



European  
University  
Institute

DEPARTMENT  
OF HISTORY  
AND  
CIVILIZATION

## The Enclosure of Movement

Safe-Conduct and the Politics of Mobility in the  
Holy Roman Empire

Luca Scholz

Thesis submitted for assessment with a view to  
obtaining the degree of Doctor of History and Civilization  
of the European University Institute

Florence, 13 September 2016



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**Examining Board**

Professor Jorge Flores, European University Institute  
Professor Christophe Duhamelle, École des hautes études en sciences sociales  
Professor Luca Molà, European University Institute  
Professor Angelo Torre, Università del Piemonte Orientale

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## Abstract

'The Enclosure of Movement' explores the historical relationship between early modern state-building and the channelling of inter-polity mobility. Few historical settings offer a more illuminating angle on this problem than the Holy Roman Empire, a variably integrated array of more than three-hundred quasi-sovereign polities between the Alps and the North Sea. The movements of goods and people through this fragmented political landscape engendered countless conflict-fraught encounters between travellers, local communities and the deputies of several hundred rulers. In the Old Reich, the politics of mobility were frequently framed in terms of 'safe-conduct', the quasi-sovereign right to escort travellers and to levy customs duties on passing goods and people. Although only certain forms of mobility were subject to safe-conduct, the institution offered a paramount framework for negotiating freedom of movement and its restriction in theory and practice. Based on manuscript, printed and visual sources from the late sixteenth to the early eighteenth centuries collected in more than twenty archives, I reconstruct interactions between state deputies, mobile populations and other stakeholders, demonstrating that passage and obstruction were negotiated by a variety of agents at different levels. The book discusses four cases in detail: the dangerous safe-conduct processions through which a small county attempted to impose its dominion over a river against powerful neighbours, the disputes over the boundaries of a city-enclave that illustrate both the symbolic significance and limited practical relevance of old-regime borders, a territorial authority's troubled efforts to channel flows of goods and people through a fragmented landscape by means of letters of passage, forbidden roads and self-willed officials, and the double-edged protection by which a merchant city secured a river from pirates while imposing a self-serving order of movement. The enclosure of movement was accompanied by seminal ideological debates that opposed state-centred and 'cosmopolitan' views on freedom of movement and its restriction. The study contributes to a better understanding of the politics of mobility in the Holy Roman Empire and broader accounts of state-building in at least three ways. First, I show that borders were not a privileged site for controlling inter-polity mobility, which challenges conventional conceptions and visualisation of pre-modern statehood. Second, I unearth debates around freedom of movement and its restriction that gave rise to concepts and arguments still in circulation today. Third, I propose a new way of historicizing the politics of mobility and offer a more complex, agency-oriented and open-ended account of how modern states gave rise to a contentious regime of movement.



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laughter, comfort and insight during a cold spring. Finally, I dedicate this dissertation to Nina Bernarding and to the years we walked together, to *W.*, *E.* and *S.*

# 1. Introduction: The Ordering of Movement

The aim of this book is to deepen our understanding of the historical relationship between statehood and the channelling of mobility in the Holy Roman Empire. A common narrative is that borders, passports and the governance of mobility were an integral part of early modern state-building. At some point in history, the account goes, states began to demarcate their external boundaries and restrict the movement of goods and people, so that the modern state is unthinkable without its border. This book challenges such teleological genealogies of state borders and shows that, in a time that some call the age of European state formation, the relationship between movement and statehood was highly contingent, negotiated at various levels and dispersed in space. It does so by asking simple questions: To what extent did early statehood monopolise legitimate means of movement? What debates around freedom of movement accompanied state-building? How did mobile populations, officials and intellectuals negotiate rights of passage? Does this force us to rethink the way we visualise political orders as ‘regimes of movement’?<sup>1</sup>

Ordering the movements of goods and people – be they passages of troops, the vagrancy of the poor, flows of goods and capital, communications through letters, messengers, or diplomats, the mobility of Jews, maritime navigation, the processions, pilgrimages or churchgoings of religious others, expulsions or travel in times of epidemics – was an extraordinary concern for early modern societies. The reasons for which mobility was promoted, restricted or channelled were manifold: public order, health and security, political power, the realisation of fiscal revenues, commercial and economic interests, as well as social differentiation were some of the most important.<sup>2</sup> The problem was particularly pressing where multiple political entities competed within the same spaces. In the fragmented political landscape of the Holy Roman Empire of the German Nation, where travellers could choose between different routes, multiple authorities competed with each other in channelling

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<sup>1</sup> Kotef, Hagar, *Movement and the Ordering of Freedom: On Liberal Governances of Mobility*, (Durham and London: 2015), 6. The term ‘regime of movement’ is employed by scholars of contemporary mobility restrictions around the globe. Hagar Kotef defines it as ‘an extensive bureaucratic system of permits, backed by a dense grid of physical and administrative obstacles, which fragments both the space and the social fabric, [and] pervasively regulates the circulation of people and goods’. If one takes into account the considerable technical, human and financial limitations of early modern administrations and the more limited range of people and goods subject to mobility restrictions, ‘regime of movement’ is an analytical tool that offers a valuable new perspective on the governance of mobility in old-regime societies. See: Ibid., 6–11, 21; Shamir, Ronen, ‘Without Borders? Notes on Globalization as a Mobility Regime’ *Sociological Theory* 23, no. 2 (2005): 197–217.

<sup>2</sup> See, for instance: Bertrand, Gilles, ‘Pour une approche comparée des modes de contrôle exercés aux frontières des anciens États italiens: les exemples du Dauphiné et de la Toscane dans la seconde moitié du XVIII<sup>e</sup> siècle’, in: Moatti, Claudia, ed., *La mobilité des personnes en Méditerranée de l’Antiquité à l’époque moderne: procédures de contrôle et documents d’identification* (Rome: 2004), 253–303, 275–285.

desired mobilities, such as commercial flows, through their dominions while keeping undesired mobilities, such as passing troops or vagrants, out. A seventeenth-century jurist put the problem in a nutshell when he criticised the Empire's members for their 'eagerness, emulation and fury to drag in the others' passage at one time [and] to repulse it at another, depending on whether it presents a benefit or a burden'.<sup>3</sup>

Historians are beginning to understand ordering of movement as a constitutive element of state-building.<sup>4</sup> John Torpey, for instance, argues that modern states 'have expropriated from individuals and private entities the legitimate 'means of movement'.<sup>5</sup> As a result, modern statehood would be able to deprive 'people of the freedom to move across certain spaces and to render them dependent on states and the state system for the authorization to do so'.<sup>6</sup> He does not claim that modern states effectively control all forms of movement, which would hardly be an accurate description of the mobility regimes of any time. Rather, he argues that states 'have monopolized the authority to restrict movements vis-a-vis other potential claimants'.<sup>7</sup> While pre-modern authorities had great difficulties at *effectively* monopolising anything at all, they displayed strong tendencies to ban competing claimants whenever they attempted to do so. Thus, if one conceives of monopolisation not as a static condition, but as a process in which various political entities and their agents compete over the control of rights of passage within a circumscribed area without ever succeeding to permanently secure an unchallenged monopoly, early modern regimes of movement can well be described in terms of monopolisation. The techniques and practices devised to this effect can be understood as acts of enclosure that restrict rights of passage on certain roads or rivers and turn them from public goods into excludable goods. Enclosure seems an appropriate term for describing such attempts to transform rights of passage.<sup>8</sup>

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<sup>3</sup> Rosenhand, Daniel Nikolaus, *Dissertatio Iuridica de Iure Transeundi Per Territoria* (Strasbourg: 1672) § 64.

<sup>4</sup> Concerning migration, see for instance: Härter, Karl, 'Grenzen, Streifen, Pässe und Gesetze: Die Steuerung von Migration im frühneuzeitlichen Territorialstaat des Alten Reiches (1648–1806)', in: Oltmer, Jochen, ed., *Handbuch Staat und Migration in Deutschland seit dem 17. Jahrhundert* (Berlin: 2015), 7–48, 7.

<sup>5</sup> Torpey, John, 'Coming and Going: On the State Monopolization of the Legitimate "Means of Movement"', *Sociological Theory*, 16 (1998), 239–59, 239; Torpey, John, *The Invention of the Passport: Surveillance, Citizenship, and the State* (Cambridge, New York: 2000). Torpey's theory draws on Max Weber's conception of statehood as depending on a monopoly of the legitimate means of violence.

<sup>6</sup> Torpey, *Coming and Going*, 239.

<sup>7</sup> *Ibid.*, 240.

<sup>8</sup> The term is mostly used to describe the abolition of common rights over land and the reservation of the enclosed land for the sole use of individual owners and their tenants that transferred much of Britain's arable land into private ownership between the sixteenth and nineteenth centuries. See, for instance: Mingay, Gordon, *Parliamentary Enclosure in England: An Introduction to Its Causes, Incidence, and Impact, 1750–1850* (London: 1997). More recently, James Scott adopted the concept of enclosure to characterise the (largely unsuccessful) attempts of South East Asian states to integrate peripheral populations and make their economic activity 'legible, taxable, assessable, and confiscable'. Scott, James, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: 2009), 5. The metaphor of enclosure resonates with the symbolism of the safe-conduct ritual, in which a conductee was surrounded, guided and controlled by his escorts. The concept also ties in neatly with classifications of early modern history as a history of

Precisely because it describes the transformation of a public good into an excludable good – a transformation that does not necessarily exclude others from using the enclosed good, but alters the conditions under which owners and users avail themselves of it – the concept of enclosure is useful for conceptualising early modern mobility regimes. Indeed, enclosures of movement rarely entailed an absolute prohibition of rights of passage, but tended to channel the movements of goods and people, and to make rights of passage dependable on certain conditions, such as the payment of tolls and duties, or the performance of acts of symbolic subjection. Thus, ‘states have been able to treat the right to move as a commodity of sorts because persons wanting to move have been willing to pay in various ways for the privilege’.<sup>9</sup>

However, the language of control and enclosure should not mislead us into overrating the influence of territorial authorities and their agents. The frequent opposition and sometimes insurmountable difficulties that officials faced when attempting to enforce their prerogatives caution against studying safe-conduct and other governances of mobility against the exclusive background of statehood, which, as Angelo Torre pointed out, can lead to reducing complex problems to mere matters of ‘illegality’ or ‘informality’.<sup>10</sup> Several scholars have suggested agency-oriented perspectives for the study of movement and its regulation. Claudia Moatti, for instance, rejects ‘policed or totalitarian views’ of pre-modern regimes of movement as ‘anachronistic’.<sup>11</sup> She argues that pre-modern regimes of movement were often limited to certain times, places and persons and could be indirect, or neutralised by traditional institutions.<sup>12</sup> Her concept of ‘negotiated mobility’<sup>13</sup> is therefore a useful analytical tool. For Moatti, it describes all contracts between authorities and private individuals, for instance in terms of migration, commercial privileges, diplomacy, the ransom of prisoners, or the sending of mercenaries. Among German historians, Karl Härter called for a more agency-oriented perspective and an alternative analytical framework for understanding the everyday conflicts that unsettled the Empire's

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enclosure. See: Maier, Charles, ‘Transformations of Territoriality 1600–2000’, in: Budde, Gunilla-Friederike, Sebastian Conrad, and Oliver Janz, eds., *Transnationale Geschichte: Themen, Tendenzen und Theorien* (Göttingen: 2006), 32–55, 40.

<sup>9</sup> Quirk, Joel and Darshan Vigneswaran, *Mobility Makes States: Migration and Power in Africa* (Philadelphia: 2015), 17.

<sup>10</sup> See: Torre, Angelo, ‘Introduzione’, in: Torre, Angelo, *Per vie di terra. Movimenti di uomini e di cose nelle società di Antico Regime* (Milano: 2007)9–20, 12.

<sup>11</sup> Moatti, Claudia, ‘Introduction’, in: Moatti, Claudia, ed., *La mobilità des personnes en Méditerranée de l'Antiquité à l'époque moderne: procédures de contrôle et documents d'identification* (Rome: 2004), 1–24, 3.

<sup>12</sup> See: *Ibid.*, 3–5.

<sup>13</sup> *Ibid.*, 15.

roads and rivers. He emphasised that travellers could ‘deal productively’<sup>14</sup> with normative frameworks, i.e. they used the available legal spaces creatively and to their own advantage.<sup>15</sup>

Implicit in all these arguments is a reversal of perspectives that has recently been elevated to a research agenda in its own right. While traditional scholarship on mobility and the state has focused on authorities’ efforts to restrict the movement of certain goods and people, some scholars are now beginning to ask not how states channel mobility, but how ‘mobility makes the state’.<sup>16</sup> Thus, Darshan Vigneswaran and Joel Quirk argue that ‘human mobility has long played a foundational role in determining what states look like as spatial and political entities, how they accumulate power and resources, what types of policies and strategies they pursue, and how they relate to their peers and other political, social, and economic actors’.<sup>17</sup> Instead of treating mobility ‘as an external aberration or intrusion that (pre-existing) states must address’,<sup>18</sup> it should therefore be regarded as a ‘key ingredient in the constitution of state authority in the first place’. This is a bold formulation of an idea that other historians sometimes hinted at, but never put at the centre of systematic inquiry.<sup>19</sup>

Vigneswaran and Quirk identified prevention and promotion as the two principal orientations of states toward mobility. Prevention comprises all ‘state efforts to create and maintain legal, sociological, and physical obstacles that negatively impact the capacity and inclination of humans to move’. In the Holy Roman Empire prevention could concern, for instance, the movements of troops, carriers of contagion, vagrants, serfs, indentured labourers, or religious minorities. The promotion of mobility constitutes ‘a key form of statecraft’ that can take a variety of forms ranging from ‘indirect and long-term measures to facilitate and/or regulate otherwise largely independent movements’<sup>20</sup> to violent coercion. In the case of the Old Reich, this would include measures to attract commercial flows through improved infrastructures, the coercive channelling of movement through the closure of

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<sup>14</sup> Härter, Karl, ‘Jüdische Migrationen im frühneuzeitlichen Alten Reich. Rechtliche Rahmenbedingungen, Geleit und Rechtsnutzung’, in: Ehrenpreis, Stefan, ed., *Kaiser und Reich in der jüdischen Lokalgeschichte* (München: 2011), 67–92, 92.

<sup>15</sup> Hagar Kotef called for complementing structural studies on state control over movement with more agency-oriented perspectives and to ask ‘what people (some would say here ‘from below’) “do” with movement’ (Kotef, *Movement*, 127). In a very similar vein, Angelo Torre pleaded for ‘a punctual and concrete analysis, and especially not a teleologic one’ (Torre, *Introduzione*, 12) of land transit in old-regime societies.

<sup>16</sup> Vigneswaran and Quirk, *Mobility Makes States*, 12. As Torpey’s theory about the monopolisation of the legitimate means of movement is a variation of Max Weber’s definition, the formula ‘mobility makes the states’ is inspired by Charles Tilly’s assertion that ‘war made the state’. See: *Ibid.*, 6.

<sup>17</sup> *Ibid.*, 2

<sup>18</sup> *Ibid.*

<sup>19</sup> Meinrad Schaab, for instance, suggested that road networks impacted the territorial expansion of late medieval and early modern states. Far from suggesting a simple causal relationship, however, he acknowledged both state efforts to channel mobility and ‘the favour and disfavour of hazard’. Schaab, Meinrad, ‘Straßen- und Geleitswesen zwischen Rhein, Neckar und Schwarzwald im Mittelalter und der Frühen Neuzeit’, *Jahrbücher für Statistik und Landeskunde von Baden-Württemberg*, no. 4 (1959): 54–75, 74.

<sup>20</sup> Vigneswaran and Quirk, *Mobility Makes States*, 12.

byroads, as well as tax privileges, religious freedom and other measures to attract foreign settlers, or forced expulsions and re-settlements. Indeed, ‘many efforts to promote human mobility have involved parochial, self-serving, and often mercantilist strategies, rather than efforts to promote human mobility as a general “public good”’.<sup>21</sup> Moreover, Vigneswaran and Quirk suggest we conceive of promotion and restriction as closely connected. They therefore propose ‘the term *channelling* to capture the irregular and intermittent way in which states seek to determine the speed, rhythm, routes, and meaning of mobility’.<sup>22</sup>

The focus of this book is on the history of safe-conduct in the Holy Roman Empire between the late sixteenth and the early eighteenth century. To operationalise research questions that deal with a problem as vast as the connection between state-building and mobility, this focus allows us to spotlight specific practices, places and times. Taking the institution of safe-conduct as a vantage point, this research explores how the hundreds of fragmented, blurred and often overlapping political entities that were integrated in the common imperial structure of the Old Reich, dealt with the ordering of inter-polity mobility. Safe-conduct was one of the most important institutions for the promotion, restriction and negotiation of the movement of goods and people. It was an extraordinarily diverse institution that allows us to simultaneously consider the symbolic, everyday and intellectual dimensions of the problem at hand. It allows us, moreover, to study the negotiation of passage and obstruction at ground level and to highlight the concrete agency of the individuals involved in the encounters of statehood and mobility. Because this requires a high degree of contextualisation, each of the following chapters focuses on a specific roadscape, river, or boundary. In each case, zooming in allows us to take territorial, political, economic and social factors into account that would otherwise escape our purview. At the same time, I endeavoured to integrate examples and cases from other regions, and to make the conclusions as representative as possible. The time between the late sixteenth and the early eighteenth century saw the evolution of safe-conduct from a primarily protective service into a diverse set of administrative and political instruments, symbolic practices and a conceptual framework with which the societies of the Old Reich negotiated the protection, promotion and regulation of various forms of inter-polity passage and sojourn. Furthermore, the chronology allows us to show that – at least concerning the politics of passage – the Westphalian Peace of 1648 was not an epoch-making turning

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<sup>21</sup> Ibid., 15. Historically, ‘state-sanctioned chartered companies’ like the East India Company are a telling example.

<sup>22</sup> Ibid., 19–20.

point, neither in the Holy Roman Empire, nor in the wider genealogies of statehood that are popular among political theorists.<sup>23</sup>

The research builds on a rich body of manuscript, printed and visual sources. I have collected these during visits to five libraries and twenty-two archives. The printed sources, mostly legal treatises and dissertations, constitute the basis of the last chapter and offer a varied perspective on the argumentative negotiation of rights of passage. The principal foundation of the book, however, are archival sources. Because safe-conduct was a politically and fiscally important institution to almost every Imperial Estate (at least at some point in its history), the available source material is inexhaustible.<sup>24</sup> In some state archives, as in Weimar or Stuttgart, research was facilitated by the fact that the relevant files had been pooled into specific series, sometimes as early as in the sixteenth century. In other archives, many sources were located in archival series relating to controversies with neighbouring states. In other cases, identifying the relevant series was thornier, though never in vain. The documents used for this research range from reports, judicial files, testimonies and interrogation minutes, letters of passage and administrative correspondence to manuscript maps. Still, however rich, archival sources have their limitations.<sup>25</sup> Their testimony is patchy and irregular. Archives are biased: they favour long-term concerns over everyday affairs, the outrageous over the common, the fatal over the innocuous, conflict over consensus, the rich over the poor, the literate over the illiterate, the powerful over the powerless and men over women. All these limitations call for epistemological humility. I have therefore based this research on the broadest possible basis of archives and strived to gauge how representative my findings are through comparison and qualification throughout the book.

The book is divided into five chapters, each of which is centred on a specific problem. The introduction proposes to understand political orders as regimes of movement and assesses the interest of the Holy Roman Empire and the history of safe-conduct as a basis for this endeavour. Chapter 1 presents the troubled, sometimes deadly safe-conduct processions that unsettled the roads and rivers of the Empire, interpreting them as symbolic struggles over the legitimate means of movement. Focusing on the border, Chapter 2 argues that boundaries fulfilled important symbolic functions, but

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<sup>23</sup> For a recent challenge to the 'idée fixe' of the Westphalian system, see: Whaley, Joachim, *Germany and the Holy Roman Empire* (Oxford: 2012), vol. 1, 11.

<sup>24</sup> Occasional lamentations that the source material available for the study of safe-conduct is very limited are not quite justified, at least not for the period from the sixteenth century onwards. See, for instance: Dotzauer, Winfried, 'Das Königswahlgeleit für die Kurfürsten in der Goldenen Bulle Karls IV. (1356). Ein Beitrag zur Interpretation der Goldenen Bulle', in: N.N., ed., *Beiträge zur mittelhochdeutschen Landesgeschichte. Johannes Bärman zum 75. Geburtstag gewidmet* (Wiesbaden: 1980), 82–139, 83.

<sup>25</sup> See: Esch, Arnold, 'Überlieferungs-Chance und Überlieferungs-Zufall als methodisches Problem des Historikers' *Historische Zeitschrift* 240, no. 3 (1985): 529–70.

were less important for the governance of everyday mobility, an insight that has consequences for how we visualise the topography of early modern states. Centred on everyday mobility, Chapter 3 reconstructs the principal techniques that authorities employed for channelling goods and people, highlighting both the concrete enforcement and the limitations of these efforts. Chapter 4 interrogates the role of protection in safe-conduct and discusses its use as a strategic argument to justify politically ambiguous interferences with inter-polity mobility. Chapter 5 reveals that freedom of movement and its limitation were fiercely disputed intellectually, opposing state-centred and ‘cosmopolitan’ views on the relationship between mobility and territorial rule. The conclusion summarises the results of this book, highlights its limitations and argues for more varied, open-ended and non-linear accounts of how societies, past and present, dealt with the troubles of transit.

## Old Regimes of Movement

Among the reasons for which early modern societies restricted the movements of goods and people, fiscal and economic motivations loomed large. While customs duties can be employed as an instrument for deflecting trade flows and protecting industries, most early modern duties were exclusively aimed at producing fiscal revenues.<sup>26</sup> In England, for instance, the customs produced 30 or 40 per cent of the total revenues in the period between 1558 and 1714.<sup>27</sup> In the Old Reich, transit duties constituted a similarly important asset of the princely exchequers. In the territories adjoining the river Rhine, for example, transit duties produced approximately 60 per cent of the revenues in the first half of the fifteenth century.<sup>28</sup> In the North-East of the Empire, the agrarian sector generated a much larger share of the fiscal revenues.<sup>29</sup> Nevertheless, conduct and other transit duties made up around 10 per cent of the total revenues of the Electorate of Saxony in the sixteenth century.<sup>30</sup> The Electors of Brandenburg attempted to increase their revenues by acquiring customs privileges over the rivers Elbe and Oder as well.<sup>31</sup>

From the fifteenth century onwards, territorial states and cities increasingly interfered with trade flows, which had particularly significant effects in the more fragmented regions of the Empire.<sup>32</sup> One important reason for this development was that direct taxation became a more important source of fiscal revenues than customs duties. For instance, on the river Rhine the unobstructed flow of goods, lost its priority, so that the river could be blocked for political purposes without causing excessive losses to the exchequers.<sup>33</sup> Many cities such as Hamburg or Vienna sought to reactivate staple rights in order to protect their commercial interests. The fact that navigation on the Rhine and other thoroughfares became increasingly ‘fractioned or territorialised’<sup>34</sup> favoured local trade at the expense of transit traffic.

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<sup>26</sup> See: Pohl, Hans, ‘Einführung’, in: Pohl, Hans, ed., *Die Auswirkungen von Zöllen und anderen Handelsbemmnissen auf Wirtschaft und Gesellschaft vom Mittelalter bis zur Gegenwart* (Stuttgart: 1987), 7–18. While protective duties were a later development, mercantilist and cameralist thinkers suggested their use (and the abolition of internal tariffs) for the regulation of external trade in order to foster territorial economies, much earlier. Garner, Guillaume, ‘La question douanière dans le discours économique en Allemagne (seconde moitié du XVIII<sup>e</sup> siècle)’ *Histoire, Économie et Société* 23, no. 1 (2004): 39–53, 43.

<sup>27</sup> See for instance: Braddick, Michael, *The Nerves of State: Taxation and the Financing of the English State, 1558–1714* (Manchester, New York: 1996), 49–67.

<sup>28</sup> See: Droege, Georg, ‘Die finanziellen Grundlagen des Territorialstaates in West- und Ostdeutschland an der Wende vom Mittelalter zur Neuzeit’ *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 53, no. 2 (1966), 145–161, 149–150.

<sup>29</sup> See: *Ibid.*, 159.

<sup>30</sup> See: *Ibid.*, 156–157.

<sup>31</sup> See: *Ibid.*, 158.

<sup>32</sup> See: Dirlmeier, Ulf, ‘Mittelalterliche Zoll- und Stapelrechte als Handelshemmnisse?’, in: Pohl, ed., *Auswirkungen von Zöllen*, 19–39, 36–37.

<sup>33</sup> See: *Ibid.*, 37.

<sup>34</sup> *Ibid.*, 38.

However, in larger territories, municipal staples were more difficult to establish. While the territorial enclosure of trade in the early modern Empire opened up new opportunities for economic development, it led to ‘a loss of free movement’<sup>35</sup> on a supra-regional level.

In the Old Reich, both tariff and non-tariff trade barriers weighed heavily on the movements of goods both in more fragmented and larger, relatively homogenous territories.<sup>36</sup> Duties and tolls were particularly burdensome on the roads and rivers traversing the more fragmented regions of the Empire, where toll stations succeeded one another over short distances.<sup>37</sup> Tariff trade barriers such as duties and tolls levied for the use of roads, bridges, or ferries were further exacerbated by the variety of local currencies and measure units.<sup>38</sup> While most goods were taxed according to specific rates (for example, a specific amount per unit), additional duties could be requested for horses or carts. Some categories of travellers, especially Jews, had to pay tolls on their own bodies.<sup>39</sup> The effects of non-tariff trade barriers could be even stronger than those of tariff barriers.<sup>40</sup> Price-fixing, subsidies, import and export bans (for protectionist and military reasons, or as emergency measures), quota limitations, public monopolies and import controls (that required the verification of the origin of goods) were among the most important instruments with which the territories interfered with trade.<sup>41</sup> The arbitrary application of trade regulations, the deplorable state of many roads and the delays caused by frequent customs inspections had similarly adverse effects.<sup>42</sup>

The problem of channelling trade flows was not limited to fragmented regions such as the Holy Roman Empire. In old-regime France, for instance, the royal tax farming system permeated the country with a network of toll stations and patrols charged with fiscally exploiting commerce.<sup>43</sup> The accursed *Ferme générale*, which held a prominent place in the *cabiers de doléances* on the eve of the Revolution, triggered a ferocious struggle between toll-collectors and smugglers. The differential taxation of goods in different areas provided a means of subsistence for considerable segments of the rural populations, who refined the techniques of smuggling over generations and formed almost para-military

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<sup>35</sup> Ibid., 39.

<sup>36</sup> See: Gerhard, Hans-Jürgen, ‘Merkantilpolitische Handelshemmnisse am Beispiel eines territorial relativ einheitlichen Gebietes’, in: Pohl, *Auswirkungen von Zöllen*, 59–83; Walter, Rolf, ‘Merkantilpolitische Handelshemmnisse (im territorialen Vergleich) am Beispiel eines territorial relativ zersplitterten Gebietes’, in: Pohl, *Auswirkungen von Zöllen*, 84–120.

<sup>37</sup> See: Stolz, Otto, ‘Zur Entwicklungsgeschichte des Zollwesens innerhalb des alten deutschen Reiches’ *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 41, no. 1 (1954): 1–41, 26.

<sup>38</sup> See: Walter, *Handelshemmnisse*, 94–95, 115–116.

<sup>39</sup> In eighteenth-century Württemberg, comedians and bird sellers were required to pay duties on their ‘bodies’, as well. Ibid., 94.

<sup>40</sup> See: Ibid., 120.

<sup>41</sup> See: Ibid., 101–104.

<sup>42</sup> See: Ibid., 107–115.

<sup>43</sup> See: Roche, Daniel, *Humeurs vagabondes: de la circulation des hommes et de l'utilité des voyages* (Paris: 2003), 301–305.

organisations. Tax-farmers, on the other hand, attempted to control the traffic with a network of toll-posts and patrols, mounted and on foot. The countless tolls levied on internal roads and rivers augmented transport costs and significantly obstructed the transportation of goods.<sup>44</sup> The movements of all subjects were thus subject to an extremely complicated regime of mobility.<sup>45</sup> Economists denounced chronic corruption and abuses, and placed the question of mobility at the centre of their debates.

It is unquestionable that the numerous interferences in commerce affected the volume, routes and modalities of trade flows in early modern Europe. However, one should be careful not to overestimate their effective impact. What Anne Conchon has highlighted for the history of tolls in old-regime France is true for transit duties in the Old Reich as well.<sup>46</sup> Because tolls were highly unpopular – a sentiment that is perhaps overrepresented in the sources – historians have tended to make them into ‘a symbol of all the archaisms and blockages of old-regime commerce’.<sup>47</sup> Ulf Dirlmeier similarly argued that there is no other context in which ‘pre-modern statecraft has been judged as frequently and as roundly negatively as with regard to the enforcement of customs law’.<sup>48</sup> While both tariff and non-tariff trade barriers had obstructive effects on trade, the negative judgements of both contemporaries and historians ought to be qualified in two respects. Firstly, up to the eighteenth century, most customs duties were transit duties and not protective duties.<sup>49</sup> In order to produce revenues, transit duties rely on steady flows, hence ‘a transit duty which blocks the flow of goods reduces itself *ad absurdum*’. The mushrooming of new customs and staple privileges did not occur without some order. While medieval and early modern authorities competed in obtaining such rights, they equally attempted to exclude competing claims within certain areas.<sup>50</sup> What is more, the competition between territorial rulers in channelling flows through their territories could lead to reduced tariffs and investments in the road infrastructure.<sup>51</sup> Additionally, the theory and practice of customs duty collection could diverge heavily. Apart from widespread illegal practices and contraband, pre-modern customs bureaucracies knew many ‘legal deviations’.<sup>52</sup> Actual tariffs were often negotiated and the official rates frequently amounted

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<sup>44</sup> See: *Ibid.*, 368–371.

<sup>45</sup> See: *Ibid.*, 367.

<sup>46</sup> Karl Härter similarly lamented the ‘scarce source records’ for the everyday functioning of migration control in the Holy Roman Empire. See: Härter, *Steuerung von Migration*, 42.

<sup>47</sup> Conchon, Anne, *Le péage en France au XVIII<sup>e</sup> siècle : les privilèges à l’épreuve de la réforme* (Paris: 2002), 115.

<sup>48</sup> Dirlmeier, *Handelshemmnisse*, 19.

<sup>49</sup> See: *Ibid.*, 20.

<sup>50</sup> The ecclesiastical princes along the Rhine thus concluded a series of treaties to prevent the creation of new customs rights or the increase of tariffs. See: *Ibid.*, 22–23.

<sup>51</sup> See: Hessler, Rudolf, *Das Durchzugsrecht innerhalb des deutschen Bundes* (Berlin: 1966), 90.

<sup>52</sup> Dirlmeier, *Handelshemmnisse*, 27.

to little more than ‘fiscal wishful thinking’.<sup>53</sup> Some historians go as far as to deny any meaningful obstructive effect of territorial authorities on trade flows in the German lands.<sup>54</sup>

While calculating the effective burden of tariffs on trade as well as their share in the total fiscal revenues of territorial states is often impossible, it is at least clear that transit duties and tolls (as distinguished, for instance, from excise taxes) were not as lucrative a source of income as often thought.<sup>55</sup> At the end of the eighteenth century the customs revenues of the Duchy of Württemberg amounted to 5.6 per cent of the total revenues, while excise taxes generated 13.9 per cent of revenues.<sup>56</sup> Rolf Walter concluded that, at the end of the eighteenth century, the impact of transit duties on the external trade of the Margraviate of Bade-Durlach, the Duchy of Württemberg, or Electoral Bavaria was hardly enough to qualify them as trade barriers.<sup>57</sup> The economic effects of transit duties on trade were therefore not as significant as many contemporaries argued.<sup>58</sup> Even though the causality between toll collection and reductions in trade volume was the chief explanation given by contemporaries, this simplification might be due to the lack of adequate tools of analysis.<sup>59</sup> Variations in trade were often determined by changes in consumer behaviour and trade deflection.<sup>60</sup>

However, if tolls were not as big an economic problem as often thought, fiscal regimes of movement constituted an immense ‘psychological and ideological problem’.<sup>61</sup> This is reflected in acts of violence against the material artefacts employed by toll farmers and authorities to channel the movements of goods, which frequently became the target of popular discontent over the restrictions forced upon travellers. In the Thuringian district of Heldburg, for instance, officials complained in 1664 that unknown persons had smashed and destroyed barriers and turnpikes, and stolen the locks.<sup>62</sup> In 1533 carters threw stones at the conduct column at the Thuringian conduct station at Wigendorf to protest

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<sup>53</sup> Ibid., 30. For an example from Hof in 1502, see: Lippert, Friedrich, ‘Der Verkehr auf den Bayreuther Geleitsstraßen 1248–1700’ *Archiv für Geschichte und Altertumskunde von Oberfranken* 31, no. 2 (1931): 94–113, 102.

<sup>54</sup> For the Thuringian case, see: Straube, Manfred, *Geleitwesen und Warenverkehr im thüringisch-sächsischen Raum zu Beginn der Frühen Neuzeit* (Köln: 2014), 35.

<sup>55</sup> Anne Conchon came to the same conclusion with regard to tolls (*péages*) in eighteenth-century France, whose impopularity exceeded their effective burden on trade by far. Other duties (such as the *octrois* and *traites*) had a much more significant economic impact (they were levied not from the carters, but from the urban consumers). See: Conchon, *Le péage*, 126–131.

<sup>56</sup> See: Walter, *Handelsbemnisse*, 95.

<sup>57</sup> See: Ibid., 95–98.

<sup>58</sup> See: Dirlmeier, *Handelsbemnisse*, 32; Conchon, *Le péage*, 126–128.

<sup>59</sup> See: Dirlmeier, *Handelsbemnisse*, 20–21. Dirlmeier compared this to the simplistic pattern of explanation with which late medieval grain inflations were attributed to the activities of grain traders.

<sup>60</sup> See: Ibid., 35–36.

<sup>61</sup> Conchon, *Le péage*, 145.

<sup>62</sup> See: ThStA Meiningen, Geheimes Archiv Hildburghausen/Akten, 433, fo. 75.

against the high duties.<sup>63</sup> In 1605 subjects of the County of Hanau destroyed and removed a barrier of the Free Imperial City of Frankfurt.<sup>64</sup> In 1665 Frankfurt complained that another barrier had been destroyed.<sup>65</sup> In the borderlands between the Electoral Palatinate and the Electorate of Mainz an official of Mainz and eighteen subjects tore down a disputed toll column using chains and broke off the Palatine coat of arms and brought it to Mainz (several shots were fired on the occasion but no one died).<sup>66</sup> In the seventeenth and eighteenth centuries safe-conduct stones that marked the boundary between the Prince-Bishopric of Würzburg and the Duchy of Saxe-Coburg were repeatedly damaged or destroyed.<sup>67</sup> Another expedition of a Mainzian official and twenty peasants saw a toll post of the County of Wertheim destroyed in 1752.<sup>68</sup> An old safe-conduct dispute between the Principality of Calenberg and the Prince-Bishopric of Hildesheim that escalated in the second half of the seventeenth century involved material artifacts as well.<sup>69</sup> In 1682 several hundred subjects of Calenberg erected a guard house at a bridge at the border, purportedly as a measure against an epidemic. To protest, the sheriff of the Prince-Bishop of Hildesheim took a stone from the house and threw it into the river. By night, five hundred peasants from the Prince-Bishopric of Hildesheim destroyed the guard house and threw the building materials into the river. As a reaction, Calenberg threatened to pull down the bridge, though it never followed through. Destructions of boom barriers and toll boards were common in old-regime France as well.<sup>70</sup> Some tollkeepers even refrained from putting up new toll boards after repeated aggressions.<sup>71</sup>

Delays and bureaucratic inefficiencies contributed considerably to the unpopularity of tolls and duties. In old-regime France the delays caused by the numerous *péages* counted among the most frequent

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<sup>63</sup> See: Straube, Manfred, *Zum überregionalen und regionalen Warenverkehr im thüringisch-sächsischen Raum, vornehmlich in der ersten Hälfte des 16. Jahrhunderts* (Leipzig: 1981), vol. 1, 29.

<sup>64</sup> See: IfS Frankfurt, Mgb A 56, 448–449.

<sup>65</sup> See: StA Würzburg MRA Reichsstädte, K 514/339.

<sup>66</sup> See: Schmitt, Gebhard, 'Ein Grenzstreit zwischen Kurmainz und Kurpfalz'in *Heimatkalender für Neckartal, Odenwald, Bauland u. Kraichgau*, 2007, 181–83. For another example, see: Dotzauer, Winfried, 'Beiträge zum Geleitswesen im Nahe-Mündungsgebiet' *Mitteilungsblatt zur rheinhessischen Landeskunde* 10 (1961): 287–291, 289. For a similar conflict between the County of Erbach and the Electoral Palatinate, see: Becher, Wolfram, 'Die Geleitsrechte in der Grafschaft Erbach' *Der Odenwald* 11 (1964): 79–86, 81–82. See, moreover: Rühl, Werner, 'Das abgegangene Steinkreuz bei Elsendorf, ein seltenes Beispiel für einen Geleitstein' *Heimatbote aus dem reichen Ebrachgrund* 19 (2006): 11–16, 14.

<sup>67</sup> See: Tilch, Karl, 'Die beiden letzten Geleitsteine im Grabfeld' *Schönere Heimat* 89 (2000): 107–110, 109–110.

<sup>68</sup> See: Sprotte, Bernhard, *Geleit im Tauberland. Als Nürnberger Kaufleute zur Frankfurter Messe zogen* (Wertheim: 1975), 127–128.

<sup>69</sup> See: Meese, F., 'Das Geleitsrecht wie auch die Hoch- und Botmässigkeit auf der alten Heerstrasse von Mehle nach Poppenburg, und die Tempelherren zu Poppenburg.' *Zeitschrift des historischen Vereins für Niedersachsen*, (1870): 185–202.

<sup>70</sup> See: Conchon, *Le péage*, 151.

<sup>71</sup> Perhaps it was the fear of violence that moved the Prince-Bishopric of Speyer to install new boundary stones on the border with Baden by night (See: GLA Karlsruhe, 74/2581). Similar conflicts could be triggered by religious appropriations of territorial boundaries and their markers. In the 1590s, for instance, Jesuits encouraged the inhabitants of the Catholic villages around Speyer to set up crosses at the boundaries with the Calvinist Electoral Palatinate, whose officials soon removed the crosses. See: Duhamelle, Christophe, *La frontière au village : une identité catholique allemande au temps des Lumières* (Paris: 2010), 144.

complaints among carters and boatmen, even though the monarchy and many tollkeepers attempted to minimise such frictions.<sup>72</sup> At the toll-stations of the Count of Oldenburg on the river Weser, each ship had to undergo a lengthy inspection procedure against which many boatmen voiced a strong opposition.<sup>73</sup> Another key problem was that Oldenburg's toll-stations operated for only four hours in the morning and three hours in the afternoon, irrespective of the tides and the wind conditions on which the larger ships depended, rendering the toll more than just a monetary inconvenience. In the trade between medieval German and Italian cities, non-tariff, customs-related delays were a stronger trade barrier than the tariffs themselves.<sup>74</sup>

At the same time, authorities saw the potential in such delays and sometimes even encouraged them to advance their commercial interests. The Dukes of Brunswick-Lüneburg, for example, asked their officials to purposely discriminate against certain boatmen by delaying their journey with particularly strict and cumbersome inspections.<sup>75</sup> Similarly, the obligation to buy specific letters of passage that Bremen imposed on all ships wanting to leave the river Weser for the sea, had detrimental effects on the commerce of its neighbour, the County of Oldenburg. In its age-long conflict with the City of Solothurn over the channelling of commercial traffic, the City of Bern made systematic use of delays, raising its tariffs at strategic points, introducing new bureaucratic constraints and threatening all carters who refused to use the 'ordinary route'.<sup>76</sup> Modern economists highlight that delays constitute an important element in the negotiation of bribes. Indeed, threats of force play a very limited role in these transactions, in which the delay constitutes the principal 'threat' for both officials and travellers: 'the official can delay the driver indefinitely, while the driver can delay the official, taking up his time and blocking the road'.<sup>77</sup> Protracted inspections and bureaucratic excess were not necessarily symptoms

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<sup>72</sup> See: Conchon, *Le péage*, 137–141.

<sup>73</sup> See: Richter, Manfred, *Die Anfänge des Elsflöther Weserzölles. Beiträge zur Geschichte von Schifffahrt und Wirtschaft der Unteres Weser im 17. Jahrhundert* (Oldenburg: 1967), 38.

<sup>74</sup> See: Dirlmeier, *Handelsbemmnisse*, 32; Walter, *Handelsbemmnisse*, 92. Economists argue that delays can have even more deleterious effects on commodity chains and the profitability of investments than the increase of transaction costs caused by bribes. See: Foltz, Jeremy D., and Daniel W. Bromley, 'Highway Robbery: The Economics of Petty Corruption in West African Trucking' *8th Midwest International Economic Development Conference, University of Wisconsin–Madison*, (2011): 1–2.

<sup>75</sup> The dukes asked their tollkeepers in 1662 to purposely discriminate against ships directed towards Hamburg and to favour those directed to their counter-port of Harburg on the Süderelbe. See: Baasch, Ernst, *Der Kampf des Hauses Braunschweig-Lüneburg mit Hamburg um die Elbe vom 16.-18. Jahrhundert* (Hannover, Leipzig: 1905), 101.

<sup>76</sup> See: Schöpfer Pfaffen, Marie-Claude, *Verkehrspolitik im Mittelalter: Bernische und Walliser Akteure, Netzwerke und Strategien* (Ostfildern: 2011), 299–302.

<sup>77</sup> Foltz and Bromley, *Highway Robbery*, 5. For an example of a carter that blocked the bridge at Stadtamhof during a customs control in 1617, see: Rieder, Otto, *Das pfalzneuburgische Geleit nach Regensburg und in das Kloster Prüfening. Mit einem Anhang über das mit Bayern und Regensburg streitige Geleitwesen überhaupt* (Stadtamhof: 1908), 103.

of the ill-will of certain officials or tokens of the general inefficiencies of old-regime administrations. Obstruction and delay sometimes constituted instruments of trade politics in themselves.

Safe-conduct and toll regimes were ‘a mode of controlling space and the population inhabiting it by controlling the temporality and continuity of the movement within it’.<sup>78</sup> The delays imposed by restrictive regimes of movement could have important effects on the spatial range and temporality of trade and travel.<sup>79</sup> Additionally, the distinction between movements that were exempt or non-exempt from tolls or duties transformed the social hierarchies of old-regime society into a discriminatory regime of mobility that privileged the movements of certain social groups (such as princes and their households) over others (such as foreign merchants or Jewish persons), making them faster and more protected.<sup>80</sup> From this perspective, space should not be considered in ‘absolute terms’ but in terms of its ‘use value’, that is the ‘actual possibilities for using a given space’.<sup>81</sup> In early modern Europe these were strongly determined by transport costs, so that geographic and economic distances diverged considerably.<sup>82</sup> In regimes of movement past and present ‘scarcity of time disables space’.<sup>83</sup>

Moreover, the obstruction of passes and thoroughfares could be used, not just in the context of commerce, but as a genuinely political instrument. In the sixteenth century, for instance, the Prince-Bishop of Magdeburg denied the merchants of Braunschweig his safe-conduct because preachers in Braunschweig had publicly attacked him.<sup>84</sup> Similarly, in 1524 Duke Georg of Saxony refused his safe-conduct to Leipzig for those burghers of Magdeburg who were Protestants.<sup>85</sup> Moreover, passes in the Alps were often closed temporarily as a measure of reprisal in the context of military and political conflicts, claims for compensation, requests of privileges or the conclusion of treaties.<sup>86</sup> On the medieval Rhine, the blocking of the river became an important means for exerting political pressure.<sup>87</sup> Indeed, political struggles along the Rhine had a stronger impact on trade volumes than tariff barriers. Private roads and rivers were, moreover, objects of and theatres for disputes between commoners,

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<sup>78</sup> Kotef, *Movement*, 21. Kotef refers to Israeli checkpoints in the contemporary Palestine territories.

<sup>79</sup> See: Freitag, Rolf, ‘Das Geleit der Reichsstadt Ulm’ *Ulm und Oberschwaben* 37, (1964): 85–13, 127.

<sup>80</sup> The same applies to the parted regime of movement in the occupied Palestinian territories. See: Kotef, *Movement*, 52–53.

<sup>81</sup> Handel, Ariel, ‘Where, Where to and When in the Occupied Territories? An Introduction to Geography of Disaster’, in: Ophir, Adi, Michal Givoni, and Sari Hanafi, eds., *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (New York: 2009), 179–222, 180.

<sup>82</sup> Rolf Walter, for instance, has shown that Venice (which is geographically closer to Munich) was economically twice as distant from eighteenth-century Munich as Vienna (which is geographically further from Munich). Walter, *Handelsbemnisse*, 111–113.

<sup>83</sup> Handel, *Geography of Disaster*, 181.

<sup>84</sup> See: LhASA Magdeburg, A 1, Nr. 103.

<sup>85</sup> See: Straube, *Geleitwesen*, 93.

<sup>86</sup> See Caroni, Pio, ‘Zur Bedeutung des Warentransportes für die Bevölkerung der Passgebiete.’ *Schweizerische Zeitschrift für Geschichte* 12, (1979): 84–101, 93–95.

<sup>87</sup> See: Dirlmeier, *Handelsbemnisse*, 34, 37.

who contested their use no less than political entities. In the seventeenth and eighteenth centuries, for instance, the subjects of the County of Lippe in Westphalia sued each other over rights of passage on private roads on countless occasions.<sup>88</sup> Landowners often denied transit rights in order to avoid damages to their roads and crops. Denying rights of passage could also be a means of damaging others economically, or of dishonouring them, such as when they were on their way to church, or when transporting corpses. Just as their authorities did, commoners similarly used their ownership of private roads as an instrument of power.

Territorial rulers sometimes exploited the fact that carters could not bypass their territories. In times of scarcity the Electorate of Hannover seized all grain that was transported across its territory which belonged to foreigners.<sup>89</sup> However, whether motivated economically, politically, or both, the effects of such measures were always limited. For small and fragmented territories, it was particularly difficult to enforce their interest vis-à-vis more powerful neighbours. Since they heavily depended upon the transit of goods through adjacent territories and enclaves, both eighteenth-century Württemberg and Baden-Durlach refrained from bold protectionist measures.<sup>90</sup> The sheer impossibility of enforcing grain embargoes in the fragmented Habsburg possessions in the Empire's South-West and other territories could not even be remedied by militarising their borders.<sup>91</sup> When the Prince-Bishop of Würzburg reduced the time frame for the escorted passage of Nuremberg's convoys to and from the Frankfurt trade fairs in 1575, the City of Nuremberg threatened to circumvent his territory altogether.<sup>92</sup> The Duchy of Brunswick-Wolfenbüttel, which was similarly fragmented, could not independently intervene in its transit traffic, but had to react to the measures of its larger neighbours, the Electorate of Hannover and Prussia.<sup>93</sup> Accordingly, it avoided transit embargoes whenever possible. Similarly, in the eighteenth century the government of the small Principality of Isenburg-Birstein severely punished the discrimination of Jewish cattle-dealers by tollkeepers and local officials because it feared that the Jews could circumvent its small territory altogether.<sup>94</sup> Thus, the territorial fragmentation and sheer

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<sup>88</sup> See: Hennigs, Annette, *Gesellschaft und Mobilität: Unterwegs in der Grafschaft Lippe 1680 bis 1820* (Gütersloh: 2002), 95–103.

<sup>89</sup> See: Gerhard, *Handelshemmnisse*, 67.

<sup>90</sup> See: Walter, *Handelshemmnisse*, 116–117.

<sup>91</sup> See: Collet, Dominik, 'Moral economy' von oben? Getreidesperren als territoriale und soziale Grenzen während der Hungerkrise 1770–72' *Jahrbuch für Regionalgeschichte* 29, (2011): 45–61, 51.

<sup>92</sup> The prince-bishop surrendered in 1583, but returned to the former limitation in 1590. See: Weig, Gebhard, *Das Ius conducendi der Bischöfe zu Würzburg. Eine Studie zur Rechtsstruktur, politischen Funktion und Organisation des Geleitsrechtes im Hochstift Würzburg während des 15. und 16. Jahrhunderts* (Würzburg: 1975), 190–191.

<sup>93</sup> See: Gerhard, *Handelshemmnisse*, 69–70. Similar fears were expressed by a safe-conduct official in Erfurt in 1523. See: Straube, *Geleitwesen*, 93.

<sup>94</sup> See: Ackermann, Jürgen, 'Geleitgeld für durchziehende jüdische Viehhändler an Salz und Bracht' *Gelnhäuser Heimat-Jahrbuch*, (1990): 61–64.

number of enclaves, as well as the competition between particular interests, made the enforcement of consistent ‘economic policies’ and the effective exploitation of trade flows extraordinarily difficult.<sup>95</sup> Even in large and relatively homogenous territories, trade interventions often failed to produce the desired effects and yielded ambiguous results.<sup>96</sup> The costliness of channelling trade flows and preventing contraband limited the space for commercial manoeuvres of all territorial states.<sup>97</sup> Where travellers could choose between several routes, such measures were even more difficult to enforce. As in the fragmented region of Thuringia carters often changed their travel routes as a result of the relative burden of tolls and duties, political and economic circumstances, and the state of the roads.<sup>98</sup> Anne Conchon has shown that merchants and carters in eighteenth-century France similarly adjusted their routes according to the expected toll costs.<sup>99</sup> The merchants of Rouen found the tolls on the river Seine so exorbitant that they preferred to transport their goods to Antwerp, or Amsterdam, from which they were then shipped to Italy via the river Rhine. With this in mind, the history of governed mobility in early modern Europe seems to be consistent with the more general finding that ‘state efforts to prevent [or promote] human mobility have frequently had limited or qualified success, and that whatever limited success has been achieved has sometimes come at the price of unintended and unexpected consequences’.<sup>100</sup>

The ferocious competition between neighbouring political entities was often countervailed by multilateral cooperation. It is important to highlight that the history of safe-conduct was not only one of territorial strife and inter-polity competition, but also of cooperation and supra-territorial integration. In the Late Middle Ages, for instance, the states of the Old Swiss Confederacy concluded several bilateral and multilateral contracts for the supra-regional coordination of road maintenance and the protection of commerce on important transit routes.<sup>101</sup> Similar agreements were settled between the Prince-Bishoprics of Mainz, Würzburg and Speyer.<sup>102</sup> In the sixteenth century the prince-bishops of Würzburg and the dukes of Württemberg shared the duties of protecting travellers and

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<sup>95</sup> See: Walter, *Handelshemnisse*, 118–120. Another example of competing safe-conduct authorities is that of Bavaria and the Upper Palatinate in the late fifteenth century. See: Perlinger, Werner, ‘Als Kaufmannszüge und Reisende über den Grenzwald ‘geleitet’ wurden’ *Beiträge zur Geschichte im Landkreis Cham* 13 (1996): 45–52, 51.

<sup>96</sup> See: Gerhard, *Handelshemnisse*, 59.

<sup>97</sup> See: *Ibid.*, 82.

<sup>98</sup> See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 45.

<sup>99</sup> See: Conchon, *Le péage*, 141–143.

<sup>100</sup> Vigneswaran and Quirk, *Mobility Makes States*, 18.

<sup>101</sup> See: Schöpfer Pfaffen, *Verkehrspolitik*, 97, 285–298. In 1370, for instance, several states of the Old Swiss Confederacy concluded a contract over the transit traffic over the Gotthard Pass and limited arbitrary increases of toll-stations and tariffs in the so-called *Pfaffenbrief*.

<sup>102</sup> See, for instance: Weiss, Elmar, ‘Geleitstraßen und Geleitrechte - der Anschluß an die ‘weite Welt’ in Weiss, Elmar, ed., *Geschichte der Brunnenstadt Külsheim* (Külsheim: 1992), vol. 1, 230–36, 232.

maintaining the roads with some of their neighbours.<sup>103</sup> Likewise, safe-conduct treaties were established between the Electorate of Mainz and the Free Imperial City of Frankfurt, with Frankfurt ceding an important part of its right of safe-conduct to its powerful neighbour.<sup>104</sup>

The relative powerlessness of smaller territories to influence the flows of goods and people became particularly evident in times of crisis, such as war and epidemics. The Ernestine Dukes in Thuringia had such an experience during the plague that spread from the Ottoman Empire in 1679 and moved into North Africa, Eastern and Central Europe. It reached Saxony and Thuringia in the same year, where it ravaged until 1683, killing tens of thousands (half of the population of the city of Erfurt alone).<sup>105</sup> Due to the plague, the neighbouring states decided to avoid the infected Ernestine Duchies and channel the traffic between Nuremberg and Leipzig eastward. When the dukes were informed about this arrangement, they frenetically attempted to dissuade the City of Hamburg, the Bavarian authorities, the Elector of Saxony and the Duchy of Brunswick-Lüneburg, instead suggesting an alternative route through the heart of Thuringia. The dukes feared a severe reduction in their conduct and customs revenues, and that ‘the carters give up the ordinary road for good’.<sup>106</sup> In order to direct the lucrative traffic through their ‘portion of the land’,<sup>107</sup> the dukes insisted that all necessary measures to keep the epidemic at bay were being diligently enforced. Their efforts, however, had little success. In a patronising tone, the administration of Brunswick-Lüneburg admonished the government of

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<sup>103</sup> For instance, common safe-conduct officials were appointed, who performed the safe-conduct duties over contested routes in the name of both rulers. Where several conduct officials remained in place for the same routes, they sometimes escorted travellers in opposite directions. This spared the escorts lengthy waits in the countryside and the difficult negotiation of a common boundary. See: Weig, *Ius conducendi*, 199–203; Wilhelm, Rainer, *Die Handhabung des Zollgeleits in der Grafschaft und im Herzogtum Württemberg von den Anfängen bis zum Dreißigjährigen Krieg* (Tübingen: 1957), 11–12, 115; Tilch, *Grabfeld*, 109; Schaab, *Straßen- und Geleitswesen*, 57.

<sup>104</sup> See: Schopp, Manfred, ‘Das Geleitswesen zwischen 1500 und 1800’ in *Seligenstädter Geleit* 13 (1994): 6–27, 12. For another treaty between the Electorate of Mainz and the Landgraviate of Hesse-Kassel in 1583, see: Müller, Gerhard, and Thomas Müller, ‘Maintzisch glaidtstein, Hessen ungestendig ...’: Zur Geleitfrage im eichsfeldisch-hessischen Grenzgebiet’ *Eschweger Geschichtsblätter* 11 (2000): 100–112. For a safe-conduct treaty between the Electorate of Mainz and the Landgraviate of Hesse-Darmstadt from 1718, see: N.N., ‘Geleitstraßen - Handelsstraßen’ *Rosbacher Geschichtsblätter* 16 (2001) 2–5, 5. For a treaty between the Prince-Bishopric of Würzburg and the Duchy of Saxe-Coburg from 1599, see: Tilch, *Grabfeld*, 108. For a treaty between the Duchy of Württemberg and the Electoral Palatinate from 1609, see: Seußler, Wilhelm, ‘Das Wimpfener Geleit: ‘Lebendiges’ und ‘totes’ Geleit als Schutz für Reisende’ *Hierzuland* 16, no. 32 (2001): 6–15, 7–10. For treaties between the Electoral Palatinate and the Electorate of Mainz, see: Dotzauer, *Geleitswesen im Nabe-Mündungsgebiet*, 287–291.)

<sup>105</sup> See: Lange, Peter, and Thomas Nitz, ‘Die Letzte Pest in Thüringen (1681 – 1684)’ *Blätter des Vereins für thüringische Geschichte* 13, no. 2 (2003): 6–13.

<sup>106</sup> ‘*die fuhrleute sich von der ordentl. Straße gänzlich abgewehnen*’, Ducal Saxon Government to John Georg III, Elector of Saxony, 22 Feb 1683, ThStA Weimar, Polizeisachen, B 4983, fo. 48r.

<sup>107</sup> ‘*Landes portion*’, Ducal Saxon Government to Bavarian Government in Amberg, 21 Feb 1682, ThStA Weimar, Polizeisachen, B 4983, fo. 47r.

Saxe-Weimar for acting out of fiscal self-interest and suggested that the dukes should rather focus on ‘public safety and the welfare of the fatherland’.<sup>108</sup>

The policing of mobile populations on the fringes of society constituted another important rationale for governing movement. The share of the mobile population in the Holy Roman Empire has been estimated around 5 to 10 per cent of the total population.<sup>109</sup> A quantitative survey of police ordinances between 1650 and 1800 allowed this thesis to identify some major trends regarding the efforts of the Empire’s polities to police migration.<sup>110</sup> Immigration was a constant concern throughout the period, especially after the ‘Thirty Years’ War, with emigration becoming an increasing concern in the second half of the eighteenth century. Vagrancy and other criminalised forms of migration were an especially important object of police regulation, particularly in the years between 1700 and 1740. Additionally, work-related migration was of growing importance in the eighteenth century, when it was increasingly encouraged and regulated. With the beginning of the French Revolution and the ensuing waves of emigration, the sojourn of foreigners became a particularly strong concern for authorities.<sup>111</sup>

From the fifteenth and sixteenth centuries, the discrimination, criminalisation and prosecution of mobile populations became common across Europe.<sup>112</sup> Authorities increasingly conceived of the population of their territories as an ‘immobile, sedentary collective of subjects’,<sup>113</sup> however with growing populations, epidemics, wars, unfavourable climatic developments, inflation, poverty and hunger, as well as the exclusion of confessional, ethnic and social minorities, many people found themselves forced to move.<sup>114</sup> In the seventeenth century many of these migrations happened on an ‘intra- or interregional’ scale, but in the second half of the eighteenth century, many emigrated towards Hungary or America.<sup>115</sup> The principal aim of authorities’ migration politics was to hinder ‘useful’<sup>116</sup> subjects from leaving the territories and to promote a controlled and limited immigration of ‘confessionally and economically desirable migrants’.<sup>117</sup> Economic difficulties, fears of the Ottomans and the repudiation of minorities in the course of the Reformation and confessionalisation favoured

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<sup>108</sup> ‘*die gemeine securität und des Vaterlandes wolfabrt*’, Präsident and Privy Councillors of the Duchy of Brunswick-Lüneburg to Regierungspräsident, Oberaufseher and Councillors of the Duchy of Saxe-Jena, 15 Mar 1683, ThStA Weimar, Polizeisachen, B 4983, fo. 50r.

<sup>109</sup> See: Härter, *Steuerung von Migration*, 13.

<sup>110</sup> See: Ibid., 15–16

<sup>111</sup> See: Ibid., 32–37

<sup>112</sup> See for instance: Härter, Karl, *Policey und Strafjustiz in Kurmainz: Gesetzgebung, Normdurchsetzung und Sozialkontrolle im frühneuzeitlichen Territorialstaat*, vol. 2 (Frankfurt am Main: 2005), 930–1122.

<sup>113</sup> Härter, *Steuerung von Migration*, 10.

<sup>114</sup> See: Ibid.

<sup>115</sup> Unlike in other regions, the cities in the Holy Roman Empire were, however, not among the principal aims of the migrating populations. See: Ibid., 11.

<sup>116</sup> Ibid., 19.

<sup>117</sup> Ibid.

the marginalisation of vagrants and mobile populations.<sup>118</sup> The discrimination of vagrants reflected, moreover, the increasing attention that the Imperial Estates placed on the stabilisation of their dominions and the policing of their subjects. The changing attitudes towards vagrants, beggars and others were reflected in an increasing number of laws issued on the imperial and territorial levels. Police ordinances consequently denounced vagrants and foreign beggars as the principal danger for public safety and commerce.<sup>119</sup> In times of dearth, vagrants, beggars and Jews often served as scapegoats that helped to channel popular resentment towards outsiders and away from economic inequalities inside their territory.<sup>120</sup> In their fight against vagrancy, territorial states attempted to prevent the entry of vagrants, expel ‘harmless’ vagrants by means of controls and sanctions and arrest and punish ‘criminal’ vagrants.<sup>121</sup> In practice, however, these efforts had only limited effects.<sup>122</sup> Blurred boundaries, poor coordination among neighbouring authorities, unstandardised identification techniques, flawed administration and limited financial resources hampered the effective governance of migration.<sup>123</sup> Nevertheless, many techniques that were developed in this context survived and constituted the basis of later efforts to govern human mobility.<sup>124</sup>

In old-regime France, the monarchy’s police forces gradually substituted local and intermediary institutions and formed a police institution that was specifically charged with policing major thoroughfares, the *Maréchaussée*.<sup>125</sup> From the sixteenth century onwards, its agents controlled the mobility of the mobile fringe groups of old-regime society, such as deserters, gypsies, vagrants and masterless individuals.<sup>126</sup> In the course of the early modern period, its competencies expanded

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<sup>118</sup> See: Härter, Karl, *Policey und Strafjustiz*, vol. 2, 930–1122. See, moreover: Spicker-Beck, Monika, *Räuber, Mordbrenner, umschweifendes Gesind: zur Kriminalität im 16. Jahrhundert* (Freiburg im Breisgau: 1995).

<sup>119</sup> On the perception of vagrants in the eighteenth century, see: Kallenberg, Vera, *Von ‘liederlichen Land-Länffern’ zum ‘asiatischen Volk’ die Repräsentation der ‘Zigeuner’ in deutschsprachigen Lexika und Enzyklopädiën zwischen 1700 und 1850 ; eine wissenschaftliche Untersuchung* (Frankfurt am Main: 2010).

<sup>120</sup> See, for instance: Collet, *Getreidesperren*, 52–55. Some have taken the paternalistic attitude of German authorities during famines and the rarity of violent revolts as a cause for a specifically German subservience to authority. See: Ibid.; Schmidt, Georg, ‘Die frühneuzeitlichen Hungerrevolten: Soziale Konflikte und Wirtschaftspolitik im Alten Reich’ *Zeitschrift für historische Forschung* 18, no. 3 (1991): 257–280.

<sup>121</sup> See: Härter, Karl, *Policey und Strafjustiz*, vol. 2, 1003–1079. See, moreover: Härter, *Steuerung von Migration*, 23–24.

<sup>122</sup> See, moreover: Ammerer, Gerhard, *Heimat Straße. Vaganten im Österreich des Ancien Régime* (Wien: 2003); Scribner, Robert W. ‘Mobility: Voluntary or Enforced? Vagrants in Württemberg in the Sixteenth Century’, in: Jaritz, Gerhard, and Albert Müller, eds., *Migration in der Feudalgesellschaft* (Frankfurt am Main: 1988), 65–88; Schubert, Ernst, *Arme Leute, Bettler und Gauner im Franken des 18. Jahrhunderts*, (Neustadt a. d. Aisch: 1983); Wüst, Wolfgang, *Bettler und Vaganten als Herausforderung für die Staatsraison im Hochstift und der Reichsstadt Augsburg* (Augsburg: 1987); Küther, Carsten, *Menschen auf der Strasse: Vagierende Unterschichten in Bayern, Franken und Schwaben in der zweiten Hälfte des 18. Jahrhunderts* (Göttingen: 1983).

<sup>123</sup> See: Härter, *Steuerung von Migration*, 25.

<sup>124</sup> See: Ibid., 42.

<sup>125</sup> See: Dyonet, Nicole, ‘La maréchaussée et la population mobile dans l’Orléanais au XVIIIe siècle’, in: Blanc-Chaléard, Marie-Claude, Caroline Douki, Nicole Dyonet, and Vincent Milliot, *Police et migrants France, 1667-1939* (Rennes: 2001), 51–62.

<sup>126</sup> See: Ibid., 51.

concomitantly to the royal legislation on beggary, which treated the vast numbers of individuals who were destitute and had left their residence in search for work, as vagrants. From the turn of the seventeenth century, the reformed *Maréchaussée* became the privileged instrument for enforcing the monarchy's provisions against a vagrant population that was perceived as a threat to public order.<sup>127</sup> In practice, the officials of the *Maréchaussée* performed similar duties as customs or conduct officials: its officials regularly patrolled the major thoroughfares and checked and interrogated suspect individuals. They were also present at major venues such as markets or trade fairs.<sup>128</sup> In the course of the eighteenth century, the institution allowed the central power to exert a broader and more uniform control of mobile populations.<sup>129</sup> Although the second half of the eighteenth century was a period of major transformation, in which population growth and social tensions provoked the application of manifold measures for controlling certain forms of human mobility,<sup>130</sup> the agents charged with migration policing and toll collection continued to operate within the same spaces and to encounter comparable challenges, even though their targets had shifted. In old-regime France, for instance, the *Maréchaussée* was confronted with the same problems that strained the guard brigades of the *Ferme générale*: countless frequent and elusive movements of goods and people that defied effective surveillance.<sup>131</sup> In the Old Reich in particular, tensions between the promotion of free movement and its prevention pervaded the establishment of postal systems. Their history is marked by permanent clashes between the imperial Reichspost's claims to a trans-territorial monopoly and the attempts of many territorial rulers and cities to establish their own postal systems.<sup>132</sup> While more centralised monarchies such as England or France could monopolise the postal service with relative ease, the attempt proved much more difficult in the Old Reich, where it engendered a multitude of practical and legal disputes, which provide another crucial perspective on its complicated politics of mobility.<sup>133</sup> The practical implementation of the Reichspost was hampered – among other factors – by ‘the abundance of very different and partly contradictory rights of the concerned secular and ecclesiastic princes, counts, Imperial Knights, monasteries and cities’.<sup>134</sup> To a certain degree, the control of postal networks allowed

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<sup>127</sup> See: *Ibid.*, 54.

<sup>128</sup> See: *Ibid.*, 56.

<sup>129</sup> See: *Ibid.*, 55.

<sup>130</sup> See: Blanc-Chaléard, Marie-Claude, Caroline Douki, Nicole Dyonet, and Vincent Milliot, ‘Police et migrants en France, 1667-1939: questions et résultats’, in: Blanc-Chaléard et al., *Police et migrants*, 9–20, 15.

<sup>131</sup> See: Roche, Daniel, ‘Contrôle de la mobilité et des migrants : principes et pratiques. Introduction’, in: Blanc-Chaléard et al., *Police et migrants*, 23–32, 31.

<sup>132</sup> For a history of the Reichspost as a vehicle of an early modern communication revolution, see Behringer, Wolfgang, *Im Zeichen des Merkur: Reichspost und Kommunikationsrevolution in der Frühen Neuzeit* (Göttingen: 2003).

<sup>133</sup> See: Behringer, *Im Zeichen des Merkur: Reichspost und Kommunikationsrevolution in der Frühen Neuzeit*, 216.

<sup>134</sup> *Ibid.*, 177. A good example for the influence of individual interests is that of the Franconian Prince of Bartenstein, who hoped to channel more traffic through his lands and intimidated the postillon at Blaufelden in 1764. See: Gabler,

the regulation of communication and the emerging press. Thus, the Reichspost served as ‘an auxiliary institution to the emperor’s press censorship’.<sup>135</sup> However, Wolfgang Behringer argues that the leading role of the German lands in the history of the press was buttressed by the Reichspost, which, in contrast to the postal systems of France or England, was publicly accessible from a very early date.<sup>136</sup> Curiously, the Imperial Cities were among the prime opponents of an imperial postal system during the sixteenth century.<sup>137</sup> In contrast to the rest of Europe, only one major city (Augsburg) was connected to the postal system. For the rest, the post houses were situated in smaller towns and villages. Besides attempting to establish their own postal systems,<sup>138</sup> many cities feared that the presence of imperial officials in their domain endangered their frail liberties. The later profusion of such conflicts confirmed these reservations. Over two centuries, the Imperial City of Esslingen quarrelled with the Reichspost and the emperor over the postilions’ right to pass through the city by night, and over the duty to maintain the adjacent postal road. The Free Imperial City of Cologne denied opening its gates by night as well and required the payment of an excise duty.<sup>139</sup> Similar conflicts between Imperial Cities and the Reichspost constituted ‘a structural feature of the postal system in the Empire’.<sup>140</sup> Likewise, many territorial princes disputed the imperial monopoly and claimed the right to establish their own postal systems and shortly after the creation of the Reichspost at the end of the sixteenth century, a multitude of legal treatises underscored the postal system as a princely right.<sup>141</sup> In practice however, the establishment of territorial postal systems proved difficult both politically and financially. In the context of the Westphalian peace congress, the disputes between the territories and the Reichspost grew more severe. The outcome of the negotiations consolidated the position of the Imperial Estates.<sup>142</sup> In the wake of the Peace of Westphalia, a number of important territories (Brunswick-Lüneburg, Hesse-Kassel, Electoral Brandenburg and Electoral Saxony) set up their own postal service, establishing ‘a protestant anti-empire to the catholic postal empire of the emperor’.<sup>143</sup> What ensued was competitive political manoeuvring between the Reichspost and its territorial antagonists, which transformed the Empire into ‘a chessboard’<sup>144</sup> for monopolising strategic postal routes. Yet the

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August, ‘Das Brandenburger und Öttinger Geleit im südlichen Franken,’ *Archiv für Postgeschichte in Bayern* 9 (1957): 123–127, 124–126.

<sup>135</sup> Behringer, *Reichspost*, 434.

<sup>136</sup> See: *Ibid.*, 435–436.

<sup>137</sup> See: *Ibid.*, 97–98.

<sup>138</sup> See: *Ibid.*, 138.

<sup>139</sup> See: *Ibid.*, 181.

<sup>140</sup> *Ibid.*, 98.

<sup>141</sup> See: *Ibid.*, 216–217.

<sup>142</sup> See: *Ibid.*, 235.

<sup>143</sup> *Ibid.*, 241.

<sup>144</sup> *Ibid.*, 265.

territorial postal systems often proved to be fairly inflexible and unfit to match the needs of commerce.<sup>145</sup> In its quest to monopolise the legitimate means of postal communication, the Reichspost found a valuable ally in the small Imperial Cities of the North, which hoped to secure their independence by serving as transit hubs to the imperial Reichspost.<sup>146</sup> In spite of all its difficulties, the Reichspost (which legally existed between 1597 and 1806) established a system of communication that transcended the territorial estates and confessional divides and was managed not in the interest of the exchequer but according to the logic of a private enterprise.<sup>147</sup>

Attempts to monopolise the transportation of goods and people were made not only by public postal systems, but also by transport companies that sometimes operated across considerable distances. Some of these could establish monopolies on certain routes. The carters of Frammersbach, a small community in the Spessart Mountains, for instance, managed to dominate North and Central European commerce during the early modern period by establishing carter monopolies on several trade routes throughout the Old Reich.<sup>148</sup> Commissioned by important merchants in the metropolises, they transported their goods at an average cost of 10 per cent of the freight value,<sup>149</sup> using carts drawn by two to eight horses and often travelling in convoys.<sup>150</sup> Transportation companies that entertained wide, trans-regional networks sometimes competed with locals who claimed transportation monopolies on the thoroughfares in their communities. In the early modern Alps, the privileges of local mule drivers often clashed with the interests of merchants who resented the delays and inefficiencies caused by frequent transloading.<sup>151</sup> A similar antagonism marked the relationship between territorial or municipal messengers and the supra-territorial Reichspost. In some cities the competition was so harsh that municipal messengers attempted to murder the officials of the Reichspost.<sup>152</sup>

Contentious regimes of movement similarly existed on the early modern seas, where competing European empires attempted to assert their spheres of influence. The East India Company's attempts to control the traffic of English subjects in the Company's dominions shared important characteristics with the regimes of movement on the European mainland. The Company's jurisdiction included the

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<sup>145</sup> Rolf Walter, for instance, qualified the postal service in Württemberg as an obstacle to, rather than a promoter of the transportation of light cargo. Walter, *Handelshemmnisse*, 114.

<sup>146</sup> See: Behringer, *Reichspost*, 266.

<sup>147</sup> See: *Ibid.*, 40–41.

<sup>148</sup> See for instance: Moser, Peter, *Mittel- und nordwesteuropäischer Landtransport. Die Frammersbacher Fuhrleute und ihr Beitrag zur Transportgeschichte (15.–19. Jahrhundert)* (Bamberg:1990), 14.

<sup>149</sup> The cost could, however, vary considerably. See: Moser, *Mittel- und nordwesteuropäischer Landtransport*, 64–66.

<sup>150</sup> See: *Ibid.*, 69–71.

<sup>151</sup> See: Caroni, *Passgebiete*, 85–87.

<sup>152</sup> See: Behringer, *Reichspost*, 200. After the Thirty Years War, the carters of Lübeck pressured their authorities to take action against the Reichspost. At the same time, the Imperial stage coach was violently attacked on the route between Hamburg and Lübeck. See: *Ibid.*, 446.

right to control the mobility of the monarchy's subjects so that English subjects were not allowed to circulate in Asia without the Company's permission.<sup>153</sup> Not unlike letters of passage issued in the Old Reich, the Company provided letters of passage that were 'part protection racket and part passport'.<sup>154</sup> The failure to carry such a pass was seen as a conscious rejection of deference to the Company. Interlopers were regarded not just as smugglers, but as rebelling against the Company's very status. Like the refusal to pay tolls, carry conduct tickets or passports, or use the designated routes in Europe, the refusal to carry a pass was perceived not only as a matter of evasion, but as an affront to the Company and its prerogatives.<sup>155</sup>

The East India Company's claims to control traffic in its domains were no less contested. 'Interlopers' denied the legitimacy of the Company's trading monopoly with a variety of arguments, such as free trade. The arguments exchanged in English courthouses mirror the debates that were waged on the other side of the Channel. In a lawsuit at the Court of King's Bench in Westminster in 1682, a merchant argued that trade and the sea were open to English subjects and that the Company's monopoly was illegal. The Company's defence drew on the same argument used by jurists in the service of territorial rulers to justify tolls and customs duties in Europe; it presented the monopoly as a 'patent on public works'.<sup>156</sup> By maintaining the infrastructure for trade, the Company benefitted the public as a whole. Interlopers were branded as freeloaders who profited from the Company's public works without contributing to them. Moreover, the Company's lawyers argued that the monarch's responsibility to govern the intercourse between his subjects and foreigners was more important than a right to free trade and traffic. These lawsuits drew on the same texts and arguments as the debates over transit rights in the Old Reich.<sup>157</sup> In more than one sense, it appears, the governance of movement on land and sea posed analogous problems and engendered closely related debates.<sup>158</sup> Thus, the fundamental distinction that some draw between the legal geographies of land and sea is not easily justifiable when it comes to the governance of movement.<sup>159</sup>

While the following inquiry is centred on the politics of mobility in the Holy Roman Empire, this survey has shown that many of the relevant dynamics and problems were by no means limited to the space between the Alps and the North Sea. For all regional and local specificities, conflicts around

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<sup>153</sup> See: Stern, Philip, *The Company-State* (Oxford: 2011), 41–43.

<sup>154</sup> *Ibid.*, 43.

<sup>155</sup> See: *Ibid.*, 41–44.

<sup>156</sup> *Ibid.*, 47.

<sup>157</sup> *Ibid.*, 44–60.

<sup>158</sup> See: Chapter 6.

<sup>159</sup> See: Schmitt, Carl, *Land und Meer: Eine weltgeschichtliche Betrachtung* (Stuttgart: 2008).

transit were relatively common – in France,<sup>160</sup> in Northern Italy,<sup>161</sup> in the dominions of the East India Company<sup>162</sup> and anywhere in the pre-modern world – but they could not always acquire the same political and ideological salience as in the Old Reich, whose political density and culture of conflict favoured the extensive politicisation of transit disputes.<sup>163</sup>

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<sup>160</sup> See, for instance: Roche, *Contrôle de la mobilité*, 23–32. See, moreover, the recently defended dissertation by Pauline Bernard: Bernard, Pauline, *Une institution d'Ancien Régime : la maréchaussée dans le Lyonnais au début du XVIIIe siècle* (EHESS Paris: 2014).

<sup>161</sup> See, for instance: Torre, *Per vie di terra*.

<sup>162</sup> See: Stern, *The Company-State*, 41–60.

<sup>163</sup> Their juridification, moreover, promoted the creation of almost inexhaustible archival, printed and visual sources.

## Elusive Empire. The Old Reich

In the increasingly marginalised historiography of early modern Europe, the Holy Roman Empire of the German Nation holds an already marginal place. Except for the Reformation and, with concessions, the 'Thirty Years' War, the Holy Roman Empire has never been particularly visible in international historiography. As far as the greater public is concerned, the history of this part of the world begins in 1933 and if anything of import happened before, it is rarely seen as more than an antecedent to the catastrophes of the twentieth century. I argue, however, that the very reasons for which the Old Reich<sup>164</sup> has long been ignored by international historians, give it potential for renewing European historiography from its heart. It was an elusive Empire that, due to its very incommensurability with traditional conceptions of statehood, nationhood, sovereignty, capitalism, and empire, forces historians to rethink these very concepts.

Seen from afar, the historical role of the Holy Roman was as pivotal as it was supine. On the one hand, 'the Holy Roman Empire, and its successor states, lay at the heart of the European balance of power and the global system it spawned'.<sup>165</sup> Together with its successor states, it 'has also been the principal source of political legitimacy for anybody who wants to speak for Europe',<sup>166</sup> from Charles V to Hitler. The German lands were 'the crucible of the most important ideological changes in Europe: the Reformation, Marxism and Nazism were all incubated there'.<sup>167</sup> On the other hand, the Old Reich 'was weak – not quite a vacuum but never strong enough to resist being sucked into almost every major European conflict'.<sup>168</sup>

The Holy Roman Empire was a compound of political units in Central Europe.<sup>169</sup> Envisioned in a linear succession from the Roman Empire, it existed from the Early Middle Ages until 1806, when it dissolved in the course of the Napoleonic invasions. While the Empire formed a relatively loose federation during the Middle Ages, it gave itself a firmer institutional structure at the beginning of the sixteenth century and managed to survive both the Reformation and the 'Thirty Years' War. At the end, it was the impossibility of reconciling the growing ambitions of powerful members like Prussia and

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<sup>164</sup> 'Old Reich' (*Altes Reich*) is a name for the Holy Roman Empire that is commonly used by German historians. The attribute 'old' distinguishes the Holy Roman Empire from Bismarck's second and from Hitler's third Reich.

<sup>165</sup> Simms, Brendan, *Europe: The Struggle for Supremacy, 1453 to the Present* (London: 2013), 4.

<sup>166</sup> *Ibid.*, 5.

<sup>167</sup> *Ibid.*

<sup>168</sup> *Ibid.*, 11.

<sup>169</sup> Where not marked otherwise, the following (very cursory) outline follows: Hartmann, Peter Claus, *Das Heilige Römische Reich deutscher Nation in der Neuzeit, 1486–1806* (Stuttgart: 2005) and Stollberg-Rilinger, Barbara, *Das Heilige Römische Reich Deutscher Nation: vom Ende des Mittelalters bis 1806* (München: 2006).

Austria with the imperial structures that led to the Empire's dissolution. As Barbara Stollberg-Rilinger put it: 'After having survived Luther, Gustav Adolph and Louis XIV, the Empire fell victim to its own incapacity for reform.'<sup>170</sup>

The Empire's constitution was marked by a dualism between the emperor on the one hand and hundreds of Imperial Estates on the other, which found an expression in the stereotypical formula '*Kaiser und Reich*' (emperor and empire). A common metaphor for describing this assemblage was 'a body with a head and limbs'.<sup>171</sup> The functions of the emperor were, in principle, threefold: he acted as the Empire's highest representative, its highest judge and its highest liege lord. With only two exceptions, all modern emperors were members of the House of Habsburg and thus had a direct power base in their hereditary lands, the largest and most populous of the Empire's territories. While the emperor was formally the Occident's highest potentate and the patron of Christianity, his power was gradually restricted with every new election. In many cases, the emperor could exercise his powers – such as the levy of imperial taxes, or common economic and 'foreign' policies – only with the consent the Imperial Estates. The rights that he could exercise autonomously were limited to ennoblements, legitimations, the conferral of privileges and dispensations, and certain judicial functions. Among the constitutional laws that specified the relationship between the empire's 'head' and its 'limbs', the Golden Bull (1356), the Peace of Augsburg (1555) and the Peace of Westphalia (1648) were the most important.

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<sup>170</sup> Stollberg-Rilinger, *Das Heilige Römische Reich*, 120.

<sup>171</sup> *Ibid.*, 14.

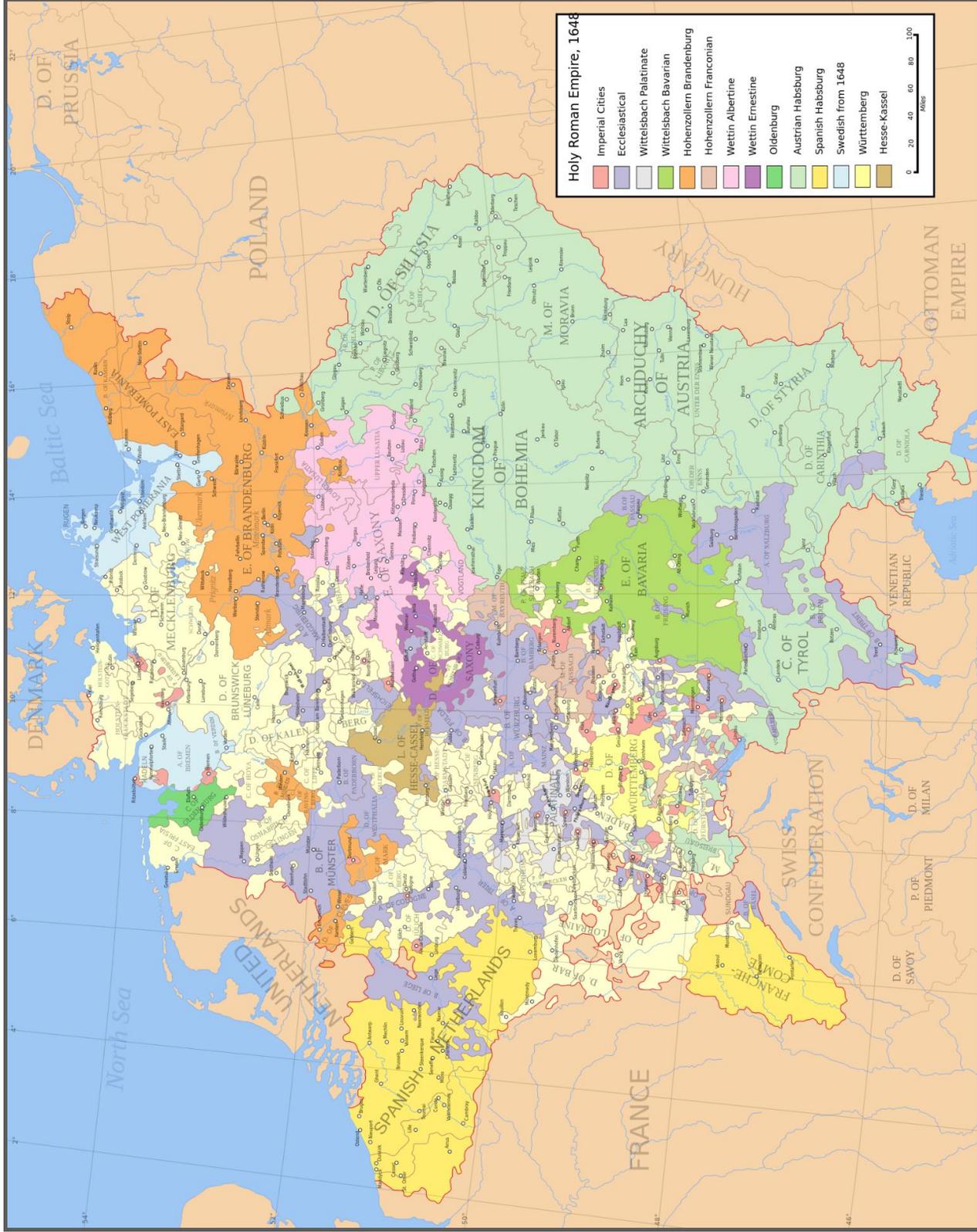


Figure 1: The Holy Roman Empire in 1648 (Wikimedia Commons, URL: [en.wikipedia.org/wiki/File:Holy\\_Roman\\_Empire\\_1648.svg](https://en.wikipedia.org/wiki/File:Holy_Roman_Empire_1648.svg), Date accessed: 4 Mar 2016).

The imperial whole consisted of more than a thousand territorial entities.<sup>172</sup> Far from forming a homologous mass, the political formations that constituted the Old Reich ranged from polities with a relatively high degree of statehood, like Brandenburg-Prussia or the Archduchy of Austria, to minuscule ‘imperial villages’ or ‘peasant republics’ like Dithmarschen.<sup>173</sup> Moreover, only three to four hundred of these polities were actually Estates of the Empire (*Reichsstände*) and thus represented in the Imperial Diet (*Reichstag*). The most eminent of the Imperial Estates were the seven (later nine) prince-electors who elected the new emperors. Of the seven original electors, three were ecclesiastical princes (Mainz, Trier and Cologne) and four secular (Bohemia, Palatinate, Saxony and Brandenburg). As their votes were dependent upon promises made by the new emperors in formal election agreements (*Wahlkapitulation*) and because they were advantageously represented on the Imperial Diet, the prince-electors were the most powerful among the Imperial Estates. The remaining Estates consisted of twenty-five secular principalities, approximately ninety ecclesiastical territories (prince-bishoprics, bishoprics and abbeys), roughly one hundred counts and around sixty-five to fifty-one Free and Imperial Cities of varying size.<sup>174</sup> In addition, there was a large number of political entities which were not Imperial Estates, but which nevertheless enjoyed imperial immediacy (*Reichsunmittelbarkeit*), where they were subject only to the emperor. The most important of these were the Imperial Knights, who came to form an ‘independent nobility of service’<sup>175</sup> to the Empire.

The Imperial Estates assembled in the Imperial Diet (*Reichstag*), which addressed the Empire’s most important political questions. It assembled fifty times before it became a permanent assembly in 1663. The Reichstag was divided into three colleges that deliberated separately: the powerful Electoral college (*Kurfürstenrat*) of the prince-electors, the college of the Imperial Princes (*Reichsfürstenrat*) which assembled the remaining princes, counts and lords, and the significantly less influential college of Imperial Cities (*Reichsstädtekollegium*). The Reichstag’s complex decision-making process was consensus-orientated and therefore not particularly efficient. Decision-making was especially difficult when it touched upon the interests of powerful Estates or religious matters, for which the Westphalian treaties stipulated a special procedure that required unanimity. In addition to being the Empire’s most important decision-making body, the Reichstag was a diplomatic and informational hub for Central Europe.

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<sup>172</sup> See: Whaley, *Germany*, vol. 1, 13.

<sup>173</sup> See: *Ibid.*, 43–44.

<sup>174</sup> The (fluctuating) numbers are taken from: *Ibid.*, 41.

<sup>175</sup> *Ibid.*, 42.

The Reich had two imperial courts which contributed significantly to securing legal order and settling the countless disputes between its members. They were an especially important guarantee for the smaller territories as well as for subjects in conflict with their authorities. In practice, however, the enforcement of the courts' decisions was difficult, and its procedures long-winding. One of the two courts, the Imperial Chamber Court (*Reichskammergericht*), was influenced by the Imperial Estates, while the other court, called the Aulic Council (*Reichshofrat*), was under the influence of the emperor. Among the presidents and judges (*Assessoren*) of the Imperial Chamber Court, Protestants and Catholics were (almost) equally represented. The Imperial Chamber Court administered justice in such matters as breaches of the public peace, lawsuits against immediate territories (i.e. polities subject only to the emperor), and denials and delays of justice. It also acted as a court of appeal against the decisions of the highest courts in the territories.<sup>176</sup> The members of the Aulic Council, in contrast, were mostly appointed by the emperor and were Catholic by majority. Its adjudication – concerning lawsuits against immediate rulers, feudal law and imperial politics – tended to be faster and more effective than the Imperial Chamber Court. This said, in practice ‘which of the two high courts individuals or groups decided to address depended on where they thought they would get the best result’.<sup>177</sup>

Another imperial institution which became increasingly important over time was that of the Imperial Circles (*Reichskreise*).<sup>178</sup> With the exception of the Italian lands, the Swiss Confederation, and the Crown of Bohemia, the territories of the Reich were regrouped into ten (formerly six) circles. Especially in the West, in the centre, and in the South of the Empire, the Imperial Circles fulfilled important functions. The circles formed an intermediary level that furthered inter-territorial cooperation in matters of military action, imperial taxation, dispute mediation, road infrastructure, the fight against vagrants and robber bands, and the control of coinage.<sup>179</sup> The Swabian Circle, for instance, made serious attempts at integrating the multitude of its member territories into a single market and

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<sup>176</sup> Some territories, however, acquired a *privilegium de non appellando*, which impeded their subjects from appealing to the imperial court.

<sup>177</sup> Whaley, *Germany*, vol. 1, 365.

<sup>178</sup> On the Imperial Circles, see: Hartmann, Peter Claus, ed. *Regionen in der Frühen Neuzeit: Reichskreise im deutschen Raum, Provinzen in Frankreich, Regionen unter polnischer Oberhoheit: Ein Vergleich ihrer Strukturen, Funktionen und ihrer Bedeutung* (Berlin: 1994); Wüst, Wolfgang, and Doris Pfister, eds., *Reichskreis und Territorium: Die Herrschaft über der Herrschaft? Supraterritoriale Tendenzen in Politik, Kultur, Wirtschaft und Gesellschaft. Ein Vergleich süddeutscher Reichskreise* (Stuttgart: 2000); Kießling, Rolf, and Sabine Ullmann, eds., *Das Reich in der Region während des Mittelalters und der Frühen Neuzeit* (Konstanz: 2005); Wüst, Wolfgang, and Michael Müller, eds., *Reichskreise und Regionen im frühmodernen Europa: Horizonte und Grenzen im 'spatial turn.'* (Frankfurt am Main: 2011).

<sup>179</sup> See: Bretschneider, Falk, ‘Étudier la fractalité: les espaces du Saint-Empire entre pluralité des échelles et liens transversaux’, in: Bretschneider, Falk, and Christophe Duhamelle, *Le Saint-Empire revisité. Politique, espace et société (XVIe–XVIIIe siècles)* (Paris: forthcoming), 147–166, 155 and Whaley, *Germany*, vol. 1, 35. Brendan Simms called the Imperial Circles ‘an embryonic German collective-security system’. See: Simms, *Europe*, 32.

augmenting their exportation.<sup>180</sup> The effects of these efforts could be thwarted by particular interests, but they confirm the importance of the Imperial Circles in commercial politics. Furthermore, the Imperial Circles implemented the decisions of the Reichstag and organised the collection of imperial taxes and the contribution to the imperial armies. Despite long-winded collegial decision making, several circles managed to efficiently solve supra-territorial challenges.<sup>181</sup>

Can one call this baffling complexity a state? The question is as momentous as it is thorny and it has dominated much of recent research on this elusive Empire.<sup>182</sup> The answers are reflective of various attempts of ‘exploiting the past’<sup>183</sup> for diverging political and historiographical agendas.<sup>184</sup> With varying emphasis on its monarchic, federal and feudal-hierarchic elements, the Old Reich has been interpreted as a failed nation state, as a confederation, as ‘the first German nation state’<sup>185</sup> and even as a precursor to the European Union.<sup>186</sup> Even early modern observers occasionally ‘bemoaned or derided it as monstrous, sclerotic, or simply absurd’<sup>187</sup> and Voltaire once remarked that it ‘was neither holy, nor Roman, nor an empire’.<sup>188</sup> From the nineteenth century until the end of the Third Reich, the Old Reich was ill-reputed. It was an embarrassment to German, nationalist historians who hoped to write the ‘success story’<sup>189</sup> of their state from a Prussian perspective. The nineteenth-century Prussian historian Heinrich von Treitschke termed it a ‘mess of rotten imperial forms and unfinished territories’.<sup>190</sup> After the ‘catastrophe of the German authoritarian state’,<sup>191</sup> however, the perception of the formerly embarrassing empire changed radically. It now seemed to offer ‘a genuinely German, but unburdened historical tradition’ that accommodated the idea of ‘a great peaceful Germany at the centre of Europe, that was not expansive but rather balancing’.<sup>192</sup> Ultimately, all attempts at labelling the Old Reich

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<sup>180</sup> See: Sczesny, Anke, ‘Zur Verbesserung des Oeconomicum Civile Circuli. Wirtschaftsmaßnahmen des Schwäbischen Reichskreises zwischen Reichs- und Territorialpolitik im 17. und 18. Jahrhundert’, in: Kießling and Ullmann, *Das Reich in der Region*, 259–278.

<sup>181</sup> See: Hartmann, Peter Claus, ‘Regionen in der Frühen Neuzeit - Modell für ein Europa der Regionen? Einführung in die Thematik und Problematik des Kolloquiums’, in: Hartmann, *Regionen in der Frühen Neuzeit*, 9–20.

<sup>182</sup> For an English overview of the discussion, see: Wilson, Peter H., ‘Still a Monstrosity? Some Reflections on Early Modern German Statehood’ *The Historical Journal* 49, no. 2 (2006): 565–576.

<sup>183</sup> *Ibid.*, 565.

<sup>184</sup> The Holy Roman Empire thus was an important reference in debates around state formation and political organisation from the eighteenth to the twenty-first century. See: *Ibid.*

<sup>185</sup> *Ibid.*, 570. The principal proponent of this thesis is Georg Schmidt. See: Schmidt, Georg, *Geschichte des alten Reiches: Staat und Nation in der Frühen Neuzeit, 1495–1806* (München: 1999).

<sup>186</sup> See: Hartmann, *Das Heilige Römische Reich*, 164.

<sup>187</sup> Whaley, *Germany*, vol. 1, 12.

<sup>188</sup> ‘*ni saint, ni romain, ni empire*’, Voltaire, *Oeuvres complètes*, vol. 3, (Paris: 1835), 248. In fact, Voltaire’s opinion of the Holy Roman Empire was actually very positive.

<sup>189</sup> Stollberg-Rilinger, *Das Heilige Römische Reich*, 8.

<sup>190</sup> Treitschke, Heinrich von, *Deutsche Geschichte im neunzehnten Jahrhundert*, vol. 1, (Leipzig: 1879), 7.

<sup>191</sup> Stollberg-Rilinger, *Das Heilige Römische Reich*, 9.

<sup>192</sup> *Ibid.*

reflected the desire ‘to fit the Empire into recognized categories that enable comparisons with other polities’<sup>193</sup> and ‘to domesticate a complex, fragmented, problematic past and to assign a value of heritage to it’.<sup>194</sup>

Whether the Empire’s ‘limbs’ – the Imperial Estates – can be called states is a similarly problematic matter. Many principalities, counties and other polities retained a considerable degree of independence and some historians consider them as states.<sup>195</sup> Indeed, it was at the level of the territories that ‘many of the essential functions of the state developed’,<sup>196</sup> such as taxation, policing and the raising of armed forces. Yet, the Imperial Estates remained vassals of the emperor and lacked full sovereignty. Internally, many of these presumed absolutist territorial states were not more than ‘paper tigers’<sup>197</sup> and depended on negotiations with their own estates (*Landstände*).<sup>198</sup> In order to avoid the problematic notion of state, this book will therefore use the more malleable concept of ‘statehood’.

The problem of classifying the Old Reich is mainly a problem with the analytic apparatus of its historians. Peter Wilson rightly pointed out that the debate around the Empire’s statehood ‘depends largely on how a state is defined’.<sup>199</sup> Similarly, Joachim Whaley remarked that the ‘conventional picture of a backward, repressed, and stultified society has been questioned by challenging the criteria by which backwardness is defined’.<sup>200</sup> Seen from this angle, the history of the Old Reich forces its historians to rethink wider questions on statehood and society that tie in with major debates of international historiography.<sup>201</sup> Historians, it would seem, have been perpetually struggling with concepts and

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<sup>193</sup> Wilson, *Monstrosity*, 566.

<sup>194</sup> Duhamelle, Christophe, ‘Schmidt, Georg, Geschichte des Alten Reiches. Staat und Nation in der Frühen Neuzeit, 1495–1806.’ *Revue de l’Institut français d’histoire en Allemagne*, 2000, 2. The same applies to the hotly debated question of how ‘German’ the Old Reich actually was. Joachim Whaley recently stressed that the political thinkers of the Old Reich had ‘no use for ideas of nation states and the like’ (Whaley, *Germany*, vol. 1, 14). Accordingly, one should acknowledge ‘varying levels of identification, from locality to Reich, [and] a multiplicity of interlocking and overlapping “fatherlands”’.

<sup>195</sup> See: Whaley, *Germany*, vol. 1, 2.

<sup>196</sup> *Ibid.*

<sup>197</sup> Brakensiek, Stefan, ‘Akzeptanzorientierte Herrschaft. Überlegungen zur politischen Kultur der Frühen Neuzeit’, in: Neuhaus, Helmut, ed., *Die Frühe Neuzeit als Epoche* (München: Oldenbourg, 2009), 395–406, 397.

<sup>198</sup> See: Whaley, *Germany*, vol. 2, 7.

<sup>199</sup> Wilson, *Monstrosity*, 573.

<sup>200</sup> Whaley, *Germany*, vol. 1, 8–9.

<sup>201</sup> Not unlike the Old Reich’s historians, scholars of African history struggle with an ideal-type of the modern state that ‘has tended to reduce states in Africa to the status of poor imitations of their European counterparts, rather than focusing analytical attention on their actual competencies and characteristics’ (Vigneswaran and Quirk, *Mobility Makes States*, 4). Both the literature on the Old Reich and that on Africa has long been determined by a ‘logic of subtraction, which means taking the “modern/Western” state as a key benchmark and then documenting the various ways in which political formations in Africa [or in the Old Reich] have fallen short’. The very criteria with which African states have been defined as backward (‘corruption, unbridled capitalism, widespread criminality, inefficiency, patrimonialism, religiosity, symbolic authority, anarchy, parochialism, and fragmentation’) should perk up the early modernist’s ears. A perhaps more appropriate way of historicising statehood therefore proceeds in a reverse logic, deriving a definition of statehood from ‘what all states can do, rather than what some states cannot do’.

analytical frameworks that are unfit to grasp the political, social and geographic reality of the Holy Roman Empire.<sup>202</sup>

As will become evident throughout this book, the political culture of the Holy Roman Empire was suffused with symbolic communication. From the Late Middle Ages to early modernity, politics rested on symbolic performance in a ‘culture of presence’,<sup>203</sup> a circumstance which, to modern eyes, can make the Holy Roman Empire appear as an empire based on pettiness. The fierce relentlessness with which its inhabitants denounced even minor alterations of the status quo was due to the inability of its political order ‘to distinguish between the important and the less important’.<sup>204</sup> ‘At all times, the order of the whole seemed to be at stake.’<sup>205</sup> Because political decision making required a consensus that was difficult to achieve – especially when a powerful Estate dissented – important conflicts often remained unsolved.<sup>206</sup> Brendan Simms has therefore called the Holy Roman Empire ‘the greatest indictment of corporate political participation’.<sup>207</sup> The essence of the Empire’s order can be condensed down into ‘the preservation of individuality and difference’,<sup>208</sup> so that the persistent co-existence of ‘countless contradicting claims of prestige’<sup>209</sup> became ‘a hallmark of the imperial federation’.<sup>210</sup> For Barbara Stollberg-Rilinger, these are the reasons for which ritual remained so important in the Holy Roman Empire. Another hallmark of the Holy Roman Empire’s political culture was a high degree of ‘organizational hypocrisy’<sup>211</sup> – a form of collective hypocrisy which individuals adopt when an institution confronts them with contradictory requirements. It is a strategy in which ‘the norms of the institution can be maintained even though the members (have to) constantly transgress them with their actions.’<sup>212</sup> At the Imperial Diet, for instance, many deputies effusively promised to promote the interests of the imperial whole while pushing the political agenda of their princes. The deep fractures between the larger, more powerful Estates and the Empire, with its guarantees for the smaller Estates, provided a fertile ground for such incongruities.

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<sup>202</sup> Barbara Stollberg-Rilinger, for instance, explicitly conceived her influential reassessment of the Empire’s political order as a reaction to the legal positivism and constitutionalism of the nineteenth century. See: Stollberg-Rilinger, Barbara, *Des Kaisers alte Kleider. Verfassungsgeschichte und Symbolsprache des Alten Reiches* (München: 2008), 14–15.

<sup>203</sup> Stollberg-Rilinger, *Alte Kleider*, 303. See, moreover: *Ibid.*, 300.

<sup>204</sup> *Ibid.*, 308.

<sup>205</sup> *Ibid.*

<sup>206</sup> See: *Ibid.*, 304.

<sup>207</sup> Simms, *Europe*, 31.

<sup>208</sup> Whaley, *Germany*, vol. 1, 14.

<sup>209</sup> Stollberg-Rilinger, *Alte Kleider*, 305.

<sup>210</sup> *Ibid.*

<sup>211</sup> *Ibid.*, 279.

<sup>212</sup> *Ibid.*, 280.

It is difficult to imagine a society whose political culture conjures up ideas of ‘organized hypocrisy’, aggressive pettiness and political deadlock as capable of bringing about historical change. Indeed, German history has long been described as a dark ‘special path’ (*Sonderweg*). The absence of a modernising revolution is a *leitmotiv* in German historiography. Accordingly, the history of the early modern German lands is often envisaged as a ‘failure’<sup>213</sup> that never brought about a ‘viable challenge to the old order’. However, Whaley has pointed out that ‘the absence of a revolution does not necessarily equate with a lack of movement’.<sup>214</sup> Indeed, throughout the early modern period, both the imperial framework and the territories underwent continuous reform. Reactions to such developments as the Reformation, or the Thirty Years’ War ‘cannot be adequately described as conservative’, when they brought about religious toleration, the protection of the least-powerful political units and a court system in which even peasants could appeal against their rulers. The present reassessment of the politics of mobility in the Holy Roman Empire points in a similar direction.

Mirroring the complexities of its political order, the territoriality of the Holy Roman Empire is as difficult to grasp as its constitution. It was marked by a fundamental tension between the levels of the Empire and its territories. Indeed, locating ‘the Empire’ in space is difficult because, after the loss of its direct domains, ‘the Empire has no proper space anymore’<sup>215</sup> and could only be defined as the sum of its members.<sup>216</sup> The Empire’s outer boundaries were hardly identifiable on the ground.<sup>217</sup> In fact, the Empire had neither centre nor periphery, but was instead shaped by the ‘co-presence of several multi-polar networks’.<sup>218</sup> The ‘symbolic space of belonging to the Empire’ became visible in the coaches of the Reichspost, in the ‘imperial halls’ in representative buildings of many Imperial Estates and in the omnipresent imperial eagle. The imperial space can therefore not be described as areal, but rather as scattered, inhomogeneous and rhizomatic.

In many respects, the territories that made up the Empire were just as elusive. The omnipresence of condominiums, the ‘legal vagueness’<sup>219</sup> of the territorial rulers’ sovereignty (or, more precisely, territorial superiority), the frequency of overlapping and contradictory claims, the prevalence of enclaves, as well

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<sup>213</sup> Whaley, *Germany*, vol. 1, 11.

<sup>214</sup> *Ibid.*

<sup>215</sup> Bretschneider, *Fractalité*, 151.

<sup>216</sup> See: *Ibid.* Even the number of its constituents was anything but clear, since membership in the Empire could be defined according to different criteria and was often a matter of ambiguity (for example in the cases of Bohemia, Moravia, Silesia, Lorraine, Holstein or Pomerania).

<sup>217</sup> See, moreover: Gantet, Claire, ‘Die äußeren Grenzen des Heiligen Römischen Reichs: Wahrnehmungen und Repräsentationen in der zweiten Hälfte des 17. Jahrhunderts’, in: François, Étienne, Jörg Seifarth, and Bernhard Struck, eds., *Die Grenze als Raum, Erfahrung und Konstruktion: Deutschland, Frankreich und Polen vom 17. bis zum 20. Jahrhundert* (Frankfurt: 2007), 53–76.

<sup>218</sup> Bretschneider, *Fractalité*, 156. The same applies to the Imperial Circles.

<sup>219</sup> *Ibid.*, 152.

as the territorial divisions engendered by the principle of partible inheritance, caution against confusing the Imperial Estates with modern territorial states.<sup>220</sup> Their dominions followed a ‘manorial’<sup>221</sup> rather than a ‘territorial logic’ and should be regarded as ‘aggregation of titles of ownership’<sup>222</sup> rather than as territorially homogeneous entities. Countless acquisitions and swaps made the Empire’s territories ‘a highly dynamic spatial assemblage in permanent recomposition, both internally and externally’.<sup>223</sup> A close-up would reveal ‘something akin to a mass of amoebae, constantly changing shape’.<sup>224</sup> The ordering principle of this assemblage was not one of juxtaposition, but of imbrication and even though many rulers strived to round up their possessions into a homogenous *territorium clausum*, the plan remained an illusion for most.<sup>225</sup>

Some historians have therefore devised alternative conceptions of territoriality to account for these complexities. Falk Bretschneider and Christophe Duhamelle have suggested describing the territoriality of the Holy Roman Empire as ‘fractal’.<sup>226</sup> Transcending the metaphors of network and fragmentation, which many use as substitutes for the unsatisfying notion of territory, the image of ‘fractality’ does justice both to the multiplicity of levels of political organisation as well as to the connections between those levels.<sup>227</sup> In mathematic theory, fractality is characterised by three criteria: self-similarity, imperfect hierarchy and fluidity. Self-similarity means that an object is similar to a part of itself. In the case of the Holy Roman Empire this was true for the local, territorial and imperial spaces which were all equally blurred, overlapping, fragmented and permeable. Secondly, an imperfect hierarchy between the scales of a fractal means that its scales are neither perfectly symmetrical, nor hierarchical to each other. Indeed, the Empire’s various scales differed in important respects (for instance regarding the presence of capital cities, which was absent on the imperial scale but omnipresent on the territorial scale) and cannot be reduced to a simple hierarchy. Fluidity means that all the scales of an object are connected to each other so that it becomes difficult to clearly separate one scale from another. The negotiation of territorial borders, although it may appear as an exclusively territorial affair, depended heavily both on concrete practices at the local level, as well as on the legal guarantees of the imperial framework. As a metaphor, fractality proposes a non-essentialist conception of space, assuming that the Empire’s

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<sup>220</sup> See: Ibid. See, moreover: Härter, *Steuerung von Migration*, 8–9. For an illustrative example, see: Kneib, Gottfried, ‘Mainzer Geleitsrechte in Rheinhessen im 16. und 17. Jahrhundert’ *Mainzer Zeitschrift* 99 (2004): 79–94, 79.

<sup>221</sup> Duhamelle, *Drinnen und draußen*, 5.

<sup>222</sup> Ibid., 6.

<sup>223</sup> Bretschneider, *Fractalité*, 153.

<sup>224</sup> Whaley, *Germany*, vol. 1, 41.

<sup>225</sup> See, for instance: Wilhelm, *Zollgeleit*, 8–10.

<sup>226</sup> See: Bretschneider, *Fractalité*, 157–166.

<sup>227</sup> See: Ibid., 157–158.

spatial structure ‘has no reality outside of the practices of agents who constitute and constantly re-actualise it’.<sup>228</sup>

The Old Reich’s complex territoriality had important effects on the movements of goods and people. Concerning long-term migration, Karl Härter recently pointed to the ‘tensions, trade-offs, ambivalences and deficits of the respective territorial migration politics, which [...] appear as inconsistent, wavering, little effective, tentative and experimenting’.<sup>229</sup> At the same time, these difficulties provided incentives for developing differentiated bureaucratic apparatuses concerned with the regulation of migration.<sup>230</sup> Notwithstanding these centrifugal tendencies, there were important commonalities in the migration politics of most territorial states within and outside the Holy Roman Empire.<sup>231</sup> An important catalyst of this homogeneity was the imperial legal framework, which provided basic rules and regulations that many territories took over.<sup>232</sup> The Empire’s influence on the regulation of migration became visible in the activities of some Imperial Circles, which exercised certain functions in the regulation of vagrants and the mobility of marginal populations.<sup>233</sup> In practice, however, their limited numbers and the ‘territorial egoism’ of the Imperial Estates considerably limited the activities of the Circles’ agents. Nevertheless, the imperial framework warranted extensive transit rights and the imperial courts provided the instruments for reprimanding those who denied passage through their territories.<sup>234</sup> Until the end of the Old Reich, the territories and their particular interests dominated the regulation of migration.<sup>235</sup> The ‘manorial’ nature of these territories translated into their politics of mobility, which reflected the difficult distinctions between ‘private’ and ‘public’ in early modernity. Many officials saw themselves not at the service of a commonwealth or of the public good, but of a prince and his fiscal, political and social interests. Precisely because of its peculiar territorial and political structure, the Holy Roman Empire offers an important point of comparison for the study of mobility and border regimes, letters of passage, and ideological controversies around free movement in other parts of the early modern world. It allows us to shed a unique historical spotlight on a political landscape ‘where the underlying principles and logic of human mobility and sovereignty were unstable and in doubt’.<sup>236</sup> The constant friction caused by flows across all-pervasive, but much-

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<sup>228</sup> Ibid., 160.

<sup>229</sup> Härter, *Steuerung von Migration*, 9. As the following chapters will show, some of Härter’s findings concerning long-term migration also apply to other forms of mobility.

<sup>230</sup> See: Ibid., 9, 48.

<sup>231</sup> See: Ibid., 14–15.

<sup>232</sup> See: Ibid., 16.

<sup>233</sup> See: Ibid., 18.

<sup>234</sup> See: Hessler, *Durchzugsrecht*, 18–19.

<sup>235</sup> See: Härter, *Steuerung von Migration*, 48.

<sup>236</sup> Vigneswaran, Darshan, *Territory, Migration, and the Evolution of the International System* (Basingstoke: 2013), 4.

disputed boundaries therefore offer a telling demonstration of the Holy Roman Empire's territorial ambiguities and provide an exceptionally rich historical laboratory for exploring pre-modern politics of mobility.

## Safe-Conduct. Genealogies of a Right over Movement

Safe-conduct was a common institution throughout the medieval and modern world, but in the Holy Roman Empire's complex territoriality *Geleit* acquired an extraordinary and lasting significance.<sup>237</sup> The institution made its first appearance in Central Europe at the turn of the first millennium and underwent a constant evolution until the nineteenth century.<sup>238</sup> The time between 1250 and 1700 has been described as the zenith of the safe-conduct's political and social importance in Central Europe.<sup>239</sup> Between the thirteenth and the early sixteenth century, safe-conduct chiefly served as an instrument to establish public safety and legal peace.<sup>240</sup> In the course of the sixteenth century, with the suppression of many forms of self-administered justice, safe-conduct became a more genuinely political instrument.<sup>241</sup> In this period, safe-conduct for travellers increasingly evolved from a protective institution into a source of fiscal revenue.<sup>242</sup> Physical acts of escorting became an important means of symbolically asserting seigneurial prerogatives over roads, rivers and their boundaries.<sup>243</sup> At the same time, safe-conducts issued to debtors, criminals, minorities and foreigners remained an important instrument of seigneurial grace until the end of the Old Regime.<sup>244</sup> In procedural and international law, safe-conducts play an important role into the present day.

Early forms of safe-conduct in Central Europe aimed at protecting important travellers such as the pope, church dignitaries, foreign princes, envoys, or messengers. This form is generally referred to as 'political safe-conduct'.<sup>245</sup> At the same time, safe-conduct guarantees for markets and merchants

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<sup>237</sup> See for instance: Bognetti, Gian Piero, *Note per la storia del passaporto e del salvacondotto. A proposito di documenti genovesi del sec. XII*, Pavia 1933 and Wansbrough, John 'The safe-conduct in Muslim chancery practice' *Bulletin of the School of Oriental and African Studies* 34 (1971): 1, 20–35.

<sup>238</sup> For a brief overview over this development, see Wiederkehr, Georg Robert, *Das freie Geleit und seine Erscheinungsformen in der Eidgenossenschaft des Spätmittelalters* (Zürich: 1976), 33–35.

<sup>239</sup> See: *Ibid.*, 34

<sup>240</sup> See: *Ibid.*; Müller, Ulrich, *Das Geleit im Deutschordensland Preußen* (Köln, Weimar, Wien: 1991); Conrad, Hermann, *Deutsche Rechtsgeschichte* (Karlsruhe: 1954, 1962), vol. 1, 275, vol. 2, 139-140; Künßberg, Eberhard, and Richard Schröder, *Lehrbuch der deutschen Rechtsgeschichte* (Berlin: 1966), 126, 205, 472, 509, 519, 556, 576, 645, 646, 651. See: moreover: Dotzauer, *Königswahlgeleit*, 83–87.

<sup>241</sup> See: *Ibid.*, 34. It is during the sixteenth century that the Counts Palatine, for instance, begin to expand their safe-conduct rights and to supplant competing princes. Fendler, Rudolf, 'Geleitstraßen und Postlinien vor der Französischen Revolution', in: Alter, Willi, ed., *Pfalzatlant*, vol. 2. (Speyer: 1971), 703–732, 708. See, moreover: Schopp, *Geleitswesen*, 25–26.

<sup>242</sup> See: Wiederkehr, *Das freie Geleit*, 34. The prince-electors of Saxony, for instance, doubled the number of their conduct stations on the river Elbe during the sixteenth and seventeenth centuries. Hartmann, Georg, *Das Wassergeleit in Sachsen* (Wilkau-Haßlau, 1936), 32–45.

<sup>243</sup> See: Krischer, André, 'Grenzen setzen: Macht, Raum und Ehre der Reichsstädte', in: Hochmuth, Christian, and Susanne Rau, eds., *Machträume der frühneuzeitlichen Stadt* (Konstanz, 2006), 135–54; Meinrad Schaab, 'Geleit und Territorium in Südwestdeutschland', in: *Zeitschrift für Württembergische Landesgeschichte* 40 (1981), 398–417; Rieder, *Regensburg*.

<sup>244</sup> See: Wiederkehr, *Das freie Geleit*, 34.

<sup>245</sup> See: *Ibid.*, 22–24, 33.

appeared, which developed into fiscally exploitable forms of safe-conduct.<sup>246</sup> From the end of the twelfth century these increasingly entailed the conductor's liability for damages and conduct tolls were levied in order to finance the safeguarding of certain roads and rivers.<sup>247</sup> Conduct tolls, which were levied in addition to customs duties throughout Central Europe, sometimes merged with these to form a single transit duty.<sup>248</sup> At the end of the thirteenth century, the 'linear' protections granted by escorts evolved into territorial protection regimes for foreigners which treated customs and safe-conduct districts as equivalent.<sup>249</sup> At the same time, safe-conducts for criminals and debtors appeared.<sup>250</sup> They were issued to those who had come into conflict with the law (mostly for debt or violent felony) and warranted their protection for limited periods of time.<sup>251</sup> Safe-conducts for foreigners and safe-conduct treaties with which cities guaranteed the protection of each other's subjects appeared during the thirteenth century as well.<sup>252</sup>

While medieval safe-conducts were issued by different political agents (such as kings, emperors, the Imperial Estates, cities, mediate lords and their representatives, and even 'private' individuals), regalian safe-conduct (*Zollgeleit*) – the right to protect stretches of streets and rivers, and to exact conduct tolls – remained a prerogative of the kings and emperors, and of the territorial rulers.<sup>253</sup> Accordingly, the exercise of regalian safe-conduct placed territorial rulers, cities and the church in opposition against one another.<sup>254</sup> The kings themselves exacerbated these conflicts by granting new safe-conduct privileges. In light of these problems, the Empire attempted to regulate the right of safe-conduct. In the 1230s, the emperor agreed not to interfere with the princes' right of safe-conduct. In practice, the imperial efforts were too piecemeal, inconsistent and weak to effectively control the princes' claims

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<sup>246</sup> See: Ibid., 33. Others found proofs for the safe-conduct to markets as early as the eighth century. See Maurer, Georg Ludwig von, *Geschichte der Städteverfassung in Deutschland*, vol. 1, (Erlangen: 1869), 333–334.

<sup>247</sup> See: Wiederkehr, *Das freie Geleit*, 107–108.

<sup>248</sup> See: Fiesel, Ludolf, 'Woher stammt das Zollgeleit?' *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 19, no. 4 (1926): 385–412, 385.

<sup>249</sup> See: Ibid., 386.

<sup>250</sup> See: Wiederkehr, *Das freie Geleit*, 33.

<sup>251</sup> See: Ibid., 28. See M Taub, Hans, *Beiträge zur Geschichte und Theorie des sicheren Geleits. Ein rechtshistorischer Versuch* (Borna-Leipzig: 1906); Rudorff, Hermann, *Zur Rechtsstellung der Gäste im mittelalterlichen städtischen Prozess: vorzugsweise nach norddeutschen Quellen* (Breslau: 1907), 138–146; Planitz, Hans, 'Studien zur Geschichte des deutschen Arrestprozesses, II. Kapitel: Der Fremdenarrest.' *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung* 40 (1919): 87–198.

<sup>252</sup> See: Wiederkehr, *Das freie Geleit*, 33.

<sup>253</sup> See: Ibid., 97–115. Wiederkehr argues that forms of safe-conduct other than regalian safe-conduct were accessory to any form of authority and that anyone withholding authority was therefore a potential bearer of such rights. See: Ibid., 86. See, moreover: Fiesel, Ludolf, 'Zur Entstehungsgeschichte des Zollgeleits' *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 15 (1920 1919): 466–506; Schöpfer Pfaffen, *Verkehrspolitik*, 90–97.

<sup>254</sup> Frequently, these conflicts concerned the establishment of new conduct-stations. Wiederkehr, *Das freie Geleit*, 108–109.

over this important privilege anyway.<sup>255</sup> During the fourteenth and fifteenth centuries, the princes tightened their grasp on the right of safe-conduct, which was increasingly conceived of as a territorially anchored right. In some areas it became a crucial factor for the attainment of territorial superiority.<sup>256</sup> In 1548 the Imperial Diet recognised regalian safe-conduct as an exclusive prerogative of the territorial princes and restricted the kings' right of safe-conduct to their own immediate territories.<sup>257</sup> The kings and emperors, however, preserved a right of escorting travellers through the Empire (which was not fiscally exploitable).<sup>258</sup>

Cities, which had a strong interest in unobstructed, inexpensive and safe infrastructures, were a major stakeholder in these developments.<sup>259</sup> Where princes used their right of safe-conduct to introduce new duties on passing goods and people, cities often opposed these.<sup>260</sup> One should not, however, interpret cities' principled opposition to trade barriers as a token of their commitment to free trade.<sup>261</sup> While medieval cities fought against the customs rights of their neighbours, they did not renounce the levying of duties within their own spheres of influence. Some mediate cities in the South of the Empire managed to acquire the right of safe-conduct from their princes.<sup>262</sup> Others succeeded to obtain the right of safe-conduct from the Empire if they held territorial superiority over their dominions.<sup>263</sup> Others still managed to obtain the right at least on certain stretches by conquering, purchasing, or taking in pawn castles and conduct stations.<sup>264</sup> Those who could not obtain the regalian right sometimes entered alliances with one another and organised 'subsidiary' forms of safe-conduct which mimicked ordinary safe-conduct, if only not in name.<sup>265</sup> This happened, for instance, in areas where conduct lords were unable or unwilling to secure important roads and rivers.<sup>266</sup> These forms of civic safe-

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<sup>255</sup> See: Ibid., 110. See, moreover, Brandstätter, Klaus, 'Straßenhoheit und Straßenzwang im hohen und späten Mittelalter', in: Schwinges, Rainer Christoph, ed., *Strassen-und Verkehrswesen im hohen und späten Mittelalter* (Ostfildern: 2007), 201–28, 214.

<sup>256</sup> See: Wiederkehr, *Das freie Geleit*, 115–6.

<sup>257</sup> See: Lingelbach, Gerhard, 'Geleit', in: *Handwörterbuch zur deutschen Rechtsgeschichte*, eds., Albrecht Cordes, Heiner Lück, and Dieter Werkmüller, (Berlin: 2012), vol. 2, 37–42 and Koehler, Bernhard, 'Geleit', in: *Handwörterbuch zur deutschen Rechtsgeschichte*, Albrecht Cordes, Heiner Lück, and Dieter Werkmüller, eds., vol. 1 (Berlin: 1971), 1481–1489.

<sup>258</sup> See: Lingelbach, *Geleit*, 39.

<sup>259</sup> See: Wiederkehr, *Das freie Geleit*, 104–5.

<sup>260</sup> See: Fiesel, *Woher*, 401; Maurer, *Städteverfassung*, 348.

<sup>261</sup> See: Dirlmeier, *Handelshemmnisse*, 24–25.

<sup>262</sup> See: Brandstätter, *Straßenhoheit*, 219; Dubler, Anne-Marie, 'Geleit', in: *Historisches Lexikon der Schweiz*, 2011 (URL: <http://www.hls-dhs-dss.ch/textes/d/D30195.php>, Date accessed: 3 Mar 2016); Trostel, Eugen, 'Vom Geleitwesen im Geislinger Raum' *Helvetia. Geschichtliche Mitteilungen von Geislingen und Umgebung* 17 (1962): 115–118, 116–117.

<sup>263</sup> Brandstätter, *Straßenhoheit*, 219.

