ambühl, *Prisoners of War*, 20–2.

67 G.W. Coopland, trans., *The Tree of Battles of Honoré Bonet* (Liverpool: Liverpool University Press, 1949), 134 (my italics). Christine de Pizan included this discussion in her adaptation of Bouvet's work, written *c.*1410: *The Book of Deeds of Arms and of Chivalry*, trans. Sumner Willard, ed. Charity Cannon Willard (Philadelphia: University of Pennsylvania Press, 1999), 169.

68 Jan Willem Honig, 'Reappraising Late Medieval Strategy: the Example of the 1415 Agincourt Campaign', *War in History* 19 (2012): 123–51.