<sup>264</sup> See: Haferlach, Alfred, 'Das Geleitwesen der deutschen Städte im Mittelalter', in: *Hansische Geschichtsblätter*, 41:1–172, 170; Heuse, Hans, 'Das Geleit - Fürstenrecht und Vasallenpflicht' *Das Werraland* 58 (2006): 82–85, 84; Freitag, *Ulm*, 86–90; Ringleb, Frank, 'Das Geleit zu Prüfern' *Der Heimatbote. Ausflüge in Kultur und Geschichte zwischen Elbe und Mulde* 9, no. 30 (2004): 24–25, 24.

<sup>265</sup> For instance in thirteenth-century Westphalia. See Haferlach, *Geleitwesen*, 158.

<sup>266</sup> See: Brandstätter, *Straßenhoheit*, 220–1; Haferlach, *Geleitwesen*, 158–9.

conduct were deemed so efficient that princes, persons of rank and envoys often preferred to travel under cities' protection.<sup>267</sup> At the same time, the exercise of civic safe-conduct often led to conflicts between cities and neighbouring princes during the Late Middle Ages and the early modern period.<sup>268</sup> Where cities could not impede territorial princes from exercising the right of safe-conduct on their territories, the cities endeavoured not to make the intrusion appear as a violation of their territorial superiority.<sup>269</sup>

The Hanseatic cities of Hamburg and Lübeck provide a paradigmatic example for this civic self-help vis-à-vis the deficiencies of territorial princes in matters of safe-conduct. The road that connects the two port cities on the North Sea and the Baltic Sea led through the territories of the Counts of Holstein. At the beginning of the fourteenth century, political quarrels and feuds among the counts of Holstein and other political players in the region jeopardized the safety of the road to the point that the two cities resolved to conclude a treaty to secure the road with thirty mounted escorts from each city. In order to fund this measure, the cities levied conduct tolls from the escorted carriages. This civic safe-conduct was in place until 1327, when the cities restituted the usurped right to the counts on very favourable terms for their trade.<sup>270</sup> During the Thirty Years' War, traffic on the road between the two cities was again endangered to the point that the cities decided to take matters in their own hands. In 1621 Hamburg's messengers to the City of Danzig were robbed three times within two months.<sup>271</sup> In the same year, the merchants of Hamburg 'heavily complained about the insecurity of the roads'.<sup>272</sup> The cities therefore asked the Duke of Schleswig-Holstein to secure the road more efficiently. Even though the duke and his sheriffs promised to do better, new incidents occurred every year.<sup>273</sup> Lacking faith in the efficiency of the ducal officials, Hamburg and Lübeck suggested that they would provide escorts themselves. They promised that this should happen 'without prejudice to the princely high

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<sup>267</sup> See: Haferlach, *Geleitwesen*, 160.

<sup>268</sup> See: *Ibid.*, 160–2.

<sup>269</sup> See: Schaab, *Geleit und Territorium*, 412.

<sup>270</sup> See: Haferlach, *Geleitwesen*, 163–9.

<sup>271</sup> See: Mayor and Council of the City of Hamburg to Mayor and Council of the City of Lübeck, 15 Aug 1621, fo. 4r, AH Lübeck, ASA Externa, Deutsche Territorien 5392.

<sup>272</sup> *wegen unsicherheit der straßen gantz höchlich beschwert*, *Ibid.*

<sup>273</sup> See: Johan Philip von Harlingshausen to Mayor and Council of the City of Hamburg, 13 Oct 1620, AH Lübeck, ASA Externa, Deutsche Territorien 5392; Mayor and Council of the City of Hamburg to Mayor and Council of the City of Lübeck, 9 Nov 1622, fo. 7r, AH Lübeck, ASA Externa, Deutsche Territorien 5392; Frederick III, Duke of Schleswig-Holstein-Gottorp to Mayor and Council of the City of Hamburg, 12 Aug 1621, fo. 5r, AH Lübeck, ASA Externa, Deutsche Territorien 5392.

superiority',<sup>274</sup> (the duke's territorial superiority over his territory).<sup>275</sup> The duke and his officials, however, were reluctant to allow the Hanseatic cities such subsidiary safe-conduct out of fear of compromising their own safe-conduct titles. Writing to his mother, who was in Hamburg at the time, the duke expressed his deep concern about ceding such 'an important part of the high princely territorial superiority'<sup>276</sup> to the Hanseatic cities. He feared that 'such conduct through our principality would be contestable [to our titles] in some way, as if we did not have the means to keep the roads safe and to provide safety [...] for the wayfaring man ourselves'.<sup>277</sup> However, a few years later in 1627, when imperial troops had invaded the duchies of Schleswig and Holstein, the duke no longer opposed the cities' initiatives. With the support of Johann Tserclaes, Count of Tilly and Albrecht von Wallenstein, who held a garrison in Trittau along the road, the cities were allowed to regularly conduct their carriages with thirty escorts and to levy conduct tolls for this service.<sup>278</sup> In the 1630s the Imperial City of Aachen was also successful in asking the neighbouring Duchy of Jülich to escort merchants to Cologne with its own troops.<sup>279</sup> The city complained that there were never enough ducal soldiers available as escorts and promised that it harboured no intentions of setting a precedent against the ducal right of safe-conduct. After long negotiations, the duke permitted the civic safe-conduct for the duration of one year.

The licence to levy duties was a crucial element of regalian safe-conduct from the outset. Some historians have argued that it was the only reason for which the princes developed an interest in the right during the thirteenth century.<sup>280</sup> Undoubtedly, many princes appreciated the right as a means for

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<sup>274</sup> *'sine praejudicio der landtsfürstliche hohen Obrigkeit'*, Mayor and Council of the City of Hamburg to Mayor and Council of the City of Lübeck, 21 Oct 1620, AH Lübeck, ASA Externa, Deutsche Territorien 5392.

<sup>275</sup> In 1604, the City of Aachen wrote to a sheriff of the Duke of Jülich that if he could not guarantee the safety of the roads, travellers would engage their own escorts. Pauls, Emil, 'Geleitsrechte des Herzogs von Jülich im Jülichischen und in Aachen' *Aus Aachens Vorzeit* 17 (1904): 49–128, 65.

<sup>276</sup> *'ein führnemes stück der hohen Landesfürstlichen Obrigkeit'*, Friedrich III, Duke of Schleswig-Holstein-Gottorp, to Augusta of Denmark, Duchess Consort of Schleswig-Holstein-Gottorp, 10 Oct 1620, LASH, 7, 1217.

<sup>277</sup> *'es würde solche vergläitung durch unser fürstentumb uns in etwas disuptierlich sein, als wan wir selbst nicht mittel betten, die Landstrassen rein zu halten, und dem reisenden mann [...] sicherheit zu schaffen'*, Ibid. Other rulers, however, had a less categorical view of third-party escorts. A legal opinion commissioned by the Duchy of Jülich-Cleves-Berg, for instance, concluded that as long as the Duke had not offered his safe-conduct, foreign princes were allowed to bring their own armed bodyguards. Pauls, *Geleitsrechte des Herzogs von Jülich*, 70.

<sup>278</sup> See: Mayor and Council of the City of Hamburg to Mayor and Council of the City of Lübeck, 1 Oct 1627, fo. 15r-16r, AH Lübeck, ASA Externa, Deutsche Territorien 5392. Similarly, when the Spanish placed a garrison in the city of Aachen in 1614, the Spanish soldiers took over the safe-conduct for merchants and princes in the area. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 65.

<sup>279</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 66.

<sup>280</sup> See: Wiederkehr, *Das Freie Geleit*, 105. The linearity of these chronologies, however, is somewhat questionable. Ulf Dirlmeier, for instance, highlighted that in the Holy Roman Empire, duties and tolls had been levied for purely fiscal purposes (i.e. without any reciprocity concerning, e.g. the maintenance of roads) well before the thirteenth century. Dirlmeier, *Handelsbemmnisse*, 21.

fiscally exploiting the traffic through their dominions.<sup>281</sup> Where regalian safe-conduct had chiefly become a means for levying tolls, it was difficult to distinguish from other toll and customs rights. In medieval legal sources, customs and safe-conduct were sometimes used as synonyms and in practice, both rights could merge into one.<sup>282</sup> Conduct tolls were often levied as a surcharge to customs duties and used as a means for surreptitiously increasing tariffs. Some used safe-conduct as a means for bypassing imperial limitations to the introduction of new customs duties. There were, however, exceptions to this rule. In the colonised areas in the Empire's East, in Denmark, and in Tirol, the territorial rulers did not request any duties for their safe-conduct.<sup>283</sup> In the early modern period, many princes, agencies and officials saw the primary purpose of their right of safe-conduct in its fiscal exploitability.<sup>284</sup> This was clearly the case in Electoral Saxony,<sup>285</sup> in the Electoral Palatinate,<sup>286</sup> in the Electorate of Mainz<sup>287</sup> and in the Ernestine Duchies of Thuringia.<sup>288</sup>

An important justification for levying duties was the maintenance of the road infrastructure. In the medieval Empire, road construction was effected patchily and almost exclusively around cities. Funding was chiefly provided through tolls and caritative donations.<sup>289</sup> Princes often depended on the cooperation of communities along the roads and the peasants' statute labour. Roadworks were financed partly by the adjacent landowners and cities, and partly by the territorial rulers, who rarely contributed more than capital. During the sixteenth and seventeenth centuries, the construction and maintenance of roads became a more systematic object of princely politics. Codified regulations were published first in late fifteenth-century Württemberg and later, irregularly, in other territories. Such ordinances determined, among other matters, who was to supervise and effect roadworks, how these were to be financed and how disputes about these questions could be settled.<sup>290</sup> Rural roads were of

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<sup>281</sup> See: Fiesel, *Wober*, 388; Brandstätter, *Straßenhohheit*, 208; Huvelin, Paul-Louis, *Essai historique sur le droit des marchés et des foires* (Paris: 1897), 370–1; Wiederkehr, *Das Freie Geleit*, 156–157; Pauls, *Geleitsrechte des Herzogs von Jülich*, 100–101.

<sup>282</sup> See: Kalisch, Hans, *Über das Verhältnis des Geleitsregals zum Zollregal* (Berlin: 1901), 7–24. Recently, Marie-Claude Schöpfer Pfaffen qualified Kalisch's thesis, arguing that, even though safe-conduct and customs privileges were closely related, they were not the same regalian rights. Schöpfer Pfaffen, *Verkehrspolitik*, 90–91. See, moreover: Freitag, *Ulm*, 100–101; Wilhelm, *Zollgeleit*, 62.

<sup>283</sup> See: Müller, Ulrich, *Geleit im Deutschordensland*, 24–27 and Fiesel, *Wober*, 401.

<sup>284</sup> See: Hartmann, *Wassergeleite*, 18–21; Hofmann, Adolf, *Das Landgeleit in Sachsen* (Waldenburg, 1931), 50–3.

<sup>285</sup> The prince-electors of Saxony treated their right of safe-conduct as a source of fiscal revenues which were rarely invested in road maintenance Hartmann, *Wassergeleite*, 18–21; Hofmann, *Landgeleit*, 50–3.

<sup>286</sup> See: Fendler, *Geleitstraßen*, 705–6.

<sup>287</sup> See: Kneib, *Mainzer Geleitrechte*, 79.

<sup>288</sup> See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 29.

<sup>289</sup> For an overview of these questions in the Empire, the Alps and Italy during the Middle Ages, see Szabó, Thomas, 'Die Straßen in Deutschland und Italien im Mittelalter', in: Schwinges, *Strassen-und Verkehrswesen*, 71–118. See also, Friehe, Heinz-Albert, *Wegerecht und Wegeverwaltung in der alten Grafschaft Schaumburg* (Bonn: 1971), 99–100; Schöpfer Pfaffen, *Verkehrspolitik*, 84–86. A ruler's right to seize ship-wrecked vessels and requesting recovery dues (*Grundruhr*), which some applied to public roads as well, might have been a negative incentive in this context. Friehe, *Wegerecht*, 99.

<sup>290</sup> See: Friehe, *Wegerecht*, 136–137.

particular concern to the princes, who placed them under the supervision of sheriffs and district officials. The intention to promote trade played an important role in mobilising the princes' initiative. In practice, financial, administrative and technical difficulties frequently jeopardized attempts to ameliorate the road infrastructure in the Empire's polities well into the eighteenth century.<sup>291</sup>

Territorial statehood played a limited role in the construction and maintenance of transportation infrastructure in the seventeenth century. Road maintenance remained in the hands of local communities and landlords who received only very limited financial assistance, if any, from the territorial agencies. A peasant put it in a nutshell when, during an eighteenth-century lawsuit over roadworks in the County of Öttingen, he explained that the road outside of his village was 'kept by our Lord God'.<sup>292</sup> The government of the County of Lippe relied on the corvée of its subjects (three days a year) for the maintenance of public roads until the eighteenth century.<sup>293</sup> While road maintenance was only sporadically executed before 1770, the increasing demand for corvée at the end of the eighteenth century resulted in a surge of litigation against the county's government.<sup>294</sup> Where conduct tolls were levied, the revenues could be invested in road maintenance, as on a conduct road between Saxe-Coburg and the Prince-Bishopric of Würzburg where 3,142 florins were invested between 1532 and 1544 for maintenance.<sup>295</sup> Often, however, these investments only made up a limited share of the conduct revenues.<sup>296</sup> Although the quality of the roads in sixteenth-century Electoral Saxony and Thuringia was 'abysmal',<sup>297</sup> Manfred Straube found that the construction and maintenance of roads was generally financed through safe-conduct revenues.<sup>298</sup> Other authors disagree, concluding that only a minor fraction, if any, of the conduct revenues in Electoral Saxony were spent on road construction.<sup>299</sup> A considerable share of the revenues could be consumed by the conduct bureaucracy

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<sup>291</sup> Earth roads were hard to protect against water. The alternative building of stone roads was not advanced enough technologically and too expensive. Friehe, *Wegerecht*, 136–137. See, moreover: Nöth, Stefan, 'Gleußen und das sächsische Geleit: Zur Wiederaufrichtung der Geleitssäule 'Heroldstein' dei Gleußen', in: Nöth, Stefan, ed., *Coburg 1056 – 2006. Ein Streifzug durch 950 Jahre Geschichte von Stadt und Land* (Stegaurach: 2006), 87–105, 95. According to Hessler, territorial fragmentation remained a liability for the public road network in Germany well into the nineteenth century. Indeed, with the dissolution of the Empire at the beginning of the nineteenth century, the state of some public roads even worsened. The states of the German Confederation claimed sovereignty over former imperial roads, which they managed mostly with an eye on their fiscal interests. In the early nineteenth century many imperial roads were thus in a deplorable state with some even ending at territorial borders. See: Hessler, *Durchzugsrecht*, 144–145.

<sup>292</sup> 'macht ihn unser Herrgott', Gabler, *Das Brandenburger und Öttinger Geleit*, 126.

<sup>293</sup> For another example from Soest, see: Diekmann, Klaus, *Die Herrschaft der Stadt Soest über ihre Börde* (Münster: 1962), 63.

<sup>294</sup> See: Hennigs, *Gesellschaft und Mobilität*, 56.

<sup>295</sup> See: Nöth, *Gleußen*, 87–105, 93. For another example from Eisenach, see: Heuse, *Geleit*, 84–85.

<sup>296</sup> See: Gabler, *Das Brandenburger und Öttinger Geleit*, 126; Schöpfer Pfaffen, *Verkehrspolitik*, 85.

<sup>297</sup> Straube, *Geleitwesen*, 85.

<sup>298</sup> Although he treated the problem very cursorily, Straube rejects the claim 'that not enough was done by feudal authorities for the state of the roads'. See: *Ibid.*, 85.

<sup>299</sup> See: Hofmann, *Landgeleite*, 47–51. A case study of the Electoral Saxon district of Hain shows that, during the fourteenth and fifteenth century, the district's conduct revenues were spent for a broad range of public expenses as well as for the

itself. In times of war, conduct tolls were often raised and the revenues spent on fortification, reconstruction and debt service. Similar complaints were common in old-regime France where toll revenues were rarely invested in road maintenance, which further contributed to the tolls' unpopularity.<sup>300</sup>

In shared and territorially ambiguous spaces, roads ran a heightened risk of being neglected, as both parties attempted to shift the costs onto each other.<sup>301</sup> A case from late seventeenth-century Thuringia illustrates how conduct authorities in such contexts shrank at major expenses even where they recognised the dire necessity of roadworks. In 1687 the chief conduct official of Saxe-Weimar, who supervised the levy of conduct tolls on behalf of the duke, was ordered to initiate the repair of a severely damaged road. The duke hoped to attract more tollable traffic over that road, as earlier attempts to force the carters and merchants to use the road had proved fruitless.<sup>302</sup> On a personal visitation, the official found wide stretches of the road in a deplorable state: it was overgrown with shrubs and bushes, eroded by water and strewn with stones and boulders.<sup>303</sup> In some cases, inter-territorial competition over the channelling of commerce actually encouraged authorities to invest in roadworks.<sup>304</sup> However, in the above case, the official duly recorded all the damage and suggested a course of action for their reparation, but refused to incur any expenses on account of his lords. He asked the mayor of a nearby town to assign three local men to accompany him so that he could show them how to repair the road, only for the locals to then excuse 'themselves that they are poor people'<sup>305</sup> who could not afford the necessary tools. The chief conduct officer therefore gave them a small allowance to get the roadworks started ('*ad interim*'),<sup>306</sup> but insisted that it was for the Count of Schwarzburg-Rudolstadt and his subjects to finance the works.

The count was chiefly concerned by the fact that a ducal official had not only inspected a road on his territory, but also exhorted his subjects to provide for its reparation, 'to which, in my undisputed

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conduct official's personal expenses. The conduct official was responsible for directly allocating the district's revenues over which the Electoral Saxon Exchequer had little control. Bahmann, Siegfried, *Das sächsische Amt Hain vom Ende des 14. bis zum Ende des 16. Jahrhunderts* (Leipzig: 1913), 18–41.

<sup>300</sup> See: Conchon, *Le péage*, 144–145.

<sup>301</sup> See: Nöth, *Gleußen*, 93–96.

<sup>302</sup> See: Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 19 Apr 1687, ThStA Weimar GSW B 23208, fo. 3r.

<sup>303</sup> See: Andreas Rosa, Visitation report, 3–4 Aug 1687, ThStA Weimar GSW B 23208, fo. 22r.

<sup>304</sup> A good example was that of a road between the Electorate of Mainz and the County of Wertheim in 1755. See: Weiss, *Geleitstraßen*, 235.

<sup>305</sup> '*daß sie arme Leute*', Andreas Rosa, Visitation report, 3–4 Aug 1687, ThStA Weimar GSW B 23208, fo. 25v.

<sup>306</sup> Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 23 Aug 1687, ThStA Weimar GSW B 23208, fo. 18v.

territory, no one else is entitled than me'.<sup>307</sup> As to the road, he claimed that 'the transients have not brought any particular complaints'<sup>308</sup> about its state and that, in any case, his own officials had already inspected the road and 'found it in such an ill and corrupted state'<sup>309</sup> that it could not be repaired. The subjects who lived along the road, however, were more than willing to do so. Interrogated by the ducal conduct official, an old man remembered that the road had once provided the surrounding villages with a 'good livelihood'<sup>310</sup> and stressed that it would be good if it could be used again.<sup>311</sup> The count (who had no reason for channelling the traffic through the ducal conduct stations and was quite content with the carters and merchants travelling along the river Saale) and his subjects had diverging views about the necessity to rebuild the road. Despite the fact that it was the Ernestine Dukes who levied conduct tolls from the traffic on the road, they did not feel obliged to use a part of these revenues for maintaining the road. This case was no exception.<sup>312</sup> After some research in his archives, the chief conduct official found out that the dukes had never paid for any repairs of the roads which they possessed through the County Schwarzburg-Rudolstadt. He argued that road maintenance had always been paid for by the local communities.<sup>313</sup> Such inter-polity competition might be one reasons for the notoriously bad state of Thuringian roads over the centuries, which had been lamented by such figures as Martin Luther and Johann Wolfgang von Goethe.<sup>314</sup>

In all its forms, safe-conduct could be used as a genuinely political instrument. In the Late Middle Ages the City of Bern used its right of safe-conduct as a powerful instrument of territorial politics.<sup>315</sup> It provided a means for controlling important thoroughfares and for executing police and military interventions. Moreover, it gave Bern a title with which to regulate the access of strangers to its territory and to arrange safe-conduct treaties with its neighbours. In late medieval Aargau and Thurgau, the right was a crucial instrument for establishing the dominion of the Swiss Confederacy. In some

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<sup>307</sup> 'die doch in meinem unstreitigen Territorio niemanden anders, als mir zuständig', Albrecht Anton, Count of Schwarzburg-Rudolstadt to Wilhelm Ernst, Duke of Saxe-Weimar, 21 Nov 1687, ThStA Weimar GSW B 23208, fo. 52v.

<sup>308</sup> 'von denen durchreisenden darüber keine besondere Klage geführt worden', Ibid.

<sup>309</sup> 'in solchen üblen und verderbten stande befunden', Ibid.

<sup>310</sup> 'gute nahrung', Andreas Rosa, Visitation report, 3–4 Aug 1687, ThStA Weimar GSW B 23208, fo. 26r.

<sup>311</sup> Local communities could be seriously affected by traffic deviations caused by unviaable roads or excessive tolls. See: Straube, *Geleitwesen*, 72. For a case from eighteenth-century France, see Conchon, *Le péage*, 142. Studies of the mountain passes in the early modern Alps, however, found that local populations providing transportation services could cushion reductions in trade volume by increasing their agricultural activities. See: Caroni, *Passgebiete*, 95.

<sup>312</sup> For an analogous case from eighteenth-century Württemberg, see: Conrad, Otto, 'Der altwürttembergische Landgraben vom Heuchelberg zum Bottwartal.' *Veröffentlichungen des historischen Vereins Heilbronn* 24 (1963): 87–121, 100.

<sup>313</sup> See: Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 27 Jan 1688, ThStA Weimar GSW B 23208, fo. 62r–62v.

<sup>314</sup> See: Blaha, Walter, *Vom Bürgerhaus zum Regierungszentrum. Die kurmainzische Statthalterei und das weimarische Geleitshaus in Erfurt* (Erfurt: 2002), 55, 57.

<sup>315</sup> See: Wiederkehr, *Das freie Geleit*, 154–155; Schöpfer Pfaffen, *Verkehrspolitik*, 251–254.

districts, the conduct official was the Confederacy's only representative. In Thurgau, the Confederacy used its right to issue safe-conduct letters to undermine the jurisdiction of the City of Konstanz at the end of the fifteenth century. By granting letters of safe-conduct to people sentenced by Konstanz' courts, the Confederacy granted them legal immunity, thwarting the execution of judgements and making Konstanz' jurisdiction depended on the good will of the Confederacy.<sup>316</sup>

The Electoral Palatinate used its right of safe-conduct as a potent means for extending its influence over less powerful neighbouring territories. During the sixteenth century, the Electors Palatine successfully expanded their safe-conduct rights into neighbouring districts and established themselves as the predominant safe-conduct authority.<sup>317</sup> After the Thirty Years' War, when the Electoral Palatinate had been ravaged and widely depopulated, the Elector reactivated his old regalian rights and employed them in a determined attempt at territorial expansion. The right of safe-conduct was an important instrument in this bundle of rights, as it ensured the regulation of the thoroughfares in neighbouring territories and enabled the authorities to 'keep the subjects under control'.<sup>318</sup> Combined with the seizure of settlements in neighbouring territories and the forced enserfment of their inhabitants to the Elector Palatine, safe-conduct played an important part in this project of territorial expansion.<sup>319</sup> The Burgraves of Nuremberg and their successors, the Margraves of Brandenburg-Ansbach and Brandenburg-Kulmbach, similarly put their control over the conduct roads around the Imperial City of Nuremberg to political use in their conflicts with the city.<sup>320</sup> The Burgraves had successfully acquired extensive safe-conduct and toll rights in their territories surrounding the city during the Late Middle Ages.<sup>321</sup> Their obstruction of the conduct roads is regarded as one of the causes of the city's economic decline in the sixteenth century.<sup>322</sup> During the Thirty Years' War, the Margraves established 'a tight, hardly manageable mesh of customs and conduct-stations'<sup>323</sup> in the region. The exercise of safe-

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<sup>316</sup> See: Wiederkehr, *Das freie Geleit*, 158–165.

<sup>317</sup> See: Fendler, *Geleitstraßen*, 712. See, moreover: Kneib, *Mainzer Geleitsrechte*, 80.

<sup>318</sup> Fendler, *Geleitstraßen*, 716.

<sup>319</sup> See, moreover: Becher, *Grafschaft Erbach*, 79–87; Plechatsch, Thomas, 'Ins Glat nimbt man die Kauffleut an ...', in: Stahl, Patricia, ed. *Brücke zwischen den Völkern - Zur Geschichte der Frankfurter Messe*, vol. 2, (Frankfurt: 1991), 85–94, 89.

<sup>320</sup> See: Beyerstedt, Horst-Dieter, 'Geleit', in: Diefenbacher, Michael, and Rudolf Endres, *Stadtllexikon Nürnberg* (Nürnberg: 2000), 328–329; Ruppertsberg, Otto, 'Das Nürnberg-Frankfurter Geleit' *Archiv für Frankfurts Geschichte und Kunst* 5, no. 1 (1938): 11–32, 30. For Brandenburg's expansionary safe-conduct policy towards Würzburg, see: Weig, *Ius conduendi*, 88–99.

<sup>321</sup> See: Endres, Rudolf. 'Ein Verzeichnis der Geleitstraßen der Burggrafen von Nürnberg.' *Jahrbuch für fränkische Landesforschung* 23 (1963): 107–38, 110–111.

<sup>322</sup> See: *Ibid.*, 108.

<sup>323</sup> *Ibid.*, 112.

conduct rights in the area surrounding Nuremberg was thus a point of contention for centuries.<sup>324</sup> Other princes, however, such as the prince-bishops of Würzburg of the sixteenth century, were more circumspect with their right of safe-conduct, using it as a means of stabilising their dominion and its boundaries, rather than for expanding it.<sup>325</sup>

Political safe-conduct was a powerful instrument in regulating the circulation of diplomats. Megan Williams has highlighted the political and symbolic uses of political safe-conduct in early sixteenth-century Central Europe. The increasing use of safe-conduct documents among diplomats in the early sixteenth century reflected the importance that princes attached to controlling the movements and sojourn of people in and outside their territories.<sup>326</sup> Safe-conduct documents expressed and communicated claims of power to domestic and external audiences. Moreover, political safe-conduct provided princes with a certain degree of control over (and knowledge of) those passing through their domains. As in the case of merchants, passage was often contingent upon the fulfilment of certain conditions, which could concern the duration of a safe-conduct's validity, the composition of the traveller's entourage, the obligation of 'conduct-worthy' behaviour and the designation of specific routes. The prescription of a specific route and the physical escort of the conductee 'enabled suspicious princes to place their own eyes and ears in the entourage of the safe-conduct recipient'.<sup>327</sup> However, political safe-conduct differed from regalian safe-conduct in important respects.<sup>328</sup> It was not given in exchange for fees, but rather 'on invocations of princely graciousness, honour, and the universal prescriptive claims of the *Respublica Christiana*'.<sup>329</sup> While regalian safe-conduct was formally justified as an insurance against highway robbery, political safe-conduct documents tended to protect their bearers against politically motivated violence and thus against the issuing prince. As 'an expressly political statement of sovereignty',<sup>330</sup> political safe-conduct became increasingly tied to the crime of *lèse-majesté* during the sixteenth century. Jurists applied the concept to those entering a prince's territory

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<sup>324</sup> See, moreover: Kircher, Albrecht, *Deutsche Kaiser in Nürnberg* (Nürnberg: 1955), 24–25. The disputes were accompanied by several lawsuits at the Imperial Chamber Court. See: Beyerstedt, Horst-Dieter, 'Geleitprozeß', in: Diefenbacher, Michael, and Rudolf Endres, eds., *Stadtlexikon Nürnberg* (Nürnberg: 2000), 329.

<sup>325</sup> See: Weig, *Ius conducendi*, 120–129.

<sup>326</sup> See: Williams, Megan Kathryn, *Dangerous Diplomacy & Dependable Kin: Transformations in Central European Statecraft, 1526–1540* (Columbia University: 2009), 186–251.

<sup>327</sup> *Ibid.*, 233.

<sup>328</sup> Williams argues that while regalian safe-conduct was valued mainly as a source of fiscal revenue, political safe-conduct was an 'express marker of territorial superiority' (*Ibid.*, 200). The case studies of Thuringia and the river Weser show, however, that the fiscal and symbolic functions of the right are not as neatly separable. Indeed, the concept of *Zollgeleit* should be regarded as a later construction of legal historians rather than as a 'sharply contoured legal institution'. See: Schmoeckel, Mathias 'Zollgeleit', in: *Handwörterbuch zur deutschen Rechtsgeschichte*, eds. Adalbert Erler, Ekkehard Kaufmann, and Wolfgang Stammer (Berlin: 1998), vol. 5, 1757–1759.

<sup>329</sup> Williams, *Dangerous Diplomacy*, 200.

<sup>330</sup> *Ibid.*, 208.

without his explicit permission. Williams is therefore right to interpret this as a symptom of the underscored importance that sixteenth-century princes attached to the control of movements across their territories.

One segment of the population of the Holy Roman Empire whose mobility was particularly affected by safe-conduct regimes, were Jews. Jewish mobility and migration were subject to strict restrictions and, in the case of poor and vagrant Jews, outright criminalisation.<sup>331</sup> Although the commercial and economic activities of Jews were heavily regulated, many rulers recognised the benefits of allowing Jewish mobility for economic and fiscal purposes. In this context, safe-conduct became an important instrument for regulating both the settlement and the travel of Jewish persons. Regulations of Jewish mobility became increasingly frequent from the sixteenth century onwards and often required Jews to acquire safe-conduct tickets in every district they traversed.<sup>332</sup> The safe-conduct duties paid by Jews, both in the form of ‘body tolls’ (*Leibzoll*) and long-term work and residence permits, were a particularly profitable source of fiscal revenues.<sup>333</sup> Indeed, Jews were obliged to pay ‘body tolls’ for their bodies, as well as for their goods, horses and carts, duties which conduct officials were sometimes allowed to keep for themselves.<sup>334</sup> In sixteenth-century Württemberg, for instance, a substantial part of safe-conduct receipts stemmed from Jewish travellers<sup>335</sup> and the arrests of ‘unconducted’ Jews figure very prominently in the archival records. These safe-conducts were generally reserved to Jews pursuing economic activities.<sup>336</sup> In the Imperial City of Wimpfen, the safe-conduct duties paid by Jews were twice as high as those paid by Christian travellers.<sup>337</sup> In the Electoral Palatinate, punishments for Jews were particularly harsh. In 1577 two Jews were fined with the exorbitant sum of 400 florins (*Gulden*) because they had entered the Electoral Palatinate without safe-conduct.<sup>338</sup> Often, duties were requested from Jewish corpses as well.<sup>339</sup> Because safe-conduct for Jews was such a profitable source of revenue,

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<sup>331</sup> For a recent survey of Jewish mobility in the Old Reich, see: Härter, *Jüdische Migrationen*.

<sup>332</sup> *Ibid.*, 79–92.

<sup>333</sup> See for instance Härter, *Jüdische Migrationen*, 81–92. For a detailed discussion of safe-conducts for Jews as a political instrument with particular attention to the role of the estates, see Laux, Stephan, *Gravamen und Geleit: Die Juden im Ständestaat der Frühen Neuzeit (15. – 18. Jahrhundert)* (Hannover: 2010). See, moreover: Battenberg, Friedrich, ‘Schutzjuden’, in: Erlen, Adalbert, Ekkehard Kaufmann, and Wolfgang Stammeler, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 4 (Berlin: 1990), 1535–1541; Aschoff, Diethard, ‘Das älteste Judengeleit in Ahlen’ *Der beflügelte Aal* 20 (2001): 77–83; Straube, *Geleitwesen*, 94–95.

<sup>334</sup> For the Ernestine Duchies, see: Memorandum for the Exchequer (*Rentkammer*) of Saxe-Altenenburg, 29 Feb 1668, ThStA Weimar GSW B 23246, fo. 20r.

<sup>335</sup> See: Wilhelm, *Zollgeleit*, 119–120.

<sup>336</sup> See: Härter, *Jüdische Migrationen*, 79–92.

<sup>337</sup> See: Seußler, *Wimpfener Geleit*, 10.

<sup>338</sup> See: Fendler, Rudolf, “‘Da die Leuffte der Zyth etwas geschwindt und geferlich sind.’ Über das Geleitwesen am mittleren Oberrhein im 16. Jahrhundert’ *Mannheimer Geschichtsblätter* 5 (1998): 65–89, 87.

<sup>339</sup> And this in every district through which the corpse was transported. Seußler, *Wimpfener Geleit*, 12. See, moreover: Fendler, *Geleitwesen am mittleren Oberrhein*, 87.

local and territorial officials often competed for the issuance of safe-conducts.<sup>340</sup> While Jewish travellers without safe-conducts could theoretically be punished and expelled, territorial fragmentation, competition between different authorities and dysfunctional bureaucracies made the implementation of such policies difficult. Karl Härter showed that Jewish travellers actively took advantage of the opportunities offered by the Empire's legal pluralism and successfully appealed to territorial authorities, the emperor and the imperial courts to enforce their mobility.<sup>341</sup>

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The political orders of the early modern world were regimes of movement. Authorities attempted to promote, restrict and channel moving goods and people for a wide variety of reasons. However, attempts at monopolising the legitimate means of movement had mixed success. In the fragmented political landscape of the Holy Roman Empire, the politics of mobility was marked by the competitive interplay between neighbouring rulers and imperial and territorial structures. Due to its complex territoriality and because it defies conventional notions of statehood, nation and territory, the Old Reich offers an ideal laboratory for exploring the early modern politics of passage. The institution of safe-conduct offers a rich vantage point on these dynamics. While it always conserved a protective function, safe-conduct became a powerful political, fiscal and symbolic instrument at the hands of territorial rulers. Safe-conduct thus embodied a great part of the practices and concepts with which the fragmented society between the Alps and the North Sea negotiated the ordering of movement.

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<sup>340</sup> In 1602 the Electoral Palatine safe-conduct officials at Mosbach, for instance, complained that several mayors issued safe-conduct tickets to the Jews and that they could not physically escort them anymore. See: Seußler, *Wimpfener Geleit*, 8–9.

<sup>341</sup> See: Härter, *Jüdische Migrationen*, 89–92. On the role of the Empire in this context, see, moreover: Kießling, Rolf, 'Zwischen Schutzherrschaft und Reichsbürgerschaft: Die schwäbischen Juden und das Reich', in: Kießling, Rolf, and Sabine Ullmann, eds., *Das Reich in der Region während des Mittelalters und der Frühen Neuzeit* (Konstanz: 2005), 99–122.



## 2. Theatres of Transit

When the King of Denmark travelled through the City of Aachen in 1724, he was annoyed at finding himself permanently escorted by deputies of the Elector Palatine.<sup>342</sup> It had not been easy to convince the king to accept the unwelcome escorts and, after some time, he found their permanent attention so irritating that he sent them back to Aachen in order ‘to have some peace’.<sup>343</sup> While foreign travellers of rank were often bewildered at the insistence with which territorial rulers attempted to escort their journeys, the inhabitants of the Holy Roman Empire knew the practice all too well. The escorting of princes, travellers of rank, merchants, prisoners, or corpses was a common sight in the fractured landscape between the Alps and the North Sea. Safe-conduct processions could aim at protecting or honouring certain categories of travellers. Often, however, the practice has been described as ‘pointless’,<sup>344</sup> as a token of territorial rulers’ ‘hollow megalomania’,<sup>345</sup> as a ‘farce’,<sup>346</sup> as ‘a privilege for its own sake’,<sup>347</sup> or as ‘a mark of authority’s prestige mentality’.<sup>348</sup> In practice, of course, the matter was more complex. As a seventeenth-century treatise put it, safe conduct was a ‘notice, token and symbol of territorial superiority’.<sup>349</sup> Some historians have highlighted the safe-conduct procession’s quality as ‘a symbol of ‘total sovereignty’’.<sup>350</sup> Indeed, even if it was not always ‘the criterion of territorial statehood,’ there were few other practices in which ‘the power of the competent ruler manifested itself to the foreign transient [...] as concretely as in safe-conduct’.<sup>351</sup>

The historian André Krischer recently confirmed this interpretation of safe-conduct as a vector and symbol of territorial superiority. Territorial superiority should not be regarded as a mere precursor to modern sovereignty, but as a metaphor that expressed ‘social esteem in a literal sense’<sup>352</sup> – as

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<sup>342</sup> The Elector Palatine was also Duke of Jülich and Berg at the time. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 83.

<sup>343</sup> ‘Um Ruhe zu haben’, Ibid.

<sup>344</sup> ‘gegenstandslos’, Reger, Anton, ‘Stationen des Burglengfelder Geleits’ *Die Oberpfalz. Heimatzeitschrift für den ehemaligen bayerischen Nordgau* 61 (1973): 40–47.

<sup>345</sup> ‘bohler Großmannssucht’, Pauls, *Geleitsrechte des Herzogs von Jülich*, 87.

<sup>346</sup> Plechatsch, *Glait*, 85.

<sup>347</sup> ‘ein Privileg um seiner selbst willen’, Reger, *Burglengfelder Geleit*, 42.

<sup>348</sup> ‘bloße Etikette obrigkeitlichen Prestigedenkens’, Ibid.

<sup>349</sup> ‘*Superioritatis territorialis indicina, tessera ac symbolum*’, Johannes Josua Rader and Heinrich Linck, *Jus conducendi, vulgò die Gleits-Herrlichkeit* (Altdorf: 1677), § 15.

<sup>350</sup> Fendler, *Geleitstraßen*, 721.

<sup>351</sup> Schaab, *Geleit und Territorium*, 408. In this respect, safe-conduct processions are evocative of religious processions, which were often appropriated by local communities as a symbol of autonomy. See: Duhamelle, *Frontière au village*, 176.

<sup>352</sup> Krischer, *Grenzen*, 136. Krischer interprets safe-conduct processions as a performative act, i.e. an action that ‘creates social, legal and political facts’ (Ibid., 142) by its mere performance. Because the early modern ‘political and social order were not yet distinct from each other’ (Stollberg-Rilinger, *Das Heilige Römische Reich*, 118), honour was a pivotal element of politics.

domination and subordination in space.<sup>353</sup> It was generally ascribed to the higher nobility and was connected to the social capital of the prince.<sup>354</sup> Asserting territorial superiority was particularly difficult for the Imperial Cities, which figured at the bottom of the feudal order. Against this background, performing safe-conduct rituals, as well as exercising other regalian rights, became ‘a symbol of political and social prestige’.<sup>355</sup> The smaller and less powerful Estates, in particular, needed to construct their territorial superiority through such practices and symbols.<sup>356</sup> For them, as for any Estate, escorting a prince had a ‘tremendous indicative function’.<sup>357</sup>

As a token of territorial superiority, the safe-conduct procession was one practice among many. The right to perform acts of jurisdiction, for instance, was just as contested as safe-conduct, as were other regalian rights such as hunting, fishing and mining.<sup>358</sup> Throughout the Holy Roman Empire, the most innocuous actions could give rise to serious conflicts if it could potentially set a precedent against a ruler’s title. The Imperial Estates’ extreme wariness of possible encroachments was a fundamental trait of political life in the Empire throughout the early modern period. The complex territoriality exacerbated the problem; instead of ruling homogeneous and clearly demarcated territories, most rulers held bundles of regal rights which could overlap and even contradict rights held or purported by others.<sup>359</sup> One can sum up all these rights under the heading of ‘territorial superiority’, but it is a blunt conceptual tool and it obscures some important differences.

This chapter envisages safe-conduct as more than an interchangeable symbol of territorial superiority or vector of territorial strife. Just as jurisdictional rights embodied the ruler’s authority to interpret and apply the law, safe-conduct symbolised a very specific element of sovereignty: the authority to sanction, protect, channel and exploit movements on the roads and rivers within a dominion. Indeed, jurists interpreted the safe-conduct ritual as an act through which a prince or a polity grants a permission of

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<sup>353</sup> This interpretation is a leap forward from earlier explanations, which, for instance, regarded the strict safe-conduct rituals as a token of the ‘pursuit of a clearly ordered administration’ (Trostel, *Geleitwesen im Geislinger Raum*, 118).

<sup>354</sup> See: Krischer, *Grenzen*, 138–139. In Schwäbisch Hall, safe-conduct disputes were linked to hunting rights, another noble privilege claimed by the city. *Ibid.*, 149.

<sup>355</sup> *Ibid.*, 140. See, moreover: Pauls, *Geleitsrechte des Herzogs von Jülich*, 100–101.

<sup>356</sup> See: Krischer, *Grenzen*, 140. See, moreover: Becher, *Grafschaft Erbach*, 80–81; Fendler, *Geleitwesen*, 62–63.

<sup>357</sup> Krischer, *Grenzen*, 141. See, moreover: Schaab, *Geleit und Territorium*, 400; Schaab, *Straßen- und Geleitwesen*, 56.

<sup>358</sup> Patrick Oelze produced an extensive, long-term case study of conflicts around the right jurisdiction that opposed the Imperial City of Schwäbisch Hall and its neighbours during the early modern period. Oelze, Patrick, *Recht haben und Recht behalten: Konflikte um die Gerichtsbarkeit in Schwäbisch Hall und seiner Umgebung (15. – 18. Jahrhundert)* (Konstanz: 2011). Besides these canonic rights, there was an infinity of other, sometimes rather obscure rights, such as the regalian right of *Wildfang*, which entitled the Electors Palatine to make serfs of newly arrived foreigners, children born out of wedlock, and bachelors of a certain age. See: Scholz, Luca, *La polyphonie du servage. Paysans, baillis et professeurs dans la controverse du droit de Wildfang palatin (1650–1669)* (M.A. thesis, EHESS Paris: 2012).

<sup>359</sup> See: Willoweit, Dietmar, *Rechtsgrundlagen der Territorialgewalt* (Cologne: 1975), 185.

entering and traversing its territory.<sup>360</sup> On a symbolic level, the theatres of transit that unsettled the thoroughfares of the Holy Roman Empire mirrored unresolved conflicts around the governance of mobility in a fragmented, blurred and multi-levelled territorial assemblage.

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<sup>360</sup> See for instance: Boeckelmann, Johann Friedrich and Johannes Andreas Ehrmann, *De jure conducendi. Von der Gleits Gerechtigkeit* (Heidelberg: 1665) § 19, and Rader and Linck, *Jus conducendi*, § 33. For practical examples, see: Pauls, *Geleitsrechte des Herzogs von Jülich*, 92–93, 96.

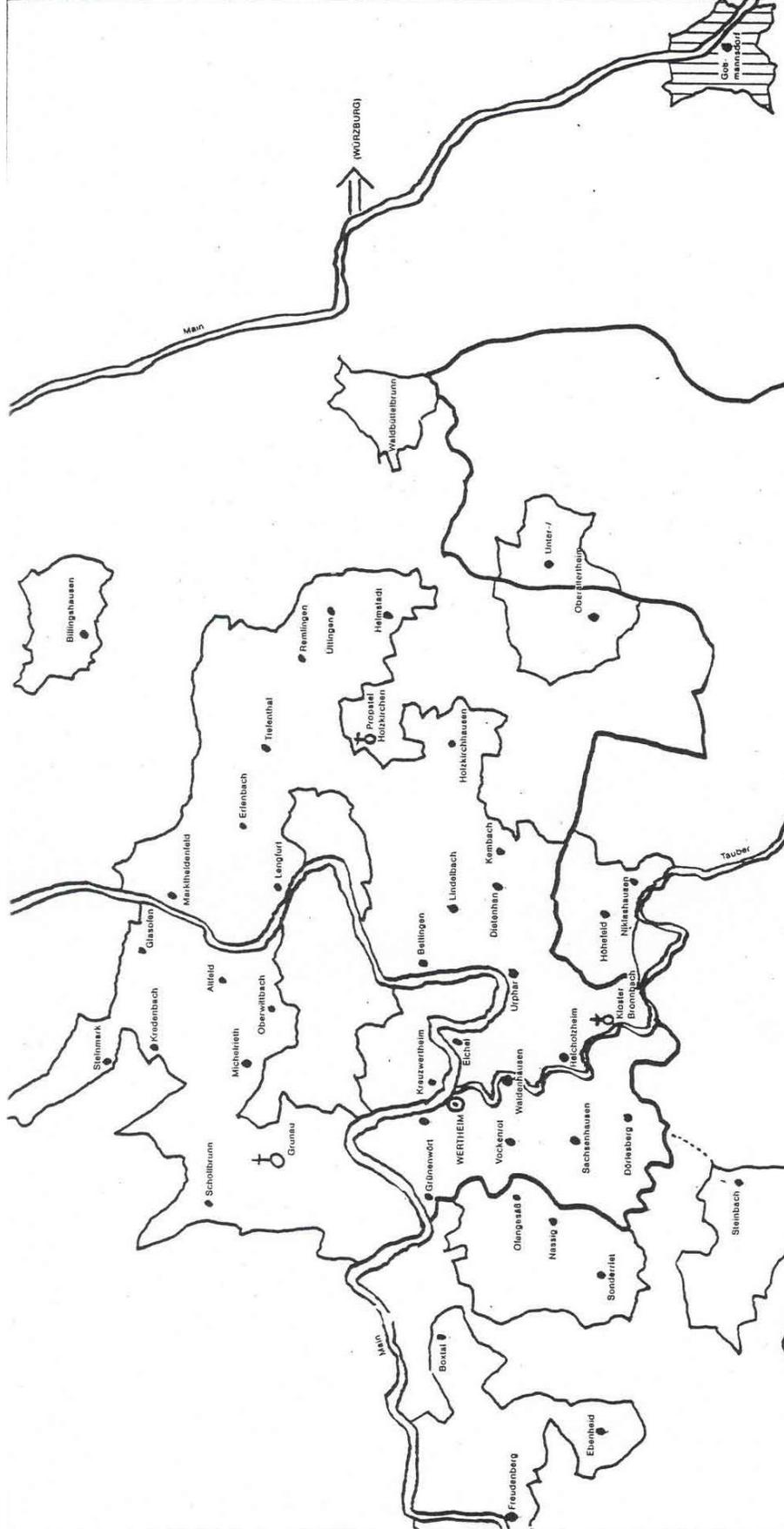


Figure 2: Core territory of the County of Wertheim along the river Main in 1556 (Ehmer, Hermann, *Geschichte der Grafschaft Wertheim* (Wertheim: 1989), 120).

As the following pages will show, safe-conduct disputes existed virtually everywhere in the Holy Roman Empire.<sup>361</sup> Among its roads and rivers, the river Main generated a particularly high number of safe-conduct disputes. Indeed, safe-conduct processions constituted an object of contention almost everywhere along this river.<sup>362</sup> The County of Wertheim at its centre (Figure 2) offers a particularly good vantage point for exploring these theatres of transit. Surrounded by two powerful territorial states (the Electorate of Mainz and the Prince-Bishopric of Würzburg) and a lesser noble family (the Rüd von Collenberg), the county's position was unfavourable both in commercial and geopolitical terms. Like many lesser polities, the minuscule county owed its continued existence to the Empire and to the Westphalian Treaties.<sup>363</sup> Having introduced reformed religion as early as 1522, the conflicts between the now Lutheran county and its Catholic neighbours possessed the confessional dimension that was so typical of the Old Reich's social and political order. Internally, the county was torn by confessional and inheritance strife which occupied the imperial courts and many imperial commissions.<sup>364</sup> During the Late Middle Ages the counts had managed to consolidate their political position vis-à-vis their neighbours through dynastic connections, careful diplomacy and regional political alliances. After the middle of the sixteenth century, however, their position became more precarious and Catholic Würzburg attempted to regain influence over the small territory.<sup>365</sup> The county became a 'plaything of the powerful'<sup>366</sup> within and outside the Empire. A devastating feud with Würzburg between 1598 and 1617 foreshadowed the Empire's inability to channel and defuse the conflicts between its members, which ultimately led to the Thirty Years' War.

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<sup>361</sup> Of the more than twenty archives on which this research is based, each contained (often extensive) records about safe-conduct processions.

<sup>362</sup> Safe-conduct disputes were waged between Frankfurt, Hesse-Kassel, Hesse-Darmstadt, Mainz, Wertheim, and Würzburg, and Bamberg i.e. virtually every territory that the river traversed. Most of these conflicts date from the 16th and 17th centuries. Often they were triggered by ships that passed without having formally requested safe conduct, in which case ships and shipmen were often seized and heavily fined. In other cases, escorts and conduct troops entered an area or a stretch of the river on which others claimed the right of conduct, thus provoking protestations and, sometimes, violent clashes. Most of the ships carried goods directed to the Frankfurt trade fairs. See: IfS Frankfurt, Mgb A 11, 12; StA Wuerzburg, MRA K 294/540 K 294/556, K 376/203, K 352/738, K 364/1136, Mainzer Archivalien 192, Zoll 305, Adm f. 676/15060, Gebrechenamt I I W 15; HStA Stuttgart C 3, 1835, 3512, 3513, 3521, 3639.

<sup>363</sup> Indeed, the interests of the counts and the kings and emperors coincided whenever they were directed against the expansive territorial ambitions of the ecclesiastical neighbours Würzburg and Mainz. Elevated to the rank of princes in 1711 and loyal to the Habsburgs, many counts of Wertheim made a career at the service of the emperors during the eighteenth century. See: Zimmermann, Kurt, *Obrigkeit, Bürgertum und Wirtschaftsformen im alten Wertheim* (Würzburg, Schweinfurt: 1975), 21, 190–192, 200–205.

<sup>364</sup> See: *Ibid.*, 186–189.

<sup>365</sup> During the Late Middle Ages, the counts attempted to secure their position through dynastic connections with all surrounding comital houses, political alliances with the Franconian cities. Moreover, the male sons were placed in strategic political positions in the prince-bishoprics of Würzburg and Bamberg. These were lost, however, after the fifteenth century. See: *Ibid.*, 22–25.

<sup>366</sup> *Ibid.*, 183.

When the situation became increasingly dangerous in the middle of the sixteenth century, the county's population numbered around 11,560 inhabitants, spread between the two cities of Wertheim (2,078 inhabitants) and Freudenberg (580 inhabitants) and fifty-four towns and villages.<sup>367</sup> The Thirty Years' War, however, took a heavy toll on the county's population: while the inhabitants in 1621 amounted to around 10,000, roughly 3,000 of whom lived in the city of Wertheim,<sup>368</sup> by 1644 the populace had been decimated by half.<sup>369</sup>

Trade in locally produced wine formed the economic backbone of the city of Wertheim throughout the early modern period.<sup>370</sup> Shipping (of wine, grain and persons) on the river Main was another important source of revenue. Since the middle of the sixteenth century, however, the staple port of Miltenberg (thirty kilometres upstream), where ships were forced to unload their cargo for several days, considerably damaged the Wertheimian shipping business.<sup>371</sup> Even though the county had an important share in the transportation of people, it was situated off all major trade and travel routes and could not even be reached directly by post.<sup>372</sup>

The county's political and territorial history is baffling. Problems began in 1556, when Count Michael III of Wertheim died childless, leaving only his father-in-law, Count Ludwig of Stolberg, as his heir.<sup>373</sup> Since Stolberg was well-connected with the imperial court, his re-enfeoffment with the imperial fiefs was unproblematic. The Prince-Bishop of Würzburg, however, who was the liege of substantial parts of the count's land-holdings, was determined to take advantage of the re-enfeoffment. Not only did he require the payment of 25,000 Gulden, but he also stipulated, in a consequential clause, that only the sons of Stolberg's two older daughters could inherit the Würzburgian feuds and excluded the progeny of Stolberg's youngest (deformed) daughter.<sup>374</sup> When Stolberg died in 1574, all three daughters and their husbands inherited from him in equal parts, thereby breaching the agreement with Würzburg.<sup>375</sup> During the following years the County of Wertheim was thus to be ruled jointly by Stolberg's sons-in-law Philipp von Eberstein, Dietrich von Manderscheid and Ludwig von

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<sup>367</sup> These are tentative estimates on the basis of a tax list. See: Ehmer, *Grafschaft Wertheim*, 112–114.

<sup>368</sup> See: Ibid., 165.

<sup>369</sup> See: Ibid., 176.

<sup>370</sup> See: Ibid., 216.

<sup>371</sup> For shipments between Nuremberg and Frankfurt, for instance, it was therefore more convenient avoid Wertheim altogether and to transport the goods overland from Nuremberg to Miltenberg and ship them to Frankfurt on the river Main. See: Ibid., 216–217. For the staple and safe-conduct privileges of Miltenberg, see: Madler, Philipp, *Geschichte und Topographie der Stadt Miltenberg in Beziehung auf die bürgerlichen Webranstalten* (Amorbach: 1842), 79–87.

<sup>372</sup> For an overview over the major transit routes south of Wertheim, see: Weiss, *Geleitstraßen*, 230–231.

<sup>373</sup> See: Ehmer, *Grafschaft Wertheim*, 118–119.

<sup>374</sup> See: Neu, Heinrich, 'Die Fehde des Würzburger Fürstenbischofs Julius gegen die Grafen von Löwenstein-Wertheim in den Jahren 1598 bis 1617' *Deutsch-evangelische Blätter* 28 (1903): 471–489, 472.

<sup>375</sup> See: Ehmer, *Grafschaft Wertheim*, 133.

Löwenstein.<sup>376</sup> The condominium seemed to come to an end when Eberstein died in 1589 (after a long history of mental disorder) and Manderscheid in 1593.<sup>377</sup> As the only remaining count, Ludwig von Löwenstein could have reunited the county under his rule. However, Manderscheid's widow decided to remarry. Her new husband, the Lorrain baron Wilhelm von Kriechingen, insisted on receiving his part of the comital incomes (in violation of Stolberg's provisions). Ludwig of Löwenstein refused Kriechingen's participation in the government and when Kriechingen vainly attempted to seize his part with force, he threatened Löwenstein and committed acts of violence against his officials.<sup>378</sup> Neither arbitration, nor imperial rescripts, nor injunctions of the Imperial Chamber Court could solve the conflict between Löwenstein and Kriechingen.

As Ludwig of Löwenstein was husband to the youngest of Stolberg's daughters, whom Würzburg had earlier excluded from succeeding to its fiefs, the prince-bishop now refused to enfeoff Löwenstein.<sup>379</sup> Würzburg regarded Kriechingen as its only liege and used him as a 'welcome tool' in the conflict with Löwenstein. In 1598 Kriechingen occupied Laudenschach, Freudenberg, Schweinberg and Remlingen and forced the population in the surrounding villages to swear their loyalty to him. Löwenstein, who was in Hungary and fighting the Turks with his younger sons at the time, complained to the emperor, but an arbitration and imperial commission failed because of Würzburg's opposition. Kriechingen continued his invasion and occupied Marktheidenfeld, Lengfurt and Erlenbach in early 1599. In 1600 Würzburgian troops invaded Hardheim and Dertingen. That Kriechingen had become a 'string-puppet'<sup>380</sup> of Würzburgian interests became clear in 1602, when an imperial rescript released the subjects whom Kriechingen had forced to swear loyalty from their oaths. As a measure of retaliation, Würzburgian troops invaded their towns and villages, rounded the subjects up on the market place and abducted and imprisoned them until they swore an oath to the Prince-Bishop of Würzburg.<sup>381</sup> Many subjects fled to Wertheim and remained there for several months.

During this Würzburgian Feud (*Würzburger Fehde*), the subjects in the contested territories suffered immensely.<sup>382</sup> The Würzburgian troops – up to 9,000 men at times – threatened, tortured and killed commoners, pillaged and destroyed several villages, seized crops, raided cattle and committed acts of

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<sup>376</sup> Over the years, the three counts made different attempts to implement the condominium of the Wertheim. After a joined government failed, the counts alternated the government annually between 1576 and 1579. In 1579, they returned to a form of common rule, and in 1581 the county was split in three parts, of which each count received one for three years to be alternated with the others after three years. See: *Ibid.*, 133–134.

<sup>377</sup> See: *Ibid.*, 134–135.

<sup>378</sup> Although the correct name of the count and his successors was Löwenstein-Wertheim, I subsequently refer to the count and his sons as well as to the county as Wertheim.

<sup>379</sup> See: *Ibid.*, 136.

<sup>380</sup> *Ibid.*, 140.

<sup>381</sup> See: *Ibid.*, 140–141.

<sup>382</sup> See: *Ibid.*, 139–146; Neu, *Fehde des Würzburger Fürstenbischofs*, 471–489.

cruelty against men, women, children and the elderly. Aside from the semestral safe-conduct processions, an occasion for violence was the forced collection of tithes by Würzburgian troops and officials.<sup>383</sup> Conflict arose every year and the battles caused casualties on both sides. In 1604, 1605 and 1606 Würzburgian troops beleaguered and cannonaded the city of Wertheim. Between 1609 and 1611 the violence decreased, but resumed again after the death of Count Ludwig in 1611. In 1614 the Würzburgian Prince-Bishop Julius personally observed a battle from his litter on a nearby hill. The incursions ended only with his death in 1617.

The feud can be regarded as a prelude to the Thirty Years' War and illustrates the inability of the imperial framework to protect a small Imperial Estate from the encroachments of more powerful neighbours. Although Wertheim repeatedly appealed to the Franconian Circle, it did not receive any military assistance.<sup>384</sup> In July 1599 Margrave Georg Friedrich von Brandenburg, who presided over the Franconian Circle, ordered Würzburg and Kriechingen to withdraw their troops, but to no avail.<sup>385</sup> In 1601 the Franconian Circle agreed to provide military assistance to Wertheim and informed Würzburg of its decision. The Prince-Bishop, however, thwarted the Circle's military intervention by convincing the emperor that the Protestant estates planned to attack him as a Catholic Prince-Bishopric, encouraging the emperor to prohibit the Franconian Circle from gathering troops.<sup>386</sup> An appeal in 1606 by the Franconian Circle to the emperor, pleading him to send a commission, could not discourage Würzburg either.<sup>387</sup> When the Circle informed Würzburg that it promised Wertheim military assistance in December 1607, Würzburg responded by invading the village of Dertingen.<sup>388</sup>

Wertheim repeatedly obtained injunctions against the Würzburgian incursions from the emperor.<sup>389</sup> However, these were of little consequence. The Würzburgians removed and tore apart the broadsheets with the imperial injunctions from the occupied villages, insulted the imperial symbols and seals, and

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<sup>383</sup> On one such occasion, in 1613, Würzburgian troops seized 180 carts with grain. Ehmer, *Grafschaft Wertheim*, 142.

<sup>384</sup> See: *Ibid.*, 140–141. The Lower Saxon Circle was one of the less influential Imperial Circles. See: Blaschke, Karlheinz, 'Der Obersächsische Reichskreis', in: Hartmann, *Regionen in der Frühen Neuzeit*, 127–44.

<sup>385</sup> Neu, *Fehde des Würzburger Fürstenbischofs*, 475.

<sup>386</sup> See: *Ibid.*, 481.

<sup>387</sup> See: *Ibid.*, 484.

<sup>388</sup> See: *Ibid.*, 485.

<sup>389</sup> For instance, in 1599, 1600, 1601, 1603, and 1604. See: *Ibid.*, 474, 475,

threatened or chased away the messengers who brought them.<sup>390</sup> Those subjects who obeyed the imperial orders and repeated their oaths to Wertheim were punished by Würzburgian troops.<sup>391</sup>

The conflict between Würzburg and Wertheim had a distinctly confessional dimension. The Prince-Bishop of Würzburg's incursions followed not only a territorial rationale, but were also a matter of 'spreading the Catholic faith'.<sup>392</sup> As a consequence, its troops targeted Protestant ministers in particular and threatened, tortured, injured, imprisoned and expropriated them. Ultimately, Wertheim lost four districts (Laudenbach, Remlingen, Freudenberg and Schweinberg) to Würzburg as a consequence of the feud. For the Protestant subjects of Wertheim, the passage to Catholic Würzburg posed a serious problem. Wertheim defended its claims to the four districts with a profoundly sarcastic treatise of more than a thousand pages that was published in 1617 and the county formally claimed the four lost districts until the end of the century, struggling to reopen its lawsuits at the imperial courts in 1769.

When Count Ludwig III of Löwenstein-Wertheim died in 1611, his four sons were to succeed to his property in equal shares. However, the *statutum gentilicium*, which settled their equal succession, soon became an epitome of the problems of shared dominion in the Holy Roman Empire.<sup>393</sup> The condominium of Wertheim was further complicated when one of the sons, Johann Dietrich, converted to Catholicism in 1621 for political reasons.<sup>394</sup> During the Thirty Years' war, the county suffered repeated march-throughs, putting a further strain on its increasingly impoverished and decimated population. The passing soldiers requisitioned horses and ships, and extorted ever higher amounts of money and food from the subjects, some of whom decided to flee. In September 1631 Swedish troops and King Gustavus Adolphus himself passed through Wertheim, on which occasion the king restituted the county (including the four districts formerly lost to Würzburg) to the Protestant counts and disranked their Catholic brother Johann Dietrich. In 1634, however, the county was re-conquered by imperial troops who revoked the Swedish concessions. In 1634 Johann Dietrich became the county's

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<sup>390</sup> See: Ibid., 476, 478, 480, 482, 483. In the autumn of 1603, Hans Planck, a resident of the town of Kreuzwertheim, refused to act as a messenger and deliver a letter to the prince-bishop's court in Würzburg because he knew 'how [they] use to treat us subjects of Wertheim' (*wie man mitt uns Wertheimischen Underthanen pflegt umbzugeben*), Relation of Hans Planck, 26 Sep 1603, StA Wertheim, G-Rep. 19, Nr. 11 2, fo. 1r). Ultimately, however, a comital councillor convinced him that he would be safe because he was carrying imperial letters. Upon his return, Planck complained about the bad treatment that he had received in Würzburg: the prince-bishop's councillors had threatened to imprison him and only let him leave after he confirmed by oath that he was not a resident of the city of Wertheim.

<sup>391</sup> See: Ibid., 479.

<sup>392</sup> Ehmer, *Grafschaft Wertheim*, 142. Protestant historians, such as the (perhaps somewhat biased) minister Heinrich Neu, thus interpreted the feud as a 'fight against the Protestant religion'. Neu, *Febde des Würzburger Fürstenbischofs*, 487.

<sup>393</sup> The jurist Johann Jakob Moser commented the notoriously problematic condominium of the counts of Wertheim with the words 'Mutual participation [in rights] is the mother of dissensions' (*Communio mater discordiarum*) and 'Common businesses are neglected in common' (*Negotia communia communiter negliguntur*). Cited by: Ibid., 186 after Moser, Johann Jacob, *Familien-Staats-Recht derer Teutschen Reichsstände. Erster Theil* (Frankfurt and Leipzig: 1775), 654.

<sup>394</sup> See: Ehmer, *Grafschaft Wertheim*, 167.

only ruler and attempted to re-catholicize its subjects.<sup>395</sup> In the spring of 1647, the Swedish returned again and restituted a part of the county to the Protestant Friedrich Ludwig. The Westphalian Peace Treaties of 1648 confirmed his claim to the County of Wertheim.<sup>396</sup> In practice, however, the peace only guaranteed an ‘unstable equilibrium’ between the Protestant and Catholic branches of the family. In the following years, several imperial commissions attempted to settle their divergent interests. The suspicion between the two family branches grew to the point where even the issue of replacing a church organ was brought to the imperial courts in Vienna and Speyer.<sup>397</sup>

The safe-conduct disputes between Wertheim and its neighbours had a long tradition.<sup>398</sup> Wertheim traced its extensive safe-conduct privilege back to the Golden Bull of 1356. Imperial deeds of enfeoffment of 1373 show that the counts had received the right of safe-conduct on the river Main and in the districts of Freudenberg, Prozelten, Remlingen, Homburg, Schweinberg and Michelrieth, many of which would be the cause of later safe-conduct disputes.<sup>399</sup> Thus, the counts claimed the right of safe-conduct from the south-western end of their core territory (just after Freudenberg) to its northern end (just after Marktheidenfeld) (Figure 2). The sensitive points of this safe-conduct district were the river stretches at the periphery. In the South-West (Figures 4 and 5), Wertheim only had a conflict with the Elector of Mainz on the right bank, but after 1598 another conflict arose on the left bank with the Prince-Bishop of Würzburg the Baron von Kriechingen. The disputes with Mainz began in 1484, when the Elector acquired new territory on the right side of the river from the commandery of the Teutonic Order (*Deutschordenskommende*) of Prozelten.<sup>400</sup> The small district on the right bank was strategic to Mainz because it gave the Electors direct access to the Main valley south of the Spessart Mountains.<sup>401</sup> However, the count of Wertheim claimed that he possessed the right of safe-conduct in the district of Prozelten. To solve this dispute, a series of treaties had been drawn up in 1468, 1484 and 1527, and two stone columns (Figure 3) were erected on both sides of the river in 1484 to mark

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<sup>395</sup> Among Johann Dietrich’s ambitious plans was the idea to acquire the title of the Elector Palatine, one of the Empire’s most important ranks. *Ibid.*, 176.

<sup>396</sup> See: *Ibid.*, 179.

<sup>397</sup> See: *Ibid.*, 180.

<sup>398</sup> See: Dotzauer, *Königsabgleit*, 102–104.

<sup>399</sup> See: Schätzlein, Bernd, ‘Alte Verkehrswege auf der fränkischen Platte. Die Wertheimer Geleitstraßen.’ *Wertheimer Jahrbuch*, 2010/2011, 113–136, 116.

<sup>400</sup> See: Feineis, Dieter Michael, ‘Überblick über die Geschichte von Burg und Amt Prozelten bis zum Ende des Alten Reiches’ *Würzburger Diözesangeschichtsblätter* 76 (2013): 211–222, 221–222.

<sup>401</sup> The district comprised two cities (Stadtprozelten and Neubrunn), eleven villages and other possessions. While the centre of the district was territorially homogenous, i.e. almost exclusively owned by the Electorate of Mainz, the number of condominiums and shared possessions was very high in the periphery. See: *Ibid.*

the safe-conduct boundary between Wertheim and Mainz.<sup>402</sup> When Kriechingen and Würzburg occupied the district of Freudenberg on the left side of the river in 1598, Wertheim's safe-conduct became disputed on the right bank as well. In the north of the comital territory, Würzburg disputed the count's safe-conduct even more fiercely than in the south. Thus, the biannual safe-conduct processions for the market ships travelling to and from the trade fair at Frankfurt became increasingly violent. After Wertheim lost its feud with Würzburg in 1617, its safe-conduct district was reduced at both ends of the river stretch between Trennfeld (close to Lengfurt) and Monfeld.<sup>403</sup> Though less violent, the processions continued well into the seventeenth century. Thus, taking the example of Wertheim's safe-conduct disputes with its neighbours and other examples, this chapter explores how safe-conduct processions served to symbolically assert, contest and negotiate the legitimate means of movement over roads and rivers.

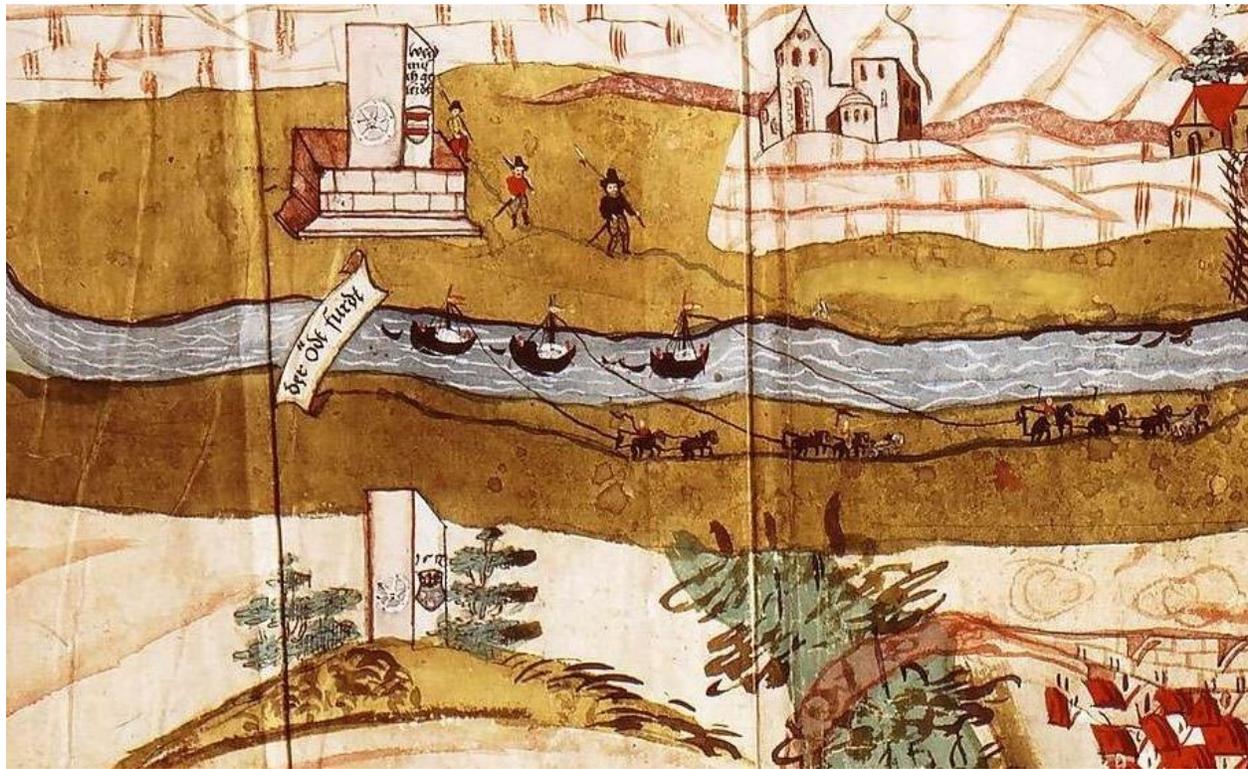


Figure 3: The two stone columns that marked the safe-conduct boundary between the Electorate of Mainz (left side) and the County of Wertheim (right side). (Detail from a map of the river Main between Bürgstadt and Wertheim from 1593, StA Wertheim, R-K 5950).

<sup>402</sup> See: Wackerfuß, Winfried, 'Das Maintal zwischen Miltenberg und Wertheim im Spiegel handgezeichneter, archivalischer Karten vom Ende des 16. bis Anfang des 18. Jahrhunderts' *Beiträge zur Erforschung des Odenwaldes und seiner Randlandschaften*, 1986, 419–66, 421.

<sup>403</sup> See: Schätzlein, *Alte Verkehrswege*, 119.



Figure 4: Painting of the disputed safe-conduct district along the river Main between Bürgstadt and Wertheim, c. 1593 (Sta Wertheim, R-K 5950)

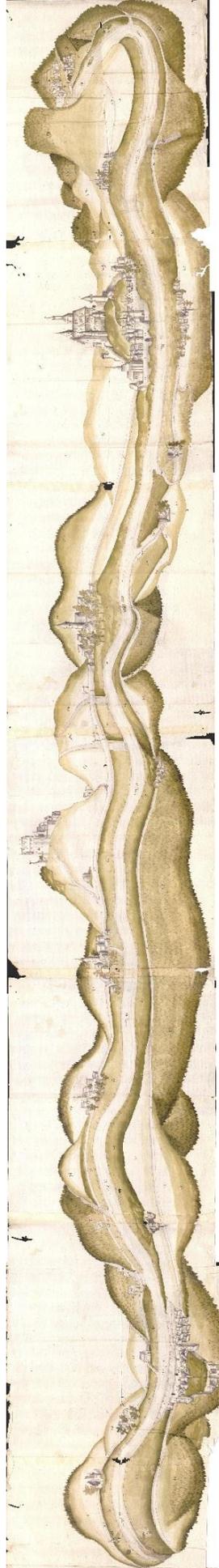


Figure 5: Painting of the disputed safe-conduct district along the river Main between Freudenberg and Prozelten, c. 1623 (Sta Würzburg, MRA Löwenstein, K413/114, 124).

## Rites of Passage

A diachronic perspective on the development of safe-conduct processions is not easy to establish. Disputes already arose in the Middle Ages. The safe-conduct disputes between Bavaria and the City of Regensburg, for instance, began in the late fifteenth century.<sup>404</sup> In other areas, safe-conduct only became an issue during the sixteenth century.<sup>405</sup> André Krischer assumes that the safe-conduct ritual gradually lost its symbolic importance in the second half of the eighteenth century.<sup>406</sup> He attributes this development to the de-politicisation of the traditional ceremonial interpretation of law and statehood, in favour of a positivist perspective.<sup>407</sup> For the Imperial Cities, this was a critical development, as it constricted the possibility to acquire social capital through symbolic actions. Several cases support Krischer's hypothesis that safe-conduct lost its symbolic importance over the course of the eighteenth century. In the late eighteenth century Palatinate-Neuburg's officials complained about the increasing difficulty of recruiting enough noblemen to participate in its safe-conduct processions from Burglengenfeld to Regensburg. In 1711 the head escort found that his charges did not regard their participation in the procession as an honour but as a 'disgrace'.<sup>408</sup> Over the course of the eighteenth century the frequency of Palatinate-Neuburg's processions decreased, mostly for financial reasons.<sup>409</sup> The administration argued that Palatinate-Neuburg's prerogatives could be safeguarded just as well by way of formal letters, as by processions.<sup>410</sup>

Nevertheless, safe-conduct processions continued to be performed in other areas and with increasing pomp at that. The Electoral Palatinate escorted merchants to the Frankfurt trade fair as late as 1807.<sup>411</sup> In the Grand Duchy of Würzburg, safe-conduct stones were set even after the end of the Holy Roman

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<sup>404</sup> In the disputes between the Free Imperial City of Aachen and the neighbouring Dukes of Jülich, for instance, the problem of safe-conduct became important only in the time after c. 1566. See: Rieder, *Regensburg*, 184.

<sup>405</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 51–52.

<sup>406</sup> See: Krischer, *Grenzen*, 153. This hypothesis, however, is only based on one case. Examples of safe-conduct ceremonies during the second half of the eighteenth century are inconsistent with Krischer's claim. When the Imperial insignia were transferred from Nuremberg to Frankfurt for the coronation of Leopold II in 1790, for instance, the escorts of Mainz and of the Count of Löwenstein contested each other's right to conduct the insignia along the river Main so violently, that their clash went down as the 'Battle of Kleinheubach'. See: Stockert, Harald, 'Die Kaiserkrönung 1790 und die "Schlacht von Kleinheubach"'. Ein Streit um das Geleit der Reichsinsignien' *Wertheimer Jahrbuch*, 2000/1999, 89–106. Similarly, the conduct disputes between Imperial Cities such as Nuremberg and Frankfurt against their neighbours Brandenburg and Hanau continued up until the end of the eighteenth century. See: StAN, Rep. 67, Reichsstadt Nürnberg, Nürnberger Krönungsakten, 53, 70, 84 and IfS, Mgb A 56, 465.

<sup>407</sup> See: Krischer, *Grenzen*, 153–154.

<sup>408</sup> Rieder, *Regensburg*, 43–44. However, this view idealised a past that knew the same problems.

<sup>409</sup> See: *Ibid.*, 75, 143, 144–146.

<sup>410</sup> This is a good example of how written media substituted symbolic communication on the ground towards the end of the Holy Roman Empire. See: Stollberg-Rilinger, *Alte Kleider*, 18.

<sup>411</sup> See: Seußler, *Das Wimpfener Geleit*, 9.

Empire in the early nineteenth century.<sup>412</sup> In Palatinate-Neuburg, the safe-conduct processions of the eighteenth century, though less frequent, were characterised by an ever higher number of participants and ‘increasing luxuriousness’.<sup>413</sup> The safe-conduct procession on the extramural territory of the Free Imperial City of Frankfurt lost their protective function in the course of the seventeenth and eighteenth centuries, but the ‘need to represent status’<sup>414</sup> increased. In the Duchy of Württemberg, this development culminated in safe-conduct processions where not a single merchant showed up.<sup>415</sup> Establishing a linear account of the long-term history of safe-conduct is further complicated by the fact that disputes, sometimes abated for several decades, could suddenly resurface,<sup>416</sup> as was the case during the ‘Thirty Years’ War when some administrations stopped safe-conduct altogether, only to resume the practice after the conflict.<sup>417</sup>

The distinction between the safe-conduct ritual and other forms of safe-conduct, especially regalian safe-conduct (*Zollgeleit*), has been the object of much discussion, with many scholars proposing fundamental distinctions.<sup>418</sup> Historically, this link had always been disputed because of its important practical implications. Those who attempted to claim regalian safe-conduct rights, or other fiscal and jurisdictional rights over thoroughfares on the basis of precedent safe-conduct rituals (or vice-versa), posited a tight connection between the procession and regalian safe-conduct. In this manner, the counts of Wertheim defended their right to escort the market ships on the river Main, arguing that if ‘Wertheim is required and authorised to conduct a king of Bohemia through its county [it is therefore] also authorised to conduct the goods of the merchants of Würzburg’.<sup>419</sup> Similarly, in their attempts to impugn the Ernestine dukes’ claim over the toll posts and roads in their territories, the counts of Schwarzburg invoked safe-conduct processions that they had performed in the past.<sup>420</sup> The city of Erfurt, which disputed the Ernestine Dukes’ right to escort travelling princes and persons of rank,

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<sup>412</sup> See: Tilch, *Grabfeld*, 110.

<sup>413</sup> ‘zunehmender Luxus’, Rieder, *Regensburg*, 47.

<sup>414</sup> ‘Repräsentationsbedürfnis’, Plechatsch, *Glait*, 92.

<sup>415</sup> See: Wilhelm, *Zollgeleit*, 145.

<sup>416</sup> See, for instance: Rieder, *Regensburg*, 226–227. The transportation of the Imperial insignia from Aachen to Frankfurt, for instance, caused severe safe-conduct disputes over centuries. At other times, however, as in 1575 or in 1745, the insignia were simply transported by the postal services or even handed over to a trustworthy person without occasioning safe-conduct disputes. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 94.

<sup>417</sup> For instance, in the Electoral Palatine district of Mosbach. See: Seußler, *Das Wimpfener Geleit*, 9.

<sup>418</sup> Krischer suggests that the honorary safe-conduct ritual for princes was the only form of safe-conduct that symbolised territorial superiority. Krischer, *Grenzen*, 142.

<sup>419</sup> ‘Weil Wertheimb einen König zu Behmen durch dero Graveschafft zue begleiten [...] er auch der Würzburger Krämer Wahren zue convoiren berechtigt sein werde’, *Articulatae exceptiones sub et obreptionis* (no. 5), GLA Karlsruhe, 71/3513, art. 45. This is a reference to the first article of the Golden Bull of 1356 which obliged the Counts of Wertheim, among others, to escort the Kings of Bohemia (as well as the Electors of Saxony) and their deputies to the elections in Frankfurt. See: Dotzauer, *Königswahlgeleit*.

<sup>420</sup> See: ThStAW, Grafen, L Schwarzburg Nr. 54, fo. 252.

made the reverse argument. The dukes claimed the right of safe-conduct for princes on the basis of their possessing regalian safe-conduct in the city of Erfurt.<sup>421</sup> A legal opinion commissioned by the city, however, advised the city council to firmly reject the claim because of the ‘diversity of the final causes’<sup>422</sup> of regalian and honorary safe-conduct. In the same vein, a legal advisor to the City of Nuremberg, Heinrich Linck and one of his students argued for a fundamental distinction between the two forms in 1677.<sup>423</sup> The last major treatise published on the matter in 1771 maintained this distinction.<sup>424</sup> Still, in practice, the distinction between honorary and regalian forms of safe-conduct was malleable and subject to the argumentative strategies of the respective quarrelling parties.<sup>425</sup>

As a procession, the safe-conduct ritual responded to symbolic codes shared throughout pre-modern Europe. In an early modern procession ‘position was everything’.<sup>426</sup> Indeed, the procession was ‘a ranking by status rather than a sorting of persons, and the fundamental principle of cleavage was one of class’.<sup>427</sup> In the ducal processions in Venice, for instance, the convoy was divided into three segments. The middle segment comprised the doge with several patricians and the highest foreign ambassadors. The segment preceding the doge was composed of ‘the chancellery servants of the *cittadine* class’, while the segment after the doge was made up of noble magistrates. In both these segments, ‘hierarchies of rank [...] moved inward, from the periphery to the center’.<sup>428</sup> In many cases, the centre thus constituted a procession’s hierarchical pinnacle. Internally, the safe-conduct processions of the Old Reich were similarly organised. However, the most significant and contested element of the procession was not the conductee at the centre of the procession, but the position of the escorts: in order to perform the act of safe-conduct, they needed to lead the procession.<sup>429</sup>

On a symbolic level, safe-conduct processions can be regarded as dissolving the boundary between a ruler’s home and his dominions, illustrating the limited differentiation between the public and the

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<sup>421</sup> See: Legal opinion, StA Erfurt, 1-0/B, 12-3, no. 20, fo. 5r-5v.

<sup>422</sup> ‘*Diversitate causarum [...] finalium*’, Ibid., fo. 32v.

<sup>423</sup> See: Rader and Linck, *Jus conducendi*, § 33.

<sup>424</sup> See: Buff, Christoph Ludwig Wilhelm, *De conducendi jure serenissimorum Hassiae landgraviorum per Wetteraviam* (Gießen: 1771), § 6.

<sup>425</sup> The connection between honorary and procedural forms of safe-conduct was similarly malleable. The participants to Palatinate-Neuburg’s safe-conduct processions from Hemau to Prüfening, for instance – a highly symbolic procession devoid of instrumental purpose – claimed that they had the right to free the delinquents imprisoned in Regensburg and to take them into their safe-conduct. Similarly, the Imperial City of Regensburg made no distinction between safe-conduct for goods and merchants, for princes, criminals or for Jews when it catalogued past instances of safe-conduct as proof for its dominion over the river Danube. See: Rieder, *Regensburg*, 106–107, 184–185, 201–206. Bavaria, on the other hand, contradicted such assertions. See: Ibid., 212–213. See, moreover: Völkl, Matthias, ‘Sankt Lorenzen und Umgebung im Spiegel der Geschichte. Das pfalzneuburgische Geleite nach Regensburg und in das Kloster Prüfening’ *Die Oberpfalz. Heimatzeitschrift für den ehemaligen bayerischen Nordgau* 65 (1977): 134–141, 134–135.

<sup>426</sup> Muir, Edward, *Civic Ritual in Renaissance Venice* (Princeton: 1981), 190.

<sup>427</sup> Ibid., 192.

<sup>428</sup> Ibid., 203.

<sup>429</sup> See moreover: Weig, *Jus conducendi*, 152.

private in early modernity. Since safe-conduct processions employed a symbolic arsenal that bears resemblance to the symbolism of domestic hospitality, they can be regarded as symbolic attempts to constitute a ruler's territory as property. The welcoming of a guest at a boundary and then escorting them towards a city or princely residence can be compared to the marks of hospitality that distinguished visitors could expect when entering a city or a manor. Structural analogies to this 'domestication of territory' have been observed in the case of early modern palaces and cities. Architectural historians have highlighted that distinctions between the inner and the outer parts of palaces were gradually dissolved in the late seventeenth century.<sup>430</sup> The municipal ritual practice of letting distinguished visitors pass through triumphal arches aimed at reproducing the perspectival effects experienced when passing through a succession of rooms in a palace. The territorial border was much like the domestic doorstep, which identified a house as an exclusively protected place and was a privileged theatre for symbolic actions that aimed at 'protecting or detracting the 'honour' of the landlord and of his family'.<sup>431</sup> Karl-Sigismund Kramer argued that habitations were devised as a 'system of concentric zones, whose importance increases towards the centre'.<sup>432</sup> Accordingly, one could argue that one of the safe-conduct ritual's functions was to construct extra-courtly, extra-mural territory at the outer limit of the concentric zones of a ruler's dominion.

Throughout early modernity the safe-conduct of the prince-electors to the elections of the kings and emperors was of particular symbolic importance, not least because it was prescribed by the Golden Bull of 1356, one of the empire's foremost constitutional foundations.<sup>433</sup> The Bull's first article made extensive provisions for the escort of each elector and determined heavy sanctions for those who failed to provide safe-conduct (such as the loss of the vote for the electors, or the loss of their fiefs to other Estates). The document even named the rulers through whose territories the electors passed on their way to Frankfurt.<sup>434</sup> For many jurists of the seventeenth and eighteenth century the provisions remained an important point of reference in their interpretation of safe-conduct law.<sup>435</sup>

The passage of persons of rank and merchants travelling to the major trade fairs (*Messgeleit*) were the most frequent, but certainly not the only occasions in which territorial rulers engaged in safe-conduct

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<sup>430</sup> See: Schütte, Ulrich, 'Stadtter und Hausschwelle. Zur rituellen Bedeutung architektonischer Grenzen in der Frühen Neuzeit', in: Bauer, Markus, and Thomas Rahn, eds., *Die Grenze: Begriff und Inszenierung* (Berlin: 1997), 159–176, 166.

<sup>431</sup> *Ibid.*, 169.

<sup>432</sup> Quoted from: *Ibid.*, 170.

<sup>433</sup> An English translation of the Golden Bull has been published, in: Henderson, Ernest, *Select Historical Documents of the Middle Ages*, (London: 1903).

<sup>434</sup> Dotzauer showed that the network of princes that the Golden Bull obliged to provide safe-conduct reads like a map of the rulers who were loyal to the emperor. See: Dotzauer, *Königswahlgeleit*, 138.

<sup>435</sup> Besides being mentioned in most relevant treatises and dissertations, a specialised dissertation on the matter was published in 1663: Böckler, Johannes Henricus, and Paul von Stetten, *Conductor Carolinus sive de conductu electoribus eorumque legatis electionis peragendae causa iter facientibus debito* (Strasbourg: 1663).

rituals. The conveyance of the imperial insignia (*Reichskleinodien*) from Nuremberg and Aachen to the coronations of every new emperor (which were usually held in Frankfurt) occasioned immensely important safe-conduct processions. The convoy from Nuremberg (Figure 6) was composed of deputies of the Imperial City of Nuremberg, who rode at the centre of the procession, and the Margraviate of Brandenburg-Ansbach, who rode at its peripheries.<sup>436</sup> They were then escorted by the deputies of the respective territories through which the procession passed on its way to and from Frankfurt. Up until the end of the eighteenth century, the procession became an occasion for violent disputes between competing escorts, especially in the County of Wertheim.<sup>437</sup> The transportation of the remaining insignia, which were kept in Aachen, posed similar problems. Indeed, the conflicts usually already began at the convoy's departure in Aachen, where the tense relations between the city council and the Marienstift, the collegiate church that conserved the insignia, translated into ceremonial frictions.<sup>438</sup> The Dukes of Jülich (and, by personal union, Electors Palatine), who jealously guarded their right to escort the imperial insignia, were another source of discord until the end of the eighteenth century. Not to mention, there were repeated conflicts with the rulers whose territories the Aachen procession crossed on its way to Frankfurt because they refused the passage of the armed escorts through their territory.<sup>439</sup>

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<sup>436</sup> In 1790, the core composition of the convoy comprised 57 persons with 49 horses. See: Schopp, Manfred, 'Das Deutsche Reich, die Königswahl und die Reichskleinodien im Licht der Seligenstädter Geschichte', in: Laube, Thomas, ed. *Seligenstädter Geleit* (Seligenstadt: 2011), 126–60, 147–150.

<sup>437</sup> See: *Ibid.*, 150–154.

<sup>438</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 94–95.

<sup>439</sup> In 1742, for instance, the City of Cologne initially refused the passage of the Electoral troops because they had not duly notified their passage. See: Ennen, Leonard, 'Übertragung der Krönungs-Insignien von Aachen nach Frankfurt 1742' *Annalen des historischen Vereins für den Niederrhein* 16 (1865): 168–75.



Figure 6: Safe-conduct procession with the imperial insignia from Nuremberg to Frankfurt in 1790 (Etching by Johann Trautner from 1790, Wikimedia Commons, [https://commons.wikimedia.org/wiki/File:Feierliche\\_Begleitung\\_der\\_Reichskleinodien.jpg](https://commons.wikimedia.org/wiki/File:Feierliche_Begleitung_der_Reichskleinodien.jpg), Date accessed: 3 Mar 2016)

Safe-conduct disputes could arise when the corpses of noblemen were transported across different territories. The safe-conduct procession for the corpse of the nobleman Robert von Amelunxen on the Upper Weser in 1648 provoked clashes between deputies of the Imperial Abbey of Corvey and Brunswick-Lüneburg, including attempts to occupy the ship with the corpse, violent shouting and intimidation from both sides.<sup>440</sup> When the corpses of the Baron von Degenfeld and two of his children were conducted through the Electorate of Mainz in early 1697, officials of the Electoral Palatinate protested against the ‘foreign safe-conduct’<sup>441</sup> as the procession touched upon Palatine lands. The emotional stress of such circumstances might have added to the potential for conflict, as in a case from 1706, when officials of the Elector of Mainz insisted on leading the funeral procession with the

<sup>440</sup> See: NLA Wolfenbüttel, 26 Alt Nr. 2209.

<sup>441</sup> *‘fremdes geleitl’*, Report on the safe-conduct procession for the corpse of Baron von Degenfeld and his two children, n.d., StA Würzburg, MRA Erbach K 426/105, fo. 1v.

corpses of two daughters of the Baron of Adelsheim, both of whom had drowned in a flood.<sup>442</sup> Similar disputes arose between Württemberg and the Electoral Palatinate in 1606, following the procession for the corpse of Count Philip of Hohenlohe,<sup>443</sup> as well as between the Principality of Calenberg and the Electorate of Mainz during safe-conduct processions for the noblemen of Kerstlingerode in the early seventeenth century.<sup>444</sup> A similar dispute is reported from the Duchy of Saxe-Meiningen and Hesse-Kassel in 1683.<sup>445</sup> As a consequence, it became common to issue letters of safe-conduct for the transportation of corpses.<sup>446</sup>

Passages of troops were another form of transit that could be framed in terms of safe-conduct.<sup>447</sup> The passage of several soldiers of the Counts of Sulz through the patchwork territory around Ostrach, where the Imperial Abbey of Salem, the Counts of Hohenzollern-Sigmaringen and others disputed the right of safe-conduct is a good example.<sup>448</sup> In June 1598 deputies of the Imperial Abbey had escorted the troops ‘with strong, well-armed conduct’<sup>449</sup> over a stretch of land where the count claimed the right of safe-conduct. The soldiers were directed towards Hungary, where they were set to fight ‘the arch enemy of Christendom’.<sup>450</sup> The count accused the abbey of having arrested a man who spoiled the abbey’s wood, and of having conducted the shackled prisoner over comital territory.<sup>451</sup> The transportation of prisoners by foreign officials was another important occasion for safe-conduct disputes.<sup>452</sup>

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<sup>442</sup> See: StA Würzburg, MRA Ritterschaft, K 541/578.

<sup>443</sup> See: HStA Stuttgart, A 57, Bü 13, 114.

<sup>444</sup> See: NLA Hannover, Calenberg Br. 1, Nr. 169.

<sup>445</sup> See: ThStA Meiningen, Staatsministerium, Abt. des Inneren, Kreis Meiningen, Nr. 182.

<sup>446</sup> See, for instance: Mayor and Council of the City of Lübeck to Christian Georg Bessel, Councillor to the Elector of Brandenburg, 12 Dec 1678, AH Lübeck, ASA Interna, 3385.

<sup>447</sup> See, for instance, Rieder, *Regensburg*, 184. Since troop passages constituted a considerable logistic challenge and often entailed considerable dangers, archival records on the matter are substantial. Many files concern the problem of lodging foreign troops (and to distribute the burden equally), pay and other logistic aspects. Other files deal with the distribution of passports to soldiers and civilians or with complaints about the soldiers. In most cases, however, the problem was not framed as a matter of safe-conduct. For the logistics of troops passages, see: Parker, Geoffrey, *The Army of Flanders and the Spanish Road, 1567 – 1659* (Cambridge: 2004).

<sup>448</sup> Another example are the concurrent quarrels between the Prince-Bishop of Würzburg and the Duchy of Saxe-Coburg around the passage of troops marching towards Hungary. ThStA Meiningen, Amtsarchiv Heldburg, 2241. For more cases, see: Fendler, *Geleitstraßen*, 718; Freitag, *Ulm*, 97, 105.

<sup>449</sup> ‘mit starckben wolgerüstem gelaidt’, Bill of complaint of Karl II, Count of Hohenzollern-Sigmaringen against Peter, Abbot of the Imperial Abbey of Salem, 5 Feb 1602, GLA Karlsruhe, 71/1373, fo. 2v.

<sup>450</sup> ‘den Erbfeind der Christenheit’, Imperial writ of summons for Peter, Abbot of the Imperial Abbey of Salem, 23 Sep 1601, GLA Karlsruhe, 71/1373.

<sup>451</sup> Other troop movements that were framed as matters of safe-conduct were, for instance, the passage of one thousand Walloons directed to Hungary through the territory of the abbey of St. Georgen in 1597 (HStA Stuttgart, A 57, Bü 13, 110) or the passage of Swiss troops recently recruited by the City of Strasbourg through Baden in 1673 (GLA Karlsruhe, 74/2584). See, moreover: Rieder, *Regensburg*, 184.

<sup>452</sup> See, moreover: *Ibid.*, 184.

On a symbolic level, protection remained an important element of safe-conduct processions, even though the physical safe-conduct had often lost its protective function in the late seventeenth and eighteenth century.<sup>453</sup> The symbolism of protection was visible not only in the act of escorting itself and in the arms carried by the escorts, but also in interventions against violators of the public peace. In 1747 two peasants placed a bet on whether Palatinate-Neuburg's safe-conduct procession from Burglengenfeld to Regensburg was only a 'futile ceremony'<sup>454</sup> or whether the escorts would actually intervene against violations of the peace on the public road.<sup>455</sup> They staged a brawl on the road and were arrested, shackled to a cart, imprisoned for a night, sentenced to one hour in the stocks and charged with the reimbursement of the expenses. Similarly, in 1548 Palatinate-Neuburg's safe-conduct procession to Prüfening seized the hand cannon of a merchant from Ghent on Bavarian territory, which led to a formal protestation.<sup>456</sup> Sometimes even the authorities attempted to compensate for their inability to enforce effective controls through ostentatious controls.<sup>457</sup> It is therefore thinkable that safe-conduct processions also aimed at reassuring subjects that their rulers could effectively protect their lands from passing foreigners, especially at a time when passing troops presented a major risk.

'Shoving matches over precedence'<sup>458</sup> were a common sight in the safe-conduct processions between the Alps and the North Sea. When Emperor Francis I and his wife, Maria Theresia travelled from Frankfurt to Heidelberg in September 1745, the Hessian escorts pushed the Mainzian troops away and ran over several of them with their horses.<sup>459</sup> On their return journey, it was the Mainzian escorts who suddenly dashed past their Hessian rivals and attempted to gain the vanguard. The Hessians quickly caught up with them and stopped them, so that the Mainzians had to leave 'like a cat absents itself from the dovecot'.<sup>460</sup> A similar manoeuvre is reported from Hohenlohian escorts who disputed the right of safe-conduct vis-à-vis Würzburgian escorts at Jagstberg in 1609.<sup>461</sup> In other cases, processional order could be arranged more easily.<sup>462</sup> During a safe-conduct procession in the autumn of 1669, the hopelessly outnumbered Wertheimian escorts did not even attempt to gain the lead over the

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<sup>453</sup> In the case of the Free Imperial City of Ulm, for instance, the late safe-conduct processions have been described as 'nothing but a ceremony', Freitag, *Ulm*, 125.

<sup>454</sup> 'eitel Zeremonie', Rieder, *Regensburg*, 49.

<sup>455</sup> See: Ibid., 49–51.

<sup>456</sup> See: Ibid., 113.

<sup>457</sup> See, for instance: Collet, *Getreidesperren*, 50–51.

<sup>458</sup> Muir, *Civic Ritual*, 201.

<sup>459</sup> See: Kunz, Rudolf, 'Kaisergeleit an der Bergstraße' *Geschichtsblätter für den Kreis Bergstraße* 1 (1968): 61–72, 67–68.

<sup>460</sup> 'wie die Katz vom Taubenschlag sich absentiret', Ibid., 68.

<sup>461</sup> See: Schaab, *Geleit und Territorium*, 408–409.

<sup>462</sup> See, for instance: Rieder, *Regensburg*, 218.

Würzburgian troops but ‘intermingled’<sup>463</sup> with the Würzburgian formation. The strategy did not work out very well: the Würzburgian commander called his troops to push the Wertheimians away from the river onto an alternative road ‘with overly loud shouting that we had nothing to do here on the conduct road’<sup>464</sup>. In a confusing and somewhat dangerous skirmish, the Wertheimians attempted to gain the lead by passing in front of the Würzburgians under the pretence of leaving the place (‘because we had grown no wings, we could not fly and were no birds’).<sup>465</sup> In reaction, the Würzburgians tried to separate the Wertheimian escorts and tear them away from the road, which according to a report ‘was almost funny to look at’<sup>466</sup>. When the Würzburgian troops surrounded and immobilised the Wertheimians with their muskets, the comital subjects complained that ‘violence was no right [and] many dogs a rabbit’s death’.<sup>467</sup> They were thus forced to ‘stall a fairly long time’<sup>468</sup> while the remaining Würzburgian escorts proceeded upstream. Ultimately, they managed to join the procession – but only in the ‘rear-guard’.<sup>469</sup> At other times, rivalling escorts resorted to cunning rather than force. When the market ships returning from Frankfurt halted at the port of Prozelten in the autumn of 1622, two Wertheimian musketeers secretly boarded and hid themselves on every ship. They were soon discovered by their rivals and forced to disembark the ships ‘with shame and ridicule’.<sup>470</sup> Still, even a failed attempt to gain the symbolic upper hand could be important.<sup>471</sup> As ‘processional rankings and ceremonial precedence [were perceived] as authentic indicators of social realities’,<sup>472</sup> orderly processions were thought to reflect social and political harmony.<sup>473</sup> The disorders and escalations during safe-conduct processions in the Old Reich can thus be regarded as a mirror of concrete social, political and territorial tensions. Clearly, ‘political rivalries, personal jealousies, and perhaps sincere ideological differences over the proper hierarchy of offices fuelled passionate arguments over the proper processional arrangement’<sup>474</sup> across the early modern world.

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<sup>463</sup> The word used is ‘*einmengen*’. See: Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 3r.

<sup>464</sup> ‘*mit überlautigem schreyen, wir beten hier uff der glaitstrassen nichts zuthun*’, Ibid.

<sup>465</sup> ‘*weil uns keine flittig gewachsen, möchten wir auch nicht fliehen und weren keine vögel*’, Ibid., fo. 3v.

<sup>466</sup> ‘*welches fast lustig anzusehen ward*’, Ibid.

<sup>467</sup> ‘*Gewaldt sey kein Recht, vile Hundes des Hasen Tode*’, Ibid.

<sup>468</sup> ‘*eine geraume Zeit langweilig persistiren*’, Ibid., fo. 4r.

<sup>469</sup> ‘*arriergarde*’, Ibid., fo. 5r.

<sup>470</sup> ‘*mit schandt und spoth*’, Kilian Großman, *Keller* at Prozelten to Johann Schweikhard von Kronberg, Elector of Mainz, 5 Oct 1622, StA Würzburg, MRA Löwenstein K 413/114.

<sup>471</sup> André Krischer argued that it was not important to effectively perform the act of conduct as long as a party made its claim. See: Krischer, *Grenzen*, 142. See, moreover: Weig, *Ius conducendi*, 152.

<sup>472</sup> Muir, *Civic Ritual*, 189–190.

<sup>473</sup> See for instance: Ibid., 200–201.

<sup>474</sup> Ibid., 201–202.

Banners, emblems and other symbolic artefacts were an important element of all safe-conduct processions. These artefacts could acquire considerable symbolic importance and make a safe-conduct procession recognisable.<sup>475</sup> The most distinctive artefact was the *Geleitbüchse*, a metal box that the (head) escort carried either openly or concealed, depending on whether he wanted to perform an act of safe-conduct or not.<sup>476</sup> In Nuremberg, the safe-conduct box was regarded as a central symbolic marker.<sup>477</sup> Palatinate-Neuburg's safe-conduct processions to Regensburg always displayed a coffer on a cart, out of which protruded shackles, hand and foot cuffs, and other symbols of criminal jurisdiction.<sup>478</sup> Conduct emblems – small plates bearing the coat of arms of the safe-conduct lord that officials attached to their coats or hats – were another frequent means of distinction.<sup>479</sup> Similarly, many safe-conduct processions displayed the escorting ruler's banners, as when the Imperial City of Regensburg underlined its right of safe-conduct over the river Danube by escorting imperial troops with a convoy ship with 'a hoisted flag'.<sup>480</sup> Almost any artefact could acquire such significance<sup>481</sup> and due to their symbolic value, rivals sometimes attempted to appropriate them. In the early seventeenth century Electoral Palatine conduct officials took away the box and the coat of Württemberg's conduct official in the town of Wimpfen.<sup>482</sup> In sixteenth-century Erfurt, the Ernestine conduct official used to perform safe-conduct ceremonies with a 'white baton' in his hand, which the city council eventually robbed him of in an attempt to reclaim the right of safe-conduct within its walls.<sup>483</sup> At times, the mere positioning of an artefact was enough to provoke scandal. In Wertheim, it was the way in which the comital escorts shouldered their firearms (*Doppelbaken*). In 1622 the sheriff of the Elector of Mainz at Prozelten reported that the Wertheimian escorts on the other side of the river pointed their weapons across the

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<sup>475</sup> Again, this was not a specificity of safe-conduct processions. In early modern Venice, for instance, the ducal procession was led by standard-bearers carrying coloured silk-banners emblazoned with the lion of Saint Mark. See for instance: *Ibid.*, 192.

<sup>476</sup> The safe-conduct box could also be attached to a landmark, such as a tree, in order to identify a boundary. See: Schopp, *Geleitswesen*, 6–27, 9. See, moreover: Rieder, *Regensburg*, 151, 220; Gabler, *Das Brandenburger und Öttinger Geleit*, 125; Seußler, *Wimpfener Geleit*, 10–11; Fendler, *Geleitstraßen*, 712; Schaab, *Geleit und Territorium*, 409; Schaab, *Straßen- und Geleitswesen*, 56–57; Wilhelm, *Zollgeleit*, 107. Rothmann, Michael, 'Herrschaft und Schutz. Das Geleit der Markgrafen von Baden in Mittelalter und Früher Neuzeit am Beispiel Pforzheims und seiner Umgebung' in Groh, Christian, ed. *Neue Beiträge zur Stadtgeschichte II* (Ostfildern: 2001), 23–40, 29–30.

<sup>477</sup> See: Johann Müllner, *Relatio 7, Von der gelaidens Gerechtigkeit*, n.d., StA Nürnberg, Reichsstadt Nürnberg, Rep. 52a Nürnberg Handschriften, 345, fo. 427. See, moreover: Kircher, *Nürnberg*, 139.

<sup>478</sup> See: Rieder, *Regensburg*, 48.

<sup>479</sup> Three conduct emblems from Brandenburg-Ansbach were conserved by the Bayerisches Landesmuseum at the beginning of the nineteenth century. For a detailed description, see: Rieder, *Regensburg*, 149. See, moreover: Ruppertsberg, *Nürnberg-Frankfurter Geleit*, 24. The safe-conduct officials at the service of the Ernestine Dukes carried such emblems, as well. See: ThStA Weimar GSW B 23936a, fo. 143v.

<sup>480</sup> Rieder, *Regensburg*, 174.

<sup>481</sup> For a few more examples, see: Dotzauer, *Geleitswesen im Nabe-Mündungsgebiet*, 287.

<sup>482</sup> See: HStA Stuttgart, A 57, Bü 13, 117.

<sup>483</sup> See: Falckenstein, Johann Heinrich von, *Civitas Erfurtensis historia critica et diplomatica oder Vollstaendige alt-, mittel- und neue Historie von Erfurth*, vol. 1 (Erfurt: 1739), 599.

river onto the Mainzian territory, almost as if ‘they thereby seek [to perform] the safe-conduct also on this side’.<sup>484</sup> The Wertheimians obviously denied this interpretation.

Almost every safe-conduct procession was accompanied by the sound of drums and trumpets. Just as the ducal processions in Renaissance Venice comprised musicians with trumpets, sackbuts and cornets who ‘trumpeted the sovereignty of the doge’,<sup>485</sup> safe-conduct processions in the Old Reich relied on drums and trumpets.<sup>486</sup> A safe-conduct ordinance issued by Prince Julius of Brunswick-Wolfenbüttel in 1586, insisted that there be a trumpeter present every time a prince was escorted at the boundaries of his dominions.<sup>487</sup> The music could confer a safe-conduct procession with its legal meaning. For example, on repeated occasions, the Wertheimians refused to let foreign officials pass through the city of Wertheim if they were accompanied by drums and trumpets. On his return from a conduct procession in the autumn of 1584, a noble official of the Elector of Mainz, Anton von der Gabelentz, found the gates and boom barriers of Wertheim closed in broad daylight. When he requested an explanation from the gate-keepers, the *Schultheiß* (after letting them wait for half an hour) explained that the count had ordered that he could only pass through the city if the trumpeter stayed silent.<sup>488</sup> Gabelentz responded ‘gruffly’<sup>489</sup> and started to insult the absent count with ‘horrible blasphemous curses’,<sup>490</sup> encouraging his trumpeter with the words ‘blow, just blow’.<sup>491</sup> The Wertheimians predictably did not allow him through the city, so he rode around (not without mauling a few subjects and a Protestant minister on the way). After the same had happened again in 1587, Count Ludwig explained to the Elector of Mainz that trumpets were generally regarded as the hallmark of a safe-conduct procession.<sup>492</sup> He argued that, across the empire, there were more than enough examples of disputes

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<sup>484</sup> ‘*sie dardurch vielleicht auch das geleitht diessseits zu suchen*’, Kilian Großman, *Keller* at Prozelten to Johann Schweikhard von Kronberg, Elector of Mainz, 5 Oct 1622, StA Würzburg, MRA Löwenstein K 413/114.

<sup>485</sup> Muir, *Civic Ritual*, 211. See also: *Ibid.*, 192.

<sup>486</sup> See, moreover: Krischer, *Grenzen*, 142.

<sup>487</sup> Safe-conduct ordinance for the Princedom of Brunswick, 1586, NLA Hannover, Calenberg Br. 23 Nr. 726, fo. 2.

<sup>488</sup> See: Defension, 23 Jun 1587, StA Wertheim, G-Rep. 41, Nr. 113c, fo. 1v-3r. According to Gabelentz version at the Imperial Chamber Court, the Wertheimian *Schultheiß* spoke ‘with strong, very immodest words’ (*‘mit würtzigen ganz unbescheiden wortten*’) that insulted his honour as a nobleman. See, moreover: Anton von Gabelentz to Wolfgang, Elector of Mainz, 1 Feb 1585, StA Würzburg, MRA Löwenstein, K 413/115.

<sup>489</sup> ‘*verdrißlich*’, *Articulierte Clag*, n.d., StA Wertheim, G-Rep. 41, Nr. 113c, fo. 1v.

<sup>490</sup> ‘*grewliche gots lesterliche flüche*’, *Ibid.*, fo. 2r. Apparently, he called the count an ‘ass-head’ (*‘esels Kopf*’) (Report on the behaviour of the *Reiterhauptmann* of Mainz on the return from the safe-conduct procession, 26 Sep 1584, StA Wertheim, G-Rep. 41, Nr. 113c, fo. 1v.)

<sup>491</sup> ‘*blas, blas nur*’, Report on the Behaviour of the *Reiterhauptmann* of Mainz on the return from the safe-conduct procession, 26 Sep 1584, StA Wertheim, G-Rep. 41, Nr. 113c, fo. 1v.

<sup>492</sup> See: Ludwig, Count of Löwenstein-Wertheim to Wolfgang, Elector of Mainz, 30 Apr 1587, StA Würzburg, MRA Löwenstein, K 419/245. During an analogous situation in 1598, a Wertheimian official identified the trumpets in the vanguard as a characteristic of safe-conduct processions, as well. Johann von und zue der Heeb to Wolfgang von Dalberg, Elector of Mainz, 12 Oct 1598; Ludwig, Count of Löwenstein-Wertheim to Wolfgang, Elector of Mainz, 30 Apr 1587, StA Würzburg, MRA Löwenstein, K 419/245.

arising from the blowing of trumpets on such occasions, especially when the prince was absent. The importance of music was such that it could even compensate the loss of the vanguard. In the autumn of 1669 the Wertheimian escorts only managed to take part ‘in the backmost’<sup>493</sup> part of the safe-conduct procession led by the Würzburgians. Nevertheless, they attempted to countervail their ceremonial defeat by playing the drums and trumpets louder than their rivals, to the point where Wertheimian escorts, forced to play ‘whether they wanted or not’,<sup>494</sup> became indignant and insulted their own superiors with ‘swearwords’.<sup>495</sup> Such ceremonial pragmatism could be observed on other occasions as well. When the Archduchess Maria Elisabeth of Austria travelled through the Duchy of Jülich in 1725, the administration did not dispose of enough mounted officials for a proper safe-conduct procession.<sup>496</sup> In order to avoid expenses, the Elector Palatine (who was Duke of Jülich and Berg by personal union) therefore decided that she should do without a procession. Instead, a guard of honour played music and displayed the Palatine banners wherever the archduchess sojourned for food or sleep.

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<sup>493</sup> ‘*ganz im hintersten*’, Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 5r.

<sup>494</sup> ‘*Sie wolten oder nicht*’, Ibid.

<sup>495</sup> ‘*schmehworte*’, Ibid. In its symbolic function, the playing of music during safe-conduct processions can be compared to the singing of hymns during religious processions services and processions. It was not uncommon, for instance, that Protestants and Catholics attempted to drown each other with their respective hymns. See: Duhamelle, *Frontière au village*, 188–189.

<sup>496</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 86.

## Escalations

Safe-conduct disputes were part of the ‘political economy of shows of force’<sup>497</sup> that were so typical for inter-polity quarrels in the Holy Roman Empire. Mostly, they were non-violent. At their extreme, however, safe-conduct processions could leave escorts dead, or injured and assume a war-like character. The passage of the market ships on the river Main on occasion of the Frankfurt Easter trade fair of 1602 was such a case. In the run-up to the procession, Würzburg’s officials, soldiers and subjects had been ‘heavily armed in the greatest silence’<sup>498</sup> and put on stand-by day and night. The city of Freudenberg was reinforced with several hundred rifle- and horsemen. The passage of the troops<sup>499</sup> through the County of Wertheim alarmed the count, who feared the occupation of the city of Wertheim and acts of violence towards his subjects and himself. He sent one of his sons to lead Wertheim’s escorts at Freudenberg. When they arrived, the comital escorts and the count’s son were warned that they risked ‘horrible strangling and butchery’.<sup>500</sup> The prince-bishop had occupied strategic positions along the river Main, upstream of Wertheim, with more than 4000 men. The troops were led by the prince-bishop’s brother Valentin, who encouraged them in the ‘slaughter of the Wertheimian subjects and escorts’.<sup>501</sup>

Although hopelessly outnumbered, the comital escorts advanced upstream and conducted the ships until the boundary behind Marktheidenfeld. Bar one tense moment in the town of Marktheidenfeld, they proceeded smoothly. Marktheidenfeld had been occupied by the prince-bishop’s troops, who destroyed the townspeople’s gardens to build a wagon-fort, barred the gates, occupied the walls, untiled and occupied the houses along the river, and barred the path on both sides of the river with several hundred men. According to the townspeople, the soldiers’ plan was to sink the comital conduct ship, ‘batter everyone to death’<sup>502</sup> and ‘deliver the young count to Würzburg either dead or alive’.<sup>503</sup> Although warned about the attack, the comital escorts proceeded to Marktheidenfeld. However, according to Wertheim’s account of the encounter, most of the troops who had been stationed outside the city left

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<sup>497</sup> Bretschneider, *Praxis der Grenze*, 44.

<sup>498</sup> ‘*inn hochstem still starck gerüstel*’, Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 1r.

<sup>499</sup> In a report to the Counts of Wertheim, the Würzburg’s troops are called ‘*Stratioten*’ (Ibid.).

<sup>500</sup> ‘*ein greulichs würgen und mezeln*’, Ibid., fo. 2v.

<sup>501</sup> ‘*abwürgen der Wertheimischen underthanen und glaidleuth*’, Ibid., fo. 3v.

<sup>502</sup> ‘*alles Todt zu schlagen*’, Ibid., fo. 5v.

<sup>503</sup> ‘*den Jungen Graffen entweder Todt oder lebendig nach Würzburg lieffern*’, Ibid., fo. 6r.

their positions ‘out of fear’<sup>504</sup> and after some discussion, the comital escorts were allowed to pass through the town.

The escorts’ return journey went less smoothly. As the formal safe-conduct ceremony was over, the commoners were dismissed and returned home. Left only with the few remaining men, a small boat and the conduct ship, the count’s son noticed that they were being followed by Würzburg’s troops. In the town of Lengfurt, the Würzburgians attempted an ambush against the comital escorts. However, the Wertheimians managed to put the Würzburgian troops to flight with the help of their conduct ship.<sup>505</sup> During the ambush, a Würzburgian official loudly proclaimed that ‘the devil may take him if he does not capture the young count of Löwenstein on the same day, deliver [him] to Würzburg, or execute [him] with the rifle [...]’.<sup>506</sup> After the failed ambush, the young count and the remaining escorts left the riverbank and took another road to Wertheim, while the conduct ship continued its journey downstream. The ship was manned with seventeen burghers (among whom was the mayor of Wertheim) and several young boys and men. When the conduct ship passed between the towns of Homburg and Trennfeld, the alarm bells rang from the steeples and the ship was suddenly fired upon ‘from all places, on all sides’.<sup>507</sup> Under the heavy fire, the burghers lost control of their ship which was riddled ‘through and through’.<sup>508</sup> One man died after being struck by a ‘poisoned bullet’<sup>509</sup> and several others were badly injured; there was no one ‘who was not hit and damaged in [his] body or clothes’.<sup>510</sup> Some of the escorts who had left earlier by land, heard the noise and returned to Trennfeld to help their fellow subjects, only to be fired upon by the Würzburgian troops. One subject, Hans Fridel from Reicholzheim, was shot through his foot with another ‘poisoned bullet’<sup>511</sup> and ‘died enraged and frenzied several days later, when the poison afflicted him terribly and brought him to madness’.<sup>512</sup> Wertheim later accused Würzburg of intending to sink the ship and kill its subjects, for which purpose they smeared the bullets with fat.<sup>513</sup> The Prince-Bishop of Würzburg had promised one Taler in

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<sup>504</sup> ‘aus forcht’, Ibid.

<sup>505</sup> According to Wertheim’s report, which empathically contrasted the young count’s courage with the Würzburgians alleged cowardliness, two thousand Würzburgian troops took flight (*‘das Hasen Paner auß geworffen, unnd außgerißen?’*) when they saw their commander ‘flee so valiantly’ (*‘so dapffer fliehen?’*). Ibid., fo. 8v-9r.

<sup>506</sup> *‘der Teuffel soll Ihne hinführen, do er nicht noch selben tages den Jung Graffen von Lewenstein fangen, nach Würzburg Liefern, oder mit dem Robr [...] hinrichten wolte’*, Ibid., fo. 9r.

<sup>507</sup> *‘von allen ortten, uff allen seitten’*, Ibid., fo. 10r.

<sup>508</sup> *‘durch und durch’*, Ibid., fo. 11r.

<sup>509</sup> *‘vergiftten Kugel’*, Ibid., fo. 10r.

<sup>510</sup> *‘welcher nit entweder am leib oder kleidung getroffen, unnd beschediget’*, Ibid., fo. 11r.

<sup>511</sup> *‘vergiftten Kugel’*, Ibid., fo. 10v.

<sup>512</sup> *‘alls Ihne das giftt erschrecklich zuegericht, unnd in furorem gebreacht, wütend unnd rasend gestorben’*, Ibid.

<sup>513</sup> Ibid., fo. 11v.

compensation for every Wertheimian burgher captured from the ship, dead or alive.<sup>514</sup> Ultimately, Würzburg ceased the fire and the conduct ship continued on its way to Wertheim.

The extreme violence witnessed during Wertheimian conduct processions must be seen in the context of the feud between Wertheim and Würzburg.<sup>515</sup> In terms of cruelty, the excesses committed by Würzburgian troops against Wertheimian officials, clerics and subjects during these nineteen years, foreshadowed the butcheries of the 'Thirty Years' War. In the winter of 1598 a Wertheimian sheriff was pulled out of his bed by night, bound to a horse and carried half-naked to Würzburg through the cold.<sup>516</sup> When he was released from prison with frostbitten feet, he found his house plundered and burned down. The same fate was reserved to a Lutheran minister from Wertheim who was abducted half-naked and imprisoned in the city of Lauda for almost three months.<sup>517</sup> Common subjects were sometimes treated like cattle. In 1601 81 subjects of Laudenbach were violently rounded up during a nightly incursion, battered and abducted to Carlstatt. Here, they were vilified in public and 'thrown in the tower haphazardly one on top of each other and were crammed together so much, that many fell into mental frenzy'.<sup>518</sup> When their jailers clogged all the air vents to the room where the subjects were locked up, attempting to suffocate them, the subjects surrendered and swore an oath of loyalty to the Prince-Bishop of Würzburg. Women were raped and children were not spared.<sup>519</sup> In 1607 a man, begging for mercy, was slain in the presence his pregnant wife who was abused and his three children who were battered.<sup>520</sup> Many died during such incursions and clashes between Würzburgian and Wertheimian troops<sup>521</sup> and there were continuous threats and attempts to murder, or capture the members of the comital family.<sup>522</sup>

Even though the safe-conduct disputes between Wertheim and its neighbours were particularly violent, death and destruction occurred during disputes over other important thoroughfares as well. In 1566 the City of Hamburg bound the corpse of a drowned fisherman to a stake in the Süderelbe to challenge and mock the claims of jurisdiction of the Dukes of Brunswick-Lüneburg.<sup>523</sup> When the duke sent a

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<sup>514</sup> See: Neu, *Die Fehde des Würzburger Fürstenbischofs*, 481.

<sup>515</sup> Escorts died on the side of Würzburg, as well, for instance during the autumn processions of 1604. Report on the safe-conduct procession of autumn 1604, n.d., StA Wertheim, G-Rep. 19, Nr. 11 2, fo. 1v.

<sup>516</sup> See: Neu, *Die Fehde des Würzburger Fürstenbischofs*, 474.

<sup>517</sup> See: *Ibid.*, 479. For another case, see: *Ibid.*, 481.

<sup>518</sup> '*promiscue über einander in Thurm geworffen und so viel zusammengesteckt, daß etliche darüber in delirium animi gefallen*', *Ibid.*, 478. The Würzburgian commander explicit forbade to bring drink, food or clothes to the prisoners.

<sup>519</sup> See: *Ibid.*, 480–482.

<sup>520</sup> See: *Ibid.*, 486.

<sup>521</sup> During an attack on Dertingen in 1607, several cartloads of corpses were brought to Homburg. *Ibid.*, 485. See, moreover: *Ibid.*, 483–484.

<sup>522</sup> See: *Ibid.*, 472, 475, 476–477, 481.

<sup>523</sup> See: Baasch, *Elbe*, 29–30.

delegation to retrieve the corpse, they were hindered by two armed vessels sent by Hamburg. Eventually, the duke prevailed, but four Hamburgers died and several men were wounded during the encounter. Similarly, the conflict between the Electorate of Mainz and the County of Hanau over the dominion over the river Main escalated in 1607, when Mainz destroyed and sank Hanau's ship.<sup>524</sup> Safe-conduct processions were unpopular with the local population because they posed a considerable danger to the subjects residing in the concerned areas. Passing troops sometimes damaged fields and crop,<sup>525</sup> plundered the residents' belongings,<sup>526</sup> or committed acts of gratuitous violence.<sup>527</sup> Even uninvolved travellers and subjects could suffer abuse from foreign escorts. In 1584 an official of the Prince-Bishop of Mainz assaulted casual bystanders out of anger over the denied passage through the city of Wertheim. After having beaten two mill labourers with an oak cane,<sup>528</sup> he asked a minister for directions. When the minister mentioned that 'he belonged to the church',<sup>529</sup> the official responded that 'there are many churches'<sup>530</sup> and mauled the minister when he refused to reply. After the violent safe-conduct procession of the spring of 1602, several subjects of the Count of Wertheim were abused by the men of the Prince-Bishop of Würzburg, one of whom was travelling for private affairs and had not participated in the safe-conduct procession.<sup>531</sup> The Würzburgians abducted the Wertheimian mayor of Marktheidenfeld, 'an old, worn out man'<sup>532</sup> and imprisoned him in Homburg for several days in harsh conditions. Retaliation against individuals who had not taken part in the safe-conduct processions are reported from other areas as well. When the Imperial City of Regensburg impeded more than a thousand Bavarians to escort the Prince-Bishop of Regensburg in 1602, the Duke of Bavaria ordered reprisals against the city's inhabitants who were arrested and imprisoned with only

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<sup>524</sup> The fragmented county bordered the river on a short, but commercially strategic stretch below Frankfurt. At the beginning of the seventeenth century, most traffic on that part of the river was monopolised by Mainz, which operated regular market ships. The Electorate defended its exclusive right to operate these ships and its right of safe-conduct on the river with a privilege granted by King Wenzel in 1391. The County of Hanau, which had repeatedly attempted to set up its own ship connection between the cities of Hanau and Frankfurt was therefore in constant conflict with its neighbour. See: Merkelbach, Thomas, 'Consilium V. in causa Mayntz, contra Hanau, das Marck-Schiff auff den Mayn-Strohm betreffend', in: Fritsch, Ahasverus, *Jus fluviatricum, Romano-Germanicum tripartitum* (Jena: 1672), part 2, 105–116.

<sup>525</sup> The troops of the Prince-Bishop of Würzburg, for instance, repeatedly damaged fields of comital subjects. See: Report on the safe-conduct procession in autumn 1604, G-Rep. 19, Nr. 11 2, fo. 1r; Report on the safe-conduct procession of Easter 1607, 10 Apr 1607, G-Rep. 19, Nr. 11 2, fo. 1r. In 1587, officials of the Elector of Mainz damaged the gardens of the inhabitants of Wertheim, when rode around the city (Ludwig, Count of Löwenstein-Wertheim to Wolfgang, Elector of Mainz, 30 Apr 1587, StA Würzburg, MRA Löwenstein, K 419/245, fo. 1v).

<sup>526</sup> See for instance: Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 13r.

<sup>527</sup> In 1602, the Würzburgian troops smashed the window-panes of the peasants' houses. Ibid.

<sup>528</sup> The official claimed that the two labourers had refused to show him a ford through the river. Defence of Anton von der Gabelentz against Ludwig, Count of Löwenstein, 23 Jun 1587, StA Wertheim, G-Rep. 41, Nr. 113c, fo. 4v.

<sup>529</sup> 'er stund der Kirchen zu', Ibid., fo. 5r.

<sup>530</sup> 'der kirchen seint mancherlei?', Ibid.

<sup>531</sup> See: Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 13r.

<sup>532</sup> 'ein alter erlebter Mann', Ibid.

bread and water for three or four days whenever they entered Bavarian territory.<sup>533</sup> In 1632 several soldiers of the City of Lübeck escorted the wife of the Colonel (*Obrist*) von Stralendorff to the city of Mölln. On their journey, the two carriages with eight passengers, two coachmen and two mounted attendants passed through a number of villages that belonged to the small Duchy of Saxe-Lauenburg. The musketeers that Lübeck had provided as escorts were later accused of committing so many assaults that the duke demanded that Lübeck repair the damage. He claimed that the escorts had searched several houses and farms on the way to plunder ‘what metal objects they could find’.<sup>534</sup> Additionally, the escorts were accused of having ‘beaten 12 geese to death and stolen 60 cubits of linsey-woolsey [a coarse fabric] from one of our subjects’.<sup>535</sup> When the owner chased after them ‘and reclaimed the stolen goods, [they] put a rope around his head and tormented him until he gave them another *Reichsthaler*’.<sup>536</sup> In the following two villages, the escorts allegedly stole axes, a cartwheel and a barrel of beer.<sup>537</sup> During a visit of the Prince of Nassau-Siegen to Aachen in 1707, his private escorts enforced the prince’s request that every carriage that met his carriage had to halt and wait until he had passed. When the coachman of the Marquess of Westerlo refused to halt, the prince’s escorts battered the marquess’ horses so much that they reared up, endangering two children who sat inside the carriage.<sup>538</sup>

In some cases, the preparation for safe-conduct processions amounted to outright occupation. In early April 1602, for instance, troops of the Prince-Bishop of Würzburg were garrisoned in the village of Lengfurt, whose residents were treated so badly ‘that such tyranny could not be heard comfortably by a cleric’.<sup>539</sup> Because the male population had fled the village, the occupying soldiers drove the women out of the village to find their men. They threatened that if the men refused to enrol with the Würzburgian troops within three days, the women, together with their children, would be chased from their homes.<sup>540</sup> The men were too afraid to return. On the night of April 29 the Würzburgian troops

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<sup>533</sup> See: Rieder, *Regensburg*, 194–195.

<sup>534</sup> ‘*was darin an Eisen Zeuge vorhanden gewesen, mit zu nehmen*’, August, Duke of Saxe-Lauenburg, to Mayor and Council of the Imperial Free City of Lübeck, 24 Dec 1634, AH Lübeck, ASA Externa, Deutsche Territorien 2227, fo. 1r.

<sup>535</sup> ‘*12 Gänse todtgeschlagen und 60 Elen Beyerwand einen unsern underthanen entwender*’, Ibid.

<sup>536</sup> ‘*und das entwendete wieder gefordert [haben sie ihm] einen Strick umb den Kopf gethan und so lange gepeiniget, bis er ihnen noch 1 Reichsthlr darzu geben*’, Ibid.

<sup>537</sup> When interrogated some days later, the soldiers gave a more innocuous account of the events and disputed the most severe acts of violence. See: Inquisition on the convoy the wife of Stralendorff, 28 Dec 1631, AH Lübeck, ASA Externa, Deutsche Territorien 2227.

<sup>538</sup> The incident provoked a discussion about whether the engagement of private escorts violated a prince’s right of safe-conduct. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 70.

<sup>539</sup> ‘*daß dergleichen Tyranny von einem Geistlichen nicht wohl geböret*’, Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 13v.

<sup>540</sup> The Würzburgian commander refused to spare a woman who had given birth two days earlier and ‘threw her out of the bed’ (*auß dem Bett worffen*), smashed her windowpanes and seized her so roughly that both the woman and her newborn fell ill. Ibid., fo. 14r.

chased 29 women and 60 children naked through the village.<sup>541</sup> They were forced towards the river (some pulled by their hair), where a Würzburgian official ‘welcomed the poor aghast women and children with a big club’.<sup>542</sup> Under the threat of drowning, the women, children and others who refused to leave the village were chased away without clothes, food, or any of their possessions.<sup>543</sup> Even where the violence was not as excessive, the quartering of troops for safe-conduct provoked the protest of the local population.<sup>544</sup> In 1635 several participants in Palatinate-Neuburg’s safe-conduct procession, who were hosted by the Prüfening Abbey, violently looted the abbey’s cellars and garden.<sup>545</sup> Threats played an important role in this context.<sup>546</sup> Throughout the conduct procession in spring 1602, there had been rumours of an attack on the city of Wertheim. The commander of the Würzburgian troops had promised Wertheim as a booty to his men, first ‘cryptically’<sup>547</sup> and later openly.<sup>548</sup> During the occupation of Lengurt, the troops boasted ‘that they would murder the old Count of Löwenstein and set the city of Wertheim on fire’.<sup>549</sup> A Würzburgian commander tried to convince the subjects to abandon their loyalty to the count because ‘Löwenstein could not protect them against the violence of Würzburg’<sup>550</sup> and announced that the prince-bishop would ‘ruin them all [the villages] to the ground and burn [them] to ashes’<sup>551</sup> if they let the count occupy the village again. The Wertheimians operated on no lesser threats. When comital troops, led by one of the count’s sons, occupied the ‘renegade’ city of Freudenberg during the Easter processions of 1602, they called the burghers ‘perjurious rogues and thieves’<sup>552</sup> and threatened that several of them would be ‘hanged or decapitated’.<sup>553</sup> In 1604 a Würzburgian official instigated the inhabitants of Freudenberg against the Wertheimians and encouraged them to ‘slay and shoot them all dead’.<sup>554</sup> When the Imperial City of Regensburg denied the entry of more than a thousand Bavarian escorts in 1602, the Bavarians threatened that ‘if one

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<sup>541</sup> See: Neu, *Die Fehde des Würzburger Fürstenbischofs*, 481–482.

<sup>542</sup> ‘mit einem grossen prügel die ergeisterete arme Weiblein und Kinder übel empfangen’, Ibid.

<sup>543</sup> When the women and children implored ‘God’s mercy’, the Würzburgian officials reportedly retorted that ‘they had no part in God’s mercy’ and that the prince-bishop was their god. Ibid., 482.

<sup>544</sup> See, for instance: Pauls, *Geleitsrechte des Herzogs von Jülich*, 88, 91–92.

<sup>545</sup> See: Rieder, *Regensburg*, 122–123.

<sup>546</sup> Throughout the feud with Würzburg there were, moreover, continuous threats and actual attempts to murder or capture members of the comital family. See: Neu, *Die Fehde des Würzburger Fürstenbischofs*, 472, 475, 476–477, 481.

<sup>547</sup> ‘mit obscure’, Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 3v.

<sup>548</sup> See: Ibid., fo. 12r.

<sup>549</sup> ‘das sie den alten Graven zue Lewenstein noch umbringen, unnd die Statt Wertheim in prandt stecken wolten’, Ibid., fo. 14r. Indeed, Würzburgian troops secretly assembled in the forests around the city Wertheim on the nights of May 21 and 22 1602 but did not strike the city ultimately. Ibid., fo. 14v–15v.

<sup>550</sup> ‘Lewenstein könnte sie gegen Würzburgischem gewaldt nicht schützen’, Ibid., fo. 15v.

<sup>551</sup> ‘alle inn grundt verderben und zur Aschen Brennen’, Ibid., fo. 15r.

<sup>552</sup> ‘mainaydige Schelmen und dieb’, Report on the safe-conduct procession of Easter 1601, 30 Apr 1601, StA Wertheim, G-Rep. 19, Nr. 11 2, fo. 4r.

<sup>553</sup> ‘uffgebenckt, oder ihnen die Kopff abgeschlagen’, Ibid.

<sup>554</sup> ‘alle sambt todtschiessen und abwürgen’, Report on the safe-conduct procession of autumn 1604, n.d., StA Wertheim, G-Rep. 19, Nr. 11 2, fo. 1r.

gibbet was not enough, one could put up seven or more [of them] in order to hang all the Regensburgians'.<sup>555</sup>

Insults, both against the authorities and against their subjects, were another distinctive element of most safe-conduct disputes. At Wertheim, almost every procession was accompanied by an avalanche of insults. The reports regularly mention 'contemptuous gestures',<sup>556</sup> 'injuries',<sup>557</sup> 'words of abuse',<sup>558</sup> slander, or denigration.<sup>559</sup> Sometimes, the subjects used such language against their own authorities, to the point that, in 1669 several Wertheimian officials complained about the insults that 'an honest servant must suffer, [and] about which we frequently complained before, but received little assistance'.<sup>560</sup> When the imperial insignia were transported through the Wertheimian possessions in Kleinheubach in 1790, the outnumbered Wertheimian subjects experienced the scorn of the officials of the Elector of Mainz, who forced their way through the Wertheimian blockade at the border. Besides inflicting blows and some stab wounds, several drunk Mainzian escorts threw stones at the comital palace. To the palace guards they shouted, 'Come down, you scoundrels, if you want something!'<sup>561</sup> causing a 'wild row'. During the clash between officials and subjects of the Ernestine Duchies and the County of Schwarzburg-Sondershausen-Arnstadt (who were escorting a witch to the stake), the comital subjects insulted their ducal counterparts with such insults as 'rakes, cowards, [and] dogs'.<sup>562</sup> After the incident, the countess personally complained to the Duke of Saxe-Gotha about 'many calumnious and gruff discourses against me and my kin'.<sup>563</sup> The pervasiveness of insults illustrates how safe-conduct processions affected the honour of both their participants and the settlements through which they passed.<sup>564</sup> Like religious processions, the safe-conduct procession 'requires from others conspicuous marks of respect'.<sup>565</sup> Offending the honour of any procession could have disastrous consequences. In 1732 a procession through the village of Büttstedt in the Mainzian enclave of Eichsfeld took an extremely violent turn because the villagers had not received the

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<sup>555</sup> 'wenn ein Galgen nicht lange, könne man sieben und mehr aufrichten, um alle Regensburger daran aufzuhängen', Rieder, *Regensburg*, 193.

<sup>556</sup> 'verachtlichen geberden', Notarial instrument, 1 Oct 1592, StA Wertheim, G-Rep. 41, Nr. 124c, fo. 3r.

<sup>557</sup> 'iniurien', Report on the safe-conduct procession in autumn 1599, 15 Oct 1600, StA Würzburg, Würzburger Kartons, Zoll 274, fo. 11r.

<sup>558</sup> 'schmebwort', Ibid., fo. 11v.

<sup>559</sup> See: Report on the safe-conduct procession of autumn 1604, n.d., StA Wertheim, G-Rep. 19, Nr. 11 2, fo. 1v.

<sup>560</sup> 'muß ein Ehrlicher diener einfressen, worüber wir unß hievor zum öffteren beklaget, aber wenig hülfße erlanget', Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 5r

<sup>561</sup> 'Kommt herunter, ihr Hundsfüter, wenn ihr was wollt?', Stockert, *Schlacht von Kleinheubach*, 96.

<sup>562</sup> 'Lotterbuben, Bernbeuter, Hundte', Anthon Finding to Ernst I., Duke of Saxe-Gotha, Ichtershausen, 28 Apr 1669, ThStA Weimar, Grafen, L Schwarzburg Nr. 219, fo. 12r.

<sup>563</sup> 'viel calumniosische undt verdrießliche reden wieder mich undt die Meinem zuverwandte', Sophia Dorothea, Countess of Schwarzburg-Arnstadt, to Ernst I., Duke of Saxe-Gotha, 31 Mar 1669, ThStA Weimar, Grafen, L Schwarzburg Nr. 219, fo. 16r.

<sup>564</sup> See: Duhamelle, *Frontière au village*, 176 and Krischer, *Grenzen*, 138.

<sup>565</sup> Duhamelle, *Frontière au village*, 176.

procession with the usual honours.<sup>566</sup> In retaliation, the procession traversed the village not via the main street but through a side street. The population of Büttsted was so outraged at this dishonour that it rampaged against the schoolmaster and his family, whom they held responsible for the misfortune.<sup>567</sup>

Alcohol sometimes contributed to the escalation of safe-conduct disputes.<sup>568</sup> When an embassy from Moscow was escorted on a contested stretch of the Golden Route outside Nuremberg in December of 1599, the chief escort of the Margrave of Brandenburg-Ansbach, Georg Wilhelm von Zedtwitz, escalated the conflict through his excessive drinking. As his men were outnumbered by the competing Palatine escorts, Zedtwitz initially resigned from escorting the embassy, but insisted on accompanying the procession just ‘for company’.<sup>569</sup> Already before the arrival of the embassy, which was delayed by a few hours, Zedtwitz and the head of the Palatine escorts went drinking at a local inn.<sup>570</sup> When the convoy reached the village of Hohenstadt, Zedtwitz (who had preceded the group) had already found his way to the inn again. At the embassy’s arrival, he walked out and raised his glass to the head of the Palatine escorts.<sup>571</sup> ‘Laden with a strong drink’,<sup>572</sup> Zedtwitz and his men started riding alongside the embassy on the meadows adjacent to the road and approached the convoy from time to time, much to the irritation of the Palatine escorts. Shortly before their convoy reached the town of Hersbruck, they suddenly ‘dashed forward’,<sup>573</sup> preceded the Palatine escorts and ‘raced’<sup>574</sup> towards the town. There, they were surprised by forty horsemen from Nuremberg and many more footmen, who committed ‘acts of violence’ against the drunk nobleman and his fellow escorts.<sup>575</sup> Similarly, in 1602 the heavily drunk participants to one of Palatinate-Neuburg’s safe-conduct processions to Regensburg shouted out of the windows of their inn and insulted the guards, resulting in them being reprimanded by the Regensburgian authorities.<sup>576</sup> Even those escorts who would have preferred to stay sober sometimes

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<sup>566</sup> See: *Ibid.*, 177–178.

<sup>567</sup> In the Eichsfeld region, mockery and sarcasm – be it taunting comments on the poor quality of the Catholics’ altar cloth, jokes about miracles, celibacy or the real presence – were almost institutionalised means of inter-confessional conflict. See: *Ibid.*, 188–191.

<sup>568</sup> Indeed, drinking rituals were a recurring element of some safe-conduct processions, such as those to the trade fairs of Frankfurt. See: Plechatsch, *Glait*, 92.

<sup>569</sup> ‘*gesellschaft halben*’, Christoph von Beulwitz, Electoral Palatine Councillor at Amberg, and Konstantin von Modersbach, Lieutenant Colonel, to Christian I, Prince of Anhalt-Bernburg and Governor of the Upper Palatinate, 29 Dec 1599, BayHStA München, Fürstensachen 120, fo. 162r.

<sup>570</sup> See: *Ibid.*, fo. 161v.

<sup>571</sup> See: *Ibid.*, fo. 162v.

<sup>572</sup> ‘*mit einen starcken trunckh beladen*’, *Ibid.*, fo. 163r–163v.

<sup>573</sup> ‘*herfür gesprochen*’, *Ibid.*, fo. 162v.

<sup>574</sup> ‘*zugerennel*’, *Ibid.*

<sup>575</sup> An official who operated a barrier outside Hersbruck apparently threatened Zedtwitz with a halberd and encouraged Nuremberg’s horsemen to charge him, as well. *Ibid.*, fo. 163v.

<sup>576</sup> Rieder, *Regensburg*, 92. For similar cases, see: *Ibid.*, 114, 125–126. Such incidents were fairly common and there had been lengthy discussions over who had the jurisdiction in conflicts between the escorts and third parties. See: *Ibid.*, 141.

had little choice. Drinking formed an important element of the ritual and was perceived ‘as a matter of honour’. Thus, in September 1652 the leader of Palatinate-Neuburg’s safe-conduct procession to Regensburg reported that he would be happy to reduce the costs of the processions and especially the expenses for drinking, which ruined his health anyway. An Electoral Palatine ordinance from 1677 cautioned its officials not to drink too much when escorting travelling persons of rank.<sup>577</sup> Some safe-conduct disputes took chaotic and almost carnivalesque forms. Officials aptly described the Wertheimian processions as ‘great comedy’<sup>578</sup> and compared the excesses to ‘Saint Vitus’ Dance’.<sup>579</sup> They attracted large numbers of bystanders, who sometimes interfered with the scene. Such was the case of the procession bringing a condemned witch from Arnstadt, in the County of Schwarzburg-Sondershausen-Arnstadt, to the stake in 1669.<sup>580</sup> On the way to the stake, the comital convoy passed over a road that was claimed by the Duke of Saxe-Gotha. He sent six squads (*Rotten*) of armed subjects and officials to hinder the procession from trespassing on its territory and ‘to maintain the possession of the princely right over the highway’.<sup>581</sup> Already in the forefront of the procession, there had been rumours hinting towards a violent escalation.<sup>582</sup> When the procession met the ducal blockade, the situation quickly became out of hand. According to the testimonies of several ducal subjects, the comital officials did not let them speak, but shouted ‘make way’<sup>583</sup> and tried to break through the blockade by force. The confrontation was tumultuous. While the mounted comital officials reared their horses, several others drew their pistols and pointed them at the ducal subjects. Apparently, an unidentified person in a ‘black capote coat’,<sup>584</sup> held his pistol at the head of a ducal official and pulled the trigger, but the shot was a dud.<sup>585</sup> Although no shot was fired, the situation was tense. The ducal witnesses testified that ‘everyone thought that now, now a fusillade will land on on our men’.<sup>586</sup> Numerous bystanders from both sides observed the scene. The ducal report mentions twelve potential

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<sup>577</sup> See: Dotzauer, *Geleitswesen im Nabe-Mündungsgebiet*, 289.

<sup>578</sup> ‘großen Comoedi’, Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 4v.

<sup>579</sup> ‘Veitstanz’, Ibid., fo. 2v.

<sup>580</sup> Between the sixteenth and eighteenth-century, Thuringia was one of the most prominent theatre of European witch hunting. See: Füssel, Ronald, *Hexen und Hexenverfolgung in Thüringen* (Erfurt: 2001).

<sup>581</sup> ‘die Possession der fürstl. Landtstraßen Gerechtigkeit [...] zu maintainiren’ Report of Johann Pabsten and Lorentz Christof Gerlach on the execution of a witch at Ichttershausen, 30 Mar 1669, ThStA Weimar, Grafen, L Schwarzburg Nr. 219, fo. 7r.

<sup>582</sup> A ducal subject who had been in Arnstadt on the day before, for instance, reported that ‘da sey schon die Rede gangen, wann die Icherheuffer kämen, wie mann sie wieder über einen hauffen rennen wolle’. Anthon Finding to Ernst I, Duke of Saxe-Gotha, Ichttershausen, 28 Apr 1669, ThStA Weimar, Grafen, L Schwarzburg Nr. 219, fo. 13v.

<sup>583</sup> ‘macht Platz’, Ibid., fo. 11r.

<sup>584</sup> ‘schwarzen Caputh’, Ibid., fo. 11v.

<sup>585</sup> The prime suspect was a communal official, the *Stadthauptmann*. See: Ibid.

<sup>586</sup> ‘jeder gemeinet, izo, izo werde eine salve unter die Unserige geschehen’, Ibid., fo. 12r-12v.

witnesses (and ‘others more’<sup>587</sup>), among whom there were local officials and common subjects. Some bystanders interfered with the scene. An uninvolved minister warned the ducal subjects that they had trespassed on comital lands, to which the subjects retorted that ‘he should tend to his bible’.<sup>588</sup> Another bystander from Arnstadt, who had been ‘there to watch, pulled a pistol out of the bag, [and] also picked up a handful of stones and wanted to bother us with those’.<sup>589</sup> The confrontation between the two groups lasted about fifteen minutes, until a high comital official told his men to walk on the meadows outside the ducal highway in order to reach the stake where the witch was burned.<sup>590</sup>

Although acts of violence were often initiated by soldiers or higher officials, commoners could escalate safe-conduct disputes as well. During a particularly tense conduct procession for imperial envoys to Frankfurt in 1657, one of Nuremberg’s musketeers brought the situation to the brink of violence by disobeying his superior and barring the way to two high officials of Brandenburg with his rifle.<sup>591</sup> The two officials were placated when the man was carried away and they realised that he had acted against his orders. During the dispute over the witch brought from Arnstadt to the stake, bystanders from both sides interfered with the conflict and the first participants of the comital procession to draw out their pistols were a tailor and a carpenter.<sup>592</sup>

Of course, safe-conduct processions were not the only occasions on which the symbolically charged passage of people through a certain area provoked tensions. Religious processions and pilgrimages frequently actualised tensions between Protestants and Catholics. The relation between religious processions and confessional boundaries has been examined in-depth by Christophe Duhamelle.<sup>593</sup> Besides their political implications, religious processions, and circular processions in particular (comparable to the beating of the bounds observed in some English and Welsh parishes),<sup>594</sup> had a strong magic component.<sup>595</sup> When a Catholic procession entered Protestant territory, the passage through the domain of the other often served to strengthen ‘the confessional cohesion of the

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<sup>587</sup> ‘*andere mehr*’, Ibid., fo. 13r.

<sup>588</sup> ‘*Es solle sich umb seine Biebel bekümmern*’, Ibid., fo. 12r.

<sup>589</sup> ‘*Schauens wegen da gewesen, habe ein Puffert aus dem sack gezogen, auch eine handt voll steine aufgeselen, und damit die unserige incommodiren wollen*’, Ibid., fo. 12v.

<sup>590</sup> See: Report of Johann Pabsten and Lorentz Christof Gerlach on the execution of a witch at Ichtershausen, 30 Mar 1669, ThStA Weimar, Grafen, L Schwarzburg Nr. 219, fo. 8r.

<sup>591</sup> See: Report on the safe-conduct of the Imperial envoys to Frankfurt at Hersbruck, 1657, StA Nürnberg, Reichsstadt Nürnberg, Differentialakten 614, fo. 43r-43v.

<sup>592</sup> See: Report of Johann Pabsten and Lorentz Christof Gerlach on the execution of a witch at Ichtershausen, 30 Mar 1669, ThStA Weimar, Grafen, L Schwarzburg Nr. 219, fo. 8r.

<sup>593</sup> See: Duhamelle, *Frontière au village*, 153–195.

<sup>594</sup> See, for instance: Berwick, David, *Beating the Bounds in Georgian Norwich* (Dareham: 2007).

<sup>595</sup> See: Duhamelle, *Frontière au village*, 154–161.

group'.<sup>596</sup> The peasants of a village in the Catholic enclave of Eichsfeld even compared their procession through the Protestant lands to the passage of a 'Christian army'.<sup>597</sup>

In the County of Wertheim, which was temporarily governed by both Catholics and Protestants, processions, pilgrimages and funeral corteges provoked clashes until the late eighteenth century.<sup>598</sup>

Although Catholic processions were forbidden, the presence of French troops during the Seven Years' War (1754–1763) emboldened the Catholic population to carry out several processions and pilgrimages through the city and the county. In June 1781 the situation escalated. A Catholic procession returning from Walldürn (famous for a miraculous altar cloth with a wine stain that resembles to a crucified Christ with eleven thorn-crowned heads) attempted to proceed to Wertheim.<sup>599</sup> While passing through Protestant villages, the Catholics provoked the Protestant inhabitants by chanting the rhyme, 'Here we walk through heresy / May God help us'.<sup>600</sup> When officials sent by the Protestant government required the Catholics to dissolve, they ignored them. At the mill outside the city of Wertheim, the three counts personally confronted the procession and caused a tumultuous brawl, in which the Catholics' crucifixes and banners were used as weapons. Although no one was seriously injured, the brawl provoked the intervention of 600 Würzburgian soldiers, 40 mounted soldiers and two cannons in defence of the Catholics four days later.

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<sup>596</sup> Ibid., 168.

<sup>597</sup> Ibid., 171.

<sup>598</sup> See: Ehmer, *Grafschaft Wertheim*, 205–207. The Catholic population of the city of Wertheim had to bury its dead at the Catholic cemeteries of Reicholzheim and Bronnbach. Ibid., 189.

<sup>599</sup> For the pilgrimages to Walldürn, see moreover: Duhamelle, *Frontière au village*, 169–172.

<sup>600</sup> 'Hie geben wir durch die Ketzerrei / Gott steh' uns bei.' Ehmer, *Grafschaft Wertheim*, 206.

## The Procession and Its Discontents

Early modern processions were not always very functional. During the ducal processions of Venice, one could observe countless instances of ‘turmoil, laxity, and even disinterest’,<sup>601</sup> with participants arriving late, appearing ‘in improper attire,’ or carrying the wrong arms. The same is true for the safe-conduct processions of the Holy Roman Empire. As the following explorations will show, a malfunctioning safe-conduct procession could be a symptom not only of incompetence, but also of political discontent and territorial ambiguity. Escorts and patrols were usually composed of local officials, noblemen and – depending on the importance or hazardousness of the procession – local male subjects.<sup>602</sup> On important occasions, such as when the emperors came themselves, the territorial rulers sometimes participated in person.<sup>603</sup>

Commoners constituted the Achilles heel of every safe-conduct procession, as they were often insufficiently armed, poorly trained, recalcitrant and either too young, or too old.<sup>604</sup> After a particularly poor performance in the autumn of 1668, several high officials of the County of Wertheim vented their anger over the recalcitrance and poor discipline of their subjects in an extensive report. The officials lamented that, when criticised or called to order, the subjects ‘cast the good words in the wind with jeering and flouting behind [our] back’<sup>605</sup> and ‘prefer to command themselves’.<sup>606</sup> A young fisherman refused to fall into rank with his fellow subjects. When he was punished with a blow on the head, causing him to fall to the ground, the reaction of his fellow fishermen was ‘almost like a

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<sup>601</sup> Muir, *Civic Ritual*, 201.

<sup>602</sup> For the performance of safe-conduct, territorial rulers often relied on their vassals, whose obligation to participate could be part of their feudal bond. See: Heuse, *Geleit*, 83–84. In the Electorate of Mainz, local noblemen and officials had to bring their own horses. See: Weiss, *Geleitstraßen*, 234. On occasion of the Frankfurt trade fair in the autumn of 1554, for instance, the Elector of Mainz ordered the principal officials of each district to assemble in the chief town or city of their district (See: Schopp, *Geleitwesen*, 14–17). The escorts comprised the bailiff (*Amtmann*) of each district, the village mayors (*Schultheiß*) and other officials, as well as mounted servants. All summoned escorts had to bring a specified number of horses, so that each group counted between two and thirty-six horses. On the extramural territory of the Free Imperial City of Ulm, the sheriff-escorts waited at different spots along the conduct road. See: Trostel, *Geleitwesen im Geislinger Raum*, 117.

<sup>603</sup> See, for instance: Pauls, *Geleitsrechte des Herzogs von Jülich*, 73.

<sup>604</sup> In 1668, for instance, several high officials of the County of Wertheim complained that the subjects were ‘completely unexercised’ (*ganz unexercirte*), ‘poorly armed’ (*schlecht armirte*) and far too young. Report on the safe-conduct procession in autumn 1668, 20 Sep 1668, StA Wertheim, F-Rep. 32, Nr. 14, fo. 2v. In 1742, Mainzian officials complained that several escorts had left their positions on occasion of the passage of the emperor. See: StA Würzburg, MRA L 57, 5. Similar problems afflicted the patrols with which many territories attempted to discourage, detect and punish ‘criminal’ vagrants. From the first half of the eighteenth century onwards, patrols were increasingly professionalised and militarised. For a concise overview, see: Härter, *Policey und Strafjustiz*, vol. 2, 1046–1062; Härter, *Steuerung von Migration*, 30. The Free Imperial City of Ulm had trouble with insubordinate escorts, as well. See: Freitag, *Ulm*, 125. During the Thirty Years’ War, the Duchy of Württemberg had difficulties to recruit suitable safe-conduct officials. See: Wilhelm, *Zollgeleit*, 135.

<sup>605</sup> ‘die gute worte mit böhnen und spotten hinterm rüchken verächtlich in winde schlagen’, Ibid., fo. 3r.

<sup>606</sup> ‘lieber selbst commandiren’, Ibid.

rebellion'.<sup>607</sup> Together with the other fishermen, the young man and his father insulted the comital officials with 'foul words', put their rifles on the ground and refused to march any further. Some pointed their rifles and rapiers at the officials and intimidated them to leave. When they left the village, the young fisherman's wife accused the officials of having 'struck her husband like a [...] rogue'.<sup>608</sup> 'Mutiny'<sup>609</sup> was also reported from a Wertheimian conduct procession in 1592.

The observation that 'absolutism was far from absolute'<sup>610</sup> thus found a colourful reflection in the ill-humour of those charged with symbolising its grasp on human mobility. In the tumultuous conduct procession in the autumn of 1669, the comital subjects, charged with drowning the music of Würzburg's bandsmen with the drums and flutes handed out to them by their authorities, appeared 'querulous and indignant'.<sup>611</sup> The old drummer Steffan declared that he was 'so tired [of beating the drums], that he almost could not move his ears anymore'<sup>612</sup> and that he would 'prefer to say goodbye to my drum, and return it to the town hall'.<sup>613</sup> In 1608 the unwillingness of the burghers of Wertheim to participate in the violent safe-conduct processions had even been reported to the Prince-Bishop of Würzburg.<sup>614</sup> When approached by the rivalling escorts, some peasants excused themselves for their coerced participation. In the autumn of 1599, a peasant whom the Würzburgians had ordered to guard the gate of Homburg, excused himself to the Wertheimian escorts, demanding to enter, claiming that he acted under orders 'which they, as poor subjects, had to carry out'.<sup>615</sup>

While many reports attributed the subjects' recalcitrance to stubbornness, the reason for which commoners refused to serve in the conduct processions was often plain fear.<sup>616</sup> In the autumn of 1669 two comital subjects discovered Würzburg's troops in ambush and were arrested. When one of the two managed to flee and inform his officials and fellow subjects ('with snorting and gasping')<sup>617</sup>, the subjects and even the officials were seized by 'dreadful horror and despondency'.<sup>618</sup> Similarly, when the

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<sup>607</sup> *'fast ein auffstand ähnlich'*, Ibid., fo. 3v.

<sup>608</sup> *'Ihren Man geschmißen wie ein [...] Schelm'*, Ibid.

<sup>609</sup> *'Meutterez'*, Report on the safe-conduct procession at Easter 1592, n.d., StA Wertheim, G-Rep. 41, Nr. 124c, fo. 1v.

<sup>610</sup> Whaley, *Germany*, vol. 1, 12.

<sup>611</sup> *'verdrossen undt unwillig'*, Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 5r.

<sup>612</sup> *'Es würdt Einer Ir so müed, dz man die Oren schier nit mehr regen kan'*, Ibid.

<sup>613</sup> *'meiner Trommel lieber den Abschied geben, und solche auff's Rathhaus tragen'*, Ibid.

<sup>614</sup> See: Sebastian Ulrich, Abbot of Bronnbach, to Julius Echter von Mespelbrunn, Prince-Bishop of Würzburg, 21 Mar 1608, StA Würzburg, Würzburger Kartons, Zoll 275.

<sup>615</sup> *'welchen sie alß arme Underthanen verrichten müssen'*, Report on the safe-conduct procession in autumn 1599, StA Wertheim, F-Rep. 32, Nr. 14, fo. 5r.

<sup>616</sup> The subjects' fear was a problem in the organisation of patrols against vagrants, as well. Sometimes, the patrols refused to arrest the vagrants because they feared armed resistance. See: Härter, *Policey und Strafjustiz*, 1052.

<sup>617</sup> *'mit schnauben und keychen'*, Report on the safe-conduct procession in autumn 1669, 2 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 1r.

<sup>618</sup> *'fürchtliches grausen und Zagheit'*, Ibid., 1r-1v.

mayor of Mühldorf had to uphold Salzburg's safe-conduct against Bavarian officials who pretended to escort the Prince-Elector of Bavaria through the city in late October 1657, a local who had spent the hours before the prince's arrival together with the mayor, confirmed that the mayor was afraid of the encounter.<sup>619</sup> Outside Nuremberg, where three distinct polities (Palatinate-Sulzbach, Brandenburg and the Imperial City of Nuremberg) competed for the right of conduct on a stretch of the Golden Route towards Prague in 1657, the force imbalances between the escorts were a source of anxiety as well. An official of Nuremberg consequently joked to the hopelessly outnumbered Palatine escorts, that if they wanted to claim their right of safe-conduct, they could defend it against the troops of the Margrave of Brandenburg, which 'caused them no little fear and terror'.<sup>620</sup>

In the martial logic of the safe-conduct procession, displays of fear were problematic because they entailed a loss of face. Failed safe-conduct processions were perceived as humiliations and as offences against a ruler's honour.<sup>621</sup> Many reports therefore emphasised the courage of their troops and the cowardice of rivalling escorts. Even where escorts failed ceremonially, their reports still emphasised the escorts' manliness and courage. In the case of the Wertheimian autumn procession of 1669, during which Wertheim's outnumbered escorts had failed miserably, the official report stressed the escorts' fierce spirit and constancy, claiming that no one could say 'that we had been chased from the field, or sent home with terror and despondence like miserable chickens'.<sup>622</sup> At other times, however, displays of fear served as a ruse with which to incite the other party to strike first. When the escorts of the Count of Wertheim conducted the market ships through the town of Marktheidenfeld, the Würzburgian troops curiously disappeared, took cover 'in cellars, barns and hay'<sup>623</sup> and threw their arms and flags away even though they were much stronger than the comital escorts. The count's son, who led the comital escorts, forbade his men to attack the fleeing soldiers because he suspected that Würzburg would turn an attack to its advantage.<sup>624</sup> Indeed, in order to avoid violent escalations,

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<sup>619</sup> See: Interrogation minutes in attachment to a letter of Johann Georg Baumgartner to Prince-Bishop and high officials of Salzburg, 6 Nov 1657, BayHStA München, Erzstift Salzburg, Hofrat 34, fo. 2v.

<sup>620</sup> '*nicht wenig forcht und schrecken*', Report on the safe-conduct of the Imperial envoys to Frankfurt at Hersbruck, 1657, StA Nürnberg, Reichsstadt Nürnberg, Differentialakten 614, fo. 15a.

<sup>621</sup> When the escorts of Duke Maximilian I of Bavaria failed to escort the new Prince-Bishop of Regensburg through the Imperial City of Regensburg in 1600, for instance, the duke treated the affair as a personal humiliation and ordered massive retaliations against the inhabitants of the city of Regensburg. See: Rieder, *Regensburg*, 194–196. At the Imperial Chamber Court, the duke complained that the city had insulted his honour when it asserted that he had no right of safe-conduct in the city. See: *Ibid.*, 200.

<sup>622</sup> '*man hette uns aus dem Felde verjagt, oder wie elende pouldrons mit Schrecken und Zagen spöttlich heim gewißen*', Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 6r.

<sup>623</sup> '*inn die Keller, Scheurn unnd Heu*', Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 6v.

<sup>624</sup> According to the young count, 'inversions' and obfuscations were characteristic of 'the Würzburgian style' ('*Würzburgische stylus*'). Moreover, he accused the Würzburgians of acting like a lamenting wolf ('*Wolfsklage*'), *Ibid.*

authorities sometimes instructed their escorts not to give any cause for violent attacks, to avoid ‘assaults’<sup>625</sup> and to ‘to keep still’<sup>626</sup> in the face of danger.

Even in the absence of physical violence, safe-conduct processions could cause a significant economic burden for local corporations and the population at large. In Mainz and Jülich, local subjects and corporations were not always indemnified for the provision of horses.<sup>627</sup> Some complained that, without their horses, they could not do their fieldwork for three days in a row.<sup>628</sup> During the seventeenth and eighteenth centuries, the Imperial City of Aachen repeatedly refused to pay the expenses of the safe-conduct troops of the Dukes of Jülich.<sup>629</sup> Likewise, many corporations repeatedly sought to be exempted from contributing to the safe-conduct processions.<sup>630</sup> In the late seventeenth and early eighteenth century, the Abbey of Seligenstadt fought a long battle against its obligation to lodge and cater for the escorts of the Electorate of Mainz during the Frankfurt trade fairs.<sup>631</sup> Similarly, the Abbey of Pielenhofen repeatedly refused to provide board and lodge for the participants of Palatinate-Neuburg’s safe-conduct processions to Regensburg.<sup>632</sup> The Palatine authorities therefore decided to fund the decadent meals – at which the participants were served such food as soups, pies, beef, vegetables, various kinds of venison and poultry, exotic salads, fruit, wine and confectionery – themselves.<sup>633</sup> However, the administration’s payment reputation was so bad that several inns refused to host the noble escorts.<sup>634</sup>

In a world where social and political rank were expressed through prodigality and extravagance, safe-conduct processions necessarily entailed great expense.<sup>635</sup> The expenditure of safe-conduct processions for foreign persons of rank were so pressing that Prince Julius of Brunswick-Wolfenbüttel made strict provisions about the payment of lodge and board for travelling princes in a safe-conduct ordinance in 1586. It prohibited foreign princes to be hosted in his administrative buildings and

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<sup>625</sup> Pauls, *Geleitsrechte des Herzogs von Jülich*, 79.

<sup>626</sup> ‘*sich still zu halten*’, Report on the safe-conduct procession of autumn 1604, n.d., StA Wertheim, G-Rep. 19, Nr. 11 2, fo. 1r.

<sup>627</sup> During a journey of the Archduchess Maria Elisabeth of Austria through the Duchy of Jülich in 1725, for instance, several locals complained that, without their horses, they could not do their fieldwork for three days in a row. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 84–85. In 1722, the Abbey of Seligenstadt refused to deliver horses to the Mainzian escorts. See: Schopp, *Geleitswesen*, 25.

<sup>628</sup> This happened during a travel of the Archduchess Maria Elisabeth of Austria through the Duchy of Jülich in 1725. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 84–85.

<sup>629</sup> Aachens refusal could also be seen as a requital for Jülich’s suppression of the city’s safe-conduct. See: *Ibid.*, 88.

<sup>630</sup> See: *Ibid.*, 68–79.

<sup>631</sup> See: Schopp, *Geleitswesen*, 23–25.

<sup>632</sup> See: Rieder, *Regensburg*, 53–55.

<sup>633</sup> These expenses grew over the course of the eighteenth century and could reach up to 70 or 120 florins for one meal. *Ibid.*, 56–58.

<sup>634</sup> See: *Ibid.*, 89–90.

<sup>635</sup> See: Stollberg-Rilinger, *Alte Kleider*, 302.

monasteries, and limited their choice to cities, towns, villages and noble manors.<sup>636</sup> The ordinance stipulated that the visitors should always pay for lodge and board themselves, ‘so that our subjects may have more revenue because of the passage’.<sup>637</sup> Officials and escorts should only receive meals ‘without any spices, wine or foreign drinks’.<sup>638</sup> In the Electorate of Mainz, the conductees had to pay a duty destined to finance the provisions of their escorts (*Fressgeld*).<sup>639</sup> Unsurprisingly, the parsimony of the princely exchequer was not popular among the officials. In 1704 the Mainzian escorts complained about the poor meals that they had been served by the Abbey of Seligenstadt,<sup>640</sup> to which the Elector admonished his officials to stop ‘grumbling’. Eventually, the escorts avoided the abbey with its poor catering altogether and ate at a local inn (hoping that the cost would be covered by the local administration). It was an experience shared by the participants of Palatinate-Neuburg’s safe-conduct processions, who repeatedly complained about the low quality of their meals.<sup>641</sup>

The extravagance of some processions was striking. Palatinate-Neuburg’s processions to Regensburg were notorious in this respect,<sup>642</sup> where often far more people participated in the feasts than officially participated in the processions. Wine was served to the servants in the stables and even brought out of the house and the innkeeper kept all the leftovers for himself. The Palatine authorities and the Electors themselves, repeatedly ordered for the costs to be reduced.<sup>643</sup> Excessive expenses are reported from the Electorate of Mainz, as well. In 1618 the costs incurred during two safe-conduct processions by one district (Aschaffenburg) amounted to 618 florins that had to be paid by the local subjects.<sup>644</sup> A local official (the *Oberkeller* at Aschaffenburg) protested against the excessive expenses and complained that the war had already driven the subjects to ‘total ruin’.<sup>645</sup>

For some of the local subjects, the logistics of safe-conduct processions presented an economic opportunity. Innkeepers, farriers, messengers, servants, guards and the escorts themselves, did good business, though not always by licit means.<sup>646</sup> In 1747 an innkeeper invoiced 126 florins for a meal that he had served to the participants in one of Palatinate-Neuburg’s safe-conduct processions to

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<sup>636</sup> See: NLA Hannover, Calenberg Br. 23 Nr. 726, fo. 3.

<sup>637</sup> ‘damit unsere Unterthanen wegen des durchzugs umb so viel mehr nabrung haben mügen’. Ibid. However, if the foreign visitors lodged in a dependence of the princely household, they were treated to (meagre) board and lodge. Ibid., fo. 3–4.

<sup>638</sup> ‘ohne einig gewürtz, Wein oder frembt getrencke’, Ibid., fo. 4.

<sup>639</sup> In practice, however, the costs for their meals were sometimes shouldered on the local subjects. See: Schopp, *Geleitswesen*, 19–21.

<sup>640</sup> See: Ibid., 24–25.

<sup>641</sup> See: Rieder, *Regensburg*, 73.

<sup>642</sup> See: Ibid., 79.

<sup>643</sup> See: Ibid., 95–96.

<sup>644</sup> See: Schopp, *Geleitswesen*, 20–21. For more examples, see: Völkl, *Das pfalzneuburgische Geleite*, 139–140.

<sup>645</sup> ‘Totalruin’, Schopp, *Geleitswesen*, 21.

<sup>646</sup> See for instance: Rieder, *Regensburg*, 63, 97.

Regensburg.<sup>647</sup> The head escort of the procession later explained that he had expected the meal to cost no more than 68 florins. As the innkeeper had only provided an overall invoice, the escort demanded an itemised list which contained, amongst other surprises, six unrequested musicians. In another case, a host requested reimbursement for food that he had already consumed himself.<sup>648</sup> In 1762 the invoice for one of the safe-conduct's procession's meals amounted to 395 florins.<sup>649</sup> Food was not the only point of extortion. When the newly crowned Emperor Francis I and his wife returned from Frankfurt to Vienna in 1745, some Hessian peasants who had been obliged to provide horses for the imperial convoy, filed false claims for compensation for their allegedly damaged or dead horses.<sup>650</sup> The escorts themselves sometimes received generous tips and gifts.<sup>651</sup> In 1618 a Mainzian escort was accused by another official that he only participated in the safe-conduct processions for his material gain and to extort money from 'the poor, exhausted people'.<sup>652</sup> The lure of easy money was also the main reason for which, in the eighteenth century, local officials in the Principality of Isenburg-Birstein insisted on escorting passing Jewish cattle-dealers, from whom they could extort increased safe-conduct duties.<sup>653</sup> Extortionary practices were arguably one reason why some Jews preferred to receive letters of safe-conduct instead of being physically escorted.<sup>654</sup>

Coming back to the problem of discipline, in some cases, the subjects' lack of discipline was simply down to their superiors' lacking credibility or assertiveness. In 1668 the rebellious fishermen of Faulenbach accused their officials of cowardice and feared that they themselves would be used as cannon fodder, claiming that 'if [...] something hostile and serious happened, they the fishermen had to withstand and remain on the spot, while someone [i.e. the mounted officials and noblemen] else would ride away'.<sup>655</sup> Michel Diener, a burgher of Wertheim who served as an official, exemplifies the risk of having unassertive officials lead the processions. The 'war-ignorant'<sup>656</sup> burgher was described

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<sup>647</sup> See: Rieder, *Regensburg*, 57–59.

<sup>648</sup> See: *Ibid.*, 59–61.

<sup>649</sup> See: *Ibid.*, 87.

<sup>650</sup> See: Kunz, *Kaisergeleit*, 71–72.

<sup>651</sup> In 1748, for instance, the Dutch envoy to the peace congress of Aachen gave Jülich's escorts 20 ducats. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 91. The senior escorts in Palatinate-Neuburg's safe-conduct processions from Burglengenfeld to Regensburg received gifts from those escorts who participated in the procession for the first time. See: Rieder, *Regensburg*, 97–102.

<sup>652</sup> Schopp, *Geleitwesen*, 21.

<sup>653</sup> See: Ackermann, *Jüdische Viehhändler*, 61–64.

<sup>654</sup> See: Fendler, *Geleitwesen*, 71.

<sup>655</sup> *Wan [...] etwas feind- und ernstliches were vorgegangen, betten sie die Fischer müssen standt haltten, und uffm plaz bleiben, ein andere aber were darvon und hinweggeritten*, Report on the safe-conduct procession in the autumn of 1668, 20 Sep 1668, StA Wertheim, F-Rep. 32, Nr. 14, fo. 3v.

<sup>656</sup> *Kriegs ignoranten*, *Ibid.*, fo. 4v.

as ‘sluggish, despondent or negligent’<sup>657</sup> and of ‘bursting, great conceit’.<sup>658</sup> Incapable of ‘keeping good order’<sup>659</sup> among his troops, his command provoked the ‘laughter and derision’<sup>660</sup> of bystanders and even of peasants. When he ordered his men to march behind him, he looked ‘like a herdsman [with] his disjointed flock’,<sup>661</sup> as his troops stood ‘scattered’<sup>662</sup> or ‘sitting or lying on the ground, in fair confusion’.<sup>663</sup> His superiors complained that he refused to punish the recalcitrant subjects (who ‘do not respect him at all and mutter or rant about it’)<sup>664</sup> ‘by right of office’,<sup>665</sup> but instead engaged in fruitless discussions with them. Although unable to discipline his fellows himself, Diener did not tolerate any interference from the side of the superior comital officials and told them to ‘get away’<sup>666</sup> from his troops ‘with coarse vile words’,<sup>667</sup> causing them to conclude that the man was ‘an absurd, gruff ass-driver’.<sup>668</sup> The personality of individual officials was significant element in the management of safe-conduct disputes. In 1668 officials of the County of Wertheim complained about the ‘imbecility’<sup>669</sup> of a new Würzburgian official who had no idea of how affairs had been previously handled. The somewhat hyperactive ‘young newcomer’,<sup>670</sup> ‘was not open to reason, neither [after] nice nor bad [encouragement]’.<sup>671</sup>

Not even higher officials were necessarily convinced of the sense of the safe-conduct rituals. During a dispute between the escorts of Imperial City of Nuremberg and the Margrave of Brandenburg on the occasion of Archduke Matthias’ passage through Nuremberg on the way to his election in Frankfurt in 1612, a high official was heard saying that ‘safe-conduct was nothing but a sheer annoyance, out of which arises nothing but strife and discord’.<sup>672</sup> In 1657 the journey of the Bishop of Freising through the city of Mühldorf was announced at such short notice that the city’s mayor, Johann Fischer, had to escort the bishop instead of the absent (noble) deputy of the Prince-Bishop of Salzburg. Before riding out, the mayor was heard saying ‘that he did not hold such commissions in

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<sup>657</sup> *‘träge, verdrossen, oder läßig’*, Ibid.

<sup>658</sup> *‘aufgebarster, großer Einbildung’*, Ibid.

<sup>659</sup> *‘einrichtung guter ordre’*, Ibid.

<sup>660</sup> *‘gelächter und noch Hon’*, Ibid.

<sup>661</sup> *‘gleich ein Schaffknecht Seine zertrennte Heerde’*, Ibid., fo. 4v.

<sup>662</sup> *‘zerstrewet’*, Ibid.

<sup>663</sup> *‘auff der Erden sizendt und ligend, in schöner Confusion’*, Ibid.

<sup>664</sup> *‘seiner selber nichts achtenn und drüber raunen oder scaliren’*, Ibid.

<sup>665</sup> *‘ex officio’*, Ibid.

<sup>666</sup> *‘hinwegscheren’*, Ibid.

<sup>667</sup> *‘mit groben Bernheuter wortten’*, Ibid.

<sup>668</sup> *‘ein absurder grober asinarius’*, Ibid.

<sup>669</sup> *‘imbecillität’*, Report on the safe-conduct procession in autumn 1668, 20 Sep 1668, StA Wertheim, F-Rep. 32, Nr. 14, fo. 1r.

<sup>670</sup> *‘Junger neuling’*, Ibid.

<sup>671</sup> *‘weder guetes noch böses recht mit sich reden lassen’*, Ibid.

<sup>672</sup> *‘das gelaid wäre nichts als ein bloße Fretterey, daraus nichts dann Streit und Irrung erwachse’*, Johann Müllner, Relatio 7, Von der gelaidens Gerechtigkeit, n.d., StA Nürnberg, Reichsstadt Nürnberg, Rep. 52a Nürnberger Handschriften, 345, fo. 449.

high regard'.<sup>673</sup> The statement was recounted by several witnesses and when the mayor was later taken to task, he articulated his aversion to the ritual, saying that 'high lords were difficult to handle in such affairs'<sup>674</sup>. In a similar vein, the Salzburgian sheriff at Mühldorf expressed relief rather than a sense of achievement, commenting on the passage of Emperor Leopold I in September 1658 with the words 'Thank God, no inconvenience [...] occurred'.<sup>675</sup> In 1777 the Abbey of Prüfening called Palatinate-Neuburg's safe-conduct processions to Regensburg a 'comical cavalcade'.<sup>676</sup>

Nonetheless, the passage of prominent travellers constituted an exciting opportunity for meeting emperors, princes and other visitors of rank, in person. Some officials were very proud of their interaction with the noble visitors. After Emperor Leopold I passed through the Salzburgian exclave of Mühldorf in Bavaria in September 1658, the Salzburgian sheriff recounted how he escorted the emperor through the city 'with bare head'<sup>677</sup> and that the emperor himself asked him about the length of the remaining journey. On the same occasion, the small-town sheriff was invited to a banquet with the emperor and exercised himself in courtly manners. When a countess at the banquet praised the miracle powers of *Gemsenkugeln* (bezoars found in the stomachs of mountain goats that were believed to possess special powers, such as curing the effects of poison), the sheriff immediately promised to give her one as a present. Hearing that the countess 'loves little dogs very much'<sup>678</sup> but could not find one on her journey, he offered her both a *Gemsenkugel* as and 'a pretty small dog',<sup>679</sup> some days later when she passed through Mühldorf, to which the countess 'cried out: Oh Lord what grace bechances me'<sup>680</sup> and thanked her benefactor effusively.

The equipment that the authorities handed out to their escorts was not always in a good state. In an undated letter, a Wertheimian tailor excused himself for accidentally killing one of his fellow men with a malfunctioning harquebus.<sup>681</sup> He fired the shot from a boat on the Main and accidentally 'blast an

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<sup>673</sup> 'das er sich dergleichen Commission nit vill achte', Interrogation minutes attached to letter of Johann Georg Baumgartner to Prince-Bishop and high officials of Salzburg, 6 Nov 1657, BayHStA München, Erzstift Salzburg, Hofrat 34, fo. 10v.

<sup>674</sup> 'sintemahlen mit großen Herrn in derley sachen nit guet umbzugehen seye', Ibid. The statement indicates that the mayor, a commoner, perceived safe-conduct as an affair for noblemen.

<sup>675</sup> 'Gottlob! ainige ungelegenheit ... nit vorgangen', Johann Georg Baumgartner to Johann Freiherr zum Turm, 7 Sep 1658, fo. 2v, BayHStA München, Erzstift Salzburg, Hofrat 36.

<sup>676</sup> 'possierlichen Ritts', Reger, *Burglengenfelder Geleit*, 46. Such statements illustrate that the symbolic appropriation of transit and territorial boundaries happened in a 'parallel universe' (Stollberg-Rilinger, *Alte Kleider*, 309), where actions, which could otherwise be derided, were taken very seriously.

<sup>677</sup> 'mit entblösten haubl', Johann Georg Baumgartner to Johann Freiherr zum Turm, 7 Sep 1658, fo. 2v, BayHStA München, Erzstift Salzburg, Hofrat 36.

<sup>678</sup> 'kheine hindl sehr liebe', Ibid., fo. 3v.

<sup>679</sup> 'einem schönen kheinen hündl', Ibid., fo. 4r.

<sup>680</sup> 'aufgeschrien, O herr wie geschibt mir die Gnadt', Ibid.

<sup>681</sup> See: Ezechiel Schweycker, Burgher of Wertheim, to Count of Wertheim, n.d., StA Wertheim, G-Rep. 102, 3929.

eye out of the boatman's head, and damaged [him] so much that he had to stay and ultimately die'.<sup>682</sup> The weapon, which was 'quite shabby and frail',<sup>683</sup> belonged to the counts and had been handed to him for the procession. After the incident, the burgher fled because he was afraid of the relatives of his victim and appealed for a safe-conduct letter from the count. Similarly, when the King of Denmark travelled through Aachen in 1724, the officials refused to escort him because their clothing was too shabby and they did not have enough horses.<sup>684</sup> The Imperial City of Aachen seized upon the opportunity and organised a splendid safe-conduct procession for the king. On a similar note, an official of the Duke of Württemberg complained that officials of the neighbouring Free Imperial City of Ulm encroached on his duke's safe-conduct because his escorts were under-staffed, lamenting that, 'Previously, safe-conduct had been performed with twenty, thirty or forty horses, while now one would prefer to use old women'.<sup>685</sup>

Absenteeism and desertion were not uncommon, both in the higher ranks and among commoners. Many of the freeholders (*Landsassen*) required to participate in Palatinate-Neuburg's safe-conduct processions from Burglengenfeld to Regensburg simply refused to participate.<sup>686</sup> Old age, illness and weakness were their most common excuses, but some also cited a lack of horses, sick relatives, travel plans, or conflicting schedules. In practice, the cost of participating in the processions was a major concern. As a result, absentees were fined in some cases, which led to numerous disputes, as in the case of Philipp Walter Drechsel, who insulted an official messenger with 'unjustifiable words'<sup>687</sup> in 1619. When Duke Julius of Brunswick-Lüneburg travelled to Dresden in 1584, several noblemen who had been requested to escort him excused themselves with insufficient excuses.<sup>688</sup>

In the County of Wertheim, it was the subjects who refused to participate in the dangerous processions. In the spring of 1617 ten burghers of the city of Wertheim had not shown up for the procession at all and eight (possibly even fifteen)<sup>689</sup> had 'stolen themselves away [...] and hid away in the villages'.<sup>690</sup> As a reaction, the comital authorities fined absentees and deserters. They were ordered to pay a fine of ten Bazen to their fellows in the same squad in order to increase peer pressure. The

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<sup>682</sup> 'dem Schiffman der uns gefüret ein aug aus dem Kopff geschlagenn, und also beschedigett das er bleybenn und entlich sterbenn müssen', Ibid., fo. 1r.

<sup>683</sup> 'ganz böß und bruchhafftig', Ibid.

<sup>684</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 81–82.

<sup>685</sup> Akerman, Manfred, *Ein Grenzstreit im Filstal. Beschreibung und Entstehung der ältesten Darstellung der Landschaft zwischen Göppingen und Geislingen* (Göppingen: 1960), 24.

<sup>686</sup> See: Rieder, *Regensburg*, 28–34; Völkl, *Das pfalzneuburgische Geleite*, 136.

<sup>687</sup> Rieder, *Regensburg*, 35.

<sup>688</sup> See: NLA Wolfenbüttel, 1 Alt 23 Nr. 137.

<sup>689</sup> The draft document contains several lists of names and it is not clear to which column seven of the names belong.

<sup>690</sup> 'sich abgeschlichen haben, und sich in die dorfer vergrochen', Order to the Captain of Wertheim, 4 May 1617, StA Wertheim, G-Rep. 57/1, Strafbare Sachen 6.

enforcement of such fines was not easy.<sup>691</sup> The absentees justified their absence from the conduct processions with physical ailments and the obligations of fieldwork. Bartholomeus Dieter, for instance, claimed that as ‘a man of almost 70 years’,<sup>692</sup> he was too old for the long marches. He had recently lost one eye, which made the long marches difficult (‘especially by night’).<sup>693</sup> Therefore, the subject argued, he was ‘not useful in such processions, but rather debilitating’.<sup>694</sup> He claimed that a comital councillor had authorised him to remain in his village, but that his neighbours asked him to pay a fine nevertheless, just like those who had refused to participate in the procession ‘because of disobedience’.<sup>695</sup> Others justified themselves with work duties, such as Debes Hellmich and Hans Kaiser from the village of Höfffeld, who refused to participate in the autumn procession of 1601.<sup>696</sup> In 1617 Ulrich Maier, a carpenter at Salenhausen, excused himself with his work, as well as his two ‘invalid and ill sons’,<sup>697</sup> where peasants faced contradictory requests from different authorities, desertion and absenteeism could be the only way out. In the middle of the sixteenth century, the Counts of Wertheim thus prohibited their subjects in the villages of Sonderriet, Nassig and Steinbach from participating in the Mainzian safe-conduct processions.<sup>698</sup> Of course, absenteeism presented a serious problem for the organisation of safe-conduct processions. In the case of Palatinate Neuburg it meant that the head escort ‘had to ride around in Regensburg alone, to the mockery of the inhabitants’.<sup>699</sup> Because of the dire lack of escorts, the Palatine authorities even attempted to oblige widows and clerics to contribute to the processions (not personally, but by sending appropriate representatives) from the second half of the eighteenth century.<sup>700</sup>

The inadequate professionalism and reliability of commoner-escorts presented a considerable liability to their princes. Friedrich Bleichenberger is a good example of how militarily unfit subjects could easily fall prey to rivals. A subject of the Count of Wertheim, he had been ‘forced to go with’<sup>701</sup> the conduct

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<sup>691</sup> Some subjects refused to pay the fines, at which the local officials asked for help from their superiors. See for instance: Captain Hans Urstatt to Counts of Wertheim, 28 Sep 1616, StA Wertheim, G-Rep. 57/1, Strafbare Sachen 6.

<sup>692</sup> ‘*fast 70. Jährigen Mann*’, Bartholomeus Dieter to the Counts of Wertheim, 7 May 1617, StA Wertheim, G-Rep. 57/1, Strafbare Sachen 6, fo 1v.

<sup>693</sup> ‘*sonderlich bey nacht*’, Ibid., fo 1r.

<sup>694</sup> ‘*in solchen Zügen nichts dinstlich, ja viel mehr hinderlich*’, Ibid., fo. 2.

<sup>695</sup> ‘*auß ungehorsam*’, Ibid.

<sup>696</sup> The two subjects had ‘remained in the fields and seen to their work’ (‘*im Feldt bliben und ihrer Arbeit gewardt*’) for two days in a row. Mayor and Community of Höfffeld to Ludwig, Count of Löwenstein, StA Wertheim, G-Rep. 102, Nr. 1761.

<sup>697</sup> ‘*beeden schadhafften und ubel uf seienden Söhnen*’, Ulrich Maier to Counts of Wertheim, 3 May 1617, StA Wertheim, G-Rep. 57/1, Strafbare Sachen 6.

<sup>698</sup> See: Weiss, *Geleitstraßen*, 233–234.

<sup>699</sup> Rieder, *Regensburg*, 38.

<sup>700</sup> See: Ibid., 44–47.

<sup>701</sup> ‘*dabin getrungen, mit zuziehen*’, Unidentified official to Wolfgang von Dalberg, Archbishop-Elector of Mainz, 13.10.1599, StA Würzburg, MRA Löwenstein K 413/114, fo. 20r.

procession of the autumn of 1599.<sup>702</sup> On the way back from Freudenberg, Bleichenberger lagged behind his mounted sheriff and fellow subjects because of ‘weakness’.<sup>703</sup> Alone and unable to continue the journey, the man decided to pass the night in the town of Röllbach, where he went to bed at a local inn ‘without food or drink’.<sup>704</sup> At four in the morning, Bleichenberger was woken by the innkeeper and told that several officials of the Prince-Bishop of Mainz intended to take him with them.<sup>705</sup> The officials had received orders to arrest the comital escorts. Although they would have ‘preferred to get one of the officials’ attendants’,<sup>706</sup> they settled for this common and ‘simple, fearful man’.<sup>707</sup> The frightened Bleichenberger asked the innkeeper to hide him and help him escape, but was delivered to the officials who brought him to Stadtprozelten, where he was imprisoned in an inn for three days and then in the castle prison for nine more days. The accounts on the terms of his imprisonment differ wildly. Bleichenberger claimed that he was kept in harsh conditions (‘like a Turk or an enemy’)<sup>708</sup> and that the imprisonment endangered his life. His jailers, however, claimed that he had been kept in perfectly good conditions and had received food, prepared at the inn, several times a day.<sup>709</sup> When Bleichenberger complained that he was too old for imprisonment, the wife of the gate-keeper brought him a ‘little old bed’.<sup>710</sup> During his imprisonment, a comital official requested to speak with Bleichenberger several times and even ‘secretly’<sup>711</sup> walked around the castle in order to contact him and convince him not to swear an oath of truce (*Urfehde*) to his jailers. The arrest of escorts was not uncommon. In the spring of 1602 the Würzburgians arrested an old peasant from Bettingen, ‘who had lain down in the field because of fatigue and slept’.<sup>712</sup> The man was imprisoned in an ‘abominable hole’<sup>713</sup> and allegedly subjected to torture which caused him continued epileptic seizures.<sup>714</sup>

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<sup>702</sup> Friedrich Bleichenberger to Ludwig, Count of Wertheim, 2 Dec 1599, StA Würzburg, MRA Löwenstein K 413/114.

<sup>703</sup> ‘*schwacheit*’, Ibid., fo. 30r.

<sup>704</sup> ‘*one Eßsen und trincken*’, Ibid. The innkeeper later claimed that Bleichenberger was served both food and drink. See: Testimony, 29 Dec 1599, StA Würzburg, MRA Löwenstein K 413/114, no. 20.

<sup>705</sup> See: Testimony, 29 Dec 1599, StA Würzburg, MRA Löwenstein K 413/114, no. 20.

<sup>706</sup> ‘*hette lieber der Beamten diener einen gehabt*’, Unidentified official to Wolfgang von Dalberg, Archbishop-Elector of Mainz, 13.10.1599, StA Würzburg, MRA Löwenstein K 413/114, fo. 20r.

<sup>707</sup> ‘*einfeltiger forchtsamer Man*’, Ibid.

<sup>708</sup> Friedrich Bleichenberger to Ludwig, Count of Wertheim, 2 Dec 1599, StA Würzburg, MRA Löwenstein K 413/114, fo. 29v.

<sup>709</sup> See: Melchior Geiger, Mayor of Röllbach, and Uldarich Erpacher, Mayor of Prozelten to Adolf Echter von Mespelbrunn, Sheriff of Prozelten, 30 Dec 1599, StA Würzburg, MRA Löwenstein K 413/114, fo. 36r-37v.

<sup>710</sup> ‘*ein alt bettlein*’, Testimony of Hans Hoffmann, *Stadtknecht* (city official) at Prozelten, StA Würzburg, MRA Löwenstein K 413/114, fo. 39v.

<sup>711</sup> ‘*heimlich*’, Adolf Echter von Mespelbrunn, Sheriff of Prozelten, to Wolfgang von Dalberg, Archbishop-Elector of Mainz, 7 Jan 1600, StA Würzburg, MRA Löwenstein K 413/114, no. 17, fo. 33v.

<sup>712</sup> ‘*welcher auß müdigkeit sich im veldt nidergelegt, und geschlaffen*’, Report on the safe-conduct procession Easter 1602, 24 Apr 1602, StA Wertheim, Rep. 19, Nr. 11 2, fo. 12r-12v.

<sup>713</sup> ‘*abschenliche loch*’, Ibid., fo. 12v.

<sup>714</sup> The term used is ‘*hinfallenden such*’, Ibid.

Among the discontents of safe-conduct one must number, moreover, the conductees themselves, such as the emperors. The idea that the emperor retained a certain dominion over movement through the territories of all Imperial Estates was reflected in the saying ‘Imperial Majesty brings about conduct’,<sup>715</sup> which legal scholars of the seventeenth century cited as evidence that no emperor needed to ask permission for moving through a lord’s territory.<sup>716</sup> Not to mention, the emperors resented the nuisance caused by rivalries between competing escorts. Acts of violence and shootings with firearms could occur in spite of the monarch’s presence, as when both King Ferdinand and King Matthias travelled through Nuremberg on the way to their election as emperors in 1558 and 1612, respectively.<sup>717</sup> In 1500 King Maximilian had to personally mediate a fierce dispute between Nurembergian and Brandenburgian deputies who wished to escort him during his travel to Nuremberg.<sup>718</sup> A frequent means adopted by the emperors to prevent all conflicts, was to forbid the ritual altogether.<sup>719</sup> On the occasion of the Imperial Diet of 1608, the emperor ordered that the quarrelling parties should not conduct the envoys to Regensburg and appointed three extraordinary commissioners to impede the safe-conduct ritual.<sup>720</sup> On this, as on other occasions, the unwanted escorts complied.<sup>721</sup> When Emperor Leopold I passed through the Salzburgian exclave of Mühldorf in 1658, his entourage suggested that neither the Bavarian, nor the Salzburgian officials should escort him through the contested space, stressing that the same had been done on previous occasions.<sup>722</sup> In a later conversation with the Salzburgian sheriff at Mühldorf, some members of the imperial entourage argued that it ‘would be best’<sup>723</sup> if all competing princes ‘suspended’<sup>724</sup> the safe-conduct ritual during the emperor’s travels. In many other cases, however, the momentous symbolic and legal implications of performing safe-conduct led many princes and cities to continue the processions, even against the conductees’ wishes, as when Emperor Charles VII passed through the Landgraviate of Hesse-Darmstadt in 1742.<sup>725</sup>

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<sup>715</sup> ‘*Kaiserliche Majestät bringt das Geleit mit sich*’. Allegedly, these are the words with which Emperor Ferdinand I refused to be escorted by the Margrave of Brandenburg when travelling to Nuremberg. See: Wander, Karl Friedrich Wilhelm, *Deutsches Sprichwörter-Lexikon*, vol. 3, (Leipzig: 1873), 352–353. The idea of the emperor’s supra-territorial safe-conduct privilege was advanced, for instance, by the Imperial City of Regensburg when the Elector of Bavaria protested against the transportation of an Imperial prisoner through Regensburg and his territory. See: Rieder, *Regensburg*, 214.

<sup>716</sup> For a more detailed discussion: Orth, Philipp Albert, *Tractatus Iuridico-Politicus De Regali Conducendi Iure* (Nuremberg: 1672), 123.

<sup>717</sup> See: Kircher, *Nürnberg*, 108–109, 146.

<sup>718</sup> See: *Ibid.*, 22.

<sup>719</sup> See: *Ibid.*, 133–134, 139, 146, 155, 173, 174.

<sup>720</sup> See: Rieder, *Regensburg*, 208.

<sup>721</sup> See: *Ibid.*, 194, 208–209.

<sup>722</sup> See: Johann Georg Baumgartner to Johann Freiherr zum Turm, 7 Sep 1658, BayHStA München, Erzstift Salzburg, Hofrat 36, fo. 1v.

<sup>723</sup> ‘*wäre es am besten*’, *Ibid.*, fo. 3r.

<sup>724</sup> ‘*einstellen theten*’, *Ibid.*

<sup>725</sup> See: Kunz, *Kaisergeleit*, 63–64.

Similarly, when the deputies of Bavaria and of Palatinate-Neuburg insisted on escorting the envoys across the river Danube in 1596 and 1597, they went against explicit imperial orders to cease the contested practice.<sup>726</sup> Consequently, some princes preferred to travel incognito. When the Archduke of Austria travelled to Regensburg in early December 1597, he managed to enter the city very early in the morning without being noticed.<sup>727</sup> The Bavarian escorts who were waiting for him outside the city, only learned of his secret arrival on the following day.<sup>728</sup> At four in the morning in June 1613, the Elector of Mainz similarly entered Regensburg incognito in a coach accompanied by only two horsemen.<sup>729</sup>

Some foreign monarchs and princes disliked the processions as well. When Tsar Peter the Great travelled to Aachen in 1717, he did not refuse Jülich's safe-conduct, but proceeded so fast that the escorts found it difficult to keep up with him (the tsar travelled so fast that he raced several horses to death).<sup>730</sup> Jülich's officials were similarly unsuccessful in 1748, when they intended to conduct participants to the congress of Aachen which ended the War of the Austrian Succession.<sup>731</sup> The Earl of Sandwich (the eponym of the modern sandwich) thus rejected all honours and complained about the 'importunate solicitations'<sup>732</sup> of Jülich's escorts. The envoys from outside the Holy Roman Empire, such as the French and the English, must have been particularly surprised by the ceremonial obstinacy of the local officials.

Complaints about unwanted escorts and their quarrels are also reported from German princes.<sup>733</sup> Safe-conduct processions were particularly problematic when the conductee claimed the right of safe-conduct for himself. In 1620 this happened to Wolfgang Wilhelm, Count Palatine of Neuburg, when he travelled through the City of Regensburg.<sup>734</sup> When Bavarian officials (with whom the count quarrelled over the right of safe-conduct) demanded to escort him, the count flatly denied their request. The Bavarians, however, insisted and held his entire convoy. The count declared that 'he would prefer to remain in the open field or to change his travel route and turn around, rather than accepting

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<sup>726</sup> See: Rieder, *Regensburg*, 188–191.

<sup>727</sup> See: *Ibid.*, 189.

<sup>728</sup> As a substitute for the archduke, they then insisted on escorting his marshal (*Marschall*). Other princes refused to be escorted at Regensburg, as well. *Ibid.*, 189–191.

<sup>729</sup> When the rest of his convoy followed at half past six, there were, however, 'contrarious scenes'. *Ibid.*, 222–223.

<sup>730</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 116–117.

<sup>731</sup> See: *Ibid.*, 87–89.

<sup>732</sup> 'importunen Sollicitiren', *Ibid.*, 90.

<sup>733</sup> See, for instance: Rieder, *Regensburg*, 216–217, 219. In 1515, an official at Vilseck threatened a rivalling escort that he would attack, injure and imprison his conductees if he continued to escort them on the contested route. See: Hierold, Eugen, 'Das Vilsecker Geleit' *Oberpfälzer Heimat* 23 (1979): 76–82, 81.

<sup>734</sup> See: Rieder, *Regensburg*, 224.

the foreign escorts'.<sup>735</sup> Eventually, the Bavarian escorts let him pass.<sup>736</sup> In the safe-conduct disputes between the Electorate of Bavaria and the Prince-Bishopric of Salzburg at Mühldorf, the 'many grievances and inconveniences'<sup>737</sup> experienced by travellers of rank were an important motivation in settling the conflict once and for all.

The seignorial escorts were not always welcome among the merchants and carters who were required to travel in the safe-conduct processions to the trade fairs, either. When the roads were safe to travel without escorts, many preferred to travel independently, or with stage coaches.<sup>738</sup> Indeed, the journey in a safe-conduct convoy forced the merchants to agree on a specific travel date well in advance. Those who finished their business early could not travel back from the trade fair, while those who needed more time were forced to leave early. Repeatedly, not a single merchant showed up for the ordinary safe-conduct processions in early seventeenth-century Württemberg, as most preferred to travel independently.<sup>739</sup> Not to mention, the merchants complained about delays and other problems with the escorts.<sup>740</sup> Still, in order to protect their claims of safe-conduct, cities like the Free Imperial City of Ulm attempted to convince at least one merchant to travel under its safe-conduct during the Frankfurt trade fairs in the late seventeenth and eighteenth centuries.<sup>741</sup>

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Safe-conduct processions offered a means to represent, assert and contest the control of thoroughfares of the Holy Roman Empire. Processional rankings, banners, trumpets and drums expressed and actualised competing claims to monopolise the legitimate means of movement. Fights, insults and acts of violence combined to create a sometimes dangerous theatre of transit. The wide-ranging agency of subordinate officials and the reluctance of local subjects and travellers highlighted the limitations of territorial rule and its efforts to monopolise the legitimate means of movement. The boundary bundled all these problems together and consequently offers a further vantage point for

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<sup>735</sup> 'er wolle eber auf freiem Felde liegen bleiben oder seine Reiseroute ändern und wieder umkehren, als das fremde Geleit annehmen', Ibid.

<sup>736</sup> Faced with a similar problem, the Elector Palatine and the Elector of Mainz agreed on allowing each other to pass through the other's lands without being escorted. See: Dotzauer, *Geleitswesen im Nahe-Mündungsgebiet*, 290.

<sup>737</sup> 'viel beschwerden und ungelegenheiten', Ferdinand Maria, Elector of Bavaria, to his deputies at Neuötting, 29 Jul 1661, BayHStA München, Kurbayern, Geheimes Landesarchiv, 724.

<sup>738</sup> See: Freitag, *Ulm*, 120, 126–127.

<sup>739</sup> See: Wilhelm, *Zollgeleit*, 143–144.

<sup>740</sup> See, for instance: Fendler, Rudolf, 'Geleitsorgen der Stadt Straßburg. Betreffend die Straßen von Straßburg nach Frankfurt, die durch die Kurpfalz, das Hochstift Speyer und Rheinhessen führten' *Pfälzer Heimat* 49 (1998): 6–8.

<sup>741</sup> See: Freitag, *Ulm*, 121, 126.

grasping the intricate relationship between early modern statehood and mobility, which will be explored in the following chapter.

### 3. Boundaries

We commonly assume that states govern human mobility at their borders. At the border, public officials regulate the entry of aliens, clear goods for customs and fight smugglers of goods and people. The border epitomises both the triumph and the limitations of territorial statehood. However, how useful a concept is it for understanding the ordering of movement in old-regime societies?

One look at a map is enough to realise that territorial borders were a pivotal element of the space between the Alps and the North Sea up until the late nineteenth century. Early modern Europe's borderlands lay, as it were, at its heart. The social, political, economic and cultural life of the population living in the Holy Roman Empire was significantly affected by the omnipresence of boundaries.<sup>742</sup> In the Empire's more fragmented areas, the intersecting and overlapping boundaries were so countless that even contemporary observers were confused by the complex territorial situations.<sup>743</sup> Historical research has confirmed the importance of boundaries for understanding the political, economic, social and cultural history of the German lands.<sup>744</sup> Territorial borders offered a site for the 'performative and competitive fabrication of a balance of forces'<sup>745</sup> between neighbouring polities. In terms of religious differences, one can estimate that the majority of the Empire's inhabitants lived less than a day's walk away from territories of another confession.<sup>746</sup> The close proximity of different confessions fuelled a constant need for distinction and personal affirmation.<sup>747</sup> Concerning religious identities, the boundaries within the Holy Roman Empire facilitated the 'exacerbation of the same through the other'.<sup>748</sup> Indeed, borders offer a particularly privileged vantage point for observing the concrete negotiation of power and identity-formation in societies past and present.<sup>749</sup>

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<sup>742</sup> For a definition of the concept of borderland, see: Baud, Michiel, and Willem van Schendel, 'Toward a Comparative History of Borderlands' *Journal of World History* 8, no. 2 (1997): 211–242, 215–216.

<sup>743</sup> See: Bretschneider, Falk 'Einleitung: Praxis der Grenze. Konflikte und Umgänge mit Territorialgrenzen im Alten Reich.' *Jahrbuch Für Regionalgeschichte* 29 (2011): 36–44, 36.

<sup>744</sup> See, for instance: Bretschneider, *Fractalité*, 153–155.

<sup>745</sup> *Ibid.*, 153–154.

<sup>746</sup> See: Duhamelle, *Frontière au village*, 140.

<sup>747</sup> See: *Ibid.*, 145. See, moreover: François, Etienne, *Die unsichtbare Grenze: Protestanten und Katholiken in Augsburg 1648–1806* (Sigmaringen: 1991); Duhamelle, Christophe, 'Territoriale Grenze, konfessionelle Differenz und soziale Abgrenzung. Das Eichsfeld im 17. und 18. Jahrhundert', in: François et al., *Die Grenze als Raum*, 33–52.

<sup>748</sup> Duhamelle, *Frontière au village*, 185.

<sup>749</sup> See: Bretschneider, *Praxis der Grenze*, 37.

It is a well-established tenet of historical research that territorial borders are shaped in the peripheries as much as they are shaped in the centres.<sup>750</sup> Recent scholarship has highlighted the immense agency of local officials and the local population in the definition of territorial borders.<sup>751</sup> While there was a tendency, in the German lands of the eighteenth century, to ‘centralise’ the negotiation of boundaries in the hand of professional surveyors and cartographers, the local population remained an essential factor.<sup>752</sup> Indeed, commoners found ‘creative ways of dealing’<sup>753</sup> with the boundaries in their vicinity. While territorial borders generally posed a limitation on the scope of action of state deputies, they represented spaces of opportunity for the population that could use them for purposes of desertion, contraband, tax evasion, or as a means of gaining leverage, for instance by threatening to leave the lord’s territory.<sup>754</sup> Such multi-perspective, agency-oriented approaches are symptomatic of the abandonment of essentialist conceptions of territory, in favour of more constructivist and relational perspectives on space.<sup>755</sup>

Boundaries have a pivotal function for communicating property. Indeed, ‘a territorial boundary may be the only symbolic form that combines a statement about direction in space and a statement about possession or exclusion.’<sup>756</sup> Accordingly, a considerable part of the historiography is concerned with how territorial boundaries delimited different rights over land and the technicalities of marking boundaries.<sup>757</sup> As with many affairs in the Holy Roman Empire’s political culture, this was a matter

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<sup>750</sup> See: Duhamelle, *Frontière au village*, 153–154; Sahlins, Peter, *Boundaries. The Making of France and Spain in the Pyrenees* (Berkeley: 1989).

<sup>751</sup> See, for the German lands: Prass, Reiner, ‘Die Etablierung der Linie. Grenzbestimmungen und Definition eines Territoriums: Sachsen-Gotha 1640–1665’ *Historical Social Research*, 2013, 129–149, 134. See, moreover: Herzog, Tamar, *Frontiers of Possession: Spain and Portugal in Europe and the Americas* (Cambridge, MA: 2014).

<sup>752</sup> See: Bretschneider, *Praxis der Grenze*, 39–40.

<sup>753</sup> *Ibid.*, 41.

<sup>754</sup> See: Bretschneider, *Fractalité*, 154. See, moreover: Ulbrich, Claudia, ‘Grenze als Chance? Bemerkungen zur Bedeutung der Reichsgrenze im Saar-Lor-Lux-Raum am Vorabend der Französischen Revolution’, in: Pilgram, Arno, ed., *Grenzöffnung, Migration, Kriminalität* (Baden-Baden: 1993), 139–146; Nippert, Klaus, *Nachbarschaft der Obrigkeiten: zur Bedeutung frühneuzeitlicher Herrschaftsvielfalt am Beispiel des Hannoverschen Wendlands im 16. und 17. Jahrhundert* (Hannover: 2000). In this sense, territorial borders were chiefly limitations to ‘state portability’ (Vigneswaran and Quirk, *Mobility Makes States*, 28.) Even border controls and trade embargoes sometimes opened up more new economic opportunities for subjects than they withdrew. See: Collet, *Getreidesperren*, 59.

<sup>755</sup> For a discussion of these developments in Germany, see: Bretschneider, *Fractalité*, 146–149. See, moreover: Gotthard, Axel, ‘Wohin führt uns der “Spatial turn?” Über mögliche Gründe, Chancen und Grenzen einer neuerdings diskutierten historiographischen Wende’, in: Wüst, Wolfgang, ed., *Mikro - Meso - Makro: Regionenforschung im Aufbruch* (Erlangen: 2005), 15–50; Löw, Martina, ‘The Constitution of Space The Structuration of Spaces Through the Simultaneity of Effect and Perception’ *European Journal of Social Theory* 11, no. 1 (2008): 25–49; Rau, Susanne, *Räume: Konzepte, Wahrnehmungen, Nutzungen* (Frankfurt am Main: 2013); Massey, Doreen, *For Space* (London: 2005).

<sup>756</sup> Sack, Robert David, *Human Territoriality: Its Theory and History* (Cambridge: 1986), 21. According to Sack, the simplicity of communication through territorial boundaries may be ‘an important reason why it is often used by animals’ (*Ibid.*, 32).

<sup>757</sup> See, for instance: Oelze, *Recht haben*; Rutz, Andreas, *Die Beschreibung des Raums. Territoriale Grenzbeziehungen im Heiligen Römischen Reich deutscher Nation* (Bonn: 2014); Nordman, Daniel, *Frontières de France* (Paris: 1998); Stopani, Antonio, *La production des frontières : état et communautés en Toscane (XVIe–XVIIIe siècles)* (Rome: 2008); Simmerling, Franz, *Grenzzeichen, Grenzsteinsetzer und Grenzfrevler. Ein Beitrag zur Kultur-, Rechts- und Sozialgeschichte* (München: 1996).

‘more of doing than of being’.<sup>758</sup> André Krischer therefore proposed understanding boundary disputes as ‘contested attributions of rights, which needed to be claimed, recognised, perpetuated or refused primarily in practice’.<sup>759</sup> Practice often means contingency. Tamar Herzog noted that ‘territorial confrontations were mostly unplanned and uncontrolled’<sup>760</sup> and ‘occurred spontaneously when the situation so required’.

This chapter explores a variety of cases, but the most important is that of the city of Mühldorf, an exclave of the Prince-Bishopric of Salzburg within the Electorate of Bavaria. The continued disputes around the borders of this minute polity provide an exceptionally well-documented example of the complex anatomy of early modern boundaries. Mühldorf had belonged to the Prince-Bishops of Salzburg at least since the twelfth century. In 1442 Salzburg acquired the high jurisdiction over the city.<sup>761</sup> The city itself was administered by a city council composed of the municipal judge, two mayors and seven city councillors.<sup>762</sup> The office of municipal judge comprised the office *Pflegsverwalter* or *Pfleger* (translatable as sheriff of curator), the local deputy of the Prince-Bishop of Salzburg.<sup>763</sup> Mühldorf lay at a strategically important pass over the river Inn, which exposed it to frequent attacks and sieges during the Late Middle Ages, not least by Bavarian forces.<sup>764</sup> From the fifteenth to the early seventeenth centuries, however, the city was spared armed conflicts and could flourish economically.<sup>765</sup> During the Thirty Years’ War, the city was taken by Swedish troops in 1632 and 1648.<sup>766</sup>

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<sup>758</sup> Stollberg-Rilinger, *Alte Kleider*, 21.

<sup>759</sup> Krischer, *Grenzen*, 136.

<sup>760</sup> Herzog, *Frontiers of Possession*, 1.

<sup>761</sup> Its territorial superiority (*Landeshoheit*), however, was limited by Bavarian competences in certain respects. See: Stahleder, Helmuth, *Mühldorf am Inn die Landgerichte Neumarkt, Kraiburg und Mörmoosen und die Stadt Mühldorf* (Munich: 1976), 211–212.

<sup>762</sup> See: *Ibid.*, 212.

<sup>763</sup> See: He was usually supervised by a *Pfleger*, who was the highest representative of Salzburg in the city but did commonly not reside there. In the cases studied here, however, Salzburg’s representative on site is commonly referred to as *Pfleger*, so that I decided to use this term instead of *Pflegsverwalter*.

<sup>764</sup> See: Stahleder, *Mühldorf*, 213.

<sup>765</sup> See: Bauer, Joseph, *Kurze Geschichte der Stadt Mühldorf am Inn* (Mühldorf: 1902), 34.

<sup>766</sup> See: Stahleder, *Mühldorf*, 213.



Figure 7: The city of Mühldorf around 1736 (Source: Copy of a painting by Anton Schröck, Wikimedia Commons, [https://commons.wikimedia.org/wiki/File:Barockes\\_M%C3%BChldorf.jpg](https://commons.wikimedia.org/wiki/File:Barockes_M%C3%BChldorf.jpg); Date accessed: 3 Mar 2016).

Although the rulers of Bavaria had managed to homogenise their territory by integrating foreign enclaves during the Late Middle Ages, a number of immediate (effectively quasi-sovereign) territories continued to fracture the duchy, which became an Electorate in 1623.<sup>767</sup> Mühldorf was one of these. In 1527 Bavaria and Salzburg affirmed their rights and prerogatives in a treaty, but the rivalries continued to smoulder and the subjects suffered considerably under this ‘cold war’.<sup>768</sup> The boundaries of the city had never really corresponded to its city wall, but were determined by a so-called *Burgfrieden*, a space that surpassed the city walls and was delimited by brooks, ditches, roads and estates.<sup>769</sup> Mühldorf and the neighbouring Bavarian districts (*Landgerichte*) of Neumarkt and Mörmoosen had had century-long disputes over the extent of the *Burgfrieden* and thus over the territorial boundaries between Bavaria and Salzburg.<sup>770</sup> The conflict around Mühldorf ended only in 1802, when the enclave was integrated into the Bavarian state.

The passage of the emperors and princes was a repeated occasion which re-ignited the ongoing dispute between Salzburg and Bavaria. Every time a traveller of rank passed through one of the two city gates,

<sup>767</sup> See: Albrecht, Dieter, Max Spindler, and Andreas Kraus, eds., *Das alte Bayern. Der Territorialstaat vom Ausgang des 12. Jahrhunderts bis zum Ausgang des 18. Jahrhunderts* (München: 1988), 626.

<sup>768</sup> Gollwitzer, Hans, ‘Die Geschichte unseres Landkreises’, in: Landkreis Mühldorf a. Inn, ed., *Unser Landkreis Mühldorf a. Inn* (Bamberg: 1984), 37–42, 39. See, moreover: Landkreis Mühldorf a. Inn, *Unser Landkreis Mühldorf a. Inn: Eine Broschüre des Landkreises* (Bamberg: 1997), 9–10.

<sup>769</sup> See: Stahleder, *Mühldorf*, 214.

<sup>770</sup> Another treaty had been concluded in 1577. See: Treaty between Ferdinand Maria, Elector of Bavaria, and Guidobald von Thun und Hohenstein, Prince-Bishop of Salzburg, 13 Jul 1661, BayHStA München, Kurbayern, Urkunden, 12535, fo. 34r.

the parties expressed their competing territorial claims over the space outside these gates through the safe-conduct ritual. Such a constellation was not untypical. Outside the small city of Neudenau, which belonged to the Electors of Mainz, the Duchy of Württemberg and the Electorate of Mainz had a safe-conduct dispute over a small byway through the suburb that resulted in a small war in 1613 and 1614.<sup>771</sup> This chapter will consequently take the case of Mühlendorf and others as a basis for interrogating the function of territorial boundaries both in the highly formalised safe-conduct processions and in everyday life.

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<sup>771</sup> Wilhelm, *Zollgeleit*, 46.

## Staging the Border

The safe-conduct procession's most critical moment was the handover of the conductee to the escorts of another ruler. The deputies had to agree on a boundary and perform the handover without setting a precedent against the legal titles of their respective rulers. The constitution of safe-conduct boundaries through the handover of conductees was therefore an occasion when competing visions of social and territorial order clashed.<sup>772</sup> The dispute surrounding the passage of Emperor Ferdinand III through the city of Mühldorf in the autumn of 1653 offers an extremely well-documented case for understanding the performative construction of boundaries through safe-conduct.

The emperor and his son travelled to the city on a pilgrimage, planning to enter through the upper city gate. To assert the territorial claims of the Prince-Bishop of Salzburg, the sheriff Johann Georg Baumgartner decided to attend upon the visitors on a hill, 50 paces (around 35 metres) outside the gate. From there, he escorted the emperor and his son into the city, 'walking alongside the imperial carriages with bare head'.<sup>773</sup> Up until the contested ditch, the visitors were escorted by armed Bavarian officials, who did not protest at the time against Salzburg's reception committee waiting outside the gate. One week later, however, the archduchess Maria Anna of Austria, who served as Regent of Bavaria for her minor son, wrote a letter to the archbishop. She wanted to ensure that 'this new incident or transgression'<sup>774</sup> did not set a precedent against Bavaria's claims and asked Salzburg for a written declaration to this effect. When the archbishop forwarded the Bavarian letter to his sheriff and asked him to inquire whether there had been any precedents, Baumgartner researched the city registry, interrogated several burghers and answered with a long report to justify his initiative.

In order to prevent any future misunderstanding, he 'had the local painter [...] put the indisputable location of the boundary outside the outer city gate [...] to paper'.<sup>775</sup> The drawing (Figure 8) depicts the disputed area outside the upper city gate of Mühldorf from a high point inside the city. While it portrays the arrival of the imperial carriages and the spatial organisation of the officials of Salzburg and Bavaria on the day in question, it also illustrates past points of contention and precedents, such as

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<sup>772</sup> On the ceremonial dimension of territorial boundaries, see, for instance: Rahn, Thomas. 'Grenz-Situationen des Zeremoniells in der Frühen Neuzeit', in: Bauer, Markus, and Thomas Rahn, eds., *Die Grenze: Begriff und Inszenierung* (Berlin: 1997), 177–206.

<sup>773</sup> 'neben den Kaysl. Carossen mit geblößtem Haupt gehend', Letter from Johann Georg Baumgartner to Paris von Lodron, Archbishop of Salzburg, 13 Oct 1653, fo. 5b, BayHstA München, Erzstift Salzburg, Hofrat 33.

<sup>774</sup> 'diesen neuerlichen Verlauf oder Verstoß', Letter of Maria Anna, Regent of Bavaria, to Paris von Lodron, Archbishop of Salzburg, 30 Sep 1653 (Munich), fo. 1, BayHstA München, Erzstift Salzburg, Hofrat 33.

<sup>775</sup> 'den undisputirlichen gräniz orth ausser dem eussersten Stadthor [...] durch den allbiesigen mabler [...] zu papir bringen lassen', Letter from Johann Georg Baumgartner to Paris von Lodron, Archbishop of Salzburg, 13 Oct 1653, fo. 6b, BayHstA München, Erzstift Salzburg, Hofrat 33.

palisades that Salzburg had erected during the 'Thirty Years' War. The drawing is complemented by accurate numberings and a legend which, together with Baumgartner's long report, allow us to reconstruct the core mechanisms and the spatial setting of a safe-conduct boundary-dispute.

The Salzburgian sheriff and his riflemen (18) stood on a hill (17) next to the road (8) where the imperial carriages were travelling. According to the sheriff, the long ditch (5) enclosing the contested part of the road 'had always been seen [there] within living memory'<sup>776</sup> and was the boundary between Salzburg and Bavaria. According to Baumgartner, the Bavarian officials (6) who escorted the imperial carriages 'did not cross the ditch in the road, but rode or walked next to the road [(12) ...] unto [...] the well house [7] and behind the same to the lower part of the ditch, where they always used to stand and wait'.<sup>777</sup> The Salzburgian officials on the other side of the ditch (4) then escorted the guests, 'walking ahead of the travelling princes, in front of the carriage [...] from there through the city'.<sup>778</sup> Inside the city, the emperor was saluted by armed burghers (19).

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<sup>776</sup> 'alzeit und zwar uber menschen gedenkhen gesehen worden', Ibid.

<sup>777</sup> 'nit über das gräbel in der Strass, sondern gleich neben demselben herab [...] bis zu der [...] Prunstuben und zwar hinder derselben herum bis ans undere orth des gräbels, alwo si alzeit zu stehen und zu warthen pflegen, herabgeritten oder gangen', Ibid., fo. 7a.

<sup>778</sup> 'gleich vor der leib Carozen, abn raissenten fürsten persohnen vorlaufend, [...] von dannen durch die Statt', Ibid.



Figure 8: Drawing of the reception of Emperor Ferdinand IV at the city gate of Mühlendorf in 1653 (BayHStA München, Plansammlung 21416).

Far from being an innocent rendering of the situation, the map commissioned by the Salzburgian official was specifically designed for the purpose of underlining Salzburg's claims over the contested space and justified his decision to escort the emperor. From the evidence that he had collected, Baumgartner argued, he could demonstrate ('plain as the sun')<sup>779</sup> that Salzburg had 'all princely highness and jurisdiction'<sup>780</sup> over that space and was therefore 'entitled to make dispositions and provisions [about] the construction of stockades, palisades and other fortifications, and especially [about] the escorting of travelling princes'.<sup>781</sup>

Indeed, the sheriff explained, 'I have not only not committed an encroachment [...] but I would have actually been entitled to present myself [...] at the very beginning of the ditch on the upper side of the street [8], in order to affirm the jurisdiction and the border'.<sup>782</sup>

One of the most important features of the drawing is the ditch (5) which runs along the road on which the imperial carriages travel. It is one of the first features explained in the drawing's legend and the painter graphically enhanced it. By situating the ditch at the centre of the drawing, the beholder's gaze is directed upon it and by shading it, the painter made its depth visible. Several important features are ordered along, or oriented towards, the ditch. The three booths (16), for instance, are set right next to the ditch, fully exploiting the space claimed by Salzburg. On the map, the Bavarian escorts and officials (6) appear to perfectly respect the ditch as the border and do not encroach one inch upon the contested space.<sup>783</sup> The two Salzburgian officials (4), whom the painter had positioned further away from the gate, had been erased and redrawn right next to the ditch – perhaps in order to underline its quality as a border.

The graphic enhancement of the ditch in the Salzburgian map (Figure 8) becomes even more evident when compared to another map, which was commissioned by the Bavarian officials four months later (Figure 9). It depicts the same space in front of the city gate from the other side. The ditch (F) is represented as a long line, diagonally dividing the picture from the lower left corner. If it were not marked, one would hardly notice it. It does not structure the space as in the Salzburgian drawing: it appears as an insignificant, somewhat disorderly element that traverses the contested roads just as it

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<sup>779</sup> 'sonnenklar', Ibid., fo. 8b.

<sup>780</sup> 'allen fürstl. hobeit und jurisdiction', Ibid.

<sup>781</sup> 'mit erpauung der Stoccaden, Pallisaden und andrer fortificationen, insonderheit auch in beglaidung der raysendten fürsten Persohnen, [...] disposition und verordnung zu machen berechtiget', Ibid.

<sup>782</sup> 'nit allein khainen eingriff erzaiget, sondern, ich zu behauptung der jurisdiction und gräniz Confinen hofentlich noch befugt gewesen were, gleich beim anfang des gräbels am obern orth in die straß [...] mich zu praesentieren', Ibid.

<sup>783</sup> Testimonies from 1656 confirm that the Bavarian officials respected the ditch as safe-conduct boundary on this occasion. See: Interrogation minutes, 1656, fo. 5r, BayHStA München, Erzstift Salzburg, Hofrat 35.

traverses the private land outside the city wall. In the graphic hierarchy of the two maps, the ditch holds very different positions.<sup>784</sup>

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<sup>784</sup> There had formerly been a bridge at the ditch. See: Instruction of Guidobald von Thun und Hohenstein, Prince-Bishop of Salzburg, 7 May 1661, fo. 4v, BayHStA München, Erzstift Salzburg, Hofrat, 599.

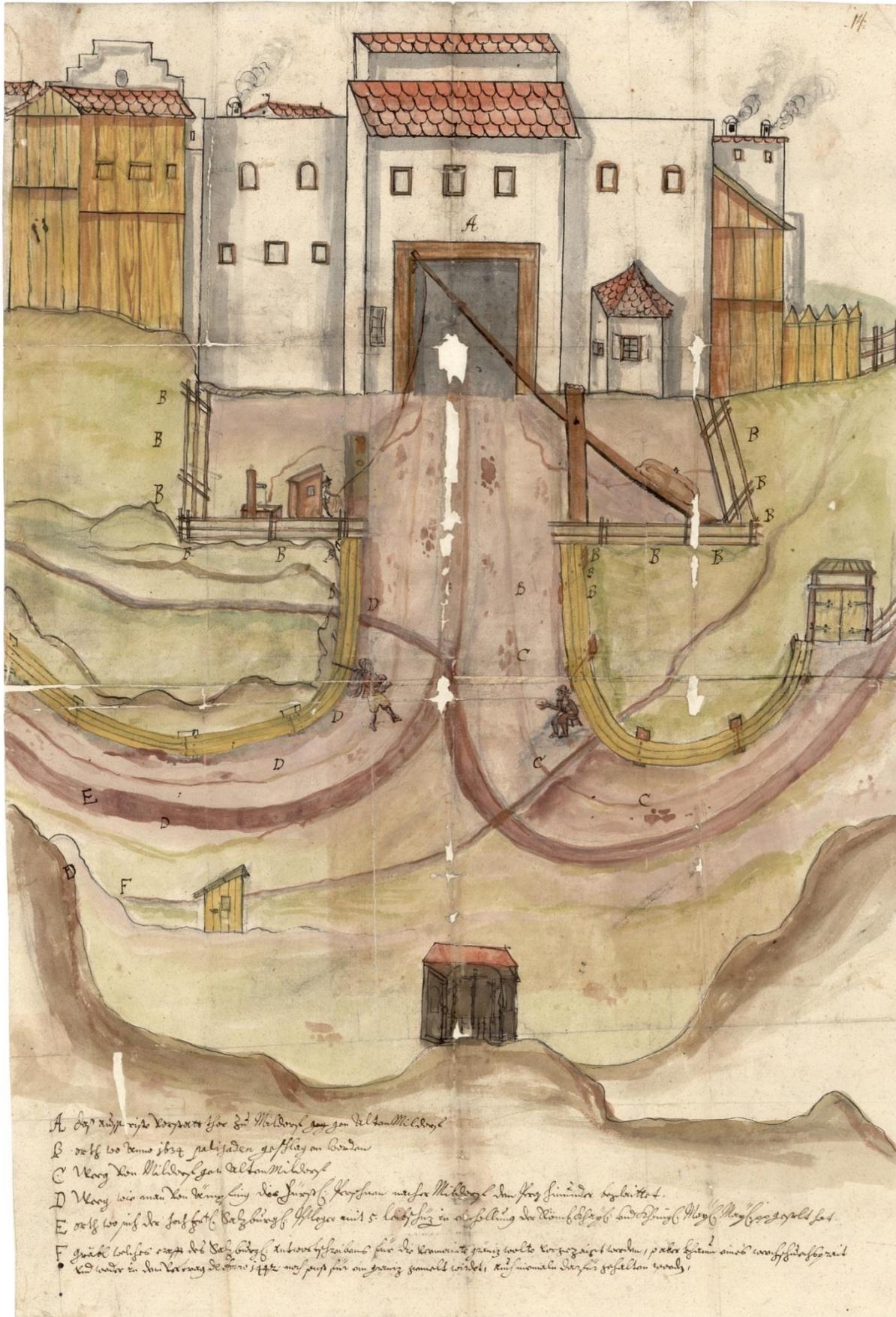


Figure 9: Painting of the outer upper city gate of Mühlendorf from 1654 (BayHstA München, Plansammlung, 11541)

The Salzburgian drawing delivered more than a highly selective representation of the contested space; on closer inspection, one finds several elements that were not actually present in 1653. For example, the painter included a number of booths that had been erected in 1611 and in 1634, ‘when the vexatious infection [... the plague] raged’<sup>785</sup> in Mühldorf. In those booths, ‘the burghers and merchants’ of the city had sold their goods to the extramural population, who were not allowed to enter the infected city.<sup>786</sup> Bavarian officials erected a guard booth outside the city gates (on the other side of the ditch) and controlled the access to the city.<sup>787</sup> At the ditch, the inhabitants of Mühldorf sold goods to the villagers and, on the day of the annual fair, they had erected the booths without being challenged by the Bavarians.<sup>788</sup> The official put particular emphasis on the fact that this had happened without dispute from the Bavarian side, which constituted another proof of the city’s right over the contested space. During one of these epidemics there had been another conflict around a toll booth that the Bavarians wanted to build on the Salzburgian side of the ditch, but which they ultimately erected on the other side (14), next to a roofed ‘pillar of the scourging’ (*Martersäule*) (13), a religious artefact possibly erected at the same time. For Salzburg, the Bavarians’ silence constituted yet another precedent confirming its territorial claims. In addition, the drawing depicts a guard booth (3) and the remainder of the palisades (2) which Salzburgian soldiers had erected during the war ‘for the better defence of the city’<sup>789</sup> and in spite of Bavarian protestations. The palisades, which are partly concealed by the city gate in the Salzburgian drawing, are fully visible in the Bavarian map (B). Just as the plague booths, Salzburg used the palisades to underline its claims over the contested space. The city gate had been fortified twice, in 1634 and 1642, and both times, Bavarian officials protested and demanded that the palisades be demolished. All these examples illustrate that, if in the creation of a map’s ‘feature selection is the prime link between generalization and overall design’,<sup>790</sup> the decision to include these elements reflects the mapmaker’s intention not to represent ‘topographical truth’, but to order humans and material artefacts in a way that supports his political claims.

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<sup>785</sup> ‘*als die leidige Infection [...] grassiert*’, Letter from Johann Georg Baumgartner to Paris von Lodron, Archbishop of Salzburg, 13 Oct 1653, fo. 8a, BayHstA München, Erzstift Salzburg, Hofrat 33.

<sup>786</sup> See: Ibid., fo. 3r-3v. 438 inhabitants of Mühldorf died during this epidemic. See: Bauer, *Mühldorf*, 35. See, moreover: Sandgruber, Roman, *Ökonomie und Politik. Österreichische Wirtschaftsgeschichte vom Mittelalter bis zur Gegenwart* (Wien: 1995), 103–105.

<sup>787</sup> One witness testified that the Bavarians initially intended to erect the guard booth on the Salzburgian side of the ditch but were forced to place them on the other side. See: Letter from Johann Georg Baumgartner to Paris von Lodron, Archbishop of Salzburg, 13 Oct 1653, fo. 8a, BayHstA München, Erzstift Salzburg, Hofrat 33.

<sup>788</sup> See: Ibid., fo. 8v.

<sup>789</sup> ‘*zue mehreren Defension der Statt*’, Letter from Johann Georg Baumgartner to Paris von Lodron, Archbishop of Salzburg, 13 Oct 1653, fo. 7b, BayHstA München, Erzstift Salzburg, Hofrat 33.

<sup>790</sup> Monmonier, Mark, *How to Lie with Maps* (Chicago: 1991), 25.

A further peculiarity of the Salzburgian map is the almost total absence of non-officials. The painter chose to depict only Bavarian, Salzburgian and imperial officials, with the exception of three vendors and a man descending the hill in the background of the scene. The painter's choice not to depict the commoners does perhaps reflect the desire to underline the high functionality of the safe-conduct ritual, in which the agency of commoners should have had no place. What is striking in the Bavarian map, is that the painter did not to depict the conduct ritual. The reason for suppressing it might be that the conduct ritual of 1653 set a precedent against the Bavarian title over the contested space and consequently a drawing of the event could visually challenge the Bavarian claims. The Bavarian mapmaker did choose, however, to depict two commoners (a sitting beggar holding out a receptacle and a walking person with a stick) and one guard at the turnpike. It is possible that by representing a beggar on the Salzburgian side of the ditch, the Bavarian mapmaker emphasised that the space could not be regarded as belonging to Mühldorf, as the city would not have tolerated beggars on its territory. It is clear that 'a single map is but one of an indefinitely large number of maps that might be produced for the same situation or from the same date'.<sup>791</sup> The maps produced in the context of the Bavarian-Salzburgian border dispute at Mühldorf are an eloquent illustration of this fact. The way in which the respective mapmakers enhanced, selected and suppressed certain features went well beyond the 'white lies' which come with every form of graphic generalization. To local deputies, who frequently 'adopted arguments likely to carry favour with the monarch',<sup>792</sup> they were strategic. By graphically enhancing the ditch, the painter of the Salzburgian map attempted to underline its quality as territorial border. His Bavarian counterpart, conversely, drew as little attention to the ditch as possible. Furthermore, by selecting a series of features that had not been there at the time of the map's production, the Salzburgian mapmaker attempted to underline his commissioners' claims over the contested space. He also chose to put particular emphasis on the conduct ritual (which the Bavarian drawing suppressed), therein producing a map almost exclusively populated by officials and graphically silencing the subject population. Clearly, the maps commissioned in safe-conduct and boundary disputes – in this case, as in others<sup>793</sup> – were more than conveyors of spatial knowledge: the map was as 'an intellectual weapon [...] in disputes over territory'.<sup>794</sup>

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<sup>791</sup> Ibid., 2

<sup>792</sup> Herzog, *Frontiers of Possession*, 10.

<sup>793</sup> A painting commissioned by the council of the Free Imperial City of Ulm in 1534 in the course of a safe-conduct dispute with the Duke of Württemberg graphically enhanced Ulm's titles of possession, as well. See: Akerman, *Filstal*, 30.

<sup>794</sup> Monmonier, *Maps*, 90.

The use of manuscript maps in territorial disputes was fairly common. In the Old Reich, maps were often produced in the course of lawsuits in order to spare the court a visual inspection of the contested site. Usually, only a small number of persons ever had the privilege of seeing those maps. They supported the written documentation wherever a spatial situation was too complex to be explained verbally. A substantial proportion of these maps were produced in the context of border disputes.<sup>795</sup> From the sixteenth century onwards, the use of manuscript maps as evidence in disputes over ownerships and other rights on land increased significantly and remained important throughout the seventeenth and eighteenth centuries.<sup>796</sup> Leading administrators and cameralist scholars agreed that maps offered a much more efficient instrument for surveying territorial prerogatives than the written reports produced by district officials, which sometimes amounted to little more than collections of anecdotes.<sup>797</sup> Many rulers thus attempted to establish written and cartographic records of their safe-conduct privileges.<sup>798</sup> The Electors of Mainz, the Electors Palatine, the Ernestine Dukes, the Counts of Württemberg and the Landgraves of Hessen all attempted to register the practice and spatial extension of their safe-conduct privileges at different times.<sup>799</sup> In its dispute with the Electoral Palatinate, the Elector of Mainz had his safe-conduct district recorded in a large-scale survey, during which nobles, officials and commoners were interrogated.<sup>800</sup> The aim was to secure Mainz' prerogatives against the encroachments of its neighbours. Hence, safe-conduct disputes produced a wealth of cartographic material.<sup>801</sup> Indeed, many of the earliest depictions of roads in the sixteenth century can be found among safe-conduct files.<sup>802</sup> A particularly sumptuous example is a map from c. 1534 that was produced in the course a safe-conduct dispute between the Duke of Württemberg and the Free Imperial City of Ulm in the Filstal, a valley between the cities of Göppingen and Geislingen.<sup>803</sup> The map, which was commissioned by the city council of Ulm, is 354 cm long and of exceptional artistic value.<sup>804</sup> During its production, the painter repeatedly changed his position in the landscape. Like other

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<sup>795</sup> See for instance: Horst, Thomas, *Die älteren Manuskriptkarten Altbayerns. Eine kartographiehistorische Studie zum Augenscheinplan unter besonderer Berücksichtigung der Kultur- und Klimageschichte* (München, 2009), vol 1, 19–35, 127–134.

<sup>796</sup> See: Kain, Roger, 'Maps and Rural Land Management in Early Modern Europe', in: *History of Cartography*, 2007, 3.1, 705–18, 706.

<sup>797</sup> See: Prass, *Grenzbestimmungen*, 144–145.

<sup>798</sup> See, for instance: Fendler, *Geleitstraßen*, 712–719.

<sup>799</sup> See: Rothmann, Michael, 'Innerer Friede und herrschaftliches Gewaltmonopol. Zur herrschaftlichen Funktion von Fehde und Geleit in Spätmittelalter und beginnender Früher Neuzeit unter besonderer Berücksichtigung von Frankfurt und dessen Umland', in: Müller, Heribert, ed., *„...Ihrer Bürger Freiheit«. Frankfurt am Main im Mittelalter* (Frankfurt am Main: 2004), 89–124, 121–122; Schaab, *Geleit und Territorium*, 398–399.

<sup>800</sup> See: Kneib, *Mainzer Geleitsrechte*, 80–81.

<sup>801</sup> See, for instance: Seußler, *Wimpfener Geleit*, 14–15; Perlinger, *Grenzwald*, 52; Müller and Müller, *Geleitfrage*, 100–112, Nöth, *Gleußen*, 103–105; Kneib, *Mainzer Geleitsrechte*, 79–94.

<sup>802</sup> See: Schaab, *Straßen- und Geleitswesen*, 55.

<sup>803</sup> See: Akerman, *Filstal*.

<sup>804</sup> To the point that it has been compared to the landscapes of Albrecht Dürer. See: *Ibid.*, 8.

maps of the same genre, it was a ‘situation map made specifically for the clarification of the geographic conditions [that were] so important in the dispute’.<sup>805</sup> For this reason, these maps were remarkably true in detail.

Alterations to the material setting of a boundary could be just as disputed as the safe-conduct ritual itself. The border between Bavaria and Salzburg at Mühldorf provides a good example, as both sides used former and existing constructions on the contested space as proofs of their claims. The Salzburgians attempted to prove their titles by depicting various fortifications and constructions they had erected in previous years, such as the plague booths and the palisades, or the Salzburgian guard booth and the Bavarian toll booth. The palisades had been particularly controversial. During the ‘Thirty Years’ War, Mühldorf had repeatedly attempted to fortify its city gate. As the entrenchments touched the contested space in front of the gate, however, the Bavarian officials outright refused the project. In spring 1634, someone reported to the Bavarian sheriff at Neumarkt that bars had been erected ‘approximately ten paces outside the gate’<sup>806</sup> and that ‘the gate [had been] entrenched from one wall to the other over twenty paces’.<sup>807</sup> The sheriff, who had difficulties explaining the problem to his government in Munich, commissioned ‘the local painter’<sup>808</sup> who painted the contested palisades on paper. The painting (Figure 10) shows the palisades which enclosed a space of twenty-seven paces in length between the city gate and an outer turnpike. The openings were just large enough for one cart to pass through.<sup>809</sup> The palisades were surrounded by a rampart (‘high like half a man’)<sup>810</sup> and a ditch of approximately sixty to eighty cm (one ell). As seen on the painting, there were two turnpikes ‘at which soldiers recruited by Mühldorf are keeping watch’.<sup>811</sup>

The Bavarian sheriff wrote to the dignitaries of Mühldorf to discover at whose orders ‘they had dared such an unauthorised endeavour’,<sup>812</sup> duly protested against the ‘improper alteration’<sup>813</sup> and requested

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<sup>805</sup> Ibid., 29.

<sup>806</sup> ‘ungever 10 Schritt, vor dem Thor’, Copy of a report from *Landgericht* Neumarkt to Maximilian I, Elector of Bavaria, 20 Apr 1634, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 22.

<sup>807</sup> ‘das Thor von einr mauer zu der andern auf 20 Schritt verschanzt worden’, Ibid.

<sup>808</sup> ‘den hiesigen Maller’, Copy of a report from *Landgericht* Neumarkt to Maximilian I, Elector of Bavaria, 28 Apr 1634, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 28a.

<sup>809</sup> See: Ibid., fo. 28b.

<sup>810</sup> ‘aines halben Manns hoch’, Ibid.

<sup>811</sup> ‘darbei durch die Mildorfische geworbene Soldaten die Schiltwacht gehalten würde’, Ibid. The combination of several turnpikes was not uncommon. The boundary between Bavaria and Regensburg at Stadtamhof, for instance, was fortified with two turnpikes, one guarded by a Bavarian soldier, the other by a Regensburgian. See: Rieder, *Regensburg*, 64–65.

<sup>812</sup> ‘ye sich dergleichen unbefugens beginnen understanden’, Copy of a report from *Landgericht* Neumarkt to Maximilian I, Elector of Bavaria, 20 Apr 1634, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 22.

<sup>813</sup> ‘die ungebirliche’, Copy of a letter from *Landgericht* Neumarkt to the City of Mühldorf, 20 Apr 1634, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 24b.

to ‘demolish’<sup>814</sup> the fortification and to restore the ‘old order’<sup>815</sup> on the contested space. The Salzburgian authorities at Mühldorf retorted that the palisades had only been erected to prevent hostile incursions and that the Bavarians had no right ‘to prohibit that which is necessary to the defence’<sup>816</sup> of the city and its extramural territory, but they nevertheless removed the entrenchment shortly after.<sup>817</sup> Apparently, the palisades had been erected without the knowledge of the Salzburgian government.<sup>818</sup>

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<sup>814</sup> ‘*demolieren*’, Ibid.

<sup>815</sup> ‘*alten stand*’, Ibid.

<sup>816</sup> ‘*zur defension [...] vonneten, [...] zu verwehren*’, Copy of a letter from the City of Mühldorf to *Landgericht* Neumarkt, 24 Apr 1634, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 29.

<sup>817</sup> See: Copy of a report to the Elector of Bavaria, 6 May 1641, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 33b.

<sup>818</sup> See: Copy of a report from *Pfleger* and *Magistrat* of Mühldorf to the *Hofgericht* of Salzburg, 29 Apr 1634, fo. 1, BayHstA München, Erzstift Salzburg, Hofrat 81.

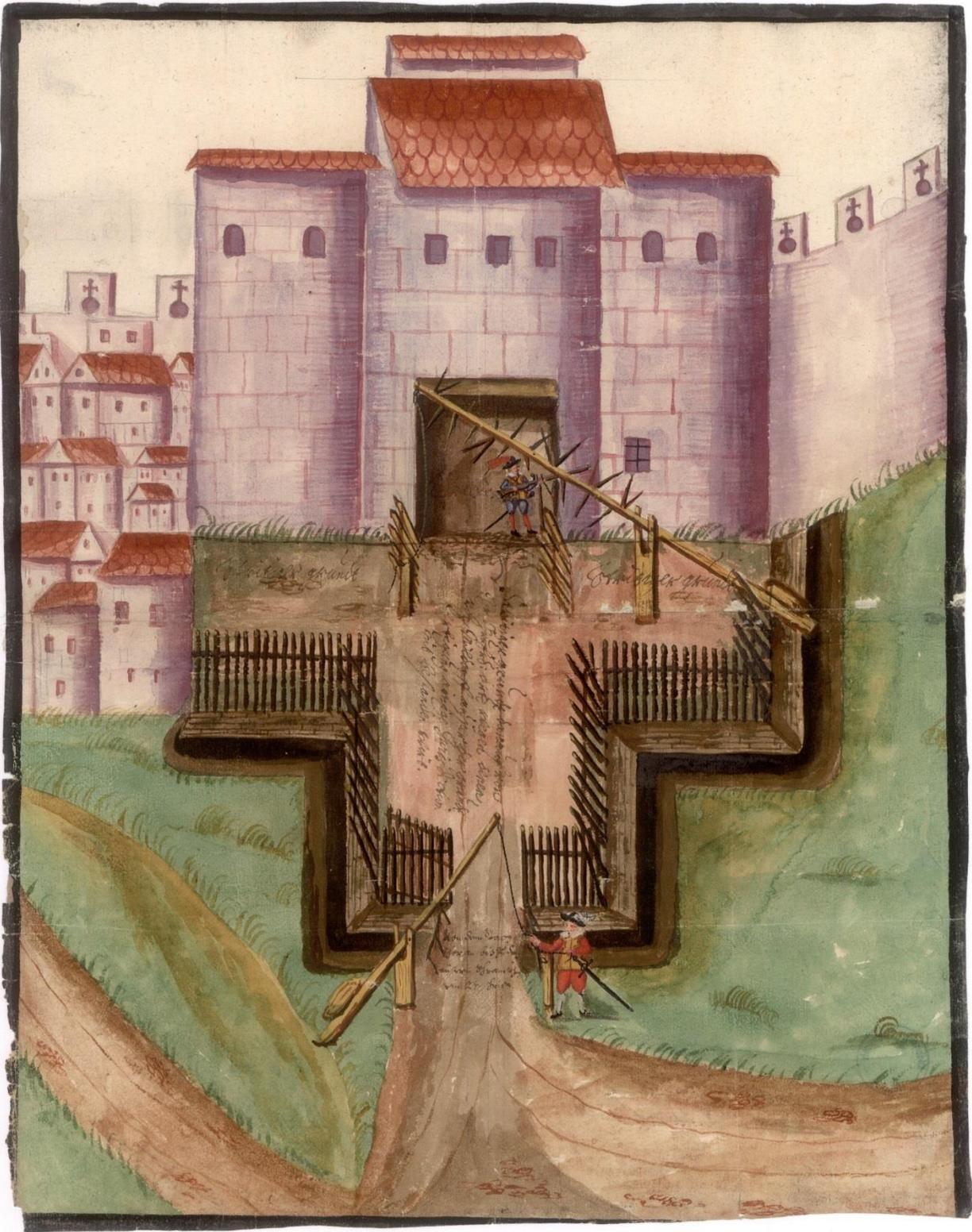


Figure 10: Painting of the palisades and turnpikes at the outer upper city gate of Mühldorf in 1634, view from outside (BayHstA München, Plansammlung 6762)

A few years later, however, in April 1641, the contested space outside the city gate was once again enclosed with palisades. Bavarian officials reported that the Salzburgians had built ‘an erected fence just like a palisade with a wicket gate; and in addition [they had] arranged a spiked barrier in front [of the gate] and a guard booth nearby, and therewith barred the gate’.<sup>819</sup> There is no painting of this entrenchment, but it probably looked very much like the painting from 1634 (Figure 10), without the ditch and rampart. In any case, the Bavarians immediately protested against the new entrenchment and commanded the Salzburgians at Mühldorf to dismantle it.<sup>820</sup> They ominously threatened to take ‘other measures, which one would otherwise mutually prefer to avoid’,<sup>821</sup> should they refuse. Mühldorf retorted that, as in the previous case, the palisades had been erected for defending the city against enemy attacks and especially to secure ‘the pass through the city and over the water’.<sup>822</sup> In 1659 the Bavarians complained that the Salzburgians had sealed off with wooden planks, the location where the Bavarians used to wait with their horses.<sup>823</sup> They suspected, however, that the planks had been put there solely for the purpose of keeping the Bavarian escorts away from the contested space.

Such disputes around the structural alteration of boundary spaces were not uncommon. In 1559 deputies of the Margrave of Brandenburg complained about changes that the Imperial City of Nuremberg had made to one of its gates. As the city moat and the gate, which were regarded as the safe-conduct boundary, had been moved slightly outward, the margrave’s deputies believed ‘that this happened to the detriment of the Margrave’s safe-conduct’.<sup>824</sup> The matter was even brought to the Imperial Chamber Court. Nuremberg, however, pointed out that the disputed space was ‘barely ten paces’<sup>825</sup> long and the whole dispute therefore ‘ridiculous’.<sup>826</sup> In 1617 the City of Regensburg sued the Duke of Bavaria at the Imperial Chamber Court over a new turnpike that ducal officials had erected at its gate, because it blocked a public road over which the city claimed dominion.<sup>827</sup> In 1624 Bavaria

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<sup>819</sup> ‘*Ain aufgesetztes gütter, als ob ain Palisada, mit ainem Pforten einlaß; und noch ainem vorgezobnen spizigen Schlagbaum und darbey aufgesetzten Wachtheisl gemacht Und das thor darmit beschlossen worden*’, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, Copy of a report to the Elector of Bavaria, 6 May 1641, fo. 33b.

<sup>820</sup> See: Copy of a letter from Landgericht Neumarkt to Pfliegergericht Mühldorf, 17 Apr 1661, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 35b.

<sup>821</sup> ‘*Zu andern verbleibenden Ambsmitteln, die man sonstn gegenseits liber entgehn wolte*’, Ibid.

<sup>822</sup> ‘*Sonderlich des paß hierdurch zu und über wasser*’, Copy of a letter from Pflieger of Mühldorf to Landgericht Neumarkt, 21 Apr 1641, BayHstA München, Kurbayern, Geheimes Landesarchiv 724, fo. 36b.

<sup>823</sup> See: Sheriff at Neumarkt to Ferdinand Maria, Elector of Bavaria, 12 May 1659, fo. 195v, BayHstA München, Kurbayern, Geheimes Landesarchiv, 724.

<sup>824</sup> ‘*daß solches zu Abbruch des Marggrl. Gelaides geschehen*’, Johann Müllner, Relatio 7, Von der gelaidens Gerechtigkeit, n.d., StA Nürnberg, Reichsstadt Nürnberg, Rep. 52a Nürnberger Handschriften, 345, fo. 452.

<sup>825</sup> ‘*kaum 10 Schrit*’, Ibid.

<sup>826</sup> ‘*lächerlich*’, Ibid.

<sup>827</sup> See: Rieder, *Regensburg*, 65.

had the contested space newly paved, against which Regensburg immediately protested because one of the new paving stones displayed the Bavarian coat of arms.

In the countryside, safe-conduct was handed over at natural landmarks such as brooks or rivers.<sup>828</sup> At watercourses, the escorts stood facing each other on either side of the river, with their horses' forefeet in the water.<sup>829</sup> Where there were bridges, the handover was often performed at the centre of the bridge. Trees could mark a safe-conduct boundary as well. Otherwise, boundaries were often marked with material artefacts such as boundary stones, crosses, columns and wayside shrines.<sup>830</sup> The escorts often met at these locations hours before the conductee's arrival. In the Wertheimian autumn procession of 1599, the competing escorts of Wertheim and Würzburg met very early at the safe-conduct columns (Figure 3) that marked the boundary between the Mainzian and Wertheimian conduct districts. As soon as the twenty armed Wertheimian escorts arrived at the boundary stones, they were joined by sixteen Würzburgian riflemen who asked the Wertheimians to reveal their intention, engaging in a lengthy dispute over which ruler had the right of safe-conduct over the contested river stretch.<sup>831</sup> Since neither side was willing to admit defeat, the escorts faced each other for 'around two hours'.<sup>832</sup> Arriving early was a question of strategy. In the spring of 1601, the Wertheimian escorts managed to 'surround'<sup>833</sup> the boundary stones with one thousand escorts and deployed two armed ships on the river. The hours that the escorts waited together could be extremely tense and often involved altercations and shoving-matches. A witness to a safe-conduct procession for the Elector of Saxony through the city of Erfurt in 1658, recalled that, while waiting, the representatives of the Ernestine Dukes attempted 'to take possession of the boom barrier'<sup>834</sup> in order to impede the city's escorts from performing the safe-conduct ritual at the boundary. At times information about conductees' travel route and arrival time was difficult to come by.<sup>835</sup> Therefore, escorts sometimes arrived late or waited

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<sup>828</sup> For instance at the safe-conduct boundary between the Free Imperial City of Ulm and the Duchy of Württemberg. See: Trostel, *Geleitwesen im Geislinger Raum*, 118. See, moreover: Fendler, *Geleitwesen*, 82, Weig, *Ius conducendi*, 149–151; Wilhelm, *Zollgeleit*, 7.

<sup>829</sup> See: Schaab, *Geleit und Territorium*, 410–411.

<sup>830</sup> See: Ibid. For detailed descriptions and depictions of safe-conduct columns and stones, see, for instance: Tilch, *Grabfeld*, 108–110; Müller and Müller, *Geleitfrage*, 106–108. See, moreover: Akerman, *Filstal*, 23. At one border between the Electorate of Mainz and the Prince-Bishopric of Würzburg (the so called *Kaltes Loch*), two columns of sandstone bore the inscriptions 'Mainzisch Glaidt, Zent, Zoll, Wildban, bohe und nidere Obrigkeit 1584'. The inscription underlines how prominently the right of safe-conduct figured among the different rights that made up a ruler's territorial superiority. See: Schopp, *Geleitwesen*, 12.

<sup>831</sup> See: StA Wertheim, G-Rep. 19 11 2, Report on the safe-conduct procession on 28 Sep 1599 by Johan Teigler, 4 Oct 1599.

<sup>832</sup> 'uff zwo stunde', Ibid., fo. 2r.

<sup>833</sup> 'umbring', Report on the safe-conduct procession of Easter 1601, 30 Apr 1601, StA Wertheim, G-Rep. 19 11 2, fo. 2v.

<sup>834</sup> 'sich des Schlagbaums bemächtigen', Testimonies about the safe-conduct processions for the Elector of Saxony at Erfurt, 21 Dec 1658, StA Erfurt, 1-0/B, 12-3, no. 15, fo. 59v.

<sup>835</sup> See, for instance the difficulties that arose when Tsar Peter the Great of Russia travelled from Paris to the Netherlands via Aachen. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 74–81.

in the wrong places, as happened in 1511, when the Palatine tollkeeper in Hemau missed a Spanish embassy that he should have escorted.<sup>836</sup>

Sometimes, the escorts reached a safe-conduct boundary without finding any escorts to hand the conductee over to. In the spring of 1633, for instance, the Wertheimian escorts reported that there had not been any Würzburgian escorts when they reached the oak tree at which the Würzburgians usually required them to hand over the procession.<sup>837</sup> They therefore marched further until Homburg, where a local official meekly protested against their performance. The Wertheimian escorts, however, continued their procession up to the safe-conduct stone at Marktheidenfeld. Here, the escorts ‘called out three times’<sup>838</sup> and formally ‘consigned the safe-conduct’<sup>839</sup> to the absent Würzburgian escorts. Indeed, the rituals with which safe-conduct officials marked the boundaries of their districts sometimes took very peculiar forms. In the County of Öttingen, a safe-conduct official regularly inspected the conduct roads and every time he arrived at the boundary of the comital safe-conduct district, he drove several nails into a nearby tree, or roadside shrine and fired shots from his rifle.<sup>840</sup> The procedure had to be witnessed by a local innkeeper or by a ‘redheaded’ peasant. More peculiarly, the official performed a specific dance that was attended by hundreds of people.

Safe-conduct disputes at cities such as Mühldorf of Regensburg, where there was a single boundary and the contested space was comparatively small, were relatively simple cases. Where the territorial situation was more complicated, the safe-conduct processions were accordingly more complex. The thoroughfares on which safe-conduct was exercised could be disrupted by enclaves and quasi-extraterritorial spaces, such as walled towns or cities.<sup>841</sup> Roads could be interspersed with fences, ditches and barriers that were closed especially in the time of major trade fairs and where dominion over transit routes was contested between different lords.<sup>842</sup> In some areas, such as the borderlands between the Electoral Palatinate and the Electorate of Mainz, the same roads repeatedly crossed the boundaries

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<sup>836</sup> See: Rieder, *Regensburg*, 197.

<sup>837</sup> See: StA Wertheim, G-Rep. 57/1 Geleitsachen 11, Report on the safe-conduct processions at Easter 1633, 3 May 1633.

<sup>838</sup> ‘*dreymahl geruffen*’, Ibid., fo. 1v.

<sup>839</sup> ‘*das glait darauf übergeben*’, Ibid., fo. 2r.

<sup>840</sup> See: Gabler, *Das Brandenburger und Öttinger Geleit*, 126.

<sup>841</sup> See: Schaab, *Geleit und Territorium*, 411–412.

<sup>842</sup> In the central Main valley, fences, road-blocks, ditches and turnpikes were a common sight and fulfilled strategic functions. In 1594, for instance, the communal district (*Gemarkung*) of Neubrunn was barred with boards and turnpikes at the orders of the Elector of Mainz (Schätzlein, *Alte Verkehrswege*, 129). In the autumn of 1600, Kriechingen and the Würzburgians blocked all roads to Wertheim and prohibited all commerce with the County of Wetheim (Neu, *Fehde des Würzburger Fürstenbischofs*, 476). In 1768, the Würzburgian government closed a stretch of the old conduct road between Waldbüttelbrunn and Helmstadt in order to channel the traffic on a new road. (Schätzlein, *Alte Verkehrswege*, 127).

between the two territories.<sup>843</sup> Such scattered territorial pockets produced a peculiar symbolism of passage and obstruction.<sup>844</sup> When safe-conduct processions traversed the contested territories of Wertheim along the river Main, for instance, the escorts attached great importance to passing through the settlements and road blocks along the river. Around Easter 1592, the Wertheimian escorts – five mounted men and forty armed subjects – marching from Freudenberg to Wertheim, found their path blocked several times on the way. The lesser nobles of Rüdts von Collenberg, residing in a castle along the river, refused to let them through and blocked the narrow road at a ditch with around fifty subjects armed with rifles and spears.<sup>845</sup> While the Wertheimians broke through this blockade unharmed, the next blockade at Dorfprozelten (Figure 11) was more difficult to overcome.

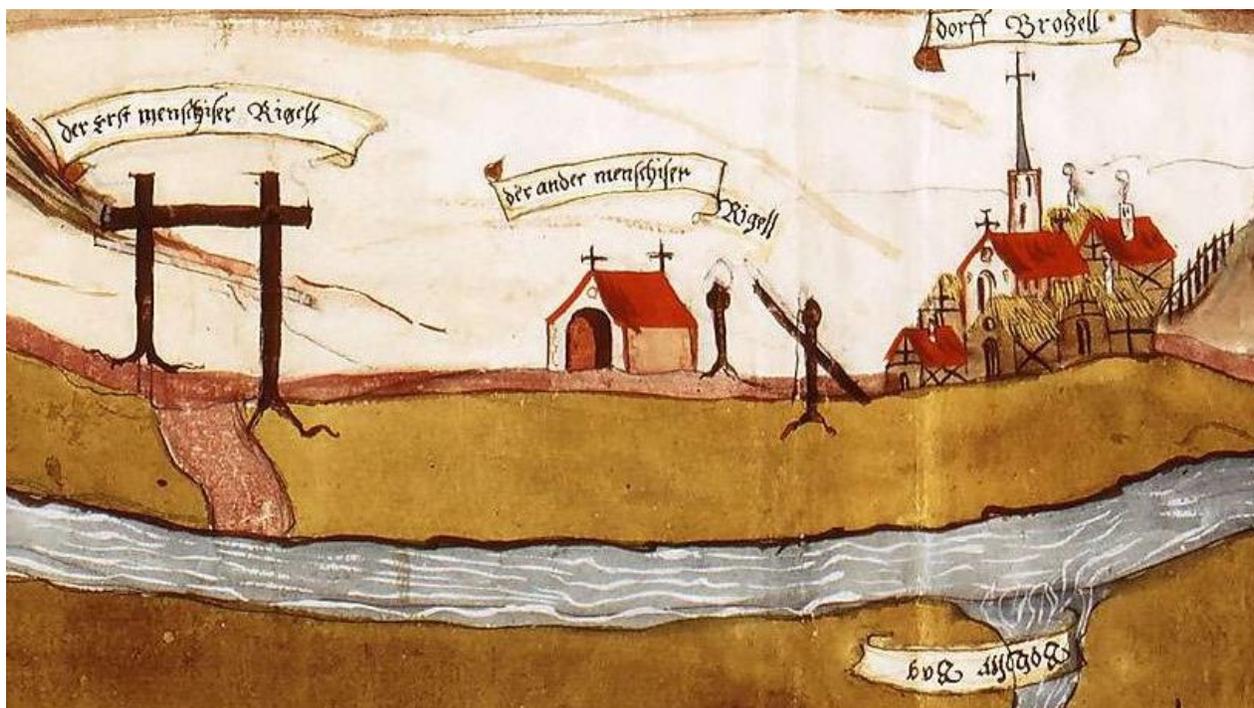


Figure 11: Two turnpikes on the conduct road along the river Main outside Dorfprozelten (Detail from a map of the river Main between Bürgstadt and Wertheim from 1593, StA Wertheim, R-K 5950).

<sup>843</sup> In 1715, the two rulers therefore agreed that both parties should escort travellers on that road together, but that each party's escorts should have the vanguard on their stretches of the road See: Dotzauer, *Geleitswesen im Nabe-Mündungsgebiet*, 290.

<sup>844</sup> This symbolism of passage and obstructions formed part of a wider ritual repertoire. It appeared, for instance, the early modern wedding custom of barring the bridal pair's road and having the man groom for their passage. See: Dünninger, Dieter, *Wegsperrung und Lösung. Formen und Motive eines dörflichen Hochzeitsbrauches. Ein Beitrag zur rechtlich-volkskundlichen Brauchtumsforschung* (Berlin: 1967). See, moreover: Jütte, Daniel, *The Strait Gate: Thresholds and Power in Western History* (New Haven: 2015).

<sup>845</sup> See: Report on the safe-conduct procession at Easter 1592, n.d., StA Wertheim, G-Rep. 41, Nr. 124c, fo. 2r.

Between 80 and 100 armed men, supported by a drummer, barred the way and ‘shouted at us, what we were looking for and doing there’<sup>846</sup> when the Wertheimians arrived. While the horsemen managed to break through the barrier, the footmen tarried and were blocked. Unable to find a way of bringing his men through without escalating the situation, the mounted Wertheimian official decided to escort the ships without the subjects. In the following year, the Wertheimians complained again about ‘ominous bars, booms, barriers and ambushes’<sup>847</sup> on both sides of the contested river stretch and in the autumn of 1620, the Wertheimian escorts found their way to Freudenberg blocked at Faulenbach with a fortified dyke of 4 or 5 paces, as well as by ‘a new turnpike’.<sup>848</sup> Such barriers played an important role in other safe-conduct processions as well.<sup>849</sup> In a conduct dispute with the Electorate of Mainz, the Electoral Palatine officials closed a contested road with a locked turnpike and repeatedly demolished a bridge.<sup>850</sup> The Imperial City of Regensburg closed the river Danube and the Stone Bridge, over which it claimed the right of safe-conduct, with metal chains and boom barriers to block the competing escorts.<sup>851</sup>

As agents of passage par excellence, the ferrymen who connected the two banks of the river played a central role. They were necessary for crossing and for safely navigating the treacherous waters.<sup>852</sup> Frequently, they received orders not to ferry rival officials and subjects across the river.<sup>853</sup> During the conduct processions of the autumn of 1599, several officials of the Baron von Kriechingen (the Prince-Bishop of Würzburg’s puppet in the conflict with Wertheim) requested to be ferried across the river to the city of Wertheim. The ferryman refused and invoked a comital order prohibiting any of Kriechingen’s officials from being ferried across or let into the city. Still, the ferryman went to Wertheim and announced the officials’ request to his superiors. He took his time and after the officials ‘had to wait in vain on the [river] bank in great rain for more than one hour and a half’,<sup>854</sup> they decided

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<sup>846</sup> ‘*unß an geschrien, was wir da zu suchen und thun wolten*’, Ibid., fo. 2v.

<sup>847</sup> ‘*argwonige, rigel Schlag, Schrancken und Haltstedt*’, *Articuli probatorii Löwenstein vs. Mainz*, StA Wertheim, G-Rep. 41, Nr. 124a, art. 31/8.

<sup>848</sup> ‘*ein Neuer schlag*’, Report on the safe-conduct procession in autumn 1620, n.d., StA Wertheim, G-Rep. 19, Nr. 11 1, fo. 1r.

<sup>849</sup> See for instance: Report on the safe-conduct procession in autumn 1600, n.d., StA Wertheim, G-Rep. 19, Nr. 11 1, fo. 1r. For more depictions of such barriers, see: Schätzlein, *Alte Verkehrswege*, 126; Moser, *Landtransport*, 268; Wackerfuß, *Maintal*, 447.

<sup>850</sup> Mainz reacted by sending a locksmith to open the lock and rebuild the demolished bridge. See: Dörr, Hans, ‘Streit um das Geleitwesen im Amt Dieburg’ *Der Odenwald* 43 (1996): 172–776, 173–174.

<sup>851</sup> See: Rieder, *Regensburg*, 187–188, 222.

<sup>852</sup> When Bavarian officials encroached the right of safe-conduct of the Imperial City of Regensburg over the river Danube in 1595 and 1596, for instance, they depended on the assistance of way-wise boatmen who were subjects of Regensburg. See: Rieder, *Regensburg*, 184–185.

<sup>853</sup> See for instance: Report on the safe-conduct procession in autumn 1599, StA Wertheim, F-Rep. 32, Nr. 14, fo. 5v.

<sup>854</sup> ‘*uber anderthalb stundt lannng in grossen Regen Vergeblich am Ufer wartten muessen*’, Copy of a notarial instrument on the safe-conduct processions in autumn 1599, n.d., G-Rep. 19 11 2, fo. 5v.

to give up and leave. Only at this point were they suddenly followed by the ferryman's servant, informing them that he had received orders to ferry them across.<sup>855</sup>

It was common to close the gates of the settlements in order to keep rivaling escorts from passing.<sup>856</sup> The closed settlements presented not only a symbolic challenge, but also a logistical one: subject-escorts occasionally complained that they could not buy food or drink. In autumn 1599, the Wertheimian escorts found the gates of several villages and towns closed. At Trennfeld, a Würzburgian official prompted them to ride around the village and when interrogated by a comital notary through the closed village gate of Trennfeld, the two peasants in charge of the gate confirmed that the Wertheimian escorts had been allowed to traverse the village in the past, but still refused to open the gate.<sup>857</sup> When Bavaria equipped thousands of soldiers to escort the new Prince-Bishop of Regensburg through the Imperial City of Regensburg, the city closed its gates and impeded the Bavarians from entering, so that they retreated with the Prince-Bishop and returned on the next day.<sup>858</sup> However, when they found the gates open, the escorts sometimes preferred to bypass a town or city out of fear of being locked in and assaulted within the walls.<sup>859</sup> In the spring of 1601, the Wertheimian escorts, led by one of the count's sons himself, forced their entry into Freudenberg. One of their men 'took away the keys from the gate-keeper by force'<sup>860</sup> and handed them to the count's son. In early modernity, this was an act of immense symbolic importance, as handing over the keys signified handing over 'the right to determine who could enter and leave the city'.<sup>861</sup> The Wertheimians unlocked the gate, entered the city 'with sounding trumpets and open drums',<sup>862</sup> occupied strategic positions in the city and guarded the gates with their own people. Forced entry into another territory had an important symbolic meaning in religious processions as well. In 1769 a procession of Catholic subjects from the Mainzian enclave of Eichsfeld entered the territory of the Landgrave of Hesse-Kassel, against the explicit orders of a Hessian official at the border.<sup>863</sup> The leaders of the procession, which comprised around two thousand people, simply ignored the official's request. Similarly, when Dutch Catholics pilgrimaged to the Catholic sanctuary at Kevelaer – where, unlike at home, they were allowed to worship publicly –

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<sup>855</sup> See: *Ibid.*, fo. 6r.

<sup>856</sup> See for instance: Report on the safe-conduct procession in autumn 1600, 27 Sep 1600, StA Wertheim, G-Rep. 19, Nr. 11 1, fo. 2r.

<sup>857</sup> See: Report on the safe-conduct procession in autumn 1599, StA Wertheim, F-Rep. 32, Nr. 14, fo. 3r-4r.

<sup>858</sup> See: Rieder, *Regensburg*, 192-194.

<sup>859</sup> See: Report on the safe-conduct procession at Easter 1592, n.d., StA Wertheim, G-Rep. 41, Nr. 124c, fo. 3v.

<sup>860</sup> '*dem Thorverter die schlüssel mit gewalitt abgenommen*', Report on the safe-conduct procession of Easter 1601, 30 Apr 1601, StA Wertheim, G-Rep. 19 11 2, fo. 3r-3v.

<sup>861</sup> Jütte, Daniel, 'Entering a City: On a Lost Early Modern Practice' *Urban History* 41, no. 2 (2014): 204–227, 211.

<sup>862</sup> '*mit klingenden Trometen unnd offenen Trommelspiel*', Report on the safe-conduct procession of Easter 1601, 30 Apr 1601, StA Wertheim, G-Rep. 19 11 2, fo. 3v.

<sup>863</sup> See: Duhamelle, *Frontière au village*, 192–195.

they marked the crossing of the border through the ostentatious display of banners and loud singing. In all these processions, the symbolic force resided in the fact that by crossing a boundary, one could 'bestow it with an ostentatious or even liberating meaning'.<sup>864</sup>

Safe-conduct boundaries could coincide with territorial borders, but in many cases they did not.<sup>865</sup> Some rulers, such as the Prince-Bishops of Würzburg, conceived safe-conduct as closely connected to territorial superiority.<sup>866</sup> However, the manifold exceptions to this connection led other historians to conclude that safe conduct was 'never rigidly tied to the other territorial rights',<sup>867</sup> if territorial and safe-conduct boundaries coincided 'at all'.<sup>868</sup> Michael Rothmann therefore criticised the ease with which historians sometimes conflated safe-conduct boundaries with territorial boundaries, as the result of an 'overly modern conception of boundaries'.<sup>869</sup> In practice, a ruler's safe-conduct district did not necessarily coincide with the space that he claimed as his 'territory' and over which he exerted other 'sovereign' rights.<sup>870</sup> In some cases, the boundaries of safe-conduct districts coincided with a ruler's hunting grounds (*Wildbann*).<sup>871</sup> Such complexities were perfectly normal in the Holy Roman Empire, where distinct legal titles were exerted over different, often evolving spaces. Thus, at terrain level, 'these apparently solid blocks of land dissolved at their peripheries into a mass of overlapping and often shared jurisdictions'.<sup>872</sup> For historians, this implies not least a problem of visualisation. Joachim Whaley recently lamented the 'technical impossibility of reproducing the internal territorial boundaries on the page in such a way that the eye can make sense of their sheer complexity'.<sup>873</sup>

Borrowing from political theory and with regard 'to the level of overlapping that exists among different types of boundaries',<sup>874</sup> one could describe these boundaries as defined by a very low degree of 'boundary coincidence'. This means that there was no, or little, overlap between military, administrative,

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<sup>864</sup> Ibid., 168.

<sup>865</sup> See: Schaab, *Geleit und Territorium*, 400; Weig, *Ins conducendi*, 149.

<sup>866</sup> See: Weig, *Ins conducendi*, 120–122.

<sup>867</sup> Schaab, *Geleit und Territorium*, 404.

<sup>868</sup> Wilhelm, *Zollgeleit*, 10.

<sup>869</sup> Rothmann, *Innerer Friede*, 89–124, 103.

<sup>870</sup> For the Prince-Bishopric of Würzburg, see: Tilch, *Grabfeld*, 107.

<sup>871</sup> See, for instance: Freitag, *Ulm*, 90; Trostel, *Geleitwesen im Geislinger Raum*, 116; Schaab, Meinrad, 'Geleit', in: Bautier, Robert-Henri, ed., *Lexikon des Mittelalters*, vol. 4, (München: 1989), 1204–1205. Schaab, however, relativised this view, in: Schaab, *Straßen- und Geleitwesen*, 57.

<sup>872</sup> Whaley, *Germany*, vol. 1, 44. See, moreover: Bretschneider, *Fractalité*, 152.

<sup>873</sup> Ibid. See, moreover: Biggs, Michael, 'Putting the State on the Map: Cartography, Territory, and European State Formation' *Comparative Studies in Society and History* 41, no. 2 (1999): 374–405.

<sup>874</sup> Bartolini, Stefano, *Restructuring Europe. Centre Formation, System Building and Political Structuring between the Nation-State and the European Union* (Oxford: 2005), 16–17.

economic, social, cultural and religious boundaries.<sup>875</sup> Up until the nineteenth century, state borders were not necessarily a criterion for distinguishing subjects and foreigners.<sup>876</sup> The Holy Roman Empire was not a world of states without borders; it was a world of borders without states. Indeed, in everyday life, the boundaries of administrative districts and local communities were often much more important for the population than state borders.<sup>877</sup> It was the inflation of the boundary that, ultimately, limited its significance as an instrument for controlling mobility. Thus, in spite of the omnipresence of boundaries, the ‘the very question of frontiers in relation to the Holy Roman Empire is anachronistic’.<sup>878</sup> The safe-conduct and other boundaries differed in important respects from modern territorial borders. A boundary that was fiercely, even violently defended during a safe-conduct procession, had no significance when it was crossed by a commoner.<sup>879</sup> The boundaries should therefore not be regarded as permanent, definite and evident, but as situational, as negotiable and, often, disputed.

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<sup>875</sup> Safe-conduct boundaries illustrate this situation well. The space outside the city gate of Mühldorf (Figure 10), for instance, featured two boundaries: the palisades with the boom barrier – used for controlling military, commercial and other mobilities – and the ditch, which served a boundary on safe-conduct occasions. It is in this sense that ‘when the things to be contained are not present, the territory is conceptually ‘empty’.’ Sack, *Human Territoriality*, 33. For the limited overlap between territorial and confessional borders, see: Duhamelle, *Frontière au village*, 144. Dominik Collet interprets regional grain embargoes as one of the instances in which territorial borders in the Old Reich functioned both as trade barriers and as demarcations between a solidary in-group and a disenfranchised out-group of foreigners. See: Collet, *Getreidesperren*, 45–46. See, moreover: Ulbrich, *Grenze als Chance*.

<sup>876</sup> See: Heindl, Waltraud, and Edith Saurer, ‘Einleitung’, in: Heindl, Waltraud, ed., *Grenze und Staat: Passwesen, Staatsbürgerschaft, Heimatrecht und Fremden gesetzgebung in der Österreichischen Monarchie 1750–1867* (Wien: 2000), XIX – XXXI, XXI.

<sup>877</sup> See: *Ibid.*, XXIX.

<sup>878</sup> Whaley, *Germany*, vol. 1, 19.

<sup>879</sup> Sometimes, a difference was made even between different safe-conduct processions. The noble participants of Palatinate-Neuburg’s safe-conduct processions to Regensburg, for instance, were required to formally ask the permission to enter the foreign territories when they passed through the dominions of Bavaria or the City of Regensburg. The parallel procession to Prüfening, which was composed of commoners, not noblemen, on the other hand, was not required to ask for permission. See: Rieder, *Regensburg*, 64–65, 113.

## Appeasement by Pedantry

In spite of their importance and frequency, boundary disputes in the Holy Roman Empire were remarkably peaceable. Although there were outbursts of violence, encounters between rivalling escorts at safe-conduct boundaries rarely escalated into bloodshed. Even when the escorts' views on the territorial situation differed profoundly, it was possible to manage the conflict in a relatively peaceful fashion. The taming of rivalries around thoroughfares and other inter-polity disputes was facilitated by a highly juridified culture of conflict that was characteristic of the Holy Roman Empire. The presence of legal professionals and witnesses helped to lead boundary disputes into bizarrely symbolic, yet bloodless directions.

Indeed, safe-conduct rituals were not only directed at the conductees, but also at third parties, such as rivalling officials, notaries and the local population.<sup>880</sup> For instance, the safe-conduct processions at the Imperial City of Regensburg were so fiercely contested because of the presence of the Imperial Estates who gathered there for the Imperial Diets.<sup>881</sup> Imperial Cities often put safe-conduct processions on record in ceremonial books to prove their social and political prestige.<sup>882</sup> Records of past safe-conduct processions were also a crucial asset because they could serve to corroborate respective claims in court.<sup>883</sup> The degree to which some safe-conduct rituals could be driven by the necessity to produce evidence, was made clear by the councillors of the Duke of Bavaria. When asked how Bavaria could secure its right of safe-conduct at Stadtamhof against Palatinate-Neuburg in 1594, the councillors suggested appointing an official with four horses who should escort all transients, 'whether they requested safe-conduct or not'.<sup>884</sup> The official was to make sure that every such instance was recorded by a notary, so that Bavaria collected as many 'acts of possession'<sup>885</sup> against the Palatine claims as possible. Similarly, after troops of the Elector Palatine and Duke of Jülich and Berg had successfully escorted Tsar Peter the Great at Aachen in 1717, the official in charge concluded his reports with the hope that 'this so solemn public performance [will] strongly confirm Your Electoral Highness' right of safe-conduct into posterity'.<sup>886</sup>

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<sup>880</sup> Krischer, *Grenzen*, 143, 151.

<sup>881</sup> See: Reger, *Burglengenfelder Geleit*, 41.

<sup>882</sup> Krischer, *Grenzen*, 147–148.

<sup>883</sup> In a lawsuit against Bavaria and Palatinate-Neuburg, the City of Regensburg was thus able to produce a 'deluge of examples' in support of its claims. See: Rieder, *Regensburg*, 201–206.

<sup>884</sup> 'ob sie nun ein Geleit verlangen oder nicht', *Ibid.*, 115.

<sup>885</sup> 'actus possessorios', *Ibid.*

<sup>886</sup> 'dieser tam solemnis publicus actus E. Ch. D. hobes gelaidts regale in die posteritet hinein kräftigst bestärcken', *Ibid.*, 119.

Accordingly, notaries and sworn witnesses were common at many safe-conduct and transit disputes.<sup>887</sup> In 1624 the Count of Oldenburg assigned notaries and testimonies to his contested toll stations on the Lower Weser,<sup>888</sup> declaring that they should also accompany the customs officials' when they inspected the ships. On the side of the City of Bremen, a notary accompanied the warships and corresponded with the mayor and the city council on a regular basis.<sup>889</sup> His correspondence, alongside that of the captain of the warship and a great number of notarial instruments and protocols, allow us to draw a detailed picture of the formalised interaction between the rivalling deputies on the river.<sup>890</sup> The presence of notaries was common in other safe-conduct disputes as well. When the Duchy of Bavaria attempted to encroach upon the safe-conduct right of the Imperial City of Regensburg over the river Danube in 1596, ducal officials took a notary with them in their barge.<sup>891</sup> The important role of these notaries was further reflected in the hostile treatment they received from the side of rivalling escorts. During the autumn processions of 1599, for example, the subjects of Freudenberg denied the Wertheimian notary entrance to the city. When he disembarked his boat and walked towards the city, the inhabitants of Freudenberg 'chased and pushed [him] from behind and forced'<sup>892</sup> the notary back on his way.<sup>893</sup> Meanwhile, the subjects 'insulted [him] with unfounded allegations and abused [him] to the utmost'.<sup>894</sup> One commoner even dared him to a 'fight'.<sup>895</sup> Only when an official of the Prince-Bishop of Würzburg called the subjects to order did they let the notary through.<sup>896</sup> A few years later, during the safe-conduct processions of Easter 1604, a Wertheimian councillor and other officials attacked a notary and several witnesses.

Escorts often spoke loudly or almost shouted: it was important that everyone could hear their protestations, especially the sworn witnesses. During the Wertheimian autumn processions of 1592, a comital official summoned and instructed his notary 'with loud voice, so that the Mainzians hear and

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<sup>887</sup> See, for instance: *Ibid.*, 211.

<sup>888</sup> See: Richter, *Weserzoll*, 37.

<sup>889</sup> Most protocols and correspondence of 1624 are contained in StA Bremen, 2-U.13.c.3.b.2.

<sup>890</sup> While Manfred Richter has examined notarial documents produced on the side of Oldenburg, the documents produced by Bremen have not been studied to date.

<sup>891</sup> See: Rieder, *Regensburg*, 181–182.

<sup>892</sup> *'getrieben, und hindervärtlich gestossen und genötigt'*, Report on the safe-conduct procession of autumn 1599, StA Wertheim, G-Rep. 19, Nr. 11 1, fo. 1r.

<sup>893</sup> It was not uncommon for escorts, notaries and officials to be impeded to disembark the ships. See for instance: Report on the safe-conduct procession in autumn 1599, 15 Oct 1600, StA Würzburg, Würzburger Kartons, Zoll 274, fo. 1v; Report on the safe-conduct procession of autumn 1599, StA Wertheim, G-Rep. 19, Nr. 11 1, fo. 1r.

<sup>894</sup> *'mit unbegründten Ufflagen injuriert und auffs höchste angetastet'*, Report on the safe-conduct procession of autumn 1599, StA Wertheim, G-Rep. 19, Nr. 11 1, fo. 1r.

<sup>895</sup> *'balgerey'*, *Ibid.*

<sup>896</sup> It took another intervention from the side of Würzburg's officials to allow two witnesses to leave the boat, as well.

apprehend it on their side [of the river] as well'.<sup>897</sup> Similarly, during a fierce dispute over the safe-conduct of a corpse on the Upper Weser river, an official of the Duke of Brunswick-Wolfenbüttel 'shouted overly loud in the presence of the witnesses'.<sup>898</sup> Territorial rulers encouraged their deputies to research their archives, to interrogate old witnesses and to keep records of all their safe-conduct-related actions (*Geleitsactus*).<sup>899</sup> A positive side-effect of authorities' attention to written records was the production of detailed source records.<sup>900</sup>

The safe-conduct officials themselves were an important source of information because some territorial situations were so complex, that 'actually nobody really knew where and how far the one or the other territory had to escort'<sup>901</sup> travellers, except for the local officials.<sup>902</sup> Not to mention, subjects were not always ideal witnesses. When interrogated, a witness to a safe-conduct procession for the Elector of Saxony in Erfurt in 1658, admitted that he did not actually remember who had the vanguard and the rear-guard on one occasion.<sup>903</sup> Added to this was the reality that archival records could get lost, making it impossible to reconstruct how things had been handled in the past on the basis of written records.<sup>904</sup>

The testimonies of the local populations provide insight into how commoners perceived the safe-conduct rituals, that their authorities considered with such importance. In Mühldorf the interrogations revealed that many who had not personally assisted the processions, had been told about them by their parents or friends.<sup>905</sup> Some even remembered at which inn the noble guests had eaten. Many recounted that they had not assisted to the visitors crossing the contested boundaries outside the city gates. Others gave more or less detailed accounts of the handover of the conductees, such as the mayor Johann Fischer who had observed the passage of Duke Albert VI of Bavaria in 1656 from his garden, together with his son and a friend.<sup>906</sup> The coloured liveries which the burghers wore on occasion of the processions made a lasting impression on most of the witnesses as well.<sup>907</sup> The mayor, for instance,

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<sup>897</sup> 'mit lauter stimme, das es die Mayntzischen uf Ihrer seiten auch anhören und vernehmen solten', Notarial instrument, 1 Oct 1592, StA Wertheim, G-Rep. 41, Nr. 124c, 5v.

<sup>898</sup> 'In beywesen der zeugen überlaut geschreyet', NLA Wolfenbüttel, 26 Alt 2209, fo. 7.

<sup>899</sup> See, for instance, an order of the Elector Palatine from 1683: Seußler, *Das Wimpfener Geleit*, 9.

<sup>900</sup> These often include, drawings, maps and interrogation or inspection minutes. However, the quarrelling parties were sometimes economical with the truth and produced contradicting accounts of the same events.

<sup>901</sup> Wilhelm, *Zollgeleit*, 8.

<sup>902</sup> See: *Ibid.*, 32.

<sup>903</sup> See: Testimonies about the safe-conduct processions for the Elector of Saxony at Erfurt, 21 Dec 1658, StA Erfurt, 1-0/B, 12-3, no. 15, fo. 60v.

<sup>904</sup> See, for instance: Pauls, *Geleitsrechte des Herzogs von Jülich*, 87.

<sup>905</sup> See: Interrogation minutes, 1656, fo. 3v, BayHStA München, Erzstift Salzburg, Hofrat 35.

<sup>906</sup> See: *Ibid.*, fo. 4v.

<sup>907</sup> See: *Ibid.*, fo. 2r, 4r.

remembered that when he was eight or nine years old, he and other boys wore blue liveries to welcome the Prince-Bishop of Salzburg.<sup>908</sup>

The interaction between rivalling escorts and deputies was often highly formalised. Safe-conduct processions and the handover of the conductees were frequently arranged down to the most minute details, including the wording of the speeches and the escort's uniforms.<sup>909</sup> On the Lower Weser, deputies of Bremen and Oldenburg occasionally met in highly formalised encounters on the water to exchange inquiries and notes of protest. Both parties brought their notaries and witnesses to these meetings.<sup>910</sup> Helpless vis-à-vis Bremen's warships, Oldenburg's tollkeepers rigidly followed the procedures laid out in their instructions and loudly summoned every passing vessel to discharge the toll 'in the emperor's name'.<sup>911</sup> At the same time, the toll keepers had been instructed to be 'generous'<sup>912</sup> because some boatmen had not yet heard of the new toll.<sup>913</sup> Even though the toll stations were equipped with cannons, the officials were only authorised to fire warning shots. Likewise, Bremen instructed the soldiers on its warships to behave 'modestly'<sup>914</sup> and not provoke any acts of violence, or attack the toll-stations.<sup>915</sup>

The example of the transportation of Bavarian prisoners through Mühldorf illustrates how formal procedures and the fear of prejudicial precedents shaped interactions at safe-conduct boundaries. In 1661 two prisoners were to be brought from two Bavarian cities (Ried and Schärding, approximately eighty kilometres east of Mühldorf) to the highest court (*Hofgericht*) of the Electorate of Bavaria, to be confronted with another prisoner.<sup>916</sup> The prisoners were placed on a cart and accompanied by two Bavarian officials who passed through Mühldorf unhampered, even though they had not notified the authorities of their arrival. When the Salzburgian sheriff at Mühldorf later learned of their unauthorised passage, he feared that it could set a precedent against the Salzburgian safe-conduct claims and advised his men 'to be careful',<sup>917</sup> lest the Bavarians should pass through without safe-conduct again. Thus, when the Bavarians and their prisoners returned six days later, the Salzburgian

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<sup>908</sup> See: *Ibid.*, fo. 4r.

<sup>909</sup> See: Plechatsch, *Glait*, 92–93. Similarly, Tamar Herzog observed that in the territorial conflicts of Portugal and Spain, 'juridical perceptions ruled over daily interactions'. See: Herzog, *Frontiers of Possession*, 8.

<sup>910</sup> See for instance: Captain Wilhelm Hoyer to Ludwig Schnellen, Member of the Council of the City of Bremen, 28 Jun 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>911</sup> Richter, *Weserzoll*, 38.

<sup>912</sup> *Ibid.*, 39.

<sup>913</sup> Oldenburg's instructions, moreover, advised the tollkeepers to menace only 'foreign' vessels with litigation, as threats against Bremen would only lead to hundreds of trials at the Imperial courts. See: *Ibid.*, 38, 39.

<sup>914</sup> Instruction for Captain Rudolf Pollmann, 27 Mar 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>915</sup> In practice, however, Bremen's soldiers showed little inhibition to insult, threaten or shoot at their rivals.

<sup>916</sup> The prisoner was a certain Hans Püringer, called '*Höllerhans?*', Letter from Martin von Zimmern, Pfleger in Mühldorf, to the Prince-Bishop and Hofrat of Salzburg, 20 Mar 1661, fo. 1, BayHstA München, Erzstift Salzburg, Hofrat 18.

<sup>917</sup> '*Obacht zu haben?*', *Ibid.*

sheriff stopped them at the boundary-ditch himself and ‘questioned [them] about their journey and their business’.<sup>918</sup>

The interrogation was made in the presence of two witnesses and recorded in a protocol. The sheriff asked the Bavarians ‘from whom they had received the permission to pass through the city with two prisoners’,<sup>919</sup> given that the city was ‘immediately subjected’<sup>920</sup> to the Prince-Bishop of Salzburg ‘with all jurisdictional rights and ground and soil’.<sup>921</sup> The Bavarian officials explained that they had received a passport from the Bavarian district court of Ried, but that it had been taken from them in Munich and that they had received no passport for their return journey. They professed that they did not know that they were ‘treading on a different territory than that of the Electorate of Bavaria’.<sup>922</sup> Ultimately, the Salzburgian sheriff made the Bavarians declare in writing that their first unauthorised passage with the two prisoners was not ‘prejudicial to the jurisdictional rights’<sup>923</sup> of Salzburg, however these might be ‘devised or fabricated’.<sup>924</sup> Once the Bavarians had issued the written declaration (*Revers*), the Salzburgian sheriff let them pass ‘in order not to obstruct justice’.<sup>925</sup> He insisted, however, on disarming the officials. Thus, rid of their rifles, the Bavarian officials and ‘both the prisoners forged on the carriage [were] escorted [...] from the border ditch’<sup>926</sup> to the other end of the city.

The same procedure was followed through two months later in April 1661, when the headsman of Munich passed through Mühldorf with the mortal remains of two quartered criminals and the head of a man who had been hanged.<sup>927</sup> His cart contained eight parts of corpses and a severed head, which were to be displayed in different districts of the Electorate of Bavaria.<sup>928</sup> When the executioner arrived in the company of a Bavarian official, he had to wait at the border ditch until the sheriff arrived.<sup>929</sup> The sheriff interrogated the headsman, who declared that he had not been aware of entering Salzburgian territory and asked to be let through ‘since nothing of Salzburg’s jurisdictional rights

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<sup>918</sup> ‘*Irer Raiß und verrichtung halben befragt*’, Ibid., fo. 2a.

<sup>919</sup> ‘*Woher sie einen Consens mit beeden gefangenen also durch die Statt zu passieren*’, Extract from the interrogation minutes, 19 Mar 1661, BayHstA München, Erzstift Salzburg, Hofrat 18.

<sup>920</sup> ‘*immediate undervorfen*’, Ibid.

<sup>921</sup> ‘*mit allen Jurisdictionalien wie auch grundt und Poden*’, Ibid.

<sup>922</sup> ‘*Das sie [...] ain anders als Churbayr. Territorium beziehen thäten*’, Ibid.

<sup>923</sup> ‘*Jurisdictionalien [...] nachtheilig [...] sein*’, Ibid.

<sup>924</sup> ‘*wie es mer erdacht oder erfunden werden mag*’, Ibid.

<sup>925</sup> ‘*Damit [...] die Justitia nicht gehemmet werdé*’, Ibid.

<sup>926</sup> ‘*beede gefangene auf den Wagen geschmiedet [...] von [...] des gränizgräbls an [...] begleitet*’, Ibid.

<sup>927</sup> This was the same man for whose trial the two aforementioned prisoners had been brought to Munich. See: Johann Martin von Zimmern, Pfleger in Mühldorf, to the Prince-Bishop and Hofrat of Salzburg, 13 Apr 1661, BayHstA München, Erzstift Salzburg, Hofrat 18.

<sup>928</sup> See: *Revers* issued by the headsman of Munich, 13 Apr 1661, BayHstA München, Erzstift Salzburg, Hofrat 18.

<sup>929</sup> See: Johann Martin von Zimmern, Pfleger in Mühldorf, to the Prince-Bishop and Hofrat of Salzburg, 13.04.1661, fo. 10b, BayHstA München, Erzstift Salzburg, Hofrat 18.

should be detracted'.<sup>930</sup> He offered to issue a written declaration to this effect, after which the Salzburgerian escorts escorted the headsmen and his unfortunate cargo through the city.

These were common procedures throughout the Holy Roman Empire whenever deputies of foreign rulers transported prisoners through another territory.<sup>931</sup> It was common to ask for permission to traverse the territory and to issue a written declaration stating that 'the delivery had been obtained not as a right, but as a favour'.<sup>932</sup> In some cases, asking for the permission for transit was a matter of pragmatism. Foreign authorities wanted to make sure that their deputies could pass through the neighbouring territory without being hindered or obstructed.<sup>933</sup> When staying overnight, they had to ask for additional guards to prevent possible escape attempts by the prisoners. It is important to note that prisoner transports were not always perceived as a matter of safe-conduct. In Mühldorf, for instance, an investigation into how the passage of criminals and corpses had been handled in the past, revealed that they had not always been perceived as a threat to the prince-bishop's territorial superiority. In the files of his predecessor, the sheriff could not find 'any similar case [...] even after assiduous research conducted in the registry'.<sup>934</sup> The mayor and several councillors even recalled that when transporting prisoners, the Bavarian officials had never been checked, 'but passed freely and unhampered, why, they had sometimes even been allowed to drink a beer at the brewer's in the street'.<sup>935</sup> The juridification of inter-polity disputes and the presence of notaries and witnesses who recorded every spoken word, made dissimulation and intentionally vague language a hallmark of safe-conduct disputes. In order to prevent formal and written protestations, some escorts – especially those who knew that they were stretching the bounds of the law – were reluctant to use the term 'safe-conduct' to an almost Kafkaesque point. During the autumn procession of 1592, a Mainzian deputy (Echter) obstinately refused to declare his intentions vis-à-vis the deputy of Wertheim, Baptista Eisen. When Eisen asked whether he intended to conduct the market ships, Echter eschewed the question, forcing the comital deputy to repeat:<sup>936</sup>

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<sup>930</sup> 'An den habenden Jurisdictionalia nichts benommen sein sollen', Ibid., fo. 11a.

<sup>931</sup> See, moreover: Freitag, *Ulm*, 105–106. Fendler, Rudolf, 'Das Geleitwesen im kurpfälzischen Oberamt Alzey von den Anfängen bis zum Untergang in der Französischen Revolution.' *Alzeyer Geschichtsblätter* 11/12 (1976): 59–88, 62.

<sup>932</sup> 'remissionem hanc non jure, sed precario obtinuisse', Mylius, Andreas, *Disputatio Iuridica, De Remissione Facinorosorum, Eorumque Transportatione Per Territorium Alienum* (Leipzig, 1690), ch. 3, § 6. As Mylius put it, the transportation of prisoners was 'enclosed with certain bounds and limitations' ('certis [...] circumclusere cancellis et limitibus'). Ibid., ch. 3, § 3.

<sup>933</sup> In 1659, for instance, the Duke of Württemberg asked the Elector Palatine to allow and assist a prisoner transport through his territory. See: Eberhard III, Duke of Württemberg, to Karl I Ludwig, Elector Palatine, 6 Apr 1659, GLA Karlsruhe, 77/7521.

<sup>934</sup> 'Khein dergleichen Casus [...] auch fleissiges bey der registratur beschebenes nachsuchen nicht zu findten gewest', Ibid.

<sup>935</sup> 'Sondern frey und ungehindert passiert, ja woll zu weilln beim Prauer auf der gassen ein Pier zu trinckben zugelassen worden', Ibid.

<sup>936</sup> See: Notarial instrument, 1 Oct 1592, StA Wertheim, G-Rep. 41, Nr. 124c, 4v-5r.

Eisen: To the point, whether they turned up for safe-conduct? [...] <sup>937</sup>

Echter: Even if I did, who would deny it to my most gracious lord? I am here to defend. And also not to let you across. [...] <sup>938</sup>

Eisen: Whether, then, they were here for safe-conduct now? <sup>939</sup>

Echter: Not for myself. [...] <sup>940</sup>

A switch to Latin could not eliminate the ambiguity.

Eisen: Whether they are present for the purpose of defence, or whether they want to perform safe-conduct? <sup>941</sup>

Echter: I want to fend, and I do not want to set a precedent against [the rights of] my lord. I want to conduct, I do not want to conduct. But without prejudice to the right of my most gracious lord. <sup>942</sup>

Endless hair-splitting, for instance regarding the difference between the meaning of the words *Geleit* and *Confoi*, was not uncommon either. <sup>943</sup> As Emperor Matthias had prohibited safe-conduct processions on his return from Frankfurt through Nuremberg, the Council of Nuremberg declared to ‘ride towards’ (*entgegenreiten*) the emperor instead of escorting him. <sup>944</sup> The Margrave of Brandenburg-Ansbach, however, feared that Nuremberg’s riding towards the emperor could be interpreted as a form of safe-conduct and thus set a precedent to the margrave’s disadvantage. Similarly, in a safe-conduct dispute between the Free Imperial City of Frankfurt and the County of Hanau in 1705, Frankfurt purposely avoided the word ‘safe-conduct’ in order to make it difficult for Hanau to protest because it ‘did not know what their objections were actually directed against’. <sup>945</sup> During a safe-conduct processions around Easter 1599, several Würzburgian horsemen strategically disguised their intentions in order to gain the lead over the Wertheimian escorts along the river Main. When a Wertheimian official asked them whether they intended to perform safe-conduct, the Würzburgian horsemen replied

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<sup>937</sup> ‘*Ad rem, Ob man gleitens halben erschienen? [...]*’, Ibid.

<sup>938</sup> ‘*Wann Ichs schon thete, wer wolte Meinem Gnedigsten Herren das wheren? Ich bin drumb do, zu abwehren. Und auch darumb das ich Euch nicht herüber soll lassen. [...]*’, Ibid.

<sup>939</sup> ‘*Ob sie dann itzo gleitens halben da seyen?*’, Ibid.

<sup>940</sup> ‘*Nit für mein person. [...]*’, Ibid.

<sup>941</sup> ‘*Utrum ratione defensione adsint, an vero saluum conductum suscipere velint?*’, Ibid.

<sup>942</sup> ‘*Volo defendere et nescio aliquid praedjudicare Dno meo. Ich möcht gleiten, möcht nit gleiten. Aber Meinem Gnedigsten Herren unbenommen seiner gerechtigkeit*’, Ibid.

<sup>943</sup> See: Rieder, *Regensburg*, 225–226. In the case of Erfurt, the discussion revolved around the terms ‘conduct’ (*vergleitung*), ‘reception’ (*empfabung*), and ‘riding ahead’ (*vorreiten*). See: Legal opinion on the safe-conduct of persons of rank in Erfurt, StA Erfurt, 1-0/B, 12-3, no. 20, fo. 37r-40r. The Free Imperial City of Aachen spoke of ‘reception’ (*Begrüßung*), as well. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 67. In Regensburg, a distinction was made between ‘conduct troops’ (*Geleitsreiter*) and ‘good friends’ (*gute Freunde*). See: Rieder, *Regensburg*, 194. See, moreover: Freitag, *Ulm*, 98.

<sup>944</sup> See: Kircher, *Nürnberg*, 157, 159.

<sup>945</sup> Krischer, *Grenzen*, 144.

‘that they knew of no safe-conduct [and hoped] that one would not block the open roads for them’.<sup>946</sup> At this, the Wertheimians decided to ‘let them pass in their private business, like travellers’.<sup>947</sup> Not much later, the Würzburgian horsemen revealed their actual intentions, prompting the Wertheimian report to bitterly remarked that they had fallen for ‘simulated, treacherous, bad faith’.<sup>948</sup> At the same time, this ambiguity could contribute to defusing the potential for conflict of safe-conduct disputes.<sup>949</sup>

In some cases, escorts and officials were explicitly instructed to disguise their intentions. On the Lower Weser, several officials and a notary from Oldenburg approached one of Bremen’s warships in June 1624 to demand to know whose orders caused them to impede the passing ships and to see their instructions.<sup>950</sup> Since the captain was absent, the crew of the warship replied in a friendly manner, but refused to hand over their instructions. Bremen’s officials were extremely careful not to openly declare that they intended to impede the toll. The captains of the warships had been explicitly instructed to refer all inquiries from the side of Oldenburg’s officials to the city council.<sup>951</sup> If they were asked whether they intended to impede the levy of the toll, they were to reply that all they did was ‘duly protect our river’.<sup>952</sup> When one of Bremen’s warships first appeared at the toll station in late March 1624 and Oldenburg’s deputies asked them to state their intentions, the captain of the warship claimed that ‘he knew of no toll’<sup>953</sup> and referred them to the Council of Bremen for all further inquiries.<sup>954</sup>

Sometimes, higher authorities disavowed the actions of their escorts, so that it was difficult to tell whether one was dealing with a case of poor communication or intentional dissimulation. In January 1571 an official of the Margrave of Brandenburg escorted the convoy of Emperor Maximilian II from its departure from Nuremberg, ‘with conduct box attached and carried openly’<sup>955</sup> against the emperor’s explicit wishes and to the great discontent of the Imperial City of Nuremberg.<sup>956</sup> When Nuremberg later protested against this encroachment, the Margrave declared that he had no knowledge of the fact and had given no orders to this effect, excusing himself for the incident. The Brandenburgian escort was eventually arrested by Nuremberg but set free four days later. In some cases, the responsible

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<sup>946</sup> ‘*daß Sie von keinem Glaidt wißeten, man würdte Ihnen Ja die freyen strassen nicht versperren*’, StA Wertheim, R-Rep. 52, Nr. 3, Report on the safe-conduct processions at Easter 1669, 22 Apr 1669, fo. 3v.

<sup>947</sup> ‘*sie, wie reisende, in ihren Privat geschäften passieren zue lassen*’, Ibid.

<sup>948</sup> ‘*simulirter untrewlicher bösen waarheit*’, Ibid.

<sup>949</sup> See, for instance: Rieder, *Regensburg*, 221–222.

<sup>950</sup> See: Peter Assum and Carsten Hartman to Captain Wilhelm Hoyer, 16 Jun 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>951</sup> See for instance: Instruction for Captain Wilhelm Hoyer, 25 Mar 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>952</sup> ‘*unsern Strom der gebühr in acht zu nehmen*’, Ibid.

<sup>953</sup> Notarial instrument by Daniel Heuermann, 1624, StA Bremen, 2-U.13.c.3.b.2, fo. 43v.

<sup>954</sup> At other times, however, even notaries incurred risks. Erasmus Helschenburg, one of Oldenburg’s notaries, for instance, was arrested and imprisoned by Bremen for two nights and days in an open vessel ‘in very cold weather’ because he had requested that one of Bremen’s warships struck its sail. See: Ibid., fo. 62r-62v.

<sup>955</sup> ‘*mit offen angehangter und gefürter glaitspuxen*’, Kircher, *Nürnberg*, 140.

<sup>956</sup> See: Ibid., 139–140.

officials tried to withdraw physically from compromising situations. In another example, in their conflict with the Prince-Bishopric of Würzburg over the right to navigate on the river Main, the counts of Wertheim demanded that all ships passing through the county formally apply for safe-conduct. Würzburg did not want to confirm the counts' prerogative and prohibited the captain of its market ship (which transported goods and merchants to the Frankfurt trade fair) from soliciting the count's safe-conduct.<sup>957</sup> Therefore, in order 'to escape the fine', the captain left the ship and went on land, 'sought a byway [and] saved his person'<sup>958</sup> every time his ship entered the county.

There was much truth in the conclusion of the Count of Wertheim, that the actual 'deeds'<sup>959</sup> and the words used to describe them were often 'diametrically opposed'.<sup>960</sup> There is little doubt that, as André Krischer pointed out, concrete actions often outweighed discursive rationalisations.<sup>961</sup> This observation ties in with Barbara Stollberg-Rilinger's assumption that pre-modern political culture valued 'the exactitude of concrete, symbolic-ritual 'formalities''<sup>962</sup> more than 'the exactitude of abstract concepts'.<sup>963</sup> As a consequence, levels of suspicion could sometimes rise to extreme levels. Bremen's notary on the Lower Weser, was obsessively anxious to prevent any action on Oldenburg's side which could possibly prejudice Bremen's prerogatives. In May 1624 the case of a salt merchant whom Oldenburg's tollkeepers had allowed to sell his wares at the toll station for almost double the regular price, aroused his suspicion.<sup>964</sup> The notary conjectured that the tollkeepers received a share of his profit in lieu of the toll. When the merchant was interrogated, he denied any such arrangement. The notary, however, feared that the transaction could be cited as an *actum vectigalis* in court: a precedent of the successful enforcement of the toll. Likewise, he suspected an *actum jurisdictionalem*<sup>965</sup> when the Count of Oldenburg hanged two criminals next to the toll station in the same year. Anxious to anticipate Oldenburg's next steps, Bremen's officials even sent spies into Oldenburg's territory whose information was passed on to the city council, at times on a daily basis.<sup>966</sup> The juridification of conflicts

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<sup>957</sup> See: Imperial writ of summons against the County of Wertheim, 2 Apr 1609, GLA Karlsruhe, 71/3513.

<sup>958</sup> Sigmund Haffner and Werner Buntz, *Exceptiones* (n. 4), fo. 4a, GLA Karlsruhe, 71/3513.

<sup>959</sup> 'actus', Ludwig, Count of Löwenstein-Wertheim to Wolfgang, Elector of Mainz, 4 Jan 1599, StA Würzburg, MRA Löwenstein, K 419/245.

<sup>960</sup> 'e diametro zuentgegen', Ibid.

<sup>961</sup> See: Krischer, *Grenzen*, 144.

<sup>962</sup> Stollberg-Rilinger, Barbara, *Alte Kleider*, 15.

<sup>963</sup> Ibid.

<sup>964</sup> See: Burchard Brockman, notary, to Ludwig Schnellen, Member of the Council of the City of Bremen, 31 May 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>965</sup> Burchard Brockman, notary, to Hermann Moller, Member of the Council of the City of Bremen, 11 Jul 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>966</sup> In April 1624, for instance, one spy reported that Oldenburg's officials had ordered all subjects to remain within reach and to have their arms at hand. Captain Rudolf Pollmann to Mayor and Council of the City of Bremen, 1 Apr 1624, StA Bremen 2-U.13.c.3.b.2.

thus had significant consequences for the way in which conflicts were waged in practice and accounts for the great value attached to symbolic actions of apparently little meaning.<sup>967</sup> Since everyone suspected that his enemy could set a dangerous precedent, even innocuous actions prompted formal protestations and re-protestations. On one occasion, the Duke of Brunswick-Lüneburg furiously reproached his brother because he had issued a passport asking Hamburg to let a grain ship pass the Süderelbe.<sup>968</sup> He feared that the passport set a precedent and could mean ‘a won game’ for their enemy. Another consequence of the juridification of safe-conduct disputes was their endless protraction, both on the ground and in the courthouse. On repeated occasions, persons involved in these formalised disputes complained about the seemingly pointless repetition of protestations and re-protestations. In a lawsuit with the Count of Wertheim, the Würzburgian barrister at the Imperial Chamber Court lamented that the count seemed to find ‘particular pleasure in unnecessary bickering’.<sup>969</sup> In the autumn of 1599, a Würzburgian official expressed his reluctance to continue with the formalised protestations, by informing his comital counterpart that ‘he had explained himself enough’.<sup>970</sup> Similarly, the scribe of the Imperial City of Nuremberg, Johann Müllner, described the verbal exchanges between the Nuremberg’s and Brandenburg’s escorts in 1612 as ‘much unnecessary disputing’.<sup>971</sup> When the Imperial City of Regensburg handed in an extraordinarily long writ at the Imperial Chamber Court, the Duchy of Bavaria demanded that the city keep it short.<sup>972</sup>

Most disputes over safe-conduct and the control of thoroughfares were accompanied by lawsuits at the Imperial Courts. In the struggle over the Upper Elbe, Hamburg and Brunswick-Lüneburg obtained one injunction after another against each other from the emperor and the Imperial Chamber Court. At one point, the two polities were engaged in eleven parallel lawsuits.<sup>973</sup> Even once the Imperial Chamber Court delivered a judgement in favour of Hamburg’s enemies in 1619 (sixty-five years after the beginning of the lawsuit), a revision suspended the judgement for twenty-five more years.<sup>974</sup> Indeed, Hamburg purposely used the legal arsenal offered by the Imperial Chamber Court for

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<sup>967</sup> In the case of the safe-conduct disputes between the Free Imperial City of Aachen and the Duchy of Jülich, trivial facts were often ‘immensely exaggerated’ by the quarrelling parties. Pauls, *Geleitsrechte des Herzogs von Jülich*, 99.

<sup>968</sup> See: Baasch, *Elbe*, 44–45.

<sup>969</sup> ‘sonbahren kurtzzeit in unnötigem gezänck’, Sigmund Haffner and Werner Buntz, *Exceptiones* (n. 4), fo. 1v, GLA Karlsruhe, 71/3513, fo. 1v.

<sup>970</sup> ‘er habe sich [...] genugsamb ercleret’, Report on the safe-conduct processions of autumn 1599, 15 Oct 1600, StA Würzburg, Würzburger Kartons, Zoll 274, fo. 3v.

<sup>971</sup> ‘viel unnötig disputirens’, Johann Müllner, *Relatio 7, Von der gelaidens Gerechtigkeit*, n.d., StA Nürnberg, Reichsstadt Nürnberg, Rep. 52a Nürnberger Handschriften, 345, fo. 448.

<sup>972</sup> See: Rieder, *Regensburg*, 207.

<sup>973</sup> See: Baasch, *Elbe*, 40.

<sup>974</sup> See: *Ibid.*, 70, 78–79.

deferring a final decision.<sup>975</sup> Meanwhile, the dukes – who, on top of everything, fell prey to a ‘lazy’ and unreliable barrister – suffered under the enormous costs incurred in the endless lawsuits.<sup>976</sup> Similarly, the conflicts between the Duchy of Bavaria and the Imperial City of Regensburg over the right of safe-conduct on the river Danube, were brought to the Imperial Chamber Court as well.<sup>977</sup> One of their lawsuits stagnated for 150 years. Likewise, the Palatine claims of dominion over the Rhine engendered a series of lawsuits at the Imperial Chamber Court.<sup>978</sup> Triggered by an apparently petty affair (a dissension over the possession of a sturgeon), a lawsuit between the Prince-Bishopric of Worms and the Electoral Palatinate lasted approximately forty years, with no final sentence to be found.<sup>979</sup> While lawsuits at the imperial courts were slow and their adjudication often ignored, they promoted the peaceful settlement of many conflicts precisely because of their duration.<sup>980</sup> The cost of extended litigation forced many parties into amicable settlements. In the Old Reich, legal process thus became ‘a vehicle of fundamental politicisation’<sup>981</sup> and a ‘substitute for politics’<sup>982</sup>. In the long term, this conjuncture had momentous effects on German political culture, which consequently favoured a ‘legalistic interpretation of the state as the rule of law (*Rechtsstaat*), rather than as defined by political institutions’.<sup>983</sup>

The possibility of peaceful protest offered an effective way of dealing with unsolvable conflicts and putting differences aside. In the written exchanges between Palatinate-Neuburg and Regensburg over the safe-conduct processions to Regensburg, safeguards and the usual formulas against legal prejudice featured on the same pages as invitations to a feast.<sup>984</sup> Formal protestations were a similarly routinised element of Nurembergs’ semestral convoys to and from the Frankfurt trade fair.<sup>985</sup> On an autumn day of 1615 before sunrise, several mounted escorts and footmen from Wertheim found their way to Freudenberg blocked by a group of musketeers at a bottleneck. When asked who they were and why they were blocking the road, the musketeers answered that they were ‘good friends’<sup>986</sup> and acted on

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<sup>975</sup> See: *Ibid.*, 44.

<sup>976</sup> See: *Ibid.*, 44, 46

<sup>977</sup> See: Rieder, *Regensburg*, 175–187.

<sup>978</sup> See: Schäfer, *Herrschaft über den Rhein*, 280, 282.

<sup>979</sup> On the difficulties of reconstructing the adjudication of the Imperial Chamber Court, see: Oestmann, Peter, ‘Die Rekonstruktion der reichskammergerichtlichen Rechtsprechung des 16. und 17. Jahrhunderts als methodisches Problem’, in: Baumann, Anette, Siegrid Westphal, Stephan Wendehorst, and Stefan Ehrenpreis, eds., *Prozessakten als Quelle: Neue Ansätze zur Erforschung der höchsten Gerichtsbarkeit im Alten Reich* (Köln, Weimar: 2001), 15–54.

<sup>980</sup> See: Schmidt, *Geschichte des Alten Reichs*, 244.

<sup>981</sup> *Ibid.*

<sup>982</sup> *Ibid.*

<sup>983</sup> Wilson, *Monstrosity*, 568.

<sup>984</sup> See, for instance: Rieder, *Regensburg*, 66.

<sup>985</sup> See: Ruppertsberg, *Nürnberg-Frankfurter Geleit*, 25.

<sup>986</sup> ‘*gute freundt*’, Report on the safe-conduct procession in autumn 1615, 27 Sep 1615, StA Werheim, G-Rep. 19 11 2, fo. 1r.

account of the Prince-Bishop of Würzburg. After some discussions and protestations with a high official from Freudenberg, the Würzburgian opened the blockade and wished the Wertheimians ‘a good morning and luck’.<sup>987</sup> Thus, by way of formalised protestations, ‘the competing positions were staged symbolically and thus remained visible, but nonetheless it was still possible to act together.’<sup>988</sup> Rivalling parties also attempted to solve their safe-conduct disputes through treaties and written agreements. Throughout the Old Reich, countless conferences attempted to resolve safe-conduct disputes and related quarrels between neighbours.<sup>989</sup> The negotiations often followed a common pattern.<sup>990</sup> When a dispute arose, both parties sent their councillors to a meeting that determined the further course of the negotiations. Often, the process was delegated to an arbitration tribunal and involved the hearing of witnesses. The imperial courts were not always involved, though in other cases, such as that of the Prince-Bishopric of Würzburg, the quarrelling parties bypassed the imperial jurisdiction and resorted to arbitral verdicts, which were usually accepted by both parties and stipulated in a formal treaty. While many negotiations terminated fruitlessly, others led to treaties that were effectively respected.<sup>991</sup>

Concerning the safe-conduct at Mühldorf, Bavaria and Salzburg settled their long-standing dispute at a conference in Neuötting in 1661. The negotiations, which took almost two months (May 16 to July 13), touched upon numerous points of contention such as safe-conduct, grain embargoes, different jurisdictional and fiscal rights, tolls, as well as hunting and forest rights. At an early stage in the negotiations, Salzburg offered to reduce the space on which it claimed safe-conduct outside the upper city gate to where it had formerly erected the palisades,<sup>992</sup> with a stone marking the new boundary. The Bavarian deputies, however, refused the offer.<sup>993</sup> Later, they advised their Elector to renounce his right of safe-conduct outside both gates because of the Salzburgian deputies’ insistence and because ‘acts of princely superiority occur rarely [...] in this small space’.<sup>994</sup> At the same time, however, the Bavarian deputies remarked that Salzburg could not deduce titles of territorial superiority from its right of safe-

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<sup>987</sup> ‘*ein guten morgen und glück*’, Ibid., fo. 2r.

<sup>988</sup> Stollberg-Rilinger, *Alte Kleider*, 304.

<sup>989</sup> For a selective survey of safe-conduct treaties of the seventeenth and eighteenth centuries, see: Moser, Johann Jacob, *Teutsches Nachbarliches Staatsrecht*, (Frankfurt and Leipzig, 1773), 498–510.

<sup>990</sup> See: Weig, *Ius conduendi*, 75–119.

<sup>991</sup> See, for instance: Ibid., 87. The Free Imperial City of Aachen and the neighbouring Dukes of Jülich, moreover, conducted lengthy negotiations in 1604 and 1608. Eventually, the two parties concluded a treaty in 1660 that widely confirmed Jülich’s right of safe-conduct. Ibid., 128.

<sup>992</sup> See: Unidentified individual to Guidobald von Thun und Hohenstein, Prince-Bishop of Salzburg, 3 Jun 1661, BayHStA München, Erzstift Salzburg, Hofrat, 599, fo. 1095v.

<sup>993</sup> They offered, however, to cease the safe-conduct on the bridge over the river Inn at the other city gate. See: Ibid., fo. 1096r-1097v.

<sup>994</sup> ‘*in welchem klainen spatio sich selten [...] actis der Landtsfürstlichen Hobbeiten eraignen*’, Report on the conference at Neuötting, 25 Jun 1661, BayHStA München, Kurbayern, Geheimes Landesarchiv 724, fo. 237b.

conduct and use the escorting of travellers to create new titles of possession ‘to which it has the best occasion’,<sup>995</sup> if Bavaria ceased its safe-conduct. They therefore suggested to explicitly reserve Bavaria’s territorial superiority over the contested spaces. The Elector agreed to cede his safe-conduct on the space where Salzburg had formerly erected the palisades and on the bridge over the river Inn on the other side of the city.<sup>996</sup> Ultimately, however, the deputies found a different compromise. Both parties agreed to suspend safe-conduct outside both city gates. If the parties sent deputies for the reception of travellers of rank, these should not be considered as ‘safe-conduct commissioners’.<sup>997</sup> The treaty thus resolved the safe-conduct dispute and other contentions around tolls and jurisdiction. Among many other points, the treaty also determined the extent of Salzburg’s extramural territory at Mühldorf (the so-called *Burgfrieden*). A few years later, a joint commission of Bavarian and Salzburgian deputies marked the newly negotiated boundaries with fifty-three stones of white marble. Except for minor practical issues, the setting of the new border stones proceeded without difficulties.<sup>998</sup>

The marking of safe-conduct boundaries was often the result of protracted negotiations to solve safe-conduct disputes with a treaty.<sup>999</sup> In 1714 the Electoral Palatinate and the Electorate of Mainz concluded a treaty to settle their age-long safe-conduct disputes, which limited each ruler’s safe-conduct to his own territory.<sup>1000</sup> A territorial boundary was established and marked with new boundary stones. In part, the new boundary contained former safe-conduct boundaries, in other parts it required further, complex negotiations. A joint commission, aided by local subjects, inspected the respective conduct roads and relocated some of them. In some cases, the methods for determining a safe-conduct boundary could be quite peculiar. In the fourteenth century the boundaries of the Elector of Mainz’ safe-conduct on the river Rhine were determined through the throwing of hammers and the riding of horses into the river.<sup>1001</sup>

Where such formal agreements were impossible to reach, the interactions of safe-conduct officials provided a means through which to channel and pacify conflicts that could otherwise escalate into bloodshed, as in the case of some safe-conduct processions at Wertheim. Legal procedures, patterns and modes of thought deeply influenced the interaction of rivalling deputies on the ground. Jurists

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<sup>995</sup> ‘*darzu es die beste occasion hat*’, Ibid.

<sup>996</sup> See: Ferdinand Maria, Elector of Bavaria, to deputies at Neuötting, 29 Jul 1661, BayHStA München, Kurbayern, Geheimes Landesarchiv, 724, fo. 241b-242b.

<sup>997</sup> ‘*glaidts Commissarien*’, Treaty between Ferdinand Maria, Elector of Bavaria, and Guidobald von Thun und Hohenstein, Prince-Bishop of Salzburg, 13 Jul 1661, BayHStA München, Kurbayern, Urkunden, 12535, fo. 4v.

<sup>998</sup> See: Johann Martin von Zimmern, Pfleger at Mühldorf, to Guidobald von Thun und Hohenstein, Prince-Bishop of Salzburg, and Councillors, 28 Oct 1665, BayHStA München, Erzstift Salzburg, Hofrat 125.

<sup>999</sup> See, for instance: Tilch, *Grabfeld*, 108–109; Dotzauer, *Geleitswesen im Nabe-Mündungsgebiet*, 287–291.

<sup>1000</sup> See: Kneib, *Mainzger Geleitsrechte*, 90–93.

<sup>1001</sup> See: Quetsch, Franz Heinrich, *Geschichte des Verkehrs wesens am Mittelrhein* (Freiburg: 1891), 409.

thus gained considerable influence not only in the sphere of bureaucracy, but became indispensable on the ground as well.<sup>1002</sup> In the presence of notaries and witnesses, every action could set a negative precedent. It is in this sense that Max Weber once concluded that, ‘in truth, all customary law was and is the law of jurists’.<sup>1003</sup> While the juridification of conflict often channelled disputes into peculiar directions and promoted extreme forms of symbolic rivalry, it constituted a powerful form of appeasement. Its effects are thus comparable to the inter-confessional mockery which defused otherwise violent conflicts, by providing ‘a space of symbolic confrontation which reconciles the coexistence imposed by the law and the distinction taught by the churches’.<sup>1004</sup> In a culture of conflict that offered alternative ways to reject, reframe, accept, or ignore competing claims through a repertoire of ‘images, texts, rituals, procedures, bodies and spaces’,<sup>1005</sup> bloodshed became only one option among many others and an unappealing one at that. The oddly formalised, captious and wary interactions between rivalling escorts and officials resulted, as it were, in appeasement by pedantry.

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<sup>1002</sup> On the rise of jurists as a caste in the Old Reich, see: Stolleis, Michael, *Geschichte des öffentlichen Rechts in Deutschland*, vol 1 (München: 1988), 395.

<sup>1003</sup> Weber, Max, *Wirtschaft und Gesellschaft* (Tübingen, 2010), 508.

<sup>1004</sup> Duhamelle, *Frontière au village*, 191.

<sup>1005</sup> Oelze, *Recht haben*, 18.

## Borders without States

Territorial boundaries do not only delimit rights over land. They also function as instruments for channelling the movements of goods and people. In historiography, this mobility-boundary is much less explored than the property-boundary.<sup>1006</sup> After having discussed the practical, visual and material construction of safe-conduct boundaries, the following paragraphs will assess the role of boundaries with respect to everyday forms of mobility. They will show that pre-modern territorial borders differed significantly from state borders in the twentieth and twenty-first centuries, differences that are sometimes obscured by tacit, overly modern assumptions about the border's function with regard to mobility.<sup>1007</sup> Indeed, conventional ways of mapping territory as homogeneous areas enclosed by linear boundaries, do not necessarily convey an accurate conception of the topography of governed mobility in early modernity. As a result, alternative avenues for understanding the geography of pre-modern regimes of movement are proposed.

The idea of stable territorial borders was not self-evident before the late eighteenth century. Different, even contradictory conceptions of boundaries coexisted in the same areas for extended periods of time.<sup>1008</sup> The Empire's territorial states did not necessarily distinguish between territorial (external) boundaries and the (internal) boundaries between districts at the infra-territorial level.<sup>1009</sup> Territory could be understood as punctiform, that is as referring to persons and settlements, as opposed to entire areas.<sup>1010</sup> A multiplicity of boundaries divided spaces for different rights and practices.<sup>1011</sup> The territoriality of old-regime polities was 'pervaded by a quite complex texture of internal boundaries, each of which is organised around multiple forms of privileges'.<sup>1012</sup> Moreover, well into the eighteenth

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<sup>1006</sup> Some notable exceptions apart, such as: McKeown, Adam, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: 2008); Irsigler, Franz, 'Grenzen und Wirtschaftsentwicklung in Mittelalter und Früher Neuzeit', in: Schneider, Jürgen, ed., *Natürliche und politische Grenzen als soziale und wirtschaftliche Herausforderung* (Stuttgart: 2003), 29–42; Boes, Maria, 'Unwanted Travellers: the Tightening of City Borders in Early Modern Germany', in: Betteridge, Thomas, ed., *Borders and Travellers in Early Modern Europe* (Ashgate: 2007), 87–111.

<sup>1007</sup> Paolo Marchetti has shown that historical scholarship on borders is strongly influenced by the state-centred conception of nineteenth-century geography. See: Marchetti, Paolo, *De iure finium: diritto e confini tra tardo Medioevo ed età moderna* (Milano: 2001), 48–61. See, moreover: Raffestin, Claude, *Pour une géographie du pouvoir* (Paris: 1980). For a concrete example, see this critique of a biased late-nineteenth-century research into the history of territorial dykes in Germany: Sippel, Klaus, 'Landwehren und Warten in Nordhessen. Erforschung, Aussehen und archäologisch-topografische Erfassung', in: Kneppel, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 277–306.

<sup>1008</sup> See: Prass, *Grenzbestimmungen*, 131–132.

<sup>1009</sup> See: *Ibid.*, 134–135.

<sup>1010</sup> See: *Ibid.*, 139 and Landwehr, Achim, *Die Erschaffung Venedigs* (Paderborn: 2007), 52, 66.

<sup>1011</sup> See: Ulbrich, *Grenze als Chance*. See, moreover: Donati, Claudio, ed., *Alle frontiere della Lombardia: politica, guerra e religione nell'età moderna* (Milano: 2006).

<sup>1012</sup> Marchetti, *De iure finium*, 58.

century, borders were not necessarily conceived as lines, but as broad bands.<sup>1013</sup> The development of a linear conception of territorial borders is often placed in the late eighteenth, or even nineteenth century.<sup>1014</sup>

Accordingly, practices and infrastructures for controlling the movement of goods and people were not necessarily anchored at the outer borders of a territory.<sup>1015</sup> In the Empire's complex territoriality, linear territorial borders had a limited practical significance for controlling the movements of goods and people.<sup>1016</sup> Safe-conduct and toll-stations were situated along roads and rivers, and travellers could pass by several such posts within the same territory (Figures 12 and 13). Toll-stations thus formed a close mesh along thoroughfares, both in fragmented and relatively homogenous territories.<sup>1017</sup> Dues were to be paid whenever a toll-station was reached.<sup>1018</sup> As a consequence, it would not have been enough to channel and control traffic at territorial borders. It was not up until the second half of the eighteenth century that the levy of duties began to be relocated to the territorial borders and major commercial hubs within a territory.<sup>1019</sup> The transition from a system of 'thoroughfare tolls' to a 'border toll' system was consequently a very late (and uneven) development. Many passage tolls were levied well into the nineteenth century. Even after internal tolls had been abolished, private tolls often continued to function.<sup>1020</sup> Economic spaces rarely corresponded to political territories, but were rather structured on the basis of major economic centres and trade routes which saw the bulk of all traffic.<sup>1021</sup> As early modern regimes of movement rarely rested on homogenous, clearly bounded territories, the thoroughfare is, perhaps, a more appropriate spatial framework for understanding topography of governed mobility.

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<sup>1013</sup> See: Prass, *Grenzbestimmungen*, 136.

<sup>1014</sup> See: Ibid., 139. Others, however, believe that linear boundaries were established much earlier. See, for instance: Schneider, Reinhard, 'Lineare Grenzen - vom frühen bis zum späten Mittelalter', in: Haubrichts, Wolfgang, and Reinhard Schneider, eds., *Grenzen und Grenzregionen* (Saarbrücken: 1993), 51–68.

<sup>1015</sup> Scholars of African history have reached similar conclusions, namely that mobility 'prevention tends to be most common when it comes to movements within political boundaries, rather than movements between different jurisdictions'. Vigneswaran and Quirk, *Mobility Makes States*, 9.

<sup>1016</sup> See, moreover: Collet, *Getreidesperren*, 49.

<sup>1017</sup> For maps of the toll-stations in Bade-Durlach and Württemberg, see: Walter, *Handelsbemmnisse*, 89–92.

<sup>1018</sup> See: Hoffmann, Albrecht, *Geschichte des deutschen Zollrechts*, Leipzig 1902, 30–41. There were, however, attempts to unify the tariffs within a same territory and to exempt travellers who had already paid duties in one district (or territory) from paying again in the same area. In 1662, for instance, the Elector Palatine issued such an ordinance to all Palatine districts. Ibid., 26–29; Fendler, *Geleitwesen*, 80. The Thuringian safe-conduct regulations, moreover, facilitated 'internal' trade through a series of exemptions, while the safe-conduct stations at the border with neighbouring territories, such as those of the Counts of Schwarzburg, provided for no exemptions. See: Straube, *Geleitwesen*, 115–122.

<sup>1019</sup> See: Stolz, *Entwicklungsgeschichte*, 28-9; Komlosy, Andrea, 'Ein Land – viele Grenzen. Waren- und Reiseverkehr zwischen den österreichischen und den böhmischen Ländern (1740–1918)', in: Komlosy, Andrea, Václav Bužek, and František Svátek, eds., *Kulturen an der Grenze: Waldviertel, Weinviertel, Südböhmen, Südmähren* (Wien: 1995), 59–72.

<sup>1020</sup> See: Hoffmann, *Zollrecht*, 32.

<sup>1021</sup> See: Irsigler, *Grenzen und Wirtschaftsentwicklung*, 30–32.

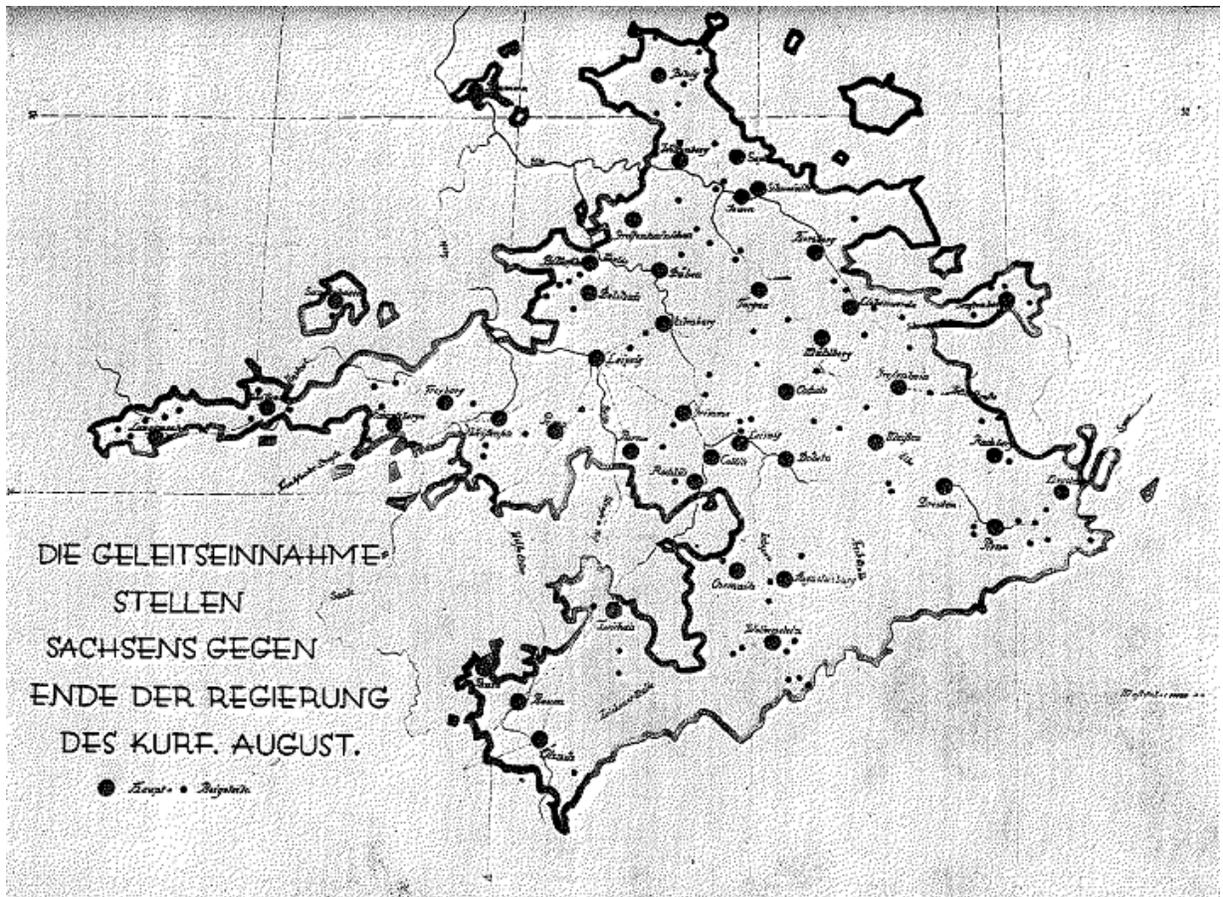


Figure 12: Safe-conduct stations in Electoral Saxony in the late sixteenth century (Hofmann, *Landgeleit*, 14).



The relative insignificance of territorial borders for the control of mobility is reflected in seventeenth-century legal thought. While the problems of governed mobility were intensively discussed in the literature on regalian rights, concerning roads and rivers, safe-conduct, customs and rights of passage, legal writings on borders and boundaries rarely touched upon the problem of governed mobility at all. Not that early modern jurisprudence lacked interest in the boundary; borders and boundaries were an important object of legal scholarship. In fact, jurists had rediscovered the matter during the sixteenth century, when legal scholars applied Roman law (which envisaged the border as a matter of private law) to the modern territorial state.<sup>1022</sup> Borders were increasingly conceptualised as delimiting sovereign polities and the bundles of jurisdictional, fiscal and protective rights they exercised over their territories.<sup>1023</sup> Some authors exclusively applied the concept to lines of demarcation between legal bodies under an *ius publicum Europaeum*.<sup>1024</sup> Cross-border mobility and rights of passage, however, played almost no role in these debates. One of the Empire's major authorities on the matter, Johannes Oettinger, in his 1642 treatise on boundary disputes, envisaged borders as lines of demarcation for public and private rights over land, but not as instruments for controlling movement.<sup>1025</sup> While the treatise lengthily elaborated on boundary stones and different kinds of boundary disputes, the problem of transit was barely touched upon.<sup>1026</sup> A dissertation of 1665 similarly envisaged borders as demarcating distinct jurisdictions and considered questions of mobility only insofar as they touched upon jurisdictional and hunting rights.<sup>1027</sup> The fact that contemporary jurists and political thinkers did not see the 'boundary' as a functional analytic concept for describing the relationship of statehood and mobility should therefore caution historians of using this category uncritically.

Moreover, in the eighteenth century, it was cameralist debates around customs reforms, not the literature on borders, which formed the foremost intellectual *locus* for broaching the Empire's territorial fragmentation.<sup>1028</sup> The divergence between the mercantilist ideal of a spatial order in which states, territories, markets and nations coincided and the political realities of the Old Reich, where only few territories were geographically coherent and occupied an area that was large enough to form an

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<sup>1022</sup> See: Scattola, Merio, 'Die Grenze der Neuzeit. Ihr Begriff in der juristischen und politischen Literatur der Antike und Frühmoderne', in: Bauer, Markus, and Thomas Rahn, *Die Grenze: Begriff und Inszenierung* (Berlin: 1997), 36–81, 50–53.

<sup>1023</sup> See: *Ibid.*, 54–61.

<sup>1024</sup> See: *Ibid.*, 64.

<sup>1025</sup> See: Oettinger, Johannes, *Tractatus de jure et controversiis limitum ac finibus regundis* (Ulm: 1642). See, moreover: Prass, *Grenzbestimmungen*, 136; Fuchs, Ralf-Peter 'Soziales Wissen' in der ländlichen Lebenswelt des 16. Jahrhunderts: Ein kaiserlich-kommissarisches Zeugenverhör' *Westfälische Forschungen* 48 (1998): 419–47, 440.

<sup>1026</sup> Oettinger briefly discusses the right of safe-conduct in an excursus over territorial superiority. Very significantly, the only occasion on which he briefly touches upon the problem of mobility and its restriction is a brief mention of roads and rivers. Oettinger, *Tractatus.*, bk. 1, ch. 9, § 24–31, ch. 11, § 1, 4–6, ch. 12, § 16, 18, 21, 24–27.

<sup>1027</sup> See: Meinhardt, Lorenz Arnold and Brunnemann, Johann, *Disputatio Juridica de Limitibus* (Frankfurt an der Oder: 1665).

<sup>1028</sup> See: Garner, *La question douanière*, 49.

autonomous economic area, posed a theoretical challenge.<sup>1029</sup> In this context, cameralist thinkers from smaller territories denounced the Empire's territorial fragmentation, while those residing in more homogenous territories paid little or no attention to these questions. Some eighteenth-century cameralists even called for a customs union on an imperial scale, thereby rehabilitating the Empire as a political agent. Others criticised the limitations that the imperial legislation imposed upon the customs policies of its states.

The relatively limited significance of borders as instruments of governed mobility has been confirmed by other historians. Studies of travel accounts of the sixteenth and seventeenth centuries barely found any mentions of border crossings.<sup>1030</sup> Claudia Moatti recently called presentist assumptions about pre-modern territoriality into question and relativised the role of borders, which, she claimed, had only a limited role in governing mobility in pre-modern societies.<sup>1031</sup> Gilles Bertrand emphasised that in eighteenth-century Italy and France, territorial borders were only one location for controlling mobility among others, such as the surroundings of cities, bridges and thoroughfares on which suspect travellers were obliged to travel.<sup>1032</sup> Studies of border and passport controls in the Habsburg lands reveal that the state border became a privileged site for controlling mobility only in the nineteenth century, at the same time when internal tariffs were abolished.<sup>1033</sup> Before the second half of the eighteenth century, the territorial border of the Hereditary Lands of Austria had virtually no significance for the movements of goods and people.<sup>1034</sup> Sites of control lay at cities, seigneurial domains and toll stations. In North America, the transformation of the border with Mexico into a membrane for the regulation of mobility was a very late development as well.<sup>1035</sup> Concerning the Old Reich, Karl Härter recently showed that territorial borders – because they were difficult to control – played a much lesser role in the policing of vagrants and undesired forms of mobility than guard patrols and passports.<sup>1036</sup> He criticised the simplistic assumptions that underlie distinctions between immigration and emigration, which should not be applied to a political landscape where 'neither borders nor state territories can be clearly defined'.<sup>1037</sup> Indeed, in the Holy Roman Empire, the effective control of territorial borders was often impossible.<sup>1038</sup> Such challenges to earlier conceptions of pre-modern territoriality are in line with

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<sup>1029</sup> See: *Ibid.*, 39, 48–49.

<sup>1030</sup> See: Gotthard, Axel, *In der Ferne: die Wahrnehmung des Raums in der Vormoderne* (Frankfurt: 2007), 107.

<sup>1031</sup> See: Moatti, *Introduction*, 9–10.

<sup>1032</sup> See: Bertrand, *Approche comparée*, 264–265.

<sup>1033</sup> See: Heindl and Saurer, *Einleitung*, XXI.

<sup>1034</sup> See: Komlosy, Andrea, 'Migration und Freizügigkeit. Habsburger Monarchie und Europäische Union im Vergleich', in: Becker, Joachim, and Andrea Komlosy, eds., *Grenzen Weltweit* (Wien: 2004), 101–124, 104.

<sup>1035</sup> See: John, Rachel St, *Line in the Sand: A History of the Western US-Mexico Border* (Princeton: 2011).

<sup>1036</sup> See: Härter, *Steuerung von Migration*, 26–29.

<sup>1037</sup> Härter, *Jüdische Migration*, 73. See, moreover: Härter, *Steuerung von Migration*, 13.

<sup>1038</sup> See: Härter, *Steuerung von Migration*, 28.

recent currents in social science scholarship, according to which the prevention of human mobility ‘cannot be reduced to the simple act of cutting off mobility at the border’.<sup>1039</sup>

In her recent study of the restrictions imposed on the circulation of sixteenth-century diplomats, Megan Williams could show that rulers relied on toll infrastructure not only for fiscal purposes, but also as a means of monitoring the movements of unwelcome diplomats.<sup>1040</sup> This is an important discovery because it broadens our understanding of toll infrastructure beyond its significance in the production of fiscal revenue.<sup>1041</sup> When suspect diplomats were to be arrested on their journey through archducal Austria, orders were issued to provincial governors and sometimes even directly to local officials at passes, city gates, harbours and toll-stations.<sup>1042</sup> The same infrastructure was used for intercepting messengers and dispatches.<sup>1043</sup> In early sixteenth-century archducal Austria, the system worked well if travellers and messengers used the designated routes and if officials ‘executed their orders with zeal, diligence and even pride’.<sup>1044</sup> Williams therefore concluded that ‘so long as local elites in the borderlands could be effectively integrated into the networks centred on royal power [...] they could act as local deputies in the surveillance and maintenance of the main transit routes and in control of cross-border traffic’.<sup>1045</sup>

The view that territorial borders only played a limited role in the governance of inter-polity mobility, is controversial. Implicit assumptions about early modern territoriality apart, some scholars explicitly highlight the importance of borders in early modern mobility regimes. Megan Williams thus denounced the assumption that early modern rulers could not effectively control their territories’ borders as a ‘common misconception’.<sup>1046</sup> In the Holy Roman Empire, the strongest arguments in support of this view were the fortified border lines called *Landwehr* (or *Landhege*, or *Landgraben*) that existed throughout the Empire. Many cities and territories used combinations of dykes, hedges and earthworks to defend their (extramural) territories against armed attacks and to channel traffic through their toll stations.<sup>1047</sup> The fortified lines were built by ecclesiastical and secular princes, lesser lords,

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<sup>1039</sup> Vigneswaran and Quirk, *Mobility Makes States*, 11.

<sup>1040</sup> See: Williams, *Dangerous Diplomacy*, 115–184. While pointing to a few exceptions, Williams has argued that ‘the regulatory significance of tolls has been underdeveloped in the academic literature’, *Ibid.*, 135–136.

<sup>1041</sup> See: *Ibid.*, 136.

<sup>1042</sup> See: *Ibid.*, 131.

<sup>1043</sup> See: *Ibid.*, 171–177.

<sup>1044</sup> *Ibid.*, 140.

<sup>1045</sup> *Ibid.*, 126.

<sup>1046</sup> *Ibid.*, 125. While her research convincingly shows that toll infrastructure played a crucial and relatively effective role in policing the mobility of diplomats in the early sixteenth century, Williams’ ‘political anatomy of early modern border controls’ (*Ibid.*, 115), is debatable because she takes the importance that early modern rulers attached to governing mobility as a token of the importance of territorial borders.

<sup>1047</sup> For a discussion of older literature on the subject, see: Pelissier, Eduard. ‘Der gegenwärtige Stand der Landwehrforschung’ *Deutsche Geschichtsblätter* 11 (1910): 11–21. See, moreover: Knepe, *Landwehren*.

cities and rural communities alike.<sup>1048</sup> In the case of Schwäbisch Hall, the fortifications measured several hundreds of kilometres in length, 6 to 35 metres in width and around 3 metres in depth.<sup>1049</sup> Local subjects were responsible for the maintenance of the ditches, while guards patrolled the fortifications by horse. Wherever a road crossed the border, the passage was secured with multiple boom barriers and portcullises, and there were a series of watchtowers manned with armed guards. Even though the *Landwehren* were not unsurmountable barriers, they offered an effective ‘early warning system’<sup>1050</sup> that gave the population time for organising its defence. For practical reasons, however, these fortified lines did not always coincide with a territory’s boundaries.<sup>1051</sup> The *Landwehren* followed natural barriers such as water courses, or were constructed alongside roads (leaving the road on the outside). The construction of a *Landwehr* often entailed a reorganisation of the existing road network to the advantage of the builder.

The primary purpose of these fortifications was to defend unwalled settlements and territory from smaller attacks, by forcing the attackers to concentrate their efforts onto few passageways, thus facilitating defence. In the fourteenth and fifteenth centuries, when most *Landwehren* were built, the fortified lines offered effective protection against feuding parties, robbers and cattle-raiders, but had little success against larger armies. During the sixteenth and seventeenth centuries, the construction of *Landwehren* thus almost came to a standstill.<sup>1052</sup> While some of the existing *Landwehren* slowly decayed, others remained a welcome means to force travellers and merchants onto certain roads up to the nineteenth century.<sup>1053</sup> The Principality of Nassau-Siegen, for instance, surrounded its territory with a fortified dyke, at which it enforced mercantilist customs policies and controlled the trade in coal and iron.<sup>1054</sup> Similarly, the Duchy of Württemberg managed to channel traffic across a part of its northern

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<sup>1048</sup> Among the more prominent are such cities as Rothenburg, Schwäbisch Hall, Heilbronn, Aachen, Frankfurt, Nuremberg, Hamburg, Lübeck, Mühlhausen, Speyer, Lüneburg, Göttingen, Homburg, Wiesbaden, Darmstadt, and Dresden. The Duchy of Württemberg, the Electorate of Mainz, the County of Isenburg, and the County of Hanau are other examples. Westphalia, moreover, features a striking number of *Landwehren*. In some cases, distinct territories built a joint *Landwehr* for their common benefit (such as the Free Imperial City of Frankfurt and the Counts of Hanau). Even villages could be protected by *Landwehren*. See: Pelissier, *Landwehrforschung*, 12–14.

<sup>1049</sup> For an extensive description and discussion of one of the most important of these dykes, the *Landweg* of the Imperial City of Schwäbisch Hall, see Mattern, Hans, and Reinhard Wolf, *Die Haller Landweg: ihr Verlauf und ihre Reste* (Sigmaringen: 1990).

<sup>1050</sup> Knepe, Cornelia, ‘Aufbau und Funktion von westfälischen Landwehren. Ein Überblick’, in: Knepe, Cornelia, *Landwehren*, 13–24, 17.

<sup>1051</sup> See: Pelissier, *Landwehrforschung*, 15–16.

<sup>1052</sup> In some cases the *Landwehr* remained an important defensive bulwark against marauding soldiers or vagrants. The city of Soest, for instance, maintained its *Landwehr* well into the sixteenth and seventeenth centuries for this purpose. See: Diekmann, *Soest*, 58–61. For more examples from early modern Westphalia, see: Knepe, *Aufbau und Funktion*, 19–23. See, moreover (with many illustrations): Capelle, Torsten, ‘Landwehrbau’, in: Knepe, Cornelia, *Landwehren*, 25–34, 26–28.

<sup>1053</sup> See: Köhne, Reinhard, ‘Landwehren in den Bergbauregionen des Sauerländischen Mittelgebirges’, in: Knepe, *Aufbau und Funktion*, 191–200, 198–199.

<sup>1054</sup> See: Knau, Hans Ludwig, ‘Die Siegerner Landhecke’, in: Knepe, *Aufbau und Funktion*, 201–218.

border through the three toll gates along its *Landwehr*.<sup>1055</sup> The purpose of *Landwehren* varied from country to county and was adapted over time to address current circumstances. More importantly, the *Landwehren* did not necessarily overlap with other boundaries,<sup>1056</sup> and ‘only a small fraction of the boundaries at that time were secured and marked by dykes and ramparts’.<sup>1057</sup> A *Landwehr* did not always enclose a territory on all sides, so that many must be regarded as extensive road barriers rather than as border systems.<sup>1058</sup> Such barriers had not only military functions, but served to impede carters attempting to circumvent toll-stations and settlements.

If mobility was controlled at checkpoints along roads and rivers and not at territorial borders, and if the governance of movement constitutes a fundamental feature of territorial statehood, these insights have important consequences for our understanding pre-modern territoriality. It is, perhaps, better understood as rhizomatic or punctual than as areal. Angelo Torre and Anne Radeff speak of a ‘pullulating of nodes’.<sup>1059</sup> Claudia Moatti’s *longue durée* survey of mobility controls from Antiquity to modern times revealed that simplistic conceptions of territory as a homogenous, bounded space of dominion are misleading when considering the complexities of pre-modern territoriality.<sup>1060</sup> External borders were often porous, the rationales for controlling mobility varied widely, centres were often much better protected than peripheries and territories were neither necessarily continuous, nor under one sovereignty. For Moatti, Empires therefore epitomise the limited practical relevance of bounded territory, since Empires rather tend to control communication channels, strategically or commercially important places, secure spaces, or simply people. Vigneswaran and Quirk propose a similar perspective on the assumption that ‘the movement of people has consistently shaped how and why

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<sup>1055</sup> See: Conrad, *Der altwürttembergische Landgraben*, 97–104. Even a fortified boundary, however, did not allow for a seamless control of mobility. Broken turnpikes and unauthorised passages are reported from Württemberg’s *Landwehr*, as well. In the eighteenth century, the *Landwehr* fell into disrepair and was often ignored by the local population. See: *Ibid.*, 116–117.

<sup>1056</sup> In Westphalia, some *Landwehren* gradually acquired the quality of jurisdictional boundaries. See: Knepe, *Aufbau und Funktion*, 21. While most *Landwehren* appeared to serve defensive purposes during the Late Middle Ages, they increasingly lost their military function. Some remained important means for channeling traffic, and a few historians argue that they should be regarded as fortified jurisdictional or political boundaries. For a brief summary of the discussion, see: Mattern and Wolf, *Die Haller Landheg*, 22–25. In some cases, *Landwehren* served to protect forests and silver and iron mines. See: Köhne, *Landwehren*, 191–200. The fortified line with which the Imperial City of Schwäbisch Hall surrounded its extramural territory, excluded some of the city’s districts while enclosing land belonging to its neighbours. See: Mattern and Wolf, *Die Haller Landheg*, 12.

<sup>1057</sup> Nelson, Hildegard, ‘Landwehren in Niedersachsen’, in: Knepe, *Aufbau und Funktion*, 235–254, 241.

<sup>1058</sup> See, for instance: *Ibid.*, 245–250. See, moreover: Zehm, Bodo, ‘Landwehren im Wiehengebirge. Zur verkehrsgeografischen Neustrukturierung eines Grenzgebiets’, in: Knepe, *Aufbau und Funktion*, 255–275. The *Landwehren* in the Duchy of Berg, for instance, were not built according to a central blueprint, but formed an intricate system of different bands’. Wegener, Wolfgang, ‘Zum Zustand der Landwehren im Rheinland’, in: Knepe, *Aufbau und Funktion*, 307–322, 321.

<sup>1059</sup> Torre, *Introduzione*, 10.

<sup>1060</sup> See: Moatti, *Introduction*, 9–10.

state power has come to be distributed and concentrated across space'.<sup>1061</sup> Accordingly, they invite us 'to think about the state less as a unitary container of populations and more as a more variegated, incomplete, and dispersed network of order and control'.<sup>1062</sup> This view ties in with the assumption that states are 'spatially malleable entities', whose power is concentrated to different degrees in different locations and settings.

The history of empire offers crucial insights into re-thinking territoriality from this perspective. In her study of territorial disputes in the early modern Spanish and Portuguese possessions in Europe and the Americas, Tamar Herzog argued that 'borders' were only one spatial constellation among many and are not a particularly useful analytical tool for understanding early modern territoriality, where 'each confrontation and each place, time, and parties had a shape of their own'.<sup>1063</sup> Lauren Benton's revisitation of the irregularities and complexities of imperial sovereignty is similarly of considerable analytical interest for scholars of early modern Europe.<sup>1064</sup> Benton argues that 'territory plays tricks',<sup>1065</sup> whereby the apparent geographical uniformity of European Empires obstructs the view of fractures, autonomous jurisdictions, exemptions and extraterritorial rights, and other forms of divided and layered sovereignty. These appear as deficiencies only if judged against the chimera of sovereignty. Territorial homogeneity was not an absolute priority for European empires. Control and protection of commercial routes and networks was often more important than the control of clearly bound territories through 'institutions evenly distributed across space'.<sup>1066</sup> The same can be said about the fractured space of the Old Reich. The strategies employed by many Imperial Estates to control the movements of goods and people might have been articulated in the language of territorial sovereignty, but their practical implementation relied on control over 'narrow bands, or corridors, and over enclaves'.<sup>1067</sup>

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<sup>1061</sup> Vigneswaran and Quirk, *Mobility Makes States*, 7.

<sup>1062</sup> *Ibid.*, 23.

<sup>1063</sup> Herzog, *Frontiers of Possession*, 260.

<sup>1064</sup> See: Benton, Lauren, *A Search for Sovereignty: Law and Geography in European Empires, 1400 —1900*, (Cambridge; New York: 2010).

<sup>1065</sup> *Ibid.*, 279.

<sup>1066</sup> *Ibid.*, 281.

<sup>1067</sup> *Ibid.*, 2. In contemporary social science scholarship, critical views of border-centred perspectives on human mobility and the state have gained momentum, as well. In the occupied Palestinian territories, for instance, checkpoints and other obstacles to movement are not situated at the borders, but on the roads entering towns and cities (See: Kotef, Hagar and Merav Amir, 'Between Imaginary Lines: Violence and Its Justifications at the Military Checkpoints in Occupied Palestine', in Kotef, *Movement*, 27–51, 27–28). A web of checkpoints 'capturing, regulating and often prohibiting movement' (*Ibid.*, 27) and 'a wide variety of obstacles (ranging from ditches, to metal gates, to walls)' combined with 'a complex and convoluted system of permits' structure the regime of movement and the daily lives and economic activity of the population in the West Bank. Scholars of sub-Saharan Africa, moreover, argue that 'state power and revenue remain heavily dependent on mining and farming, so the state commonly devotes far more energy to curtailing trespass on a small number of isolated properties than to paying attention to whomever might be crossing their external borders' (Vigneswaran and Quirk, *Mobility Makes States*, 11). In Africa, mobility prevention practices are

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The borders of early modern states are often represented like the impervious and unyielding skin of the Leviathan in the Old Testament:

His scales are his pride, shut up together as with a close seal.

One is so near to another, that no air can come between them.

They are joined one to another, they stick together, that they cannot be sundered.<sup>1068</sup>

The conception of state borders as unitary, impenetrable and neatly dividing the body politic's inside and outside, is at odds with the experience of the mobile populations in the Holy Roman Empire and elsewhere, who were rarely confronted with closable state borders. Indeed, the more humble sea sponge may be a more accurate, though less majestic metaphor for describing the relationship between statehood and mobility in early modernity. Neither fully closed, nor entirely open, the early modern state can thus be pictured as a body full of pores and channels that attempted – with more or less success – to filter what passed through it, capturing the useful elements and discarding what it could not use.

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thus concentrated on fiscally relevant properties and on urban areas that concentrate the ruling elites. Accordingly, 'this very different topography of state power and authority means that the border may play a far less significant role in determining how sovereignty is constituted across space'.

<sup>1068</sup> King James Bible, Job 41:15–17. Operating with the same imagery, for instance, the Austrian jurist Georg Jellinek, one of the most prominent theoreticians of statehood, compared violations of state territory to a physical assault on the state's person. See: Jellinek, Georg, *Allgemeine Staatslehre* (Berlin: 1929), 398.

## 4. Channeling Movement

To channel movement through the fragmented landscape of the Holy Roman Empire was a daunting task. Travellers could choose between different routes and sometimes circumvent territories altogether. Political entities, officials and toll farmers competed with each other in channelling fiscally exploitable flows onto the roads under their control. The enclosure of movement – the effort to transform transit rights on public roads into excludable and therefore fiscally exploitable goods – was accompanied by constant efforts to channel the movements of goods and people onto specific routes. One of the most effective ways of controlling rights of passage was to monopolise the legitimate means of movement, of which letters of passage were perhaps the most suitable. Such letters could serve a multitude of purposes. As instruments for authorising the mobility of goods and people they allowed to certify exemptions and to receipt the payment of duties, allowing authorities to check which route a traveller had chosen. Taking over the issuance and control of such documents amounted to controlling the rights of passage on a thoroughfare. In order to channel trade flows onto these thoroughfares and through their toll-stations, authorities attempted to force travellers onto designated routes and to criminalise the use of alternative roads. The enforcement of such measures, however, required a reliable, efficient and far-reaching apparatus of officials. While the nascent territorial states devised various techniques for countervailing the principal-agent problems that pervaded their bureaucracies, officials and travellers could find themselves in positions of both sweeping agency and sheer impotence, embedded in pervasive patterns of corruption and subject to an economy of honour which determined the interactions between authorities and mobile populations.

While enclosing and channelling movement posed a challenge in safe-conduct regimes of both larger and smaller territories, the density of overlapping, competing claims was highest in territorially fragmented areas. The focus of this chapter is therefore on Thuringia, which counted more borders than most corners of the early modern world. Following a long series of divisions and subdivisions since the late sixteenth century, the region became an epitome of early modern microstatehood. In 1690 Thuringia contained more than thirty separate territorial entities on an area roughly corresponding to modern Swaziland.<sup>1069</sup> Such fragmentation impeded any possibility for significant

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<sup>1069</sup> Thuringia (within the boundaries of the contemporary federal state) was composed of the following territories: ten Ernestine Duchies, three counties of Schwarzburg, nine counties of Reuß, two dominions belonging to the Counts of Hohenlohe (Ohrdruf) and Hatzfeld (Blankenhain), two Imperial cities, two Albertine duchies, two exclaves of the Electorate of Mainz, one exclave of the Landgraviate of Hesse-Kassel, as well as several smaller dominions belonging to Brandenburg-Bayreuth, the Counts of Stolberg, the Abbey of Fulda, the Teutonic Order and to the Free Imperial Knights. See: Huschke, Wolfgang, 'Politische Geschichte von 1572 Bis 1775', in: Patze, Hans, and Walter Schlesinger,

military, political, or financial power. Moreover, the minuscule polities were tied to the Empire and to each other in a complex structure of feudal bonds which was as confusing as it was contentious. Their already precarious position was thus exacerbated by incessant rivalry and conflict. The political fragmentation lasted until the early twentieth century, when the German Revolution forced the last princelings off their thrones.

Over the centuries, the political insignificance of the Thuringian microstates has made them a common laughing stock. The helpless attempts of their princes to reproduce the pomp and circumstance of greater courts was a particularly rich source of jokes. In his 1847 novel *Vanity Fair*, William Thackeray lampooned these efforts with the caricature of the Duchy of Pumpnickel, a fictitious territory of only 10 miles in length. Ruled by a petty and pompous prince with a revealing title ('his Transparency Victor Aurelius XVII'), the duchy lacks the funds to finish the prince's palace 'Monplaisir' (or 'Monblaisir' as the locals call it in their poor French). Still nothing can dampen the duke's great ambitions. The theatre at his provincial court plays operas written by himself and the 'dreary' comedies of his wife. His foreign secretary lodges in an apartment 'over Zwieback's Conditorey', the local bakery, and his army is made up 'of a magnificent band that also did duty on the stage'. In a more emphatic tone, the historian Heinrich von Treitschke reflected on early modern Thuringia: 'Perhaps, among all the baleful forces that hindered our people's way to grandeur of state, the altogether unpolitical history of this centre of Germany stands atop [...]. Our culture owes them an unspeakable lot, our state owes them nothing'.<sup>1070</sup>

Irrespective of his questionable perspective and teleology, Treitschke had a point. For all its fragmentation and political weakness, Thuringia accounted for a striking record of cultural and economic achievements. The region was a heartland of the Reformation and the cultural centre of German Protestantism. Important universities at Jena and Erfurt, as well as the countless courts, multiplied opportunities for the advancement of scholars and artists. Many princelings attempted to compensate their political insignificance with cultural and scientific achievements. The Bach family and the Fruitbearing Society (an important literary society for vernacular German) are among the more illustrious examples.<sup>1071</sup> Moreover, in contrast to many other German regions, early modern Thuringia offers a relative economic success story. At the beginning of the sixteenth century, the Thuringian

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eds., *Geschichte Thüringens* (6 vols; Cologne and Vienna: 1982), vol 5, 1–551, 3. See, moreover: Herz, Hans, 'Zu einigen Problemen der Landesteilungen in Thüringen vom 16. bis zum Beginn des 19. Jahrhunderts' *Zeitschrift des Vereins für thüringische Geschichte* 46 (1992): 147–159.

<sup>1070</sup> Treitschke, Heinrich von, *Deutsche Geschichte im neunzehnten Jahrhundert. Bis zu den Karlsbader Beschlüssen* (Leipzig: 1882), 395.

<sup>1071</sup> See: John, Jürgen, 'Kleinstaat und Kultur oder: Der thüringische Weg in die Moderne', in: Jürgen John, ed., *Kleinstaat und Kultur in Thüringen vom 16. bis 20. Jahrhundert* (Cologne, Weimar, Vienna: 1994), XIII – LXI.

Forest, where both cheap wood and water power were readily available, was one of three leading producers of gold and silver in Europe (the others being Tirol and Slovakia). After the Reformation the region became an important producer of vitriol (sulfate) and alum, since the Protestants no longer respected the papal monopoly over the production of those chemicals. Most importantly, however, Thuringia became Europe's leading producer of porcelain in the eighteenth century. Thus, at the end of the Old Regime, Thuringia was one of the Empire's economically most advanced regions.<sup>1072</sup>

There is no question that, when measured by the standards of the neatly bound, territorially homogenous, militarily potent and effectively administered modern state, the micro-polities of early modern Europe appear as odd 'obstacles on the path of state's progress'.<sup>1073</sup> Historians who have approached micro-statehood on its own terms, rather than from the perspective of modernisation theories, have come to more nuanced judgements.<sup>1074</sup> Christophe Duhamelle and Falk Bretschneider, for instance, have shown how small scale territoriality favoured local autonomy and could empower commoners and subjects with regards to their authorities.<sup>1075</sup> Matthias Schnettger identified Europe's early modern micro-states as having considerable potential for reform, efficient administration, religious toleration, economic development and substantial investments in artistic, architectural and intellectual production.<sup>1076</sup> From the perspective of a 'microhistoire totale',<sup>1077</sup> Schnettger suggests, the peculiarity of these polities allows us 'to examine fundamental questions of early modern statehood particularly well'.<sup>1078</sup>

Throughout the early modern period, most of Thuringia was in the hands of the Ernestine Dukes, members of the Ernestine line of the house of Wettin (Figure 14).<sup>1079</sup> The region's territorial development was widely determined by the principle of partible inheritance, according to which the dukes settled their successions. In the majority of cases, a territory was divided into equal shares among a duke's sons.<sup>1080</sup> In 1690 the dominion of the Ernestine Dukes was split up into ten duchies. Repeated attempts to re-establish the former territorial unity or at least a common government failed, not least

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<sup>1072</sup> The region's territorial fragmentation facilitated the foundation of the thirteen porcelain manufactures, which competed with each other on the European export markets. It has been argued that this early capitalist de-facto competition, as well as the micro-states slender bureaucracy accounted for Thuringia's economic success. See: Lange, Peter, 'Kleinstaatlichkeit und Wirtschaftsentwicklung in Thüringen', in: John, *Kleinstaaten und Kultur*, 187–203.

<sup>1073</sup> Schnettger, Matthias 'Kleinstaaten in der Frühen Neuzeit: Konturen eines Forschungsfeldes' *Historische Zeitschrift* 286, no. 3 (2008): 605–639, 629.

<sup>1074</sup> See for instance Delsalle, Paul, ed., *Les enclaves territoriales aux Temps modernes, XVIe–XVIIIe siècles* (Besançon: 2000).

<sup>1075</sup> See: Duhamelle, *Exklave*, 15–18 and Bretschneider, *Praxis der Grenze*, 36–44.

<sup>1076</sup> See: Schnettger, *Kleinstaaten*, 629–638.

<sup>1077</sup> *Ibid.*, 639.

<sup>1078</sup> *Ibid.*

<sup>1079</sup> The other (Albertine) line of the house ruled over the more homogenous and influential territory of Electoral Saxony.

<sup>1080</sup> For an overview over the political and administrative history of the Ernestine Duchies during the early modern period, see: Huschke, *Politische Geschichte*, 1–551.

because of the ambitions of the younger sons.<sup>1081</sup> Besides the Ernestine Duchies, the region hosted a number of counts and lesser lords, who controlled their dominions of varying importance.<sup>1082</sup> At the beginning of the sixteenth century, nineteen imperial comital and seigniorial houses resided in Thuringia, with their numbers steadily declining as families died out. After 1650 only five of these houses were left and only four survived until the end of the eighteenth century.<sup>1083</sup> Few of these families controlled homogenous dominions and even if they did, these were often divided among the different branches of a house. The peculiar territoriality of the Old Reich, where it was often difficult to identify homogeneous and clearly demarcated territories as rulers held bundles of regalian rights over inconsistent spaces, was a core feature of early modern Thuringia's political landscape as well.<sup>1084</sup> The counts and lords did not hold their dominions as a whole. Rather, these were composed of regalian rights received from the Empire, other fiefs received from the Empire or lieges other than the Empire and of their own *allodia*, lands which they held in absolute ownership.<sup>1085</sup> The principle of partible inheritance according to which many comital territories were passed on only added to the fragmentation of the already precarious territories.<sup>1086</sup>

The city of Erfurt, situated between the Ernestine Duchies and the County of Schwarzburg-Sondershausen-Arnstadt, was the most important commercial hub in the region. It was situated at the crossroads of trade routes connecting markets in the North, South, East and West of the Empire.<sup>1087</sup> With around 18,000 inhabitants in the city and 40,000 more in the city's surroundings at the beginning of the seventeenth century, it also constituted an important territory. The city and its surroundings belonged to the scattered dominions of the Electors of Mainz, one of the Empire's most important political forces. However, the Electors' grasp on the city continued to be contested on repeated occasions. After the Thirty Year's War, during which the city had mainly been occupied by Swedish troops and its population had reduced to 7,000, the city's attempts to acquire the status of a Free Imperial City failed. Additionally, the city was internally torn by the opposition between the city council and the burghers. As a consequence, the emperor declared an imperial ban over the city in 1663 and

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<sup>1081</sup> See: *Ibid.*, 5.

<sup>1082</sup> For a long-term overview over the dynastic and representational politics of these dynasties, see Czech, Vinzenz, *Legitimation und Repräsentation: zum Selbstverständnis thüringisch-sächsischer Reichsgrafen in der frühen Neuzeit* (Berlin: 2003).

<sup>1083</sup> These were the houses of Schwarzburg, Stolberg, Reuß, Schönburg and Mansfeld. The house of Mansfeld became extinct in 1780. Czech, *Reichsgrafen*, 18–23.

<sup>1084</sup> See: Willoweit, Dietmar, *Rechtsgrundlagen der Territorialgewalt* (Cologne: 1975), 185.

<sup>1085</sup> See: Czech, *Reichsgrafen*, 22.

<sup>1086</sup> See: Huschke, *Politische Geschichte*, 1.

<sup>1087</sup> See: Straube, *Geleitwesen*, 101–176. Because of its strategic geographical position, Thuringia also became a critical hub for the Imperial postal system. See: Behringer, *Reichspost*, 277.

entrusted the Elector of Mainz with its execution.<sup>1088</sup> After a siege of one month in 1664, the city surrendered and was tightly controlled by the Electorate of Mainz from that point onwards.<sup>1089</sup> A governor appointed by the Elector led the government. The city council (equally appointed by the Elector) was reduced to an executive organ subordinate to the government and held responsibilities for police matters, the guilds, poor relief and certain areas of civil jurisdiction. Sheriffs were responsible for the administration of justice in the surrounding seventy-six towns and villages.<sup>1090</sup> Throughout the early modern period, the dominion of the Thuringian counts and lords was constantly challenged by more potent neighbours, first of all by the Ernestine Dukes. The dukes regarded the lesser lords as their vassals and repeatedly attempted to extend their influence into their possessions. In these conflicts, many counts and lords sought refuge with the emperor.<sup>1091</sup> Among the comital territories, the house of Schwarzburg was certainly in the best position to oppose the ducal prerogatives. Their dominions were roughly divided between two separate clusters of land, one situated to the north of Erfurt, around the cities of Sondershausen and Frankenhausen, the other to the south, around the cities of Rudolstadt and Arnstadt. In their efforts to uphold their territorial superiority against the ducal claims, the counts strived to elevate their rank to that of Imperial Princes (*Reichsfürst*) and hoped to gain a vote in the college of Imperial Princes, the second most important college of the Imperial Diet besides the Electoral College and those of the Imperial Cities. They succeeded in 1697, but it was only in 1711 that all three counts hesitantly accepted their new title.<sup>1092</sup> The hesitation was due, in part, to the Ernestine Dukes' fierce opposition against the ambitions of a noble house which they regarded as a vassal.<sup>1093</sup> The relationship between the Counts of Schwarzburg and their ducal neighbours was thus extremely contentious and serious conflicts could arise from virtually any dissension.<sup>1094</sup>

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<sup>1088</sup> When declared against an Imperial Estate, the imperial ban outlawed the estate, allowing other to attack and conquer it.

<sup>1089</sup> See: Weiß, Ulman, 'Von der frühbürgerlichen Revolution bis zur völligen Unterwerfung durch Kurmainz vom Ende des 15. Jahrhunderts bis 1664', in: Gutsche, Willibald, ed., *Geschichte der Stadt Erfurt* (Weimar: 1986), 103–44; Tümmeler, Hans. 'IV. Das Kurmainzische Thüringen', in: Patze, Hans, and Walter Schlesinger, eds., *Geschichte Thüringens*, vol 5 (Cologne and Vienna: 1982), 573–589.

<sup>1090</sup> See: Blaha, Walter, 'Kurmainzische absolutistische Herrschaft von 1664 bis 1789', in: Gutsche, Willibald, ed., *Geschichte der Stadt Erfurt* (Weimar: 1986), 145–80.

<sup>1091</sup> See: Czech, *Reichsgrafen*, 22–23.

<sup>1092</sup> See: *Ibid.*, 242–252.

<sup>1093</sup> Vinzenz Czech argues that the limited prestige of the title 'Imperial Prince', which brought no guarantee of a vote in the college of Imperial Princes, was another reason for their hesitation. *Ibid.*, 253.

<sup>1094</sup> Czech evokes a lawsuit around the use of an improper title in a letter in the 1680s. *Ibid.*, 253. Trefftz narrates a quarrel about a cook who fled the court of Count Anton Günther II of Schwarzburg-Arnstadt in 1686 to enter the service of Duke Johann Ernst III of Saxe-Weimar. More seriously, ducal troops occupied Arnstadt, the capital of Schwarzburg-Arnstadt, for a short time in 1711 in order to resolve a series of conflicts. Trefftz, Johannes, 'Der Überfall Arnstadts Im Jahre 1711' *Zeitschrift des Vereins für thüringische Geschichte und Altertumskunde* 20, no. 2 (1911): 380–400.

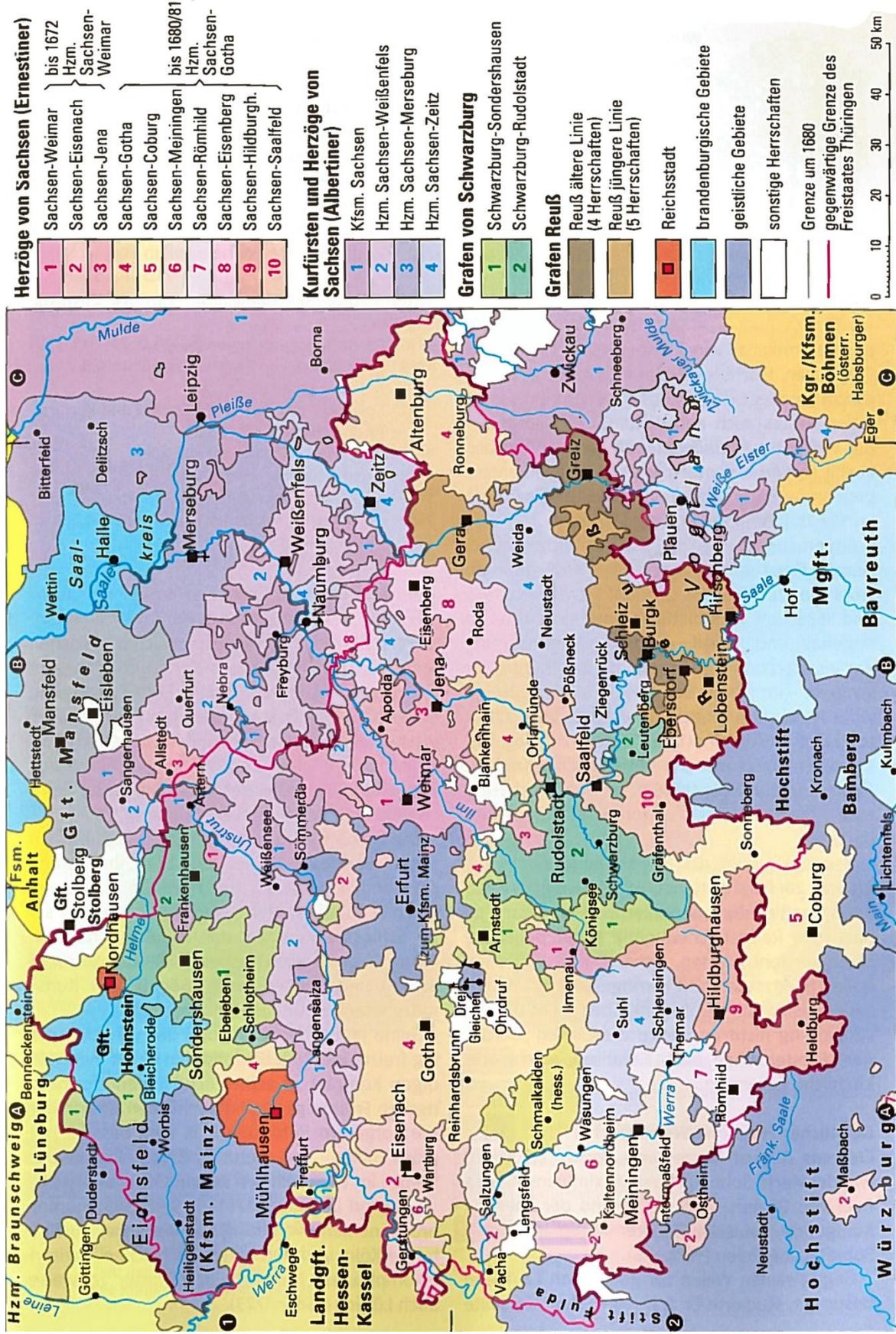


Figure 14: Thuringia in 1680 (Oswalt, Vadim, *Klett-Perthes Atlas zur Weltgeschichte* (Stuttgart, Gotha: 2011)).

Safe-conduct played a crucial role in the ordering of movement in the fragmented Thuringian landscape. The Ernestine Dukes traced their right of safe-conduct back to the Landgraves of Thuringia and claimed the right of safe-conduct and the dominion over public roads in the comital and other territories.<sup>1095</sup> Such supra-territorial claims over roads in foreign dominions were a characteristic feature of safe-conduct and other disputes in the Holy Roman Empire.<sup>1096</sup> In Thuringia, as in other regions, many ‘roads and rivers constituted, as it were, extraterritorial bands’<sup>1097</sup> through foreign territory. The Ernestine Dukes deduced their claims from their succession to the Landgraviate of Thuringia, which formerly ‘surrounded, encircled and enclosed’ the comital territories.<sup>1098</sup> Several of the ducal toll-stations were therefore situated in foreign territories. Even the chief conduct officer responsible for the ducal conduct apparatus resided in Erfurt, outside the ducal dominions.<sup>1099</sup> Besides the conduct house in Erfurt, ducal conduct stations were situated across Thuringia, in Blankenhain, Bernbach, Bernburg, Buttstedt, Gotha, Göttern, Grinstedt, Gutmannshausen, Hardisleben, Jena, Körner, Kriggendorf, Leubingen, Lupnitz, Marksuhl, Mechterstadt, Meckfeld, München (at Bad Berka), Olbersleben, Pferdingsleben, Röda, Rettwig, Rettwitz, Reussen, Rudersdorf, Sachsenburg, Schillingsfürst, Schwansen, Sprötern, Stedten, Sömmerda, Teutleben, Vogelsberg, Waltershausen, Wandersleben, Wartzten, and Wiegendorf.<sup>1100</sup> The conduct regime of the Ernestine Dukes was an institutionalised, bureaucratic apparatus that leaned both on full- and part-time officials and served the principal aim of collecting transit duties from tollable goods and people. The protection of travellers played almost no role because the Thuringian roads were relatively safe and robberies occurred almost exclusively at the region’s borders.<sup>1101</sup> The channelling efforts of the Ernestine authorities must not be

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<sup>1095</sup> A systematic deduction of the ducal claims from 1612 can be found in the records of a lawsuit that the Counts of Schwarzburg filed against the Ernestine Dukes at the Imperial Chamber Court in 1598. ThStA Weimar Grafen, L Schwarzburg Nr. 54, fo. 110v. See, moreover: Heuse, *Geleit*, 83; Blaha, *Geleitshaus*, 54–55.

<sup>1096</sup> Besides Thuringian case, the Electoral Palatinate is one of the most characteristic examples for this peculiarity. See: Schaab, *Straßen- und Geleitswesen*, 57.

<sup>1097</sup> Ibid.

<sup>1098</sup> See: ThStA Weimar Grafen, L Schwarzburg Nr. 54, fo. 111r. Manfred Straube assumes that the Ernestine Dukes’ supra-territorial control of the region’s thoroughfares promoted commerce that would have otherwise been obstructed by the territorial fragmentation. See: Straube, *Geleitwesen*, 262–263.

<sup>1099</sup> The ducal safe-conduct administration was housed in a patrician house within the city. See: Blaha, *Geleitshaus*, 54. For the history of the safe-conduct privileges in medieval Erfurt, see, moreover: Dotzauer, *Königswahlgeleit*, 131–135; Jakob, Andreas, ‘Geleit’, in: Friederich, Christoph, Bertold Haller, and Andreas Jakob, eds., *Erlanger Stadtlexikon* (Nuremberg: 2002), 304–305.

<sup>1100</sup> See: Nachrichten von dem Ursprunge und dem Schicksale des Thüringischen Geleites, 1779–1781, ThStA Weimar, GSW B 23358, fo. 38v–51v. For the first half of the sixteenth century, Manfred Straube lists conduct stations in: Tambach, Oberhof, Suhl, Frauenwalde, Coburg, Rattelsdorf, Eisfeld, Unterlauter, Königsberg, Oberhof, Eisenach, Creuzburg, Marksuhl, Schweina, Mihla, Sachsenburg, Gutmannshausen, Vögelsberg, Buttstedt, Weimar, Jena-Burgau, Eckartsberga, Leutra, Freyburg-Markröhlitz, Thierschneck, Wiegendorf, Lützen, and Altenburg, Gerstenberg, Schmölln, Wintersdorf, Börtten, Altmörlitz, Treben, and Lucka. See Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 2–4, 34–48, 66. See, moreover, the stylized map, in: Straube, *Geleitwesen*, 1094.

<sup>1101</sup> See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol.1, 29. See, moreover: Straube, *Geleitwesen*, 98–100.

confused with the blocking of commercial flows. In the sixteenth century the conduct authorities' long interference with trade flows did not prevent a 'continuous expansion and extension of 'modern' commodity exchange'.<sup>1102</sup> Even though the ducal safe-conduct regime aimed primarily at collecting customs duties, it also involved jurisdictional claims over the concerned roads and symbolically significant acts of escorting.<sup>1103</sup> In Thuringia, safe-conduct was a particularly long-lasting institution. The beginnings of a safe-conduct administration date back to the fourteenth century.<sup>1104</sup> While most other safe-conduct regimes were abolished with the dissolution of the Holy Roman Empire, Saxe-Weimar kept its right of safe-conduct until 1831.<sup>1105</sup> In practice, however, the enforcement of the ducal conduct regime was difficult and officials faced frequent opposition when they attempted to impose their prerogatives both at smaller and larger conduct stations.<sup>1106</sup> The quantity and diversity of the available archival sources is therefore unique.<sup>1107</sup> On the whole, the Thuringian safe-conduct regime offers an ideal laboratory for studying the principal techniques and challenges of monopolising the legitimate means of movement in a heavily trafficked, territorially fragmented and politically contested roadscape.

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<sup>1102</sup> Straube, *Geleitwesen*, 450.

<sup>1103</sup> Both the dukes and the counts highlighted the connection between regalian safe-conduct and the right to perform safe-conduct rituals. See ThStA Weimar Grafen, L Schwarzburg Nr. 54. In 1669, for instance, a group of officials and subjects of the Duchy of Saxe-Gotha and the County of Schwarzburg-Sondershausen-Arnstadt violently clashed when comital officials attempted to escort a condemned witch to the stake. The ducal officials prohibited the comital convoy to use the public road and forced them to transport the witch across the fields, provoking tirades of insults and a violent skirmish. See: ThStA Weimar Grafen, L Schwarzburg Nr. 219.

<sup>1104</sup> See: Straube, *Geleitwesen*, 39–45.

<sup>1105</sup> In Thuringia (and in other forested regions of Germany), stagecoaches were escorted as late as 1825. See: Hessler, *Durchzugsrecht*, 139–142.

<sup>1106</sup> See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 27.

<sup>1107</sup> Straube, who used sources from the early sixteenth-century, attributes the rich records in the Ernestine archives to the partible inheritance of the ducal territories and the use of archival records for underlining the parties' claims. See: Straube, *Geleitwesen*, 9.

## Letters of Passage

Letters of passage have a prominent place in the archival remains of early modern Europe. As documents that both facilitated passage and allowed to channel or restrict it, the function of these letters was inherently ambiguous. Widely spread in the pre-modern world, letters authorising passage came under the most diverse names – *litera com meatus*, *litera passus*, or *Passbort* to name but a few – and could serve a multitude of purposes. Indeed, far from being a homogenous, standardised administrative practice, the issuance of letters of passage was immensely diverse.<sup>1108</sup> In early modern Europe, a variety of authorities ranging from territorial rulers and their bureaucracies, to intermediate and local officials, religious institutions, corporations and even private individuals issued passports.<sup>1109</sup> The uniform use of passports as a technique for controlling mobility within and across territorial states is a fairly recent phenomenon. Varying degrees of successful territorial passport regimes were established only from the late eighteenth century onwards. In France, the passport remained ‘an uncertain document’<sup>1110</sup> up until the French Revolution, when the new regime generalised the passport in order to ‘master the movement of individuals’<sup>1111</sup> and to express their belonging to the nation-state. In the Habsburg Monarchy, the issuance of letters of passage was standardised only from the second half of the eighteenth century onwards, in order to restrict the mobility of the poor, possible conscripts and noblemen potentially set to spend their riches abroad.<sup>1112</sup> Parallel developments can be observed elsewhere. During the latter part of the long nineteenth century a relative loosening of mobility restrictions took place. This ‘liberalisation of free movement’, however, came to a sudden halt

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<sup>1108</sup> For an in-depth discussion of the uses and the materiality of letters of passage in late medieval and early modern Europe, see: Groebner, Valentin, *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe* (Brooklyn, NY: 2007), 151–221. See also: Komlosy, Andrea, ‘Das Paßwesen (1750–1857)’, in: Pauser, Josef, Martin Scheutz, and Thomas Winkelbauer, eds., *Quellenkunde der Habsburgermonarchie (16.–18. Jahrhundert)*, (Wien, München: 2004), 278; Bély, Lucien, *Espions et ambassadeurs au temps de Louis XIV* (Paris: 1990), 610–653.

<sup>1109</sup> See: Härter, *Policy und Strafjustiz*, vol. 2, 1016–1020; Härter, *Steuerung von Migration*, 37–41 For the case of France and Tuscany, see Bertrand, *Approche comparée*, 256–260. A list of passports controlled in a town of the Westphalian County of Lippe during a plague epidemic from 1681–1683 gives a striking illustration of this diversity. Of 733 passports controlled in 1682, 264 had been issued by municipal authorities, 179 by rural authorities, 91 by territorial princes and 54 by church authorities. The remaining 145 had been issued by military and other authorities, as well as by noble women, by a schoolmaster, and innkeeper and other individuals. See: Hennigs, *Gesellschaft und Mobilität*, 88.

<sup>1110</sup> Nordman, Daniel, ‘Sauf-Conduits et Passeports’, in: Bély, Lucien, *Dictionnaire de l’Ancien Régime* (Paris: 1996), 1122–1124.

<sup>1111</sup> Noiriel, Gérard, ‘Surveiller les déplacements ou identifier les personnes? Contribution à l’histoire du passeport en France de la I<sup>e</sup> à la III<sup>e</sup> République’, *Genèses*, 30 (1998), 77–100, 78.

<sup>1112</sup> See: Komlosy, *Paßwesen*, 278. See also Heindl, Waltraud, ed., *Grenze und Staat: Passwesen, Staatsbürgerschaft, Heimatrecht und Fremden gesetzgebung in der österreichischen Monarchie 1750–1867* (Wien: 2000).

in the summer of 1914 and Europeans partially regained it only in the later part of the twentieth century.<sup>1113</sup>

A close look at sixteenth and seventeenth-century archival stocks reveals the great importance that early modern authorities and travellers placed on these documents. For all their variety, letters of passage constituted a crucial element of pre-modern mobility regimes. The ‘long and uncertain history of passports in Europe’<sup>1114</sup> dates back well before the middle of the eighteenth century. In old-regime France, passports were initially issued for the toll-free transportation of goods, but from the end of the sixteenth century they increasingly applied to persons.<sup>1115</sup> While the issuance of a passport was regarded as a favour and an act of grace until the eighteenth century, it could also imply a significant restriction. The archives of major territorial states of the Old Reich such as Brandenburg-Prussia, Electoral Saxony and Brunswick-Lüneburg, contain scores of drafts and petitions for letters of passage.<sup>1116</sup> Mostly starting in the late sixteenth century, growing during the seventeenth and virtually exploding in the eighteenth century, these collections offer a rarely visited vantage point for the study of trade and travel in early modern Europe.<sup>1117</sup>

Letters of passage were issued for a variety of purposes. They served as recommendation letters, as exemptions from customs duties, as warrants of protection, as health certificates and as travel authorisations – and sometimes they could be all of these things together.<sup>1118</sup> The letters issued by the above-mentioned principalities were issued for all of these purposes. Their recipients were often officials, servants, or military men at the service of the issuing prince, but one also finds commoners, merchants, Jews and diplomats. To give just a glimpse of this diversity: among the vast numbers of passports issued by the Electors of Saxony during the seventeenth century, one finds a fugitive serf from Bohemia,<sup>1119</sup> a travelling medical practitioner concerned that his colleagues may challenge his unconventional methods (‘the extraction of the essential force and property of things’)<sup>1120</sup> and a rabbi

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<sup>1113</sup> For a brief introduction, see Claes, Thomas, *Passkontrolle: eine kritische Geschichte des sich Ausweisens und Erkenntwerdens* (Berlin: 2010).

<sup>1114</sup> Bertrand, *Approche comparée*, 272.

<sup>1115</sup> See: *Ibid.*, 274.

<sup>1116</sup> See for instance: GStA PK I HA GR Rep 9 EE 1–16; HStA Dresden 10024 Geheimer Rat, 08296 – 08299 and others; NLA Wolfenbüttel 2 Alt Kanzlei, 4273–4295.

<sup>1117</sup> Daniel Nordman's concern that a systematic study of early modern passports is impossible because of lacking archival records does therefore not apply to the case of the Holy Roman Empire. Nordman, Daniel, ‘Sauf-conduits et passeports, en France, à la Renaissance’, in: Céard, Jean and Jean Claude Margolin, eds., *Voyager à la Renaissance* (Paris: 1987), 145–58, 146.

<sup>1118</sup> See: *Ibid.*; Huntebrinker, Jan Willem, ‘“Gartknecht” und “Passport”. Zum Problem von Mobilität, Zugehörigkeit und Kontrolle (15. – 17. Jahrhundert)’, in: *Working Papers des Arbeitskreises Policy* (2007), 14; Bertrand, *Approche comparée*, 296–299; Härter, *Police und Strafrecht*, vol. 2, 1016–1017.

<sup>1119</sup> See: HStA Dresden 10024 Geheimer Rat, 08299/02.

<sup>1120</sup> ‘extrahierung der wesentlichen kraftund eigenschafft der Ding’, HStA Dresden 10024 Geheimer Rat, 10409/01, 5.

asking for an exemption from tolls on his body (which was granted, but not extended to his goods).<sup>1121</sup> Accordingly, the jurist Johann Georg Textor defined letters of passage very broadly as any ‘written document asking for the safe and unhindered passage issued by a person who has the authority [to do so]’.<sup>1122</sup>

The one purpose of the vast majority of letters of passage was to exempt their bearers from tolls and customs duties for the transportation of foodstuff, livestock, metals, weapons, ammunition and other goods. The stereotype formula with which passports demanded that their bearers be allowed to ‘pass freely’ thus chiefly referred to the exemption from paying tolls and duties on their goods (and to the inconveniences that came with such interactions), even if trade was not the primary purpose of travel. As Daniel Nordman argued, ‘it is difficult, ultimately, to distinguish between a permission to travel for individuals [...] and an exemption from customs duties’.<sup>1123</sup>

In the Old Reich, travellers pleading an exemption from conduct tolls usually produced such letters of passage. However, the ‘vast variety and ragbag of exemptions’<sup>1124</sup> was a constant object of conflict and negotiation among conduct officials and travellers, so that correspondence over exemptions makes up a substantial part of conduct and customs files in several territories.<sup>1125</sup> In Electoral Saxony, the chief exempt groups were Saxon noblemen, foreign potentates, clergymen, the mining towns, the postal services, the military, princely officials and burghers.<sup>1126</sup> In addition to these permanent exemptions, exceptional exemptions were sometimes granted in times of disasters or bad harvests.<sup>1127</sup> At conduct and toll stations, travellers pleading an exemption produced passports in order to substantiate their claims. The Saxon conduct house in Erfurt required all bearers of passports issued by the emperor, the Imperial Estates and the nobility to present signed and sealed passports at the conduct stations. The passports were then signed and the bearer received a ‘free ticket’ (*Freizettel*) which acknowledged the exemption.<sup>1128</sup> Travellers who were not entitled to exemptions had to pay conduct tolls and received

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<sup>1121</sup> See: HStA Dresden 10024 Geheimer Rat, 08299/03, 19.

<sup>1122</sup> ‘*scriptura securum & non impeditum transitum quaerens a persona potestatem habente facta*’, Textor, Johann Wolfgang, *Disputatio Inauguralis Iuridica De Literis Commeatus Germ. Passport* (Heidelberg: 1679), ch. 1 § 22. For a typology and detailed study of safe-conduct letters in late medieval and early modern Prussia, see: Müller, *Geleit im Deutschordensland*. Müller distinguished letters of safe conduct from other letters of passage arguing that they were exclusively issued to foreigners for the purpose of protection.

<sup>1123</sup> Nordman, *Sauf-conduits à la Renaissance*, 147.

<sup>1124</sup> Hartmann, *Wassergeleite*, 80.

<sup>1125</sup> For Electoral Saxony: HStA Dresden, 10036 Loc. Finanzarchiv. For Jews passing through the Margraviate of Baden-Durlach: GLA Karlsruhe 74/2527, 2538, 2551, 2552. For the County of Schaumburg: Friche, *Wegerecht*, 158.

<sup>1126</sup> See: Hofmann, *Landgeleite*, 73–80. As a rule of thumb, these exemptions applied only to private property and goods destined to for the exemptee's personal household and consumption.

<sup>1127</sup> See: *Ibid.*, 82–83.

<sup>1128</sup> According to a collection of the usages of the ducal conduct house from the middle of the seventeenth century. See: ThStA Weimar GSW B 24441, fo. 62v.

a conduct ticket or sign as proof and receipt for the payment. The tickets thus served as instruments for distinguishing licit from illicit mobilities. When controlled by guard patrols and conduct officials, they allowed a traveller to prove that he had taken the ‘ordinary route’ and paid the required duties.<sup>1129</sup> It comes as no surprise that the use of such letters was highly disputed.<sup>1130</sup> The variety of exempted people and goods abetted abuse and contraband, so that authorities repeatedly suggested repealing the exemptions.<sup>1131</sup> One frequently suggested means for effectively controlling the distinction between exempt and tollable movements was to monopolise the issuance of passports and free tickets. During the second half of the seventeenth century, the government of Electoral Saxony repeatedly prohibited the use of passports not issued by its central agencies. According to these provisions, passports issued by other instances needed to be sent to the capital Dresden and when the exemption was approved, a ‘chamber passport’ (*Kammerpass*) was issued.<sup>1132</sup> The frequency of ordinances on this matter suggests that such a monopoly was not easy to establish. A similar ordinance issued in Württemberg in 1744 expressed a particular concern about exemption privileges that had been issued to Italian and Jewish travellers.<sup>1133</sup>

One reason why monopolising the issuance of passports was so controversial, was that such measures meant a considerable bureaucratic burden for travellers. In 1689 a valet of the Count of Schwarzburg-Sondershausen-Arnstadt expressed his opposition against these restrictions in a memorable fit of rage. A carter, transporting wood on the count’s behalf, had been checked by a subordinate conduct official of the Ernestine Dukes on the road between Arnstadt and Erfurt because he possessed neither a conduct ticket nor a passport. The conduct official therefore unhitched the carter's horse and sent him back to Arnstadt to fetch the count's valet and the requested passport. When the valet arrived after

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<sup>1129</sup> These small, hand-written or pre-printed paper forms or badges had thus little to do with the letters of safe-conduct issued to foreigners, debtors, criminals or other persons used in other regions of the early modern world. Without mentioning any particular protection for the bearer, conduct tickets and badges simply served to distinguish those who had paid their duties from those who had not. For Electoral Saxony: Hofmann, *Landgeleite*, 69–79 and Hartmann, *Wassergeleite*, 114–116. For Thuringia: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 29. For the territory of the Free Imperial City of Ulm: Freitag, *Ulm*, 125. For the Electorate of Mainz: Quetsch, Franz Heinrich, *Geschichte des Verkehrswezens am Mittelrhein* (Feiburg i. Br.: 1891), 413. In the Prince-Bishopric of Würzburg, both conduct tickets (*Geleitzetteln*) and conduct signs (*Geleitzeichen*) were used during the sixteenth century. The latter correspond to the documents discussed here. Weig, *Ius conducendi*. In the County of Öttingen, a conduct official went to the cities of Dinkelsbühl, Bopfingen and Aalen to the merchants every year two weeks before the trade fair at Nördlingen. See: Gabler, *Das Brandenburger und Öttinger Geleit*, 125. For the Electoral Palatinate, see: Seußler, *Wimpfener Geleit*, 12.

<sup>1130</sup> In the course of the Reformation, customs and safe-conduct officials were not always sure how to deal with exemptions for clergymen. When the discalced friars were expelled from Arnstadt in 1539, for instance, they had been authorised to take their possessions with them. At Erfurt, however, their goods were seized with the accusation that they had attempted to defraud the ducal safe-conduct. See: Straube, *Geleitwesen*, 84.

<sup>1131</sup> For Electoral Saxony: Hartmann, *Wassergeleite*, 80–81. For the case of a grain embargo in Further Austria, see: Collet, *Getreidesperren*, 49.

<sup>1132</sup> See: Hartmann, *Wassergeleite*, 80–81.

<sup>1133</sup> See: Walter, *Handelsbemmnisse*, 107.

several hours, his demeanour towards the conduct official was so extreme that the conduct official transcribed their dialogue upon his return:<sup>1134</sup>

- Valet (V):                   Why do you arrest the things of my lord? Lightning should strike you.
- Conduct Official (CO):    I do not arrest them, I want to see the passport.
- V:            What passport? He had no passport. Why did he need a passport? Was he not enough of a passport?
- CO:         Although he is enough of a passport, he should have come for a free ticket.
- V:            Why did he need a free ticket? If I wanted to see the free ticket, he had it in his arse. He would show me arseholes, *and he uncovered his behind and said:* here it is.
- CO:         Monsieur can say what he likes [but] he should know who stands before him.
- V:            You rogue! That lightning strike you. Why do you arrest the things of my lord? You shall see what will befall you.
- CO:         I do not arrest them, I only want to see the passport.
- V:            I will show you assholes. Am I not passport enough?
- CO:         He should keep silent with such words. He should have gone into the conduct [house, in Erfurt] and got a free ticket. My prince, as Duke of Weimar-Eisenach and Jena also needs to be respected.
- V:            Quite so – but as I see it, if my lord sends for a few trees he always needs to send a minister to Weimar or to Eisenach who pleads for it. Arseholes [...]
- CO:         They should not send ministers to Weimar or Eisenach. For that there was the conduct house in the city [of Erfurt]. The passports have to be produced there and he should have gone there and collect a free ticket as well.
- V:            *He showed his behind and said:* Arseholes will I collect for you. Do you want to see it [the arse]? Lightning should strike you. When I report this to my lord he would do something else to you. I should see what will happen to me and if it was not so dark, he would ride with me into the city and sue you with the city sheriff.
- CO:         He may well do that, in the name of God, but [indecipherable] the chief conduct officer would not fail to do it, if I report these things to him. [...] Other people needed to produce their passport at the conduct house [Hauptgeleit], be they from the emperor or from kings.

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<sup>1134</sup> Report of Johann Caspar Graff, 30 Oct 1689, ThStA Weimar GSW B 23209. The official mixed direct and indirect speech in his dialogue. Uses of the first person refer to the conduct official. The punctuation has been added by myself. Descriptions of the valet's gestures are marked in italics. All abbreviations are marked. For practical reasons, I have omitted the German text in the footnotes.

V: I see. He would have to tell to his lord that when he would send for [indecipherable, perhaps ‘wood’] or anything else – *at which he ignominiously pulled down his hat* – his lord always needed to send a minister to Weimar or Eisenach, which is unlikely to happen.

CO: For that there is the conduct house [*Hauptgleith*] in Erfurt, where the passes need to be produced and the free tickets collected.

V: And if he had to take things from outside the city 1000 times, he would still not do it. Enough tickets had been collected one year ago [...]

CO: He still needed to take a free ticket, because my princes required it and need to be respected.

V: I should keep silent or lightning should strike a damned rogue [indecipherable]. That I should not do something else to you. [...]

When dusk set in, the conduct official left the scene and directed himself back home. The furious valet followed him for some time and continued to insult him with ‘foul words’.<sup>1135</sup> A few days later the dialogue was written down and submitted to the Duke of Saxe-Weimar. A note of protest and repeated requests to the count to extradite his valet proved fruitless and the affair was eventually forgotten. Far from constituting a mere archival curio, the exchange provides important insights into the controversial status of the early modern passport and its function both as a ‘marker of territorial superiority’<sup>1136</sup> and as an instrument for the governance of movement. The valet’s rage illustrates how the obligation to carry specific passports could be perceived as an exceedingly bothersome and encroaching request.<sup>1137</sup> By claiming to be ‘passport enough’ himself, he rejected the ducal monopoly over the issuance of passports and upheld his count’s liberty to issue his own passports and to transport his goods on the road without being checked by ducal conduct officers. Correspondingly, he made it very clear what he thought of the free tickets issued by the Ernestine safe-conduct authorities. Moreover, the valet strongly resented the debasement implied in the obligation to have his lord plead for a passport. It is in this sense that the obligation to carry passports must be seen as ‘an expression of fairly aggressive claims’.<sup>1138</sup> Although the valet must have been aware that passports were issued at the conduct house in Erfurt, he only spoke of Weimar and Eisenach, the residences of two Ernestine

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<sup>1135</sup> ‘*garstige reden*’, Ibid., fo. 5v.

<sup>1136</sup> Williams, *Dangerous Diplomacy*, 200. The distinction between political and regalian safe-conduct is blurred in this case.

<sup>1137</sup> As coarse as they appear, the expletives uttered by the valet were not exceptional for early modern standards. See: Haack, Julia, *Der vergällte Alltag: zur Streitkultur im 18. Jahrhundert*. (Köln: Böhlau, 2008), 77–82. On the prevalence of scatological motives in German culture, see: Dundes, Alan, *Life Is like a Chicken Coop Ladder: A Portrait of German Culture through Folklore* (New York: 1984).

<sup>1138</sup> Stern, *The Company-State*, 43.

Dukes, thus framing the situation not as a trivial quarrel between himself and a conduct official, but as a question of principle concerning his lord and the Ernestine Dukes. Overall, the episode corroborates Anne Conchon's suggestion that early modern toll regimes constituted not just an economic, but also 'a psychological and ideological problem'.<sup>1139</sup>

The validity of passports could be contested not only on a 'horizontal' level between territorial states but also 'vertically', between different levels of authority, for instance between the Estates and the Empire. The emperor's Aulic Court in Vienna regularly received requests for letters of passage from merchants, imperial and territorial officials, military officials, clergymen and craftsmen from within and outside the Empire.<sup>1140</sup> In 1579 the Dutch bird trader Heinrich Eysenbrand requested an imperial passport for travelling safely to the Netherlands, where he was to buy birds for the imperial household.<sup>1141</sup> In 1606 a hermit, Laurentius Kirchamber, who planned an ambitious pilgrimage to the Einsiedeln Abbey in Switzerland, as well as to Loreto, Rome, Sicily and Galicia, asked for an imperial passport without which he was afraid of not being able to travel.<sup>1142</sup> Was a passport issued by the emperor valid in the territories of the Imperial Estates? A seventeenth-century treatise on passports claimed that 'the emperor can issue letters of passage to all in every respect'.<sup>1143</sup> On the mere basis of safe-conduct files, it is difficult to assess the circumstances in which an imperial letter of passage was useful.

It is clear that imperial letters of passage were not unconditionally respected. The Venetian ambassador extraordinary to England, Michiel Morosini, experienced this first hand in September 1661.<sup>1144</sup> Returning from London after a brief mission to the court of Charles II, the ambassador took the 'most convenient road'<sup>1145</sup> back to Venice. After crossing the Channel, he passed through the Old Reich and eventually touched upon the territory of the fragmented Electorate of Mainz. On the morning of September 12, near the town of Bischofsheim, the ambassador – travelling in two sumptuous state coaches and accompanied by 'several footmen dressed in beautiful liveries'<sup>1146</sup> – came across a local

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<sup>1139</sup> Conchon, *Le péage*, 145. Conchon's interpretation of toll exemptions as a vector of social differentiation in the context of an '*économie du privilège*' offer much food for thought for the study of comparable systems in the early modern world.

<sup>1140</sup> This survey is based on a database of 4000 supplications received by the Aulic Council between 1576 and 1612.

<sup>1141</sup> See: Heinrich Eysenbrand to Aulic Council, 12 Aug 1579, HHStA RHR, Passbriefe, Karton 4, Konv. 2, fo 222–224.

<sup>1142</sup> See: Laurentius Kirchamber, hermit and pilgrim from Gorizia to Aulic Council, 15 Feb 1606, HHStA RHR, Patentes und Steckbriefe, Karton 2.

<sup>1143</sup> '*Imperator omnibus omnino Lit. Com. concedere potest*', Textor, *Literis Commeatus*, ch. 2, § 5.

<sup>1144</sup> The episode is briefly mentioned, in: Weiss, *Geleitstraßen*, 235.

<sup>1145</sup> Angelo Correr and Michiel Morosini, Venetian Ambassadors extraordinary in England, to the Doge and Senate, 11 Aug 1661, in: 'Venice: August 1661', in: Hinds, Allen ed., *Calendar of State Papers Relating to English Affairs in the Archives of Venice, Volume 33: 1661–1664* (1932), 20–35. URL: <http://www.british-history.ac.uk/report.aspx?compid=90095> Date accessed: 29 October 2014.

<sup>1146</sup> '*unterschiedtlichen in schöner Liberey gekleideten dienern*', Sheriff of Bischofsheim to Johann Philipp von Schönborn, Elector of Mainz, 23 Sep 1661, StA Würzburg MRA K 157/45, fo. 1r.

official, Andreas Moll, who accused him of using ‘a forbidden byroad’<sup>1147</sup> and attempted to seize the ambassador's coaches. The ambassador refused to let the sheriff seize the coaches that contained his ‘best moveables and silver jewelry’<sup>1148</sup> and invoked an imperial passport that authorised him ‘to travel through the Roman Empire at his discretion’.<sup>1149</sup> However, the sheriff insisted and threatened to fine the two carters, should he see them again. A few days later, Morisini sent a letter to the sheriff of Bischofsheim, in which he emphasised that the carters had taken the ‘shortest and best’<sup>1150</sup> road on his explicit orders and asked ‘not to let them suffer any rigour’.<sup>1151</sup>

In the wake of this accident, a discussion unfolded around the question of whether an imperial passport authorised the bearer to move freely on the roads of a ruler's territory without paying tolls and conduct or customs duties. After giving the matter some thought, the over-zealous official's superior concluded that even the bearers of imperial passports were obliged ‘to remain [...] on the ordinary conduct roads’<sup>1152</sup> and could not encroach on ‘the rights of any territorial prince’.<sup>1153</sup> The sheriff of the neighbouring district of Bischofsheim was less sure whether ‘such a respectable [person as an ambassador] holding an imperial letter patent’<sup>1154</sup> could be obliged to keep the ordinary roads and deferred the judgement in this matter ‘to more judicious men than me and the sheriff’.<sup>1155</sup> The Elector's chancery ultimately declared that one needed to distinguish between merchants and diplomatic envoys, intimating the concerned official to ‘use more meekness and respect’<sup>1156</sup> in the future.

The case of the ambassador's contested passport illustrates how regimes of movement could be negotiated individually, sometimes at the full discretion of the involved agents. If regimes of movement were shaped by different levels of social and political organisation, it was all but clear what

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<sup>1147</sup> ‘eine verbottene Nebenstrassen’, Just Philipp Steinmetz, Sheriff (*Keller*) of Külsheim to Johann Philipp von Schönborn, Elector of Mainz, 16 Sep 1661, StA Würzburg MRA K 157/45, fo. 1r.

<sup>1148</sup> ‘beste mobilien und Silbergeschmeid’, Sherriff of Bischofsheim to Johann Philipp von Schönborn, Elector of Mainz, 23 Sep 1661, StA Würzburg MRA K 157/45, fo. 1r.

<sup>1149</sup> ‘durch daß Römische Reich nach seiner gelegenheit zu reisen’, Ibid.

<sup>1150</sup> ‘le plus court et le meilleur’, Michiel Morisini, Venetian Ambassador extraordinary, to the Governor of Bischofsheim, 17 Sep 1661, StA Würzburg MRA K 157/45, fo. 1r.

<sup>1151</sup> ‘ne [...] pas les faire souffrir aucune rigueur’, Ibid. It was, indeed, not uncommon that carters were punished for the offences of the conductee or of the escorts. In April 1639, an official of the Duke of Jülich arrested the carter and one horse of every cart of a convoy because it was escorted by escorts of the City of Aachen. After the incident, the government of the United Duchies of Jülich-Cleves-Berg admonished its official that he should have arrested the escorts, not the carters. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 67.

<sup>1152</sup> ‘auf den rechten glaitsstrassen [...] zuerbleiben’, Just Philipp Steinmetz, Sheriff (*Keller*) of Külsheim to Johann Schweighart, 23 Sep 1661, StA Würzburg MRA K 157/45, fo. 1r.

<sup>1153</sup> ‘jedes Landfürstens habender gerechtsame’, Ibid.

<sup>1154</sup> ‘ein so ansehlicher und mit Kayl. Patenten vorsebener’, Sheriff of Bischofsheim to Johann Philipp von Schönborn, Elector of Mainz, 23 Sep 1661, StA Würzburg MRA K 157/45, fo. 2r.

<sup>1155</sup> ‘mehr verstendige, alß ich und Er Keller’, Ibid.

<sup>1156</sup> ‘mehrer bescheidenheit und respects zu gebrauchen’, Johann Philipp von Schönborn, Elector of Mainz, to Sheriff (*Keller*) of Külsheim, 26 Sep 1661, StA Würzburg MRA K 157/45, fo. 1r.

happened when those levels clashed. The local official who wanted to seize the ambassador's coaches was well aware that the territorial prerogatives of his lord conflicted with those of the Empire, but could not believe that an imperial passport annulled the prerogatives of a territorial prince. His colleague was ambivalent about the matter and the chancery ultimately evaded the question by framing the problem as a question of social distinction, claiming that the restrictions of conduct applied to merchants and commoners, not to persons of rank.

Letters of passage were 'fundamentally negotiated'<sup>1157</sup> before and after their issuance.<sup>1158</sup> Megan Williams highlighted the complex processes which preceded the issuance of diplomatic safe-conducts in the early sixteenth century, which both sides used for articulating territorial, legal and social claims.<sup>1159</sup> However, even once the wording of the documents was agreed upon, the validity of safe-conduct letters depended upon the compliance of intermediaries and local officials.<sup>1160</sup> The above examples show that even if a passport was recognised as valid in a certain area, its specific terms of use could be unclear, causing conflict over their interpretation. Since early modern passports were frequently issued not to one individual but to groups of persons and their goods, the question of how many people could travel under the same passport was another common bone of contention.<sup>1161</sup> In seventeenth-century Thuringia, the ducal conduct officials were thus constantly concerned that travellers abused their passports by extending them to people and goods that were not mentioned in the document.<sup>1162</sup> The conduct house's scale of penalties threatened anyone who attempted to evade conduct by abusing a passport with a fine of one quarter of the value of his goods, horses and cart.<sup>1163</sup> Jewish travellers were frequently suspected of abusing their passports for exempting their fellow travellers and private goods.<sup>1164</sup> Saxe-Weimar's chief conduct official (who had strong prejudices against Jews) lamented that these 'blasphemous people'<sup>1165</sup> defrauded his lords for their own profit, but was

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<sup>1157</sup> Williams, *Dangerous Diplomacy*, 250.

<sup>1158</sup> For a reconstruction of the extensive negotiations that preceded the issuance of safe-conducts to the participants of the Council of Basel (1431–1449), see: Widmer, Berthe 'Geleitbriefe und ihre Anwendung in Basel zur Zeit des hier tagenden Generalkonzils von 1431–1449.' *Basler Zeitschrift Für Geschichte Und Altertumskunde* 92 (1992): 9–99.

<sup>1159</sup> See: Williams, *Dangerous Diplomacy*, 203.

<sup>1160</sup> See: *Ibid.*, 250. Williams therefore argues that the political safe-conduct documents exemplify the territorial as well as the social constitution of princely authority

<sup>1161</sup> See: Nordman, Daniel, *Sauf-conduits et passeports*, 147. The problem was pervasive in high medieval Italy, as well. See: Bognetti, *Passaporto*, 329–330.

<sup>1162</sup> Indeed, the defraudation of tolls under the pretence of princely exemptions was not uncommon. See: Straube, *Geleitwesen*, 93.

<sup>1163</sup> See: ThStA Weimar GSW B 23426, fo. 31.

<sup>1164</sup> See: Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 29 Apr 1691, ThStA Weimar GSW B 23208, fo. 351r-351v.

<sup>1165</sup> 'Gottes lästerlichen leute', *Ibid.*, fo. 351v.

unsure how to tackle the problem without disrespecting the issuers of their passports at whose courts the Jews had successfully ‘crept in’.<sup>1166</sup>

According to the chief conduct officer, the Jews travelling from Frankfurt to the trade fairs in Leipzig and Naumburg employed a particular strategy for avoiding the conduct tolls on their goods and bodies.<sup>1167</sup> In the past, he claimed, the Jews had always travelled in two or three large groups and the conduct officials had exempted two or three valets of each group from paying the tolls. Nowadays, however, they travelled in smaller groups of one to six people, but still demanded that several people pass freely with every group. This way, at the time of the Easter trade fair at Frankfurt, fourteen out of thirty-eight Jews passed through Erfurt without paying any conduct tolls. To combat the abuse of passports, the conduct official suggested that general passports (passports issued for an unspecified number of travels and goods) should no longer be issued to Jews and that every passport should enumerate the goods for whose transportation it had been issued.<sup>1168</sup>

In this case, as in others, one key problem was the lack of clear rules that determined what behaviour counted as abuse and what was still acceptable. The question, for instance, of how many goods and people were allowed to travel under the same passport was negotiated in practice. Jewish merchants managed to defend the extension of their passports quite assertively in these situations. In 1698 a group of several Jewish men and a mother with her children, who all travelled under a passport issued by Saxe-Eisenach, successfully defied a conduct official.<sup>1169</sup> When the official required to see their conduct tickets, one Jew named Feist ‘thoued him at once and asked him defiantly what he was doing and whether he did not know that he, Feist, had obtained a [...] free pass, in virtue of which everything he carried with him was to pass freely’.<sup>1170</sup> The conduct official replied that he would dutifully respect the ducal passport, but that he could not accept the passport to be extended to ‘other Jews who do not belong’.<sup>1171</sup> Feist, however, was not keen on continuing the conversation and told the driver to move off and ‘not to worry about the conduct trooper’,<sup>1172</sup> so that the official ‘had to withdraw with

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<sup>1166</sup> *‘ein geschlichen’*, Ibid.

<sup>1167</sup> See: ThStA Weimar GSW B 23698, fo. 2r.

<sup>1168</sup> See: Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 29 04 1691, ThStA Weimar GSW B 23208, fo. 351v. A drafted passport for a Jew from Hanau issued by Duke Wilhelm of Saxe-Weimar in 1661 shows that this practice had already been adopted earlier. While the first draft of the passport does not number the bearer's horses and is unlimited in time, a second person, writing with a different ink on the same draft, later specified the number of horses covered (two) and that the passport was valid ‘only now and this time’ (*‘iedoch nur itzo und vor dißmahl’*), ThStA Weimar GSW B 23235a, fo 21.

<sup>1169</sup> See: Report on the punishment of the Jews of Frankfurt in 1698, ThStA Weimar GSW B 23698, fo. 3r.

<sup>1170</sup> *‘alsobald gedutzet und trotziglich gefraget? was Er da machen wolte und ob er nicht wüßte, daß er Feist, einen [...] freyPaß erlanget hette Vermöge deßen, alles was er bey sich führete, frey paßiret werden müste’*, Ibid.

<sup>1171</sup> *‘andere Juden die nicht darzugehören’*, Ibid.

<sup>1172</sup> *‘nach dem geleits Reiter nichts zu fragen’*, Ibid.

shame and let those Jews go away'.<sup>1173</sup> Such acts of defiance were not uncommon. In 1792 a perplexed toll official in the Electoral Palatinate reported that all travellers except the merchants refused to pay safe-conduct duties and asked for instructions on how to deal with such 'rough passers-by'.<sup>1174</sup> The Palatine government even considered deploying military forces in order to secure its toll revenues.<sup>1175</sup> In sixteenth-century Electoral Saxony, safe-conduct officials complained about defiant carters as well.<sup>1176</sup> Some received military reinforcements which helped considerably.

In Thuringia, a similar incident in the same year ended less smoothly. When several Jews requested the conduct house in Erfurt to issue a free ticket for an absent companion, a certain Kallmichen, the officials demanded that the absent Jew should call for his ticket personally.<sup>1177</sup> 'Out of pure defiance and malice',<sup>1178</sup> the officials later suspected, Kallmichen never collected his ticket and left Erfurt together with his companions. A trooper set out to chase Kallmichen, found him in Gotha and threatened to fine him with 21 Reichsthaler. Ultimately, the Jews, who 'were very frightened',<sup>1179</sup> only paid 6 Reichsthaler in fines and gave the conduct official 16 Groschen for himself – apparently 'out of free good will, that he should not exaggerate'<sup>1180</sup> the fine.

The use that these Jewish travellers made of their passports and the conduct officials' wariness to confront them, reveal how even a warrant issued by a territorial ruler, such as a ducal passport, was only worth as much as one could make of it. A passport's practical value was negotiated in the everyday encounters between its bearer and the official who controlled it. Unclear rules, mutual resentment and limited capacities for enforcement shaped the playing field in which the concrete validity of passports was negotiated.<sup>1181</sup> Far from only benefiting authorities and public officials, such uncertainties often empowered the mobile subjects. Cases such as that of the raging valet, of the obstructed ambassador and the defiant Jews show that conflicts around the validity and the issuance of passports touched the very core of early modern regimes of movement. They were all but exceptions. Similar conflicts, especially around Jewish passports, are reported from seventeenth-century Electoral Saxony<sup>1182</sup> and

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<sup>1173</sup> 'mit schimpff, wieder abziehen müssen, und diese Juden fortfahren lassen', Ibid.

<sup>1174</sup> 'grobe Passanten', Fendler, *Geleitstraßen*, 720.

<sup>1175</sup> See: Fendler, *Geleitwesen*, 87.

<sup>1176</sup> See: Straube, *Geleitwesen*, 77–78.

<sup>1177</sup> See: Report on the punishment of the Jews of Frankfurt in 1698, ThStA Weimar GSW B 23698, fo. 2r.

<sup>1178</sup> 'aus pur lautern Trutz und boßheit', Ibid., fo. 2v.

<sup>1179</sup> 'sehr erschrocken', Ibid.

<sup>1180</sup> 'daß er diese ihr nicht höher exaggerien wolte, aus freyen guten willen', Ibid.

<sup>1181</sup> Straube complained that it can be difficult to distinguish between cases of 'simple arbitrariness' and formally justified sanctions against illicit behaviour. See: Straube, *Geleitwesen*, 93.

<sup>1182</sup> See: HStA Dresden, 10036 Loc. Finanzarchiv, Loc. 39800, Rep. 15, Gen. Nr. 0005 and Loc. 39979, Rep. 15, Wolkenstein, Nr. 8; Hartmann, *Wassergeleite*, 81–83; Hofmann, *Landgeleite*, 81.

Bavaria<sup>1183</sup> and they were certainly a common sight in other regions of Central Europe. Moreover, there was a myriad of lawsuits around violated letters of safe-conduct which occupied courts all over the Old Reich.

In recent years, historians have placed particular emphasis on the history of the passport as a means of documenting individual identity.<sup>1184</sup> They have revealed how patchy and contradictory such practices of surveillance were up until very recent times. Observing the constant struggles between authorities and impostors over the use of identification documents, Valentin Groebner concluded that identity never actually belongs to a person, but that it is a ‘battleground’ on which we ‘attempt to control how others define us’.<sup>1185</sup> If in pre-modern Europe ‘it was not predictable when a certificate was valid or invalid in the eyes of a particular authority’,<sup>1186</sup> the problem cannot be reduced to a mere question of authenticity, or to the technicalities of identification. Where conduct officials, tollkeepers, chanceries and travellers fought over the validity of letters of passage in sixteenth and seventeenth-century Europe, they negotiated the legitimate means of movement. Whenever movement was to be enclosed for fiscal, political, military, or other reasons, letters of passage constituted a crucial technique of enclosure. The obligation to use passports helped to operationalise the access to and the exclusion from rights of passage. Clearly, however, such techniques only allowed for a patchy and situational management of such rights.

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<sup>1183</sup> See: BayHStA München, Äußeres Archiv 426.

<sup>1184</sup> See for instance Groebner, *Who Are You?*; Jane Caplan and John Torpey, eds., *Documenting individual identity: the development of state practices in the modern world* (Princeton, NJ, 2001); About, Ilsen, *Histoire de l'identification des personnes* (Paris: 2010).

<sup>1185</sup> Groebner, *Who Are You?*, 257.

<sup>1186</sup> *Ibid.*, 182.

## Forbidden Roads

In a situation of territorial fragmentation, another crucial means for channelling the flows of merchants, carters and their goods through a specific territory, its cities, towns, fairs, markets and toll stations consisted in criminalising the use of certain roads and designating others as the only authorised ‘ordinary’ routes. Forbidden roads were a common feature of the Empire’s roadscape and set neighbouring authorities against each other as well as against many travellers until the end of the eighteenth century.<sup>1187</sup> In early modern Electoral Saxony, obligations to use the ‘ordinary’ routes were among the most common reasons of complaint among the carters.<sup>1188</sup> Especially at the time of the major trade-fairs, authorities undertook considerable efforts to close forbidden roads and channel the traffic onto the ‘ordinary roads’.<sup>1189</sup> Aside from fiscal and economic reasons, these restrictions made it easier to protect the convoys to the trade fairs and thus pre-empt eventual claims for damages.<sup>1190</sup>

In 1681 the Elector of Mainz closed a road, prohibiting travellers to bypass the city of Kühlsheim, not least because of the ‘lobbying efforts’ of local innkeepers.<sup>1191</sup> Similarly, the small County of Erbach closed a road to channel the traffic through its toll-stations, thereby provoking retaliations from the side of the Electoral Palatinate.<sup>1192</sup> Obligations to use designated roads were imposed on the mobility of pre-modern diplomats in order to channel and monitor their traffic as well.<sup>1193</sup> As an instrument of communal economic policy, the practice had a long tradition and was by no means limited to the German lands of Central Europe.<sup>1194</sup> Toll farmers in eighteenth-century France dug ditches in order to keep carters from bypassing their toll-station.<sup>1195</sup> In the fragmented political landscape of Montferrat

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<sup>1187</sup> See: Moser, *Nachbarliches Staatsrecht*, 435.

<sup>1188</sup> See: Hofmann, *Landgeleit*, 103.

<sup>1189</sup> In the Electorate of Mainz, local subjects were ordered to guard the turnpikes that closed off the forbidden roads in the time of the Frankfurt trade fairs. See: Schopp, *Geleitswesen*, 13–14. In Electoral Saxony, the obligation to monitor the forbidden roads was included in the instructions and oaths of safe-conduct officials and innkeepers. See, for instance: Ringleb, *Prüffern*, 24–25. In 1699, the County of Öttingen complained that the Margraviate of Brandenburg-Ansbach forced the carters onto the road between Crailshaim and Blaufelden although it meant a considerable detour. See: Gabler, *Das Brandenburger und Öttinger Geleit*, 126. See, moreover: Seußler, *Das Wimpfener Geleit*, 7. The Prince-Bishops of Würzburg successfully forced Nuremberg’s convoys to the Frankfurt trade fair onto a longer route through his territory during the fifteenth and sixteenth centuries. See: Weig, *Ius conducendi*, 184–185.

<sup>1190</sup> See: Freitag, *Ulm*, 109.

<sup>1191</sup> See: Weiss, *Geleitstraßen*, 235.

<sup>1192</sup> See: Becher, *Grafschaft Erbach*, 81.

<sup>1193</sup> See: Williams, *Dangerous Diplomacy*, 141–146.

<sup>1194</sup> For the Old Swiss Confederacy see: Wiederkehr, *Das freie Geleit*, 109.

<sup>1195</sup> See: Conchon, *Le péage*, 149.

in Northern Italy, conflicts over the channelling of commercial flows brought about similar measures.<sup>1196</sup>

Obligations to use specific roads and the concurrent prohibition of using alternative roads (called 'byways'), reached back into the early Middle Ages.<sup>1197</sup> Such measures were crucial instruments for the trade policies of cities and territories alike.<sup>1198</sup> Provisions against these practices had been issued in the early thirteenth century. In 1235 the imperial peace of Mainz, a core element of the Empire's constitutional structure, explicitly condemned the prohibition of roads.<sup>1199</sup> However, even though the peace protected travellers from the obligation to use specific roads (with some exceptions), its practical effects are doubtful.<sup>1200</sup> In the late Middle Ages the counts of Schaumburg, who ruled a territory in the North-West of the Empire, widely employed such practices for bringing merchants to their markets, for increasing customs revenues and for military purposes.<sup>1201</sup> While their measures openly defied the imperial norms on the matter, the Empire was powerless to enforce them. In 1446 the Margrave of Brandenburg blocked a road with barricades and ditches in order to impede its use by the City of Nuremberg.<sup>1202</sup> Even though the imperial claims to free movement on the Empire's roads continued to be upheld in theory, they stood in stark contrast to everyday practice.<sup>1203</sup>

Even though the imperial institutions were hardly in a position to intervene in the Imperial Estates' road politics, the latter encountered considerable difficulties in enforcing these measures vis-à-vis their neighbours and the travellers themselves. As a rule of human geography, when movement is prohibited on important roads, 'bypass routes spring up, making movement less predictable for the ruler'.<sup>1204</sup> In practice, 'people invariably have their own ideas about when, where, and how they should move'.<sup>1205</sup> Early modern Thuringia, where the forbidden roads provoked 'considerable irritations'<sup>1206</sup> already in

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<sup>1196</sup> See: Giana, Luca, 'Transiti e territorio in un feudo imperiale del Piemonte meridionale nel XVII secolo', in: Cinzia Cremonini and Riccardo Musso, eds., *I feudi imperiali in Italia tra XV e XVIII secolo* (Roma, 2010), 137–174.

<sup>1197</sup> For a discussion of such obligations during the Middle Ages, see: Brandstätter, *Straßenhobeit*; Friehe, *Wegerecht*, 38–59. Moreover: Cerwinka, Günter, 'Straßenzwang und Städte im späteren Mittelalter' *Zeitschrift des historischen Vereines für Steiermark* 67 (1976): 131–46; Baumeister, Ludger, *Zur Geschichte und Problematik des deutschen Straßen- und Wegerechts* (Bielefeld, 1957) 9; Schöpfer Pfaffen, *Verkehrspolitik*, 87–90.

<sup>1198</sup> See: Friehe, *Wegerecht*, 50.

<sup>1199</sup> See: Weiland, Ludwig, ed., *Constitutiones et acta publica imperatorum et regum*, vol. 2 (Hannover: 1896), 244.

<sup>1200</sup> See: Friehe, *Wegerecht*, 48.

<sup>1201</sup> See: *Ibid.*, 52–55.

<sup>1202</sup> See: Schlüpfinger, Heinrich, 'Nürnberger Handelsstraßen durch das Schwabacher Land', in: *Ibid.*, ed., *600 Jahre Stadt Schwabach: 1371–1971: Festschrift zur 600-Jahr-Feier* (Schwabach: 1971), 355–391, 375. For a similar conflict between Brandenburg and Würzburg, see: Weig, *Ius conducendi*, 90.

<sup>1203</sup> See: *Ibid.*, 59.

<sup>1204</sup> Handel, *Geography of Disaster*, 214.

<sup>1205</sup> Vigneswaran and Quirk, *Mobility Makes States*, 19.

<sup>1206</sup> See: Straube, *Geleitwesen*, 63.

the fifteenth century, provides a paradigmatic example for this problem.<sup>1207</sup> The ducal safe-conduct administration determined a comprehensive network of designated routes that was gradually complicated to the point that the ‘control of the obligation to use designated routes seems hardly possible and continuous disputes were inevitable’.<sup>1208</sup> A traveller traversing the Thuringian forest in the direction of, or from, Leipzig, could choose between two routes (Figure 14). The first led along the river Saale, crossing the territories of Schwarzburg and Saxe-Altenburg. The second route crossed the territory of Saxe-Weimar and the city of Erfurt. It comes as no surprise that Saxe-Weimar's conduct officials attempted to force the traffic on the second road through their conduct stations, criminalising the use of the alternative route.<sup>1209</sup>

Throughout the seventeenth century, travellers in the region could find broadsheet ordinances across the towns and villages that complained that local and foreign carters would not take the ‘ordinary road through Erfurt’<sup>1210</sup> and instead use ‘forbidden tracks and byways’.<sup>1211</sup> Following ‘only their own liking and will’,<sup>1212</sup> the ordinances lamented that such people ‘fraudulently purloined the entire conduct [tolls] from the princely House of Saxony’.<sup>1213</sup> The placard called everyone to assist the conduct officials so that the carters could be ‘driven back on the right, ordinary road and punished duly’.<sup>1214</sup> In theory, bypassers were heavily fined and could lose their goods, carts and horses if they were discovered using a forbidden road.<sup>1215</sup> In practice, however, officials were often lenient towards smugglers and transgressors, and harsh punishments were more a matter of ‘gesture politics’<sup>1216</sup> than efficient enforcement.

While the enforcement of such obligations could sometimes be successful,<sup>1217</sup> it was extraordinarily difficult and often to no avail.<sup>1218</sup> On a daily basis, safe-conduct authorities learned that ‘human mobility

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<sup>1207</sup> See, moreover: Gerbing, Luise, ‘Beiträge zum Thüringer Geleitswesen im 16. und 17. Jahrhundert’, *Mitteilungen der Geographischen Gesellschaft Jena* 13 (1894): 50–62.

<sup>1208</sup> See: *Ibid.*, 64.

<sup>1209</sup> For the century-old attempts of the safe-conduct administration in Erfurt to channel traffic through the city, see: Straube, *Geleitwesen*, 109–111.

<sup>1210</sup> ‘ordentliche Landstraße uf Erfurt’, Broadsheet ordinance of Wilhelm Ernst, Duke of Saxe-Weimar, and Johann Georg II, Duke of Saxe-Eisenach, 8 Jan 1687, ThStA Weimar GSW B 23223, fo. 39v.

<sup>1211</sup> ‘verbotene Gleisen und beywege’, *Ibid.*

<sup>1212</sup> ‘nur ihres eigenen gefallens und willens’, *Ibid.*

<sup>1213</sup> ‘das gesamte Gleit unserm Fürstl. Samthausß Sachsen betrüglichen zu entführen’, *Ibid.*

<sup>1214</sup> ‘zurück auf die rechte ordentliche Landstraße getrieben, und zu gebührender Strafe genommen’, *Ibid.*, fo. 40r.

<sup>1215</sup> A Saxe-Weimarian regulation of 1667 allows to reduce this punishment to one quarter of the value of the carter's good and carriage, ThStA Weimar GSW B 23426, fo. 31. For Electoral Saxony Hofmann, *Landgeleite*, 101.

<sup>1216</sup> Collet, *Getreidesperren*, 56.

<sup>1217</sup> See, for instance: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 41.

<sup>1218</sup> In Thuringia, the conflicts around designated routes intensified after the division of 1485, since the dukes wanted to channel traffic onto different routes. See: Straube, *Geleitwesen*, 66–68. The enforcement of such obligations was generally problematic. See: *Ibid.*, 63–72. For a series of high-medieval examples, see: Brandstätter, *Straßenhobeit*, 226. See, moreover: Schätzlein, *Alte Verkehrswege*, 123–124.

is so powerful and ubiquitous that we should not be overly surprised that prevention efforts are often inadequate'.<sup>1219</sup> Even draconian threats and fines could only prevent merchants, carters and travellers from using forbidden roads where officials could effectively monitor their movements or provide a significantly better travel infrastructure.<sup>1220</sup> Indeed, the bad state of some 'ordinary' roads left some travellers no choice but to use byways.<sup>1221</sup> One conduct road between the Duchy of Saxe-Coburg and the Prince-Bishopric of Würzburg, for instance, was in such a bad state and so narrow that carter had to divert onto the adjacent fields, damaging the crop.<sup>1222</sup> Some peasants therefore dug ditches and threatened the carters with 'beatings' if they diverted onto their lands. As a consequence, many travellers preferred to take a different route altogether. Saving time was another important reason for which carters avoided designated routes,<sup>1223</sup> as was the fact that tolls and other transit duties added to their expenses, which they hoped to minimise.<sup>1224</sup>

Where bypassers were identified and punished, authorities could face fierce opposition from the side of the perpetrators. In 1659 the subjects of a district in the County of Schwarzburg opposed the prohibition to use the Saale road as a matter of principle. The occasion was the punishment of three fellow carters who had transported various goods and tobacco to the Leipzig trade fair using the forbidden Saale road. The Saxon conduct officials learnt of their transgressions from other carters from the same district (who had taken the 'ordinary' route) when they passed through Erfurt.<sup>1225</sup> When summoned, the bypassers were reluctant to turn themselves in at the conduct house in Erfurt. They only appeared once the conduct officials began retaliating by seizing carts, horses and goods at several conduct stations around Erfurt.<sup>1226</sup> Although the seized goods were quickly released ('out of pity'<sup>1227</sup>)

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<sup>1219</sup> Vigneswaran and Quirk, *Mobility Makes States*, 11. Another example is that of the peasants of the Catholic enclave of Eichsfeld, who continued their pilgrimages to Walldürn although they were denied a passport. See: Duhamelle, *Frontière au village*, 171.

<sup>1220</sup> Keeping traffic flows within its territory was, for instance, a major motivation for roadworks that the Electoral Palatinate undertook in the second half of the eighteenth century. In this case, investment in better road infrastructure supplanted earlier safe-conduct restrictions. See: Fendler, *Geleitstraßen*, 719.

<sup>1221</sup> See, for instance: Freitag, *Ulm*, 112. In 1560, an Ernestine conduct official at Burgau near Jena argued that the bad state of the roads was the principal reason for the carters' choosing alternative routes. See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 45; Straube, *Geleitwesen*, 67.

<sup>1222</sup> See: Nöth, *Glenßen*, 95–96.

<sup>1223</sup> See: Freitag, *Ulm*, 113.

<sup>1224</sup> See: Straube, *Geleitwesen*, 73–74, 126–127.

<sup>1225</sup> See: Andreas Kley, chief conduct officer at Erfurt to Wilhelm, Duke of Saxe-Weimar, 11 Jul 1659, ThStA Weimar GSW B 23206, fo. 9v.

<sup>1226</sup> The seizure of horses and carts was a common practice in the ducal safe-conduct administration. See: Straube, *Geleitwesen*, 75–77.

<sup>1227</sup> 'auß mitleiden', Subjects of the district of Gehren to Counts of Schwarzburg, 21 Nov 1659, ThStA Weimar GSW B 23206, fo. 24v.

the pressure was enough to make the carters appear in Erfurt and accept fines around 6 to 9 Reichsthaler.<sup>1228</sup>

Once the ‘terror’<sup>1229</sup> subsided, however, the carters changed their minds. The subjects of the whole district filed a complaint with their counts about the restrictions imposed by the ducal conduct officials and opposed the prohibition of the Saale roads on four grounds. Firstly, they claimed to have ‘travelled on that road to Leipzig since time memorial’<sup>1230</sup> and that they had never ‘been hindered and prevented by no-one’<sup>1231</sup> from doing so. Secondly, it was ‘the closest and usual way overland’<sup>1232</sup> to Leipzig. Moreover – and perhaps somewhat wryly – the subjects argued that their obligation to pass through Saxe-Weimar might penalise the conduct tolls of other lords along the river Saale. The perhaps most significant argument, however, claimed that ‘the blocking of public old roads is against all rights and highly forbidden’.<sup>1233</sup>

In the Holy Roman Empire, there were very different views about which were the ordinary roads and whether roads could be forbidden at all. Indeed, categorising roads according to different criteria could have high political significance. In the Electoral Palatinate, more and more roads were designated as tollable ‘conduct roads’ (*Geleitstraße*), so that in the sixteenth and seventeenth centuries ‘most roads of a territory could be labelled as conduct roads’.<sup>1234</sup> The designation of ordinary and forbidden roads could be a question of considerable political salience between neighbouring territories.<sup>1235</sup>

The comital subject's conviction that it was fundamentally illegal to block the passage on ‘old public roads’<sup>1236</sup> shows how arguments used by agents at ground level could be ‘informed by categories that might have proceeded from erudite legal theories but that according to them represented the way things were or ought to be’.<sup>1237</sup> Indeed, the same notion was upheld in the elaborate legal and academic debates around freedom of movement and its restriction, as examined in the last chapter of this book. In the ensuing controversy around the forbidden Saale road, however, such questions of principle were

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<sup>1228</sup> See: Subjects of the district of Gehren to Counts of Schwarzburg, 15 Jun 1659, ThStA Weimar GSW B 23206, fo. 3r.

<sup>1229</sup> ‘*Terrorem*’, Subjects of the district of Gehren to Counts of Schwarzburg, 21 Nov 1659, ThStA Weimar GSW B 23206, fo. 25r.

<sup>1230</sup> ‘*Weit über menschen gedenken Jene Straße nach Leipzig gefahren*’, Subjects of the district of Gehren to Counts of Schwarzburg, 15 Jun 1659, ThStA Weimar GSW B 23206, fo. 3v.

<sup>1231</sup> ‘*von niemanden jemals verwehret und verhindert worden*’, Ibid.

<sup>1232</sup> ‘*der nechste und gewöhnliche landweg*’, Ibid.

<sup>1233</sup> ‘*die Sperrung öffentlicher alter landstraßen allen rechten zu wider unnd hoch verboten*’, Ibid.

<sup>1234</sup> Fendler, *Geleitwesen*, 63. See, moreover: Schaab, *Straßen- und Geleitwesen*, 58.

<sup>1235</sup> See, for instance, Straube’s account of the negotiations between Electoral Saxony and the Ernestine Duchies in the early sixteenth-century. Straube, *Geleitwesen*, 103–105. See, moreover: Lerner, Franz, ‘Die Haupthandelswege zur Frankfurter Messe. Ein Zufallsfund aus dem 18. Jahrhundert’ *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 79, no. 2 (1992): 177–188, 177.

<sup>1236</sup> ‘*öffentlicher alter landstraßen*’, Subjects of the district of Gehren to the Counts of Schwarzburg, 21 Nov 1659, ThStA Weimar GSW B 23206, fo. 28r.

<sup>1237</sup> Herzog, *Frontiers of Possession*, 234.

of little consequence. The counts, siding with their subjects, merely asked that the carters be left to use the customary road which they had used since time immemorial and that the conduct official refund the fines obtained ‘by coercion and arbitrary enforcement’.<sup>1238</sup> What ensued, was an intricate discussion as to which goods had been subject to ducal safe-conduct and needed to be brought to Erfurt. Unsurprisingly, each side based its claims on custom and attempted to provide oral or written proof. The ducal chief conduct officer was confident that the bypassing subjects ‘could never prove that they had been allowed to use that road [...] unless it happened during the war’.<sup>1239</sup> The subjects, however, approached residents along the forbidden road and found ‘old innkeepers and conduct officials’<sup>1240</sup> who confirmed that they had always used the Saale road when carting goods towards Leipzig and provided two written testimonies. The chief conduct officer could not find any written proof in his written records and instead found a witness ‘who had been in the conduct [service] for thirty years’,<sup>1241</sup> who confirmed his version of events.<sup>1242</sup> The diametrically opposed testimonies show how locals strategically resorted ‘to both memory and forgetfulness’.<sup>1243</sup>

When claiming rights of passage, commoners knew how to put their rulers’ preoccupations to their own use.<sup>1244</sup> The petitioning subjects of Schwarzburg emphasised that ‘besides the Roman Imperial Majesty’<sup>1245</sup> they were only subject to the counts, so that the ducal conduct official’s encroachments raised ‘not unfair concerns’.<sup>1246</sup> In another case, fifteen Jews from the Prince-Bishopric of Bamberg, travelling back home from a trade fair in the city of Naumburg in 1667, were personally arrested and

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<sup>1238</sup> ‘*durch Zwang, und eigenmechtige Execution*’, Counts of Schwarzburg to Duke Wilhelm of Saxe-Weimar, 25 Jun 1659, ThStA Weimar GSW B 23206, fo. 2v.

<sup>1239</sup> ‘*nimmermehr darthuen können, daß Ihnen solche Straffe [...], es wehre dan im Kregesweisen geschehen, zu fahren, zugelassen worden*’, Andreas Kley, chief conduct officer at Erfurt to Wilhelm, Duke of Saxe-Weimar, 11 Jul 1659, ThStA Weimar GSW B 23206, fo. 10v. During the ‘Thirty Years’ War, several forbidden roads had indeed been opened on the orders of the ducal safe-conduct administration. See: Gerbing, *Thüringer Geleitswesen*, 51–52.

<sup>1240</sup> ‘*alte Gastwirte und GeleitsLente*’, Subjects of the district of Gehren to the Counts of Schwarzburg, 21 Nov 1659, ThStA Weimar GSW B 23206, fo. 27r.

<sup>1241</sup> ‘*so in die 30 Jahr im geleite gewesen*’, Andreas Kley, chief conduct officer at Erfurt to Wilhelm, Duke of Saxe-Weimar, 20 Dec 1659, ThStA Weimar GSW B 23206, fo. 40v.

<sup>1242</sup> Indeed, the lack of written records could be a severe problem for the conduct officials. In 1535, for instance, ten cities claimed an exemption and refused to pay conduct duties at the conduct station at Wittenberg. For want of written records, the conduct official at Wittenberg was unable to contradict their claim. See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 49.

<sup>1243</sup> Herzog, *Frontiers of Possession*, 9. On usages of custom and the past in conflicts between subjects and authorities in the Holy Roman Empire, see: Duhamelle, *Frontière au village*, 59–73. On the problematic reconstruction of peasant voices in early modern protocols, see: Sabeau, David Warren, ‘Peasant Voices and Bureaucratic Texts: Narrative Structure in Early Modern German Protocols’, in: Becker, Peter, and William Clark, eds., *Little Tools of Knowledge: Historical Essays on Academic and Bureaucratic Practices* (Ann Arbor: 2001), 67–93.

<sup>1244</sup> The political skill of commoners in playing their lords off against each other has been noted by Georg Schmidt, as well. See: Schmidt, *Geschichte des alten Reichs*, 242–244.

<sup>1245</sup> ‘*auffer der Röm. Kayß. Maytt.*’, Subjects of the district of Gehren to the Counts of Schwarzburg, 21 Nov 1659, ThStA Weimar GSW B 23206, fo. 24v.

<sup>1246</sup> ‘*nicht unbilllich bedenken*’, Ibid.

heavily fined by the then chief conduct officer of Erfurt, Bartholomäus Kellner, for using the forbidden Saale road and circumventing the Ernestine conduct station in Blankenhain.<sup>1247</sup> After repeated appeals to the Prince-Bishop of Bamberg to urge the duke to refund the ‘unrightfully extorted money’<sup>1248</sup> and to ensure their safe passage on the ‘open roads’<sup>1249</sup> through Thuringia in the future, the Jews warned their lords that they could otherwise not supply the prince's household ‘with goods or horses’.<sup>1250</sup> Eventually, the ducal conduct official agreed to refund three quarters of the fine.<sup>1251</sup>

In other cases, the opposition to barred roads was brusquer. In March of 1600, a four-horse carriage with five officials of the County of Wertheim (apparently among whom was one of the count's sons) found its road blocked by a turnpike. Twice a year, during the ‘conduct times’<sup>1252</sup> when merchants, boatmen and carters travelled to and from the Frankfurt trade fairs, this turnpike closed off a forbidden road on the orders of the Elector of Mainz. The men, probably ‘somewhat drunk’,<sup>1253</sup> scolded the guard behind the turnpike, a local subject from Neunkirchen, and asked on whose orders he had barred the road, at which the man replied that he acted on orders of the Elector of Mainz.<sup>1254</sup> One of the men then alighted the carriage and battered the lock at the turnpike with a fist hammer. Another tried to injure the peasant with a rapier but missed him. Once the guard had opened the turnpike, however, the men left him alone. The local mayor, who was concerned for the safety of his turnpike guards, later reported the incident to his superiors.

Repeated, identical complaints and appeals to the local population to assist the conduct officials reveal how difficult it was for territorial authorities to effectively monitor the movements across their dominions and to enforce the use of the ‘ordinary roads’.<sup>1255</sup> Over a period of 70 years, two Ernestine ordinances voiced the same complaints about the reluctance of the local population in assisting the

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<sup>1247</sup> See: Bartholomäus Kellner, chief conduct officer at Erfurt to John Ernest II, Duke of Saxe-Weimar, 3 Aug 1667, ThStA Weimar GSW B 23206, fo. 167r.

<sup>1248</sup> ‘*unrechter weiß abgenöttigte gelter*’, Jews of Cranach and others to Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg, ThStA Weimar GSW B 23206, fo. 162v.

<sup>1249</sup> ‘*offnen straßen*’, Ibid.

<sup>1250</sup> ‘*mit Wahren oder Pferden*’, Jews of Cranach and others to Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg, ThStA Weimar GSW B 23206, fo. 186v.

<sup>1251</sup> See: Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg to Johann Ernst II, Duke of Saxe-Weimar, 7 Apr 1667 ThStA Weimar GSW B 23206, fo. 185r.

<sup>1252</sup> ‘*gleidzeiten*’, Balthasar von Dalberg, Sheriff at Miltenberg, to Wolfgang von Dalberg, Elector of Mainz, 7 Apr 1600, StA Würzburg, MRA Löwenstein, K413/114, fo. 64r.

<sup>1253</sup> ‘*etwas beweindt*’, Appendix B to letter of Balthasar von Dalberg, Sheriff at Miltenberg, to Wolfgang von Dalberg, Elector of Mainz, 7 Apr 1600, StA Würzburg, MRA Löwenstein, K413/114, fo. 67r.

<sup>1254</sup> See: Sebastian Seyfridt, Mayor (*Schultheiß*) of Neunkirchen, to Johan Hartmann, *Keller* at Miltenberg, 20 Mar 1600, StA Würzburg, MRA Löwenstein, K413/114, fo. 66r.

<sup>1255</sup> Complaints about deflection from ‘ordinary roads’ were a topos among the complaints of customs authorities since the fourteenth century. See Dirlmeier, *Handelsbemmnisse*, 36.

conduct officials in their work.<sup>1256</sup> According to these ordinances, people professed ‘entirely unreasonable expostulations [...] in support of the carter's insubordinate doings’.<sup>1257</sup> Such complaints were not limited to Thuringia; on the extramural territory of the Hanseatic City of Lübeck, authorities prohibited subjects from showing foreign carters the secret paths around the toll stations.<sup>1258</sup> These instances corroborate the general observation that especially rural populations maintained a ‘pragmatic’<sup>1259</sup> and sometimes deviant approach to norms regarding the restriction and channelling of mobility. Accordingly, efforts at channelling mobility must be ‘regarded as an aspiration or agenda that frequently ends up being compromised and contested, rather than a straightforward and clear-cut exercise of state power’.<sup>1260</sup> The unprofessional attitudes of the agents who were charged with guarding the forbidden roads during the safe-conduct periods, was a further liability. In 1619 a merchant from Frankfurt had been caught using a forbidden road by a local official (*Zentgraf*), who ordered him to take the ‘ordinary road’.<sup>1261</sup> The merchant pretended to comply and rode away, but turned around and convinced the peasants who guarded the turnpike at the forbidden road that the *Zentgraf* had taken his safe-conduct ticket and granted a special permission to use that road and was consequently allowed entry.

The deputies of neighbouring rulers played an equally important role in opposing the enclosure of profitable traffic by ducal conduct officials.<sup>1262</sup> Thus, in 1659 the chief conduct officer doubted that the comital subjects had chosen the forbidden road of their own initiative and claimed that they had been ‘incited’<sup>1263</sup> by a comital sheriff (*Schlößfer*).<sup>1264</sup> The ducal officials complained that ‘the officials in the Schwarzburgian districts along the forest [...] do not provide assistance to the conduct officials [and] do not allow them to exert punishments’.<sup>1265</sup> Twenty years later, the ducal chief conduct officer warily admitted that Saxe-Weimar's attempts to channel the traffic through its conduct stations could

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<sup>1256</sup> See: Broadsheet ordinance of Wilhelm Ernst, Duke of Saxe-Weimar, and Johann Georg II, Duke of Saxe-Eisenach, 8 Jan 1687, ThStA Weimar GSW B 23223, fo. 12, 39v-40r.

<sup>1257</sup> ‘zu stärckung der furbleute unfugsamen beginngens [...] ganz unbillichen expostulieren’, Ibid., fo. 39v.

<sup>1258</sup> See: AH Lübeck Kämmererei 481.

<sup>1259</sup> Härter, *Steuerung von Migration*, 43.

<sup>1260</sup> Vigneswaran and Quirk, *Mobility Makes States*, 19.

<sup>1261</sup> See: Schopp, *Geleitwesen*, 9.

<sup>1262</sup> Sometimes, officials violently forced the carters to use routes that neighbouring authorities had forbidden, as Electoral Saxon safe-conduct officials did in the early sixteenth-century to the great displeasure of the Ernestine Dukes. See: Straube, *Geleitwesen*, 104–105.

<sup>1263</sup> ‘verhezeß’, Andreas Kley, chief conduct officer at Erfurt to Wilhelm, Duke of Saxe-Weimar, 31 Jan 1660, ThStA Weimar GSW B 23206, fo. 45r.

<sup>1264</sup> See: Andreas Kley, chief conduct officer at Erfurt to Wilhelm, Duke of Saxe-Weimar, 20 Dec 1659, ThStA Weimar GSW B 23206, fo. 41r.

<sup>1265</sup> ‘die beamtten in der Schwarzburg. an Waldt gelegenen Ämbtern [...] den Gleitsdienern keine Hülffe zue leisten, und keine bestraffung zue verstaten’, Andreas Kley, chief conduct officer at Erfurt to Wilhelm, Duke of Saxe-Weimar, 31 Jan 1660, ThStA Weimar GSW B 23206, fo. 45r.

only work with the assistance of the counts of Schwarzburg ‘because this land is the door, which must give access and passage to the whole road’.<sup>1266</sup> The Ernestine conduct officials in Thuringia were in a particularly problematic position, however lack of assistance by local authorities was a common complaint among many tollkeepers in the empire. In the Electorate of Cologne, for instance, toll farmers regularly complained about the unwillingness of local officials to assist them in enforcing their tolls.<sup>1267</sup> In 1753 a tollkeeper was beaten in front of a village whose entire population refused to pay his toll. An order of the Elector, calling the local authorities to assist the tollkeeper in the future, had no effect. In early eighteenth-century Bonn, the municipal authorities themselves incited the population against an Electoral toll, which they regarded as a ‘nuisance’.<sup>1268</sup>

If the distinction between lawful and forbidden roads was a universal feature of the pre-modern roadscape, the drawing of such distinctions was subject to heated and sometimes violent negotiation. At the micro-level of everyday interactions, the problem of forbidden roads shows how the regimes of movement imposed by territorial authorities constituted an object of constant bargaining. In the Old Reich, as in other politically dense spaces where the movement of goods and people is subjected to heavy restrictions, ‘the struggle for space, or rather for its use, is carried out through small daily activities: bypassing checkpoints, risk taking, and generally insisting on using the space’.<sup>1269</sup> This was not only reflected in intentional disregard for official ordinances, but also in open and articulated resistance from the side of communities and travellers, for whom the use of forbidden roads was a matter of subsistence. The strong opposition was facilitated by rivalries between fragmented territorial authorities who competed over controlling the same roads or rivers.<sup>1270</sup> The very circumstances that made the enclosure of movement so necessary for fiscal and symbolic reasons helped to subvert and undercut it in everyday practice.

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<sup>1266</sup> ‘dann solches Land die thür, die der gantzen Straße den Eingang und ausgang geben muß’, Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 27 Jan 1688 ThStA Weimar GSW B 23208, fo. 63r.

<sup>1267</sup> See: Hackenberg, Martin, *Die Verpachtung von Zöllen und Steuern. Ein Rechtsgeschäft territorialer Finanzverwaltung im Alten Reich, dargestellt am Beispiel des Kurfürstentums Köln* (Frankfurt am Main: 2002), 186–189.

<sup>1268</sup> *Ibid.*, 188.

<sup>1269</sup> Handel, *Geography of Disaster*, 216.

<sup>1270</sup> The Empire was an important countervailing force in this context. The Imperial postal service, for instance, allowed many travellers in the late eighteenth century to avoid the routes designated by the territorial conduct authorities. See: Kurt, Alfred, ‘Als Messegut und Kaiserkrone durch Offenbach geleitet wurden’ *Alt-Offenbach* 2 (1979): 11–17, 16.

## Agents of Enclosure

In order to enforce their claims, territorial rulers relied on a large apparatus of officials and intermediaries who collected duties, controlled and issued tickets or passports, patrolled forbidden roads and byways, managed the books, and arrested bypassers and smugglers.<sup>1271</sup> Several historians have studied the formal structure of safe-conduct bureaucracies and accurately reconstructed the long chains of command, at the bottom of which stood the people who interacted with travellers in everyday life and in their formal duties.<sup>1272</sup> In Thuringia, we know that the higher-ranked safe-conduct officials had a high social standing.<sup>1273</sup> Less important toll-stations were often leased to innkeepers, local clergy, or foresters.<sup>1274</sup> Indeed, the lease of a toll station could be a profitable business for the tollkeepers.<sup>1275</sup> While the organisation of several safe-conduct administrations is well known, the concrete conditions under which subordinate officials performed their duties on the roads and rivers of the Empire have received much less attention.

It is fair to say that the men on the ground had just as strong an impact on the negotiation of everyday mobility as their superiors in the chanceries and agencies. Otto Brunner already noted that customs officials in late medieval Austria were ‘not only collectors of tolls but also had a more general authority over the stretches of roads and rivers within their districts’.<sup>1276</sup> Safe-conduct and customs officials were important agents of state-building. According to Vigneswaran and Quirk, the everyday exchange with such agents of enclosure constitutes ‘one of the main ways in which mobile populations come into contact with state officials, and these encounters similarly play a key role in establishing the state as an ongoing presence in their lives, no matter how capricious, unhelpful, or even destructive this official presence might end up being’.<sup>1277</sup> Safe-conduct, customs and similar officials were crucial agents of statecraft because ‘state power over mobility becomes especially concentrated in contexts involving the allocation and/or withdrawal of legal permissions to both move and reside in particular territories’.<sup>1278</sup> At the same time, however, pre-modern tollkeepers, guard patrols and other subordinate, peripheral

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<sup>1271</sup> See: Straube, *Geleitwesen*, 57–58.

<sup>1272</sup> For example Hartmann, *Wassergeleite*, 90–109; Hofmann, *Landgeleite*, 52–64; Weig, *Ius conducendi*, 154–163, Rieder, *Regensburg*, 150–160.

<sup>1273</sup> See: Straube, *Geleitwesen*, 59.

<sup>1274</sup> See, for instance: Ringleb, *Priefern*, 24–25; Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 20.

<sup>1275</sup> In other cases, however, safe-conduct officials were paid very badly. The Electoral Palatinate, for instance, had difficulties at finding an official for its safe-conduct station at Wimpfen because of the poor pay. See: Seußler, *Wimpfener Geleit*, 11.

<sup>1276</sup> Brunner, Otto, *Land and Lordship: Structures of Governance in Medieval Austria* (Philadelphia: 1992), 304.

<sup>1277</sup> Vigneswaran and Quirk, *Mobility Makes States*, 8.

<sup>1278</sup> *Ibid.*, 18.

agents ‘introduced an autonomous and ineliminable level of mediation between the norms [...], the pursuit of their own interests and the concrete reality of transit’.<sup>1279</sup> While conduct officials theoretically performed their service within a tightly structured hierarchy and were bound by oaths, bails and detailed instructions, in practice, many possessed a high degree of agency and wide room for manoeuvre. Even historians who stressed the high functionality of early modern toll administrations remarked that ‘crude deficiencies were often detected even in important safe-conduct stations’.<sup>1280</sup> As Vigneswaran and Quirk suggest, ‘the idiosyncrasies of channelling can sometimes be best observed up close, in everyday encounters between state agents and mobile populations’.<sup>1281</sup> Therefore, the focus of the following survey is not on abstract, collective entities, but rather on the concrete practices through which individual agents bargained the enclosure of movement in specific situations.

Like most early modern tax collectors, tollkeepers were unpopular. In old-regime France, tollkeepers were particularly loathed.<sup>1282</sup> A study of toll-farming in the early modern Electorate of Cologne revealed the degree to which the relationship between toll farmers and commoners was suffused by ‘mutual mistrust’.<sup>1283</sup> Both tollkeepers and travellers were primed to bring complaints to the territorial authorities and even to sue each other. The Ernestine Duchies in Thuringia were no exception. The sentiment expressed by the Thuringian scholar and high official of the County of Schwarzburg-Rudolstadt, Ahasverus Fritsch, reflected widespread resentments against the conduct and toll regimes of his time. With regard to toll farmers, he expressed the hope that the princes of the Empire would one day cease to lend their ‘accommodating ears to those courtier dogs who busy themselves more with stuffing their own purse than assisting the public treasury’.<sup>1284</sup> The resentment of commoners are reflected in the archival records of the ducal conduct administrations, which brim with complaints, testimonies and reports which all point to the important role played by local and subordinate officials. These reveal to what point personal motivations could determine the practice and potential for conflict in early modern regimes of movement. The following three cases: the experience of an extremely self-

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<sup>1279</sup> Battistoni, Marco, *Franchigia. Dazi, transiti e territori negli stati sabaudi del secolo XVIII* (Alessandria: 2009), 251–252.

<sup>1280</sup> See: Straube, *Geleitwesen*, 60.

<sup>1281</sup> Vigneswaran and Quirk, *Mobility Makes States*, 21.

<sup>1282</sup> See for instance: Roche, *Humeurs vagabondes*, 369. See, moreover: Ulbrich, *Grenze als Chance*, 144–146.

<sup>1283</sup> Hackenberg, *Verpachtung*, 66. The academic literature in the Old Reich provided a bleak account of the tollfarmers in ancient Rome (*publicani*), who were regarded as evil, aggressive and as the ‘epitome of the greedy and criminal’ (Ibid.). Just as soldiers plundered the population in times of war, toll farmers robbed them in time of peace. While referring these judgements, many early modern scholars regarded the toll-farming systems of their time as more functional and less abuse-prone than that of the Romans.

<sup>1284</sup> ‘*faciles aures canibus illis aulicis praeberent, qui magis suum marsupium farvice, quam publico aeraro succurrere satagunt*’, Fritsch, Ahasverus, *Tractatus Iuridico-Politicus De Regali Viarum Publicarum Iure* (Jena 1662), ch. 9, § 20. Such complaints about the abuse of safe-conduct and toll privileges had a long tradition. See, for instance, the complaints of Emperor Sigismund from 1414: Lippert, *Bayreuther Geleitsstraßen*, 97–98.

willed, yet ultimately impotent conduct official, the extortionary fees imposed by another official, and a drunk official's attempt to assert his honour, will be used to illustrate the powerful, yet precarious, position of the people who tried to enforce the enclosure of movement on a daily basis.

Conduct officials frequently found themselves in a difficult situation. Their peripheral position and the physical distance from supervisors warranted a considerable degree of liberty in the exercise of their duties. Such agency could abet or prevent the abuse of power, as officials were often left to their own devices.<sup>1285</sup> In conflicts with travellers and locals, officials could not always rely on the assistance of local authorities and especially not those of another ruler. Therefore, familial and home-grown relationships at the local level considerably determined an official's room for manoeuvre. Friendly ties with the local community were a precondition for effectively performing one's duties. Where an official made enemies, the enforcement of seigneurial prerogatives could become altogether impossible.

The structure of the available source material complicates the reconstruction of the spaces of agency of peripheral or subordinate officials. In her brilliant study of the French toll system of the eighteenth century, Anne Conchon emphasised that large parts of the available archival material are biased, because '[toll] collections without incidents have not left any traces'.<sup>1286</sup> The complaints of carters and other travellers tended to exaggerate and dramatise the abuses of tollkeepers. From this perspective, the records of Saxe-Weimar's conduct administration offer a more nuanced vantage point for examining the complex position of conduct officials on the ground because they contain large numbers of internal inspection reports and correspondence produced both by claimants and defendants.

The following case study revolves around a small, yet one of the strategically most important conduct-stations in Thuringia, the conduct-station at Blankenhain. Situated approximately 30 km south-east of Erfurt (Figure 14), the town was situated on an important trade route between Leipzig and Nuremberg, which many travellers preferred because it was shorter than travelling through Erfurt. In 1618, after several vain attempts to divert the traffic back to Erfurt, the Ernestine Dukes acknowledged that they would never be able to prevent carters and travellers from using the forbidden road and decided to establish a conduct house at Blankenhain.<sup>1287</sup> It was presided over by a local who was charged with

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<sup>1285</sup> These problems persisted well into the nineteenth century. In the early 1830s, for instance, local police forces were hopelessly outnumbered in their fight against the smugglers in the Ernestine exclave of Königsberg in Bavaria. They only received reinforcements after one person died and two were heavily injured in a skirmish with the smugglers. See: Hessler, *Durchzugsrecht*, 96.

<sup>1286</sup> Conchon, *Le péage*, 115.

<sup>1287</sup> The establishment of secondary toll-stations (*Beigeleit*) was common practice already in the sixteenth century. See: Straube, *Geleitwesen*, 82–84.

collecting the tolls.<sup>1288</sup> The choice of Blankenhain was problematic, however, because the district of Blankenhain did not belong to the Ernestine Dukes but to several minor dynasties: the Counts of Gleichen and, after 1631, the Counts of Hatzfeld and the Counts of Mörsfeld.<sup>1289</sup> The appointment of conduct officials in foreign territories was a problem throughout the Empire.<sup>1290</sup> One aim was to adapt the location of toll-stations to the effective traffic flows, which illustrates how mobility sometimes shaped the geography of statehood more strongly than states could shape the flows of moving goods and people.<sup>1291</sup> Throughout the conduct house's existence, this precarious position, as well as the carters' reluctance to pay duties to the ducal officials, generated an infinity of conflicts. However small, its peculiar position even guaranteed the toll-station at Blankenhain a mention in the oeuvre of Johann Jacob Moser, the implausibly prolific 'father of German constitutional law'.<sup>1292</sup> In the 1680s, the conduct-station was administered by Heinrich Eusebius Lorentz, a man 'of great conceit because of his service',<sup>1293</sup> if one is to believe the unflattering account of his superior from 1686. The chief conduct officer had drafted a report on Lorentz and the conduct station in Blankenhain following an inspection after severe complaints about Lorentz' demeanour. Lorentz had been the head official of the conduct house of Blankenhain for three years. The report and the rich correspondence surrounding his case are a strikingly informative source for unveiling the complex conditions under which local officials performed their duties and shows how much the personal background of the officials on the ground determined the difficult and profoundly conflictual nature of their duty.

In theory, the conduct official at Blankenhain could only tax goods that were transported from Nuremberg to the Leipzig trade fairs or vice versa and only according to the rates fixed on the conduct toll board of Erfurt.<sup>1294</sup> Nonetheless, previous conduct officials at Blankenhain had requested tolls

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<sup>1288</sup> See: Egert, Paul, *Geschichte der Stadt und Herrschaft Blankenhain*, 104.

<sup>1289</sup> See: Lehfeldt, Paul, and Georg Voss. *Die Bau- und Kunst-Denkmal Thüringens. Vol. 17, Großherzogthum Sachsen-Weimar-Eisenach. Amtsgerichtsbezirke Blankenhain und Ilmenau* (Jena: 1893), 95.

<sup>1290</sup> See, for instance, the case of Palatinate-Neuburg's conduct official in Regensburg. See: Rieder, *Regensburg*, 148–160. Another example is the conduct official of Brandenburg-Ansbach in the Free Imperial City of Weißenburg. See: Gabler, *Das Brandenburger und Öttinger Geleit*, 123–124; The Electoral Palatine safe-conduct official at Wimpfen is another example. See: Seußler, *Wimpfener Geleit*, 6–15. The safe-conduct station at Schmalkalden was similarly contested between the Landgraves of Hesse and the Counts of Henneberg. See: Straube, *Geleitwesen*, 69.

<sup>1291</sup> For another example from Eisenach in 1508, see: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 38. For an example from the County of Rieneck in 1727, see: Schneider, Bruno, 'Geleitsteine, Kreuze oder Bildstöcke zeigten das Zoll- und Geleitsrecht an', in: Bayer, Lotte, ed., *1200 Jahre Schaippach mit Zollberg und Hohenroth* (Gemünden a. Main: 2012), 204–226, 210.

<sup>1292</sup> Moser, *Nachbarliches Staatsrecht*, 510.

<sup>1293</sup> 'von großer Einbildung wegen seines dienstes', Jacob Döpler, chief conduct officer at Erfurt to Government Eisenach, 22 May 1686, ThStA Weimar GSW B 23206, fo. 381r.

<sup>1294</sup> See: *Ibid.*, fo. 381v.

from goods traded on the local market of Blankenhain and others.<sup>1295</sup> According to the report of 1686, the newly appointed Lorentz dramatically exceeded his predecessors' encroachments. He requested tolls not only for goods traded on local fairs, but also on the count's produce and building materials, which were supposed to remain toll-free.<sup>1296</sup> His superior reported that 'he forced the people to give him a certain amount of the food and other things that they bring to Blankenhain on their back [...] for his own housekeeping.'<sup>1297</sup>

It was not these encroachments, however, that made Lorentz' position so controversial. The case was more complex. During his inspection visit to Blankenhain, the chief conduct officer discovered to what extent Lorentz' service was overshadowed by his personal quarrels. His inaffable character did nothing to alleviate this situation. Lorentz' conduct towards the population and the dignitaries of Blankenhain was reported as being, 'so haughty and pompous that he does not respect any man there'.<sup>1298</sup> Indeed, although Lorentz lived in Blankenhain and was a burgher, he refused to acknowledge the authority of the city council and of the comital representatives, feeling no obligation to follow their orders.<sup>1299</sup> The argumentative nature of conduct officials created problems in other cases as well. In the early eighteenth century, Palatinate Neuburg's conduct official in the city of Regensburg neglected his service, embezzled the additional allowances he had requested and caused his superiors 'nothing but effort and trouble with [his] unending quarrels and petitions'.<sup>1300</sup>

Lorentz' demeanour had a deeply personal impulse, rooted in his familial relations. According to the report, 'he lives in great enmity with his godfather, the [...] mayor Eusebius Müller, from which all strife, antipathy and nuisance arise, which could be escaped if one proceeded with more forbearance and caution'.<sup>1301</sup> The sources do not say why Lorentz and his godfather considered each other as enemies, but they show how much their enmity guided Lorentz' actions as a conduct official. Lorentz' enemy, the mayor, owned one of two inns which were economically dependent upon the traffic through the town.<sup>1302</sup> According to his superior's report, Lorentz did 'not grant the poor small town

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<sup>1295</sup> See: Ibid. and Egert, *Blankenhain*, 102.

<sup>1296</sup> See: Jacob Döppler, chief conduct officer at Erfurt to Government Eisenach, 22 May 1686, ThStA Weimar GSW B 23206, fo. 381v.

<sup>1297</sup> 'zwünge er die leuthe, daß sie von der Küchenspeiße u. andern dingen, so sie nach Blanckenbayn auf dem Rücken zum Verkauffen trügen, ihm ein gewisses vor sein haushaltung geben müsten', Ibid., fo. 382r.

<sup>1298</sup> 'so stolz u. aufgeblasen, daß er keinen menschen daselbst ichtwas mehr achtete', Ibid., fo. 382r.

<sup>1299</sup> See: Ibid., fo. 381r.

<sup>1300</sup> 'durch unaufhörliche Querelen und Bittschriften nichts als Arbeit und Ärger', Rieder, *Regensburg*, 154.

<sup>1301</sup> 'lebet er mit seinem bathen, dem [...] Bürgermeister Eusebio Müllern in großer feindschaft, woraus aller zänck, widerwillen und ungelegenheit entstehet, deren man wohl entbriget sein könnte, wann mit besern glimpf u. bedacht verfabren würde', Jacob Döppler, chief conduct officer at Erfurt to Government Eisenach, 22 May 1686, ThStA Weimar GSW B 23206, fo. 381r.

<sup>1302</sup> See: Ibid., fo. 383v.

its scant income'<sup>1303</sup> and was 'so obstinate and spiteful'<sup>1304</sup> as to 'lure the carters to take a byroad'<sup>1305</sup> around Blankenhain. He even took the pains to provide the carters with conduct tickets for a village, Rottorf, on that alternative route. Such instances of collusion between tollkeepers and carters are likewise reported from other areas. In the Electorate of Cologne, tollkeepers sometimes attempted to attract more traffic by reducing the tariffs, thereby undercutting their competitors.<sup>1306</sup> Lorentz' motives, however, were not economic: 'One actually notices that the conduct man tries to take revenge on the mayor Müller [and] purposely allows the carters to drive through Rottorf [the forbidden byway around Blankenhain] and dispenses the conduct tickets there, with the only purpose that the aforementioned mayor's inn [...] should wither and [that] he be forced to give the inn up.'<sup>1307</sup>

Lorentz' behaviour was all the more remarkable as this alternative route had been had 'repeatedly prohibited'<sup>1308</sup> by his superiors. Furthermore, the official's desire for revenge upon the mayor and the city of Blankenhain led him to neglect the maintenance of the road traversing the city. While his predecessors – and he himself at the beginning of his service – had not failed to repair the road, it was now 'rainsodden'<sup>1309</sup> and there were 'great complaints'<sup>1310</sup> about its inaccessibility. For his superior, there was little doubt that the conduct man neglected his duties on purpose 'so that they [the carters] had a better excuse for taking byways',<sup>1311</sup> thus further damaging his enemy's business. As helpless as they were, the dignitaries of Blankenhain attempted to limit the conduct official's authority over the road on which the Ernestine Dukes claimed the right of safe-conduct. Nevertheless, Lorentz ventured 'to obstruct and to punish transients outside of the road, which the Counts of Hatzfeld and Stolberg do not want to concede to him, because the conduct man has no jurisdiction in that place'.<sup>1312</sup>

The quarrels between Lorentz and the city of Blankenhain escalated approximately one year later. In March 1687, Lorentz received a package of printed and sealed broadsheet ordinances from Erfurt that

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<sup>1303</sup> 'gönnete auch dem armen Städtlein die wenige nahrung nicht', Ibid., fo. 382r.

<sup>1304</sup> 'so obstinat und neidisch', Ibid.

<sup>1305</sup> 'die Fuhrleute verreizete den nebenweg [...] zu nehmen', Ibid.

<sup>1306</sup> See: Hackenberg, *Verpachtung*, 183–184. In the Electoral Palatinate, different districts of the same territories sometimes competed for the right of safe-conduct. See: Fendler, *Geleitwesen*, 73.

<sup>1307</sup> 'da man gantz eigentlich merket, daß der gleitsmann sich an Bürgermeister Müllern zu rächen suchet, die fuhrleute mit fleiß auf Rottorf zu fahren, und ihnen die Gleitszettel dahin verabfolgen läset, nur dz ermelten Bürgermeisters Gasthoff [...] eingehen solle, und er genöthiget werde die wirtschaft aufzugeben', Jacob Döppler, chief conduct officer at Erfurt to Government Eisenach, 22 May 1686, ThStA Weimar GSW B 23206, fo. 383v.

<sup>1308</sup> 'etliche mahl verboten', Ibid., fo. 382r.

<sup>1309</sup> 'grundlos', Ibid. The word designs a road which is hardly trafficable because of rain and water. See: Jacob Grimm and Wilhelm Grimm, *Deutsches Wörterbuch*, (Leipzig: Hirzel, 1899, vol. 9), 865–872.

<sup>1310</sup> 'große Klagen', Jacob Döppler, chief conduct officer at Erfurt, to Government Eisenach, 22 May 1686, ThStA Weimar GSW B 23206, fo. 382r.

<sup>1311</sup> 'damit sie desto ehre eine ansrede betten, beywege zu suchen', Ibid.

<sup>1312</sup> 'auch außerhalb der Landtstraße die durchreisende zu hemmen und zu straffen, welches die Herren Grafen zu Hatzfeld u. Stolberg ihm durchaus nicht gestatten wolten, in dem der Gleitsman keine jurisdiction des orths bette', Ibid., fo. 381v–382r.

reminded the carters of the obligation to use the ordinary roads and urged individuals to assist the conduct officials in identifying and arresting bypassers.<sup>1313</sup> Lorentz planned to attach one of these ordinances to a picket (expressly made for that purpose) and to place it next to the road that traversed Blankenhain.<sup>1314</sup> Since the publication of ducal ordinances on comital territory could be regarded as prejudicing the comital jurisdiction, the conduct official knew that this was a delicate matter.<sup>1315</sup> Before putting up the broadsheet, he therefore went to ask for the permission of the local dignitaries, who did not oppose the plan.<sup>1316</sup> Reassured, Lorentz returned and put up the wooden board at the end of the town ‘right next to the road’.<sup>1317</sup>

When the councillor of the counts of Hatzfeld came back to Blankenhain six days later, he was deeply discontented. He immediately sent for Lorentz and interrogated him about the broadsheet ordinance, requested to see his instructions and threatened that if Lorentz did not remove the ordinance within three days, he would throw it away himself. The councillor feared that the ordinance could set a precedent against his count's prerogatives and told Lorentz that rather than putting it next to the road, ‘he should have put it up in the middle of the street’.<sup>1318</sup> Right after this conversation, Lorentz, unsure as to what to do, rode to the conduct house in Erfurt to consult his superior. There he was instructed to leave the broadsheet ordinance in its place until he received further instructions from the ducal administration in Weimar. At the same time, he should assure the comital officials that the ducal conduct house intended no insult to the count's prerogatives.<sup>1319</sup>

The dignitaries and the population of Blankenhain, however, were not willing to wait. Shortly after the comital councillor's return, an unidentified group of ‘foul knaves’<sup>1320</sup> tore the ducal seal off the broadsheet ordinance – a serious assault on the honour of the Ernestine Dukes. A few days later, the councillor had the sign removed and carried ‘into the conduct man's house’.<sup>1321</sup> Lorentz' superior as

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<sup>1313</sup> See: Broadsheet ordinance of Wilhelm Ernst, Duke of Saxe-Weimar, and Johann Georg II, Duke of Saxe-Eisenach, 8 Jan 1687, ThStA Weimar GSW B 23223, fo. 39v.

<sup>1314</sup> See: ThStA Weimar GSW B 23207, fo. 174r, 175r-175v.

<sup>1315</sup> For a similar case, see: Trefftz, *Überfall*, 393.

<sup>1316</sup> Since the count's representative was out of town, Lorentz asked his wife for permission to put up the broadsheet ordinance. She refused to grant him a ‘full concession’ (*völlige Concession*), ThStA Weimar GSW B 23207, fo. 174v.) but promised to report it to her husband. When Lorentz went to the *Landeshauptmann*, another local dignitary, the man was equally reluctant to grant his permission. When Lorentz told him, however, that the same ordinance had already been put up on in the nearby town of Rottorf, the governor agreed that he could put it up ‘without hesitation’ (*ohne bedenken*), Ibid., fo. 175r.). To be sure, after that, Lorentz went to ask the representative of the counts of Stolberg but could not find him at home. The man's wife (‘darling’ (*Liebste*), Ibid.), however, consented that Lorentz could put up the broadsheet ordinance.

<sup>1317</sup> *gleich an die Straßen*, Ibid., fo. 175v.

<sup>1318</sup> *Hätte es sollen mitten in die Straßen setzen lassen*, Ibid., fo. 176r.

<sup>1319</sup> See: Ibid., fo. 177v.

<sup>1320</sup> *böse buben*, Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 13 Apr 1687, ThStA Weimar GSW B 23207, fo. 199v.

<sup>1321</sup> *dem Gleitsmann in sein Hauß*, Ibid.

well as the Dukes of Saxe-Weimar and Saxe-Eisenach were furious. The dukes sent a complaint letter to the counts and their heirs in which they protested against the encroachment and requested that the men who had removed the seal be punished. Otherwise, they would see to punishing them themselves, ominously threatening to proceed with ‘other, unpleasant means’.<sup>1322</sup> However, even one year later, the comital officials still banned Lorentz from displaying the ordinances.<sup>1323</sup>

For the Ernestine Dukes, it was clear that the controversial official had ‘caused all this by himself’<sup>1324</sup> and that he should not have displayed the broadsheet ordinance in the first place.<sup>1325</sup> Due to ‘this misdemeanour and other excesses’,<sup>1326</sup> they even considered removing Lorentz from his position. However, the dukes refrained for political reasons: they did not want to sanction the comital representatives’ proceeding. Such clemency was no exception. In eighteenth-century France, toll farmers refused to remove corrupt tollkeepers out of fear of compromising their rights.<sup>1327</sup> Even where authorities were determined to fight corruption among tollkeepers, it was difficult to enforce effective measures. In eighteenth-century Prussia, corruption pervaded the country’s toll system to a point that even renowned cameralist scholars called for abolishing the tolls altogether.<sup>1328</sup> Frederick II himself was highly suspicious of his deputies and had several high officials harshly punished for corruption. In practice, however, effective measures against corrupt subordinate officials were too costly, labour-intensive and hardly enforceable.<sup>1329</sup> Moreover, conduct authorities were frequently reluctant to discipline or to remove obstinate or corrupt officials, even when misconduct was evident, due to conflicts of interest.

The case of Lorentz vividly illustrates that when it comes to the practical enclosure of movement, the direct resistance of mobile populations is often ‘less of an issue than poor implementation or limited state capacities’.<sup>1330</sup> It pinpoints the far-ranging agency of subordinate officials, who could shape their dominion according to their own likings and conceptions. ‘Peculiar interpretations of safe-conduct

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<sup>1322</sup> ‘*andere unbeliebige Ihnen mittel*’, Wilhelm Ernst and Johann Georg II, Dukes of Saxony, to Sebastian, Count of Hatzfeld and the heirs of the Count of Mörsberg, 23 May 1687, ThStA Weimar GSW B 23207, fo. 212r.

<sup>1323</sup> See: Andreas Rosa, chief conduct officer at Erfurt to Wilhelm Ernst, Duke of Saxe-Weimar, 10 Jan 1688, ThStA Weimar GSW B 23208, fo. 56v.

<sup>1324</sup> ‘*dieses alles einzig und alleine verursacht*’, Wilhelm Ernst, Duke of Saxe-Weimar, to Andreas Rosa, chief conduct officer at Erfurt, 25 May 1687, ThStA Weimar GSW B 23207, fo. 214v.

<sup>1325</sup> See: Johann Georg II, Duke of Saxe-Eisenach, to Wilhelm Ernst, Duke of Saxe-Weimar, 7 May 1687, ThStA Weimar GSW B 23207, fo. 208v.

<sup>1326</sup> ‘*dieses überfahrens und anderer excesses wegen*’, Ibid.

<sup>1327</sup> See Conchon, *Le péage*, 134.

<sup>1328</sup> See Gorißen, Stefan, ‘Korruption und merkantilistische Staatswirtschaft. Die preußische Zoll- und Akzisepolitik in Schlesien und in den westlichen Provinzen unter Friedrich II.’, in: Grüne, Niels, and Simona Slanicka, eds., *Korruption: Historische Annäherungen an eine Grundfigur politischer Kommunikation* (Göttingen: 2010), 327–344, 333.

<sup>1329</sup> Stefan Gorißen interprets the looseness of early modern states vis-à-vis corruption as a sign of the priority that pre-modern statehood gave to the glory of the prince over the material welfare of his subjects. See: Ibid., 334.

<sup>1330</sup> Vigneswaran and Quirk, *Mobility Makes States*, 19.

ordinances' on the side of safe-conduct officials were common in sixteenth-century Thuringia.<sup>1331</sup> Similarly, severe safe-conduct disputes arose between the Electoral Palatinate and the Electorate of Mainz in 1700 due to some 'exorbitant deeds'<sup>1332</sup> committed by their subordinate officials. The agency of subordinate officials rested, not least, on information asymmetries and the fact that local officials could influence their superiors through their accounts. In 1669, officials of the County of Wertheim thus accused a neighbouring sheriff of the Prince-Bishop of Würzburg of misinforming and spurring the prince-bishop against Wertheim ('since his installation one distinctly senses who sharpens the pen').<sup>1333</sup> Observations from ground level thus show that 'formal structures tend to be inhabited by individuals who tend to operate on the basis of complex webs of personal obligation, strategic self-interest, ethnic [or religious] identities, and family origins.'<sup>1334</sup> In order to understand the controversial standing of these figures, one needs to take their position within the local community into account.<sup>1335</sup> These obligations could be easily prioritised over formal procedures and orders.<sup>1336</sup> At the same time, a tollkeeper's good standing with the local community was often a precondition for the successful performance of his duties.<sup>1337</sup>

However, it would be too easy to dismiss Lorentz' case as a mere matter of personality or standing in the local community. To be sure: many of the problems that the Ernestine Dukes faced in their attempt to tax the traffic through Blankenhain could easily have been avoided if a more trustworthy and less irritable conduct official had been in charge.<sup>1338</sup> There are examples of safe-conduct officials who fulfilled their service with perfect decorum and to the full satisfaction of their superiors.<sup>1339</sup> However, there were a series of structural constraints which safe-conduct and customs officials encountered throughout the Empire. The precarious territoriality on which the claims of the Ernestine Dukes

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<sup>1331</sup> See: Straube, *Geleitwesen*, 81. The safe-conduct officials of Erfurt, Straube observed, construed the official regulations 'very much in their own favour'. *Ibid.*, 81–82.

<sup>1332</sup> 'exorbitante ... tättlichkeiten', Fendler, *Geleitwesen*, 82.

<sup>1333</sup> 'man seith seiner beambtung mercklich spübre, von wem [...] die feder gespiżet werde', Report on the safe-conduct procession of autumn 1669, 12 Oct 1669, StA Wertheim, R-Rep. 52, Nr. 3, fo. 2v.

<sup>1334</sup> Vigneswaran and Quirk, *Mobility Makes States*, 28.

<sup>1335</sup> See, moreover: Battistoni, *Franchigie*, 251–252; Judde de Larivière, Claire, *Naviguer, commercer, gouverner: Économie maritime et pouvoirs à Venise (XVe - XVIe siècles)* (Leiden: 2008), 190–235. In her survey of conflicts around the regulation of traffic in medieval and early modern Switzerland, Marie-Claude Schöpfer Pfaffen stressed the multiplicity of conflicts waged at the local level around the traffic rights of cities, communities and individuals, as well. See: Schöpfer-Pfaffen, *Verkehrspolitik*, 302–306.

<sup>1336</sup> In some areas, authorities only deployed non-local soldiers and officials for the fight against smugglers, as local deputies were suspected of colluding with smugglers. See: Collet, *Getreidesperren*, 55.

<sup>1337</sup> See: Hackenberg, *Verpachtung*, 188–189.

<sup>1338</sup> Even here, however, Lorentz was not a unique case. Similar charges had been raised against other ducal conduct officials: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 27, 67. See, moreover, the case of the conduct official of the Duke of Württemberg in Wimpfen in 1606: Wilhelm, *Zollgeleit*, 146–147. The oath formula of an Electoral Saxon tollkeeper from 1705 explicitly reminded the lease-holder to treat the carters and travellers with courtesy and 'nice words' ('mit freundlichen Worten'). Ringleb, *Priifern*, 24–25.

<sup>1339</sup> See, for instance, Rieder, *Regensburg*, 157.

rested, for instance, posed a fundamental limit. While the local authorities in Blankenhain reluctantly accepted the ducal claims to control the public road, they fiercely opposed every action that the ducal official performed outside the road. The quarrel around the removed broadsheet ordinance is an illustrative example. Furthermore, the counts complained that the ducal official checked and punished insubordinate travellers outside the road. It is hard to imagine how the conduct official could have enforced his dukes' prerogatives without being able to pursue wrongdoers beyond the public road within their jurisdiction.<sup>1340</sup> Such incongruities between territorial prerogatives based on safe-conduct and on jurisdiction were very frequent and accounted for innumerable conflicts throughout the Empire.<sup>1341</sup>

Among the structural conditions that made the enforcement of the ducal safe-conduct regime so difficult, conflicts of interest loomed large. Indeed, the roadscape of early modern Europe was a context where laws and formal procedures could be 'either mediated or marginalized by informal interventions, unequal negotiations, and sometimes highly exploitative and coercive exchanges'<sup>1342</sup> between travellers and agents of enclosure. The conduct official Lorentz, who used his public office to augment his income and take revenge on his personal enemies, might be an extreme example, but his case was not exceptional.<sup>1343</sup> Complaints about the self-interested behaviour of conduct and customs officials were fairly common. As late as 1803, a memorandum of the Free Imperial City of Frankfurt requested the abolition of safe-conduct for the Frankfurt trade fairs because of the 'frequent and daily excesses of the personnel'.<sup>1344</sup> In the eighteenth century, the administration of the Electorate of Mainz struggled with corruption, embezzlement of duties, extortion and neglect of offices among its safe-conduct officials.<sup>1345</sup> Principal-agent problems were not only exacerbated by unclear rules, but also by the fact that – because of the very nature of their tasks – many conduct officials performed

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<sup>1340</sup> Political fragmentation and 'territorial egoism' posed, moreover, fundamental limitations for inter-territorial patrols and law enforcement. The Imperial Circles offered an important framework for organising supraterritorial patrols. See: Härter, *Policey und Straffjustiz*, vol. 2, 1049–1062.

<sup>1341</sup> For the case of Württemberg and the Electoral Palatinate in the seventeenth century, see Wilhelm, *Zollgeleit*, 43–46, 148. See, moreover: Fendler, *Leuffte*, 88–89. In the eighteenth century, Bavaria and the Counts of Öttingen engaged in lengthy dispute over territorial violations committed by safe-conduct officials. See: BayHStA München, Kurbayern Äußeres Archiv, 1010–1014.

<sup>1342</sup> Vigneswaran and Quirk, *Mobility Makes States*, 7.

<sup>1343</sup> On the tensions between the official and familial obligations of early modern state deputies, see: Thiessen, Hillard von. 'Korruption und Normenkonkurrenz. Zur Funktion und Wirkung von Korruptionsvorwürfen gegen die Günstling-Minister Lerma und Buckingham in Spanien und England im frühen 17. Jahrhundert', in: Engels, Jens Ivo, Andreas Fahrmeir, and Alexander Nützenadel, eds., *Geld, Geschenke, Politik: Korruption im neuzeitlichen Europa* (München: 2009), 91–120, 94–95.

<sup>1344</sup> 'häufige und tägliche Exzesse des Personals', Memorandum on the abolition of safe-conduct, IfS Frankfurt, Impresen 847.

<sup>1345</sup> See: StA Würzburg, MRA Geleitswesen, 157/47–48.

their duties far away from the control of their superior and central administrations.<sup>1346</sup> Indeed, in a situation where the systematic control of territorial borders was not possible, guard patrols constituted one of the most important means for surveilling and controlling mobile populations.<sup>1347</sup>

In 1667 fifteen Jews from the Prince-Bishopric of Bamberg experienced these conflicts of interest first hand when they were arrested by the chief conduct official of Erfurt and held as prisoners ‘without food for two days and nights’,<sup>1348</sup> for having used a forbidden road. At first, they refused to acknowledge any wrongdoing and to pay a fine, but eventually, fearing for the health of their thirty-six horses, three of which the conduct official had already seized, they gave in and paid a considerable fine. The two diametrically opposed accounts of the incident that were later produced by the Jews and by the conduct official reveal how difficult it was to ascertain what exactly had happened. The conduct official claimed that the Jews ‘promptly [and] amicably complied’<sup>1349</sup> to pay the fine and that he had only asked for a very moderate fee because there were ‘several poor Jews’<sup>1350</sup> among them. The Jews, however, denied the official’s account and claimed that they had ‘offered to settle [the affair] in court’,<sup>1351</sup> but were not allowed to contact their lord, the prince-bishop of Bamberg while held prisoner. The very sum of money demanded by the conduct official was controversial. While the Jews claimed that the ‘unrightfully extorted money’<sup>1352</sup> amounted to 57 Reichsthaler in tolls and fines, and a compensation for the conduct official’s ‘expenses’<sup>1353</sup> of 6 Reichsthaler – 63 Reichsthaler in sum – the official only reported 20 Reichsthaler in tolls and around 29 Reichsthaler in fines – 49 Reichsthaler in sum. It is not possible to explain this difference of 14 Reichsthaler with the available sources. However, the duke’s suspicion that the official ‘had acted somewhat rashly when punishing the complaining Jews’<sup>1354</sup> and the final decision to return the larger part of the money suggest that the conduct official might not have been entirely honest. On the whole, the case illustrates how ‘the roadblock creates a legal opportunity to place private citizens under interrogation, thereby triggering a situation where

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<sup>1346</sup> Indeed, the safe-conduct administration of the Ernestine Dukes was most dysfunctional in the smaller, secondary toll-stations (*Beigeleit*). See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 27.

<sup>1347</sup> See, for instance: Härter, *Steuerung von Migration*, 29–31. The right to patrol a certain area had symbolic implications that were similar to those of safe-conduct processions. See: Freitag, *Ulm*, 95–96; Wilhelm, *Zollgeleit*, 87–88.

<sup>1348</sup> ‘ohne Lebensmittel 2 tåg und nächtl’, Jews of Cranach and others to Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg, ThStA Weimar GSW B 23206, fo. 174r.

<sup>1349</sup> ‘so balden gütlichen darzu bequemel’, Bartholomäus Kellner, chief conduct officer at Erfurt to John Ernest II, Duke of Saxe-Weimar, 3 Aug 1667, ThStA Weimar GSW B 23206, fo. 167r.

<sup>1350</sup> ‘ezliche armer juden’, Ibid.

<sup>1351</sup> ‘gerichtlich auszutragen erbotten’, Jews of Cranach and others to Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg, 17 Sep 1667, ThStA Weimar GSW B 23206, fo. 174r.

<sup>1352</sup> ‘unrechter weiß abgenöttigte gelder’, Jews of Cranach and others to Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg, n.d., ThStA Weimar GSW B 23206, fo. 162v.

<sup>1353</sup> ‘uncosten’, Ibid.

<sup>1354</sup> ‘daß Er sich in bestrafung der clagenden Juden in etwas übereilel’, Duke Johann Georg I of Saxe-Eisenach to Duke Johann Ernst II of Saxe-Weimar, 13 Dec 1667, ThStA Weimar GSW B 23206, fo. 179r.

people feel vulnerable because they are in transit and far from home and additionally generating a form of “corruption demand”, wherein the roadblock facilitates bribes that are offered to secure access’.<sup>1355</sup> Authorities were aware of these risks and attempted to provide their officials with detailed instructions and ordinances.<sup>1356</sup> The instruction of Saxe-Weimar’s chief conduct official from 1685 laboriously insisted on accuracy in book-keeping, on respecting the rules of procedure when punishing transgressors and on closely supervising inferior officials.<sup>1357</sup> The instruction reveals a particular concern that subordinate officials act for their ‘self-interested benefit’<sup>1358</sup> and that ‘concealment and unseemly advantage be perpetrated by the conduct men’s wife and children’.<sup>1359</sup> A regulation for the Duchy of Palatinate-Zweibrücken from 1634 instructed officials to place the money received from carters or merchants into a metal box (and only in the presence of a colleague). If the official was absent, his wife was to put the money in the box, but only on the doorstep of her house and in the presence of a trustworthy neighbour.<sup>1360</sup> Many toll-stations employed one or several book-keepers in order to double check the tollkeeper’s accounting. The system was, however, riddled with problems.<sup>1361</sup> The obligation to pay body-tolls made Jews particularly susceptible to abuse from the side of conduct officials. The problem was that conduct officials were often allowed a share in the tolls exacted from Jewish travellers. This was the case in Saxe-Weimar: while the tolls charged on Jewish goods (which were double the rate paid by non-Jews) went into the treasury, the conduct officials kept the tolls that Jews had to pay for their ‘bodies’<sup>1362</sup> (1 Reichsthaler per person as of 1668) for themselves.<sup>1363</sup> When Saxe-Weimar’s chief conduct officer attempted to reduce his subordinates’ share in Jewish body tolls (as well as those on brides and malt), his subordinates complained so vehemently that he was forced to back down and let them keep their full share. In the County of Werdenfels, a small enclave on the border between Tirol and Bavaria which belonged to the prince-bishops of Freising, Jewish travellers faced systematic extortion. In April 1614, a Bavarian sheriff complained to his government in Munich

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<sup>1355</sup> Vigneswaran and Quirk, *Mobility Makes States*, 21.

<sup>1356</sup> See, for instance: Hartmann, *Wassergeleite*, 91; Hofmann, *Landgeleite*, 53; Freitag, *Ulm*, 125; Ringleb, *Priifern*, 24–25; Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 31. Fear of collusion between conduct officials and delinquents might have been one reason why central conduct authorities forbade their officials to discipline on the spot and reserved decisions over punishment for themselves. See: Weig, *Ius conducendi*, 182.

<sup>1357</sup> See: Letter of appointment of Jacob Döpler as chief conduct officer at Erfurt, 25 Nov 1685, ThStA Weimar GSW B 23660, fo. 223r-236r.

<sup>1358</sup> ‘*eigennützigem Vortheil*’, Ibid., fo. 226r.

<sup>1359</sup> Ibid., fo. 229r.

<sup>1360</sup> See: Fendler, *Zoll- und Geleitswesen*, 185.

<sup>1361</sup> A report from 1509, for instance, complained that the conduct official at Borna in Electoral Saxony had hired a schoolboy as a scribe. The boy was ‘hardly useful’ (*gering gedeylich*) as a controller and it was suspected that he only wrote down what the conduct official told him to. See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 3, 19.

<sup>1362</sup> ‘*Leibern*’, Memorandum for the Exchequer (*Rentkammer*) of Saxe-Altenburg, 29 Feb 1668, ThStA Weimar GSW B 23246, fo. 20r.

<sup>1363</sup> The same rule is reported from the County of Rieneck in 1605. See: Schneider, *Geleitsteine*, 223.

that one of the prince-bishop's officials repeatedly arrested the Jews who traversed the small county in order to extort money from them.<sup>1364</sup> The toll-station was situated on an important trade route that connected Nuremberg and Augsburg with Venice. Over two years, the sheriff claimed, after ignoring their Bavarian letters of passage, thirty-eight persons had been arrested and a sum of 67 florins and 34 thalers extorted.<sup>1365</sup> Their Bavarian letters of passage had been ignored. Since Bavaria claimed the right of safe-conduct through the whole county for 'the Jews and the rest',<sup>1366</sup> the duke soon complained to the prince-bishop that he would not allow any prejudice to his right to conduct and customs duties.<sup>1367</sup>

Extortion of Jewish cattle-dealers by local officials are reported from the small Principality of Isenburg-Birstein in the eighteenth century.<sup>1368</sup> In one case, a huntsman and four young men lay in ambush under a tree and requested 'drinking money' (*Trinkgeld*) from the cattle dealers when they passed.<sup>1369</sup> Others had arbitrarily doubled the safe-conduct tolls and kept the money for themselves. On another occasion, a local official had seized the hats of two Jewish cattle drivers because he accused them of having grazed their cattle on seigneurial land. The confiscation of the Jews' hats was so strong an encroachment, however, that the princely government defended the Jews from whom the officials had 'attempted to defraud money'.<sup>1370</sup> Indeed, in all of the aforementioned cases, Isenburg-Birstein's officials and tollkeepers were sentenced to severe fines and punishments. The government hoped to spare the Jewish cattle-dealers such 'brawls and troubles'<sup>1371</sup> because it was afraid that they could circumvent their territory altogether, which would have entailed the loss of toll revenues. These cases highlight the vulnerability of travelling Jews, whose precarious status made them particularly susceptible to blackmail, which could only occasionally be countered by the considerable room for manoeuvre offered by the Empire's legal pluralism and administrative inefficiencies.<sup>1372</sup>

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<sup>1364</sup> See: Councillors in Munich to Maximilian I, Duke of Bavaria, 16 Apr 1614, fo. 1a-1b, BayHStA München, Äußeres Archiv 426.

<sup>1365</sup> See: Maximilian I, Duke of Bavaria, to Stephan von Seiboldsdorf, Prince-Bishop of Freising, n.d, fo. 3a, BayHStA München, Äußeres Archiv 426.

<sup>1366</sup> 'denn Juden, als sonst', Ibid., fo. 4b.

<sup>1367</sup> The duke did not intervene, however, in order to acquit his protective duties towards the Jews, but in order to maintain his right of safe-conduct in the county. When he demanded that 'the money that had unlawfully been extorted from our conducted Jews be delivered and paid without fail to the customs office at Mittenwald' it is doubtful whether any of the concerned Jews saw the extorted money again. See: Ibid., fo. 4b.

<sup>1368</sup> See: Ackermann, *Jüdische Viehhändler*, 61–64.

<sup>1369</sup> In this case, however, a part of the money was delivered to the princely exchequer. See: Ibid., 63.

<sup>1370</sup> 'Geld zu schneiden versucht', Ibid.

<sup>1371</sup> 'Schlägereien und Verdrießlichkeiten', Ibid.

<sup>1372</sup> See: Härter, *Jüdische Migrationen*.

Even petty corruption can have significant economic impact.<sup>1373</sup> Contemporary economists have demonstrated the effects of petty corruption on thoroughfares on the transaction costs of movement and overall trade volumes, as well as the integration of various markets in several contemporary West African countries, where highway robbery is all-pervasive and bribes are collected at barriers and checkpoints along highways.<sup>1374</sup> Indeed, because it is relatively unpredictable, small-scale corruption such as highway robbery is considered to have a more significant effect on flows of goods and capital than large-scale government corruption. The most lucrative checkpoints are usually those where travellers lack the necessary papers or engage in smuggling, which makes them more prone to pay bribes. Moreover, highway robbery is difficult to address with isolated interventions against individual officials because all levels of a bureaucratic apparatus benefit from the illegal practice – a circumstance which thwarted the ineffective attempts to reform customs bureaucracies in old-regime societies as well.<sup>1375</sup>

It was perfectly common for tollkeepers to receive a share in the fines that they had helped to impose. In Electoral Saxony, the conduct patrols received one quarter of the fines for every arrested transgressor.<sup>1376</sup> In Württemberg, conduct officials sometimes divided the whole fine among themselves.<sup>1377</sup> In the Palatinate, conduct officials who identified toll evaders were rewarded with a ‘catch prize’.<sup>1378</sup> In the case of the Electoral Palatine safe-conduct officials at Wimpfen, the fines made up a fixed part of their stipend.<sup>1379</sup> The conduct tolls paid by newlywed brides passing through Erfurt – perhaps a rarer occurrence than the circulation of Jewish persons – were equally reserved for the conduct officials.<sup>1380</sup> Even some ordinary conduct tolls (on malt, for example) went directly into the officials’ pockets.<sup>1381</sup> Consequently, conduct and customs officials had strong incentives to exact tolls

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<sup>1373</sup> On the challenges of historicising corruption, see: Grüne, Niels, and Simona Slanicka, eds., *Korruption: Historische Annäherungen an eine Grundfigur politischer Kommunikation* (Göttingen: 2010); Engels, Jens Ivo, Andreas Fahrmeir, and Alexander Nützenadel, eds., *Geld, Geschenke, Politik: Korruption im neuzeitlichen Europa* (München: 2009).

<sup>1374</sup> For an economic analysis of petty corruption on highways taking the example of contemporary West African countries, see Foltz and Bromley, *Highway Robbery*.

<sup>1375</sup> See: Ibid., 14 and, for eighteenth-century Prussia: Gorißen, *Korruption*.

<sup>1376</sup> See: Hofmann, *Landgeleit*, 59.

<sup>1377</sup> See: Wilhelm, *Zollgeleit*, 48.

<sup>1378</sup> Fendler, Rudolf, ‘Zoll- und Geleitwesen im Herzogtum Pfalz-Zweibrücken’ *Mitteilungen des historischen Vereins der Pfalz* 82 (1984): 181–98, 186. This might explain the eagerness with which some Palatine officials and subjects participated in the ‘hunt for toll evaders’. See: Schaab, *Straßen- und Geleitwesen*, 73.

<sup>1379</sup> In 1738, for instance, the official’s stipend amounted to 6 florins and one third of the fines. See: Seußler, *Wimpfener Geleit*, 11.

<sup>1380</sup> See: Memorandum for the Exchequer (*Rentkammer*) of Saxe-Altenburg, 29 Feb 1668, ThStA Weimar GSW B 23246, fo. 20r.

<sup>1381</sup> See: Ibid.; The Electoral Palatine escorts at Wimpfen could keep half of the safe-conduct duties for themselves, Seußler, *Wimpfener Geleit*, 10; Bach, Hans, ‘Das Gunzenhäuser Geleit’ *Alt-Gunzenhausen* 28 (1958): 4–5, 5.

from travellers and to identify and fine transgressors.<sup>1382</sup> Moreover, the local officials, subjects and even soldiers who participated in patrols against vagrants, often confiscated all the vagrants' goods (even if they were not arrested or expelled) and split them among themselves as a 'reward'.<sup>1383</sup> Similarly, incentive payments were effective in the French Maréchaussée, whose officials were rewarded when they arrested vagrants and suspect individuals.<sup>1384</sup> While these incentives contributed to tightening the seigneurial grasp on the movements of goods and people, they created strong conflicts of interest.<sup>1385</sup> Such conflicts of interest were exacerbated by unclear rules and poor instructions. Many officials performed their duties within a space of uncertainty, an important reason why 'state definitions of what is illicit are situational'.<sup>1386</sup> When arresting the fifteen Jews, the ducal conduct official invoked a series of ordinances which he subsequently could not produce when the Jews demanded to see them.<sup>1387</sup> Later, the Duke of Saxe-Eisenach admitted that his official had 'made a mistake'<sup>1388</sup> and that the actual norm 'cannot be established as clearly as necessary at the moment'<sup>1389</sup> and was 'still somewhat dubious'.<sup>1390</sup> Similarly, the controversial conduct official of Blankenhain, Heinrich Eusebius Lorentz, had never received a written instruction (which he later requested), nor had he ever paid the bail money which newly appointed officials had to pay as a security against misconduct.<sup>1391</sup> When the comital representatives enjoined him to remove the broadsheet ordinance, Lorentz personally rode to Erfurt to ask for guidance. His superiors, however, dispatched him with only vague, provisional instructions.<sup>1392</sup> A memorandum of 1668 reveals that none of the conduct officials outside Erfurt, except one, had ever received an instruction on how to fulfil their duties.<sup>1393</sup> However the lack of

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<sup>1382</sup> In the Habsburg lands of the sixteenth century the reward system was crucial for the local officials' efficiency in apprehending unauthorised diplomats. See: Williams, *Dangerous Diplomacy*, 146.

<sup>1383</sup> See: Härter, *Policey und Straffjustiz*, 1049–1050.

<sup>1384</sup> See: Dyonet, *La maréchaussée*, 56.

<sup>1385</sup> Such abuses were frequent in medieval and early modern Poland, as well. See for instance: Weinryb, Bernard Dov, *The Jews of Poland: A Social and Economic History of the Jewish Community in Poland from 1100 to 1800* (Philadelphia: 1973) 63–64.

<sup>1386</sup> Abraham, Itty, and Willem van Schendel, 'Introduction. The Making of Illicitness', in: Schendel, Willem van, and Itty Abraham, eds., *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization* (Bloomington: 2005), 1–37, 8.

<sup>1387</sup> See; Jews of Cranach and others to Philipp Valentin Voit von Rieneck, Prince-Bishop of Bamberg, 17 Sep 1667, ThStA Weimar GSW B 23206, fo. 173v.

<sup>1388</sup> 'einen Irthumb begangen', Duke Johann Georg I of Saxe-Eisenach to Duke Johann Ernst II of Saxe-Weimar, 13 Dec 1667, ThStA Weimar GSW B 23206, fo. 179r-179v.

<sup>1389</sup> 'zur zeit so clar als von nöten nicht finden will', Ibid., 179v.

<sup>1390</sup> 'noch etwas zweifelhofft', Ibid.

<sup>1391</sup> See: Jacob Döpler, chief conduct officer at Erfurt, to Government Eisenach, 22 May 1686, ThStA Weimar GSW B 23206, fo. 384r–384v.

<sup>1392</sup> See: Report by Andreas Rosa, chief conduct officer at Erfurt, 19 Mar 1687, ThStA Weimar GSW B 23207, fo. 177r-177v.

<sup>1393</sup> See: Memorandum for the Exchequer (*Rentkammer*) of Saxe-Altenenburg, 29 Feb 1668, ThStA Weimar GSW B 23246, fo. 21v.

explicit rules and instructions was sometimes perceived as problematic by local agents themselves. Half a century earlier, the captain of one of Bremen's ships, charged with preventing the exaction of customs duties from the side of the County of Oldenburg, repeatedly asked for instructions, complaining that 'it is a pity and to deplore, that I do not actually know what to go by'.<sup>1394</sup>

Enclosing movement was an inherently conflictual practice. Both public officials and travellers of all ranks perceived their interactions as a nuisance. Travellers resented the inconvenience of being checked and interrogated, while public officials complained about the travellers' recalcitrance and unwillingness to cooperate. Conduct roads and conduct stations were a place of strife.<sup>1395</sup> The conflicts raised in this context illustrate the limitations of early modern statehood and its agents, whose ambitions were 'perennially frustrated by the wayward behaviour of individuals and groups'.<sup>1396</sup> The interaction between travellers and public officials was governed by a fragile economy of honour in which apparently minor conflicts could be magnified out of proportion. Where territorial rights were entwined, commoners and peasants could sometimes successfully stand up to state deputies and solicit the support of rivalling authorities.

The violent encounter of a family of peasants on the extramural territory of Erfurt (belonging to the Prince-Bishop of Mainz) and a ducal conduct official is good example of how a simple inspection could turn into a violent encounter. In early January 1653, the peasant Dieterich Kerst, his younger brother Bastian and their sister Elsa were returning home to their village outside Erfurt, where they had sold oats at the market. When they came across the local conduct official, Hans Kannenwurf, patrolling the road, he asked them what they had sold in the city. As the official was dissatisfied with the answer – he suspected some kind of concealment – Dieterich Kerst suggested that the official accompany them to their step-father, who could vouch for their statement.<sup>1397</sup> Without waiting for the official's consent, the peasants left.

The conduct official, however, felt that his question had not been answered and began hitting one of the brothers with his rapier. He then tried to unhitch one of the peasants' horses as a pawn. At this, Dieterich objected that the official 'had the power to exact conduct [tolls] from people, but not to

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<sup>1394</sup> 'Es ist zu erbarme undt zu beklagen, das ich nicht eigentlich weiß wornach ich mich zu richten', Rudolf Polmann, captain, to Mayor and Council of the City of Bremen, 26 Mar 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>1395</sup> See, for instance: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 30.

<sup>1396</sup> Whaley, *Germany*, vol. 1, 12.

<sup>1397</sup> See: Extract from the minutes of the interrogation of Dieterich Kerst, Bastian Kerst, Hans Buchmann and Elsa Kerst, 10 Jan 1653, ThStA Weimar GSW B 23936a, fo. 135r. That the suspicion was not unjustified comes from Straube's account of defraudation strategies among sixteenth-century carters in Thuringia. See: Straube, *Geleitwesen*, 78–80.

beat<sup>1398</sup> them. As a response, the conduct official attacked Dieterich with his rapier and injured his hand.<sup>1399</sup> When Dieterich saw his hand bleeding he lost patience, dismounted his horse and threw the official on the ground. Meanwhile, Elsa took the rapier and put it on the cart. However, the official managed to take his weapon back and ‘stabbed her hand, so that she could not do anything’.<sup>1400</sup> A crucial detail: during the brawl someone tore the conduct official's conduct emblem – a small plate with the ducal coat of arms, which identified him as a conduct official – off his coat and threw it on the ground.<sup>1401</sup>

Meanwhile, the schoolmaster of the nearby village of Schmira, who had observed the scene from the steeple, alarmed the official's stepfather and another person, who came to the official's aid.<sup>1402</sup> According to Elsa, they arrived on the spot and started beating the peasants ‘without even asking what the affair was about’.<sup>1403</sup> When the conduct official got the upper hand again, he mounted his horse and started ‘chasing’<sup>1404</sup> Dieterich ‘over hill and dale’<sup>1405</sup> with his rapier. Desperate, the peasant sought refuge with the conduct official's family, ‘flung his arms around the neck of the conduct trooper's mother and begged him to let him live for the sake of the final judgement’.<sup>1406</sup> The conduct official, however, continued to ‘badly beat’<sup>1407</sup> the peasant. In the meantime, his step-father suggested seizing one of the peasants' horses.

Unsurprisingly, the accounts given by the peasants and the conduct official (and his defenders) differed at important points. The conduct house, for instance, claimed that the peasants had threatened the official. Allegedly, after the brawl someone heard the peasants say that ‘if they would have had him [the conduct official] in another place, they would have mauled him much more strongly’.<sup>1408</sup> The conduct agency even asked its witnesses whether the peasants had threatened ‘to shoot [the official] dead’,<sup>1409</sup> but could not find anyone to confirm the threat. Moreover, they denied that the official had

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<sup>1398</sup> ‘*Er bette macht das Geleidt von den Leuthen zu fordern, nicht aber zu schlagen*’, Extract from the minutes of the interrogation of Dieterich Kerst, Bastian Kerst, Hans Buchmann and Elsa Kerst, 10 Jan 1653, ThStA Weimar GSW B 23936a, fo. 135r.

<sup>1399</sup> See: Ibid., fo. 136r.

<sup>1400</sup> ‘*durch die handt gestochen, das Sie nichts thun können*’, Ibid., fo. 137v. She complained that she could not take care of her ‘four little children’ (*vier kleine kinder*, Ibid.).

<sup>1401</sup> See: Ibid., fo. 143v.

<sup>1402</sup> See: Ibid., fo. 150v.

<sup>1403</sup> ‘*gantz nicht gefragt, waß die Sache where*’, Ibid., fo. 137v.

<sup>1404</sup> ‘*gejagt*’, Ibid., fo. 136v.

<sup>1405</sup> ‘*über Stock und Stein*’, Ibid.

<sup>1406</sup> ‘*an deß Geleitsrenters Mutter halß gehenkett, und Ihn umb des jüngsten gericht's willen gebethen, er solte Ihn doch mit lieb lassen*’, Ibid., fo. 135v.

<sup>1407</sup> ‘*übell geschlagen*’, Ibid.

<sup>1408</sup> ‘*wan Sie Ihne an einen andern obrt gehabt betten, daß sie Ihn viel besser und ärger tractiren wollen*’ Ibid., fo. 143v.

<sup>1409</sup> ‘*todt schießen*’, Ibid., fo. 148v.

been drunk. According to the peasants, however, the official had been ‘dead drunk’.<sup>1410</sup> Elsa described him approaching ‘the cart riding off-road, dead drunk like a soldier, with his hat over his eyes and his hair hanging in the eyes’.<sup>1411</sup> Although the schoolmaster admitted that the conduct official might have had half a pitcher of beer, none of the conduct official's witnesses wanted to confirm that he had been inebriated.<sup>1412</sup> On the contrary, a local shepherd who had observed the scene from afar declared that the peasants had been ‘completely drunk’<sup>1413</sup> themselves. However, another witness who had met the conduct official on the road earlier that day, corroborated the peasants' account. When he met the official and wished him a happy new year, the official ‘thanked him [and] bowed before him down to the pommel of his saddle, as drunk people tend to do’.<sup>1414</sup>

A few days after the brawl, Bastian Kerst and his sister Elsa showed up at the conduct house in Erfurt to deliver a complaint letter with their own accounts of the event. On this occasion, the chief conduct official requested to see Elsa's hand. His exam revealed that her hand not been stabbed, but only ‘scratched a little’.<sup>1415</sup> He also accused her of purposely having ‘smeared the rag [with which she bandaged her hand] with blood’.<sup>1416</sup> Dieterich Kerst claimed that his head had been seriously injured and two fingers injured (or cut-off) during the brawl. When the chief conduct officer examined him two days later, he could only find a cut on the hand (which he had ‘thickly bandaged, as well’<sup>1417</sup> as his sister) and the head was apparently not injured at all. The conduct officer even claimed that the peasant had withdrawn his accusations and admitted that he had injured himself by falling off his horse. Apparently, Kerst later came back to reclaim his testimony and his pawned horse. When the chief conduct official refused, Dieterich Kerst started insulting him, in a way – the chief conduct officer asserted – he had not heard in sixteen years of service ‘from no peasant, [and] even less from

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<sup>1410</sup> *‘gantꝛ Voll und Toll’*, Dieterich Kerst to Council of Erfurt, 18 Jan 1653, ThStA Weimar GSW B 23936a, fo. 133r.

<sup>1411</sup> *‘querfeldtüber, wie ein Soldat gantꝛ bundt voll, auf den wagen zugeritten, seinen butt in die augen gezogen, und die haare in Augen bencken gehabt’*, Extract from the minutes of the interrogation of Dieterich Kerst, Bastian Kerst, Hans Buchmann and Elsa Kerst, 10 Jan 1653, ThStA Weimar GSW B 23936a, fo. 137r.

<sup>1412</sup> See: *Ibid.*, fo. 149r.

<sup>1413</sup> *‘gantꝛ truncken’*, Minutes of the interrogation of Samuel Schenck, Nicol Leonhardt and Egon Creutzberger, n.d., ThStA Weimar GSW B 23936a, fo. 151r.

<sup>1414</sup> *‘ihm gedanckett, und sich vor Ihm biß uf den Sattelknopf geneiget, wie Trunckene leuthe zu thun pflegen’*, Extract from the minutes of the interrogation of Dieterich Kerst, Bastian Kerst, Hans Buchmann and Elsa Kerst, 10 Jan 1653, ThStA Weimar GSW B 23936a, fo. 134v.

<sup>1415</sup> *‘ein klein wenig geritzel’*, Anonymous draft report on the brawl at Schmiera, n.d., ThStA Weimar GSW B 23936a, fo. 144r.

<sup>1416</sup> *‘mitt bludt den lappen beschmirett’*, *Ibid.* Whether or not blood had been spilled was not a matter of detail. Early modern societies drew a fundamental distinction between ‘flushing’ and ‘dry’ injuries. The spilling of blood marked a boundary between legitimate and illegitimate forms of violence and distinguished legitimate rule from tyranny. Attempts of proving that injuries were bloody aimed not simply at dramatizing the harm suffered. The peasants’ insistence on their bloody wounds was a strategic manoeuvre with which they attempted to prove the unjustifiability of the official’s aggression. See: Hohkamp, Michaela, ‘Grausamkeit blutet, Gerechtigkeit zwackt. Überlegungen zu Grenzziehungen zwischen legitimer und nicht-legitimer Gewalt’, in: Eriksson, Magnus, and Barbara Krug-Richter, eds., *Streitkulturen: Gewalt, Konflikt und Kommunikation in der ländlichen Gesellschaft (16.–19. Jahrhundert)* (Köln: 2003), 58–79.

<sup>1417</sup> *‘so auch dicke verbunden’*, Anonymous draft report on the brawl at Schmiera, n.d., ThStA Weimar GSW B 23936a, fo. 144v.

burghers'.<sup>1418</sup> Kerst accused the chief conduct officer of having set his subordinate on him on purpose, out of 'private hatred'.<sup>1419</sup> The accused, however, strictly denied these accusations and presented them as a further token of the peasant's mendacious and 'embittered temper'.<sup>1420</sup>

The brawl epitomises the precarious legitimacy of the subordinate agents charged with enforcing their superiors' control over the movements of good and people. In the everyday controls of movement, interactions between travellers and public officials were structured by an economy of honour. Far from being an exclusive feature of social interaction within the pre-modern nobility, honour is a crucial concept for understanding everyday interactions in all spheres of early modern societies.<sup>1421</sup> It can be understood as a form of 'social capital' that circulates, can be accumulated and that can even be transformed into other forms of capital (economic capital, for instance). At the same time – and the ducal conduct officials experienced this on a daily basis – honour is vulnerable and needs to be constantly asserted and defended. As a medium for conflict, however, it tends to frame conflicts as matters of principle.<sup>1422</sup> In early modern societies, roads and other public places, such as inns were privileged theatres for conflicts of honour since they provided the publicity without which a person's honour was difficult to attack. Conduct officials thus operated within a context that was particularly conducive to this form of conflict resolution and where insulting words and gestures, as well as violent brawls, were a common occurrence.<sup>1423</sup>

The conduct official's reaction must be understood against this background. The gesture which provoked his rage was trivial. However, it was enough to provoke violent aggression because he felt that the peasants were questioning his authority to check and interrogate travellers on the ducal roads. The official's rage escalated when the peasants threw him to the ground and perhaps even menaced him. This aggravated the perceived offence against his honour to the point that the official chased and mauled the peasant until he sought refuge with the official's mother. Even though this case is a particularly severe one, rage was not an uncommon reaction to perceived or real defiance. In 1540 a Palatine conduct official in Wimpfen, who competed with the conduct officials of the Duke of

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<sup>1418</sup> 'noch nie von keinen bauren, viel weniger von Bürgern', Ibid., fo. 145v.

<sup>1419</sup> 'privathaß', Andreas Kley, chief conduct officer at Erfurt, to Wilhelm, Duke of Saxe-Weimar, 2 Feb 1653, ThStA Weimar GSW B 23936a, fo. 183v.

<sup>1420</sup> 'vergiftes gemüth', Ibid.

<sup>1421</sup> On the traditional limitation of honour to the upper classes, see Schwerhoff, Klaus, and Klaus Schreiner, 'Verletzte Ehre: Überlegungen zu einem Forschungskonzept', in: Schwerhoff, Klaus, and Klaus Schreiner, eds., *Verletzte Ehre: Ehrkonflikte in Gesellschaften des Mittelalters und der Frühen Neuzeit* (Cologne: 1995), 1–28, 8.

<sup>1422</sup> See: Ibid., 11–13.

<sup>1423</sup> In eighteenth-century France, the unpopular *péagers* were subject to heavy insults, as well. Anne Conchon found 'embezzler', 'thief', 'muslim' to be the most frequent terms of abuse. In one case, a tollkeeper was called a 'degraded insect'. See: Conchon, *Le péage*, 133–134. For the problem of insults on public roads in the County of Lippe during the sixteenth and seventeenth century, see Hennigs, *Gesellschaft und Mobilität*, 100–102.

Württemberg, walked around and clamoured so violently that no one in Wimpfen dared to accept Württemberg's safe-conduct after his fit of rage.<sup>1424</sup>

In such situations, alcohol often served as a catalyser and facilitated the escalation of conflicts.<sup>1425</sup> In this case, we can assume that the conduct official Kannenwurf was drunk and that the peasants had possibly consumed alcohol as well. That public officials performed their service in a state of inebriation was not uncommon and the central authorities were aware of the problem. Appointment letters for safe-conduct officials obliged them to observe a sober lifestyle and condemned all forms of 'mistimed tipping, drinking and gambling'.<sup>1426</sup> The example of the allegedly drunk, raging valet shows that the same could be true for travellers. The drinking habits of carters were legendary enough.<sup>1427</sup> The fact, moreover, that many toll-stations were leased to local innkeepers and the tolls negotiated in their inn, might have further contributed to this dynamic.<sup>1428</sup> In Thuringia, this was not the first incident of the kind and, according to the chief conduct official, it was not rare that the peasants 'leave the city dead drunk'<sup>1429</sup> on market days. Indeed, he claimed that 'among such people, we are the doves among the birds'.<sup>1430</sup>

Violent conflicts between tollkeepers and travellers were not uncommon in early modern Europe. In 1750, a subject of the Principality of Isenburg-Birstein was condemned to pay a fine after he had assaulted a Jewish cattle dealer during a toll inspection and the Jew lost a tooth.<sup>1431</sup> In old-regime France, aggressions against tollkeepers and toll-stations exacerbated during the eighteenth century.<sup>1432</sup> While most aggressions were isolated acts of individuals, Anne Conchon also recorded acts of collective violence, for instance against the tollkeepers at Vienne, who were insulted, injured and thrown in the river Rhône by several enraged carters in 1746. One should, however, be careful not to

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<sup>1424</sup> See: Wilhelm, *Zollgeleit*, 123–125.

<sup>1425</sup> For another safe-conduct related example, see: Kneib, *Mainzer Geleitsrechte*, 90. The importance of alcohol consumption for conflicts in early modern societies is well-researched. Various studies found alcohol as a catalyser in one fifth to one half of the cases. See: Haack, *Der vergällte Alltag*, 51. The consumption of alcohol was one reason for which inns were a particularly frequent venue for violence. See: Ibid., 63–67 and Gersmann, Gudrun, 'Orte der Kommunikation, Orte der Auseinandersetzung. Konfliktursachen und Konfliktverläufe in der frühneuzeitlichen Dorfgesellschaft.', in: Eriksson and Krug-Richter, *Streitkulturen*, 249–268.

<sup>1426</sup> 'unzeitigem Zechen, gesoff und Spielen', Instruction for Hinrich Gripenkerll, 10 Mar 1647, StA Bremen, 2-R.10.aa.13.a.1. This was the formula used in Bremen's instruction letters for the captain of its convoy ships. For Thuringia, see for instance: Letter of appointment of Jacob Döppler as chief conduct officer at Erfurt, 25.11.1685, ThStA Weimar GSW B 23660, fo. 223r.

<sup>1427</sup> Erasmus of Rotterdam eternalised them in one of his *Colloquia Familiaria*, the *Gerontologia*. See: Erasmus, *Colloquia Familiaria* (Stuttgart: 1976).

<sup>1428</sup> An 1805 report on an inn whose keeper was also a tollkeeper for the County of Rieneck, for instance, complained about the licentious atmosphere and the excessive drinking and gambling in the inn. See: Schneider, *Geleitsteine*, 211.

<sup>1429</sup> 'Toll und Voll aus der Stadt fahren', Anonymous draft report on the brawl at Schmiera, n.d., ThStA Weimar GSW B 23936a, fo. 145v.

<sup>1430</sup> 'unter solchen Leuthen wir, die Taube under den Vögeln sein', Ibid.

<sup>1431</sup> See: Ackermann, *Jüdische Viehhändler*, 62–63.

<sup>1432</sup> See Conchon, *Le péage*, 150–152.

overestimate the frequency of violent encounters between conduct officials or tollkeepers and carters. In his research on toll-farming in the Electorate of Cologne, Martin Hackenberg, for instance, found no proof of acts of violence of tollkeepers against travellers.<sup>1433</sup>

In the fractured political landscape of the Old Reich, conflicts around the control of movement, as, in any other conflict, could rapidly gain political momentum. While, in France, similar incidents could be dealt with by the customs guards, they were more likely to become political issues and produce serious inter-polity tensions in the Old Reich. Once an affair was taken on by the principals of the respective parties, in this case, the ducal conduct house on the one side and the city council of Erfurt on the other, it gained considerable political significance. In the above brawl, the ducal conduct house was particularly concerned that the official's badge had been torn off and thrown on the ground. This was seen as an insult to the dukes themselves, whose authority was symbolised by the badge.<sup>1434</sup> The fact that the aggression took place 'on princely grace's free road'<sup>1435</sup> aggravated the severity of the deed. Complaints about travellers' contempt, arrogance and derision were endemic in the safe-conduct efforts of the Free Imperial City of Ulm as well and underline the importance of honour as a key for understanding these conflicts.<sup>1436</sup> However, it was not only their rulers' reputation that conduct officials feared for. The chief conduct officer at Erfurt was afraid that 'with such defiant peasants, no conduct official [would] be safe on the road'<sup>1437</sup> and the conduct house would not find new recruits for its patrols. The chief conduct official thus demanded that the peasants be severely punished, so as to deter others from following their example.

At the same time, the case illustrates how the Ernestine Dukes' grasp for the public roads of Thuringia virtually met its limits whenever it depended on the cooperation of neighbouring authorities. The peasant family found a valiant protector in the city council of Erfurt, which refused to extradite them to the ducal authorities and supported their demand for the return of their horse from the ducal conduct house.<sup>1438</sup> Moreover, the city council demanded that the official be 'duly reprehended for the excess committed'<sup>1439</sup> and requested to settle the affair before its own sheriff. The chief conduct officer furiously rejected this suggestion, claiming that it was unheard of that a ducal conduct official

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<sup>1433</sup> See Hackenberg, *Verpachtung*, 171.

<sup>1434</sup> See: Anonymous draft report on the brawl at Schmiera, n.d., ThStA Weimar GSW B 23936a, fo. 143v.

<sup>1435</sup> 'uff fürstlicher Gnaden freyer Landstraßen', Ibid., fo. 144v.

<sup>1436</sup> See: Freitag, *Ulm*, 113–114.

<sup>1437</sup> 'kein Geleitdiener uf der Straßen [bey solchen trotzigen bauwen] sicher sein', Andreas Kley, chief conduct officer at Erfurt, to Wilhelm, Duke of Saxe-Weimar, 2 Feb 1653, ThStA Weimar GSW B 23936a, fo. 186r.

<sup>1438</sup> See: Council of Erfurt to Government in Weimar, 15 Jan 1653, ThStA Weimar GSW B 23936a, fo. 132v.

<sup>1439</sup> 'sein verübter Excess gebührlich vernießen', Ibid.

‘submitted himself to the council in such a way’.<sup>1440</sup> The entwined territoriality of early modern Thuringia thus empowered the travellers against the forces that attempted to enclose and fiscally exploit their movements.

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Territorial rulers throughout the Holy Roman Empire invested immense energies and resources into channelling the movement of goods and people through their toll-stations and dominions. In this respect, letters of passage fulfilled important functions because they allowed exemptions and forced travellers onto designated routes. In practice, however, the use and interpretation of letters of passage was often negotiated in concrete encounters at ground level. Forbidden roads were another technique that aimed at channelling traffic through specific toll-stations and settlements. Distinctions between ordinary and forbidden roads, however, were anything but consensual and often place carters, local communities and toll officials in opposition against one another. None of these techniques could be enforced without authorities’ deputies on the ground. Local officials, however, were frequently caught up in principal-agent problems and struggled with a position that could oscillate between unchecked authority and helpless impotence.

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<sup>1440</sup> *‘sich solcher gestaltdt dem Rath subject gemacht bette’*, Andreas Kley, chief conduct officer at Erfurt, to Wilhelm, Duke of Saxe-Weimar, 2 Feb 1653, ThStA Weimar GSW B 23936a, fo. 185v.



## 5. Protection

Protection played a pivotal role in the governance of moving goods and people. While escorts, guard patrols and letters of passage were often a precondition for safe travel through the Holy Roman Empire, the protection of the ‘wayfaring man’ could also become a vehicle for gaining control over strategic thoroughfares and the economic and political leverage that came with it. Few institutions in the early modern world embodied hospitality and the protective duties of lordship more concretely than safe-conduct. At the same time, few institutions embodied the ambiguity of protection more conspicuously. Protection was, indeed, an ambiguous notion not only in early modern regimes of movement, but also in the feudal collective imagination as a whole.<sup>1441</sup> It provided a central justificatory element for state building and was regarded as the primary purpose of lordship and statehood.<sup>1442</sup> Some of the most important problems of early modern political thought revolved around the difficult relationship of protection, power and obedience.<sup>1443</sup> Its prominence led some to the conclusion that ‘security is *the* issue of modernity’.<sup>1444</sup>

Recent scholarship has cast a complex light on the reciprocity of pre-modern protection relationships. Gadi Algazi, for instance, has voiced significant doubts about the mutuality of the relations between peasants and the nobility in the Late Middle Ages. He argued that violence, not protection, was the primary foundation of these relationships and that the main service of a lord towards his peasants was not to protect them against violence committed by others but to renounce violence himself.<sup>1445</sup> He claimed that the mutuality of feudal relationships did not always translate into practice and could be little more than a ‘normative projection’.<sup>1446</sup> Indeed, Algazi calls the amalgamation of violence and

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<sup>1441</sup> See: Kampmann, Christoph, ed., *Sicherheit in der Frühen Neuzeit: Norm – Praxis – Repräsentation* (Köln: 2013). For an assessment of ‘security’ as historiographical category, see: Conze, Eckart, ‘Sicherheit als Kultur’ *Vierteljahresheft für Zeitgeschichte* 53, no. 3 (2005): 357–380; Febvre, Lucien, ‘Pour l’histoire d’un sentiment : le besoin de sécurité’ *Annales. Économies, Sociétés, Civilisations* 11, no. 2 (1956): 244–247.

<sup>1442</sup> See: Conze, Werner, ‘Sicherheit, Schutz’, in: Brunner, Otto, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe*, vol. 5 (Stuttgart: 1984), 831–862; Appelt, Heinrich, ‘Schutz, Schutzprivilegien’, in: Erler, Adalbert, Ekkehard Kaufmann, and Wolfgang Stämmler, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 4 (Berlin: 1990), 1525–1527; Brunner, *Land and Lordship*, 299–317.

<sup>1443</sup> See: Kleinschmidt, Harald, *Legitimität, Frieden, Völkerrecht. Eine Begriffs- und Theoriegeschichte der menschlichen Sicherheit* (Berlin: 2010), 19–104; Schrimm-Heins, Andrea, ‘Gewißheit und Sicherheit. Geschichte und Bedeutungswandel der Begriffe ‘certitudo’ und ‘securitas’ (Teil 2)’ *Archiv für Begriffsgeschichte* 35 (1992): 115–213.

<sup>1444</sup> *Ibid.*, 204. The importance of protection was by no mean limited to the sphere of political debate. In practice, the argument of security concretely justified the transfer of traditional protective tasks to the territorial state. See: Härter, Karl ‘Security and ‘Gute Policey’ in Early Modern Europe: Concepts, Laws, and Instruments’ *Historical Social Research* 35, no. 4 (134) (2010): 41–65.

<sup>1445</sup> See: Algazi, Gadi, *Herrengevalt und Gewalt der Herren im Späten Mittelalter: Herrschaft, Gegenseitigkeit und Sprachgebrauch*, (Frankfurt am Main: 1996), 224.

<sup>1446</sup> *Ibid.*, 232.

protection in the same entity 'brute force'.<sup>1447</sup> The bond that attached peasants to their lords was not the peasants' belief in the legitimacy of their rule, but 'massive motives of fear and hope'.<sup>1448</sup> Algazi's theses, which questioned some of the tenets of his discipline and notably the problematic figure of Otto Brunner,<sup>1449</sup> have provoked much debate and attracted sharp criticism.<sup>1450</sup> Concerning this and similar debates, one reviewer acutely concluded that 'a reduction of lordship to mere *Gewalt* [violence] implies a reduction of society to base class war, with the normal collaborative mentality on both sides reduced to false consciousness'.<sup>1451</sup>

The history of safe-conduct is affected by strikingly similar problems and some lessons can be learned from earlier debates around the ambiguity of protection. Firstly, it is clear that discussions around feudal power relations can easily develop into intellectual proxy wars that are fuelled more by political passions than by a sensitivity to historical complexity. Secondly, the legitimacy of feudal rule cannot be accurately described through simple dichotomies that bluntly oppose lords to peasants, or the rulers to the ruled. In practice, such lines are difficult to draw and even though pre-modern power relationships could be highly exploitative, they were often 'acceptance-oriented', meaning that political rule depended on the cooperation and acceptance of 'subjects' and local populations.<sup>1452</sup>

Indeed, a similar tension between views of safe-conduct as a self-serving instrument of seigneurial power that obstructed commerce and as a public service for the protection and promotion of trade is easily detectable in the older and more recent literature. The ambiguity of an institution which served the promotion and protection of mobility, as well as self-serving political and fiscal interests, has led to a variety of contrasting assessments. Statements such as 'safe-conduct is protection'<sup>1453</sup> can be found side by side with the claim that safe-conduct officials replaced the medieval bandits.<sup>1454</sup> In some cases, rather than indications of inconsistent scholarship, contradictory judgements are due to different temporal and thematic perspectives. Medievalists and those who examine the institution of safe-

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<sup>1447</sup> Ibid., 226.

<sup>1448</sup> Ibid., 228.

<sup>1449</sup> Otto Brunner (1898 – 1982) was an Austrian medieval historian whose sympathies for National Socialism profoundly affected his conception of social history. Brunner's work remained influential in German-speaking historiography after the war. See: Brunner, *Land and Lordship*.

<sup>1450</sup> See, for instance: Kaminsky, Howard, 'Review of "Herrengewalt und Gewalt der Herren im Späten Mittelalter: Herrschaft, Gegenseitigkeit und Sprachgebrauch", by Gadi Algazi', *Speculum* 73, no. 3 (1998): 799–802; Morsel, Joseph. 'Algazi, Gadi, Herrengewalt und Gewalt der Herren im späten Mittelalter. Herrschaft, Gegenseitigkeit und Sprachgebrauch.' *Revue de l'IFHA. Revue de l'Institut français d'histoire en Allemagne*, 2001; Schmitt, Sigrid, 'Schutz und Schirm oder Gewalt und Unterdrückung? Überlegungen zu Gadi Algazis Dissertation 'Herrengewalt und Gewalt der Herren im Späten Mittelalter'', *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 89, no. 1 (2002): 72–78.

<sup>1451</sup> See: Kaminsky, *Review*, 801.

<sup>1452</sup> See, for the latter approach: Brakensiek, *Akzeptanzorientierte Herrschaft*, 395–406.

<sup>1453</sup> Wiederkehr, *Das freie Geleit*, 36.

<sup>1454</sup> See: Haferlach, *Geleitwesen*, 156.

conduct in a broader sense (beyond the fiscally exploitable form of regalian safe-conduct, *Zollgeleit*) tend to emphasise the functionality of safe-conduct as a warrant of protection and peace. Conversely, many early modernists and those who focus on regalian safe-conduct like to underline its fiscal, political and symbolic instrumentalisation. The divide between medievalist and early modernist assessments of this ‘hybrid entity’<sup>1455</sup> reflects a differential development in the time between the fourteenth and the eighteenth century.

From the thirteenth to the sixteenth century, all forms of safe-conduct found frequent application. Their primary purpose was to impede feuds, unauthorised confiscation of goods, arrests of strangers and reprisals. Political safe-conduct, which protected the travels and gatherings of potentates and diplomats, as well as procedural forms of safe-conduct for the protection of debtors and criminals, were its most prominent materialisations.<sup>1456</sup> Safe-conduct was an effective instrument for protecting ‘the wayfaring man’ during the Late Middle Ages. Michael Rothmann recently stressed the crucial role that the institution played in the suppression of feuds and the formation of a princely monopoly of violence, asserting that the different rights of safe-conduct formed ‘a close meshed network of protective threats of coercion’ guaranteeing peace.<sup>1457</sup> As it were, safe-conduct materialised the protection that late medieval declarations of public peace (*Landfriede*) theoretically offered to those travelling on public roads. Violations of safe-conduct were prosecuted on the same terms as violations of public peace.<sup>1458</sup> Thus, if one considers all forms of safe-conduct taken together, the institution can hardly be reduced to a tool of ‘rash fiscalism’.<sup>1459</sup>

With the increasingly successful suppression of extrajudicial violence during the sixteenth century, however, safe-conduct lost much of its protective function and gained importance as a fiscal, political and symbolic instrument at the hand of territorial princes.<sup>1460</sup> While safe-conduct had always been a fiscal and political instrument,<sup>1461</sup> the early modern period saw these aspects gain ascendancy. This is reflected not only in the quantity and focus of archival records, but also in legislative activities. The Imperial Recess of 1548, for instance, attempted to counter fiscal political uses of safe-conduct, calling

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<sup>1455</sup> Kalisch, *Verhältnis*, 13.

<sup>1456</sup> See: Wiederkehr, *Das freie Geleit*, 34.

<sup>1457</sup> See, for instance: Rothmann, *Innerer Friede*, 101–24.

<sup>1458</sup> See: Weig, *Ius conducendi*, 66–74.

<sup>1459</sup> Johaneck, Peter, ‘Die Straße im Recht und in der Herrschaftsausübung des Mittelalters,’ in: Holzner-Tobisch, Kornelia, Thomas Kühtreiber, and Gertrud Blaschitz, eds., *Die Vielschichtigkeit der Strasse: Kontinuität und Wandel im Mittelalter und der früherer Neuzeit* (Vienna: 2012), 233–262, 260.

<sup>1460</sup> See: Wiederkehr, *Das freie Geleit*, 34; Schaab, *Geleit und Territorium*. While some forms of safe-conduct became less important (e.g. political safe-conduct), others continued to form a crucial instrument of public power, such as safe-conduct letters for criminals and debtors.

<sup>1461</sup> See: Kalisch, *Verhältnis*, 7–24; Fiesel, *Woher*, 388; Brandstätter, *Straßenhobeit*, 208; Huvelin, *Essai*, 370–1; Wiederkehr, *Das Freie Geleit*, 156–157.

all lords to warrant their safe-conduct unconditionally and not to abuse it as a source of revenue.<sup>1462</sup>

This gradual shift may explain, at least in part, the emphasis that early modernists placed on the discrepancy between the definition of safe-conduct as a functional public service and its instrumentalisation for fiscal, political and symbolic purposes.<sup>1463</sup>

This chapter explores the role of protection in the governance of inter-polity mobility with a focus on the Lower Weser, the river that connected the City of Bremen with the North Sea. During the late sixteenth and early seventeenth centuries, Bremen placed convoy ships on the river to protect it from freebooters and to enforce territorial claims vis-à-vis its neighbours. The ships offer a rich illustration of the multiple functions of safe-conduct. Just as escorts on land could be an essential guarantee for the security of trade, the navigability of the Lower Weser, which was threatened by Spanish and Dutch pirates and freebooters with the beginning Eighty Years' War, depended on the protection of Bremen's warships. The territorial fragmentation of the region, however, limited all efforts to police the river, as transgressors could escape the grasp of the warships by absconding in neighbouring territories and building on the collusion of the population along the river. At the same time, the convoy ships served to impose Bremen's claims of dominion over the river and to protect the economic interests of its subjects and fishermen. While the tolls that the city levied were justified as a contribution to its protective efforts, many boatmen and neighbouring rulers denounced the dues as illegitimate. The ambiguous function of Bremen's protection of the river was thus, in certain respects, similar to that of state-licensed chartered companies, whose 'goal was more often to monopolize and exploit than to compete freely, but they nonetheless played a central role in promoting various forms of mobility [...] as a consequence of their economic goals'.<sup>1464</sup> 'Security' rapidly became the core vector of Bremen's justificatory strategy, while the city's opponents attempted to expose it as a scaremonger. These tensions make the quest for the Lower Weser a formidable example of the ambiguities of politicised protection.

Like other conflicts over the control of rivers that traversed multiple territories, such as the Rhine, the Elbe, the Danube, the Main, the Scheldt, the Po, the Mississippi, or the Rio de la Plata, the century-long disputes around the Lower Weser reveal the particular challenges posed by the control and protection of inter-polity waterways. Besides being an important fiscal asset, the licence to check and inspect passing vessels was perceived as a sign of territorial superiority. Riverine rights of passage were as much an economic and fiscal concern as they were a matter of symbolic supremacy. The case of

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<sup>1462</sup> See: Weig, *Ins conducendi*, 68–89.

<sup>1463</sup> See, for instance: Hofmann, *Landgeleite*; Hartmann, *Wassergeleite*; Schaab, *Geleit und Territorium*.

<sup>1464</sup> Vigneswaran and Quirk, *Mobility Makes States*, 15.

the Lower Weser epitomises these multiple dimensions of conflict and the forms that they could take: in court, in negotiations at all levels of the imperial structure, in the interaction between officials and boatmen, as well as their various degrees of escalation, which ranged from formal protests, to legal and political polemics before a wide audience, to violent confrontations in a toll war and, ultimately, to the outlawing of the entire City of Bremen by means of an imperial ban. The Lower Weser, moreover, allows us to study safe-conduct in an uncommon setting. The geographic focus of the existing literature is on the South and the East of the Empire and privileges the exercise of safe-conduct on land.<sup>1465</sup> The case of the Lower Weser illustrates how a Hanseatic city employed safe-conduct and its convoy ships as a means for protecting and controlling its access to the sea.

The first part of the chapter outlines how the Lower Weser became one of the Empire's most fiercely disputed waterways. The second part highlights Bremen's ambiguous politics of protection, which aimed both at ensuring the river's navigability and at enforcing wider claims of dominion against the opposition of its neighbours, of boatmen and the riverine population. The third part of the chapter will then explore the use of security and protection as strategic arguments justifying territorial expansion and as a basis for selective conceptions of free movement. The aim is to better understand protection's role in the ordering of movement, to illustrate the multiplicity of agents on whom the protection of inter-polity mobility depended in practice and to show that the mutuality of safe-conduct's differed considerably with regard to the persons, places and interests involved.

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<sup>1465</sup> See: Müller, *Geleit im Deutschbordenland*, 2.

## A Disputed River

Rivers were no less subject to competing claims of control than roads and land routes. Attempts to control transit rights on rivers could be fiercer than those fought over land, because controls were more difficult to elude and duties levied on rivers generated more significant fiscal revenues. Rivers provided the basis for various and sometimes competing economic activities of travellers and the riparian populations. ‘The river attracts conflicts, for it mingles populations, confronts interests, facilitates the confusion of rights, encroachments, and the impunity of culprits.’<sup>1466</sup> Rivers were economic lifelines for commerce, provided the livelihood of riverine population and generated fiscal revenues for cities and territorial rulers. Controlling the rights of passage on rivers was, therefore, a political and economic challenge of the first order. In the quest for controlling a river, formal legal titles proved less important than the possession of warships and fortifications on the river banks.

Over centuries, the Hanseatic City of Hamburg successfully imposed its control over commerce on the river Elbe against the neighbouring Dukes of Brunswick and Lüneburg with a strategy of force rather than consent.<sup>1467</sup> The dukes opposed any form of navigation upstream of Hamburg because it reduced land transportation in their territory, limited their toll revenues and damaged the commercial interests of the city of Lüneburg.<sup>1468</sup> They succeeded in blocking the river until the sixteenth century, when Hamburg and several polities upstream began a long fight against the dukes. Hamburg strived to enforce a staple right, meaning the right to force all merchant ships to unload their goods at its port and to display it for sale for several days. Therefore, the city attempted to channel all commerce onto the northern anabranch of the river (the so-called Norderelbe that led to its port) and to impede all navigation on the Süderelbe, a navigable anabranch to the south which allowed to bypass the city (Figure 15).<sup>1469</sup> Hamburg’s ability to gain the upper hand in the following centuries was due to the superiority of its warships and the dukes’ reluctance to forcefully oppose them.<sup>1470</sup>

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<sup>1466</sup> Roche, *Humeurs vagabondes*, 965. In early modern Europe, rivers were crucial infrastructures for the transportation of goods and people. Navigation was often difficult and dangerous, and frequently relied on the costly practice of towing. In old-regime France, the typical cleavage of riverine conflict opposed lords, landowners, public officials and sedentary professions as claimants and boatmen, sailors, merchants and rural labour on the side of the defendants. In these conflicts, the riparian population played an important role as witnesses. See: *Ibid.*, 965–966.

<sup>1467</sup> For a detailed account of this conflict, see: Baasch, *Elbe*.

<sup>1468</sup> *Ibid.*, 4.

<sup>1469</sup> The City of Hamburg is situated on the northern branch of the river, while the Duchy of Brunswick-Lüneburg adjoins the southern branch. On the map, see: Bolland, Jürgen, *Die Hamburger Elbkarte aus dem Jahre 1568 gezeichnet von Melchior Lorichs* (Hamburg: 1985); Lappenberg, Johann Martin, *Die Elbkarte des Melchior Lorichs vom Jahre 1568* (Hamburg: 1847).

<sup>1470</sup> Hamburg’s dominion over the Süderelbe was considerably weakened once the dukes decided to build a redoubt at Bullenhausen, where Norder- and Süderelbe parted. Baasch, *Elbe*, 98–99.

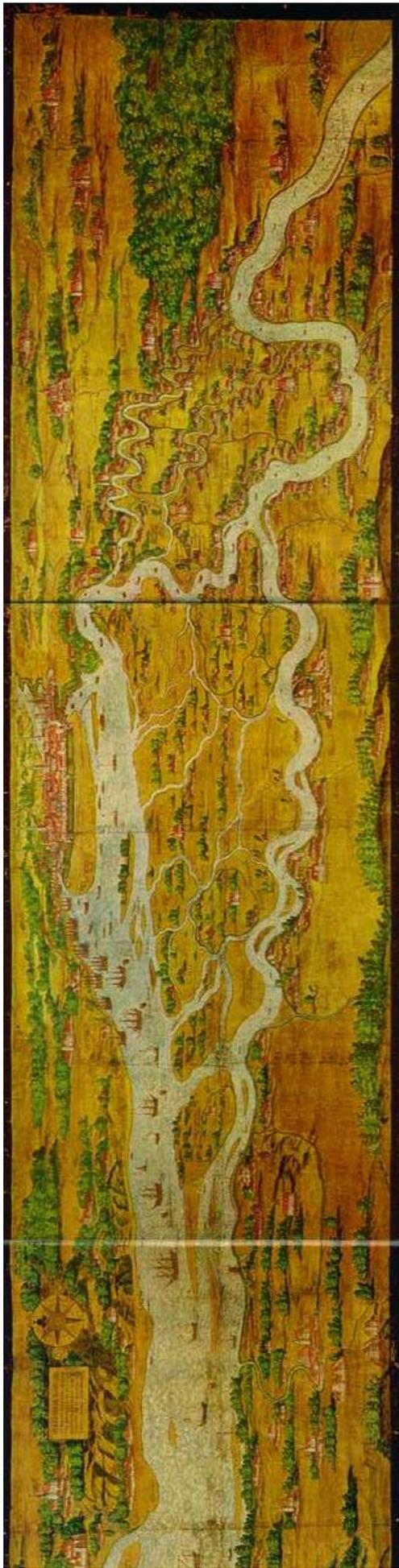


Figure 15: The northern and southern anabranches of the river Elbe on a map commissioned by the City of Hamburg in 1567 in the course of a lawsuit at the Imperial Chamber Court (Wikimedia Commons, [https://commons.wikimedia.org/wiki/File:Hamburgische\\_Elbkarte\\_Melchior\\_Lorichs\\_\(1568\).png](https://commons.wikimedia.org/wiki/File:Hamburgische_Elbkarte_Melchior_Lorichs_(1568).png); Date accessed: 6 Sep 2015).

The river Rhine was subject to competing claims of dominion as well. From the early sixteenth through the first half of the eighteenth century, the Electors Palatine claimed the *dominium Rheni* over the long stretch between Seltz and Bingen.<sup>1471</sup> The Palatine claims over the Rhine were part of a wider political project of territorial expansion and consolidation, notably by way of extending rights of safe-conduct into neighbouring territories. The Elector's dominion over the river comprised a common catalogue of prerogatives, such as rights of jurisdiction and safe-conduct on the river and its towpaths, the property of all islands and sandbanks, hunting, fishing and gold panning rights. In addition, the Electors claimed control over all construction and fortification works on the river banks. Repeated inspections by high officials, local subjects and cartographers allowed the authorities to catalogue existing rights and protest against encroachments by other parties. The Palatine claims engendered the vivid resistance of many neighbouring rulers, of which the Electors of Mainz were the most forceful opponents. In the wake of the Thirty Years' War, the Elector Palatine successfully reactivated the *Dominium Rheni* and other supra-territorial prerogatives. The wars of the late seventeenth century, however, made their enforcement impossible. In the first half of the eighteenth century, the Electors withdrew their ambitious claims, so that, by and large, every polity on the Upper Rhine controlled the stretch of the river that traversed its territory.

Among the rivers of the Holy Roman Empire, the Weser was one of the most fiercely contested. Formed by the confluence of two tributaries near Göttingen, the river traversed Lower Saxony, the City of Bremen and flowed into the North Sea. The last stretch between the City of Bremen and the North Sea was called Lower Weser. Although Bremen was de facto independent and commanded its own extramural territory, it was formally subject to the Prince-Bishops of Bremen on the right bank of the Lower Weser.<sup>1472</sup> To acquire the status of a Free Imperial City was one of the city's most important political projects since the thirteenth century, but it only succeeded after the Thirty Years' War. The city's wealth largely depended on its maritime trade. Bremen's sea trade was far more important than its trade over land, resulting in it being little affected by the decline of the Hanse and even the Thirty Years' War.<sup>1473</sup> Commerce was Bremen's major source of fiscal revenue: in 1600, 87 per cent of the city's public revenue derived from an excise tax on imported and exported goods.

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<sup>1471</sup> See: Schäfer, Alfons, 'Der Anspruch von Kurpfalz auf die Herrschaft über den Rhein von Selz i.E. bis Bingen.' *Zeitschrift für die Geschichte des Oberrheins* 76 (1967): 265–329.

<sup>1472</sup> In the following, I refer to the City of Bremen as 'Bremen' and to the Prince-Bishopric of Bremen with the full designation. At the end of the sixteenth century, Bremen counted around 20,000 inhabitants. For this entire paragraph, see: Schwarzwälder, Herbert, *Geschichte der Freien Hansestadt Bremen*, vol 1 (Bremen: 1975), 289, 296–299, 344–350.

<sup>1473</sup> Its major trading partners were the Netherlands, to which it mostly traded grain and beer in return for fish and dairy. Other trading partners were Bergen, Iceland, the Shetlands, England, and the Baltic regions.

Securing free passage on the Lower Weser was one of Bremen's most important political projects. During the fourteenth and fifteenth centuries, it attempted to control the mouth of the river by acquiring territory on both sides. While these attempts widely failed on the left side, the city was more successful on the right banks of the Lower Weser.<sup>1474</sup> Bremen managed to secure rights over the districts of Lehe and Würden on the upper stretch and in Neuenkirchen and Blumenthal further



down.<sup>1475</sup> However strategically important, these possessions were not a sufficient basis for effectively ensuring the city's control over the river, for which the city relied on intense diplomacy and sporadic warfare.<sup>1476</sup> The merchants of the city and especially their four elected seniors or aldermen (*Elterleute*), were a powerful voice in defence of commercial interests. The merchants secured an increasing influence over the city's politics during the sixteenth century, but lost much of it in the course of the seventeenth century to a city council displaying absolutist tendencies.<sup>1477</sup>

Figure 16: The Lower Weser in the early seventeenth century (Source: Richter, *Weserzoll*, 111).<sup>1478</sup>

<sup>1474</sup> Bremen managed, however, to gain control over four districts (*Große*) on the lower left bank of the river: Vieland, Werderland, Hollerland, and Blockland. See: *Ibid.*, 281.

<sup>1475</sup> See: Ehrhardt, Michael, 'Eine kleine Territorialgeschichte der Region Unterweser', in: Bickelmann, Hartmut, ed., *Fluss, Land, Stadt: Beiträge zur Regionalgeschichte der Unterweser* (Bremerhaven: 2011), 147–96, 162–170.

<sup>1476</sup> See: Schwarzwälder, *Bremen*, 277.

<sup>1477</sup> See, for instance: Prange, Ruth, *Die bremische Kaufmannschaft des 16. und 17. Jahrhunderts in sozialgeschichtlicher Betrachtung* (Bremen: 1963), 21–22, 161–177.

<sup>1478</sup> The City of Bremen is the southernmost city on the map. The County of Oldenburg (*Grafschaft Oldenburg*) occupied the left river bank. Most of the right river bank belonged to the Prince-Bishopric of Bremen (*Erzstift Bremen*).

At the end of the sixteenth century, Bremen's principal opponents in its quest for the Lower Weser were the neighbouring counts of Oldenburg and Delmenhorst. During the sixteenth and seventeenth centuries they controlled most of the land on the left bank of the Lower Weser. On the right side, they possessed an exclave at the mouth of the river, the land of Würden (at the height of Stotel) and some rights over several localities scattered around Lehe (opposite to Blexen).<sup>1479</sup> As in the case of other territories, the end of the sixteenth century was a period of territorial and administrative consolidation for the County of Oldenburg. The highest comital officials (*Droste*) resided in castles from where they oversaw reeves (*Vogt*), intermediary officials responsible for the levy of taxes and duties, the organisation of corvees and conscriptions. The small central government was centred on the personality of the count. One of the counts' principal concerns was the reclamation of soil that had been lost to the devastating storm of floods of the Late Middle Ages. The counts thus constructed dykes and colonised the regained land (not least to the advantage of their own domains) throughout the sixteenth century.<sup>1480</sup>

Oldenburg's other major political project was to establish dominion over the Lower Weser. The counts' grasp for the *dominium Visurgis* was guided by different intentions than those of the City of Bremen; their aim was not so much the safeguard of maritime trade, but the levy of transit duties on the ships that navigated the river.<sup>1481</sup> The passage on the river Hunte, which connected the county's capital to the Lower Weser, was blocked until the first half of the fourteenth century. Even after the opening of the Hunte, Oldenburg's oversea trade remained very limited during the fourteenth and fifteenth centuries. During the sixteenth century, Oldenburg entertained regular trade with the Dutch ports, Hamburg and even temporarily with Iceland. In 1571 a shipping corporation was founded in the city of Oldenburg. However, on the whole, Oldenburg's maritime trade volume was by far inferior to that of the City of Bremen. The gradual sanding up of the city of Oldenburg's only connection to the sea, the river Hunte, posed a further obstacle. While the maritime trade of Bremen depended on the unhampered navigability of the Lower Weser, the county used its strategic position along the river 'for reaping where it was not sowing',<sup>1482</sup> to put it in the prose of a local historian.

The conflicts over the Lower Weser escalated in the late sixteenth and early seventeenth centuries, but had a century-long history. Bremen's inland position forced all ships travelling to and from its port to

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<sup>1479</sup> See: Ehrhardt, *Unteres Weser*, 164–165 and Sello, Gerhard, *Die territoriale Entwicklung des Herzogtums Oldenburg* (Göttingen: 1917), § 321.

<sup>1480</sup> See: Ehrhardt, *Territorialgeschichte*, 166–167.

<sup>1481</sup> The medieval County of Oldenburg had been land-locked, and did not even have access to the Lower Weser until 1234. See: Sello, Georg, *Oldenburgs Seeschiffahrt in alter und neuer Zeit* (Leipzig: 1906), 4–18.

<sup>1482</sup> *Ibid.*, 2.

traverse the dominions of foreign rulers, sometimes over days. In the Late Middle Ages, Bremen therefore negotiated the protection of its navigation with neighbours such as the Frisians, the counts of Stotel, the archbishops of Bremen, and with the counts of Oldenburg and Delmenhorst.<sup>1483</sup> Fortified block houses and castles were key instruments for controlling navigation on the river and served as a basis for levying tolls and for assaulting passing ships. In several treaties of the thirteenth century, the city therefore obliged neighbouring rulers not to erect any fortifications along the Lower Weser without its consent. However, attempts to build fortifications along the river continued during the fourteenth century and the conflicts intensified with piracy at the end of that century. On the whole, the city's grasp on the river was strong during the early fifteenth century: the counts of Oldenburg recognised Bremen's claims over the Weser and the city held rights over lands on both sides. With the destruction of Bremen's major stronghold on the left bank (the Friedeburg in Atens) in 1424, however, the city lost this position of strength. Piracy increased and new castles were built during the fifteenth century. Nevertheless, in 1541 the City of Bremen succeeded in obtaining an imperial confirmation of some of its rights over the river, among which figured the right to pacify (i.e. to police) the river and to levy duties on the traffic in order to finance the installation and maintenance of seamarks which were necessary for navigating the river.<sup>1484</sup>

The counts of Oldenburg became Bremen's strongest opponents for the sixteenth and most of the seventeenth century, after they came into possession of the greatest part of the land on the river's left bank in the sixteenth century. They based their claims on territorial possessions on the right bank of the river and on the fact that the course of the river had shifted to the left during the Middle Ages, adding isles and sands to the right side.<sup>1485</sup> At the Imperial Diet of 1562, the count thus claimed that the Lower Weser ran *through* his territory. In the early seventeenth century, the counts attempted to include confirmations of their dominion over the Lower Weser into their deeds of enfeoffment.<sup>1486</sup> One of Oldenburg's first challenges against Bremen's *dominium Visurgis* was a lawsuit at the Imperial Chamber Court, where it challenged Bremen over fishing rights, the right to levy recovery dues on ship-wrecked vessels, the possession of sandbanks and the city's exemption from duties in the county.<sup>1487</sup> In 1559 the count erected a blockhouse with three cannons along the Weser shipping channel on the Northern coast of Butjadingen to force Bremen's ships to strike their sails as an act of

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<sup>1483</sup> See: Richter, *Weserzoll*, 1–6.

<sup>1484</sup> See Müller, Hartmut 'Karl V., Bremen und die Kaiserdiplome von 1541', *Bremisches Jahrbuch* 79 (2000), 13–28.

<sup>1485</sup> See: Sello, *Territoriale Entwicklung*, § 321.

<sup>1486</sup> Their endeavour succeeded with the enfeoffment of Stadtland from Brunswick in 1613, but not in the case the Imperial enfeoffments. See: Sello, *Territoriale Entwicklung*, § 321.

<sup>1487</sup> See: Richter, *Weserzoll*, 4.

symbolic subjection.<sup>1488</sup> One year later, a stronghold was constructed at Elsfleth that forced all passing ships to strike their sails, report to the comital officials on land and present their passes.<sup>1489</sup> In 1564 the count equipped four armed ships to protect the river against pirates, but which frequently clashed with the Bremen's ships.<sup>1490</sup> Importantly, Count Anton I of Oldenburg and Delmenhorst attempted to promote his ambitions diplomatically, however his campaigns for a toll on the Lower Weser at the Electoral Diet of 1562 and the Imperial Diets of 1567 and 1570 were no more successful than diplomatic missions to the imperial court at Vienna and the Prince-Electors in Trier, Cologne, Mainz and Dresden.<sup>1491</sup>

Bremen took these attempts seriously and requested the emperor to appoint a committee of arbitration in order to delimitate the rights of both polities over the river. The emperor appointed the Landgrave of Hesse and the Duke of Brunswick-Lüneburg as commissioners.<sup>1492</sup> After long negotiations and a survey of the river, the County of Oldenburg and the City of Bremen signed an extensive treaty in 1576, intended to settle their countless points of contention. However important the treaty was as a basis for future disputes, it could only temporarily alleviate the conflicts over the use of the river. Tensions between Bremen and Oldenburg increased again in 1585 when the city decided to place several armed vessels on the Lower Weser to fight the increasing numbers of freebooters. The ships were charged with securing the traffic on the river against privateers and regularly patrolled the mouth, as well as the tributaries of the river, thus entering the territory of the counts of Oldenburg.<sup>1493</sup> In December of 1585, the count of Oldenburg complained to the Chapter of the Prince-Bishopric of Bremen and King Frederick II of Denmark. However, the Chapter and the Captain of the Lower Saxon Circle, the Duke of Holstein-Gottorp, sided with the City of Bremen. Oldenburg's diplomatic initiatives were thus unsuccessful and in 1587 the conflict looked set to escalate into a war. In June the count placed two warships at the mouth of the river Hunte, prohibited the city's merchants from trading in Oldenburg and once more sued the city at the Imperial Chamber Court. At the same time, the City of Bremen obtained an imperial injunction that forced Oldenburg to remove its warships from the river and the count eventually complied. Yet, the conflict was also waged via economic means: Oldenburg ordered a boycott against goods from Bremen and blocked all payments of interests and

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<sup>1488</sup> See: Ibid. and Sello, *Territoriale Entwicklung*, § 321.

<sup>1489</sup> See: Richter, *Weserzoll*, 4.

<sup>1490</sup> See: Ibid.; Sello, 'Territoriale Entwicklung', § 321 and Rühning, Gustav, 'Seeraub im 16. Jahrhundert', in: *Jahrbuch für die Geschichte des Herzogtums Oldenburg* 15 (1905): 152–162, 153.

<sup>1491</sup> See: Richter, *Weserzoll*, 4.

<sup>1492</sup> See: Schwarzwälder, *Bremen*, 255.

<sup>1493</sup> See: Rühning, *Seeraub*, 154.

rents on the property of Bremen's subjects in the county.<sup>1494</sup> A further attempt to mediate between the parties failed in 1592 and the lawsuit at the Imperial Chamber Court stalled in 1594.

During the sixteenth and seventeenth centuries, the activities of Bremen's warships were a key point of contention. In the treaty of 1576, both parties had agreed that the ships should be allowed to check and inspect only warships and suspicious ships, which they could force to strike their sails.<sup>1495</sup> The city had agreed to instruct its soldiers not to check any other ships and especially not to shoot at them. In addition, the treaty requested that the warships reimburse the medical expenses of a boatman whom they had recently injured when shooting at his ship. The treaty argued against the habit of Bremen's warships to make boatmen pay for the gunpowder they fired at them. This was, indeed, a common practice. In 1590, for instance, after one of the city's warships had fired several cannonades at a ship and then seriously battered its captain – a comital subject, whom the soldiers had wrongly suspected of hosting freebooters – the crew forced the man to pay 10 thalers in compensation for the fired gunpowder and 1 thaler in 'beer money'.<sup>1496</sup>

According to the treaty, both Bremen and Oldenburg were authorised to persecute freebooters on the Lower Weser.<sup>1497</sup> Both could hunt down delinquents, bring them to their ports and try them at their courts. This shared responsibility, however, was strictly limited to the Lower Weser and forbade each party to encroach upon the territory of the other. In practice, this allowed freebooters to elude the warships of the City of Bremen by absconding in the river's tributaries or fleeing on land. In the treaty, Bremen and Oldenburg therefore agreed that each was allowed to pursue and arrest the freebooters on their flight in the other's territory. The arrested delinquents, however, were to be brought to the local authorities and judged by the polity on whose territory they had been arrested. Which party had the right to seize the freebooters' booty and vessel was another point of contention. In the treaty, Bremen and Oldenburg agreed that, in one specific case where the city's warships had seized a vessel on the river Jade on comital territory, the booty (a load of grain) belonged to its rightful owner and the vessel to the Count of Oldenburg. Both parties agreed, moreover, to extradite delinquents to the other and not to host them on their territory.<sup>1498</sup>

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<sup>1494</sup> See: Schwarzwälder, *Bremen*, 268–269.

<sup>1495</sup> See: Treaty between Count Anton I of Oldenburg and Delmenhorst and Mayor and Council of the City of Bremen, 16 Jul 1576, StA Bremen 2.R.10.a.3, art. 15.

<sup>1496</sup> 'Biergeldt', Count Johann VII of Oldenburg and Delmenhorst to Landgrave Wilhelm IV of Hesse-Kassel, 12 Jan 1591, StA Bremen, 2–U.1.b.6, fo. 180.

<sup>1497</sup> See: Treaty between Count Anton I of Oldenburg and Delmenhorst and Mayor and Council of the City of Bremen, 16 Jul 1576, StA Bremen 2.R.10.a.3, art. 8, 15.

<sup>1498</sup> See: *Ibid.*, art. 16.

The fact that safe-conduct and other rights were often exercised in such contested spaces, both on land and on water, was also discussed in the legal literature of the time. Many jurists found it difficult to resolve the problem of how a lord holding the right of safe-conduct on a road or river within another lord's territory could punish wrongdoers without violating the other's territorial jurisdiction. The matter was particularly contentious where thoroughfares became the scene of more serious crimes, such as homicides, piracy and robbery. While seventeenth-century jurists widely affirmed that the right of safe-conduct gave the safe-conduct lord a right to pursue the crimes committed on his roads, even in foreign territories, they found it difficult to balance this right with the territorial ruler's ordinary jurisdiction.<sup>1499</sup> A compromise suggested that the territorial ruler should deal with everyday crimes committed on his streets and rivers, while the safe-conduct lord should only deal with those crimes directly connected to the exercise of safe-conduct.<sup>1500</sup> Such a compromise might have been viable where the exercise of safe-conduct was limited to the time of the trade fairs – it was more difficult to delimit safe-conduct and jurisdiction where a permanent safe-conduct regime was in place. It would be misleading, however, to perceive the conflicts around the Lower Weser only in terms of territorial politics. The picture that emerges from the archives is that of a river which served not only as a strategic thoroughfare, but also as an economic resource and provided the livelihood of the adjoining population. Fishing rights were a perennial point of contention between the riverine populations. The treaty of 1576 attempted to spatially delimitate these rights in order to avoid conflicts.<sup>1501</sup> While Bremen's fishermen were allowed to fish on the whole length of the Lower Weser, the subjects of Oldenburg could only fish on those stretches of the river that touched upon their territory. The tributaries on comital territory were exclusively reserved to Oldenburg. Since the fishermen needed to install fishing weirs and stakes (on which they mounted their nets), fishing seriously hampered navigation on the river. In the treaty, the parties therefore agreed on nominating representatives that should indicate suitable places and remove all stakes that obstructed the navigable channel. Moreover, the treaty strengthened the rights of mariners whose ships ran aground on sand and river banks, or who were blocked by fishing stakes.<sup>1502</sup> According to the principle of *Grundruhr*, adjoining landowners were entitled to the stranded goods, or a part thereof, or could require recovery dues.<sup>1503</sup> The treaty exempted ship-owners from the duty to inform local authorities and forbade that

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<sup>1499</sup> For a detailed discussion of such cases, see: Maul, Thomas, *Tractatus de iure Conducendi*, (Gießen 1621), 189.

<sup>1500</sup> See: *Ibid.*, tit. 7, § 6.

<sup>1501</sup> See: Treaty between Count Anton I of Oldenburg and Delmenhorst and Mayor and Council of the City of Bremen, 16 Jul 1576, StA Bremen 2.R.10.a.3, art. 4.

<sup>1502</sup> See: *Ibid.*, art. 1.

<sup>1503</sup> See: Cordes, Albrecht, 'Grundruhr', in: Cordes, Albrecht, and Wolfgang Stammer, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 2 (Berlin: 2012), 603–605.

they be chased away from their stranded ship. Whoever managed to set his ship in motion without help was free to leave. If they required the authorities' assistance, however, they were bound to pay an adequate reward.

In conflicts between riverine populations and those navigating the river, self-administered justice posed a major problem. Unauthorised reprisals and arrests of goods, for instance, were a common point of contention between subjects of Oldenburg and Bremen. In 1615 several comital subjects required compensation from a boatman from Bremen who had damaged the stakes and nets of several fishermen with his boat and caused them to lose their catch.<sup>1504</sup> When the fishermen and the boatmen could not reach an agreement, however, the boatman (who was drunk) returned to his vessel and threatened that he would damage even more of their nets. He then deliberately sailed over more fishing stakes and nets, and caused considerable damage to the fishermen. When the fishermen pursued him in another boat, he threw stones at them, but they ultimately managed to seize his boat which they held as collateral. Both Oldenburg and the City of Bremen recognised the problem and agreed to provide timely judicial assistance to the other's subjects for the enforcement of their claims.

At the turn of the sixteenth century, the security situation on the Lower Weser deteriorated. Privateers infested the river and Spanish troops threatened the North-West of the Empire.<sup>1505</sup> As a consequence, the Hanseatic cities attempted to reactivate the Hanseatic League and in 1616, Bremen joined an alliance with the States General, Brunswick and several Hanseatic cities, aimed at countering the Spanish, Danish and other aggressive princes of the Empire.<sup>1506</sup> It was in this context that the Count of Oldenburg resumed his plan of acquiring a toll on the Lower Weser. On the occasion of the election of the new Emperor Matthias in 1612, the count applied for a new toll and the emperor appointed the Elector of Cologne and the Prince-Bishop of Münster as commissaries, who both sided with Oldenburg.<sup>1507</sup> The City and the Prince-Bishopric of Bremen protested immediately and gained the support of the States General. When the emperor died in 1619 and Oldenburg had assured that the subjects of the Electors would be exempt from the new toll, the Electors voted in favour of Oldenburg. The City of Bremen attempted to undermine the decision and launched a frenetic

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<sup>1504</sup> See: Extract from a letter of Andreas Cronenberg, sheriff (*Vogt*) of the Count of Oldenburg, to the Chancellor and Councillors of the Count of Oldenburg, 3 Dec 1615, StA Bremen 2.R.10.a.3.

<sup>1505</sup> See: *Ibid.*, 270–271.

<sup>1506</sup> See: *Ibid.*, 273–274.

<sup>1507</sup> See: *Ibid.*, 275.

diplomatic offensive which produced little more than mountains of paper.<sup>1508</sup> In 1623 Oldenburg's new toll was confirmed and the count could finally set up his toll stations.

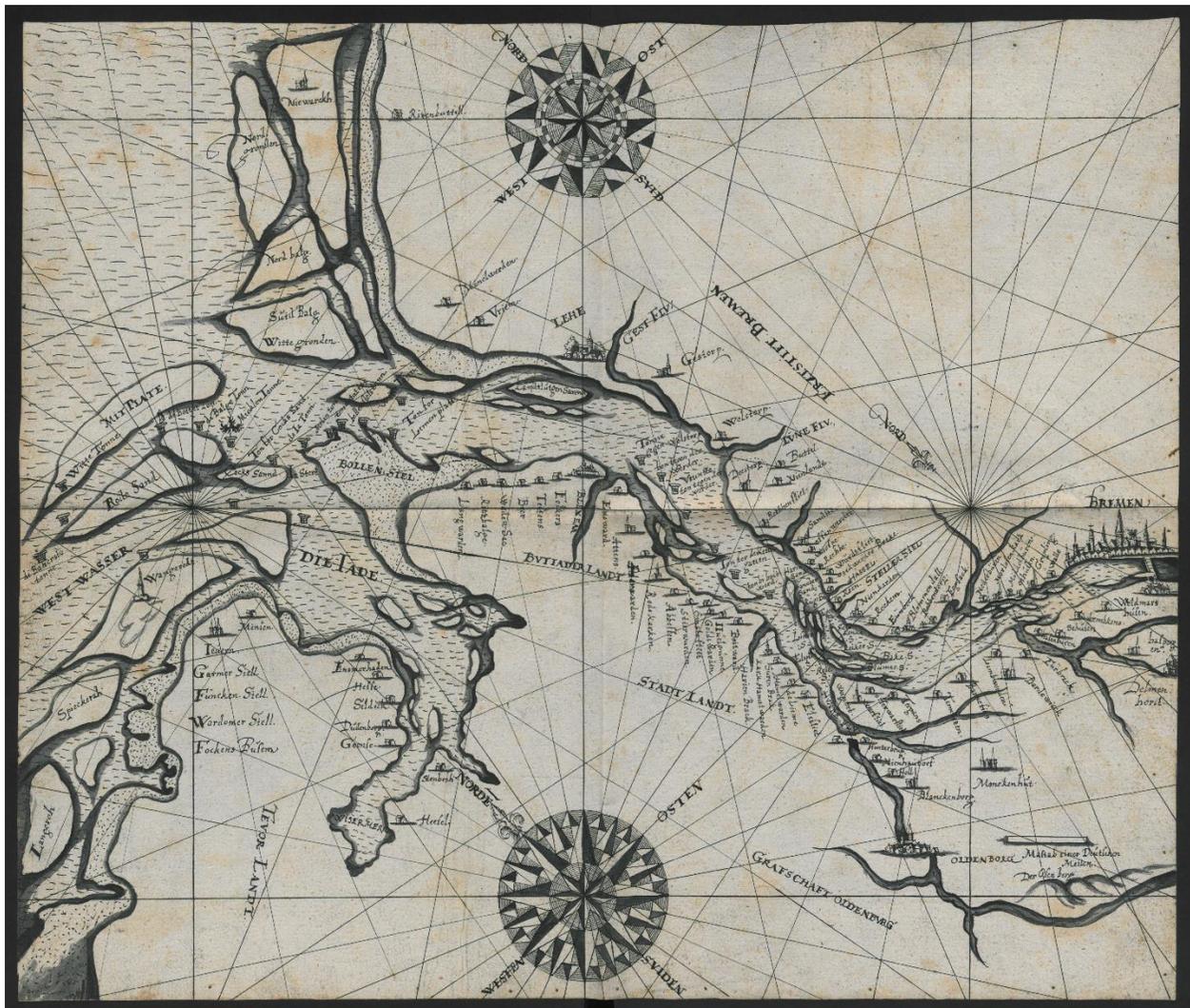


Figure 17: Manuscript map of the Lower Weser found in the Elector's of Brandenburg archives on the dispute around the river (between 1600 and 1620) (GStAPK, I HA GR Rep 19, 71a, Fasz. 2).

When Oldenburg began to levy its toll in 1624, it was clear that it embarked on a difficult endeavour. It chose Harrierbrake as the location of its toll-station, not least because it was in close proximity to Ovelgönne, from where the comital officials and armed subjects could assist the tollkeepers if need be.<sup>1509</sup> Suspecting that Bremen would do anything in its power to impede the levy of the toll, Oldenburg planned to set up other smaller toll-stations along the river as well. In 1624 the toll-station was moved

<sup>1508</sup> For a survey of the arguments brought forward in this context, see: Richter, *Weserzoll*, 20–35.

<sup>1509</sup> See: *Ibid.*, 36.

to Elsfleth.<sup>1510</sup> Each toll-station was operated by three officials. From the outset, Oldenburg expected considerable difficulties. The tollkeepers were instructed on how to deal with recalcitrant boatmen and quickly became a source of public ridicule. Mockeries were, indeed, a constitutive element of the conflict, to the point that one toll keeper complained that the toll had been reduced ‘to a mere farce and comedy’.<sup>1511</sup> In 1624 the crew of a ship questioned by Oldenburg’s tollkeepers replied that they had loaded ‘the shit of the devil’.<sup>1512</sup> Encouraged by Bremen’s protection, in 1627 another boatman approached Oldenburg’s officials only to say ‘the he will never pay the toll’<sup>1513</sup> and to laugh at them. Until the late 1640s, the toll keepers could do no more than to express empty threats. However successful Oldenburg was in its diplomatic endeavours, it failed to impose its prerogatives on the ground.<sup>1514</sup>

From 1624 to 1652, the City of Bremen systematically impeded the levy of the toll.<sup>1515</sup> Bremen stationed warships at Oldenburg’s toll-stations, confiscated the ships and wares of those boatmen who were willing to pay the toll, occasionally fired at the toll station, importuned fishermen from Oldenburg and levied a ‘retorsion toll’ at the mouth of the river Hunte.<sup>1516</sup> Additionally, Bremen’s warships terrorised the town of Harrierbrake and the toll-station with cannonades. Thanks to Bremen’s increased presence on the river, most boatmen ignored the new toll, saving both time and money and were even incentivised to do so in the knowledge that Bremen retaliated against those individuals who actually paid. Indeed, it was not uncommon that an authority prohibited its subjects from paying a contested toll.<sup>1517</sup> Between 1632 and 1635, Bremen levied a ‘retorsion toll’ on all goods transported to and from Oldenburg at the mouth of the river Hunte: Oldenburg’s connection to the sea.<sup>1518</sup>

In the 1620s, Bremen set up a system of convoys which escorted the ships between Blexen and the mouth of the river Hunte.<sup>1519</sup> Arriving cargo ships were halted and escorted past Oldenburg’s toll stations in ‘safe-conduct’.<sup>1520</sup> On some days, Bremen escorted more than twenty ships past the toll

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<sup>1510</sup> See: *Ibid.*, 37. The relocation was done by night ‘with lights and lanterns’ and took Bremen’s officials, who assisted to the scene, by surprise. See: *Diary of the notary Burchard Brokman*, Nov/Dec 1624, StA Bremen, 2-U.13.c.3.b.2.

<sup>1511</sup> ‘zur blossen Posse und Comoedia’, Richter, *Weserzoll*, 57.

<sup>1512</sup> ‘Teuffels scheiße’, Notarial instrument of Erasmus Helsenburg, 1624, StA Bremen 2-U.13.c.3.b.2.

<sup>1513</sup> See: Richter, *Weserzoll*, 56.

<sup>1514</sup> See: *Ibid.*, 52.

<sup>1515</sup> For a discussion of the term ‘toll war’, see: *Ibid.*, 55–56. In 1624 and 1626/28, the King of Denmark briefly send Danish warships. The measure, however, aimed more at demonstrating to display Denmark’s naval power and brought no assistance to Oldenburg’s cause. See: *Ibid.*, 61–62.

<sup>1516</sup> See: *Ibid.*, 55.

<sup>1517</sup> For an example from the County of Wertheim in 1699, see: Weiss, *Geleitstraßen*, 235.

<sup>1518</sup> See: Richter, *Weserzoll*, 59–61.

<sup>1519</sup> See: *Ibid.*, 56–58.

<sup>1520</sup> ‘im gesichteren Geleit’, *Ibid.*, 56–57.

station.<sup>1521</sup> When the tollkeepers called upon the ships, Bremen's soldiers shot at them, as on one day in November 1624, when Oldenburg's tollkeepers and soldiers approached a ship with the intention of inspecting it.<sup>1522</sup> When Bremen's warship fired 'a bullet over their head',<sup>1523</sup> the soldiers were so frightened that they took off their hats and implored Bremen's deputies to let them live, since 'they had to do what they did by coercion'<sup>1524</sup> and had already been severely punished the night before when they had refused to obey Oldenburg's orders. The population along the Lower Weser suffered significantly from the conflict as well.<sup>1525</sup> Cannonades sometimes killed riverine residents and Oldenburg's fishermen suffered from repeated reprisals. Bremen's soldiers additionally raided Oldenburg's territory in search of provisions. Indeed, Manfred Richter argued that the toll war between Bremen and Oldenburg was a 'fairly one-sided'<sup>1526</sup> affair, in which Oldenburg was powerless to confront Bremen's systematic obstruction.

Bremen's efforts were not limited to impeding the levy of the toll on the river. It appealed to the imperial court and to the Aulic Council as well. Its aim was to transfer the handling of the affair from the College of Electors (which had sided with Oldenburg) to the judicial apparatus of the Empire.<sup>1527</sup> It hoped to obtain a new imperial commission and thus suspend the levy of the toll.<sup>1528</sup> The Count of Oldenburg, however, distributed generous gifts (mainly horses) to the Electors who continued to support him. The emperor himself was less partial and arranged a suspension of the toll in 1624, which he withdrew shortly after a visit of the Count of Oldenburg at his court in Vienna.<sup>1529</sup> The new commission that the emperor eventually accorded was only an apparent success for the toll's opponents, as the emperor charged the Electors of Saxony and Cologne, who were both on the side of Oldenburg, with its preparation. The count commissioned several legal opinions to confirm his dominion over the Lower Weser.<sup>1530</sup> The troubles of the Thirty Years' War eclipsed the affair for some time, until an imperial decree confirmed the establishment of a new commission, which was intended to conduct an extensive inspection of the river in 1628. The concrete task and composition of the commission, however, was subject to further dispute.<sup>1531</sup> In 1630 the County of East-Frisia joined the

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<sup>1521</sup> See: *Ibid.*, 58.

<sup>1522</sup> See: *Diary of the notary Burchard Brokman, Nov-Dec 1624, StA Bremen 2-U.13.c.3.b.2.*

<sup>1523</sup> '*Kugell ueber den kopff lassen fliegen*', *Ibid.*

<sup>1524</sup> '*was sie theten muessen sie aus zwanng thun*', *Ibid.*

<sup>1525</sup> See: Richter, *Weserzoll*, 58.

<sup>1526</sup> *Ibid.*, 61.

<sup>1527</sup> As a consequence, the dispute between Bremen and Oldenburg provoked a dispute between the College of Electors and the Aulic Council in which the emperor hoped to strengthen his authority. See: *Ibid.*, 47.

<sup>1528</sup> See: *Ibid.*, 48.

<sup>1529</sup> See: *Ibid.*, 49.

<sup>1530</sup> See: *Ibid.*, 50.

<sup>1531</sup> See: *Ibid.*, 51.

ranks of the toll's opponents, while Oldenburg gained the support of the King of Denmark and several cities of the Lower Saxon Circle.<sup>1532</sup> A last attempt to set up a commission in 1640 was unsuccessful, not least because neither party had a real interest in a settlement.<sup>1533</sup> In 1642 the Count of Oldenburg obtained a further investiture with the toll for himself and his heirs in exchange for 27,000 Reichsthaler.

The final phase of the toll war between Bremen and Oldenburg must be understood in the context of Sweden's attempts to gain ground in the North of the Empire, Bremen's attempts to acquire the status of a Free Imperial City and the increasing economic rivalry between England and the States General.<sup>1534</sup> In 1648 Count Anthon Günther of Oldenburg managed to obtain the confirmation of his toll in the Westphalian Peace Treaties (article 9 of the peace treaty of Osnabrück).<sup>1535</sup> Bremen, which continued to impede the toll with its warships, offered to redeem the toll for 150,000 Reichsthaler. Oldenburg, however, refused and obtained a new injunction against the city at the Imperial Chamber Court.<sup>1536</sup> In 1652, after Bremen had lost the support of the States General, which were increasingly concerned with the British Navigation Acts, Emperor Ferdinand III finally imposed an imperial ban on the city. Bremen withdrew its warships from the river and sent a delegation to Oldenburg, but ultimately had to submit to a compromise devised by the Aulic Council. Bremen had to promise not to impede the levy of the toll, to compensate the Count of Oldenburg and to pay a substantial penalty fee.

With the occupation (and later secularisation, i.e. the transformation into a secular duchy) of the Prince-Bishopric of Bremen during the Thirty Years' War, which was confirmed in the Peace of Westphalia, Sweden had become influential on the Lower Weser. Soon after the war, Sweden occupied the district of Lehe and other strategically important possessions of the city along the river, but restituted some in 1654.<sup>1537</sup> During the Second Northern War (1655–1660), the Swedish-Danish antagonism strongly affected the region between the Lower Weser and the Elbe.<sup>1538</sup> Denmark occupied the now secularised Duchy of Bremen in 1657, but Swedish troops rapidly reconquered the territory. When Count Anthon of Oldenburg died without a legitimate heir in 1667, the county passed to his relatives, the King of Denmark and the Duke of Schleswig-Holstein-Gottorp, and to Denmark proper. The Lower Weser divided the possessions of the two rivalling powers. In 1675 the region became the

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<sup>1532</sup> Denmark and Sweden, however, were mostly interested in extending their control over the estuaries of the rivers Elbe and Weser. See: *Ibid.*, 52.

<sup>1533</sup> See: *Ibid.*, 54.

<sup>1534</sup> See: *Ibid.*, 66. For the history of the toll in the context of the Westphalian peace congress, see: Düsselmann, Karl, *Graf Anton Günther von Oldenburg und der Westfälische Friede, 1643–1653* (Oldenburg: 1935).

<sup>1535</sup> See: Richter, *Weserzoll*, 68.

<sup>1536</sup> See: *Ibid.*, 69.

<sup>1537</sup> See: Ehrhardt, *Territorialgeschichte*, 171.

<sup>1538</sup> See: *Ibid.*, 172–173.

theatre of another war, when the Duchy of Bremen was temporarily occupied by troops from Münster and Brunswick-Lüneburg-Celle.<sup>1539</sup> In the course of the Great Northern War (1700–1721), Denmark successfully occupied the Duchy of Bremen, which it ceded to the Elector of Hannover Georg August (who was also the King of Great Britain) in 1715.<sup>1540</sup> In 1775 Denmark ceded the County of Oldenburg to Schleswig-Holstein-Gottorp. In the time of the Napoleonic Wars, the Hanoverian possessions along the Lower Weser became a strategic bridgehead on the continent and were alternately occupied by Prussia and France.<sup>1541</sup> In order to enforce the Continental system against Britain, Napoleon annexed the territories on the coast of the North Sea in 1810 and created a *Département des Bouches de Weser*.<sup>1542</sup> The Congress of Vienna, however, restituted the former territorial entities. With the construction of the new seaport of Bremerhaven at the mouth of the river in 1827, Bremen remedied the sedimentation of the river. In the second half of the nineteenth century, Bremerhaven thus became a major hub for European emigration to America.<sup>1543</sup>

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<sup>1539</sup> See: *Ibid.*, 174.

<sup>1540</sup> See: *Ibid.*, 175.

<sup>1541</sup> See: *Ibid.*, 178.

<sup>1542</sup> See: *Ibid.*, 178–179.

<sup>1543</sup> See: *Ibid.*, 180–184.

## The Politics of Protection

In times of acute insecurity, physical safe-conduct remained the means of choice for protecting travellers throughout the Empire. The symbolic dimension of safe-conduct could remain important even then, but authorities' main concern was to secure the safe passage of their conductees. At the same time, measures of protection could be accompanied by aggressive political claims. Thus, safe-conduct could easily become a vehicle for territorial expansion and a means for advancing self-serving interests. The agents charged with protecting and policing passages on these thoroughfares played a pivotal role in these dynamics, which can only be understood by observing interactions at ground level. Their interactions with mobile populations reveal their 'power as channelling agents and deciders of "who gets to move"'.<sup>1544</sup>

These tensions were particularly pronounced in Bremen's efforts to secure the navigability of the Lower Weser. The river had been troubled by pirates and freebooters throughout the Middle Ages and the early modern period.<sup>1545</sup> With the beginning of the Dutch War of Independence in 1568, piracy on the North Sea increased significantly, as did the insecurity in the North-West of the Empire.<sup>1546</sup> Both the Spaniards and the Dutch required Bremen to supply ammunition, provisions and ships.<sup>1547</sup> The Lower Weser and the river Jade presented lucrative hunting grounds for privateers.<sup>1548</sup> In 1592 the pirate Tamme Leffers looted a flotilla of 22 ships.<sup>1549</sup> Comital subjects and officials colluded with the pirates.<sup>1550</sup> In June 1590 a group of pirates who had robbed subjects of Bremen found refuge with a confidant of the count near the city of Oldenburg. The comital officials refused Bremen's request to persecute the pirates because the city could not give the delinquents' names. In 1592 two freebooters

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<sup>1544</sup> Vigneswaran and Quirk, *Mobility Makes States*, 21.

<sup>1545</sup> See: Sello, *Seeschiffahrt*, 9–10.

<sup>1546</sup> For the wider effects of the war on the Holy Roman Empire, see: Israel, Jonathan, 'Der niederländisch-spanische Krieg und das Heilige Römische Reich Deutscher Nation (1568–1648)', in: Bussmann, Klaus, and Heinz Schilling, eds., *1648: Krieg und Frieden in Europa* (Münster: 1998), vol. 1, 111–122.

<sup>1547</sup> See: Gläbe, Friedrich, *Die Unterweser. Chronik eines Stromes und seiner Landschaft* (Bremen: 1963), 76.

<sup>1548</sup> The spillover of the violence into the North-West of the Empire posed a challenge for other conduct authorities, as well, as in the Duchy of Jülich. In 1597 and 1598, the ducal councillors repeatedly requested the States General to end the incursions into their conduct districts. They received a relatively honest answer: such an order would impair the provision of their troops, while their enemies would continue to maraud the region. The States General could only satisfy the request, if the Spanish renounced to pillaging the ducal conduct roads, as well. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 60–63.

<sup>1549</sup> See: Sello, *Seeschiffahrt*, 10.

<sup>1550</sup> Earlier in the century, Count Anthon I of Oldenburg and Delmenhorst (who reigned 1529 to 1573) had taken several measures to make navigation on the river safer. A deadly assault on two ships belonging to subjects of his in 1554 led him to equip four armed ships with which to chase the freebooters. Moreover, the comital sheriffs along the riverbanks were equipped with ships to secure the river. However, under the reign of his son John VII, who governed the county from 1573 until 1603, the security on the river deteriorated. See: Sello, *Seeschiffahrt*, 9–10; Rühning, *Seeraub*, 154, 160.

and sixty men brought three cartloads of stolen goods to the city of Oldenburg, where the booty was divided during a wine-laden feast.<sup>1551</sup> Accusations of collusion were similarly raised in March 1590, when soldiers at the service of the Spanish Crown committed a series of assaults on the rivers Jade and Hunte. The pirates had demanded the ferryman to transport them across the river, then hijacked his ferry and assaulted several ships, threatening and injuring the boatmen and looting their money, clothes and provisions. Ultimately, they took one mariner as a hostage and requested 120 Dutch Florins as ransom for releasing the man by noon. They also asked two mariners to report the events to the City Council of Bremen and to ask the council whether the City considered itself a ‘friend or a foe’<sup>1552</sup> to the Spanish. Foes, they threatened, would be thrown ‘over board or hanged’.<sup>1553</sup> If the City allowed them to use the river the same way as the States General, however, Bremen’s subjects could navigate it safely. The soldiers then returned to the ferryman’s house ‘with raised flags and a drum’.<sup>1554</sup> In their reports to the City of Bremen, the victims emphasised the suspected collusion between the freebooters and comital officials. Two assaulted merchants complained that the pirates had been hosted by the ferryman of Blexen (who was accused of having served looted hams).<sup>1555</sup> Moreover, both comital officials and commoners displayed open hostility to the mariners from Bremen. When two other mariners required horses to ride back to the City of Bremen, their request was refused ‘because they were from Bremen’.<sup>1556</sup> A comital sheriff had ‘scornfully and ignominiously laughed’<sup>1557</sup> at the hostage and another subject of Bremen was ordered to ‘leave His Grace’s land before sundown, or they would give him a bullet’.<sup>1558</sup> Indeed, some suggested that the freebooters were openly tolerated on Oldenburg’s territory.<sup>1559</sup>

Bremen, which had already arrested freebooters early in the sixteenth century, stepped up its presence on the river during the 1570s. Its warships hunted the freebooters into the Jade and the affluents of the river Weser, where the delinquents fled over land. The counts of Oldenburg, however, denounced and opposed such pursuits as encroachments on their territory. The difficult terrain and the constant

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<sup>1551</sup> See: Rütthing, *Seeraub*, 154, 157, 160.

<sup>1552</sup> ‘*freunde oder feinde*’, StA Bremen 2.R.10.b.2.b.3, Report of the robbed mariners Heinrich Rover, Michell Schildt and Heinrich Brockman, Mar 1590, fo. 2r.

<sup>1553</sup> ‘*uber border oder gehankt*’, Ibid.

<sup>1554</sup> ‘*mit auffgerichteten flaggen und mit einer Trummeln*’, Ibid., fo. 2v.

<sup>1555</sup> See: Report of Johan Kruse and Cordt Ridderhusen, Mar 1590, Sta Bremen, 2.R.10.b.2.b.3, fo. 1r.

<sup>1556</sup> ‘*wegen deßen daß sie Bremer werren*’, Report of Heinrich Brockman, Mar 1590, StA Bremen, 2.R.10.b.2.b.3, fo. 2r.

<sup>1557</sup> ‘*schimpferlich und honisch außgelachet*’, Ibid., fo. 2v.

<sup>1558</sup> ‘*Ihrer Gnaden landt bey Sonnenschein zu reumen, sonst Sie Ihme eine Kugell schencken wollen*’, Report of Johan Kruse and Cordt Ridderhusen, Mar 1590, 2.R.10.b.2.b.3, fo. 1r.

<sup>1559</sup> See: Report of the robbed mariners Heinrich Rover, Michell Schildt and Heinrich Brockman, Mar 1590, StA Bremen, 2.R.10.b.2.b.3, fo. 1r.

competition between the two polities favoured piracy in the region.<sup>1560</sup> As in other parts of the Holy Roman Empire, the territorial fragmentation considerably limited Bremen's efforts at policing the river and its surroundings. For criminals, who could easily abscond in neighbouring territories, the blurred territoriality and limited state capabilities constituted a strategic resource.<sup>1561</sup> To counter the attacks of freebooters, Bremen's convoy ships repeatedly escorted vessels to and from its ports during the sixteenth and seventeenth century. In 1587 Dutch warships attempted to prevent ships loaded with grain from entering the Weser and to deflect them to the Netherlands.<sup>1562</sup> Bremen armed eight convoy ships which escorted 'a considerable number'<sup>1563</sup> of ships from the mouth of the river to Bremen during that summer. An ordinance from 1593 informed the boatmen that the city's convoy ships would escort all vessels that requested this service.<sup>1564</sup> In an undated letter, presumably from the end of the sixteenth century, several mariners and merchants asked the city council to let one of its warships escort them on a journey to the Netherlands because they feared the pirates.<sup>1565</sup> Other convoys are reported in 1613, 1630, 1636 and 1671. These convoys, however, never went beyond the Netherlands or the river Elbe. During the sixteenth and most of the seventeenth century, the city's efforts chiefly concentrated on the Lower Weser.

The ships that Bremen maintained on the Lower Weser were highly adaptable agents, which Bremen hoped would help enforce its numerous claims over the river. The instructions that the city council handed to the captains of its warships reveal their many functions. While instructions of the late sixteenth and early seventeenth century were mostly concerned with the internal organisation and discipline aboard the ships, later instructions explicitly numbered the duties and functions that the

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<sup>1560</sup> Especially in the lands of Jever and Butjadingen. See Rütthing, *Seeräub*, 154, 160; Hagedorn, Bernhard, *Ostfrieslands Handel und Schifffahrt vom Ausgang des 16. Jahrhunderts bis zum Westfälischen Frieden (1580 – 1648)* (Berlin: 1912) 199; Schwarzwälder, *Bremen*, 268–269. The neighbouring County of East Frisia was equally debilitated by the freebooters.

<sup>1561</sup> See: Fritz, Gerhard, 'Strukturprobleme des Alten Reichs: Die öffentliche Sicherheit und das schwierige Verhältnis zwischen dem Herzogtum Württemberg und der Reichsstadt Schwäbisch Gmünd im 18. Jahrhundert', in: Fritz, Gerhard, ed., *Landesgeschichte und Geschichtsdidaktik: Festschrift Für Rainer Jooss* (Schwäbisch Gmünd: 2004), 29–51; Fritz, Gerhard, *Eine Rotte von allerhandt rauberischem Gesindt: öffentliche Sicherheit in Südwestdeutschland vom Ende des Dreissigjährigen Krieges bis zum Ende des Alten Reiches* (Ostfildern: 2004).

<sup>1562</sup> See: Instrument, 27 Feb 1588, 2.R.10.aa.4.

<sup>1563</sup> 'inn merkliche Summe', Notice about the convoy ships from 1593, 2.R.10.aa.4.

<sup>1564</sup> See: Ordinance of the Mayor and Council of the City of Bremen, 16 Jul 1593, StA Bremen 2.R.10.aa.13.a.1.

<sup>1565</sup> See: Mariners, merchants and consorts to Mayor and Council of the City of Bremen, n.d., StA Bremen 2.R.10.aa.13.a.1. Whether or not the City granted that request is not reported. In 1605, it denied a similar request by the Admiralty of Friesland, one of the five admiralties of the young Dutch Republic. The admiralty asked the City to have its convoy ship escort the ships on the entire length of the Lower Weser. (Admiralty of Friesland to Mayor and Council of the City of Bremen, 28 Aug 1605, StA Bremen 2.R.10.aa.13.a.1) The City of Bremen replied that it had no reports about current incidents and therefore did not deem a convoy necessary. (Mayor and Council of the City of Bremen to Admiralty of Friesland, 5 Sep 1605, StA Bremen 2.R.10.aa.13.a.1) At the same time, the City exhorted the Count of Oldenburg to put more effort into fighting delinquency on his territory. (Mayor and Council of the City of Bremen to Count Anton Günther of Oldenburg, 6 Sep 1605, StA Bremen 2.U.2.c.).

ships were to perform. The protection of those travelling on the river was one of the soldiers' foremost duties. All instructions issued between 1620 and 1647 charged the captains with ensuring the safe and unobstructed navigation of the river.<sup>1566</sup> Concretely, this entailed monitoring and patrolling the entire Lower Weser (from the City of Bremen to the 'salty sea'), checking and inspecting suspicious vessels, escorting endangered ships and persecuting freebooters and those hampering navigation on the river.<sup>1567</sup> For the enforcement of such measures, the city gave its captains *carte blanche*. They were authorised to use whatever means 'the circumstances and exigency will require',<sup>1568</sup> such as detaining delinquents and the capturing their vessels with armed force, and even destroying and sinking ships.<sup>1569</sup> Moreover, the warships were charged with ensuring the river's navigability. This meant, for instance, removing the stakes to which local fishermen fixed their nets. Since the stakes could seriously encumber the river's navigability, the warships were instructed to remove all newly erected stakes, especially those in the navigable channel.<sup>1570</sup> The city also instructed its ships to prevent other parties from checking and inspecting the ships navigating the river. This was aimed at officials of the Count of Oldenburg who attempted to enforce the comital toll after 1624.<sup>1571</sup>

Protecting trade and ensuring the navigability of the river, however, were not the warships' only purpose. They were also charged with preventing all actions 'to the prejudice, detriment and disadvantage'<sup>1572</sup> of Bremen and its subjects. The open wording is a good illustration of the malleability of Bremen's territorial claims over the river.<sup>1573</sup> In practice, this concerned all potential encroachments on the city's titles of dominion over the river. One of the most palpable encroachments was a vessel's refusal to strike its sails at the passage of the warships. This was not simply a technical question (striking the sails means to stop a sailing ship). By striking their sails, the ships 'attest their subjection'<sup>1574</sup> and

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<sup>1566</sup> See for instance: Instruction for Captain Wilhelm Hoyer, 6 Jan 1620, StA Bremen 2.R.10.aa.13.a.1, fo. 2r.

<sup>1567</sup> See, for instance, the following instructions in StA Bremen 2.R.10.aa.13.a.1: Instruction for Captain Wilhelm Hoyer, 6 Jan 1620; Instruction for Captain Alharrt Steffens, 10 Feb 1628; Instruction for Captain Meinart Meinerts, 13 Jun 1628; Instruction for Captain Alharrt Steffens, 20 Jun 1628; Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647.

<sup>1568</sup> '*was die gelegenheit und notturft erfürdern wirdt*', Instruction for Captain Wilhelm Hoyer, 6 Jan 1620, StA Bremen 2.R.10.aa.13.a.1, fo. 3r.

<sup>1569</sup> The term is '*in grundt zu hawven*'. See for instance: Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647, fo. 2v.

<sup>1570</sup> See for instance: Instruction for Captain Meinart Meinerts, 13 Jun 1628, StA Bremen 2.R.10.aa.13.a.1, § 5. Since this meant a serious and possibly ruinous interference with the livelihoods of riverine fishermen and in order not to provoke retaliations, the war captains were ordered to proceed 'modestly'. Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647, StA Bremen 2.R.10.aa.13.a.1, fo. 3r.

<sup>1571</sup> See for instance: Instruction for Captain Meinart Meinerts, 13 Jun 1628, StA Bremen 2.R.10.aa.13.a.1, § 4, and Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647, StA Bremen 2.R.10.aa.13.a.1, fo. 2r.

<sup>1572</sup> '*zum praeguditz, schaden und nachtheil*', Instruction for Captain Wilhelm Hoyer, 6 Jan 1620, StA Bremen 2.R.10.aa.13.a.1, fo. 2v-3r.

<sup>1573</sup> According to Robert David Sack, 'not listing what it is that is under control allows territoriality to hide what is being controlled' and constitutes its 'universal advantage' over other forms of power. Sack, *Human Territoriality*, 24, 27.

<sup>1574</sup> '*ihre unterwürffigkeit bezengen*', Instruction for Captain Meinart Meinerts, 13 Jun 1628, StA Bremen 2.R.10.aa.13.a.1, § 3.

marked ‘a sign of due respect’<sup>1575</sup> towards the rulers of the river. Indeed, the city regarded the obligation of other ships to strike their sails as a ‘sign of subjection’<sup>1576</sup> and as an important symbol of its superiority over the river.<sup>1577</sup> The legal deductions commissioned by the city in defence of its prerogatives put a similar emphasis on the dispute’s symbolic dimension.<sup>1578</sup> In the 1630s, such symbols of sovereignty gained importance because Bremen increasingly connected the problem of the toll with the question of territorial superiority over the river.<sup>1579</sup> Indeed, the very capacity of a political agent to bar movements on a road or river could be regarded as a token of territorial superiority. In the disputes between the City of Regensburg and the Dukes of Bavaria regarding dominion over the Danube, the city – which could block navigation on the river with metal chains – argued that ‘he who has the might to hinder the navigation on a public river can also ascribe the dominion over that river to himself’.<sup>1580</sup> In 1576 the city agreed to force only armed vessels to strike their sails. In practice, however, Bremen’s warships made civilian ships strike their sails as well. Many boatmen consequently refused to strike their sails at the behest of Bremen’s warships, prompting the city to issue a proclamation in 1613, reminding all ships to strike their sails when passing the warships and to answer their questions appropriately if they did not want the warships ‘to shoot at them’.<sup>1581</sup> This was not an empty threat. It was not infrequent that encounters between boatmen and Bremen’s warships ended in cannonfire. Testimonies of several boatmen who had refused to strike their sails when encountering Bremen’s warships provide insights into the dynamics of these encounters. In May 1618, a boatman shipping wood on account of the Count of Oldenburg encountered one of Bremen’s ships (the so-called *Tonnenbojer*) which was anchored between Elsfleth and Harrierbrake. When Bremen’s soldiers requested him to strike the sails of his ship, the boatman replied that he could not strike the sails because of ‘wind and water’.<sup>1582</sup> He explained that he was only carrying wood for the count and offered to have the ship inspected at a port. Although he asked the soldiers not to shoot, Bremen’s ship fired two shots

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<sup>1575</sup> ‘zum Zeichen schuldigen respects’, Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647, StA Bremen 2-R.10.aa.13.a.1, fo 1v.

<sup>1576</sup> Deduction of Bremen’s right to jurisdiction over the Weser, 1619, StA Bremen 2-R.10.a.5, fo. 78.

<sup>1577</sup> See: Ibid., fo. 50, 53, 56, 77–79.

<sup>1578</sup> Like Bremen, the City of Venice placed great symbolic (not just functional) value on its convoy ships in the Mediterranean. See: Judde de Larivière, *Économie maritime*, 48–49.

<sup>1579</sup> See: Richter, *Weserzoll*, 53. For Oldenburg, the question of territorial superiority became more important as Bremen was likely to confirm its status as a Free Imperial City (and thus an Imperial Estate). Oldenburg had always claimed that only an Imperial Estate could exercise the jurisdiction over the river. See: Ibid., 67.

<sup>1580</sup> Rieder, *Regensburg*, 212. To test the city’s determination to block unauthorised movements on the river, the Duke of Bavaria sent a barge with a small quantity of salt down the river through the city’s toll-station at the Stone Bridge. The barge managed to pass even though the tollkeepers shouted at the crew to halt. See: Ibid., 211–212.

<sup>1581</sup> ‘in se tho Scheten’, Transcription of a Proclamation requesting all ships not to pass the warships without striking the sails, 1613, StA Bremen 2-R.10.aa.13.a.1.

<sup>1582</sup> ‘Wasser und windl’, Appendix to letter of Chancellor and Councillors of Count Anton Günter of Oldenburg to Mayor and Council of the City of Bremen, 9 Jun 1618, StA Bremen 2-U.2.c.

through his sail ‘as if he was an enemy’.<sup>1583</sup> Later, the chancellor and the councillors of the County of Oldenburg formally complained about the incident to the City Council of Bremen and asked that the involved soldiers be reprimanded and the levied tolls restituted. The violent conduct of subordinate officials and the soldiers operating the warships was no isolated case. On the river Elbe, where Hamburg and the Dukes of Brunswick-Lüneburg fought a comparable fight, similar conflicts arose. The Dukes of Brunswick-Lüneburg complained to Hamburg about the warships, which frightened the boatmen to the point that they refused to enter the Süderelbe.<sup>1584</sup>

In May 1613, two boatmen who also experienced a violent encounter with one of Bremen’s warships, gave revealing accounts of the confrontation.<sup>1585</sup> The two men had sailed along the river, each with one ship transporting construction material for the dykes on the count’s territory. When the first vessel passed Bremen’s warship, the boatman bared his head and wished the soldiers ‘a good morning’.<sup>1586</sup> The captain of the warship, however, had his soldiers fire three musket shots at his sails without warning. When the boatmen asked for an explanation, the captain shouted that he should have struck his sails in the presence of Bremen’s warship. At this, the boatman replied that he knew Bremen’s ship well, but that, ‘thank God, he was not aware of any war’.<sup>1587</sup> When the captain learned that the boatman was from Oldenburg, he let him leave. The second boatman found the captain in a less affable mood. When he passed Bremen’s warship, the soldiers fired several musket shots at his ship and forced him to sail towards them. The soldiers then required him to come aboard the warship. At his sight, the captain of the warship defiantly asked, ‘Is this the wilful knave who refused to halt?’<sup>1588</sup> to which the boatman replied that ‘he was no knave’<sup>1589</sup> and that the river belonged to the Count of Oldenburg. When the captain asked him to pay the buoy toll, the boatmen retorted that, as a subject of the Count of Oldenburg, he was exempt. When the captain then demanded an indemnity of half a Reichsthaler for every shot fired at him, the boatman laughed and asked whether he was serious. The captain then threatened, ‘Do you hold the shot in such low regard [?] If you received it on your skin [...] you would perhaps speak differently’.<sup>1590</sup> Yet, the captain’s attitude changed entirely when the boatman showed him his pass, which was issued by the Count of Oldenburg. The captain excused himself, said that he

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<sup>1583</sup> ‘*alß wan er Feind gewesen*’, Ibid.

<sup>1584</sup> See: Baasch, *Elbe*, 27.

<sup>1585</sup> See: Notarial instrument of Johannes Conters, 20 May 1613, StA Bremen 2-U.13.c.1.b.1.

<sup>1586</sup> ‘*einen guten morgen*’, Ibid.

<sup>1587</sup> ‘*er wueste aber Gotlob von keinem Orloch*’, Ibid.

<sup>1588</sup> ‘*ist das der mutenwillige Bube, der nicht barren wolte*’, Ibid.

<sup>1589</sup> ‘*er wehre kein Bube*’, Ibid.

<sup>1590</sup> ‘*achtestu den schoss so geringe, wan du solchen auf die haut bekommen, wuerdestu tu [...] viel anders sagen*’, Ibid.

had thought the boatman was from Frisia and let him go with ‘nice words’.<sup>1591</sup> Like the ‘beer money’<sup>1592</sup> that Bremen’s soldiers had requested on earlier occasions, asking boatmen to ‘reimburse’ the shots fired at their ships resembles the terminology with which early modern officials and travellers referred to bribes.<sup>1593</sup> The exaction of ‘beer money’, ‘voluntary presents’ and ‘reimbursements’ was not uncommon. In the small Principality of Isenburg-Birstein, several local officials were fined for exacting bribes (‘tips’)<sup>1594</sup> from Jewish cattle-dealers in the 1750s. Some safe-conduct ordinances even formally sanctioned officials’ reception of ‘voluntary presents’ from travellers.<sup>1595</sup>

In some cases, escorts posed a veritable threat to their own conductees. In 1480 the Doge of Venice claimed damages from the Duke of Jülich because an Italian traveller had been robbed by the very ducal escorts charged with protecting him.<sup>1596</sup> In 1635 escorts of the Duke of Jülich took twenty-five new pistols from the gunsmiths of Aachen whom they were escorting, even though the gunsmiths possessed an imperial letter of safe-conduct.<sup>1597</sup> On another occasion, the escorts ran away and abandoned the merchants they were escorting to the highwaymen.<sup>1598</sup> While they should not be absolutised, such cases challenge the ‘myths of rationality’<sup>1599</sup> that underpin traditional conceptions of state-building and naïve views of the protective functions of lordship. A group of merchants from the city of Künzelsau who were travelling to the Frankfurt trade fair in the autumn of 1581, had a similarly ambiguous experience.<sup>1600</sup> In the borderlands between the Electorate of Mainz (district of Ballenberg) and the Electoral Palatine exclave Boxberg, the mounted merchants were stopped by two Palatine conduct officials with rifles, who prompted them to pay safe-conduct dues with ‘fierce violence’.<sup>1601</sup> The merchants retorted that they were on the territory of the Elector of Mainz and that they had ‘never been conducted by the Palatinate’<sup>1602</sup> before. Therefore, they hoped to be allowed ‘to ride on their way unviolated’.<sup>1603</sup> According to what the Mainzians asserted at the Imperial Chamber Court,

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<sup>1591</sup> ‘gute wort’, Ibid.

<sup>1592</sup> ‘Biergeld’, Count Johann VII of Oldenburg and Delmenhorst to Landgrave Wilhelm IV of Hesse-Kassel, 12 Jan 1591, StA Bremen, 2–U.1.b.6, fo. 180.

<sup>1593</sup> ‘Gifts’ being another common term. See: Gorissen, *Korruption*, 327–328.

<sup>1594</sup> ‘Trinkgeld’, Ackermann, *Jüdische Viehhändler*, 63.

<sup>1595</sup> See: Nöth, *Gleußen*, 91–92.

<sup>1596</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 59, 103.

<sup>1597</sup> See: Ibid., 66–67.

<sup>1598</sup> See: Ibid., 113–114.

<sup>1599</sup> Stollberg-Rilinger, *Alte Kleider*, 16.

<sup>1600</sup> I discussed this episode in an earlier publication: Luca Scholz, ‘Frei und sicher? Geleitschutz und Bewegungshoheit im Alten Reich am Ende des 16. Jahrhunderts’, in Christian Windler, Nadir Weber, Tilman Haug, eds., *Protegierte und Protektoren. Asymmetrische politische Beziehungen zwischen Partnerschaft und Dominanz (16. bis frühes 20. Jahrhundert)* (forthcoming in 2016).

<sup>1601</sup> ‘heftigem gewalt’, Imperial writ of summons for the Elector Palatine, fo. 3a, GLA Karlsruhe, 71/1893.

<sup>1602</sup> ‘von Pfalz wegen niemals vorgleitet worden’, Ibid.

<sup>1603</sup> ‘unvergewaltiget ihres wegs reitten’, Ibid.

the conduct officials charged their rifles, threw one of the merchants Hans Großheuser to the ground and attempted to wrest his and his fellows' wallets. The merchants, however, managed to call several Mainzian officials to their aid. These authorities arrested the Palatine conduct officials, brought them to Ballenberg and released them only when the men promised to defend themselves before a Mainzian court. Unfortunately, the Palatine officials only appeared at their first court date and never returned.<sup>1604</sup> The episode would thus have ended relatively smoothly, had Hans Großheuser not met the same conduct official again a few years later in 1584. This time, the merchant was less fortunate. The conduct official immediately recognised him and Großheuser was 'violently assaulted [...], brought to Boxberg as a prisoner [...], where he is since kept in the roughness of prison to the ruin of himself, his poor wife and seven small children'.<sup>1605</sup>

The Electoral Palatinate presented the case in a different light. At the Imperial Chamber Court, their barrister argued that the merchants had 'attempted to weasel through westwards without any safe-conduct'.<sup>1606</sup> They had no excuse, since they came from the Holy Roman Empire and were 'not ignorant of the safe-conduct usages'.<sup>1607</sup> Moreover, Hans Großheuser – whom the conduct officials identified as the 'ringleader'<sup>1608</sup> – had been uncooperative and, worse still, the merchants had connived to shoot the Palatine officials.<sup>1609</sup> When the officials interrogated Großheuser, he had insulted them and even called them 'thieves and bandits'<sup>1610</sup> when they were arrested in Mainz.<sup>1611</sup> What is more, Großheuser had hit one of the captive Palatine officials 'with a wooden stick on the head, [and] thereby injured him on his check and shoulders that he fell from the horse'.<sup>1612</sup>

On the Lower Weser, the ferry which crossed the river at the height of Blexen was repeatedly forced to strike its sails when passing Bremen's warships. In 1613 one warship forcibly requested the ferry to strike its sails and be inspected every time it sailed the river.<sup>1613</sup> During one such inspection, Bremen's soldiers discovered a deserted soldier and proceeded to bind the man's hands and feet and bring him

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<sup>1604</sup> Ibid., fo. 3b.

<sup>1605</sup> *'mit gewaltiger That [...] angesprengt, gefenklich geben Boxberg gebracht [...] daselbst er auch seither zu seiner, seines armen Weibs und sieben klainen Kindern verderbenn, in carceris auffgehaltenn'*, Ibid., fo. 4a.

<sup>1606</sup> *'ohn einig geleydt gegen abendt durchschleichen wollen'*, Christoph Heyffner, *Articulatae exceptiones*, 16 Feb 1585, fo. 2r, GLA Karlsruhe, 71/1893.

<sup>1607</sup> *'der geleydtsbrauch nicht obmwissende'*, Ibid.

<sup>1608</sup> *'Redlensführer'*, Ibid, fo. 2v.

<sup>1609</sup> Ibid., fo. 3r-3v.

<sup>1610</sup> *'Dieb und Strassenräuber'*, Ibid., fo. 3r.

<sup>1611</sup> This was not the first time that safe-conduct officials in the region had been mistaken for bandits. In the second half of the sixteenth century, a merchant took two Mainzian conduct officials for bandits, threw the saddlebag with his money into the hedges and rode away. The officials, however, identified themselves as escorts and the merchant retrieved his money. See: Brück, *Alt-Mainzer Geleitsrechte*, 34.

<sup>1612</sup> *'mitt einem holzschlegell abn kopff geworffen, dardurch an Backben unndt Schultern also verwundt, daß er vom Pferdt gesunkben'*, Christoph Heyffner, *Articulatae exceptiones*, 16 Feb 1585, GLA Karlsruhe, 71/1893, fo. 3r.

<sup>1613</sup> See: Notarial request by Johan von Affeln, 16 Sep 1613, StA Bremen 2-R.10.a.6.

aboard their warship. The Council of Bremen later explained that the arrested soldier was a deserter from the Dutch Republic.<sup>1614</sup> By transporting soldiers, the ferryman had drawn the warship's suspicion and, Bremen argued, it was therefore his fault if he had aroused the anger of Bremen's warship. Oldenburg later complained that Bremen's soldiers had clubbed the ferryman 'in barbaric, unchristian fashion'<sup>1615</sup> and threatened to throw him overboard and 'to transfer [him] from life to death'<sup>1616</sup> if he would not strike the sails at their call. The ferryman was in a precarious position because the comital officials had prohibited him ('under the heaviest penalty of prison')<sup>1617</sup> from obeying and docking alongside Bremen's warships, while Bremen insisted on him striking his sails. To avoid the desertion of Dutch soldiers, the comital official suggested that the local parson could examine the passports of all departing soldiers. Bremen however, insisted on its right to make the ships on the river strike their sails as a symbol of its jurisdiction.

The warships were charged with securing the interests of the city's subjects along the river. In 1647 the ships were instructed to give the fishermen a 'helping hand'<sup>1618</sup> in defending their right to fish wherever the fishermen from the County of Oldenburg hindered them. At the same time the ships were instructed to prevent fishermen from Oldenburg from fishing beyond the stretches of the river that touched their own county. Whenever they encountered fishermen in those areas, they were authorised to seize their equipment. In 1640 the captain of one of Bremen's warships threatened that none of Oldenburg's fishing stakes should be left in the river.<sup>1619</sup> The ships were also ordered to defend the sandbanks to which the City laid claim. If unauthorised persons trespassed on these sandbanks, the captain was to seize their vessel.<sup>1620</sup> Moreover, Bremen charged its warships with defending the subjects of the Prince-Bishopric of Bremen against the 'incursions'<sup>1621</sup> of comital subjects, who traversed the river to destroy their fishing equipment, thereby violating the city's claimed jurisdiction

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<sup>1614</sup> See: Instruction of the Council of the City of Bremen for the notary sent to Johan von Affeln, n.d., StA Bremen 2-R.10.a.6, fo. 2r-2v; Mayor and Council of the City of Bremen to Count Anton Günter of Oldenburg, Nov 1613, StA Bremen 2-R.10.a.6, fo.6v. The States General of the Netherlands had requested the city to check the passports of all soldiers who wanted to cross the river. Bremen rejected the complaint flatly, claiming that its ships were perfectly authorised to check 'suspicious vessels' and make them strike their sails.

<sup>1615</sup> '*barbarischer unchristlicher weise*', Count Anton Günter of Oldenburg to Mayor and Council of the City of Bremen, 27 Oct 1613, StA Bremen 2-U.13.c.1.b.1.

<sup>1616</sup> '*vom leben zum todte zubringen*', Ibid.

<sup>1617</sup> '*bey schwerster gefangnuß*', Instruction of the Council of the City of Bremen for the notary sent to Johan von Affeln, n.d., StA Bremen 2-R.10.a.6, fo. 3r.

<sup>1618</sup> '*hülfliche hand*', Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647, StA Bremen 2.R.10.aa.13.a.1, fo. 3v.

<sup>1619</sup> See: Richter, *Weserzoll*, 59.

<sup>1620</sup> See: Instruction for Captain Hinrich Gripenkerll, 10 Mar 1647, StA Bremen 2.R.10.aa.13.a.1, fo 3r-4v.

<sup>1621</sup> '*einfall*', Instruction for Captain Alhartt Steffens, 20 Jun 1628, StA Bremen 2.R.10.aa.13.a.1, fo. 2r.

over the river. In 1628 the city council instructed the captains of the warships to check and inspect all departing ships for covertly transporting soldiers.<sup>1622</sup>

The perhaps most controversial of Bremen's activities on the Lower Weser was the levy of tolls from the vessels that navigated the river. The aldermen of the city's merchant corporation had been entitled to collect a toll for the placement of navigation marks (buoys and beacons) as early as 1426. From every vessel that travelled past the navigation marks, a toll was levied on the vessel itself and on its load. This applied to ships that did not reach the City of Bremen as well. Duties and tolls had been a point of contention between the City of Bremen and the County of Oldenburg in the forefront of the treaty of 1576.<sup>1623</sup> The treaty had exempted Oldenburg's subjects from paying Bremen's excise tax.<sup>1624</sup> Bremen was similarly exempt from all tolls in the County of Oldenburg. The point proved to be crucial in the following years, when the city used this article to argue against Oldenburg's plan for a toll on the river.<sup>1625</sup> The treaty obliged the city not to introduce excise and tolls on the goods traded by comital subjects.<sup>1626</sup>

In 1585 the city began to levy another toll, in order to finance its warships on the river. The contested toll was mostly referred to as *Reutergeld*, 'horseman duty', but it was also known as 'convoy duty' or 'conduct duty'.<sup>1627</sup> Two of Bremen's warships, positioned at the mouth of the river off Blexen, requested a receipt from every vessel proving that the conduct toll had been paid at Bremen.<sup>1628</sup> The new toll was despised by many boatmen as it forced every vessel that wanted to leave the Lower Weser

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<sup>1622</sup> See: Mayor and Council of the City of Bremen to Captains Alharrt Steffens and Edo von Blexum, 10 May 1628, StA Bremen 2.R.10.aa.13.a.1.

<sup>1623</sup> See: Treaty between Count Anton I of Oldenburg and Delmenhorst and Mayor and Council of the City of Bremen, 16 Jul 1576, StA Bremen 2.R.10.a.3, art. 5, 10, 20. See, moreover, Richter, *Weserzoll*, 5–6. While duties were an important element in the negotiations, the matter was not yet as salient in 1576 as it would be in later years.

<sup>1624</sup> For the produce that they brought into the city as well as for all goods they brought out of the city for their own consumption (except for grain).

<sup>1625</sup> See: *Ibid.*, 6.

<sup>1626</sup> The only exception to the treatise's push for free trade were prohibitions of grain trade which both the Count and the City were left free to impose when necessary.

<sup>1627</sup> The name *Reutergeld* originated from the money given to the horsemen charged with collecting wrecked goods on seashores and riverbanks. See: Adlung, Johann Christoph, *Grammatisch-kritisches Wörterbuch der Hochdeutschen Mundart*, vol. 3 (Leipzig: 1798), 1076. It is unclear when this conduct toll had first been levied. An undated, anonymous manuscript in the Bremen State Archive dates it back to the second half of the fifteenth century. See: StA Bremen, 2.R.10.aa.3. A mayor and a high official of the city confirmed by oath that the conduct toll had been levied as early as the late 1530s, when navigation on the Lower Weser was threatened by the East Frisian nobleman Balthasar von Esens (The men had learned this from their fathers). See: Instrument with the testimonies of several older burghers about the buoy and beacon duty, 27 Mar 1588, StA Bremen, 2.U.13.c.1.a. An extract from the toll register shows that a conduct toll had been levied in the spring of 1574. See: Notarial instrument and extract from the *Reuterbuch*, 2 Mar 1588, StA Bremen, 2.R.10.aa.4. The same date is suggested by Sello, *Seeschiffahrt*, 11. However, it was not until 1585 that it became the object of the boatmen's and neighbouring polities' massive opposition.

<sup>1628</sup> See: Rütthing, *Seeraub*, 156.

for the sea to pass by Bremen first, pay the toll and receive a ticket.<sup>1629</sup> Many vessels – for instance those leaving Oldenburg for the sea – were thus forced to make a long detour to Bremen if they wanted to avoid any incident with the warships. In 1585 four boatmen complained about this practice to the Count of Oldenburg.<sup>1630</sup> When they had entered the Lower Weser from the sea, their vessels (on which they were shipping barley to the city of Oldenburg) had been stopped and inspected by Bremen’s soldiers. Bremen’s captain then ordered them to travel to Bremen and pay not only the conduct toll, buoy and beacon toll, but also Bremen’s excise tax. If they wanted to leave the river on their return, they could only pass if they presented a written confirmation from the hand of the toll keepers in Bremen. Otherwise, they would be chased up the river again (‘with violence’)<sup>1631</sup>. This was not an empty threat.<sup>1632</sup> Another boatman testified that he had seen Bremen’s soldiers violently pushing five ships towards Bremen to pay the duties.<sup>1633</sup> A boatman from Emden, who complained about the request, was struck to the ground by Bremen’s captain with a blow to the neck. Coerced detours were not uncommon in the fractal regimes of movement of the Old Reich and some officials were acutely aware of the problem. In 1754 an official of the County of Erbach argued that safe-conduct signs (travel authorisations) for Jews should be sold in multiple places.<sup>1634</sup> Otherwise, he warned, Jews would lose ‘three, four and more hours’<sup>1635</sup> just to get their travel authorisations before they could set out.<sup>1636</sup> In practice, he estimated, this would encourage people to travel without these documents.

On the Weser, opposition against Bremen’s new conduct tolls rose quickly, as several boatmen complained about the new duties to their authorities, who then protested to the Council of Bremen. The city of Emden – which retaliated by levying convoy duties on all imported and exported goods from Bremen<sup>1637</sup> – complained in 1585 that the new ‘horseman toll’<sup>1638</sup> was without precedent and obstructed commerce on the river, thus violating the Empire’s constitution. The Council of Bremen

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<sup>1629</sup> See: Deggim, Christina, ‘Aufgeblasen und abgebrannt. Seetonnen und Baken in Quellen der Bremer Handelskammer’ *Bremisches Jahrbuch* 79 (2000), 73–115, 78–80.

<sup>1630</sup> See: Copy of a notarial instrument with the testimonies of several subjects from Oldenburg and Havel, 16 Aug 1588, StA Bremen 2.U.1.b.5, fo. 2r-2v.

<sup>1631</sup> ‘mit gewalt’, Ibid., fo. 2v.

<sup>1632</sup> On the river Elbe, where the City of Hamburg enforced a similar toll, the forced levy by an armed vessel provoked strong opposition, as well. See: Baasch, *Elbe*, 27.

<sup>1633</sup> See: Copy of a notarial instrument with the testimonies of several subjects from Oldenburg and Havel, 16 Aug 1588, StA Bremen 2.U.1.b.5, fo. 6v.

<sup>1634</sup> See: Becher, *Grafschaft Erbach*, 83.

<sup>1635</sup> ‘drey, vier und mehr Stunden’, Ibid.

<sup>1636</sup> A similar problem arose in the Electoral Palatine district of Alzey, where Jews could only acquire safe-conduct tickets in the district capital, but were sometimes arrested and fined before they could even reach the city. See: Fendler, *Geleitwesen am mittleren Oberrhein*, 87–88.

<sup>1637</sup> See: Hagedorn, *Ostfrieslands Handel*, 218.

<sup>1638</sup> ‘neuren Reuterzollens’, Council and Mayor of the City of Emden to Mayor and Council of the City of Bremen, 27 Sep 1585, StA Bremen 2.R.10.aa.4.

reacted with incredulity and rejected the ‘odious’<sup>1639</sup> designation of the duty as a toll: it was neither a toll nor a customs duty, but rather a temporary conduct duty levied only as long as the navigability of the Lower Weser was endangered.<sup>1640</sup> Bremen argued that insecurity had increased so significantly since the Dutch War of Independence that the city was forced to place its warships on the river ‘for the benefit of the trading merchants’.<sup>1641</sup> Since it incurred considerable costs for soldiers and ammunition, it required the toll as a contribution towards defraying these costs. Instead of complaining, the Council concluded, the merchants should thank Bremen for its protection. The Duke of Saxe-Lauenburg received a similar reply in 1589, when he referred to the council a complaint of a subject who had forced to pay the toll by Bremen’s warships.<sup>1642</sup> Bremen replied that its ‘safe-conduct or protection toll’<sup>1643</sup> benefited all merchants travelling the river Weser. They could not expect the city to shoulder the expenses alone and thus everyone who benefited from the protection of the river was to contribute. If the city could no longer protect the river from piracy, Bremen threatened, there would be dire consequences.

Indeed, safe-conduct was generally conceived as reciprocal in nature. In return for the duties paid by a conductee, a conductor was obliged to vouch for the traveller’s safety and to maintain the road and river infrastructure within his dominion.<sup>1644</sup> In 1666 Veit Ludwig von Seckendorff, a pioneer of cameralist thought, defined safe-conduct as:

all that which the high territorial authority must order and provide for the safe and convenient conduct, assistance and preservation of those travelling in the land, especially the merchants, be it through the protection of the roads from robbery and assault, or through the maintenance of the roads themselves<sup>1645</sup>

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<sup>1639</sup> ‘verhaßten’, Extract from letter of Council and Mayor of the City of Bremen to Council and Mayor of the City of Emden, Oct 1585, StA Bremen 2.R.10.aa.4.

<sup>1640</sup> To justify new dues as conduct tolls was not uncommon. In their struggle with the City of Hamburg over the control of the river Elbe, the Dukes of Brunswick-Lüneburg introduced a new conduct toll, as well, against which Hamburg protested. See Baasch, *Elbe*, 19, 21.

<sup>1641</sup> ‘hantierenden Kaufmann zu guten’, Extract from letter of Council and Mayor of the City of Bremen to Council and Mayor of the City of Emden, Oct 1585, StA Bremen 2.R.10.aa.4.

<sup>1642</sup> See: Mayor and Council of the City of Bremen to Franz II, Duke of Saxe-Lauenburg, 11 Nov 1589, StA Bremen, 2.R.10.aa.4

<sup>1643</sup> ‘geleidt oder Sicherungsgeld’, *Ibid.*, fo. 1r.

<sup>1644</sup> See, for instance, the provisions made in the Imperial Recesses of 1548, 1555 and 1559. Brück, Anton ‘Alt-Mainzer Geleitsrechte im heutigen Rheinhessen’ *Mitteilungsblatt zur rheinhessischen Landeskunde* 2 (1953): 31–36, 32.

<sup>1645</sup> ‘Alles das, was die hohe Lands-Obrigkeit zu sicherer und bequemer Geleitung, forthehlung, und Erhaltung der im Lande reissenden, sonderlich aber der Handelsleute verordnen und schaffen muß, es geschehe nun mit beschützung der Strassen vor Rauberey unnd Plackerey, oder mit Erhaltung der Strassen selbst’, Seckendorff, Veit Ludwig von, *Teutscher Fürsten Stat* (Frankfurt am Main: 1666), 191. On Seckendorff, see: Stolleis, *Geschichte des öffentlichen Rechts*, 352–354.

The protective function of safe-conduct became most tangible when travellers were escorted physically. A highly institutionalised form of physical safe-conduct were the convoys directed to the major trade fairs (*Messegeleit*), whose safe-conduct was prepared with considerable effort, both from the side of territorial rulers and merchant cities.<sup>1646</sup> In times of insecurity, escorts were an important precaution against assaults.<sup>1647</sup> In the Electoral Palatinate – where the symbolic function of conduct had always been crucial – physical safe-conduct was regarded as an efficient means of protection up until the 1780s, when robbers began to repeatedly attack merchants.<sup>1648</sup> Several weeks before the semi-annual trade fairs in Frankfurt, the Imperial City of Nuremberg sent messengers to every territorial ruler whose territory its goods and merchants traversed on the way to the fair.<sup>1649</sup> The messengers received a formal promise of safe-conduct.<sup>1650</sup> Upon their return, the council determined the dates for the journey to Frankfurt and sent a letter to every territorial ruler to inform them of the day of the convoy's arrival on his territory. There were two convoys, one for the carters carrying the goods and one for the merchants. On the day of the carters' departure, a messenger preceded the convoy to let the authorities of each territory know the number of participants. Students, craftsmen, soldiers, women and scholars sometimes joined the convoy, which offered a 'cheap and safe opportunity to travel'.<sup>1651</sup> The convoy leader sought to prevent the carters from overloading their carts, as a single broken cart could delay the entire caravan. He was further charged with denouncing suspicious activities to the local authorities and with protesting against excessive transit duties. While the city paid for the convoy's preparation, the carters were made to pay for the tolls, the princely officials and the escorts. The merchants, travelling on horseback or in carriages (and therefore faster than their goods), left Nuremberg several days later and joined the carters at Würzburg from where they proceeded together. The escorts of each territory were formally responsible for the merchants' guidance and

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<sup>1646</sup> See, for instance: Plechatsch, *Glait*, 89–93.

<sup>1647</sup> When the violence from the Eighty Years' War spilled over into the North-West of the Empire, for instance, escorts became an increasingly important safeguard against robberies. Thus, an attack of 150 horsemen from the States General on a merchant convoy at Freialdenhoven in 1596 could be fended off by the escorts of the Duke of Jülich. See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 61, 110–111. See, moreover; Heuse, *Geleit*, 84; Freitag, *Ulm*, 126. Of course, escorts were not always sufficient a safeguard against attacks. In 1637, for instance, a caravan of merchants from Nuremberg and Augsburg was robbed on its return from the Leipzig trade fair while escorted through the Duchy of Saxe-Coburg. See: Ernstberger, Anton, 'Plünderung des Leipziger Messegeleits Nürnberger und Augsburger Kaufleute am 26. Januar 1638 bei Neustadt a.d. Heid.' *Jahrbuch für fränkische Landesforschung* 22 (1962): 101–20. See, moreover: Trostel, *Geleitwesen im Geislinger Raum*, 116–117.

<sup>1648</sup> See: Fendler, *Geleitstraßen*, 720.

<sup>1649</sup> The following paragraph is based on the detailed reconstruction of Nuremberg's safe-conduct convoys to the Frankfurt trade fairs by Otto Ruppertsberg. See: Ruppertsberg, *Nürnberg - Frankfurter Geleit*, 11–32. For the routes used to travel to the trade fairs at Frankfurt, see: Lerner, *Haupthandelswege*.

<sup>1650</sup> In the Electorate of Mainz, he had to submit the letter to the sheriffs of the concerned districts. See: Ruppertsberg, *Nürnberg - Frankfurter Geleit*, 17.

<sup>1651</sup> *Ibid.*, 23.

safety until they handed them over to the escorts of the next territory. Throughout the journey, the conductees had to distribute a variety of tolls and gifts to local officials, noblemen and dignitaries.<sup>1652</sup> At Miltenberg, the goods were loaded onto ships on the river Main and the two convoys travelled separately. The return journey was similarly organised. The territorial rulers whose dominions these convoys traversed sustained considerable efforts and expenses.<sup>1653</sup> In the Prince-Bishopric of Würzburg, local officials had to prepare the logistics of the convoy (lodging, stabling and provisions).<sup>1654</sup> The bailiffs and their armed officials were called to Würzburg and other stations, where they had to either escort the convoy or perform policing duties. At times, entire garrisons were transferred because of the convoys. Occasionally, the merchants brought their own escorts in order to be safer. In 1513, for instance, Nuremberg assigned 460 foot soldiers and 120 mounted troops to its convoy to Frankfurt.<sup>1655</sup> On the way back, the convoy was escorted by 800 foot soldiers and 27 mounted troops.<sup>1656</sup>

The revenues collected by territorial rulers on these occasions were mostly used for the protection of travellers. During the Frankfurt trade fairs of the sixteenth century, the safe-conduct revenues of the archbishop of Würzburg thus hardly recouped the expenses for patrols and the remuneration of soldiers, stationed at strategic points such as bridges. The costs were so high that the prince-bishops were forced to raise the rates and limit the measures of protection to only few days before and after the fairs.<sup>1657</sup> Similar measures were taken in late sixteenth-century Württemberg, where the costly physical escorting of merchants constituted great losses for the dukes in some districts.<sup>1658</sup> In addition, the merchants and carters escorted through Württemberg were made to pay victuals and a salary to their escorts, on top of the regular safe-conduct and customs duties.<sup>1659</sup> In the Palatinate, expenses for the safe-conduct of merchants on certain routes rose exorbitantly in the late seventeenth and early eighteenth century.<sup>1660</sup> The Free Imperial City of Ulm could not cover the expenses for its safe-conduct convoys through safe-conduct revenues, either.<sup>1661</sup> The fact that the physical escorting of merchants and carters was so costly was the principal reasons for which safe-conduct was rationalised and its

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<sup>1652</sup> For the peculiar traditions that accompanied the safe-conduct convoys to Frankfurt, see: Spahn, Marcellin, 'Das Seligenstädter Geleit' *Seligenstädter Geleit* 11 (1984): 23–25; Kappen, Peter, 'Seligenstädter Löffel und sein Brauchtum' *Seligenstädter Geleit* 12 (1989): 19–21.

<sup>1653</sup> See, for instance: Freitag, *Ulm*, 106–126.

<sup>1654</sup> See: Weig, *Ius conducendi*, 179–194.

<sup>1655</sup> See: Weiss, *Geleitstraßen*, 234.

<sup>1656</sup> The city's expenses for these measures amounted to 3227 florins.

<sup>1657</sup> See: Weig, *Ius conducendi*, 180–94.

<sup>1658</sup> See: Wilhelm, *Zollgeleit*, 77–78, 126–127.

<sup>1659</sup> See: *Ibid.*, 69, 73.

<sup>1660</sup> See: Fendler, *Geleitstraßen*, 718.

<sup>1661</sup> See: Freitag, *Ulm*, 130.

exercise limited to brief time periods before and after the fairs.<sup>1662</sup> Moreover, when the roads were safe to travel without escorts, merchants and carters often preferred to travel independently and separate from the inflexible safe-conduct convoys.<sup>1663</sup>

Safe-conduct regimes where officials did not escort the travellers physically, but instead patrolled the roads at regular intervals were much more cost-effective. In such systems, travellers did not experience safe-conduct as a physical escort, but as an obligation to pay conduct tolls on their goods, horses, carts and sometimes for themselves in exchange for protection. While conduct officials continued to escort merchants and carters up until the end of the eighteenth century if it was necessary or required, they were mostly charged with enforcing the levy of conduct tolls and with patrolling the roads in order to arrest vagrants and robbers, and to identify potential toll-dodgers.<sup>1664</sup> Even during the great trade fairs at Frankfurt and Leipzig, as well as other regional fairs, travellers were not always physically escorted.<sup>1665</sup> In certain territories, safe-conduct developed into a permanent institution, ministered by full- or part-time conduct officials who were charged with collecting compulsory conduct tolls that were hardly distinguishable from customs duties. This was the case, for instance, in Electoral Saxony,<sup>1666</sup> in the Ernestine Duchies of Thuringia,<sup>1667</sup> in the Prince-Bishopric of Würzburg,<sup>1668</sup> in the Margraviate of Brandenburg-Ansbach<sup>1669</sup> and in the Duchy of Württemberg.<sup>1670</sup>

For want of specialised studies and the complex nature of the source material, assessing the profitability of these ‘stationary’ forms of safe-conduct is difficult. A comparative survey of the existing literature indicates, however, that the generated revenues commonly exceeded the expenses. In Electoral Saxony, the conduct stations along the river Elbe were an extremely profitable source for the exchequer. The revenues increased throughout the sixteenth century, diminished during the Thirty Years’ War (although a doubling of the rates produced some relief) and flourished in the later seventeenth and eighteenth centuries.<sup>1671</sup> In the Electoral Palatinate, safe-conduct generated

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<sup>1662</sup> See moreover: Schöpfer Pfaffen, *Verkehrspolitik*, 96; Bach, *Gunzenhäuser Geleit*, 4–5; Trostel, *Geleitwesen im Geislinger Raum*, 117.

<sup>1663</sup> See: Freitag, *Ulm*, 120–121.

<sup>1664</sup> See, for instance, the duties of Palatinate-Neuburg’s safe-conduct official in Regensburg: Rieder, *Regensburg*, 150–160. In dangerous areas – such as the forests of Thuringia or the Westerwald – stagecoaches were escorted by armed soldiers and officials well into the nineteenth century. See Hessler, *Durchzugsrecht*, 142; Bach, *Gunzenhäuser Geleit*, 5; Schopp, *Geleitwesen*, 12–14. Similarly, safe-conduct-related security measures were implemented in some districts of the Electorate of Mainz as late as in 1804. See: Weiss, *Geleitstraßen*, 235.

<sup>1665</sup> See: Fendler, *Geleitstraßen*, 713; Wilhelm, *Zollgeleit*, 91.

<sup>1666</sup> See: Hartmann, *Wassergeleite*; Hofmann, *Landgeleite*.

<sup>1667</sup> See: Straube, *Zum überregionalen und regionalen Warenverkehr*, vol. 1, 25–48.

<sup>1668</sup> See: Weig, *Ius conducendi*, 129, 158–179.

<sup>1669</sup> See: Gabler, *Das Brandenburger und Öttinger Geleit*, 123–27.

<sup>1670</sup> See: Wilhelm, *Zollgeleit*, 120.

<sup>1671</sup> See: Hartmann, *Wassergeleite*, 75–80.

considerable revenues especially at the end of the sixteenth century. Profit margins, however, varied considerably from district to district. During the Thirty Years' War, the Palatine safe-conduct regime broke down. After the war, its exercise was gradually revived throughout the ravaged region. Although the rates were significantly increased (doubled for horses, quadrupled for carts), the profit rates did not attain the high pre-war levels.<sup>1672</sup> In the Prince-Bishopric of Würzburg, the balance between the expenses and revenues of safe-conduct weighed heavily towards the former in the fifteenth century, partly because the archbishops had sold or pawned their rights in many areas. In the second half of the sixteenth century, however, the exercise of safe-conduct was profitable, with revenues varying according to the traffic volume.<sup>1673</sup> In the fifteenth century, the Counts of Helfenstein and the Free Imperial City of Ulm realised considerable revenues out of their shared safe-conduct as well.<sup>1674</sup> On the whole, one can conclude that where safe-conduct tolls were collected without travellers being escorted and when warfare did not impede its implementation, the institution generated considerable revenues.

One of the principal arguments with which safe-conduct duties were justified in the absence of escorts, was the obligation of a ruler to pay compensations for damages and assaults suffered on his thoroughfares.<sup>1675</sup> The Prince-Bishop of Würzburg was once sued at the Imperial Chamber Court by a merchant who had been robbed in spite of extensive security measures, such as armed escorts and ordinances to fortify dangerous places and close passages over rivers. After the robbery, fifty troopers and 300 infantrymen freed the merchant and two robbers were executed. Nevertheless, the Imperial Chamber Court ordered the archbishop to compensate the merchant because he had not taken sufficient measures to protect him.<sup>1676</sup> In practice, the duty to compensate wronged travellers was not always satisfied.<sup>1677</sup> Bremen's efforts to protect the navigation on the Lower Weser, for instance, did not necessarily entail a guarantee for compensating damages. The City made this clear in 1595 during a lawsuit at the Imperial Chamber Court.<sup>1678</sup> A merchant from Cologne had sued the city for 674

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<sup>1672</sup> See: Fendler, *Geleitwesen im kurpfälzischen Oberamt Alzey*, 73–80.

<sup>1673</sup> See: Weig, *Ius conducendi*, 129–148.

<sup>1674</sup> See: Trostel, *Geleitwesen im Geislinger Raum*, 116. Ulm's safe-conduct revenues were, however, lower than its revenues from customs duties. See: Freitag, *Ulm*, 128–129.

<sup>1675</sup> For a strong interpretation of a conductor's duty to compensate, see: Maul, *Tractatus*, ch. 7. The *Sachsenspiegel*, one of the most important German law books of the Middle Ages, confirmed the conductor's obligation to pay damages. The Imperial Diet confirmed the obligation in 1548 and 1559.

<sup>1676</sup> See Maul, *Tractatus*, ch. 7, § 3.

<sup>1677</sup> For the problematic practice of compensations, see: Kintzinger, Martin 'Cum salvo conductu. Geleit im westeuropäischen Spätmittelalter', in: Schwinges, Rainer Christoph Schwinges and Klaus Wriedt, eds, *Gesandtschafts- und Botenwesen im spätmittelalterlichen Europa*, (Ostfildern 2003), 313–363, 322.

<sup>1678</sup> See: Bill of complaint of Peter Langsiel against Mayor and Council of the City of Bremen and others, 5 Sep 1594, StA Bremen 2-R.10.a.2, fo. 1r-6v.

Reichsthaler in compensation for a load of English cloth that he had lost at the mouth of the Lower Weser in 1587. The ship, loaded with cloth, butter and cheese from Amsterdam, was attacked and robbed by soldiers commanded by an official from Hamburg and at the service of the Spanish King. The soldiers brought their booty to the territory of the Duke of Schleswig-Holstein-Gottorp with the intention to sell it. The merchant's servants, however, followed the pirates and asked the Duke of Holstein and his local sheriff to seize and return the cloth to its rightful owner. In spite of having promised to seize the stolen goods, the sheriff allowed the cloth to be sold 'very cheaply'<sup>1679</sup> and appropriated a part of the booty to himself.<sup>1680</sup> In order to recover his loss, the merchant sued the City of Bremen at the Imperial Chamber Court.<sup>1681</sup> He argued that he had paid all required tolls and should therefore be protected against any assaults 'on the ground and soil of the Holy Empire'.<sup>1682</sup> Bremen was obliged to compensate his loss because it claimed dominion over the river Weser. "The territorial lord is held to keep the places where he levies tolls safe to such an extent that, if damages are caused to the travellers, he is held to make amends for them himself".<sup>1683</sup>

The City of Bremen, however, rejected these demands with an avalanche of objections. Its barrister claimed that the robbery had not taken place on the river, but 'in the open sea',<sup>1684</sup> where Bremen had no jurisdiction. Even if the assault had taken place on the river, the barrister argued, Bremen could not be held responsible. The City could not know about the robbery and could therefore not prevent it and could not be accused of 'gross negligence'.<sup>1685</sup> Bremen maintained two or three warships, the defence claimed, and had done all that was possible to protect the river. If someone was damaged in spite of these measures, Bremen was not bound to compensate damages. Moreover, the ship had neither asked for safe-conduct, nor had any conduct tolls been paid (as the merchant claimed). Moreover, since the merchant identified those responsible for the robbery, it was for him to go after the robbers and not for the City of Bremen.<sup>1686</sup>

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<sup>1679</sup> *'umb ein sebr geringes'*, Ibid., fo. 4r.

<sup>1680</sup> See: Ibid., fo. 1r.-6v.

<sup>1681</sup> The merchant apologised to the City for bringing it to the Imperial Chamber Court. In a letter, he explained that his lawyers had advised him to sue the City because it would allow him to bring the sheriff from Holstein to trial. Bremen, however, took the accusation seriously enough to have its barrister formulate an extensive contestation. See: StA Bremen, 2-R.10.a.2, Peter Langsiel to Mayor and Council of the City of Bremen, 10 Mar 1594.

<sup>1682</sup> *'uff des Heyligen Reichs grundt unnd boden'*, Bill of complaint of Peter Langsiel against Mayor and Council of the City of Bremen and others, 5 Sep 1594, StA Bremen 2-R.10.a.2, fo. 2r.

<sup>1683</sup> *'Dominus territorii teneatur iis locis ubi pedagia exigit itinera tuta conservare adeo ut si damnum itinerantibus a praedonibus inferatur ipse ad eiusdem emendationem teneatur'*, Ibid., fo. 5r.

<sup>1684</sup> *'in der offenen Seben'*, Exemption and contestation of Bremen against Peter Langsiel, 7 Sep 1594, fo. 6r.

<sup>1685</sup> *'lata [...] culpa'*, Ibid., fo. 5v.

<sup>1686</sup> See: Ibid., fo.

The long catalogue of arguments with which Bremen attempted to disclaim any responsibility for compensating damages mirrors the efforts of other conduct lords to avoid claims of compensation. While some of these arguments were recognised as valid at least by some, others were unorthodox at best. A safe-conduct authority's ignorance of, or inability to prevent an assault was regarded as valid excuse by some.<sup>1687</sup> Others disagreed, demanding the authorities be more diligent.<sup>1688</sup> Whether Bremen should have been responsible for arresting the pirates itself, was less clear. Some argued that a conduct authority's liability for damages constituted an 'extraordinary obligation',<sup>1689</sup> taking effect only if other legal actions were not available, for example when the culprits could not be prosecuted by other parties. The major specialists of seventeenth-century safe-conduct law, however, regarded it as conductor's duty to track down the delinquents and to catch them alive. Only then, and only if the robber could indemnify the victim himself, the conduct authority was released from its obligation to compensate the victim.<sup>1690</sup> Bremen's claim that one could only be compensated for damages if one had explicitly requested the city's safe-conduct was rather unorthodox. A territorial lord's obligation to compensate was regarded as independent from explicit requests and even from the payment of tolls. Whoever entered a territory was considered to have a prince's tacit permission and therefore his conduct and protection.<sup>1691</sup> However, if a traveller intentionally evaded a toll – this was one of the points made by Bremen – he lost his claims to compensation. Bremen's many objections and the diverging opinions of legal scholars thus illustrate the hurdles that a damaged traveller's claim to compensation could encounter in practice.

Indeed, a conductee's right to compensation was generally made dependable on conditions, some of which were more easily fulfilled than others.<sup>1692</sup> The obligation to only use 'ordinary roads', to acquit oneself appropriately and not to wrong, or provoke a potential aggressor, were easily satisfied.<sup>1693</sup> Other conditions, however, were more difficult to fulfil and could practically annul the conductor's obligation to compensate damages, for instance when the conductee was obliged to identify his aggressor.<sup>1694</sup> Often, claims for compensation entailed protracted negotiations.<sup>1695</sup> Sometimes, damaged

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<sup>1687</sup> See, for instance: Panseman, Hieronymus, *Responsum Iuris, Von Freyheiten/ Immuniteten/ Geleydt/ Praeeminentz/ Recht Und Gerechtigkeiten Der Kauffleut* (Frankfurt am Main: 1614), 77.

<sup>1688</sup> See, for instance: Maul, *Tractatus*, ch. 7, § 2; Orttth, *Tractatus*, ch. 8, § 94.

<sup>1689</sup> 'verpflichtung [...] extraordinaria', Panseman, *Responsum*, 78.

<sup>1690</sup> See: Maul, *Tractatus*, ch. 7, § 18; Orttth, *Tractatus*, ch. 8, § 94; Krauss, Peter Pancratius and Wernhöfer, Heinrich, *Disputatio Iuridica De Regali Salvi Conductus* (Jena: 1669), ch.8, § 6.

<sup>1691</sup> See: Orttth, *Tractatus*, ch. 8, § 94.

<sup>1692</sup> For an extensive contemporary discussion of these conditions, see, for instance: Orttth, *Tractatus*, 305–314.

<sup>1693</sup> See: Maul, *Tractatus*, ch. 7, § 20.

<sup>1694</sup> See: Weig, *Ius conducendi*, 197; Tilch, *Grabfeld*, 108.

<sup>1695</sup> See: Weig, *Ius conducendi*, 198; Freitag, *Ulm*, 102.

conductees had to appeal to the imperial courts in order to enforce their claims.<sup>1696</sup> Such appeals could be successful, as in a case in which the Imperial Chamber Court ordered the bishop of Würzburg to pay compensation to a merchant who had been robbed in spite of extensive security measures.<sup>1697</sup> Even when compensations were eventually paid – as happened in multiple cases in fifteenth and sixteenth-century Württemberg – some conductors sought to prove that the conductee had not actually travelled under their safe-conduct.<sup>1698</sup> Where this could not be denied, authorities often protracted the negotiations interminably.<sup>1699</sup>

In some cases, as in the late sixteenth-century Duchy of Jülich, merchants and officials agreed on annulling the conduct authority's obligation to compensate.<sup>1700</sup> When the roads were deemed too dangerous, some rulers refused to grant their safe-conduct.<sup>1701</sup> The Free Imperial City of Frankfurt categorically refused the duty to pay compensations.<sup>1702</sup> In the eighteenth century, some jurists argued that the obligation pay compensations had only applied to the times of the feuds, when travellers were physically escorted.<sup>1703</sup> With the exception of those cases in which travellers explicitly required a ruler's safe-conduct, the safe-conduct duties of the eighteenth century did not entitle travellers to any compensation and were justified by the construction and maintenance of roads. Similarly, in 1755 the Saxon professor Daniel Gottfried Schreber vigorously rejected the view that the levy of conduct tolls obliged the conduct lord to pay for compensations. He argued that the conduct tickets handed out as a receipt for the tolls were not letters of safe-conduct, but rather instruments for controlling the levy of duties and preventing contraband (this reflected the effective workings of the Electoral Saxon safe-conduct regime). The tickets, he concluded, were not issued for the benefit of the conductee but 'only for the security of the conductor'.<sup>1704</sup>

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<sup>1696</sup> See, for instance, cases involving the city of Bamberg in the 1530s and the lordship of Gutenstein in the 1510s. BayHStA München, Reichskammergericht, 3485, 7083.

<sup>1697</sup> See: Maul, *Tractatus*, ch. 7, § 3.

<sup>1698</sup> See: Wilhelm, *Zollgeleit*, 36.

<sup>1699</sup> In one case, the Count of Württemberg managed to protract the negotiations over compensations for 29 years. See: Wilhelm, *Zollgeleit*, 151–162. Apparently, the Elector of Mainz paid compensations for a robbery in 1784. See: Kurt, *Messegut*, 12.

<sup>1700</sup> See: Pauls, *Geleitsrechte des Herzogs von Jülich*, 60.

<sup>1701</sup> In 1552, for instance, the Elector of Mainz refused to grant his safe-conduct to the merchants of Bamberg because of the military campaigns of the Margrave of Brandenburg-Kulmbach. See: Schopp, *Geleitswesen*, 21. For similar cases from Ulm, the Electoral Palatinate and Württemberg, see: Freitag, *Ulm*, 108. For Württemberg, see: Wilhelm, *Zollgeleit*, 21–22.

<sup>1702</sup> See: Plechatsch, *Glait*, 86.

<sup>1703</sup> See: Thyllius, Carl Otto, and Ludwig Carl Goldschmidt, *Disputatio inauguralis iuridica de iure viarum publicarum* (Heidelberg: 1725), 24–25.

<sup>1704</sup> 'bloß zur Sicherheit des Geleitsherrn', Schreber, Daniel Gottfried, *Sammlung verschiedener Schriften, welche in die öconomischen, Policy- und Cameral- auch andere Wissenschaften einschlagen*, vol. 1. (Halle: 1755), 9.

Accordingly, complaints about the limited mutuality of safe-conduct were not uncommon. Already in 1356, the Golden Bull opposed ‘unlawful and unusual tolls and escorts, and the exactions usually extorted for such escorts’.<sup>1705</sup> In the early seventeenth century, the scribe of the Imperial City of Nuremberg, Johann Müllner, stated matter-of-factly that ‘nowadays, customs duties are asked and taken at customs stations, even though no safe-conduct is demanded and the roads are not kept safe’.<sup>1706</sup> Similarly, a chronicler from Dinkelsbühl recorded the payment of a Prussian safe-conduct duty in his diary with the bitter remark that the money had been spent ‘in vain and for nothing’.<sup>1707</sup> In a similar vein, the Free Imperial City of Frankfurt advocated the abolition of safe-conduct for all commerce to Frankfurt in 1803 because it deemed the safe-conduct dues an ‘irksome unjustified duty’.<sup>1708</sup>

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<sup>1705</sup> Henderson, *Select Historical Documents*, 247.

<sup>1706</sup> ‘*man heutiges Tages bey denen Zoll-Stätten die Zölle erfordert und einnimmt, obgleich kein gelaid begehrt wird, und etwan die Strassen nicht sicher gehalten werden*’, Johann Müllner, *Relatio 7, Von der gelaidens Gerechtigkeit*, n.d., StA Nürnberg, Reichsstadt Nürnberg, Rep. 52a Nürnberger Handschriften, 345, fo. 413.

<sup>1707</sup> ‘*umsonst und um nichts*’, Gabler, *Das Brandenburger und Öttinger Geleit*, 124.

<sup>1708</sup> ‘*belastende, ungerechtfertigte Abgabe*’, Promemoria on the abolition of safe-conduct, IfS Frankfurt, Impresen 847.

## Security and the Ordering of Movement

The strong emphasis that the debates around the legitimacy of Bremen's conduct tolls placed on the question of 'security' was not coincidental. The city employed its protection against the threat of piracy as a political argument that allowed it to take 'politics beyond the established rules of the game'.<sup>1709</sup> Bremen's emphasis on the purely protective nature of its politics – its warships being presented as the last bulwark that prevented the river from sliding into 'barbaric confusion'<sup>1710</sup> – can be interpreted as a strategy of 'securitisation'.<sup>1711</sup> Securitisation describes a process in which an 'issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure'.<sup>1712</sup> It is as an extreme form of politicisation at the end of a spectrum that ranges from non-politicised issues (not of public concern), through politicised issues (a matter of public policy), to securitised issues.

Protection soon became the figurehead of the eclectic body of arguments which the City of Bremen used to justify its policies in the face of adversity.<sup>1713</sup> It came naturally, insofar as the city contributed significantly to protecting navigation on the river both from piracy and obstructions of the navigable channel. Inferring territorial superiority from the right of safe-conduct was not uncommon.<sup>1714</sup> In a commissioned legal disquisition of 1619, the city elaborately deduced its jurisdiction over the river from its service of protection.<sup>1715</sup> Protection and jurisdiction were intrinsically connected, the argument

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<sup>1709</sup> Buzan, Barry, Ole Wæver, Jaap de Wilde, *Security. A new framework for analysis* (Boulder: 1998), 23.

<sup>1710</sup> 'Barbarische Confusion', Mayor and Council of the City of Bremen to Franz II, Duke of Saxe-Lauenburg, 11 Nov 1589, StA Bremen, 2.R.10.aa.4, fo. 3v.

<sup>1711</sup> See: Buzan et al., *Security*, 23–24. For the application of the concept to historical research, see: Conze, Eckart, 'Securitization. Gegenwartsdiagnose oder historischer Analyseansatz?', in: *Geschichte und Gesellschaft* 38/3 (2012), 453–467. See, moreover: Algazi, Gadi, Alf Lüdtke, and Michael Wildt, eds. *Staats-Gewalt: Ausnahmezustand und Sicherheitsregimes: historische Perspektiven* (Göttingen: 2008). As a speech act, securitisation processes require the interaction of at least three entities. Firstly, a referent object, i.e. 'things that are seen to be existentially threatened and that have a legitimate claim to survival' (Buzan et al., *Security*, 36). Secondly, a securitising actor which represents the referent object as 'existentially threatened'. Thirdly, there may be a functional actor 'who significantly influences decisions in the field'. The analytical focus is not so much on the question whether or not an issue 'really' presents an existential threat – without an objective measure and sufficiently dense documentation such an assessment is impossible – but on the dynamics of securitisation itself. It can be regarded as an 'intersubjective process' (Buzan et al., *Security*, 30) in which success is not decided by the securitising actor, but by the audience to which it is directed. See, moreover: Balzacq, Thierry, 'The Three Faces of Securitization: Political Agency, Audience and Context', *European Journal of International Relations*, 11 (2005), 171–220, 184–186.

<sup>1712</sup> Buzan et al., *Security*, 23–24.

<sup>1713</sup> Protection against pirates and privateers was, moreover, the pretext under which the alliance of the States General and several Hanseatic cities defended their commercial interests against the Spanish and Denmark. See: Schwarzwälder, *Bremen*, 274.

<sup>1714</sup> The Free Imperial City of Ulm deduced wider territorial claims from its right of safe-conduct, as well. See: Freitag, *Ulm*, 100.

<sup>1715</sup> See: Deduction of Bremen's right to jurisdiction over the Weser, 1619, StA Bremen 2-R.10.a.5. In 1587, Regner Sixtinus – an influential jurist and diplomat from Marburg – had already produced a long deduction arguing that Bremen had

went, because no polity could pacify a river without having jurisdiction over it.<sup>1716</sup> Bremen's right to protect the merchants on the river was presented both as a consequence of and proof for its superiority and jurisdiction over the river.<sup>1717</sup> The argument echoed that used by Venice in its defence of its sovereignty over the Adriatic Sea.<sup>1718</sup> Indeed, the established narrative justifying Venice's claims to sovereignty over the Adriatic Sea stated that the Venetians had gradually acquired sovereignty over the sea by protecting it from piracy.<sup>1719</sup> Such deductions from one regalian right to another were not uncommon.<sup>1720</sup> However, some jurists explicitly objected to such arguments. Even though the right of safe-conduct and other regalian rights, such as criminal jurisdiction, might seem closely related, it was still controversial to claim one regalian right on the grounds of holding another.<sup>1721</sup>

In order to succeed, a securitising move needs to convince an audience that a threat is serious enough to endanger the very existence of the referent object and thereby justifies the breaking of rules.<sup>1722</sup> The City Council of Bremen therefore strongly emphasised the dangers that privateers, freebooters and the toll of the counts of Oldenburg posed to the navigability of the river. When justifying its conduct towards the Duke of Saxe-Lauenburg in 1589, the Council painted a particularly bleak image. If the city were to remove its warships, navigation on the river would be exposed to 'barbaric confusion'.<sup>1723</sup> With few exceptions, all merchants on the river would be robbed of their goods, ships and their lives. All commerce would be interrupted. Ultimately, Bremen's retreat from the river would open the floodgates to 'the ruin of public peace'.<sup>1724</sup> In a letter to the Chapter of the Prince-Bishopric of Bremen, the city argued that the benefits of its protection were acknowledged by the merchants who navigated the river.<sup>1725</sup> Those who had enjoyed Bremen's protection were thankful and asked the city to continue its important service. No prince, city, or subject (except Oldenburg), the city claimed, had

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the right of safe-conduct over the river, which was reserved to princes or their substitutes and which he could only exercise within their territories. See StA Bremen 2-R.10.a.5.

<sup>1716</sup> See: Deduction of Bremen's right to jurisdiction over the Weser, 1619, StA Bremen 2-R.10.a.5, fo. 17.

<sup>1717</sup> See: Ibid., fo. 33.

<sup>1718</sup> See: Ibid., fo. 20.

<sup>1719</sup> See, for instance, the arguments proposed by Venice's legal advisor Paolo Sarpi at the same time: Castillo, Lilian del, *Law of the Sea, From Grotius to the International Tribunal for the Law of the Sea* (Leiden: 2015), 52–53.

<sup>1720</sup> In their disputes with the Imperial City of Regensburg, for instance, the Dukes of Bavaria claimed the right of safe-conduct on the river Danube on the basis of their owning a toll on the river (*Wassermaut*). See: Rieder, *Regensburg*, 210. See, moreover: Schaab, *Geleit und Territorium*, 398.

<sup>1721</sup> See: Orttth, *Tractatus*, § 57.

<sup>1722</sup> See: Buzan et al., *Security*, 25.

<sup>1723</sup> 'Barbarische Confusion', Mayor and Council of the City of Bremen to Franz II, Duke of Saxe-Lauenburg, 11 Nov 1589, StA Bremen, 2.R.10.aa.4, fo. 3v.

<sup>1724</sup> 'zerriüttung gemeinen friedens', Ibid.

<sup>1725</sup> See: Mayor and Council of the City of Bremen to Cathedral Chapter of the Prince-Bishopric of Bremen, 19 Nov 1585, fo. 6r.

complained about its protective measures. It was not uncommon for authorities to exaggerate threats to public security to convince their subjects to perform security-related duties, or to pay taxes.<sup>1726</sup>

In Bremen's account, pirates were not the only existential threat to the river's navigability. As soon as Oldenburg's plan to introduce a new toll on the Lower Weser had become likely to succeed, the city began presenting the new toll as a fundamental risk to commerce with devastating consequences for the whole Empire. In a memorial to the envoy of the Landgrave of Hesse-Kassel from 1619, for instance, the council presented a dismal scenario.<sup>1727</sup> Since much foodstuff was transported to his territory via the river Weser, the toll would cause a considerable rise in food prices. The inflation would hurt the 'poor common man'<sup>1728</sup> and 'exhaust and emaciate'<sup>1729</sup> the subjects of Hesse-Kassel and make them 'languish'<sup>1730</sup> to the bones.<sup>1731</sup> Moreover, the city predicted a reduction of the Landgraviate's exports via the Weser and a considerable depletion of its toll revenues on the river, which would lose its significance as a trade route.<sup>1732</sup> Ultimately, Bremen suggested that Oldenburg's toll would set a dangerous precedent for other princes, who would seek to impose further tolls on a river that counted already twenty-six other toll stations.<sup>1733</sup>

To counter Bremen's securitising moves, Oldenburg attempted to expose Bremen's warnings as scaremongering and its protection as a subterfuge for fiscal and political interests. In a long plea to the Imperial Deputation (a 'miniature diet' assembled in Frankfurt in 1590), Oldenburg refuted Bremen's claims and questioned the argument of protection. Vis-à-vis the dramatic picture that Bremen drew of the Lower Weser as a thoroughfare on the brink of 'barbaric confusion', Oldenburg argued that the Dutch War of Independence had not affected the navigation on the river Weser and that there was 'no insecurity'<sup>1734</sup> because of the war 'nor is there today'.<sup>1735</sup> In view of the many instances of piracy on the Lower Weser, this claim was patently absurd. Nevertheless, it supported the argument that Bremen's conduct tolls did not contribute to the protection of the river's navigability, but that they

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<sup>1726</sup> See: Härter, *Security*, 49.

<sup>1727</sup> See: Resolution for the envoy of Landgrave Moritz of Hesse-Kassel, 29 Oct 1619, StA Bremen 2.U.13.c.1.a.

<sup>1728</sup> 'armen gemeinen mannes', Ibid., fo. 1v.

<sup>1729</sup> 'aussangen und außmergelen', Ibid., fo. 2r.

<sup>1730</sup> 'abmatten', Ibid.

<sup>1731</sup> To appeal to the Landgrave's cameralist preoccupation for an abundant and productive population, the memorial even cited Ovid: '*Gutta cavat lapidem, non vi sed saepe cadendo*' – a drop of water hollows a stone, not by force, but by continuously dropping.

<sup>1732</sup> See: Ibid., fo. 1r, 1v.

<sup>1733</sup> See: Ibid., fo. 1v, 2r.

<sup>1734</sup> 'kein Unsicherbeit', Count Johann VII of Oldenburg and Delmenhorst to Deputy Princes and Estates in Frankfurt, 23 Aug 1590 (copy), StA Bremen, 2-U.1.b.6, fo. 16v. It is not clear whether the count denied the insecurity on the river altogether or whether he only disputed it for the time before 1585 and then in 1590. In any case, there were instances of piracy on the Lower Weser both before 1585 and in 1590.

<sup>1735</sup> 'noch heutigs tag ist', Ibid.

constituted an unlawful, permanent toll which benefited the city and endangered the economy of the entire region. While Bremen had emphasised that the conduct tolls constituted a temporary emergency measure and would only be levied as long as navigation on the river was too unsafe, Oldenburg claimed that the duties were not temporary but ‘eternal’.<sup>1736</sup> The new toll, Oldenburg continued, had nothing to do with the Dutch war, which had begun seventeen years before Bremen first introduced the new duties (‘under a strange name unheard of’)<sup>1737</sup> in 1585. Although Bremen pretended that its activities averted dangers and insecurity from the river and redounded to the merchants’ welfare, it could not prove that any prince, city, or subject ever actually requested its protection.<sup>1738</sup>

Instead, Oldenburg argued, Bremen’s warships served the city’s fiscal and commercial interests, causing heavy inflation and obstructing the navigability of the Lower Weser. By forcing all ships to travel to the city, pay the duties and receive a pass if they wanted to leave the river for the sea, Bremen established ‘a monopoly’<sup>1739</sup> on trade on the river. Oldenburg claimed that the long detour caused many boatmen to eschew Oldenburg, where they would have to pay more duties, and directly sell their goods at Bremen. By ‘directing and forcing’ all navigation into the city, Bremen thus enriched itself ‘beyond measure’<sup>1740</sup> at the expense of its neighbours. What is more, Oldenburg denounced Bremen’s warships, not pirates, as the actual source of insecurity on the river. In the summer of 1587, the warships had attacked the town of Blexen with more than one hundred cannonades. The cannons damaged the dykes, the gardens and the churchyard of the town and struck one woman to the ground. Recounting many other instances of violent disputes with boatmen and repeated encroachments on its territory, Oldenburg thus accused Bremen’s warships of breaking the law of nations and public peace and acting as deadly enemies and ‘invaders and violators of foreign territory’.<sup>1741</sup>

In sum, the political communication in the struggle for the Lower Weser was pervaded by the dynamics of securitisation. The City of Bremen made systematic use of securitising moves in order to justify its breaking of the treaty of 1576, its unlawful resistance to Oldenburg’s toll and the considerable limitations that its warships imposed on the navigability of the river. The focus of Bremen’s securitising moves was the river’s navigability and the economic and fiscal benefits that trade on the Lower Weser brought even to distant areas. The city systematically described these as existentially threatened by piracy and Oldenburg’s new toll. The catastrophic consequences authorised Bremen to resort to

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<sup>1736</sup> ‘*ewig wehrend*’, Ibid.

<sup>1737</sup> ‘*unter Selzamen [...] fremden nahmen*’, Ibid., fo. 2v.

<sup>1738</sup> See: Ibid., fo. 15v.

<sup>1739</sup> ‘*ein Monopolium*’, Ibid., fo. 3v.

<sup>1740</sup> ‘*uber die maßē*’, Ibid.

<sup>1741</sup> ‘*invasores & violatores alieni territorij*’, Ibid., fo. 4v.

exceptional and – the council could not emphasise this enough – *temporary* measures to avert these threats. In response, the counts of Oldenburg attempted to delegitimise the city’s policy on the river with mountains of paper that grew with the escalation of the conflict. In their diplomatic correspondence, the counts hoped to unmask the city council as a scaremonger that tried to advance its commercial, fiscal and political interest at the expense not only of Oldenburg, but also of all parties who used the river as a trade route. The conduct tolls levied by the city were no emergency measure but a covert toll that enriched the city at the expense of its neighbours. Oldenburg thus attempted not only to reject Bremen’s self-fashioning as a defender of common welfare, but also to move the matter out of the sphere of security altogether.<sup>1742</sup>

The justification of navigation restrictions with the argument of protection was not limited to the case of the Lower Weser. On the river Main, the Count of Wertheim – who paradoxically lamented that his neighbours obstructed the navigation on the river – blocked the navigation on the river in the spring of 1599 with a similarly peculiar justification. When the Wertheimians realised that they could not escort the market ships returning from the Frankfurt trade fair along the contested river stretch upstream of Wertheim, they forced the Würzburgian and Bambergian market ships to wait in the port of Wertheim.<sup>1743</sup> After the merchants and apothecaries of Würzburg complained about the delay of the market ships, the Würzburgian councillors requested Wertheim to let the market ships go and to indemnify their subjects for the delayed goods.<sup>1744</sup> The Prince-Bishop of Bamberg even sent an embassy to Wertheim to negotiate the release of his ship. The Wertheimian councillors told them that there was nothing that the count ‘would have preferred more than that they could lead and escort the market ships and goods free and safe through his county’s district and domain without hindrance’.<sup>1745</sup> Since the Prince-Bishop of Würzburg had ‘made the safe-conduct roads completely unsafe’,<sup>1746</sup> however, the count had had no choice but to delay the ships. Indeed, the Wertheimians presented the

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<sup>1742</sup> Such de-securitising moves aim at ‘the shifting of issues out of emergency mode and into the normal bargaining processes of the political sphere’ (Buzan et al., *Security*, 4). De-securitisation, however, did not mean de-politicisation. Oldenburg aimed at framing politics on the Lower Weser within the bounds of positive law. See Hansen, Lene, ‘Reconstructing Desecuritisation: The Normative-Political in the Copenhagen School and Directions for How to Apply It’, *Review of International Studies*, 38 (2012), 525–46, 531.

<sup>1743</sup> See: Ludwig, Count of Löwenstein-Wertheim, to Councillors of Brandenburg-Ansbach, 17 Apr 1599, StA Wertheim, G-Rep. 57/1 Geleitsachen 11, fo. 1v-2r.

<sup>1744</sup> See: Julius Echter von Mespelbrunn, Prince-Bishop of Würzburg, to Ludwig, Count of Löwenstein-Wertheim, 30 Apr 1599, StA Wertheim, G-Rep. 57/1 Geleitsachen 11.

<sup>1745</sup> ‘*nichts liebers gesehen, dann das dieselbe die Messchiff und wahren, obn einigen Ujhalt frei und sicher durch deren Graffschafft district und Bezirck führen und beglätten können*’, Report on the negotiations with the envoys from Bamberg, n.d., StA Wertheim, G-Rep. 57/1 Geleitsachen 11, fo. 2r.

<sup>1746</sup> ‘*die Glaidtstrassen allerdings unsicher gemacht*’, Ibid.

measure as motivated by their concern for the safety of the passing ships.<sup>1747</sup> In fact, their intent was to maintain the possession of safe-conduct on the contested river stretch. Ultimately, Wertheim agreed to let the ships go, but told the envoys to claim their compensation from Würzburg, which it held responsible for the delay.<sup>1748</sup> In a lawsuit at the Imperial Chamber Court, Wertheim's barrister similarly explained that the count was 'obliged towards His Majesty [the emperor] and the Empire to keep the streets safe and to make amends to those who are depredated within his conduct district and territory'.<sup>1749</sup> This argument illustrates that even when safe-conduct was not exercised for the purpose of protecting travellers, it could still be justified as a protective service. In Württemberg, the apparent dangers purported by safe-conduct authorities to those travelling without the duke's safe-conduct, were not altogether credible, either.<sup>1750</sup>

Among jurists, security was the foremost justification for safe-conduct's existence.<sup>1751</sup> Their insistence on the institution's protective dimensions was reflected in attempts to trace its origins back to biblical times.<sup>1752</sup> Thus, one of the oldest proofs that 'the right of conduct did not only emerge today or yesterday, but that has been confirmed for a long time'<sup>1753</sup> was the 'divine and angelic conduct that protects the faithful',<sup>1754</sup> such as Lot and his family, whom two angels (forcefully) escorted out of the city of Sodom before its destruction (Genesis 19:16). The jurist in question regarded the exodus of the Israelites out of Egypt as an example of divine safe-conduct (Exodus 14-15). Furthermore, after Cain killed his brother, 'God himself conceded his conduct to [... him] through the impression of a mark so that he should not be killed by someone that he comes across'.<sup>1755</sup>

Indeed, the connection between protection and freedom of movement was generally a very close one in early modernity, not least because the protection of travellers was often a precondition for free and

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<sup>1747</sup> Thus, the Wertheimian councillors argued that it was 'not uncommon that, occasionally, in dangerous times the ships would be held until the necessary preparation for strong safe-conduct were made and the roads safe' (*nicht seltzam, das bisz weilen zu gefährlichen Zeiten die Schiff so lang ufgehalten würden, bis zu starcker Glaidtsführung notwendige praeparation gemacht und die strassen sicher*), *Ibid.*

<sup>1748</sup> Three months later, however, Bamberg renewed its claim for compensation and stressed that its boatmen and subjects had nothing to do with the conduct dispute between Wertheim and Würzburg. See: Johann Philipp, Prince-Bishop of Bamberg, to Ludwig, Count of Löwenstein-Wertheim, 28 Jul 1599, StA Wertheim, G-Rep. 57/1 Geleitsachen 11. Some boatmen from Lohr obtained a special permission to navigate the river without Wertheimian escorts as long as the Würzburgians abstained from escorting them, as well. The boatmen had to promise that they would immediately halt, if the Würzburgians started to escort them. See: Ludwig, Count of Löwenstein-Wertheim? to Hartman von Cronberg, Sheriff (*Amtmann*) of the Elector of Mainz at Lohr, 18 Apr 1599, StA Wertheim, G-Rep. 57/1 Geleitsachen 11, fo 1v.

<sup>1749</sup> 'Ihr May. und dem Reich verobligiret Ihre strassen rein zuehalten und den Ienigen, so in derselben gleichlich obrigkeitt und territorio hobeit spolürt [...] antwortt zue geben', *Articulae exceptiones sub et obreptionis* (no. 5), GLA Karlsruhe, 71/3513, art. 35.

<sup>1750</sup> See: Wilhelm, *Zollgeleit*, 36.

<sup>1751</sup> See, for instance: Maul, *Tractatus*, ch. 1, § 13; Orttth, *Tractatus*, 4; Rader and Linck, *Jus Conduendi*, 3.

<sup>1752</sup> See also: Becht, Johann Georg, *Disputatio Theorico-Practica De Securitate Et Salvo Conductu* (Basel, 1612), § 31.

<sup>1753</sup> 'conduendi jus non hodei aut heri existisse, sed jam dudum approbatum esse', Linck and Rader, *Jus Conduendi*, § 1.

<sup>1754</sup> 'Salvo conductu divino & angelico pios tuente', Becht, *Disputatio*, § 31.

<sup>1755</sup> 'Ipsum Deum [...] per impressionem signi ne a quopiam, cui obviam iret, interficeretur, conductum suum concessisse', *Ibid.*, § 30.

unhampered travel. Practices of seizure and reprisal, both public and private, were a common obstacle throughout pre-modern history.<sup>1756</sup> Claudia Moatti therefore suggested understanding freedom of movement (‘which in the case of merchandise sometimes simply means fiscal immunity’) as a ‘synonym of security’.<sup>1757</sup> Conversely, public safety was sometimes identified with freedom of movement. As early as 1612 the jurist Johann Georg Becht of Heilbronn – who examined all aspects of life, from marriage to war, from the perspective of security – defined public security chiefly as ‘the free and secure use of commerce’<sup>1758</sup> and of ‘public roads’.<sup>1759</sup>

As a synonym of freedom of movement, security also provided an argument for distinguishing licit from illicit forms of mobility. It served as a justification for excluding certain categories from the freedom of movement that was made possible through a ruler’s safe-conduct regime. A 1677 treatise argued that safe passage should only be available to those ‘who are considerate of protecting and preserving this [universal human] society’.<sup>1760</sup> Among the people who ‘do not have the security of public roads and travel’,<sup>1761</sup> jurists included ‘enemies’ and ‘violators of the public peace’,<sup>1762</sup> such as robbers, plunderers, pirates, vagrants, masterless soldiers, gypsies, debtors, defectors, deserters, exiles, usurers, fraudulent marketers, ‘those who plunder the fields by night’,<sup>1763</sup> adulterators and quacks.<sup>1764</sup> By equating freedom of movement with protection, it was thus possible to declare the mobility of marginal groups illicit.<sup>1765</sup> The association underwrote the territorial rulers’ normative power to regulate mobility and distinguish between legitimate and illegitimate forms of migration.<sup>1766</sup> Not unlike the modern visa, safe-conduct could be seen as an instrument through which a ruler authorised different groups of people to enter and to move within his territory.<sup>1767</sup> Political safe-conduct, which allowed a

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<sup>1756</sup> See: Moatti, *Introduction*, 21–22.

<sup>1757</sup> *Ibid.*, 23. Ahasverus Fritsch similarly understood freedom of movement as the general ‘security of public roads and thoroughfares [...] strengthened by the common wish and the customs of all peoples and regarded and established as inviolable’ (*viarum ac itinerum publicorum securitas [...] communi omnium gentium voto ac moribus firmata, ad Sacro Sancta habita & constituta fuit*), Fritsch, *Tractatus*, ch. 5, § 2.

<sup>1758</sup> *‘in tuto liberoq. omnibus usu commerciorum’*, Becht, *Disputatio*, § 54.

<sup>1759</sup> *‘viarum publicarum’*, *Ibid.*, § 55.

<sup>1760</sup> *‘qui societatis istius tuendae, ac servanda rationem habent’*, Rader and Linck, *Jus Conducendi*, § 36.

<sup>1761</sup> *‘securitatem viae publicae et commeandi non habent’* Maul, *Tractatus*, ch. 4, § 14.

<sup>1762</sup> *‘violatores pacis publicae’*, *Ibid.*, ch. 4, § 11.

<sup>1763</sup> *‘nocturni agrorum depopulatores’*, Rader and Linck, *Jus Conducendi*, § 39.

<sup>1764</sup> See: Maul, *Tractatus*, ch. 4; Becht, *Disputatio*, ch. 4; Ortt, *Tractatus*, ch. 4.

<sup>1765</sup> This was not merely an abstract statement. The certificate of appointment of Palatinate-Neuburg’s safe conduct official at Regensburg, for instance, obliged the man both to escort and protect certain categories of travellers and to arrest and identify peddlars (as well as toll evaders). See: Rieder, *Regensburg*, 152–153.

<sup>1766</sup> The selective concept of security on the basis of which freedom of movement was limited, has been described by Karl Härter in the sense that ‘only the propertied, industrious, productive, disciplined and “useful” subject should benefit from social/human security, whereas masterless vagrants and marginal groups were considered as external threat to internal security’, Härter, *Security*, 60–61.

<sup>1767</sup> For another comparison to modern visa, see: Bachem, Georg-Andreas, ‘Die Kölner Geleitregister. Geleite und Geleitverweigerungen’ *Archiv für Familiengeschichtsforschung* 4 (2000): 111–122.

ruler to control, spy upon, or even impede the political communication of neighbouring polities, was marked by a similar ambiguity.<sup>1768</sup> The tension in which diplomatic safe-conducts ‘constrained slippery mobile personal immunity to the demands of territorial jurisdiction’<sup>1769</sup> pervaded all forms of safe-conduct.

The simultaneous consolidation and restriction of freedom of movement in safe-conduct foreshadowed the way in which liberal doctrines of the eighteenth century both ‘considerably limited the freedom and guaranteed, as it were, the exercise of this very freedom’.<sup>1770</sup> In contrast to earlier conceptions of sovereignty which were chiefly concerned with fixing and marking territories, the ‘liberal’ aim was to promote the circulation of goods and people, but in such a way ‘that the dangers inherent in this circulation are eliminated’.<sup>1771</sup> Similarly, in Hobbes’ discussion of the freedom of indigenous Americans, there was a split ‘between those whose movement is a manifestation of liberty, and should therefore be maximized, and those whose freedom is a problem, and should therefore be tightly regulated’.<sup>1772</sup> Such tensions between universal pretensions of fundamental rights for individuals and the reduction of the range subjects effectively entitled to these rights are, indeed, inherent in most historical attempts at ordering movement.<sup>1773</sup>

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The history of safe-conduct sheds a complex light on the role of protection in the ordering of inter-polity mobility. Bremen’s politics of protection on the river Weser illustrates the double-edged nature of safe-conduct, a protective service that could easily be transformed into a vehicle for wider claims of dominion, acts of symbolic subjection and self-serving economic policies. Bremen’s safe-conduct

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<sup>1768</sup> See: Williams, *Dangerous Diplomacy*, 250.

<sup>1769</sup> Ibid.

<sup>1770</sup> Foucault, Michel, *Sécurité, territoire, population* (Paris: 2004), 50.

<sup>1771</sup> Ibid., 67. Foucault sees these earlier conceptions of sovereignty epitomised in the thought of Niccolò Machiavelli. The selective conception of freedom of movement confirms the view that state efforts to promote mobility ‘should in no way be confused with “free” movement, since promotion tends to be a highly selective exercise’ (Vigneswaran and Quirk, *Mobility Makes States*, 13).

<sup>1772</sup> Kotef, *Movement*, 100. Hagar Kotef traced the genealogy of ordered freedom of movement back to the sixteenth and seventeenth centuries, when scientific research into the self-regulation of dynamic systems impregnated the ways political theorists conceived of freedom and movement (Ibid., 58–60). In contrast to older notions which identified liberty (and particularly freedom of movement) with chaos and disorder, ordered movement could thus be conceived ‘as the manifestation (and precondition) of a free social order’ (Ibid., 58). Thomas Hobbes was one of the most influential thinkers to have orchestrated freedom of movement and security. Kotef describes him as ‘one of the main architects’ (Ibid., 94) of a conception of statehood as a ‘mechanism for the monopolization of movement qua violence’. In certain respects, this split is analogous to the distinction that the safe-conduct literature drew between protected, licit forms of movement, and others that needed to be regulated or criminalised.

<sup>1773</sup> See: Meccarelli et al., *Introduzione*, 10–12. Scholars of the global regimes of movement of the twenty-first century are concerned with comparable tensions between freedom and security. See, for instance: Bigo, Didier, ‘Delivering Liberty and Security? The Reframing of Freedom when Associated with Security’, in: *Vital Speeches of the Day* 68 (2002), 290–298.

effectively protected boatmen from privateers, but its unruly soldiers became a new source of insecurity for rivals and those whom the city had no interest to protect. The struggle for the river highlighted, moreover, that the display of protection could point to dynamics of securitisation, a process in which an issue is presented as existentially threatened in order to justify emergency measures. Protection and security provided the scaffolding for a selective conception of free movement that asserted a ruler's authority to distinguish between licit and illicit forms of mobility.



## 6. Freedoms of Movement

The troubles of transit on the roads and rivers of the Holy Roman Empire were mirrored by a myriad of conceptual and ideological disputes in courts, councils, town-halls and universities. It was legal scholars, practitioners and solicitors who made the greatest intellectual efforts at conceptualising the nature of, the justifications for, the oppositions to and the contradictions inherent in the Empire's regimes of movement.<sup>1774</sup> Concerning the history of political ideas, the early modern German lands have long been regarded as the harbour of 'a conservative, if not authoritarian, conception of the state and society'.<sup>1775</sup> This image has been challenged in recent years and, to a certain extent, this chapter aims to do the same. Debates by seventeenth-century jurists over the use of roads and rivers reveal a strong legal-philosophical tradition in favour of inter-polity mobility and support the thesis that medieval and early modern thought was marked by a 'fairly obvious pattern of free movement'.<sup>1776</sup> However, the foundations, concepts and language used to support freedom of movement, varied considerably. Rather than offering a coherent concept of freedom of movement, legal scholars and practitioners formulated a wide variety of claims pertaining to the movement of people and goods. A significant body of positive norms and secondary literature was concerned rights of emigration, immigration and sojourn, and historians have widely acknowledged their importance.<sup>1777</sup> The historians of the Old Reich have paid particular attention on emigration restrictions on serfs and subjects.<sup>1778</sup> In

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<sup>1774</sup> In response to the transformations and crises of the early modern world, law became an increasingly important vector for the regulation and interpretation of public issues and societal tensions. In the Holy Roman Empire, intellectual reflection on matters of public concern was thus increasingly placed in the hands of jurists, a loyal and economically dependent 'secular priesthood' (Stolleis, Michael, *Geschichte des öffentlichen Rechts*, 395) with its own arcane language that held important positions in the princely courts and administrations. The high number and quality of universities not only offered a stunted bourgeoisie an entry into academic professions; it also accounted for a strikingly rich and diverse intellectual production. As a consequence, the degree to which conflicts in the Old Reich became 'juridified', the quantity and duration of legal disputes, as well as the quantity of legal publications were nothing short of 'grotesque' (Ibid., 401). See: Stolleis, Michael, *Geschichte des öffentlichen Rechts*, 131, 394–399, 401–403.

<sup>1775</sup> Whaley, *Germany*, vol. 1, 10.

<sup>1776</sup> Nafziger, James, 'The General Admission of Aliens under International Law.' *American Journal of International Law*, 1983, 804–847, 809.

<sup>1777</sup> See Cavallar, Georg, *The Rights of Strangers: Theories of International Hospitality, the Global Community, and Political Justice since Vitoria* (Aldershot: 2002); Cavallar, Georg, 'Immigration and Sovereignty: Normative Approaches in the History of International Legal Theory (Pufendorf—Vattel—Bluntschli—Verdross).' *Austrian Review of International and European Law* 11:3, 2006, 3–22; Nafziger, *General Admission*; Ziekow, Jan, *Über Freizügigkeit und Aufenthalt: paradigmatische Überlegungen zum grundrechtlichen Freiheitsschutz in historischer und verfassungsgeschichtlicher Perspektive* (Tübingen: 1997) and Fourlanos, Gerassimos, *Sovereignty and the Ingress of Aliens* (Stockholm: 1986).

<sup>1778</sup> See for instance: Möhlenbruch, Rudolf, *Freier Zug, Ius Emigrandi, Auswanderungsfreiheit: eine verfassungsgeschichtliche Studie* (Bonn: 1977), 42–118; Ziekow, *Freizügigkeit und Aufenthalt*, 63–139.

the course of the early modern period – under the influence of such ‘catalytic stimuli’<sup>1779</sup> as the Reformation, repopulation efforts after the Thirty Years’ War and the emigration restrictions of the eighteenth century – migration was made increasingly dependent upon the state. An early guarantee in favour of a right to emigrate was the Treaty of Tübingen of 1514, which granted the subjects of the County of Württemberg a right to emigrate as a compensation for the increased tax burden.<sup>1780</sup> During the Great Peasants’ War (1524-1525), in which hundreds of thousands of peasants died at the hands of the aristocracy, restrictions on the migration of serfs were one of the peasants’ central concerns.<sup>1781</sup> Another *topos* of the early modern history of free movement was the right to emigrate for religious reasons (*ius emigrandi*) which the Peace of Augsburg of 1555 conceded to those subjects who did not want to adopt the confession of their prince.<sup>1782</sup> It blended in with wider conceptions of the right to migrate for the Empire’s free subjects.<sup>1783</sup> The practical effects of *ius emigrandi*, however, were limited.<sup>1784</sup> In the context of serfdom, the right to emigrate was considered a privilege and entailed the payment of heavy taxes which compensated a lord for the loss of taxable persons, goods and income.<sup>1785</sup> The religious *ius emigrandi* excluded large parts of the population (such as serfs) and was often dependent upon the payment of heavy taxes and could even be reversed into an obligation to emigrate.<sup>1786</sup> Moreover, the cameralist concern with increasing population numbers favoured severe restrictions on emigration, while promoting the immigration of certain groups during the seventeenth and eighteenth centuries.<sup>1787</sup> The various norms in matters of free migration never came to form a consistent body of migration law, nor did they guarantee a right to free movement.<sup>1788</sup> Karl Härter highlighted that this pluralism reflected the fact that migration in feudal societies was differentiated according to confessional and corporative affiliations, and to its different purposes.<sup>1789</sup>

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<sup>1779</sup> Härter, Karl, ‘Recht und Migration in der frühneuzeitlichen Ständegesellschaft. Reglementierung–Diskriminierung–Verrechtlichung’, in: Rosemarie Beier-de Haan, ed., *Zuwanderungsland Deutschland. Migrationen 1500–2005*, (Wolfenbüttel: 2005), 50–71, 53.

<sup>1780</sup> See Möhlenbruch, *Freier Zug*, 44–51 and Ziekow, *Freizügigkeit*, 70–75.

<sup>1781</sup> Ziekow, *Freizügigkeit*, 75–81.

<sup>1782</sup> Ibid., 82–90. See, moreover: Duhamelle, Christophe, ‘Le jus emigrandi dans le Saint-Empire (XVIe–XVIIIe siècles). La minorité en régime de parité’, in: Poutrin, Isabelle, and Alain Tallon, eds., *Les expulsions de minorités religieuses dans l’Europe des XIIe–XVIIe siècles* (Pompignac: 2015), 129–151.

<sup>1783</sup> Duhamelle, *Jus emigrandi*, 134.

<sup>1784</sup> See: Härter, *Steuerung von Migration*, 16–17.

<sup>1785</sup> Härter, *Recht und Migration*, 54–55.

<sup>1786</sup> Ibid., 55–56 and Ziekow, *Freizügigkeit*, 85–86.

<sup>1787</sup> Möhlenbruch, *Freier Zug*, 96–128 and Härter, *Recht und Migration*, 56–62. For early modern policies and debates on repopulation, see: Nipperdey, Justus, *Die Erfindung der Bevölkerungspolitik: Staat, politische Theorie und Population in der Frühen Neuzeit* (Göttingen: 2012); Kraus, Hans-Christof, ‘Kriegsfolgenbewältigung und ‘Peuplierung’ im Denken deutscher Kameralisten des 17. und 18. Jahrhunderts’, in: Asche, Matthias, Michael Herrman, Ulrike Ludwig and Anton Schindling, eds., *Krieg, Militär und Migration in der Frühen Neuzeit* (Münster, Berlin: 2008), 265–279.

<sup>1788</sup> Härter, *Recht und Migration*, 53.

<sup>1789</sup> Strict distinctions between different forms of movement were common in local contexts, as well. In the early modern County of Lippe, for instance, peasant rights of way over private property were strictly separated as a function of their

The history of freedom of movement cannot be reduced to problems of immigration and emigration. Sharp separations between mobility and migration were difficult to draw in the case of pre-modern societies. While travel and settlement tend to be regarded as distinct phenomena in contemporary political thought, such dichotomies are not particularly useful for understanding early modern regimes of movement. Karl Härter, for instance, argued that modern concepts such as ‘mobility, travel, immigration and emigration, and migration’, as well as distinctions between ‘natives and foreigners’, do not allow us to grasp the complex patterns of movement of marginal social groups in the Old Reich. Not only is it difficult to measure the temporal extent of movements and categorise them according to their motivation,<sup>1790</sup> but the frequent impossibility to identify separate territories and their boundaries makes such classifications problematic.<sup>1791</sup> Categorical distinctions between the movements of goods and people are similarly challenging. Duties and tolls were levied not only on goods, but also on vehicles, draught animals and sometimes on travellers themselves. Even when travellers did not pay any tolls, they could be affected by burdensome inspections, interrogations and delays. Daniel Nordman argued that drawing ‘a distinction between the movements of goods and that of people is difficult’<sup>1792</sup> in old-regime societies altogether.

Early modern societies did not consider trade, travel and migration as fundamentally distinct phenomena.<sup>1793</sup> In the late medieval and early modern world, ‘commerce’ had a strikingly broad meaning which comprised not only trade, but ‘any form of interaction, communication, and interchange among humans’.<sup>1794</sup> The Spanish scholastics of the sixteenth century played an important part in consolidating such wide definitions of commerce as a norm of the law of nations. In Francisco de Vitoria's *Relectio de Indis* of 1531, the legal philosopher postulated a sweeping right to inter-polity intercourse (*ius communicationis*). It comprised the right to travel, to dwell in other countries, to trade, to

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purposes, e.g. for accessing a mill, transporting harvests, or manuring the fields. Because such transit rights were regarded as distinct, it was impossible to deduce a general right of passage from one of them. See: Hennigs, *Gesellschaft und Mobilität*, 95–99.

<sup>1790</sup> The ‘hybrid forms of migration’ described by Christophe Duhamelle are a good example. See: Duhamelle, *Jus emigrandi*, 133.

<sup>1791</sup> Härter, *Jüdische Migrationen*, 72–73. Modern distinctions between travel and sojourn are, moreover, at the heart of modern regimes of exclusion. See: Meccarelli, Massimo, Paolo Palchetti, and Carlo Sotis ‘Introduzione. Dimensione giuridica del fenomeno migratorio tra paradossi e artificialità’, in: Meccarelli, Massimo, Paolo Palchetti, and Carlo Sotis, eds., *Ius peregrinandi: il fenomeno migratorio tra i diritti fondamentali, esercizio della sovranità e dinamiche di esclusione* (Macerata: 2012), 7–31, 18–21. In a similar vein, Daniel Roche suggested to renounce the impossible quest for an exhaustive typology of mobilities, and to choose the analytical categories as a function of the questions to be asked, instead. Roche, *Humeurs vagabondes*, 251.

<sup>1792</sup> Nordman, *Sauf-donduits et passeports*, 150.

<sup>1793</sup> Distinctions between commerce and migration were often politically motivated. Adam McKeown, for instance, highlighted the importance of such distinctions in debates around the regulation of Chinese migration during the nineteenth-century. See: McKeown, *Melancholy Order*, 96–102.

<sup>1794</sup> Cavallar, *Hospitality*, 71. Cavallar emphasises that the narrower definition of commerce as business is a fairly recent one.

use common property, a freedom of residence and citizenship, and negated expulsions without just cause.<sup>1795</sup> In the Old Reich, the concept of *Handel und Wandel* (literally ‘trade and traffic’) had a comparably broad meaning, which was not limited to trade activities but was also used to indicate the interaction with other persons.<sup>1796</sup> In the twenty-first century, scholars are re-evaluating such broader conception of human mobility as alternatives to the more conventional model of international migration ‘that rests on core principles of sovereignty, citizenship, free movement within national jurisdictions, and exclusion of unwanted migrants at international borders’.<sup>1797</sup> This traditional model should be regarded as ‘a historically recent and geographically specific component of a larger story of state efforts to channel mobility in various directions and for various ends’.<sup>1798</sup>

The ‘regalian rights of circulation’ like safe-conduct, customs and rights over roads and rivers, as well as the problem of transit rights, form an important part of this larger story.<sup>1799</sup> In the Holy Roman Empire, these rights became a focal point for the discussion of the politics of movement.<sup>1800</sup> The various phenomena subsumed under the headings of safe-conduct were very diverse and did not necessarily follow a coherent logic, but jurists repeatedly attempted to integrate them into a coherent conceptual frameworks. Legal dissertations and treaties offer an important source for reconstructing

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<sup>1795</sup> See: Ibid., 107–112; McAdam, Jane, ‘Intellectual History of Freedom of Movement in International Law: The Right to Leave as a Personal Liberty’ *Melbourne Journal of International Law* 12, no. 1 (2011): 1–30, 7–8; Grewe, Wilhelm Georg, *The Epochs of International Law* (New York: 2000), 147.

<sup>1796</sup> See: Schäfer, Rudolf, *Förderung von Handel und Wandel in Kurmainz im 18. Jahrhundert* (Frankfurt am Main: 1968), 1.

<sup>1797</sup> Vigneswaran and Quirk, *Mobility Makes States*, 3.

<sup>1798</sup> Ibid.

<sup>1799</sup> These rights were closely associated. The late medieval Dukes of Lorraine, for instance, deduced their right of safe-conduct from their regalian right over the roads in their dominion. In medieval Thuringia, the landgraves had deduced their jurisdiction over the roads from their right of safe-conduct. See: Kalisch, *Verhältnis*, 26. In early modern Thuringia, the Ernestine Dukes based their claims over the roads in smaller neighbouring territories on the same argument. A systematic formulation of these claims can be found, for instance, among the records of a lawsuit that the Counts of Schwarzburg filed against the Ernestine Dukes at the Imperial Chamber Court in 1598: ThStA Weimar Grafen, L Schwarzburg Nr. 54, fo. 112r. Citing two cases from the Prince-Bishopric of Würzburg in 1424 and 1518, in which the two rights appear clearly separated, Gebhard Weig showed, however, that there were exceptions. See: Weig, *Ius conducendi*, 39.

<sup>1800</sup> Because the Imperial Estate’s regalian rights often formed the fiscal foundations of their power, they became an object of particular interest to jurists during the sixteenth and seventeenth centuries. The catalogue of these rights expanded with the fiscal needs of territorial rulers: Mint, hunting, fishing, public roads and rivers, wrecking, customs, the production of pearls, amber, salt, or brewing rights – to name but some – made up the regalian rights around which jurists mingled debates around fiscality and territorial superiority. Jurists commonly distinguished between *regalia maiora*, immaterial rights of sovereignty, and *regalia minora* which comprised fiscally exploitable monopolies. Emerging in the second half of the sixteenth century, the legal literature on regalian rights flourished particularly before and after the Thirty Years War. Most treatises followed a uniform structure in which the regalian rights were first defined, then described, and assigned to certain legal entities, which was often followed by a discussion of their acquisition, forfeiture, reversion etc. Many treatises and dissertations on the right of safe-conduct were structured in the same way. During the eighteenth century, the subject matter was gradually taken over by the representatives of cameralist thought, the German version of mercantilism, of which the vast literature on regalian rights formed an important foundation. See: Stolleis, *Geschichte des öffentlichen Rechts*, 166–170.

contemporary debates around safe-conduct, transit rights and the use of roads and rivers.<sup>1801</sup> While historians sometimes undervalue the mountains of dissertations produced at the universities in the Old Reich as ‘worthless’<sup>1802</sup> – and some continue to do so<sup>1803</sup> – others appreciate their value as historical sources. Indeed, even though dissertations may not express innovations of intellectual avant-gardes and elites, they ‘reflect the standard of an educated stratum’<sup>1804</sup> and the ways in which average jurists and agents of statehood conceptualised the problems of their times more accurately than many canonical masterpieces. Moreover, both ‘the diversity and abundance, [and] perhaps occasionally also the mediocrity’ of the mountains of books produced in this context called the attention of contemporaries well beyond the Empire.

From the seventeenth to the eighteenth centuries, fifteen treatises and dissertations were published on the subject of safe-conduct alone.<sup>1805</sup> Fourteen additional dissertations were concerned with procedural safe-conduct for debtors and criminals (and are therefore of less interest in this context). All dissertations, except one, were written at Protestant universities.<sup>1806</sup> Of the remaining monographs, three (or four, if one counts the second edition of Wildvogel’s and Wild’s dissertation) were written at the University of Jena, the ‘avant-garde university of the German early Enlightenment’,<sup>1807</sup> which was also one of the first universities to teach public law. Like Jena, the universities of Tübingen, Strasbourg, Marburg and Gießen rapidly recovered after the ‘Thirty Years’ War, a circumstance that is reflected in the number of publications. In terms of chronology, the safe-conduct literature followed the general

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<sup>1801</sup> While it was not common to print dissertations until the end of the fifteenth century, large numbers are available from the sixteenth century onwards (See: Köhler, Carl Silvio, ‘Die Autorschaft und Katalogisierung der akademischen Dissertationen. Eine Bibliotheksstudie.’ *Neuer Anzeiger für Bibliographie und Bibliothekswissenschaft* 47 (1886): 225–50, 231). Of the wide variety of dissertations most were written for the obtainment of academic degrees or as exercises in connection with academic courses (Ibid., 252–253) The number of published dissertations grew significantly between 1600 and 1620 and then again from 1640 onwards, with a steep increase during the 1670s and 1680s (Ibid., 253). From the middle of the seventeenth century, Protestant universities produced more dissertations than Catholic universities. See: Kundert, Werner, ‘Juristische Dissertationen katholischer Universitäten. Eine terra quasi incognita’ *Tijdschrift Voor Rechtsgeschiedenis/Legal History Review* 62 (1994): 165–173, 172.

<sup>1802</sup> Mommsen, Karl, ‘Disputationen als historische Quelle’, in: Mommsen, Karl, *Katalog der Basler juristischen Disputationen: 1558–1818* (Frankfurt am Main: 1978), 15–18, 15.

<sup>1803</sup> Mommsen believed that the complexity of these sources accounts for the limited interest of historians. One could also argue that declaring these sources irrelevant is a convenient excuse for excluding a corpus of Latin sources that many historians are not willing to engage with anymore.

<sup>1804</sup> Mommsen, *Disputationen*, 16.

<sup>1805</sup> Two dissertations form an exception. Böckler’s and von Stetten’s dissertation from 1663 was exclusively concerned with the safe-conduct of the Prince Electors. Wildvogel’s and Wild’s dissertation treated only of the safe-conduct of merchants.

<sup>1806</sup> Dahms’ and Esch’s was written at the University of Mainz. The prevalence of Protestants is due to the fact that public law remained an essentially Protestant affair throughout the seventeenth century. Stolleis argued that the political and religious diversity of the Protestant intellectual landscape favoured competition and intellectual stimuli. The principal reason for the ‘retardation’ of the Catholic side was the dominance of Jesuit institutions whose regulations did not favour the study of public law. See Stolleis, *Geschichte des öffentlichen Rechts*, 248–249.

<sup>1807</sup> Ibid., 241.

trends of publication: two publications appeared during the war, but the vast majority was published after 1648 (with a peak in the 1660s).

Author or <i>Praeses</i> and <i>Respondent</i>	Year	Type, length	Published in	Origin of author/respondent	Affiliation	Dedicated to
Thomas Maul	1621	Tractatus <sup>1808</sup> 124 p.	Gießen	County of Solms-Laubach	Councillor to the County of Solms-Laubach	Wendelin Fabri, Abbot of Arnsburg
Johann Harpprecht, Georg Friedrich Mohr	1624	Prodromus discursus academicus (dissertation) <sup>1809</sup> 18 p.	Tübingen	n/a	University of Tübingen	Margrave Joachim Ernst of Brandenburg-Ansbach
Enoch Heiland	1648	Disputatio <sup>1810</sup> 14 p.	Leipzig	Leipzig	University of Leipzig	
Johann Heinrich Boeckler, Paul von Stetten	1663, 1691	38 p. <sup>1811</sup>	Strasbourg	Stetten: Augsburg	University of Strasbourg	Officials of Augsburg (and relatives of von Stetten)
Johann Friedrich Boeckelmann, Johann Andreas Ehrmann	1665	Disputatio <sup>1812</sup> 23 p.	Heidelberg	Ehrmann: Germersheim	University of Heidelberg	Counts of Leiningen, jurists at imperial and Palatine courts
Stadius Harbordt von Windheim, Detlef Kruse	1666	Dissertatio <sup>1813</sup> 24 p.	Jena	Kruse: Stade	University of Jena	'God, fatherland and sponsors'
Peter Pancratius Krauss, Heinrich Wernhöfer	1669	Disputatio <sup>1814</sup> 16 p.	Jena	Wernhöfer: Coburg	University of Jena	

<sup>1808</sup> See: Maul, *Tractatus*.

<sup>1809</sup> See: Harpprecht, Johann, and Georg Friedrich Mohr, *De Salvo Conductu Et Iure Conducendi* (Tübingen: 1624).

<sup>1810</sup> See: Heiland, Enoch, *Disputatio Iuridica De Salvo Conductu* (Leipzig: 1648).

<sup>1811</sup> See: Böckler and von Stetten, *Conductor Carolinus*.

<sup>1812</sup> See: Böckelmann, Johann Friedrich, and Johannes Andreas Ehrmann, *De jure conducendi. Von der Gleits Gerechtigkeit* (Heidelberg: 1665).

<sup>1813</sup> See: Windheim, Stadius Harbordt, and Detlef Kruse, *Dissertatio Juridica De Jure Salvi Conductus* (Jena: 1666).

<sup>1814</sup> See: Krauss and Wernhöfer, *Disputatio*.

Philipp Albert Ortt	1672	Tractatus <sup>1815</sup> 393 p.	Nuremberg		Councillor to the Schenken of Limpurg-Schmiedelfeld	Council of the City of Nuremberg
Heinrich Linck, Johannes Josua Rader	1677	Disputatio <sup>1816</sup> 88 p.	Altdorf	Linck: Zörbig Rader: Lindau	University of Altdorf (Linck was a councillor to Nuremberg)	
Wilhelm Müldner	1686	Disputatio <sup>1817</sup> 48 p.	Marburg	Kassel	University of Marburg	
Christoph Wildvogel, Johannes Wilhelm Wild	1707, 1756	Dissertatio <sup>1818</sup> 48 p. (56 p.)	Jena	Wild: Baden-Durlach	University of Jena	
Johann Michael Dahm; Johann Matthias Esch	1745	Dissertatio <sup>1819</sup> 30 p.	Mainz		University of Mainz	
Christoph Ludwig Wilhelm Buff	1771	Commentatio <sup>1820</sup> 54 p.	Gießen		University of Gießen	Georg Wilhelm Wagner, Councillor of the city of Worms

Three of these texts outclass the others in terms of analytical depth and innovativeness. Thomas Maul, councillor to the County of Solms-Laubach, a small territory the particularly fragmented Wetterau region in Hessian, published a long *Treatise on the Right of Conduct* in 1621.<sup>1821</sup> The book was dedicated to the abbot of the Arnsburg Abbey who had had longstanding disputes with the neighbouring counts of Solms-Laubach (the counts claimed the right of safe-conduct through the abbey, from which they sought to deduce their territorial superiority over the monastery)<sup>1822</sup>. Maul's erudite treatise was chiefly

<sup>1815</sup> See: Ortt, *Tractatus*.

<sup>1816</sup> See: Rader and Linck, *Disputatio*.

<sup>1817</sup> See: Müldner, Wilhelm, *Disputatio Inauguralis De Conducendi Iure* (Marburg: 1686).

<sup>1818</sup> See: Wildvogel, Christian, and Johann W. Wild. *Conductor mercatorius, nostris* (Jena: 1756).

<sup>1819</sup> See: Dahm, Johann Michael, and Johann Matthias Esch, *De jure conducendi* (Mainz: 1745).

<sup>1820</sup> See: Buff, *De conducendi jure* (Gießen: 1771).

<sup>1821</sup> 'Tractatus de jure conducendi', Maul, *Tractatus*.

<sup>1822</sup> See Kolb, Robert, Aquila Certans, *Pro Immunitate, & Exemptione Ecclesiarum, Monasteriorum Et Status Ecclesiastici, a Potestate Seculari: Sive Confutatio Fundamentalis: Triginta Quinque Signorum Solmensium*, (Frankfurt am Main: 1686), 226–231.

concerned with the regalian safe-conduct of merchants. He strongly emphasised the conductor's duty to compensate his conductees for damages. The treatise was a foundation for much of the subsequent literature and was cited by all later authors. Fifty years later in 1672, Philipp Albert Ortth, a councillor to the Schenken of Limpurg-Schmiedelfeld, a noble family that reigned over the Limpurger Land, a minuscule territory in the South-West of the Empire, published the most extensive book ever written on the matter, a *Legal-Political Treatise on the Regalian Right of Conduct*.<sup>1823</sup> Ortth dedicated his treatise to the city council of Nuremberg, which had long-standing safe-conduct disputes with its neighbour Brandenburg-Ansbach<sup>1824</sup>. Over 393 pages, the treatise covered every imaginable aspect of the matter. Ortth often digresses wildly from his original subject matter, as when he drifts into a discussion of the freedom of the seas, or unbridled rants against the Jews. The third major publications (ninety pages) was published in 1677 at Altdorf, the home of the university of the Imperial City of Nuremberg. The authors were Heinrich Linck, who taught at the University of Altdorf since 1674 and gave legal counsel to the Imperial City since 1677, and one of his students, a certain Johannes Josua Rader.<sup>1825</sup> The remarkably erudite book received much of the earlier literature and discussed the matter against the background of important seventeenth-century jurists like Grotius and Pufendorf.

All these treatises were directly connected to concrete conflicts (Solms-Laubach vs. Arnburg, Nuremberg vs. Brandenburg). The same was probably the case in some of the other dissertations. Böckelmann's and Ehrmann's dissertation, for instance, must be read in the context of the expansive safe-conduct policy of Elector Karl Ludwig after the war.<sup>1826</sup> Wildvogel's and Wild's might have had to do with the safe-conduct disputes of Saxe-Weimar, or of Baden-Durlach, where Wild came from. Dahm's and Esch's had been written in Mainz, the capital of the Electorate of Mainz, which had safe-conduct disputes on all its borders. Buff's was dedicated to a councillor of the city of Worms, whose safe-conduct disputes with the Electors Palatine had a long tradition. Despite numerous links with the concrete legal and political practice, one should not overestimate the influence of learned debates

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<sup>1823</sup> 'Tractatus iuridico-politicus de regali conducendi jure', Ortth, *Tractatus*, ch. 3, § 28.

<sup>1824</sup> The lords of Limpurg were engaged in longstanding safe-conduct disputes with their neighbours themselves. See for instance: StA Ludwigsburg, B 114 Bü 6452, Bü 6930, Bü 6453.

<sup>1825</sup> On Linck, see: Teichmann, Albert, 'Linck, Heinrich', in: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, ed., *Allgemeine Deutsche Biographie*, vol. 18 (1883), 660–661.

<sup>1826</sup> Johann Friedrich Böckelmann was one of Elector Karl Ludwig's most trusted advisers. After having defended a thesis in favour of divorce at a time in which the Elector desperately sought to divorce from his first wife, Böckelmann made a steep career at the Elector's court and university. See: Steffenhagen, Emil Julius Hugo, 'Boeckelman, Johann Friedrich', in: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, ed., *Allgemeine Deutsche Biographie*, vol. 3 (Leipzig: 1876), 24–25; Büttinghausen, Karl, *Beyträge zur Pfälzischen Geschichte*, vol. 2.1 (Mannheim: 1777), 56–59; Jugler, Johannes Friedrich, *Beyträge zur juristischen Biographie oder genauere litterarische und critische Nachrichten von dem Leben und den Schriften verstorbener Rechtsgelehrten auch Staatsmänner, welche sich in Europa berühmt gemacht haben*, vol. 4, (Leipzig: 1778) 279–281.

around freedoms of movement and their restriction.<sup>1827</sup> The close connection between the literature and concrete safe-conduct disputes was characteristic for the legal literature of the second half of the seventeenth century.<sup>1828</sup> Together with hundreds of printed and manuscript texts – on customs, roads, rivers, postal services, rights of passage, or the *ius emigrandi* – these sources allow us to reconstruct how scholars and state officials made sense of the conflicts that came with the ordering of movement. While these efforts gave the subject matter some intellectual coherence, they also reveal the extent to which issues like the governance of movement were ridden with ‘contradictions and unsettled conflicts’.<sup>1829</sup> Based on a largely neglected body of printed sources, this chapter reconstructs these debates around freedom of movement and its restriction, situating them in the wider history of early modern thought on the relationship between statehood and mobility.

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<sup>1827</sup> See, for instance, the debates around the free trade of grain in the 1770s: Collet, *Getreidesperren*, 47–48.

<sup>1828</sup> All major public law publicists of the Old Reich were men of practice, for whom the universities only represented a stepping stone for administrative or diplomatic careers in territorial or imperial institutions. Even important authors – among them Ahasverus Fritsch and Veit Ludwig von Seckendorff – never taught at a university. An important consequence was that publicists were expected to defend the interests of their employers. Accordingly, professors were exhorted to keep their work practically relevant and to avoid all ‘subtleties’. Michael Stolleis rightly pointed out, that in order to appreciate the merits of seventeenth-century publicists, one ought to keep in mind their practical concern, their ‘official duties and allegiances’ as well as their ‘material interest’. From its beginning, ‘public law was a political matter’. See: Stolleis, *Geschichte des öffentlichen Rechts*, 255–257.

<sup>1829</sup> Stöllberg-Rilinger, *Alte Kleider*, 307.

## Arteries of Mankind? The Freedom of Roads and Rivers

In order to underline their vindications of free movement, some questioned the very ability of public roads to be owned. Political thought on the relationship between statehood and mobility has always been rooted in specific ‘series of anterior claims, causal arguments, and uncritical assumptions regarding an underlying and enduring relationship between immigration [or mobility] policy, sovereignty, and territorial control’.<sup>1830</sup> In the Holy Roman Empire, assumptions about the nature of roads and rivers were among the most decisive of these anterior claims. Indeed, the majority view among seventeenth-century legal scholars ascribed public roads and rivers to the dominion of the Imperial Estates, but claims about their fundamental liberty were frequently made both on the ground and in the academic literature. Some deduced the freedom of public roads with a peculiar argument. In 1675 a barrister at the common court (*Hofgericht*) of the fragmented Ernestine duchies in Thuringia, Adrian Beier, compared the public roads to the:

veins and arteries [which] creep through all the limbs of the human and animal body [and] divide and link them in turn, so that none of those [limbs] can regard them as belonging completely to itself, and in such a manner that they [the veins and arteries] rule, as it were, over the other limbs.<sup>1831</sup>

By the same token, he argued, ‘regalian roads are limitless and infinite, so that no people has been discovered which is so populous that it encloses a regalian road within its boundaries [and] lives next to it from its beginning to its end’.<sup>1832</sup> In this view, the freedom of public roads rested on the impossibility to take possession of them. Just as no individual limb can claim ownership of the arteries that traverse it ‘the regalian roads are not the property of those, whose territory they traverse’.<sup>1833</sup> A dissertation published in Jena in 1693 made a similar point:

Roads of this kind cannot, like forests or rivers, be enclosed within their extremities and mouths, or like beasts, fish and birds pass into private law, but as they are, as it were, infinite and cannot be seized, since they traverse the whole world without beginning nor end, no people however

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<sup>1830</sup> Vigneswaran and Quirk, *Mobility Makes States*, 10.

<sup>1831</sup> ‘*in corpore humano & animali venae & arteriae omnia membra perrepunt, distinguunt ac vicissim connectunt, ita ut eas nullum illorum sibi soli integras vindicare et adscribere possit, eoque modo illae reliquis membris quasi imperant*’, Beier, Adrian, *An & Quatenus Transitus pro Exercitu per Territorium Alterius Postulari & Denegari Possit* (Jena: 1675), 12. See, moreover: Hessler, *Durchzugsrecht*, 123–124.

<sup>1832</sup> ‘*viae regiae sunt incomprehensibiles atque infinita, ut non reperta fuerit gens tam populosa, quae regiam viam suis finibus includere, a principio ad finem accolere*’, Beier, *Transitus*, 12.

<sup>1833</sup> ‘*viae regiae non sunt eorum, quorum territoria percurrunt propria*’, *Ibid.*, 14.

populous can enclose them within the boundaries of its dominion [...] and exclude other [peoples] from their common use.<sup>1834</sup>

Therefore, public roads were ‘perpetually excepted from ownership by general assent of all humanity and open to all for common use’.<sup>1835</sup> These arguments were constructed in analogy to Hugo Grotius’ vindication of the freedom of the sea. The conception of public roads not only as ownerless property (*res nullius*), but also as things ‘that are forever exempt from [...] private ownership on account of their susceptibility to universal use’,<sup>1836</sup> directly quotes Grotius’ pamphlet *Freedom of the Seas*. The same holds true for the argument that regalian roads cannot be occupied since they are infinite. Grotius likens the air with the sea, ‘which is so limitless that it cannot become a possession of anyone’.<sup>1837</sup> By applying the arguments of *Mare Liberum* to the roads and rivers of the Old Reich, the German jurists hoped to imitate Grotius’ successful strategy.<sup>1838</sup> Grotius’ claim rested on an account of the emergence of property out of a hypothetical state of nature.<sup>1839</sup> As human society became more complex, more and more articles – such as food and clothing – became capable of individual ownership. The sea however was exempt from ownership because of its physical properties and its predisposition for common use. These Grotian arguments were highly controversial. The common view was that public roads could be subject to ownership and dominion. In his influential *De jure naturae et gentium* of 1672, Samuel Pufendorf – one of the best-known philosophers of his time<sup>1840</sup> – expressed nothing but contempt for the theories of his contemporaries:

Some, in order to establish a right of free passage, devise the theory that state highways are the common property of all men, and do not belong to the peoples through whose territory they run,

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<sup>1834</sup> ‘*Neque enim viae hujusmodi, ut silvae aut flumina, suis terminis et ostiis includi, aut ut fera, pisces et aves in proprium jus transire possunt, sed sicuti, infinitae quasi et incomprehensibiles sunt, utpote sine principio et fine totum terrarum orbem emetientes, ita nulla gens quamvis populosissima, eas suae potestatis finibus includere [...] aliasque ab usu illatum communi excludere*’, Müller, Johann Jacob, and Heinrich Mencke von Rechten, *Dissertatio Iuris Gentium De Iure Transitus Per Alterius Territorium: Ad Librum Grotianum II. c.2. §.13* (Jena 1693), § 6.

<sup>1835</sup> ‘*totius humanitatis consensu proprietati in perpetuum exceptae esse cunctisque ad usum communem patere*’, *Ibid.*, § 7.

<sup>1836</sup> Grotius, Hugo, *The Freedom of the Seas* (New York: 1916), 29.

<sup>1837</sup> *Ibid.*, 28.

<sup>1838</sup> The law of the sea played an important role not only in these theoretical debates, but also in legal practice. In a lawsuit over navigation on the river Main, the dominion over rivers was compared with dominion over the sea: he ‘who has dominion and jurisdiction over land is regarded to have it over the sea that adjoins the land, as well’ Merkelbach, *Mayn-Strohm*, § 9.

<sup>1839</sup> See Cavallar, *Hospitality*, 148–149.

<sup>1840</sup> The thought of Pufendorf, who had written large parts of his magnum opus when he was at the service of the Elector Palatine at the University of Heidelberg, revolved mostly around ‘the State’s personhood, its supreme sovereignty, its territoriality, [and] its duty to the law of nations as a minimal universal order’. Haakonssen, Knud, ‘Samuel Pufendorf (1632–1694)’, in: Fassbender, Bardo and Anne Peters, eds., *The Oxford Handbook of the History of International Law* (Oxford: 2012), 1102–1105.

as if such roads are parts of the frame of this earth, created by God Himself at the beginning of things – so stupid an invention that it needs no refutation.<sup>1841</sup>

The rejection ties in neatly with Pufendorf's state-centred thought that justified his restrictive views on rights of passage and 'thin conception of immigration rights'.<sup>1842</sup> Among German jurists, the common narrative went that public roads once belonged to the Roman people, now represented by the emperor. As most other regalian rights and privileges, the dominion over public roads had then passed from the emperor to the Imperial Estates.<sup>1843</sup> Even those scholars who insisted that public roads were a prerogative of the emperor could not deny that 'the princes and estates of the empire clearly possess the public roads'.<sup>1844</sup> Rivers were likewise regarded as being susceptible of occupation. Jurists widely agreed that public rivers formed a part of the territory through which they passed. An often cited phrase (ascribed to Baldus) went that 'territory is not only on land, but also in water [...] and the territory which stands out above the waters and [that] which is immersed into the waters are one and the same'.<sup>1845</sup> The narrative of the passage of the regalian rights to the territorial lords of the Empire supported the territorial rulers' ownership of public rivers.<sup>1846</sup> The concrete substance of this dominion over roads and rivers was, however, less clear.

In practice as well as in theory, the more important question was not who owned a road or a river, or whether it formed part of a certain territory, but who could use it. Even scholars who ascribed dominion over roads and rivers to the territories were quite tolerant in this respect. The later mayor of Bremen Hieronymus Alers, for instance, concluded in 1680 that 'even though the soil of the public road belongs to the people, the use [of it] for walking is open to all men, just as for navigating on public rivers'.<sup>1847</sup> The reason was that 'when the territories had been divided, it had been done so that the dominions be divided, but not the right of passage, which by its nature is indivisible'.<sup>1848</sup> Similarly, Adrian Beier, the barrister who compared public roads to arteries and veins, argued that 'reason, the

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<sup>1841</sup> Pufendorf, Samuel von, *De Jure Naturae et Gentium Libri Octo. Translation of the Edition of 1688*, vol. 2 (London: 1934), 355–6.

<sup>1842</sup> See: Cavallar, *Immigration and Sovereignty*, 5.

<sup>1843</sup> See for instance: Fritsch, *Tractatus*, ch. 3, § 2–7. The Imperial Estates' ownership of public roads was also an important issue in the legal debates around postal rights of the seventeenth and eighteenth-century debates around postal rights. Influential jurists, such as Benedikt Carpzov the Younger and Johann Heinrich Gottlob von Justi, deduced the territorial rulers' right to establish postal systems from the dominion over public roads. See Behringer, *Reichspost*, 284, 297.

<sup>1844</sup> '*principes et status imperii vias publicas plane [...] possidere*', Linck and Rader, *Jus Conduendi*, § 12.

<sup>1845</sup> '*Territorium non solum est in terris, verum etiam in aqua [...] adeoque unum et idem est territorium, quod eminet super aquas et quod immergitur aquis*', Orth, *Tractatus*, ch. 3, § 28.

<sup>1846</sup> See: Oettinger, *Tractatus*, bk. 1, ch. 12, § 25. According to Daniel Nikolaus Rosenhand, however seventeenth-century 'scholars [were] strongly divided as to which [rivers] were public and which private' ('*quae sint publica, quae sint privata, valde variant Doctores*'), Rosenhand, *Iure Transeundi*, § 22.

<sup>1847</sup> '*Etsi autem solum viae publicae sit populi, usus tamen eundi omnibus hominibus patet, perinde ac in fluminibus publicis navigandi?*', Alers, Hieronymus, *Disputatio Iuridica Inauguralis De Regali Viarum Publicarum Iure* (Frankfurt an der Oder: 1680), § 7.

<sup>1848</sup> '*Divisioe territorii id actum, ut dominia, non vero jus transeundi, quod sua quoque natura individuum est, divideretur*', *Ibid.*, § 9.

ruler of all mankind, insinuated to the peoples, when they mutually divided the territories, to preserve certain spaces for common use and trade, which remain the only bond and junction between the more remote and distant'.<sup>1849</sup> Hence, Beier concluded, 'we shall not be able to make one people the gatekeeper of the others without inflicting an injustice upon the same and attribute to it the freedom to close the other's access to itself or the passage to others'.<sup>1850</sup>

The conflict between the County of Wertheim and the Prince-Bishopric of Würzburg over the right to navigate the river Main provides a good example of how such arguments played out in practice. In 1609 Würzburg had obtained an injunction from the Imperial Chamber Court, which summoned Wertheim not to impede the passage of its market ship. The summons letter denounced Wertheim's 'attempts to deprive and rob [Würzburg] of the common [...] use of the river Main [and] to impede the usual [and] necessary commerce with the Frankfurt trade fair'<sup>1851</sup> with various claims to free movement. The injunction referred to the constitutions of the Holy Roman Empire and to Imperial Recesses that stipulated that 'nobody should impede the other in the customary freedom to make use of the common waters and rivers',<sup>1852</sup> be it through unnecessary delays, bureaucratic burdens, or penalties, especially during the time of the trade fairs. In so doing, Würzburg claimed not only a customary right of passage, but also invoked the imperial provisions in the matter. Its barrister denounced the obstruction of the river as 'an inhibition of commerce [and] the use of the common roads and rivers [...] which] is prohibited in all laws, punishable in itself, and leads to the ruin of the common weal'.<sup>1853</sup>

Wertheim's barrister at the Imperial Chamber Court reacted with several long counter-pleas in which he accused Würzburg of lying, questioned the integrity of the market ship's captain and explained at length that Würzburg's ship was obliged to solicit the count's safe-conduct.<sup>1854</sup> In the Holy Roman Empire, the barrister claimed, 'every conduct lord [is] free and authorised to enjoin rules and to oversee the merchants on his conduct road according to the necessities of the times'.<sup>1855</sup> 'This power and

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<sup>1849</sup> 'Rationem, totius humani generis Rectricem, Gentibus territoria invicem partientibus, instillasse, spacia quaedam usui et commercio communi servare, quae unicum restant remotiorum ac dissitorum vinculum et connexio', Beier, *Transitus*, 13.

<sup>1850</sup> 'Non poterimus unum populum, janitorem reliquorum, citra eorundem injuriam constituere, atque in ejus arbitrium conferre licentiam alter occludendi accessum ad se', Ibid.

<sup>1851</sup> 'Des gemainen [...] brauchs des Mainfluß zuensetzen und zu berauben, die gewöhnliche notwendige Commercia in die Franckfurter Messen', Imperial writ of summons against the County of Wertheim, 2 Apr 1609, GLA Karlsruhe, 71/3513.

<sup>1852</sup> 'niemandt dem andern an wolherbrachter freyheit die gemainer Wasser und fluß [...] zugebrauchen [...] zu hindern', Ibid.

<sup>1853</sup> 'Sperrung der commercien, brauch der gemeinen Landstraßen und Wasserfluß [...] in allen rechten verboten an sich straffwürdig, und zu des gemainen wesens zerrüttung gereiche', Ibid.

<sup>1854</sup> See: *Articulatae exceptiones sub et obreptionis* (no. 5), GLA Karlsruhe, 71/3513, art. 24.

<sup>1855</sup> 'Einem ieden gleichts Herren frey unnd erlaubtt pro necessitatibus temporum den Kauff [...] Leuthen auff seiner geleits straßen iedes mahl maß unnd achtung zue geben', Ibid., art. 31.

provision of conduct can be used freely<sup>1856</sup> and without interference from others. Therefore, the barrister claimed, the count was fully entitled ‘to give laws to the merchants in the conduct district of the County of Wertheim [...] and is neither to be prevented from doing so by Würzburg, a foreign prince, nor does he have to justify<sup>1857</sup> himself. Apart from minimal constraints arising from the necessity to protect the river, the barrister claimed, Wertheim’s control ‘neither impaired the navigation, nor did it bar the use of a public river, nor was the least hindrance inflicted upon the passers-by’.<sup>1858</sup>

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<sup>1856</sup> ‘solche facultet unnd gleidts verordnungen [...] libere gebraucht’, Ibid., art. 33.

<sup>1857</sup> ‘Eodem iure & titulo in der Graveschafft Wertheimb [...] den Handles Leuthen leges zue geben, unnd von Würzburg als eine, Extraneo principe gar nicht daran zu verhindern oder derentwegen zue Rechtfertigen’, Ibid., art. 34.

<sup>1858</sup> ‘weder die navigatio diteriorirt noch usus fluminis publici gesperrt, od die geringste Verhinderung transeuntibus angefüeget’, Ibid., art. 39.

## Freedom of Transit

Transit was another pivotal concept in the early modern history of free movement. It is often defined as a movement that traverses a territory and involves at least two border crossings.<sup>1859</sup> Although transit posed immense practical challenges and constituted an important subject of early modern legal scholarship, the matter has received relatively little scholarly attention.<sup>1860</sup> Historians have long privileged questions of long-term migration and settlement. Transit, however, formed a fundamental problem for all those concerned with freedom of movement and its negotiation in different regimes of mobility.

With its many disjointed territories, the political landscape of the Old Reich made negotiations and contentions over transit rights a particularly pressing problem. The omnipresence of enclaves brought jurists to devote particular attention to the problems brought about by movement across these peculiar territorial formations.<sup>1861</sup> The problem of transit rights was prominent, for instance, in the negotiations for the establishment of the imperial Reichspost at the end of the sixteenth century, when the emperor asked all territorial rulers ‘to grant conduct and the right of passage through their territories’.<sup>1862</sup> When some territorial princes established their own postal systems in the wake of the ‘Thirty Years’ War, denying transit rights to competitors became a means of establishing postal monopolies.<sup>1863</sup> In the legal and political literature of the seventeenth century, the discussion of postal rights consequently became a forum for balancing the role of the Empire and its territories in the governance of movement. These debates revealed a ‘contradiction between [... the order of] communication and the growing

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<sup>1859</sup> See: Hessler, *Durchzugsrecht*, 4. In the Holy Roman Empire, however, where clearly bound territories were more the exception than the rule and regimes of movement were anchored to thoroughfares rather than to borders, the definition of transit was not always that straightforward.

<sup>1860</sup> For a cursory discussion of civil and military rights of passage, see: Hessler, *Durchzugsrecht*. Ernst Reibstein, moreover, examined early modern debates around the innocent passage of troops: Reibstein, Ernst, ‘Transitus Innoxius. Ein verschollenes Kapitel des Neutralitätsrechts.’ *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (1961), 21, 429–472. See moreover: Rosenberg, Rainer von, *Soldatenwerbung und militärisches Durchzugsrecht im Zeitalter des Absolutismus*, Frankfurt 1973, 145–60. It is perhaps no coincidence that German scholars’ interest in rights of passage was strongest in the years preceding and following the 1971 transit agreement between the two German states.

<sup>1861</sup> See: Hessler, *Durchzugsrecht*, 10–17. Transit rights between enclaves posed a particularly important problem and several scholars deduced a right of passage to enclaves from natural law. If passage to enclaves was denied, they argued, it could be taken by force in cases of necessity, for instance when the population lacked vital provisions. As a servitude of public law, transit was an established legal institution (*servitus transeundi*) in the Old Reich. In practice, the presence of enclaves posed considerable problems, because they facilitated smuggling. Because transit duties were generally lower than import duties, smugglers could declare goods as transit goods directed to an enclave and then secretly distribute them in the territory surrounding the enclave. See: *Ibid.*, 95–96.

<sup>1862</sup> Behringer, *Reichspost*, 175. See also: Hessler, *Durchzugsrecht*, 125–138.

<sup>1863</sup> Electoral Brandenburg, for instance, established a postal monopoly by denying transit rights, which led to severe conflicts with neighbouring territories, such as Electoral Saxony. See: Behringer, *Reichspost*, 241, 247.

prerogatives of the absolutist state'.<sup>1864</sup> While many seventeenth-century publicists defended the right of territorial rulers to their own postal monopolies, the eighteenth century witnessed more pragmatic approaches in which the pursuit of quality ranked higher than the question of who was entitled to postal monopolies, as functioning communications infrastructures were regarded as a token of civilisation.<sup>1865</sup>

The Old Reich had a series of legal provisions in favour of transit rights.<sup>1866</sup> The public peace of 1548 made explicit mention of a right to freely pass across the territories of other Imperial Estates. Similar provisions were made in imperial recesses of the sixteenth and seventeenth century, and in the Westphalian Peace Treaty. The Imperial Chamber Court could issue injunctions against those barring a public road.<sup>1867</sup> Moreover, countless bilateral treaties were concluded to solve disputes over transit rights between Imperial Estates. Due to these normative provisions in favour of free movement, the Holy Roman Empire even became a point of reference in related debates, such as the battle of the books over the freedom of the sea. In his refutation of Hugo Grotius's *Mare Liberum*, the English jurist John Selden preemptively rejected some of the objections that his treatise would have provoked. Among them were several arguments in favour of freedom of commerce, travel and passage, all of which the author of *Mare Clausum* dismissed as faulty or irrelevant. The last objection concerned the case of the Holy Roman Empire where 'no Prince, nor any other holding Royalties by his Grant, can forbid men passage in the common Road without som just cause'.<sup>1868</sup> Selden, however, did not admit that one could challenge his argument with the case of the Old Reich. Even if there were legal provisions in favour of free passage in the Empire, it clearly was an exception in the early modern world:

But other nations that are under several and distinct sovereignties, have not as yet made any such agreement, that there should alwaies bee a liberty of passage to and fro, nor have they (like the Germanes, and others within their Dominion) referr'd themselves unto an Empire to determine the business.<sup>1869</sup>

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<sup>1864</sup> Ibid., 280.

<sup>1865</sup> See: Ibid., 280–301.

<sup>1866</sup> For an overview, see: Hessler, *Durchzugsrecht*, 18–24.

<sup>1867</sup> See, for instance: Hessler, *Durchzugsrecht*, 19. See, moreover, the injunctions obtained by the Imperial City of Regensburg against measures of reprisal ordered by the Duke of Bavaria: Rieder, *Regensburg*, 195. The same argument was made in Imperial injunctions against the Prince-Bishop of Würzburg in the context of the safe-conduct disputes around Wertheim. See: Rudolf II, Emperor of the Holy Roman Empire, to Julius Echter von Mespelbrunn, Prince-Bishop of Würzburg, 28 Apr 1603, StA Wertheim, G-Rep. 19 11 2.

<sup>1868</sup> Selden, John, *Of the Dominion or Ownership of the Sea* (London: 1652), 126

<sup>1869</sup> Ibid.

One of the chief concerns of the jurists concerned with rights of passage were military transits, which posed an immense threat in an empire that served ‘as a European thoroughfare for thirty years’<sup>1870</sup> and whose members ‘were unable to stop their territory from being marched over almost at will by foreigners’.<sup>1871</sup> Hugo Grotius’ influential disquisitions on transit were chiefly concerned with the problem of military passage. He took a ‘liberal’ stance that was in line with his view that the ordering of the world in a division of properties was not absolute, but subject to restrictions motivated by the *ius humanae societatis*, the rights held by mankind as a whole.<sup>1872</sup> This view was challenged by subsequent authors, who stressed the princes’ right to control passage with a variety of arguments.<sup>1873</sup> In contrast to Grotius’ permissive views, there was a broad scholarly consensus in the Old Reich that there could be no general right to military transit and that each passage required the consent of the highest territorial authority. Until the Westphalian Peace, the Empire even claimed the right to restrict the passage of troops of Imperial Estates. The Imperial Recess of 1559 prohibited the passage of troops of foreign powers altogether.<sup>1874</sup> Since the provision proved difficult to enforce, the Imperial Diet of 1564 permitted the passage of foreign troops under certain conditions. Among others, transits of foreign military required the authorisation of the respective Imperial Circle. Military transit was also the object of detailed regulations on the imperial and territorial level, as well as a multitude of bilateral agreements.<sup>1875</sup> In 1648 the Westphalian Peace Treaties formulated specific rules for troop passages: soldiers could only pass unarmed, in small groups, without music and without flags. Additionally, military transit rights touched upon the problem of neutrality. The decision whether or not to grant transit rights to warring parties has always been one of the most pressing challenges for neutral polities.<sup>1876</sup>

Diplomatic immunity in transit was another context in which transit and its limitation were controversially debated. Megan Williams has recently revealed the depth and significance of early modern European debates around diplomatic mobility in the early sixteenth century.<sup>1877</sup> While princes

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<sup>1870</sup> Simms, *Europe*, 43.

<sup>1871</sup> Simms, *Europe*, 11. See: Hessler, *Durchzugsrecht*, 151. Aside from legal-theoretical discussions, a significant part of the literature was concerned with practical problems of military passage, such as the logistics of provision and quartering and violence. See Reibstein, *Transitus innoxius*, 455–457

<sup>1872</sup> See: Reibstein, *Transitus innoxius*, 437–442.

<sup>1873</sup> See below and: *Ibid.*, 451–455.

<sup>1874</sup> See: Rosenberg, *Durchzugsrecht*, 147.

<sup>1875</sup> These were mostly concerned with military transits of one Imperial Estate through another. See Reibstein, *Transitus innoxius*, 458–459.

<sup>1876</sup> See: *Ibid.*, 432.

<sup>1877</sup> See: Williams, *Dangerous Diplomacy*, 49–114. Williams pointed out that the study of early modern *ius gentium* has often been conducted in an abstract and ahistorical fashion and that a strong scholarly focus on the Spanish conquests in the Americas has led scholarship to neglect the equally important Central European debates. *Ibid.*, 53–54.

attached increasing importance to the control of diplomatic mobility across their domains and imposed restrictions on the mobility of diplomats, protests against such restrictions were often framed in a rhetoric of *ius gentium*. Due to its imprecision and strong moral connotations, diplomatic immunity in transit became ‘a constant battleground for the humanists, jurists, and princes alleging and justifying its violation’.<sup>1878</sup> Many princes were reluctant to let diplomatic immunity limit their control over their domains. Those defending their right to restrict diplomatic mobility often resorted to a rhetoric of protection. When Emperor Ferdinand I arrested two Hungarian ambassadors directed to the Imperial Diet at Regensburg in 1527, one of the many arguments with which he defended the measure was that he had the right to defend his roads from ‘suspicious persons’ and that the diplomats should have asked for a safe-conduct before entering his territory.<sup>1879</sup> Williams’ study revealed how dynamics of honour and morality pervaded quarrels around the rights of passage of diplomats. Allegations of violated immunity could be employed as ‘propaganda weapons to mobilize humanist sentiment’<sup>1880</sup> by arrested diplomats and their superiors to damage a prince’s reputation.<sup>1881</sup>

In the course of the sixteenth century, debates around violated diplomatic immunity remained an important forum for negotiating rights of passage. In 1576 several envoys of the Hanseatic cities of Danzig and Elbing were arrested while traversing the Duchy of Mecklenburg, a large territory on the shores of the Baltic Sea. The Duke of Mecklenburg, Ulrich III, gave a simple reason for the diplomats’ arrest: they had not requested his safe-conduct before entering the territory.<sup>1882</sup> The arrested men were returning home from Lübeck, where they had attended a convention of the Hanseatic League (*Hansetag*). They had not come very far: the duke’s men arrested them 50 miles east of Lübeck in Neubukow, a small town on the road between Wismar and Rostock, from where they were brought to the city of Wismar.

The duke’s justification for arresting the diplomats was clear. It was common knowledge, he claimed, that rulers and their representatives were ‘not permitted to pass through the territory and domain of the electors and princes of the Holy Roman Empire, unless they have their ‘protection and conduct’.<sup>1883</sup> Ulrich argued that asking for safe-conduct would have been in the interest of the envoys’ security. In the past, they ‘had not ignored such safe-conduct, but had always requested it from the Electors and princes, whose dominion, land and people they touched in their passage, so that no tribulations [...],

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<sup>1878</sup> Ibid., 84.

<sup>1879</sup> See: Ibid., 92.

<sup>1880</sup> Ibid., 111.

<sup>1881</sup> See: Ibid., 93–111.

<sup>1882</sup> See: Ulrich III, Duke of Mecklenburg, to Lübeck, 15 Sep 1576, AH Lübeck, ASA Externa 176.

<sup>1883</sup> ‘*sicherung und verleitung*’, Ibid.

robbery, extortion and other [harm] should befall them'.<sup>1884</sup> The duke particularly resented the diplomats' unauthorised passage because he suspected that they had 'avoided such conduct on purpose, and especially in contempt of his Princely Graces princely reputation and highness'.<sup>1885</sup> At the same time, a prince who arrested diplomats traversing his territory 'sent a very powerful message of territorialized power and sovereignty'.<sup>1886</sup> The ransom of 1000 thalers that the duke requested from each city for releasing their envoys underlined the symbolic value of this infringement.<sup>1887</sup>

The cities refused to pay the ransom and vigorously protested the duke's demands, opening an extensive diplomatic correspondence with Ulrich, the other Hanseatic cities, and the Kings of Poland and Denmark. A letter from Königsberg argued that, in the past, the envoys had 'always entered and left [the territory] without requesting any safe-conduct and had not been indicted by anybody because of it'.<sup>1888</sup> Therefore, the arrested diplomats 'could not have guessed, that they were unsafe on their home journey and that they could have requested safe-conduct'.<sup>1889</sup> The duke should have 'informed everyone through a publication or an edict and previous warning that no one should pass through His Princely Graces territory without having [first] requested safe-conduct'.<sup>1890</sup> The King of Poland, who interceded on behalf of the envoy of Elbing, Johann Jungschulz, sustained fundamental objections. To him, the envoy's entering the duke's dominion without safe-conduct did not seem 'to carry that much weight',<sup>1891</sup> since:

among Christian nations and people, it is held that the roads are to be traversed securely according to the law of nations, [and] it is not customary that safe-conduct is requested for making a journey, except for those princely dominions in which some just war occurs.<sup>1892</sup>

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<sup>1884</sup> *dergleichen Vergeitungen nicht ubergangen, sondern die Chur und Fürsten deren bottmessigkeit, auch Lande und Leute sie mit Irem durchzuge berüret, In allwege darumb ersucht und außbracht, darmit Ihnen keine wiederwertigkeit [...] Raub, Plackerei und sonsten niederfarren mogen', Ibid.*

<sup>1885</sup> *vorsetzlich, und sonderlich zu vorachtung S. F. G. fürstlichen reputation und hobeit', Ibid.*

<sup>1886</sup> Williams, *Dangerous Diplomacy*, 112.

<sup>1887</sup> Harsh punishments for infringements against the duty to request safe-conduct were not unusual. When a Venetian Jew crossed the bridge across the Danube into Regensburg without safe-conduct in 1571, for instance, he was arrested and publicly flogged at the pillory. See: Rieder, *Regensburg*, 184.

<sup>1888</sup> *alzeit, obn je kein gesuchts geleid, aus und ein gezogen, und derhalbenn, von keinem Menschen besprochen worden', City of Königsberg to Ulrich III, Duke of Mecklenburg, 31 Oct 1576, AH Lübeck, ASA Externa 176.*

<sup>1889</sup> *keine gedanken sich machen können, das sie auff der heimreisen solten geunsichert sein, oder das sie ein gleidt suchenn dorffenn', Ibid.*

<sup>1890</sup> *surch eine Publicirung, oder Edictt und vorgehende warnung menniglich kundtbar werden lassen, das niemand durch E.F.G. fürstenthumb ohne gesuchtes geleid ziehen solte', Ibid.*

<sup>1891</sup> *tanti momenti non [...] esse', Stephan Báthory, King of Poland to Ulrich III, Duke of Mecklenburg, 2 Nov 1576, AH Lübeck, ASA Externa 176.*

<sup>1892</sup> *apud Christianas nationes et populos, inter quos Jurisgentium itineris secure peragendi peculiare viget, non moris sit, ut salvis conductus propter iter conficiendum postuletur, exceptis illos Principum dittonibus, in quos instum aliquod bellum intercedit', Ibid.*

The envoy had not requested the dukes' safe-conduct, the king argued, because 'he confided in [his] security according to old custom'<sup>1893</sup> Thus, the diplomatic correspondence exchanged in the months during which the envoys remained 'most sadly imprisoned'<sup>1894</sup> unveiled the ambiguities that pervade the history of political safe-conduct. As Megan Williams has shown, universal claims of immunity of diplomats in transit were justified with 'humanist, neo-Stoic constructions of *Respublica christiana* and *jus gentium*'.<sup>1895</sup> The mobility of diplomats was vindicated as serving the interest of the entire Christian Commonwealth, not only that of their prince.<sup>1896</sup> If a ruler impeded the transit of diplomats across his territory, he could thus be accused of advancing his own interest at the expense of the greater good. The incident illustrates, moreover, the suggestion that pre-modern freedom of movement must be understood 'not as a quality of the free man, even less as a subjective right, but as a positive right, that is regulated by a set of institutions [...] whose recognition is on no account based on a natural principle, but on negotiation'.<sup>1897</sup>

In the second half of the seventeenth century, some argued in favour of almost universal rights to free movement. The perhaps boldest and most eloquent defender of free movement was Daniel Nikolaus Rosenhand, a Swedish Pomeranian nobleman who had defended a dissertation *On the Right of Passing through Territories* at the University of Strasbourg in 1672.<sup>1898</sup> He argued that 'the right to pass through territories consists in anyone's possibility to travel and to return harmlessly through lands under anyone's jurisdiction, according to his need and use [and] the usual custom'.<sup>1899</sup> Rosenhand found manifold foundations for this right. He cited the 'memorable migrations'<sup>1900</sup> of Noah and the Patriarchs, and the voyages of the Kings of the Jews, such as Solomon. He adduced, moreover, the 'often chanted exodus of the Jews out of Egypt, which does not allow us to doubt [that] this right is commended by God [...] himself'.<sup>1901</sup> In addition, he referred to the law of nations:

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<sup>1893</sup> 'veteri consuetudine securitate fisis', Ibid.

<sup>1894</sup> 'ganz bekümmerten angehalten', Johan Jungschultz and Hans von der Heide to Mayor and Council of the City of Lübeck, 5 Jan 1577, AH Lübeck, ASA Externa 176.

<sup>1895</sup> Williams, *Dangerous Diplomacy*, 84.

<sup>1896</sup> See: Ibid., 57.

<sup>1897</sup> Moatti, *Introduction*, 23.

<sup>1898</sup> The book was dedicated to Magnus Gabriel De la Gardie, an important Swedish statesman, who was a member of the Swedish Privy Council and held several of the highest offices. The dissertation featured a poem by Johann Heinrich Böckler, an influential professor of rhetoric at Strasbourg, who was a declared advocate of Swedish interests in the Empire.

<sup>1899</sup> 'jus transeundi per territoria est facultas, cuilibet, per cujuscunque jurisdictionis terras, ad sui necessitatem et usum, solito more, innocenter, commeandi ac remanendi', Rosenhand, *Iure Transeundi*, § 4.

<sup>1900</sup> 'insignes migrationes', Ibid., § 6.

<sup>1901</sup> 'decantatus Israelitarum ex Aegypto exitus, qui, quin jus hoc ipsi Deo [...] probetur, dubitare nos non sinit', Ibid.

which has left the use and the security of public roads [and] rivers [...] open to those who need passage for just reasons, so that a safe, unarmed and inoffensive journey on them cannot rightfully be denied to the men of any people, no less than to drink from a river.<sup>1902</sup>

In view of the legal practice of his day, Rosenhand argued, that civil law also supported a right of passage in so far ‘as the public use of the sea, the shores, the ports, the rivers, [and] the public roads is upheld with laws, legal suits and injunctions’.<sup>1903</sup> Ultimately, Rosenhand invoked the principle of innocent use. Rivers and streets ‘were acquired under the condition that their uses be distinct, and that anyone can take advantage of them without ownership [...] but in such a way, that the position of the owner will not be poorer’.<sup>1904</sup> Thus ‘the peoples had left innocent passage indivisible and common’.<sup>1905</sup> The liberty of passage theorised by Rosenhand was not politically disinterested. Indeed, historically, most apologies of freedom movement were the ‘product of hegemonic designs’.<sup>1906</sup> Authored by a nobleman from Swedish Pomerania – a territory on the Baltic coast over which Sweden held extensive control since the Thirty Years’ War – the book catered to the strategic interests of the Swedish Crown, which used its German outpost as a reservoir for troops and provisions and as a basis for participating in the wars on the continent. Caspar Ziegler, a professor at Wittenberg who published critical commentary to Grotius’ *Rights of War and Peace*, spelled out the political hazards of advocating free movement. Opposing Grotius’ assertion that necessity justifies the use of the property of others, Ziegler warned that, ‘Even if Grotius’ hypothesis would be admitted, it is not safe enough to publish it and to make it known in the general public, because the excuse for very many invasions would be sought in it’.<sup>1907</sup>

The conceptual substance of Rosenhand’s and other arguments was not new. Late medieval and early modern jurisprudence had produced a rich body of thought on the problem of transit. It was seen as an element of commerce, which comprised ‘any form of interaction, communication, and interchange among humans’.<sup>1908</sup> The Spanish scholastics of the sixteenth century had played a particularly important part in consolidating wide definitions of commerce as a norm of the law of nations. Just as

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<sup>1902</sup> ‘quod qui transitu, ad causas justas opus habent, illis usum et securitatem viarum publicarum, fluminum [...] ita apertum reliquit, ut per ea iter, certe inerme et innoxium, nullius gentis hominibus juste negaretur, sicut et potus ex flumine’, Ibid.

<sup>1903</sup> ‘dum usum publicum maris, littorum, portuum, fluminum, viarum publicarum, legibus, actionibus, interdictis tuentur’, Ibid.

<sup>1904</sup> ‘conditionem nactae sunt, ut earum diversi sint usus, & quidam ex his, sine proprietate commode haberi possit [...] ita quidem, ut propterea domini conditio non deterior sit future’, Ibid., § 7.

<sup>1905</sup> ‘innoxius transitus, gentes indivisum reliquerunt & communem’, Ibid.

<sup>1906</sup> Meccarelli et al., *Introduzione*, 9. See, moreover: Ibid., 7.

<sup>1907</sup> ‘nec vero etiamsi Grotii hypothesis admittatur, satis tutum est, eam exponere et in vulgus notam facere, cum ex ea quamplurimae invasiones patrocinium sibi petiturae sint’, Ziegler, Caspar, In *Hugonis Grotii De Iure Belli Ac Pacis Libros, Quibus Naturae & Gentium Ius Explicavit, Notae & Animadversiones Subitariae* (Wittenberg: 1666), 229.

<sup>1908</sup> Cavallar, *Hospitality*, 71.

Rosenhand's *ius transeundi*, early formulations of *ius peregrinandi* differed in one important respect from later, state-centred conceptions of rights of emigration or immigration.<sup>1909</sup> *Ius peregrinandi* was founded on the assumption that human beings are naturally inclined to circulate. Accordingly, it was deduced from the broader *ius communicationis*, the fundamental 'right of man to relate and build social, economic, legal and political relations'.<sup>1910</sup> From such a perspective, the right to free movement preceded the constitution of political entities and was therefore independent of a recognition by political powers.<sup>1911</sup> This conception of freedom of movement differed fundamentally from later formulations of emigration rights that presupposed an 'international order of sovereign states'<sup>1912</sup> as it prevailed in the subsequent centuries.

One of the most famous examples of scholasticist theories of free movement was formulated in Francisco de Vitoria's *Relectio de Indis* of 1531, in which the legal philosopher attempted to justify the Spanish conquests in America on the grounds of an *ius communicationis*, a right to international intercourse.<sup>1913</sup> In opposition to many of his contemporaries, he stated that it was not the Indian's heathenism which justified the Spaniards taking their land, but the Indians' violation of the Spaniards' *ius communicationis*.<sup>1914</sup> Vitoria thus claimed that the Spaniards had 'the right to travel and dwell in those countries, so long as they do no harm to the barbarians, and cannot be prevented by them from doing so'.<sup>1915</sup> One foundation of this right was that 'in the beginning of the world, when all things were held in common, everyone was allowed to visit and travel through any land he wished' and that 'this right was clearly not taken away by the division of property (*divisio rerum*)'.<sup>1916</sup> Therefore, according to Vitoria, 'all things which are not prohibited or otherwise to the harm and detriment of others are lawful'<sup>1917</sup>. Furthermore, 'by natural law, running water and the open sea, rivers and ports are the common property of all [... and] by this token these things are clearly public property from which no one may lawfully be barred'.<sup>1918</sup>

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<sup>1909</sup> See: Meccarelli et al., *Introduzione*, 7–10.

<sup>1910</sup> *Ibid.*, 8.

<sup>1911</sup> See: *Ibid.*, 8–9. See, moreover: Casimir, Michael, 'The Dimensions of Territoriality: An Introduction', in: Casimir, Michael and Aparna Rao, eds., *Mobility and Territoriality: Social and Spatial Boundaries among Foragers, Fishers, Pastoralists and Peripatetics*, (New York: 1992), 1–26, 7.

<sup>1912</sup> Meccarelli et al., *Introduzione*, 8.

<sup>1913</sup> See: Cavallar, *Hospitality*, 107–112; McAdam, *Freedom of Movement*, 7–8; Grewe, *Epochs of International Law*, 147.

<sup>1914</sup> See: Furlanos, *Ingress*, 19–20.

<sup>1915</sup> Vitoria, Francisco de, 'On the American Indians', in: Vitoria, Francisco de, *Political Writings* (Cambridge: 1991), 278.

<sup>1916</sup> *Ibid.*

<sup>1917</sup> *Ibid.*

<sup>1918</sup> *Ibid.*, 279.

The authors who followed in the footsteps of the Spanish scholasticists were chiefly concerned with articulating the conditions under which the right of communication could be limited.<sup>1919</sup> This was the case of Hugo Grotius, one of the most influential early modern political philosophers to have theorised the conditions under which a polity can regulate the movements of goods and people on its territory. In *The Rights of War and Peace* of 1625, Grotius framed a number of propositions that made him the most important theoretician of free movement among German jurists concerned with disputes around rights of passage and safe-conduct.<sup>1920</sup> He re-elaborated earlier theories of rights of passage developed by sixteenth-century Spanish scholars such as Vitoria and Suarez. While the originality of Grotius' contribution beyond the freedom of the seas is dubious, no other author was as fervently disputed among seventeenth-century German jurists concerned with rights of passage.<sup>1921</sup> In a chapter about the 'things which belong to men in common',<sup>1922</sup> Grotius postulated rights of passage, of temporary and permanent immigration, and a right of emigration, which assimilated many of the teachings of his predecessors.<sup>1923</sup> In Grotius' view, the right 'of passage over lands and rivers'<sup>1924</sup> was to be granted 'for legitimate reasons' as long as it was 'of advantage to the one people, and involves no detriment to the other'.<sup>1925</sup> Such a right of innocent passage did not require the permission of those controlling the territory. Drawing on biblical and ancient examples, Grotius suggested, however, that 'permission to pass ought first to be demanded; but, if it is refused, passage can be made by force'.<sup>1926</sup> He postulated a right of passage for goods and merchandise, as long as their passage was not detrimental to anyone. He founded this conclusion on a right to trade with other nations, which was 'in the interest of human society'.<sup>1927</sup> However, he was mainly concerned with the problem of military passage, on which he took a relatively 'liberal' stance which many vigorously rejected. For Grotius, any fear arising from the potential dangers of troops passing through a territory could not be considered a legitimate reason to deny transit rights. 'My right is not extinguished by your fear'<sup>1928</sup> is a catchphrase that subsequent authors repeated without fail.<sup>1929</sup>

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<sup>1919</sup> See: Cavallar, *Hospitality*, 74.

<sup>1920</sup> See: Grotius, Hugo, *On the Law of War and Peace* (Oxford: 1925), vol.2, 196–200.

<sup>1921</sup> Indeed, Grotius thought owed much to previous theories of *ius gentium*, the natural commonwealth and sociability, so that he should be seen more as a 'later medieval synthesizer' rather than as an innovator. See: Cavallar, *Hospitality*, 122, 162.

<sup>1922</sup> Grotius, *War and Peace*, 186.

<sup>1923</sup> See: Hessler, *Durchzugsrecht*, 7.

<sup>1924</sup> Grotius, *War and Peace*, 196.

<sup>1925</sup> *Ibid.*, 197. See also Reibstein, *Transitus innoxius*, 429.

<sup>1926</sup> Grotius, *War and Peace*, 198.

<sup>1927</sup> *Ibid.*, 199.

<sup>1928</sup> *Ibid.*, 198.

<sup>1929</sup> Instead, Grotius suggested a number of methods of securing the passage of troops, such as disarming them, letting them pass in small bodies, to take hostages as a security, or to escort them at the expense of those requesting the

No theorist of free passage could ignore Grotius' propositions, so great was his legacy in matters of free movement and beyond. The influence of *Mare Liberum* was long-lasting, even among Grotius' enemies.<sup>1930</sup> His theory of a general right of passage provoked vivid reactions among German jurists. While some radically opposed Grotius' stance, a majority agreed that, as a rule, passage should only be granted within certain bounds. In the course of the seventeenth century, Grotius' liberal view was thus replaced by more differentiated discussions of transit rights.<sup>1931</sup> Many of the publications on rights of passage in the Old Reich were conceived as commentaries to his chapter on the 'things which belong in common to all men'. Here, scholars questioned, qualified and restricted Grotius' propositions in light of a social reality where the movement of goods and people was not only heavily restricted, but could even represent an existential threat.

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passage. The only case in which, according to Grotius, a polity could legitimately deny passage was 'if he who wishes to pass is obviously commencing an unlawful war, or if he is bringing enemies of mine with him'. *Ibid.*, 199.

<sup>1930</sup> Georg Cavallar has pointed out that John Selden's *Mare Clausum* was actually 'highly Grotian' (Cavallar, *Hospitality*, 163) insofar as it simply drew a different line between the common dominion of the sea and claims of ownership on coastal water.

<sup>1931</sup> See: *Ibid.*, 9.

## Movement and Property

In principle, restrictions to free movement could be motivated with a variety of reasons. Common reasons for limiting rights of passage were justified interests and fears for aspects such as public safety, sanitation, or a ruler's titles. For Ahasverus Fritsch, a counsellor to the County of Schwarzburg-Rudolstadt in Thuringia, there was no doubt that 'a prince can dispose of [public roads] for the interest of his state, and [that he] can enclose and restrict the freedom of passage for political reasons'.<sup>1932</sup> With reference to Grotius,<sup>1933</sup> Fritsch argued that 'civil law [...] can restrict natural freedom and forbid that which was naturally permitted (by the law of nations)'.<sup>1934</sup> Indeed, contemporary debates around the freedom of the seas strongly influenced Fritsch's thought about transit rights on land. He sided with Molina and Selden in arguing that, just as the sea was capable of occupation and freedom of navigation could be restricted, 'a prince or a republic can debar foreigners from the use of the public roads in every respect'.<sup>1935</sup> Every denial of transit rights, however, needed to be motivated by sufficient reasons. The risk 'that a prince's secrets be known to foreigners',<sup>1936</sup> was but one such legitimate cause. Furthermore, passage could be restricted if it was likely to 'inflict damage'<sup>1937</sup> upon the prince. Fritsch recognised that, in practice, transit rights were restricted for the most diverse reasons. In his view, the forms of movement which were most affected were those of soldiers, of 'foreigners' (especially Jews and merchants). Fritsch was, however, decidedly critical of transit duties, which he described as a 'raging gangrene'.<sup>1938</sup>

Daniel Nikolaus Rosenhand, the advocate of the unusually permissive freedom of passage, similarly conceded that 'civil ordinances [can] sometimes enclose, restrict and remove it [passage] for just reasons'.<sup>1939</sup> Justified fears for public safety could motivate restrictions, he argued, because the peoples

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<sup>1932</sup> 'Princeps ob Civitatis suae utilitatem de illis disponere, & transitus libertatem ob rationes politicas limitare ac restringere possit', Fritsch, *Tractatus*, ch. 8, § 1. Fritsch was an extraordinarily prolific writer who authored more than 300 works and is known for several hymns he composed. After having studied law in Jena, he was appointed preceptor to the young Count Albert Anton of Schwarzburg-Rudolstadt to whom he dedicated the treatise published in 1662, the same year the count took over the government of the fragmented county from his mother. See: Anemüller, Ernst, 'Fritsch, Ahasverus', in: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, ed., *Allgemeine Deutsche Biographie*, vol. 8 (1878), 108–109.

<sup>1933</sup> See: Grotius, *War and Peace*, 192. Fritsch adduced Grotius' assertion of limited hunting rights as an example. The equation of hunting and transit rights, however, was an exceeding distortion of Grotius' argument.

<sup>1934</sup> 'Lex n. civilis [...] potest tamen libertatem naturalem circumscribere, & vetare, quod naturaliter (de jure Gentium) licebat', Fritsch, *Tractatus*, ch. 8, § 2.

<sup>1935</sup> 'Posse autem Principem vel Remp. Exteris omninò prohibere viae publicae usum', *Ibid.*, ch. 8, § 3–4.

<sup>1936</sup> 'ne secreta Principis exteris innotescant', *Ibid.*

<sup>1937</sup> 'damnum inferri', *Ibid.*

<sup>1938</sup> 'grassante gangrena', *Ibid.*, ch. 9, § 20.

<sup>1939</sup> 'civilia statuta, ex justa causa, aliquando limitare, restringere, atque illi derogare' Rosenhand, *Iure Transeundi*, § 8.

of the world had ‘wanted those cases excepted, in which damage impends upon the lord from an indiscriminate freedom of using<sup>1940</sup> public roads. Indeed, the obvious discrepancy between abstract claims to free movement and the territorial reality of his days seemed excessive even to Rosenhand, who qualified his bold claims acknowledging that:

if we would not have granted the power to the highest and absolute prince and to the lowest Estates of our Empire, who are the rulers of their territory, to prohibit in certain cases [the use of ...] public roads, rivers, estuaries, ports and the adjoining sea [...], we would appear to want to change the world.<sup>1941</sup>

In contrast to other authors he circumscribed the prince’s power of refusal and argued that a prince could not ‘give and refuse passage at his discretion’,<sup>1942</sup> but only if he expected ‘a great disadvantage, [be it] public, private, present, future<sup>1943</sup> for himself or for his allies (for instance in times of ‘contagious disease’).<sup>1944</sup> Moreover, Rosenhand regarded criminal sanctions such as banishment and the right of reprisal, by which foreign subjects could be seized for the debt of one of their compatriots, as limitations of free movement.<sup>1945</sup> He emphasised that such limitations could ‘not so much abolish that right of passage, as restrict its exercise, suspending it either for a certain time, or restricting it to certain places’.<sup>1946</sup> Nonetheless, Rosenhand was under no illusions as to the self-interested nature of many restrictions imposed on the movement of goods and people in the Old Reich:

Concerning the free passage of aliens, no law was required [...] as long as envy and emulation, the eagerness to seek profit from the loss of others, the desire to harm one's neighbour, but [the wish] to promote the interest of commerce and of those passing through did not impel to it.<sup>1947</sup>

In reality, passage was frequently denied not due to dangers to public safety, but rather in order to avoid prejudice to a ruler’s titles and his territorial superiority. The struggle between the County of Hanau and the Electorate of Mainz over Hanau’s attempt to set up a market ship on the river Main

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<sup>1940</sup> ‘*eos casus, in quibus, ex promiscua utendi libertate, malum Domino immineret, exceptos voluisse*’, Ibid., § 8. In Italy, Rosenhand argued, travellers could only proceed if they ‘disclosed their name and abandoned [their] weapons’ (‘*nomen professis et depositis armis*’, Ibid., § 12).

<sup>1941</sup> ‘*Et ni certis in casibus [...] prohibendi facultatem concederemus Principi summo & absoluto, imo & statibus imperii nostri, qui territorium suorum domini sunt, in iis, puta, viis publicis, fluminibus, ostiis, portibus [sic], mari vicino [...] mundum reformare velle videremur*’, Ibid., § 8.

<sup>1942</sup> ‘*pro libitu dare & recusare transitum*’, Ibid., § 10.

<sup>1943</sup> ‘*magno incommodo, publico, privato, praesenti, future*’, Ibid.

<sup>1944</sup> ‘*morbum contagiosum*’, Ibid., § 62.

<sup>1945</sup> See: Ibid., § 62–63.

<sup>1946</sup> ‘*non tam tollunt ipsum jus transeundi, quam exercitium ejus impediunt, idque vel ad certum tempus suspendendo, vel ad certa loca restringendo*’, Ibid., § 64.

<sup>1947</sup> ‘*Circa liberum peregrinorum transitum, nullum jus quaesitum est [...] quamdiu ad id non invidia & aemulatio; non studium captandi lucri ex damno aliorum; non animus nocendi vicino; sed promovenda commerciorum & transeuntium utilitas impellit*’, Ibid.

was such a case. Mainz opposed Hanau's attempt because it regarded it as a prejudice to its rights over the river Main.<sup>1948</sup> At the Imperial Chamber Court, its barrister argued that the Elector could not allow Hanau 'to impair [his ...] regalian rights and jurisdiction over the river Main under the pretext of free commerce and [thus] allow Hanau to surreptitiously obtain a jurisdiction'<sup>1949</sup> on the river. Indeed, the Mainzians did not intend 'to inhibit commerce at all, but were in fact willing to promote [it], for which reason they had offered [...] to establish a market ship'<sup>1950</sup> of their own. Hanau, on the other hand, defended its right to set up its own market ship, arguing that 'trade [routes are] a matter of the law of nations and free, and can therefore not be blocked'<sup>1951</sup> and that 'rivers [are] public and the navigation thereon allowed to everyone'.<sup>1952</sup> The judge deemed these 'reasons of not inconsiderable importance and relevance'<sup>1953</sup> and found them confirmed in the Imperial Recess of 1555, which stipulated that 'no Estate or member of the Holy Empire must intercept or delay the other's free access to provisions, food, commerce, rents, money and income'<sup>1954</sup>. Mainz proceeded to denounce Hanau's appeal to free commerce as a 'pretext',<sup>1955</sup> since it had never prohibited navigation 'categorically and without further specification'<sup>1956</sup> but only in those cases in which its neighbour navigated the river 'in the name of the count'<sup>1957</sup> of Hanau, performed acts of safe-conduct, or ventured any 'other covetous encroachment on the [...] regalian river Main'.<sup>1958</sup> Mainz only claimed the right to prohibit the use of the river because 'Hanau presumed to obtain a special superiority and regalian right through its apparent navigations'.<sup>1959</sup> The judge thought the point valid and confirmed that 'navigation can be prohibited for just reasons and if it is expedient to the territorial ruler'.<sup>1960</sup> Indeed, he found 'not a few'<sup>1961</sup> legal opinions stating 'that the lord of a jurisdiction can forbid aliens the ingress into his territory for a reason'.<sup>1962</sup>

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<sup>1948</sup> See: Merkelbach, *Mayn-Strohm*.

<sup>1949</sup> 'Allein daß Ihr. Churf. Gn. sub praetextu libertatis commerciorum ihre [...] Regalia und jurisdiction auf dem Maynstrom solten schwechen und Hanau [...] eine jurisdiction erschleichen lassen', Ibid., § 20.

<sup>1950</sup> 'die commercia gar nicht zu bemmen, sondern vielmehr zu befördern gewillet wären, zu dem Ende sie sich anerbotten [...] ein Marckschiff anzustellen', Ibid.

<sup>1951</sup> 'Daß die Commercias juris Gent. et liber, also nicht zusperrren', Ibid., 107.

<sup>1952</sup> 'Die flumina publica und darauf die navigationes männlichen erlaub', Ibid.

<sup>1953</sup> 'rationes keiner geringen importanz und Erheblichkeit', Ibid.

<sup>1954</sup> 'kein Stand noch Glied des H. Reichs dem andern [...] den freyen Zugang der Proviant, Nabrung, Gewerb, Renth, Gült und Einkommen abstricken noch aufhalten soll', Ibid. Among the authors cited by the judge is the Venetian jurisconsult Marco Antonio Pellegrini. Ibid., § 3–4.

<sup>1955</sup> 'Schein-Grund', Ibid., § 20.

<sup>1956</sup> 'praecise und indistincte', Ibid.

<sup>1957</sup> 'in des Grafen Nahmen', Ibid.

<sup>1958</sup> 'andern nachgrifflichen Eintrags auff dem [...] regalischen Maynstrom', Ibid.

<sup>1959</sup> 'Hanau durch seine vermeinte Schiff-Fahrten eine sondere Superiorität und Regal zu erzucken sich anmassel', Ibid.

<sup>1960</sup> 'ex justis causis, et si Domini Territorii intersit, prohiberi posse navigatio', Ibid.

<sup>1961</sup> 'non paucis', Ibid.

<sup>1962</sup> 'quod Dominum jurisdictionis posse exteris ex causa ingressum sui territorii prohibere', Ibid.

As has been made clear in the first chapters, the fear of legal prejudice was one of the most important reason for restricting the movements of goods and people in the Holy Roman Empire. This was an important difference to later justification for restricting mobility, which was often framed as a measure for the preservation of ‘autochthonous cultural values and social norms, the maintenance of labour and welfare standards, the defence of national military and security interests, and the protection of territorial borders’.<sup>1963</sup> Although public safety, sanitation and military security were major justifications for restricting human mobility in early modernity, the problem of defence was less centred on the population at large, but instead followed a patrimonial logic centred on the Imperial Estates and other corporations, their privileges, social status, and fiscal and economic interests.

Other scholars postulated that territorial rulers could prohibit the passage through their territory even without an imminent threat. They equated a ruler’s power over his territory with that of a landlord over his property. Accordingly, many resorted to the language of property and a domestic imagery. There was no difference, from their perspective, between the private property of a house or garden and the territory of a prince.<sup>1964</sup> Domestic analogies, which constituted an important argument for underpinning restrictive regimes of movement, are a form of ‘presumptive reasoning [...] about international relations based on the assumption that since domestic and international phenomena are similar in a number of respects, a given proposition which holds true domestically, but whose validity is as yet uncertain internationally, will also hold true internationally’.<sup>1965</sup> Many scholars regarded rights of passage as comparable to servitudes over private property, wherefore they required an express contract.<sup>1966</sup> In the case of safe-conduct, the domestic analogy was a rather fitting metaphor, since the safe-conduct ritual itself can be seen as a domestic analogy *in actu*. By welcoming foreigners at the border of his territory, a ruler and his escorts performed a ritual usually reserved to private domains. Just as a landlord welcomed his guests at a gate or door, conducting them through his property as an act of courtesy, a conducting ruler marked a territory as his garden and property.

In his extensive commentary on Grotius’ *Rights of War and Peace*, the scholar, poet and composer Caspar Ziegler of Wittenberg questioned liberal stances on the right to free passage through an exploration of property rights. He criticised Grotius’ claim that ‘the extent of the ocean is in fact so great that it suffices for any possible use on the part of all people’<sup>1967</sup> and can therefore not be subject to ownership.

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<sup>1963</sup> Vigneswaran and Quirk, *Mobility Makes States*, 10.

<sup>1964</sup> See: Hessler, *Durchzugsrecht*, 8–9.

<sup>1965</sup> See Suganami, Hidemi, *The Domestic Analogy and World Order Proposals* (Cambridge: 1989), 24. For the application of domestic analogies in early modern law of nations, see: Cavallar, *Hospitality*, 179–189.

<sup>1966</sup> See: Hessler, *Durchzugsrecht*, 8–9.

<sup>1967</sup> Grotius, *War and Peace*, 190.

Reducing the argument *ad absurdum*, Ziegler asked, ‘if my candle is so bright that it suffices multiple [people] and other [candles] can be lit by it, because of this sufficiency that candle would be inappropriately mine?’<sup>1968</sup> He continued to reject Grotius’ assertion that ‘liquids [...] cannot be taken possession of unless they are contained in something else’,<sup>1969</sup> like ‘lakes and ponds’, an argument which some scholars transferred to the possession of public roads. Ziegler thought the idea ‘absurd’<sup>1970</sup> and asked whether, ‘in that case, wine or milk cannot be mine, unless it is [contained] in a glass or in a vessel?’<sup>1971</sup> In order to challenge Grotius’ theory of free passage, Ziegler compared the passage through a foreign territory with that over someone’s private property:

In the manner in which the freedom of my estate is impaired, if you walk [and] travel on it by right of servitude or in fact [i.e. regardless of the law], in the same manner is the freedom of a territory, which is the collectivity of estates, lessened if you passed through it anywhere out of your own authority without having consulted the prince, or against [his] wishes.<sup>1972</sup>

The perhaps most influential scholar to have invoked the language of property in matters of free movement was Samuel Pufendorf, whom historians of free trade later accused of having ‘almost completely undermined the law of nations case for free trade’.<sup>1973</sup> It was in the Electoral Palatinate, one of the most fragmented principalities of the Old Reich, and, from 1667, in Lund, where he wrote his magnum opus *De jure naturae et gentium*, which was published in 1672.<sup>1974</sup> This work and the textbook abbreviation which followed in 1673, made Pufendorf one of the most well-known philosophers of his time, thanks to his core theoretical contribution concerning ‘the State’s personhood, its supreme sovereignty, its territoriality, [and] its duty to the law of nations as a minimal universal order’.<sup>1975</sup> Strongly influenced both by Grotius and Hobbes, Pufendorf’s theory centred not on universal communities such as *Respublica Christiana*, but on the state.<sup>1976</sup> His Hobbesian conception of the state as a ‘fictitious moral person endowed with will, a body, and the capacity to act’<sup>1977</sup> had considerable

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<sup>1968</sup> ‘*candela mea tanti est splendoris, ut pluribus ea sufficere, & ex qua aliae etiam accendi possint, num propter sufficientiam istam candela haec indigne mea est?*’, Ziegler, *Notae*, 225.

<sup>1969</sup> Grotius, *War and Peace*, 191.

<sup>1970</sup> ‘*absurdum*’, Ziegler, *Notae*, 225.

<sup>1971</sup> ‘*Ergo vinum, aut lac meum esse nequit, nisi quatenus est in vitro aut vase?*’, *Ibid.*

<sup>1972</sup> ‘*quemadmodum minuitur libertas praedii mei, sive jure servitutis tu per id eas, ambules, sive de facto, ita & minuitur libertas territorii, quod universalitas est agrorum, sicubi tu inconsulto aut invito Principe propria autoritate transiveris?*’, Ziegler, *Notae*, 234.

<sup>1973</sup> Irwin, Douglas, *Against the Tide: An Intellectual History of Free Trade* (Princeton: 1996), 24.

<sup>1974</sup> On Pufendorf’s time in Heidelberg, see Döring, Detlef, ‘Samuel Pufendorf und die Heidelberger Universität des 17. Jahrhunderts’, in: Strohm Christoph, ed., *Späthumanismus und reformierte Konfession* (Tübingen, Mohr Siebeck), 2006, 303–309.

<sup>1975</sup> Haakonssen, *Pufendorf*, 1102–1105.

<sup>1976</sup> See: Cavallar, *Hospitality*, 169.

<sup>1977</sup> *Ibid.*, 194.

influence on his conception of hospitality and a state's right to regulate the movement of goods and people on its territory.<sup>1978</sup> Pufendorf tended to give state interest precedence over the rights of aliens and proposed an extraordinarily 'thin conception of immigration rights'.<sup>1979</sup> Indeed, legal historians credit him with having formulated 'one of the first explicit, more or less modern statements of sovereign powers over the admission of aliens'.<sup>1980</sup> Although Pufendorf acknowledged both rights of passage and sojourn, both could be easily restricted. He regarded them as imperfect rights, being neither precise nor enforceable, as opposed to perfect rights, which can be enforced in the framework of the state.<sup>1981</sup> Hospitality was merely one of the 'imperfect duties of friendship'.<sup>1982</sup>

Concerning military passages, Pufendorf admitted transit rights for soldiers, if 'few in number and unarmed [and ...] living at their own expense',<sup>1983</sup> as long as their passage was necessary and for an honest purpose. However, 'permission for this use should first be sought in a calm manner, and force should not be used before it is clear that the owner of the place intends to refuse the permission out of mere inhumanity, without any just reason'.<sup>1984</sup> The argument was corroborated with another domestic analogy, namely that 'people who knock at doors, do not go in before the owner bids them'.<sup>1985</sup> If the numbers of those requesting passage were such as to instil justified fears ('opportunity makes the thief'),<sup>1986</sup> it would be 'short-sighted' not to require adequate securities. Pufendorf doubted that free passage should be seen as a natural right and he affirmed, in opposition to Grotius, that a previous 'agreement or concession' was required for every passage. Comparing territory to private property, he argued that there could be no general right of passage through territories, 'no one can go through a man's farm, unless such a service has been agreed upon for such a farm'.<sup>1987</sup> Therefore, one should not understand free passage 'as a continual service, but only as the temporary use of the property of someone else, which we were forced to take advantage of by some opportunity for profit, or by a necessity such as it would be inhuman on the part of another not to meet'.<sup>1988</sup>

With regard to the movement of goods, Pufendorf proposed a similarly restrictive stance. He defended staple rights with simple 'regard for ourselves'.<sup>1989</sup> Catering to the interest of many territorial rulers, he

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<sup>1978</sup> See: *Ibid.*, 169.

<sup>1979</sup> Cavallar, *Immigration and Sovereignty*, 5.

<sup>1980</sup> Nafziger, *General Admission*, 811.

<sup>1981</sup> See: Cavallar, *Hospitality*, 197.

<sup>1982</sup> *Ibid.*, 201.

<sup>1983</sup> Pufendorf, *De jure naturae*, 354.

<sup>1984</sup> *Ibid.*

<sup>1985</sup> *Ibid.* This was a citation of Plutarch. See also Cavallar, *Hospitality*, 204–205.

<sup>1986</sup> Pufendorf, *De jure naturae*, 355.

<sup>1987</sup> *Ibid.*, 356. Pufendorf took this point from Caspar Ziegler's *Notae* on Grotius.

<sup>1988</sup> Pufendorf, *De jure naturae*, 357.

<sup>1989</sup> *Ibid.*, 358.

asked: ‘What is there to prevent citizens of our own state from securing the profit which strangers gather in passing through our borders?’.<sup>1990</sup> Concerning customs and transit duties, Pufendorf thought them justified not only as a compensation for the costs of maintaining and securing roads and rivers, but also because ‘a state can demand at least a slight acknowledgement from the merchandise of foreigners’ if it abstains from forcing them to sell them on his staples.<sup>1991</sup> Moreover, the only goods for which the laws of humanity required free passage were those ‘necessary for the life of others’.<sup>1992</sup> Merchants trading in luxury goods, or goods which do not satisfy ‘necessities of life’, could claim no right of passage. Historians of free trade therefore accused Pufendorf of having ‘weakened the previous tenets of the philosophy in its general admonition for open trade relations that a state could justify almost any commercial policy, however restrictive’.<sup>1993</sup>

Property constituted the spearhead of the argument made by Christian Samuel Ziegra, a professor at Wittenberg, who in 1686 published a long commentary to Grotius’ assertion that an unjustly denied passage is a just cause of war. He waged his attack on several fronts, one of which was the exclusive nature of property. To counter assumptions about the original community of goods among men, Ziegra posited a:

division of dominions made by God immediately after the creation of mankind, by which he wished everyone to be the master of his things, and conceded to anyone to do in his territory that which is not contrary to the divine laws or to nature itself.<sup>1994</sup>

For Ziegra, ‘the foremost effect of dominion consists in enjoyment and use, which nobody can lay claim to against the wishes of the master without resorting to the crime of theft and plunder’.<sup>1995</sup> Therefore, if private property operated analogously to public territory, the same should apply to a prince's territory.

The language of property was pervasive in the lower ranks of the Republic of Letters as well. Johann Abraham Schefer, for instance, possibly an official of the minuscule County of Erbach which had

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<sup>1990</sup> Ibid.

<sup>1991</sup> Moreover, Pufendorf regarded customs duties as a remedy against inflation, since ‘the price of food in a country is raised by the passing through of a large number of people’. See: Ibid.

<sup>1992</sup> Ibid., 358.

<sup>1993</sup> Irwin, *Free Trade*, 23. Georg Cavallar recently qualified this judgement, arguing that Gentili and Suárez had qualified the free trade doctrine much earlier. Moreover, in a global commercial society, the imperfect right of trade and intercourse could be guaranteed through contracts. In the German debates around transit rights, however, Pufendorf was clearly one of the most restrictive voices. Cavallar, *Hospitality*, 206.

<sup>1994</sup> ‘*dominiorum distinctio, a Deo statim, post humani generi productionem, facta, quae unumquemque rerum suarum moderatorem esse voluit, concessitque cuilibet agere in territorio suo, quod nec cum legibus divinis, neque cum natura ipsa pugnat*’, Ziegra, Christian Samuel, *Exercitatio Moralis, Qua Ius Belli, Ob Transitum Per Alienas Ditiones Exercitui Denegatum, Suscepti, & Ab H. Grotio Lib. 2. de Iure Bell. & Pac. Cap. 2. Defensi* (Wittenberg: 1686), § 6.

<sup>1995</sup> ‘*Primus dominii effectus in frutione usuque consistit, quem nemo invito domino citra furti rapinaeve crimen vindicare sibi poterit*’, Ibid.

suffered repeated violent march-throughs during the war,<sup>1996</sup> equated territorial dominion with private property.<sup>1997</sup> In 1674 he published an angry pamphlet in which he railed against Grotius and all those who supported unconditional rights of passage for troops. According to Schefer, it was inadmissible to include the right of passage for troops ‘among the things of [which one can make] innocent use’,<sup>1998</sup> since ‘they were not innocent at all’<sup>1999</sup> and the civilian population was altogether defenceless against the violence of soldiers. The fact that a private landowner could easily deny rights of way over his land led the official to ask:

If the property of common people is made in such a way, why then not also [the property] of great princes and peoples, who [...] have a much stronger, even the highest right of property over [what is] theirs?<sup>2000</sup>

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The question was naïve, but it touched the core of seventeenth-century debates around the freedom of inter-polity mobility. They were, for the most part, a question of framing. Whether one posited thoroughfares, territorial states, or humankind as a frame of reference had momentous consequences for whether movements of goods and people appeared as a natural, long-established state of affairs, or as ‘novel exceptions or unusual deviations’.<sup>2001</sup> While defences of transit rights built on earlier conceptions of free commerce, restrictions of inter-polity mobility were mostly formulated in the language of property and domestic analogies. These debates testify to the manifold connections between wider early modern debates on the freedom of the seas and the negotiation of free movement in the fractured landscape between the Alps and the North Sea.

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<sup>1996</sup> No more biographical information about Schefer is available than what he discloses in the dedication and in the preface of the book. The book is dedicated to the Counts of Erbach, which he refers to as ‘his gracious counts and lords’. In the preface Schefer repeatedly alludes to his ‘official functions’ (*Amtsgeschäfte*) which do not leave him enough time to write. Schefer, Johann Abraham, *Eröffnete Gedancken Uber den Durchzug fremmder Völcker Durch eines andern Land und Bottmässigkeit*, (Frankfurt am Main: 1674), 3–6.

<sup>1997</sup> Schefer’s contribution has already been pointed to by Hessler, *Durchzugsrecht*, 8.

<sup>1998</sup> ‘*Inter res innoxiae utilitatis*’, *Ibid.*, 11.

<sup>1999</sup> ‘*Nicht so gar innox*’, *Ibid.*

<sup>2000</sup> ‘*Wann das Eigentumb gemeiner Leuthe also beschaffen, warum nicht auch grosser Fürsten und Völcker, die doch [...] viel ein kräftigeres, ja das allerhöchste Eigentums-Recht über das Ihrige haben?*’, *Ibid.*

<sup>2001</sup> Vigneswaran and Quirk, *Mobility Makes States*, 10.

## 7. Conclusion

Exploring the history of safe-conduct in the Holy Roman Empire, this book has shed new light on the relationship between statehood and mobility in the period between the late sixteenth and early eighteenth century. This conclusion summarises the key findings of the study. It points, moreover, to its methodological and thematic limitations, highlighting questions and problems for future research. The final section offers a more general outlook and discusses the challenges of historicising the relationship between statehood and mobility.

## Synopsis: Porous Leviathans

Early modern societies made persistent efforts to promote, restrict and profit from the movement of goods and people. From trade flows to vagrancy, the ordering of movement was a paramount concern for old-regime authorities. Indeed, the politics of mobility was a key element of state-building, which entailed a monopolisation of the ‘legitimate “means of movement”’<sup>2002</sup> by state authorities. In practice, hardly any political entity had the means to effectively enforce such a monopoly during the early modern period. In the fragmented political landscape of the Holy Roman Empire, many rulers competed with their neighbours in channelling desired flows through their dominions and diverting unwelcome mobilities. By enclosing rights of passage on certain roads and rivers, authorities attempted to channel and exploit the movement of goods and people fiscally, symbolically, politically, or otherwise. The language of control and enclosure, however, must not obscure the insurmountable difficulties and the frequent opposition that authorities faced in attempting to enforce their prerogatives. Passage and obstruction frequently rested on the agency of the individuals who negotiated mobility at ground level, namely travellers, officials and other stakeholders.

The reasons for which movements of goods and people were promoted or restricted were manifold. Fiscal and economic motivations loomed large. For many polities, transit duties constituted an important source of income. Tariff and non-tariff trade barriers therefore affected trade flows both in larger and smaller territories. While the economic and commercial effects of these barriers were not as significant as often assumed, tolls and tollkeepers were profoundly unpopular. Moreover, the ability to delay the passage of goods through customs inspections and other requirements provided territorial rulers and their deputies with political leverage vis-à-vis merchants and neighbouring rulers. In practice, unilateral restrictions were rarely effective and could be countervailed by inter-polity cooperation and supra-territorial cooperation. Restricting the mobility of vagrants and other marginal mobile populations was another core concern for authorities throughout early modern Europe. Because of poor policing capabilities and territorial fragmentation, however, the effects of such measures were limited. In the Holy Roman Empire, the competition between the imperial Reichspost and several territorial rulers for the establishment of monopolised postal services was another arena in which a complex territoriality exacerbated conflicts around the ordering of movement. Similar frictions could be observed on the seas where corporations like the East India Company claimed the authority to authorise the movements of those entering its dominions.

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<sup>2002</sup> Torpey, *Coming and Going*, 239.

While hardly any of these problems were specific to the Holy Roman Empire – conflicts around transit rights were known throughout the pre-modern world – the enclosure of movement rarely provoked more controversy than in the borderlands at the heart of Europe. With regards to the Old Reich, this study is set in an historiographically neglected, yet pivotal part of the early modern world. The complex territorial assemblage between the Alps and the North Sea was marked by a fundamental dualism between the increasingly paralysed emperors and hundreds of quasi-sovereign polities with varying influence. Imperial institutions such as the Imperial Diet, two imperial courts and ten Imperial Circles regulated decision-making and conflict-resolution at different levels. These institutions guaranteed the continued existence of the Empire's least powerful members and managed to balance some of the centrifugal tendencies. The question as to whether or not the Holy Roman Empire was a state remains subject to much debate. At all times, historians' answers were reflective of different intentions to make the Old Reich's past useful and to highlight how historians of all generations have struggled with a conceptual apparatus that was ill-suited to grasp the complexities of this elusive Empire. Just as the Holy Roman Empire's eccentric political culture, which was suffused with symbolic communication, its fractal, multi-level territoriality challenges conventional ways of understanding early modern statehood. Its effects on the movements of goods and people therefore make the Holy Roman Empire an ideal laboratory for exploring early modern politics of mobility.

For this purpose, the book has taken the vantage point of safe-conduct (*Geleit*). Safe-conduct was a common institution throughout the pre-modern world, but in the fragmented political landscape of the Holy Roman Empire it took on extraordinary significance. It came in many forms: as a letter, as the act of escorting a traveller, or as an abstract concept, and concerned a wide variety of people. While the institution always retained a protective function, it constituted a forceful instrument of political, fiscal and symbolic power at the hand territorial rulers and cities alike. Regalian safe-conduct, the royal right to protect and maintain important thoroughfares and have travellers pay for it, was a particularly prized privilege. While the reciprocity underlying the levy of safe-conduct and other transit duties was upheld in theory, the practice was more convoluted. Safe-conduct and customs revenues were not always employed for road maintenance and wronged travellers often found it difficult to assert their claims to compensation. The institution was, moreover, used as a means of territorial expansion and for controlling the circulation of foreign diplomats and Jewish persons.

Safe-conduct processions, which are examined in Chapter 1, were the institution's most visible materialisation. When persons of rank, merchants, prisoners, or corpses moved through the fractured landscape of the Holy Roman Empire, they were often escorted by the deputies of local rulers. While this 'physical' form of safe-conduct was a means of honouring or protecting these categories of

travellers, it constituted a means of underlining a ruler's monopoly over the legitimate means of movement on a thoroughfare. A stretch of the river Main, whose control was contested by the small County of Wertheim and two powerful neighbours, the Prince-Bishopric of Würzburg and the Electorate of Mainz, provides a vivid illustration of the theatres of transit that unsettled the Empire's roads and rivers. When several parties disputed the right of conducting a traveller, the escorts attempted to gain the lead of the processions, which led to sometimes violent altercations. The display of banners, emblems and other symbolic artefacts, as well as the resounding accompaniment of trumpets and drums, was an equally contested hallmark of safe-conduct processions. It was not uncommon for these events to escalate into violence. The theatres of transit could assume a war-like character, for instance between the County of Wertheim and its neighbour Würzburg. Death threats, ambushes, poisoned bullets, violence against uninvolved commoners and occasional fatalities made these seigneurial displays of power profoundly unpopular with local populations, subordinate officials and travellers. Moreover, the processions presented a considerable economic burden to the princely exchequers and to the local population, but some innkeepers, farriers and others could make substantial profits. Insults and threats were another important element of the processions. Local officials and subjects constituted the Achilles' heel of every safe-conduct procession. The difficulties that authorities faced when enforcing their politics of mobility are thus illustrated by the open recalcitrance of many subjects to serve as escorts in safe-conduct processions. Even higher officials occasionally questioned the ritual's sense and purpose. A common reason for the subjects' unwillingness to participate in the processions was fear of falling into the hands of their rivals, making absenteeism and desertion common. Travellers sometimes refused to be escorted, travelled incognito and complained about the nuisance caused by the unwelcome escorts. In a world where processional rankings and symbolic gestures were regarded as authentic indicators of social and political realities, these theatres of transit offered a means through which to express and broker profound dissensions over the politics of mobility. The odd rivalries between neighbouring rulers, the reluctance and terror of their subjects, as well as the travellers' bewildered irritation, illustrate the deep controversy inherent in these symbolic struggles around the legitimate means of movement.

Chapter 2 has shown that the safe-conduct procession was an important occasion for determining territorial boundaries between neighbouring territories. The performative negotiation of the boundaries of a safe-conduct district illustrates the situational and fragile nature of early modern boundaries. In the Empire's multi-levelled, inhomogeneous territorial assemblage, safe-conduct processions often crossed a series of such boundaries, triggering a peculiar symbolism of passage and obstruction. Alterations to the material setting and cartographic representations of boundaries could

become weapons for underlining competing territorial claims. The crossing of safe-conduct boundaries was influenced, down to the last detail, by the necessity to produce legal evidence. Witnesses and notaries were thus regulars at encounters that often drifted into pedantic hair-splitting, Kafkaesque elusiveness and seemingly grotesque forms of symbolic rivalry. However strange these efforts appear to the modern eye, they allowed the management of conflicts without resorting to violence. The juridification of conflict brought about, as it were, appeasement by pedantry. While boundaries were of pivotal importance in safe-conduct and other inter-polity disputes, their role in the channelling of trade flows and 'everyday' forms of mobility should not be overstated. Early modern boundaries were characterised by a low degree of boundary coincidence, with little overlap between military, administrative and other boundaries. They were borders without states. Some polities in the Holy Roman Empire disposed of fortified boundary lines that allowed them to control everyday traffic, but they were only few and they were usually but one instrument for controlling movement among others. As a rule, tolls were levied not at territorial boundaries, but at toll-stations that were evenly distributed along thoroughfares. Accordingly, channelling efforts were not concentrated at the border, but at settlements, toll-stations and barriers along thoroughfares. The subordinate role of borders for everyday mobility is reflected in their quasi-absence from travel accounts and legal debates around inter-polity mobility. The fact that territorial boundaries did not structure the geography of governed mobility to the same degree as in later centuries sheds a complex light on the territoriality of the Holy Roman Empire. It is perhaps better understood in terms of channels and corridors, and from a rhizomatic rather than an areal perspective. Instead of the hermetically enclosed body politic, the sponge – an open body that selectively filters what flows through it – is a more fitting metaphor for describing these porous Leviathans.

As Chapter 3 demonstrates, authorities throughout the Old Reich attempted to channel fiscally exploitable movements of goods and people through their dominions and toll-stations. Neighbouring authorities, and even tollkeepers under the same ruler, competed with each other in channelling and exploiting the passage of goods and people. As it combined a high degree of territorial fragmentation with high traffic volumes, the Thuringian case allows us to observe this dynamic in detail. Issuing letters of passage was one of the most effective means to monopolise the legitimate means of movement. The documents permitted authorities to manage exemptions and the receipt of transit duties, and to prescribe and monitor the use of designated routes. In practice, however, the issuance of passports and similar documents implied a bureaucratic burden, as well as a symbolic subjection that not all travellers were willing to accept. Not to mention, letters of passage could be contested on a horizontal level. When the emperor, for instance, issued authorisations to pass through the Holy

Roman Empire, these were not always recognised by the deputies of territorial rulers. Indeed, for want of explicit norms, the validity and the terms of use of passports often remained unclear, leaving the negotiation of passage to local officials and travellers at ground level. Thus, pre-modern letters of passage were fundamentally negotiated documents both before and after their issuance. Distinctions between designated and forbidden roads were another hallmark of the early modern roadscape. By criminalising the use of certain roads, authorities hoped to channel flows to their benefit. Since the closure of roads could adversely affect both travellers and local communities, such restrictions were highly controversial and subject to countless disputes. Indeed, local communities and travellers often had their own view of which roads were legitimate. In practice, state deputies on the ground, such as tollkeepers or guard patrols, played a key role. While they were important agents of state building, tollkeepers and other deputies were granted substantial agency and considerable room for manoeuvre when exercising their duties. Conflicts of interest and petty corruption were common, however, officials were often left to their own devices and found it difficult to enforce their prerogatives without the support of the local community and foreign authorities, especially when they operated on foreign or territorially ambiguous soil. The poor legitimacy of tollkeepers led to frequent clashes and acts of resistance. Thus, the practical enclosure of movement was less determined by deputies' official instructions than by their personal obligations and standing within the local community.

Protection played a key role in the ordering of movement. Chapter 5 illustrates that the protection of travellers and thoroughfares was often a precondition of inter-polity mobility, but it could also be a highly ambiguous argument for justifying self-interested interferences with traffic flows. The case of the river Weser between the City of Bremen and the North Sea exemplifies the profound ambiguities that came with the protection of movement. The counts of Oldenburg, who ruled on the left bank of the river, hoped to enforce a new toll on the river, but were impeded by Bremen to the point of a virtual 'toll war'. Indeed, Bremen attempted to secure the navigation on the river from the increasing number privateers that came with the Eighty Years' War and employed varying numbers of armed vessels. In practice, securing the river was difficult because pirates found refuge in the adjacent territories. Moreover, the city council struggled to control the soldiers on the ships, whose exactions and controls sparked the protests of boatmen and the riverine population. The soldiers and escorts had considerable agency and sometimes engaged in extortionary behaviour. For this and other reasons, the legitimacy of the conduct tolls that Bremen levied for the protection of the river was highly questionable. Like other estates, Bremen was wary of granting compensations for damages to its conductees – theoretically a key element of safe-conduct – which illustrates the institution's double-edged nature. The way in which safe-conduct justified self-serving economic and political policies can

be understood as a dynamic of ‘securitisation’. Securitisation describes a process in which an issue, such as the navigability of a river, is presented as existentially threatened and requiring extraordinary emergency measures. Thus, while the protector painted a dismal scenario, its rivals attempted to expose him as a self-interested scaremonger. Of course, the matter was not so black and white. Bremen’s safe-conduct effectively protected boatmen from privateers, but its warships conjured both protection and new dangers for its rivals’ subjects. Reconciling the protective component of safe-conduct with wider claims of free movement was a challenge in academic debates as well. Some scholars attempted to square this circle by conflating freedom with security and by limiting the range of protected and hence, free travellers. By sublimating freedom, control and protection into an exclusionary and selective concept of free movement, the theorists of safe-conduct attempted to resolve a paradox that remains at the core of free movement unto this day.

The problem of inter-polity mobility and its restriction was controversially debated in courts, councils and universities throughout the Empire. These debates, reconstructed in Chapter 6, reveal the rich and controversial intellectual tradition of free movement beyond the problems of migration and settlement. Indeed, pre-modern political thinkers did not draw sharp distinctions between trade, travel and migration. In the Old Reich, important debates on free movement were led through such surrogates as safe-conduct, tolls, transit, or the legal nature of roads and rivers. Some authors based their claims of free movement on the idea that roads and rivers were, by definition, exempt from ownership and therefore free for all to use. Assumptions about the legal status of roads and rivers thus became a vehicle for rationalising divergent opinions on the role of the state in human mobility, replicating, as it were, the ‘battle of the books’ around the freedom of the seas. Transit was another core concept for negotiating the ordering of movement. While the Empire’s constitutions warranted extensive transit rights, many rulers claimed the right to restrict the passage of at least certain categories of people, such as foreign troops, officials, diplomats, mail coaches, or vagrants. In spite of these restrictions, some scholars advocated sweeping rights to inter-polity transit and free movement. These claims built on earlier conceptions of free movement like the *ius communications* theorised by sixteenth-century Spanish scholasticists or the work of Hugo Grotius. As other apologists of free movement, their authors catered to specific political interests, such as those of Sweden with its military operations on the European mainland. Consequently, the ideological opposition to freedom of movement was substantial. Many jurists argued that justified fears – for public safety, public sanitation, or a ruler’s privileges – could justify restrictions of free movement. Indeed, in the spirit of early public law, jurists were more concerned with rulers’ titles and privileges than with the population at large. Others claimed that free movement could be restricted without specific reasons and to the full discretion of the ruler.

They frequently recurred to the language of property and to domestic analogies that compared political territory to, say, a private garden. Whether or not preventing and channelling mobility was perceived as a central element of political rule depended, not least, on whether one chose the territorial state as a space of reference, or a more 'cosmopolitan' concept such as Empire, the Christian Commonwealth, or humanity as a whole.

## Beyond Safe-Conduct

Safe-conduct provides a rich, yet limited window on the ordering of movements of goods and people in the Holy Roman Empire. At the end of this study, I would therefore like to point out some points that this book left unaddressed and that could form a basis for future research. Evidently, a study of safe-conduct in the Holy Roman Empire cannot provide an exhaustive answer to an issue as vast as the politics of mobility in the context of early modern state-building. The spatially, temporally and conceptually limited results of this study do, however, cast new light on an important historical problem and call for new research to complement, confirm, or revise the results presented here.

Several aspects of the institution of safe-conduct could not be explored here and await further study. The use of safe-conduct letters by diplomats or Jews, for instance, has received relatively little scholarly attention and could constitute a rewarding avenue for future research. Moreover, the long-debated question as to what extent safe-conduct comprised actual compensations for damages deserves further archival study. For methodological reasons, this book was centred on four areas (the rivers Main and Weser, Thuringia, and the city of Mühlendorf) where the politics of passage could be reconstructed in detail. Although I could include many smaller examples taken from more than twenty archives and the secondary literature, many more studies could be conducted on different cases within and beyond the Holy Roman Empire. In terms of available archival material, the archives of Nuremberg, Frankfurt, Regensburg, the Electoral Palatinate, the Electorate of Mainz, or the Duchy of Württemberg offer immensely rich laboratories for further exploring the history of safe-conduct between the sixteenth and eighteenth centuries.

The conception of territory elaborated in the present book is focused on the problem of mobility. As a consequence, the conclusions I draw about the topography of early statehood and the role of boundaries may perplex those who envisage statehood from a perspective of jurisdiction, warfare, or political theory. Indeed, the description of the state as a filtering sponge with diffuse and situational boundaries is at odds with more conventional ways of approaching the topography of political rule in pre-modern Central Europe. At the same time, however, understanding territoriality in terms of mobility (of people, goods and capital) is a perspective that promises to become only more relevant over time. Moreover, to qualify the role of territorial borders in the channelling of mobility is not to claim that boundaries or territory had no importance in the political geography of early modern Europe. A long tradition of scholarship and the omnipresence of boundary disputes in the archives have illustrated the fundamental importance of these phenomena for understanding politics and social life in early modern Europe.

The methodological advantage of safe-conduct is that, unlike other institutions, it allows us to jointly study the symbolic, economic and conceptual dimensions of the politics of mobility. At the same time, important forms of mobility, such as vagrancy, most forms of long-term migration, banishment, mail services, or military passages were never, or only rarely framed as matters of safe-conduct. While long-term migration, vagrancy and, to a much lesser extent, mail services and banishment have received scholarly attention, the problem of military passage awaits further study. This is astonishing, given the extraordinary importance of military passage in the war-ridden lands of Central Europe, which found a reflection in abundant archival records. Similarly, the issuance and use of passports remains understudied, especially for the time preceding the eighteenth century and the sheer quantity of archival material makes this a potentially very rewarding research subject. The history of roads, and even more, of rivers, both in terms of maintenance and use, offers potential for new research as well, especially in light of recent international innovation in this context.<sup>2003</sup> It would be worthwhile to identify sources produced by merchant and transport companies which could yield insights into the politics of mobility from another perspective and complement the state-centred approaches that the use of state archives implicitly promote. Moreover, while this study was primarily concerned with the Holy Roman Empire, frequent comparisons to other regions in and beyond early modern Europe revealed the potential of analogous studies on a broader spatial scale. Indeed, one could argue that the case of the Old Reich was exceptional mostly in the degree to which the enclosure of movement became a matter of controversy.

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<sup>2003</sup> See, for instance: Guldi, Jo, *Roads to Power: Britain Invents the Infrastructure State* (Cambridge, MA: 2012).

## Outlook: Historicising Statehood and Mobility

Reassessing the historical role of borders and the connection between old-regime statehood and inter-polity mobility means to challenge the anachronistic conceptions of statehood that underpin much historiographical scholarship from the nineteenth century to the current day. Micro-history, transnational and global approaches to history have sensitised historians to the limitations of the concept of nation-state and promoted new analytical approaches, concepts and scales of analysis. In practice, however, many scholars continue to implicitly interpret the early modern state in the likeness of the modern, territorially bounded nation-state and its relatively sophisticated monopoly over legitimate movement. With a focus on criminalisation and policing, many historians concerned with mobility, trade and migration remain attached to an exceedingly state-oriented perspective. Indeed, just as in other social sciences, many studies implicitly reflect ‘the concerns of a specific historical and geographic context: immigration policies in OECD countries over the last four decades’.<sup>2004</sup> Following the ‘long-standing veneration and reification of a highly stylized image of the state as a preventer of human mobility’,<sup>2005</sup> social scientists and historians thus focused on matters like long-term migration, border controls and identification. This focus has helped to ‘create and sustain the impression that efforts to hinder, limit, and prevent international mobility represent the essence of the state’s control over mobility’.<sup>2006</sup>

In the twenty-first century, the idea of clearly bound monopolies over the legitimate means of movement appears to be at odds with such phenomena as globalisation, regional integration and free trade. The nineteenth-century model of the nation-state is unsuitable for understanding recent political, social and economic developments. Indeed, if the Weberian ‘ideal type model of the bureaucratic institutional state [...] has been disenchanting’,<sup>2007</sup> its borders have become unstable as well. It seems increasingly clear that the modern state has always been ‘ill equipped to fill the role that political theory has thrust upon it’.<sup>2008</sup> The myth that the Westphalian Peace inaugurated a geopolitical order predicated upon the strict autonomy of sovereign states and non-intervention in domestic affairs,

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<sup>2004</sup> Vigneswaran and Quirk, *Mobility Makes States*, 9. Specialist historians are, of course, quite aware of the limitations of state-centred perspectives. See, for instance: Härter, *Steuerung von Migration*, 14.

<sup>2005</sup> Vigneswaran and Quirk, *Mobility Makes States*, 32.

<sup>2006</sup> *Ibid.*, 9.

<sup>2007</sup> Stollberg-Rilinger, *Alte Kleider*, 16.

<sup>2008</sup> Abraham and Schendel, *Illicitness*, 15. A beautiful example of how deductive assumptions, not empirical observation perpetuate nineteenth-century views is this statement: ‘Since the territory of the nation-state is primarily defined through its borders, no state would exist without borders’, Mau, Steffen, Heike Brabandt, Lena Laube, and Christof Roos, *Liberal States and the Freedom of Movement: Selective Borders, Unequal Mobility* (Basingstoke: 2012), 11.

is under critical revision by historians across the globe. With regard to contemporary geopolitical conflicts, some even argue that ‘that these principles, falsely attributed to Westphalia, have themselves been a source of instability’.<sup>2009</sup> Concerning freedom of movement, the Westphalian Treaties similarly fall short of the chimera of state autonomy. Indeed, the ‘Westphalian system’ and the constitutional order of the Holy Roman Empire guaranteed extensive rights of transit, trade and migration. In this sense, the backward projection of closable, linear state borders is indeed a ‘suggestion of tradition’ to the benefit of the national state.<sup>2010</sup>

The image of the state as a neatly bounded guard against mobility found an early culmination in the thought of the German philosopher Johann Gottlieb Fichte, who theorised *The Closed Commercial State* as an ideal form of political and economic organisation. In Fichte’s view, inter-polity mobility and communication constituted ‘relicts and results of a constitution that has been abolished long ago’,<sup>2011</sup> they were ‘elements of a past world that are not compatible with our world’.<sup>2012</sup> The developments of the subsequent centuries reduced Fichte’s vision to an eccentric utopia. At a time at which the nation-state is losing significance both as reality and as aspiration, the Old Regime may thus regain its youth.<sup>2013</sup> While states have made considerable progress in documenting and surveilling human mobility, many forms of movement escape their grasp. The movement of some people, such as refugees, can only be restricted at high political and fiscal costs, the circulation of capital is elastic to the point that many states are afraid of even taxing it and free trade has, at least ostensibly, become the guiding principle of a global economic order. As the French historian Lucien Febvre once noted, it is the historian’s duty ‘to take up again, to revise, [and] to rethink [...] the established results and to adapt them to the new conceptions and, thereby, to the new conditions of existence’<sup>2014</sup> of the world he lives in. With regard to the connection between statehood and mobility, historians would benefit from moving beyond a conceptual apparatus and research agenda – one of the many – dictated by the preoccupations of the

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<sup>2009</sup> Description of the research project ‘A Westphalia for the Middle East’, University of Cambridge, Department of Politics and International Studies, Forum on Geopolitics, 2016.

<sup>2010</sup> See: Gotthard, *In der Ferne*, 57.

<sup>2011</sup> ‘Überbleibsel und Resultate einer Verfassung, die längst aufgehoben ist’, Fichte, Johann-Gottlieb, *Der geschlossene Handelsstaat* (Tübingen: 1800), 145. On Fichte’s book, see: Nakhimovsky, Isaac, *The Closed Commercial State. Perpetual Peace and Commercial Society from Rousseau to Fichte* (Princeton: 2011).

<sup>2012</sup> ‘in unsre Welt nicht passende Theile einer vergangenen Welt’, Fichte, *Der geschlossene Handelsstaat*, 145.

<sup>2013</sup> Indeed, one can observe an increasing interest in the premodern in other fields, as well. In political theory, for instance, ‘neo-medievalism’ describes attempts at theorising the decreasing importance of territorial statehood and national sovereignty in the contemporary world. See, for instance: Bull, Hedley, *The Anarchical Society: A Study of Order in World Politics* (Basingstoke: 2012).

<sup>2014</sup> ‘de reprendre, de remanier, de repenser [...] les résultats acquis pour les réadapter aux conceptions, et, par delà, aux conditions d’existence nouvelles’, Febvre, Lucien, *Combats pour l’histoire* (Paris: 1992), 19.

nineteenth and twentieth centuries and develop more fluid and agency-oriented accounts of the historical relationship between statehood and mobility.

This must not mean stumbling from one extreme to the other. Indeed, scholars of early modern migration, trade and mobility frequently stylise themselves as the antagonists of an ‘immobile conception’ of old-regime society against which they project their research.<sup>2015</sup> Today there are so many advocates of a ‘mobile’, ‘connected’ and ‘globalised’ early modernity that one wonders who the apologists of the ‘closed’ and ‘immobile’ Old Regime actually are. While the myth of pre-modern immobility – if it ever existed – can be considered to be shattered, the pendulum has perhaps swung out too far. Everything early modern seems to have been in flux and those who highlight elements of friction and stasis are easily portrayed as dupes of the Revolution and anti-feudal sentiment. The popularity of ‘mobile’ views of the period may be due to the fact that they describe a relatively ‘modern’ Old Regime, accentuating its interest with regard to contemporary concerns, such as processes of globalisation. As this study has shown, the early modern roadscape was characterised by a complex interplay of both obstructive and accelerating factors, which strongly affected the temporality and geography of movement. Put simply, to ask whether or not a specific society was mobile is missing the point. Early modern politics of mobility combined fluidity and friction, yielding widely different results for different social, corporative, religious, or economic groups at different times and in different places. Some roads were closed only at specific times. Letters of passage had to be acquired by some travellers, but not by others. Travelling persons of rank had to deal with bothersome symbolic practices and formalities, while a peasant could move without bother. Where vagrants were forced into clandestinity, carters could move freely as long as they paid the required dues. Boundaries could be powerful barriers for safe-conduct processions, but rarely posed an obstacle for everyday travel or commerce. In the face of such complexities, monolithic contrasts between feudal immobility and a fluid modernity remain fruitless.

One aim of this book was to broaden our understanding of the early modern troubles of transit and to illustrate how variable, negotiated and contingent the politics of mobility could be. Conceptualising the problem in terms of enclosure is useful because the governance of movement is described not as closing mobility off at the border, but as a process in which different forms of movement are made dependable on specific conditions, thereby addressing efforts of promotion, restriction and channelling. In order to understand the difficult implementation of these efforts, it is important to vary the spatial, temporal and conceptual scales of analysis and to acknowledge the individual agency

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<sup>2015</sup> See, for instance: Vassberg, David E., *The Village and the Outside World in Golden Age Castile: Mobility and Migration in Everyday Rural Life* (Cambridge: 2002).

of all those engaged in the negotiation of mobility, be they travellers, officials, or other stakeholders. While inter-polity law and other norms provided a normative framework that authorities and travellers appealed to alike, the effect of these norms must not be overstated. What mattered first and foremost was the micro-politics of mobility at ground level. Here, the playing field was surprisingly level and – depending on their numbers, their social status, the support of their respective authorities, the sympathies of the local population and the territorial setting – both state deputies and mobile populations could gain the upper hand. In the alleged age of absolutism, mercantilism and state-building, the enclosure of movement – as a practical and as an ethical problem – remained essentially open.

## 8. Bibliography

## Archival sources

### **1. Thüringisches Staatsarchiv Weimar (ThStA Weimar)**

Geleits- und Straßenwesen (GSW): B 23206, 23207, 23208, 23209, 23223, 23235a, 23246, 23358, 23426, 23660, 23698, 23936a, 24441.

Polizeisachen: B 4983.

Grafen: L Schwarzburg: 54, 219.

### **2. Staatsarchiv Bremen (StA Bremen)**

2-R.10.a.2

2-R.10.a.3

2-R.10.a.5

2-R.10.a.5

2-R.10.a.6

2-R.10.aa.3

2-R.10.aa.4

2-R.10.aa.13.a.1

2-R.10.b.2.b.3

2-U.1.b.6

2-U.2.c

2-U.13.c.1.a

2-U.13.c.1.b.1

2-U.13.c.3.b.2

### **3. Staatsarchiv Wertheim (StA Wertheim)**

F-Rep. 32, Nr. 14

G-Rep. 19, Nr. 11 1

G-Rep. 19, Nr. 11 2  
G-Rep. 41, Nr. 113c  
G-Rep. 41, Nr. 124a  
G-Rep. 41, Nr. 124c  
G-Rep. 57/1, Geleitsachen 11  
G-Rep. 57/1, Strafbare Sachen 6  
G-Rep. 102, Nr. 1761, Nr. 3929  
R-Rep. 52, Nr. 3  
R-K 5950

#### **4. Bayerisches Hauptstaatsarchiv München (BHStA)**

Kurbayern Äußeres Archiv: 426, 1010-1014  
Kurbayern, Geheimes Landesarchiv, 724  
Kurbayern, Urkunden, 12535  
Erzstift Salzburg, Hofrat 18, 33, 34, 35, 36, 81, 125, 599  
Fürstensachen 120  
Reichskammergericht: 3485, 7083  
Plansammlung 6762, 11541, 21416

#### **5. Staatsarchiv Würzburg (StA Würzburg)**

Hochstift Würzburg, Auswärtige Angelegenheiten Bamberg, Adm f. 676/15060  
Hochstift Würzburg, Gebrechenamt I I W 15  
Mainzer Archivalien 192  
Mainzer Regierungsarchiv (MRA), Erbach K 426/105  
MRA Geleitswesen K 157/45, 47-48;  
MRA Hessen-Kassel 352/738; 364/1136  
MRA Hessen-Darmstadt 376/203  
MRA L 57

MRA Löwenstein, K413/114, 115 124; K 419/245

MRA Reichsstädte, K 514/339

MRA Ritterschaft, K 541/578

MRA Würzburg K 294/540, 556.

Würzburger Kartons, Zoll 274, 275

Zoll 305

## **6. Archiv der Hansestad Lübeck (AH Lübeck)**

Altes Senatsarchiv (ASA), Externa: 176, 2227, 5392

ASA Interna, 3385

Kämmerei, 481

## **7. Haus-, Hof- und Staatsarchiv Wien (HHStA)**

RHR: Passbriefe, Karton 4, Konv. 2.

RHR, Patentbesitz und Steckbriefe, Karton 2.

## **8. Geheimes Staatsarchiv Preussischer Kulturbesitz (GStA PK)**

I HA GR Rep 9 EE 1-16

I HA GR Rep 19, 71a, Fasz. 2

## **9. Generallandesarchiv Karlsruhe (GLA Karlsruhe)**

71/1373, 3513

74/2527, 2538, 2551, 2552, 2584

77/7521

## **10. Niedersächsisches Landesarchiv Wolfenbüttel (NLA Wolfenbüttel)**

1 Alt 23 Nr. 137

2 Alt Kanzlei: 4273-4295.

26 Alt Nr. 2209

## **11. Hauptstaatsarchiv Dresden (HStA Dresden)**

10024 Geheimer Rat: 08296 – 08299, 08299/02, 08299/03, 10409/01

10036 Loc. Finanzarchiv: Loc. 39800, Rep. 15, Gen. Nr. 0005, Loc. 39979

Rep. 15, Wolkenstein, Nr. 8.

## **12. Institut für Stadtgeschichte Frankfurt a. M. (IfS Frankfurt)**

Mgb A 11; 12; 56: 448-449, 465

Impressen 847

## **13. Thüringisches Staatsarchiv Meiningen (ThStA Meiningen)**

Geheimes Archiv Hildburghausen/Akten: 433.

Staatsministerium, Abt. des Inneren, Kreis Meiningen, 182

Amtsarchiv Heldburg, 2241

## **14. Staatsarchiv Nürnberg (StA Nürnberg)**

Reichsstadt Nürnberg, Rep. 52a Nürnberger Handschriften: 345

Reichsstadt Nürnberg, Rep. 67 Nürnberger Krönungsakten, 53, 70, 84

## **15. Staatsarchiv Ludwigsburg (StA Ludwigsburg)**

B 114: Bü 6452, Bü 6930, Bü 6453

## **16. Landeshauptarchiv Sachsen-Anhalt in Magdeburg (LhASA Magdeburg)**

A 1, Nr. 103

## **17. Landesarchiv Schleswig-Holstein in Schleswig (LASH)**

Abt. 7, 1217

## **18. Hauptstaatsarchiv Stuttgart (HStA Stuttgart)**

A 57, Bü 13, 110, 114

C 3, 1835, 3512, 3513, 3521, 3639

## **19. Stadtarchiv Erfurt**

1-0/B, 12-3

## **20. Niedersächsisches Landesarchiv Hannover (NLA Hannover)**

Calenberg Br. 1, Nr. 169

Calenberg Br. 23 Nr. 726

## Printed Sources

- Alers, Hieronymus, *Disputatio Iuridica Inauguralis De Regali Viarum Publicarum Iure* (Frankfurt an der Oder: 1680).
- Becht, Johann Georg, *Disputatio Theorico-Practica De Securitate Et Salvo Conductu* (Basel: 1612).
- Beier, Adrian, *An & Quatenus Transitus pro Exercitu per Territorium Alterius Postulari & Denegari Possit* (Jena: 1675).
- Böckelmann, Johann Friedrich, and Ehrmann, Johannes Andreas, *De jure conducendi. Von der Gleits Gerechtigkeit* (Heidelberg: 1665).
- Böckler, Johannes Henricus, and Paul von Stetten, *Conductor Carolinus sive de conductu electoribus eorumque legatis electionis peragendae causa iter facientibus debito* (Strasbourg: 1663).
- Buff, Christoph Ludwig Wilhelm, *De conducendi jure serenissimorum Hassiae landgraviorum per Wetteraviam* (Gießen: 1771).
- Dahm, Johann Michael, and Johann Matthias Esch, *De jure conducendi* (Mainz: 1745).
- Erasmus of Rotterdam, *Colloquia Familiaria* (Stuttgart: 1976).
- Falckenstein, Johann Heinrich von, *Civitatis Erffurtensis historia critica et diplomatica oder Vollstaendige alt-, mittel- und neue Historie von Erffurth*, vol. 1 (Erfurt: 1739).
- Fichte, Johann-Gottlieb, *Der geschlossene Handelsstaat* (Tübingen: 1800).
- Fritsch, Ahasverus, *Tractatus Iuridico-Politicus De Regali Viarum Publicarum Iure* (Jena 1662).
- Grotius, Hugo, *On the Law of War and Peace*, vol. 2 (Oxford: 1925).
- Grotius, Hugo, *The Freedom of the Seas* (New York 1916).
- Harpprecht, Johann, and Georg Friedrich Mohr, *De Salvo Conductu Et Iure Conducendi* (Tübingen: 1624).
- Heiland, Enoch, *Disputatio Iuridica De Salvo Conductu* (Leipzig: 1648).
- Henderson, Ernest, *Select Historical Documents of the Middle Ages* (London: 1903).
- Hinds, Allen, ed., *Calendar of State Papers Relating to English Affairs in the Archives of Venice, vol. 33: 1661-1664* (1932), 20-35. URL: <http://www.british-history.ac.uk/report.aspx?compid=90095> Date accessed: 29 October 2014.

- Kohlbrener, Franz Seraph von, *Geographische Mauth-Charte von Baejern* (Augsburg: 1764).
- Kolb, Robert, *Aquila Certans, Pro Immunitate, & Exemptione Ecclesiarum, Monasteriorum Et Status Ecclesiastici, a Potestate Seculari: Sive Confutatio Fundamentalis: Triginta Quinque Signorum Solmensium* (Frankfurt am Main: 1686).
- Krauss, Peter Pancratius and Wernhöfer, Heinrich, *Disputatio Iuridica De Regali Salvi Conductus* (Jena: 1669).
- Maul, Thomas, *Tractatus de iure Conducendi* (Gießen 1621).
- Meinhardt, Lorenz Arnold and Brunnemann, Johann, *Disputatio Juridica de Limitibus* (Frankfurt on Oder: 1665).
- Merkelbach, Thomas, ‘Consilium V. in causa Mayntz, contra Hanau, das Marck-Schiff auff den Mayn-Strohm betreffend’, in: Fritsch, Ahasver, ed., *Jus fluviatricum, Romano-Germanicum tripartitum* (Jena: 1672), part 2, 105–116.
- Moser, Johann Jacob, *Familien-Staats-Recht derer Teutschen Reichsstände. Erster Theil* (Frankfurt and Leipzig: 1775).
- Moser, Johann Jacob, *Teutsches Nachbarliches Staatsrecht* (Frankfurt and Leipzig: 1773).
- Müldner, Wilhelm, *Disputatio Inauguralis De Conducendi Iure* (Marburg: 1686).
- Müller, Johann Jacob, and Heinrich Mencke von Rechtern, *Dissertatio Iuris Gentium De Iure Transitus Per Alterius Territorium: Ad Librum Grotianum II. c.2. §.13* (Jena 1693).
- Mylius, Andreas, *Disputatio Iuridica, De Remissione Facinorosorum, Eorumque Transportatione Per Territorium Alienum* (Leipzig, 1690).
- Oettinger, Johannes, *Tractatus de jure et controversiis limitum ac finibus regundis* (Ulm: 1642).
- Ortth, Philipp Albert, *Tractatus Iuridico-Politicus De Regali Conducendi Iure* (Nuremberg: 1672).
- Panseman, Hieronymus, *Responsum Iuris, Von Freyheiten/ Immuniteten/ Geleydt/ Praeeminentz/ Recht Und Gerechtigkeiten Der Kauffleut* (Frankfurt am Main: 1614).
- Pufendorf, Samuel von, *De Jure Naturae et Gentium Libri Octo. Translation of the Edition of 1688*, vol. 2 (London: 1934).
- Rader, Johannes Josua, and Heinrich Linck, *Jus conducendi, vulgò die Gleits-Herrlichkeit* (Altdorf: 1677).
- Rosenhand, Daniel Nikolaus, *Dissertatio Iuridica de Iure Transeundi Per Territoria* (Strasbourg: 1672).

- Schefer, Johann Abraham, *Eröffnete Gedancken Uber den Durchzug fremmder Völcker Durch eines andern Land und Bottmässigkeit*, (Frankfurt am Main: 1674).
- Schreber, Daniel Gottfried, *Sammlung verschiedener Schriften, welche in die öconomischen, Policy- und Cameral- auch andere Wissenschaften einschlagen*, vol 1 (Halle: 1755).
- Seckendorff, Veit Ludwig von, *Teutscher Fürsten Stat* (Frankfurt am Main: 1666).
- Selden, John, *Of the Dominion or Ownership of the Sea* (London 1652).
- Textor, Johann Wolfgang, *Disputatio Inauguralis Iuridica De Literis Commeatus Germ. Paßport* (Heidelberg: 1679).
- Thyllius, Carl Otto, and Ludwig Carl Goldschmidt, *Disputatio inauguralis iuridica de iure viarum publicarum* (Heidelberg: 1725).
- Vitoria, Francisco de, 'On the American Indians', in: Vitoria, Francisco de, *Political Writings* (Cambridge: 1991).
- Weiland, Ludwig, ed., *Constitutiones et acta publica imperatorum et regum*, vol. 2 (Hannover: 1896).
- Wildvogel, Christian, and Johann W. Wild. *Conductor mercatorius, nostris* (Jena: 1756).
- Windheim, Stadius Harbordt, and Detlef Kruse, *Dissertatio Juridica De Jure Salvi Conductus* (Jena: 1666).
- Ziegler, Caspar, *In Hugonis Grotii De Iure Belli Ac Pacis Libros, Quibus Naturae & Gentium Ius Explicavit, Notae & Animadversiones Subitariae* (Wittenberg: 1666).
- Ziegra, Christian Samuel, *Exercitatio Moralis, Qua Ius Belli, Ob Transitum Per Alienas Ditiones Exercitui Denegatum, Suscepti, & Ab H. Grotio Lib. 2. de Iure Bell. & Pac. Cap. 2. Defensi* (Wittenberg: 1686).



## Secondary Literature

- About, Ilse, *Histoire de l'identification des personnes* (Paris: 2010).
- Abraham, Itty, and Willem van Schendel, 'Introduction. The Making of Illicitness', in: Schendel, Willem van, and Itty Abraham, eds., *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization* (Bloomington: 2005), 1–37.
- Ackermann, Jürgen, 'Geleitgeld für durchziehende jüdische Viehhändler an Salz und Bracht' *Gelnhäuser Heimat-Jahrbuch*, 1990, 61–64.
- Adelung, Johann Christoph, *Grammatisch-kritisches Wörterbuch der Hochdeutschen Mundart*, vol 3, (Leipzig: 1798).
- Akerman, Manfred, *Ein Grenzstreit im Filstal. Beschreibung und Entstehung der ältesten Darstellung der Landschaft zwischen Göppingen und Geislingen* (Göppingen: 1960).
- Albrecht, Dieter, Max Spindler, and Andreas Kraus, eds., *Das alte Bayern. Der Territorialstaat vom Ausgang des 12. Jahrhunderts bis zum Ausgang des 18. Jahrhunderts* (München: 1988).
- Algazi, Gadi, Alf Lüdtke, and Michael Wildt, eds. *Staats-Gewalt: Ausnahmezustand und Sicherheitsregimes: historische Perspektiven* (Göttingen: 2008).
- Algazi, Gadi, *Herrengewalt und Gewalt der Herren im Späten Mittelalter: Herrschaft, Gegenseitigkeit und Sprachgebrauch*, (Frankfurt am Main: 1996).
- Ammerer, Gerhard, *Heimat Straße. Vaganten im Österreich des Ancien Régime* (Wien: 2003).
- Anemüller, Ernst, 'Fritsch, Ahasverus', in: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, ed., *Allgemeine Deutsche Biographie*, vol. 8 (Leipzig: 1878), 108-109.
- Appelt, Heinrich, 'Schutz, Schutzprivilegien', in: Erler, Adalbert, Ekkehard Kaufmann, and Wolfgang Stämmler, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 4 (Berlin: 1990), 1525–1527.
- Aschoff, Diethard, 'Das älteste Judengeleit in Ahlen' *Der beflügelte Aal* 20 (2001): 77–83.
- Baasch, Ernst, *Der Kampf des Hauses Braunschweig-Lüneburg mit Hamburg um die Elbe vom 16.–18. Jahrhundert* (Hannover, Leipzig: 1905).
- Bach, Hans, 'Das Gunzenhäuser Geleit' *Alt-Gunzenhausen* 28 (1958): 4–5.
- Bachem, Georg-Andreas, 'Die Kölner Geleitregister. Geleite und Geleitverweigerungen' *Archiv für Familiengeschichtsforschung* 4 (2000): 111–122.

- Bahmann, Siegfried, *Das sächsische Amt Hain vom Ende des 14. bis zum Ende des 16. Jahrhunderts* (Leipzig: 1913).
- Balzacq, Thierry, 'The Three Faces of Securitization: Political Agency, Audience and Context', *European Journal of International Relations*, 11 (2005), 171–220.
- Bartolini, Stefano, *Restructuring Europe. Centre Formation, System Building and Political Structuring between the Nation-State and the European Union* (Oxford: 2005).
- Battenberg, Friedrich, 'Schutzjuden', in: Erler, Adalbert, Ekkehard Kaufmann, and Wolfgang Stammeler, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 4 (Berlin: 1990), 1535–1541.
- Battistoni, Marco, *Franchigie. Dazi, transiti e territori negli stati sabaudi del secolo XVIII* (Alessandria: 2009).
- Baud, Michiel, and Willem van Schendel, 'Toward a Comparative History of Borderlands' *Journal of World History* 8, no. 2 (1997): 211–242.
- Bauer, Joseph, *Kurze Geschichte der Stadt Mühlendorf am Inn* (Mühlendorf: 1902).
- Baumeister, Ludger, *Zur Geschichte und Problematik des deutschen Straßen- und Wegerechts* (Bielefeld, 1957).
- Becher, Wolfram, 'Die Geleitsrechte in der Grafschaft Erbach' *Der Odenwald* 11 (1964): 79–86.
- Behringer, Wolfgang, *Im Zeichen des Merkur: Reichspost und Kommunikationsrevolution in der Frühen Neuzeit* (Göttingen: 2003).
- Bély, Lucien, *Espions et ambassadeurs au temps de Louis XIV* (Paris: 1990).
- Benton, Lauren, *A Search for Sovereignty: Law and Geography in European Empires, 1400 —1900* (Cambridge: 2010).
- Bertrand, Gilles, 'Pour une approche comparée des modes de contrôle exercés aux frontières des anciens États italiens: les exemples du Dauphiné et de la Toscane dans la seconde moitié du XVIIIe siècle', in: Moatti, Claudia, ed., *La mobilité des personnes en Méditerranée de l'Antiquité à l'époque moderne: procédures de contrôle et documents d'identification* (Rome: 2004), 253–303.
- Berwick, David, *Beating the Bounds in Georgian Norwich* (Dareham: 2007).
- Beyerstedt, Horst-Dieter, 'Geleit', in: Diefenbacher, Michael, and Rudolf Endres, eds., *Stadtlexikon Nürnberg* (Nürnberg: 2000), 328–329.
- Beyerstedt, Horst-Dieter, 'Geleitprozeß', in: Diefenbacher, Michael, and Rudolf Endres, eds., *Stadtlexikon Nürnberg* (Nürnberg: 2000), 329.

- Biggs, Michael, 'Putting the State on the Map: Cartography, Territory, and European State Formation' *Comparative Studies in Society and History* 41, no. 2 (1999): 374–405.
- Bigo, Didier, 'Delivering Liberty and Security? The Reframing of Freedom when Associated with Security', in: *Vital Speeches of the Day* 68 (2002), 290–298.
- Blaha, Walter, 'Kurmainzische absolutistische Herrschaft von 1664 bis 1789', in: Gutsche, Willibald, ed., *Geschichte der Stadt Erfurt* (Weimar: 1986), 145–80.
- Blanc-Chaléard, Marie-Claude, Caroline Douki, Nicole Dyonet, and Vincent Milliot, 'Police et migrants en France, 1667-1939 : questions et résultats', in: Blanc-Chaléard, Marie-Claude, Caroline Douki, Nicole Dyonet, and Vincent Milliot, eds., *Police et migrants France, 1667–1939* (Rennes: 2001), 9–20.
- Blaschke, Karlheinz, 'Der Obersächsische Reichskreis', in: Hartmann, Peter Claus, ed., *Regionen in der Frühen Neuzeit: Reichskreise im deutschen Raum, Provinzen in Frankreich, Regionen unter polnischer Oberhoheit: Ein Vergleich ihrer Strukturen, Funktionen und ihrer Bedeutung* (Berlin: 1994), 127–44.
- Boes, Maria, 'Unwanted Travellers: The Tightening of City Borders in Early Modern Germany', in: Betteridge, Thomas, ed., *Borders and Travellers in Early Modern Europe* (Ashgate: 2007), 87–111.
- Bognetti, Gian Piero, *Note per la storia del passaporto e del salvacondotto. A proposito di documenti genovesi del sec. XII* (Pavia: 1933).
- Bolland, Jürgen, *Die Hamburger Elbkarte aus dem Jahre 1568 gezeichnet von Melchior Lorichs* (Hamburg: 1985).
- Braddick, Michael, *The Nerves of State: Taxation and the Financing of the English State, 1558–1714* (Manchester, New York: 1996).
- Brakensiek, Stefan, 'Akzeptanzorientierte Herrschaft. Überlegungen zur politischen Kultur der Frühen Neuzeit', in: Neuhaus, Helmut, ed., *Die Frühe Neuzeit als Epoche* (München: Oldenbourg, 2009), 395–406.
- Brandstätter, Klaus, 'Straßenhoheit und Straßenzwang im hohen und späten Mittelalter', in: Schwinges, Rainer Christoph, ed., *Strassen-und Verkehrswesen im hohen und späten Mittelalter* (Ostfildern: 2007), 201–28.
- Bretschneider, Falk, 'Einleitung: Praxis der Grenze. Konflikte und Umgänge mit Territorialgrenzen im Alten Reich' *Jahrbuch Für Regionalgeschichte* 29 (2011): 36–44.

- Bretschneider, Falk, 'Étudier la fractalité : les espaces du Saint-Empire entre pluralité des échelles et liens transversaux', in: Ibid., and Christophe Duhamelle, *Le Saint-Empire revisité. Politique, espace et société (XVIe-XVIIIe siècles)* (Paris: forthcoming), 147–166.
- Brown, Wendy, *Walled States, Waning Sovereignty* (New York; Cambridge, MA: 2010).
- Brück, Anton 'Alt-Mainzer Geleitsrechte im heutigen Rheinhessen' *Mitteilungsblatt zur rheinbessischen Landeskunde* 2 (1953): 31–36.
- Brunner, Karl, *Der pfälzische Wildfangstreit unter Kurfürst Karl Ludwig* (Innsbruck: 1896).
- Brunner, Otto, *Land and Lordship: Structures of Governance in Medieval Austria* (Philadelphia: 1992).
- Bull, Hedley, *The Anarchical Society: A Study of Order in World Politics* (Basingstoke: 2012).
- Büttinghausen, Karl, *Beiträge zur Pfälzischen Geschichte*, vol. 2.1 (Mannheim: 1777).
- Buzan, Barry, Ole Wæver, Jaap de Wilde, *Security. A new framework for analysis* (Boulder: 1998).
- Capelle, Torsten, 'Landwehnbau', in: Kneppel, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 25–34.
- Caplan, Jane and John Torpey, eds., *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton: 2001).
- Caroni, Pio, 'Zur Bedeutung des Warentransportes für die Bevölkerung der Passgebiete' *Schweizerische Zeitschrift für Geschichte* 12 (1979): 84–101.
- Casimir, Michael, 'The Dimensions of Territoriality: An Introduction', in: Casimir, Michael and Aparna Rao, eds., *Mobility and Territoriality: Social and Spatial Boundaries among Foragers, Fishers, Pastoralists and Peripatetics*, (New York: 1992), 1–26.
- Castillo, Lilian del, *Law of the Sea. From Grotius to the International Tribunal for the Law of the Sea* (Leiden: 2015).
- Cavallar, Georg, 'Immigration and Sovereignty: Normative Approaches in the History of International Legal Theory (Pufendorf—Vattel—Bluntschli—Verdross).' *Austrian Review of International and European Law* 11:3 (2006), 3–22.
- Cavallar, Georg, *The Rights of Strangers: Theories of International Hospitality, the Global Community, and Political Justice since Vitoria* (Aldershot: 2002).
- Cerwinka, Günter, 'Straßenzwang und Städte im späteren Mittelalter' *Zeitschrift des historischen Vereines für Steiermark* 67 (1976): 131–46.

- Claes, Thomas, *Passkontrolle! Eine kritische Geschichte des sich Ausweisens und Erkenntwerdens* (Berlin: 2010).
- Collet, Dominik, ‘Moral economy’ von oben? Getreidesperren als territoriale und soziale Grenzen während der Hungerkrise 1770-72’ *Jahrbuch für Regionalgeschichte* 29 (2011): 45–61.
- Conchon, Anne, *Le péage en France au XVIII<sup>e</sup> siècle: les privilèges à l’épreuve de la réforme* (Paris: 2002).
- Conrad, Hermann, *Deutsche Rechtsgeschichte* (Karlsruhe: 1954, 1962).
- Conrad, Otto, ‘Der altwürttembergische Landgraben vom Heuchelberg zum Bottwartal’ *Veröffentlichungen des historischen Vereins Heilbronn* 24 (1963): 87–121.
- Conze, Eckart, ‘Securitization. Gegenwartsdiagnose oder historischer Analyseansatz?’, in: *Geschichte und Gesellschaft* 38/3 (2012), 453-467.
- Conze, Eckart, ‘Sicherheit als Kultur’ *Vierteljahresheft für Zeitgeschichte* 53, no. 3 (2005): 357–380.
- Conze, Werner, ‘Sicherheit, Schutz’, in: Brunner, Otto, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe*, vol. 5 (Stuttgart: 1984), 831–862.
- Cordes, Albrecht, ‘Grundruhr’, in: Cordes, Albrecht, and Wolfgang Stämmler, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 2 (Berlin: 2012), 603–605.
- Czech, Vinzenz, *Legitimation und Repräsentation: zum Selbstverständnis thüringisch-sächsischer Reichsgrafen in der frühen Neuzeit* (Berlin: 2003).
- Deggim, Christina, ‘Aufgeblasen und abgebrannt. Seetonnen und Baken in Quellen der Bremer Handelskammer’ *Bremisches Jahrbuch* 79 (2000), 73–115.
- Delsalle, Paul, ed., *Les enclaves territoriales aux Temps modernes, XVI<sup>e</sup>-XVIII<sup>e</sup> siècles* (Besançon: 2000).
- Diekmann, Klaus, *Die Herrschaft der Stadt Soest über ihre Börde* (Münster: 1962).
- Dirlmeier, Ulf, ‘Mittelalterliche Zoll- und Stapelrechte als Handelshemmnisse?’, in: Pohl, Hans, ed., *Die Auswirkungen von Zöllen und anderen Handelshemmnissen auf Wirtschaft und Gesellschaft vom Mittelalter bis zur Gegenwart* (Stuttgart: 1987), 19–39.
- Donati, Claudio, ed., *Alle frontiere della Lombardia: politica, guerra e religione nell’età moderna* (Milano: 2006).
- Döring, Detlef, ‘Samuel Pufendorf und die Heidelberger Universität des 17. Jahrhunderts’, in: Strohm Christoph, ed., *Späthumanismus und reformierte Konfession* (Tübingen: 2006), 303–309.
- Dörr, Hans, ‘Streit um das Geleitwesen im Amt Dieburg’ *Der Odenwald* 43 (1996): 172–76.
- Dotzauer, Winfried, ‘Beiträge zum Geleitwesen im Nahe-Mündungsgebiet’ *Mitteilungsblatt zur rheinhessischen Landeskunde* 10 (1961): 287–291.

- Dotzauer, Winfried, 'Das Königswahlgeleit für die Kurfürsten in der Goldenen Bulle Karls IV. (1356). Ein Beitrag zur Interpretation der Goldenen Bulle', in: N.N., *Beiträge zur mittelhochdeutschen Landesgeschichte. Johannes Bärmann zum 75. Geburtstag gewidmet* (Wiesbaden: 1980), 82–139.
- Droege, Georg, 'Die finanziellen Grundlagen des Territorialstaates in West- und Ostdeutschland an der Wende vom Mittelalter zur Neuzeit' *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 53, no. 2 (1966), 145–61.
- Dubler, Anne-Marie, 'Geleit', in: *Historisches Lexikon der Schweiz*, 2011 (URL: <http://www.hls-dhs-dss.ch/textes/d/D30195.php>, Date accessed: 3 Mar 2016).
- Duhamelle, Christophe, 'Drinnen und draußen. Raum und Identität der Exklave im Alten Reich nach dem Westfälischen Frieden' *Trivium*, no. 14 (2013).
- Duhamelle, Christophe, *La frontière au village : une identité catholique allemande au temps des Lumières* (Paris: 2010).
- Duhamelle, Christophe, 'Le jus emigrandi dans le Saint-Empire (XVIe-XVIIIe siècles). La minorité en régime de parité', in: Poutrin, Isabelle, and Alain Tallon, eds., *Les expulsions de minorités religieuses dans l'Europe des XIIIe-XVIIe siècles* (Pompignac: 2015), 129–151.
- Duhamelle, Christophe, 'Schmidt, Georg, Geschichte des Alten Reiches. Staat und Nation in der Frühen Neuzeit, 1495-1806.' *Revue de l'Institut français d'histoire en Allemagne*, 2000, 2.
- Duhamelle, Christophe, 'Territoriale Grenze, konfessionelle Differenz und soziale Abgrenzung. Das Eichsfeld im 17. und 18. Jahrhundert', in: François, Étienne, Jörg Seifarth, and Bernhard Struck, eds., *Die Grenze als Raum, Erfahrung und Konstruktion: Deutschland, Frankreich und Polen vom 17. bis zum 20. Jahrhundert* (Frankfurt: 2007), 33–52.
- Dundes, Alan, *Life Is like a Chicken Coop Ladder: A Portrait of German Culture through Folklore* (New York: 1984).
- Dünninger, Dieter, *Wegsperrung und Lösung. Formen und Motive eines dörflichen Hochzeitsbrauches. Ein Beitrag zur rechtlich-volkskundlichen Brauchtumsforschung* (Berlin: 1967).
- Düssmann, Karl, *Graf Anton Günther von Oldenburg und der Westfälische Friede, 1643-1653* (Oldenburg: 1935).
- Dyonet, Nicole 'La maréchaussée et la population mobile dans l'Orléanais au XVIIIe siècle', in: Blanc-Chaléard, Marie-Claude, Caroline Douki, Nicole Dyonet, and Vincent Milliot, eds., *Police et migrants France, 1667-1939* (Rennes: 2001), 51–62.

- Egert, Paul, *Geschichte der Stadt und Herrschaft Blankenhain* (Blankenhain: 1922).
- Ehrhardt, Michael, 'Eine kleine Territorialgeschichte der Region Unterweser', in: Bickelmann, Hartmut, ed., *Fluss, Land, Stadt: Beiträge zur Regionalgeschichte der Unterweser* (Bremerhaven: 2011), 147–96.
- Endres, Rudolf, 'Ein Verzeichnis der Geleitstraßen der Burggrafen von Nürnberg' *Jahrbuch für fränkische Landesforschung* 23 (1963): 107–38.
- Engels, Jens Ivo, Andreas Fahrmeir, and Alexander Nützenadel, eds., *Geld, Geschenke, Politik: Korruption im neuzeitlichen Europa* (München: 2009).
- Ennen, Leonard, 'Übertragung der Krönungs-Insignien von Aachen nach Frankfurt 1742' *Annalen des historischen Vereins für den Niederrhein* 16 (1865): 168–75.
- Ernstberger, Anton, 'Plünderung des Leipziger Messegeleits Nürnberger und Augsburger Kaufleute am 26. Januar 1638 bei Neustadt a.d. Heid' *Jahrbuch für fränkische Landesforschung* 22 (1962): 101–20.
- Esch, Arnold, 'Überlieferungs-Chance und Überlieferungs-Zufall als methodisches Problem des Historikers' *Historische Zeitschrift* 240, no. 3 (1985): 529–70.
- Febvre, Lucien, *Combats pour l'histoire* (Paris: 1992).
- Febvre, Lucien, 'Pour l'histoire d'un sentiment: le besoin de sécurité' *Annales. Économies, Sociétés, Civilisations* 11, no. 2 (1956): 244–247.
- Feineis, Dieter Michael, 'Überblick über die Geschichte von Burg und Amt Prozelten bis zum Ende des Alten Reiches' *Würzburger Diözesangeschichtsblätter* 76 (2013): 211–222.
- Feldman, Leslie Dale, *Freedom as Motion* (Lanham: 2001).
- Fendler, Rudolf, "Da die Leuffte der Zyth etwas geschwindt und geferlich sind.' Über das Geleitwesen am mittleren Oberrhein im 16. Jahrhundert' *Mannheimer Geschichtsblätter* 5 (1998): 65–89.
- Fendler, Rudolf, 'Das Geleitwesen im kurpfälzischen Oberamt Alzey von den Anfängen bis zum Untergang in der Französischen Revolution' *Alzeyer Geschichtsblätter* 11/12 (1976): 59–88.
- Fendler, Rudolf, 'Geleitsorgen der Stadt Straßburg. Betreffend die Straßen von Straßburg nach Frankfurt, die durch die Kurpfalz, das Hochstift Speyer und Rheinhessen führten' *Pfälzer Heimat* 49 (1998): 6–8.

- Fendler, Rudolf, 'Geleitstraßen und Postlinien vor der Französischen Revolution', in: Alter, Willi, ed., *Pfalzatl*, vol. 2. (Speyer: 1971), 703–732.
- Fiesel, Ludolf, 'Woher stammt das Zollgeleit?' *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 19, no. 4 (1926): 385–412.
- Fendler, Rudolf, 'Zoll- und Geleitwesen im Herzogtum Pfalz-Zweibrücken' *Mitteilungen des historischen Vereins der Pfalz* 82 (1984): 181–98.
- Fiesel, Ludolf, 'Zur Entstehungsgeschichte des Zollgeleits' *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 15 (1920/1919): 466–506.
- Foltz, Jeremy D., and Daniel W. Bromley, 'Highway Robbery: The Economics of Petty Corruption in West African Trucking', *8th Midwest International Economic Development Conference, University of Wisconsin–Madison*, 2011.
- Foucault, Michel, *Sécurité, territoire, population* (Paris: 2004).
- Fourlanos, Gerassimos, *Sovereignty and the Ingress of Aliens* (Stockholm: 1986).
- François, Etienne, *Die unsichtbare Grenze: Protestanten und Katholiken in Augsburg 1648-1806* (Sigmaringen: 1991).
- Freitag, Rolf, 'Das Geleit der Reichsstadt Ulm' *Ulm und Oberschwaben* 37 (1964): 85–131.
- Friehe, Heinz-Albert, *Wegerecht und Wegeverwaltung in der alten Grafschaft Schaumburg* (Bonn: 1971).
- Fritz, Gerhard, *Eine Rotte von allerhandt rauberischem Gesindt: öffentliche Sicherheit in Südwestdeutschland vom Ende des Dreissigjährigen Krieges bis zum Ende des Alten Reiches* (Ostfildern: 2004).
- Fritz, Gerhard, 'Strukturprobleme des Alten Reichs: Die öffentliche Sicherheit und das schwierige Verhältnis zwischen dem Herzogtum Württemberg und der Reichsstadt Schwäbisch Gmünd im 18. Jahrhundert', in: Fritz, Gerhard, ed., *Landesgeschichte und Geschichtsdidaktik: Festschrift Für Rainer Jooss* (Schwäbisch Gmünd: 2004), 29–51.
- Füssel, Ronald, *Hexen und Hexenverfolgung in Thüringen* (Erfurt: 2001).
- Gabler, August, 'Das Brandenburger und Öttinger Geleit im südlichen Franken' *Archiv für Postgeschichte in Bayern* 9 (1957): 123–127.
- Gantet, Claire, 'Die äußeren Grenzen des Heiligen Römischen Reichs: Wahrnehmungen und Repräsentationen in der zweiten Hälfte des 17. Jahrhunderts', in: François, Étienne, Jörg

- Seifarth, and Bernhard Struck, eds., *Die Grenze als Raum, Erfahrung und Konstruktion: Deutschland, Frankreich und Polen vom 17. bis zum 20. Jahrhundert* (Frankfurt: 2007), 53–76.
- Garner, Guillaume, ‘La question douanière dans le discours économique en Allemagne (seconde moitié du XVIII<sup>e</sup> siècle)’ *Histoire, Économie et Société* 23, no. 1 (2004): 39–53.
- Gerbing, Luise, ‘Beiträge zum Thüringer Geleitswesen im 16. und 17. Jahrhundert’ *Mitteilungen der Geographischen Gesellschaft Jena* 13 (1894): 50–62.
- Gerhard, Hans-Jürgen, ‘Merkantilpolitische Handelshemmnisse am Beispiel eines territorial relativ einheitlichen Gebietes’, in: Pohl, Hans, ed., *Die Auswirkungen von Zöllen und anderen Handelshemmnissen auf Wirtschaft und Gesellschaft vom Mittelalter bis zur Gegenwart* (Stuttgart: 1987), 59–83.
- Gersmann, Gudrun, ‘Orte der Kommunikation, Orte der Auseinandersetzung. Konfliktursachen und Konfliktverläufe in der frühneuzeitlichen Dorfgesellschaft’, in: Eriksson, Magnus, and Barbara Krug-Richter, eds., *Streitkulturen: Gewalt, Konflikt und Kommunikation in der ländlichen Gesellschaft (16.-19. Jahrhundert)* (Köln: 2003), 249–268.
- Giana, Luca, ‘Transiti e territorio in un feudo imperiale del Piemonte meridionale nel XVII secolo’, in: Cinzia Cremonini and Riccardo Musso, eds., *I feudi imperiali in Italia tra XV e XVIII secolo* (Roma, 2010), 137–174.
- Gläbe, Friedrich, *Die Unterweser. Chronik eines Stromes und seiner Landschaft* (Bremen: 1963).
- Gollwitzer, Hans, ‘Die Geschichte unseres Landkreises’, in: Landkreis Mühldorf a. Inn, ed., *Unser Landkreis Mühldorf a. Inn* (Bamberg: 1984), 37–42.
- Gorißen, Stefan, ‘Korruption und merkantilistische Staatswirtschaft. Die preußische Zoll- und Akzisepolitik in Schlesien und in den westlichen Provinzen unter Friedrich II.’, in: Grüne, Niels, and Simona Slanicka, eds., *Korruption: Historische Annäherungen an eine Grundfigur politischer Kommunikation* (Göttingen: 2010), 327–344.
- Gotthard, Axel, *In der Ferne: die Wahrnehmung des Raums in der Vormoderne* (Frankfurt am Main: 2007).
- Gotthard, Axel, ‘Wohin führt uns der „Spatial turn“? Über mögliche Gründe, Chancen und Grenzen einer neuerdings diskutierten historiographischen Wende’, in: Wüst, Wolfgang, ed., *Mikro - Meso - Makro: Regionenforschung im Aufbruch* (Erlangen: 2005), 15–50.
- Grewe, Wilhelm Georg, *The Epochs of International Law* (New York: 2000).
- Grimm, Jacob and Wilhelm Grimm, *Deutsches Wörterbuch*, vol 9 (Leipzig: 1899).

- Groebner, Valentin, *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe* (Brooklyn, NY: 2007).
- Grüne, Niels, and Simona Slanicka, eds., *Korruption: Historische Annäherungen an eine Grundfigur politischer Kommunikation* (Göttingen: 2010).
- Haack, Julia, *Der vergällte Alltag: zur Streitkultur im 18. Jahrhundert* (Köln, Weimar: 2008).
- Haakonssen, Knud, 'Samuel Pufendorf (1632-1694)', in: Fassbender, Bardo and Anne Peters, eds., *The Oxford Handbook of the History of International Law* (Oxford: 2012), 1102–1105.
- Hackenberg, Martin, *Die Verpachtung von Zöllen und Steuern. Ein Rechtsgeschäft territorialer Finanzverwaltung im Alten Reich, dargestellt am Beispiel des Kurfürstentums Köln* (Frankfurt on Main: 2002).
- Haferlach, Alfred, 'Das Geleitwesen der deutschen Städte im Mittelalter', in: *Hansische Geschichtsblätter*, 41:1–172.
- Hagedorn, Bernhard, *Ostfrieslands Handel und Schifffahrt vom Ausgang des 16. Jahrhunderts bis zum Westfälischen Frieden (1580 - 1648)* (Berlin: 1912).
- Handel, Ariel, 'Where, Where to and When in the Occupied Territories? An Introduction to Geography of Disaster', in: Ophir, Adi, Michal Givoni, and Sari Hanafi, eds., *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (New York; 2009), 179–222.
- Hansen, Lene, 'Reconstructing Desecuritisation: The Normative-Political in the Copenhagen School and Directions for How to Apply It' *Review of International Studies*, 38 (2012), 525–46.
- Härter, Karl, 'Grenzen, Streifen, Pässe und Gesetze: Die Steuerung von Migration im frühneuzeitlichen Territorialstaat des Alten Reiches (1648-1806)', in: Oltmer, Jochen, ed., *Handbuch Staat und Migration in Deutschland seit dem 17. Jahrhundert* (Berlin: 2015), 7–48.
- Härter, Karl, 'Jüdische Migrationen im frühneuzeitlichen Alten Reich. Rechtliche Rahmenbedingungen, Geleit und Rechtsnutzung', in: Ehrenpreis, Stefan, ed., *Kaiser und Reich in der jüdischen Lokalgeschichte* (München: 2011), 67–92.
- Härter, Karl, *Policey und Strafjustiz in Kurmainz: Gesetzgebung, Normdurchsetzung und Sozialkontrolle im frühneuzeitlichen Territorialstaat* (Frankfurt am Main: 2005).
- Härter, Karl, 'Recht und Migration in der frühneuzeitlichen Ständegesellschaft. Reglementierung–Diskriminierung–Verrechtlichung', in: Rosemarie Beier-de Haan, ed., *Zuwanderungsland Deutschland. Migrationen 1500-2005*, (Wolfratshausen: 2005), 50–71.

- Härter, Karl 'Security and 'Gute Policey' in Early Modern Europe: Concepts, Laws, and Instruments' *Historical Social Research* 35, no. 4 (134) (2010): 41–65.
- Hartmann, Georg, *Das Wassergeleit in Sachsen* (Wilkau-Haßlau: 1936).
- Hartmann, Peter Claus, *Das Heilige Römische Reich deutscher Nation in der Neuzeit, 1486-1806* (Stuttgart: 2005).
- Hartmann, Peter Claus, ed. *Regionen in der Frühen Neuzeit: Reichskreise im deutschen Raum, Provinzen in Frankreich, Regionen unter polnischer Oberhoheit: Ein Vergleich ihrer Strukturen, Funktionen und ihrer Bedeutung* (Berlin: 1994).
- Hartmann, Peter Claus, 'Regionen in der Frühen Neuzeit - Modell für ein Europa der Regionen? Einführung in die Thematik und Problematik des Kolloquiums', in: Hartmann, Peter Claus, ed., *Regionen in der Frühen Neuzeit: Reichskreise im deutschen Raum, Provinzen in Frankreich, Regionen unter polnischer Oberhoheit: Ein Vergleich ihrer Strukturen, Funktionen und ihrer Bedeutung* (Berlin: 1994), 9–20.
- Heindl, Waltraud, ed., *Grenze und Staat: Passwesen, Staatsbürgerschaft, Heimatrecht und Fremden gesetzgebung in der österreichischen Monarchie 1750-1867* (Wien: 2000).
- Heindl, Waltraud, and Edith Saurer, 'Einleitung', in: Heindl, Waltraud, ed., *Grenze und Staat: Passwesen, Staatsbürgerschaft, Heimatrecht und Fremden gesetzgebung in der Österreichischen Monarchie 1750-1867* (Wien: 2000), XIX – XXXI.
- Hennigs, Annette, *Gesellschaft und Mobilität: Unterwegs in der Grafschaft Lippe 1680 bis 1820* (Gütersloh: 2002).
- Herzog, Tamar, *Frontiers of Possession: Spain and Portugal in Europe and the Americas* (Cambridge, MA: 2014).
- Herz, Hans, 'Zu einigen Problemen der Landesteilungen in Thüringen vom 16. bis zum Beginn des 19. Jahrhunderts' *Zeitschrift des Vereins für thüringische Geschichte* 46 (1992): 147–159.
- Hessler, Rudolf, *Das Durchzugsrecht innerhalb des deutschen Bundes* (Berlin: 1966).
- Heuse, Hans, 'Das Geleit - Fürstenrecht und Vasallenpflicht' *Das Werraland* 58 (2006): 82–85.
- Hierold, Eugen, 'Das Vilsecker Geleit' *Oberpfälzer Heimat* 23 (1979): 76–82
- Hofmann, Adolf, *Das Landgeleit in Sachsen* (Waldenburg: 1931).
- Hoffmann, Albrecht, *Geschichte des deutschen Zollrechts* (Leipzig: 1902).

- Hohkamp, Michaela, 'Grausamkeit blutet, Gerechtigkeit zwackt. Überlegungen zu Grenzziehungen zwischen legitimer und nicht-legitimer Gewalt', in: Eriksson, Magnus, and Barbara Krug-Richter, eds., *Streitkulturen: Gewalt, Konflikt und Kommunikation in der ländlichen Gesellschaft (16.-19. Jahrhundert)* (Köln: 2003), 58–79.
- Horst, Thomas, *Die älteren Manuskriptkarten Altbayerns. Eine kartographiehistorische Studie zum Augenscheinplan unter besonderer Berücksichtigung der Kultur- und Klimageschichte* (München, 2009).
- Huntebrinker, Jan Willem, 'Gartknecht' und 'Passport'. Zum Problem von Mobilität, Zugehörigkeit und Kontrolle (15. – 17. Jahrhundert)' *Working Papers des Arbeitskreises Policity* (2007).
- Huschke, Wolfgang, 'Politische Geschichte von 1572 Bis 1775', in: Patze, Hans, and Walter Schlesinger, eds. *Geschichte Thüringens*, vol 5 (Cologne and Vienna: 1982), 1–551.
- Huvelin, Paul-Louis, *Essai historique sur le droit des marchés et des foires* (Paris: 1897).
- Irsigler, Franz, 'Grenzen und Wirtschaftsentwicklung in Mittelalter und Früher Neuzeit', in: Schneider, Jürgen, ed. *Natürliche und politische Grenzen als soziale und wirtschaftliche Herausforderung* (Stuttgart: 2003), 29–42.
- Irwin, Douglas, *Against the Tide: An Intellectual History of Free Trade* (Princeton: 1996).
- Israel, Jonathan, 'Der niederländisch-spanische Krieg und das Heilige Römische Reich Deutscher Nation (1568-1648)', in: Bussmann, Klaus, and Heinz Schilling, eds., *1648: Krieg und Frieden in Europa*, vol. 1 (Münster: 1998), 111–122.
- Jakob, Andreas, 'Geleit', in: Friederich, Christoph, Bertold Haller, and Andreas Jakob, eds., *Erlanger Stadtlexikon* (Nuremberg: 2002), 304–305.
- Jellinek, Georg, *Allgemeine Staatslehre* (Berlin: 1929).
- Johanek, Peter, 'Die Straße im Recht und in der Herrschaftsausübung des Mittelalters', in: Holzner-Tobisch, Kornelia, Thomas Kührtreiber, and Gertrud Blaschitz, eds., *Die Vielschichtigkeit der Strasse: Kontinuität und Wandel im Mittelalter und der früher Neuzeit* (Vienna: 2012), 233–62.
- John, Jürgen, 'Kleinstaat und Kultur oder: Der thüringische Weg in die Moderne', in: Jürgen John, ed., *Kleinstaat und Kultur in Thüringen vom 16. bis 20. Jahrhundert* (Cologne, Weimar, Vienna: 1994), XIII – LXI.
- John, Rachel St, *Line in the Sand: A History of the Western US-Mexico Border* (Princeton: 2011).
- Judde de Larivière, Claire, *Naviguer, commercer, gouverner: Économie maritime et pouvoirs à Venise (XVe - XVIe siècles)* (Leiden: 2008).

- Jugler, Johannes Friedrich, *Beiträge zur juristischen Biographie oder genauere litterarische und critische Nachrichten von dem Leben und den Schriften verstorbener Rechtsgelehrten auch Staatsmänner, welche sich in Europa berühmt gemacht haben*, vol. 4, (Leipzig: 1778), 279–281.
- Jütte, Daniel, ‘Entering a City: On a Lost Early Modern Practice’ *Urban History* 41, no. 2 (2014): 204–27.
- Jütte, Daniel, *The Strait Gate: Thresholds and Power in Western History* (New Haven: 2015).
- Kain, Roger, ‘Maps and Rural Land Management in Early Modern Europe’, *History of Cartography*, 2007, 3.1, 705–18.
- Kaminsky, Howard, ‘Review of “Herrengewalt und Gewalt der Herren im Späten Mittelalter: Herrschaft, Gegenseitigkeit und Sprachgebrauch” by Gadi Algazi’, *Speculum* 73, no. 3 (1998): 799–802.
- Kampmann, Christoph, ed., *Sicherheit in der Frühen Neuzeit: Norm - Praxis - Repräsentation* (Köln: 2013).
- Kalisch, Hans, *Über das Verhältnis des Geleitsregals zum Zollregal* (Berlin: 1901).
- Kallenberg, Vera, *Von ‘liederlichen Land-Läuffern’ zum ‘asiatischen Volk’. Die Repräsentation der ‘Zigeuner’ in deutschsprachigen Lexika und Enzyklopädien zwischen 1700 und 1850; eine wissensgeschichtliche Untersuchung* (Frankfurt am Main: 2010).
- Kappen, Peter, ‘Seligenstädter Löffel und sein Brauchtum’ *Seligenstädter Geleit* 12 (1989): 19–21.
- Kießling, Rolf, and Sabine Ullmann, eds., *Das Reich in der Region während des Mittelalters und der Frühen Neuzeit* (Konstanz: 2005).
- Kießling, Rolf, ‘Zwischen Schutzherrschaft und Reichsbürgerschaft: Die schwäbischen Juden und das Reich’, in: Kießling, Rolf, and Sabine Ullmann, eds., *Das Reich in der Region während des Mittelalters und der Frühen Neuzeit* (Konstanz: 2005), 99–122.
- Kintzinger, Martin ‘Cum salvo conductu. Geleit im westeuropäischen Spätmittelalter’, in: Schwinges, Rainer Christoph Schwinges and Klaus Wriedt, eds., *Gesandtschafts- und Botenwesen im spätmittelalterlichen Europa*, (Ostfildern 2003), 313–363.
- Kircher, Albrecht, *Deutsche Kaiser in Nürnberg* (Nürnberg: 1955).
- Kleinschmidt, Harald, *Legitimität, Frieden, Völkerrecht. Eine Begriffs- und Theoriegeschichte der menschlichen Sicherheit* (Berlin: 2010), 19-104.

- Knau, Hans Ludwig, 'Die Siegener Landhecke', in: Knepe, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 201–218.
- Kneib, Gottfried, 'Mainzer Geleitsrechte in Rheinhessen im 16. und 17. Jahrhundert' *Mainzer Zeitschrift* 99 (2004): 79–94.
- Knepe, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007).
- Knepe, Cornelia, 'Aufbau und Funktion von westfälischen Landwehren. Ein Überblick', in: Knepe, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 13–24.
- Koehler, Bernhard, 'Geleit', in: *Handwörterbuch zur deutschen Rechtsgeschichte*, Albrecht Cordes, Heiner Lück, and Dieter Werkmüller, eds., vol. 1 (Berlin: 1971), 1481–1489.
- Köhler, Carl Silvio, 'Die Autorschaft und Katalogisierung der akademischen Dissertationen. Eine Bibliotheksstudie' *Neuer Anzeiger für Bibliographie und Bibliothekswissenschaft* 47 (1886): 225–250.
- Köhne, Reinhard, 'Landwehren in den Bergbauregionen des Sauerländischen Mittelgebirges', in: Knepe, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 191–200.
- Komlosy, Andrea, 'Das Paßwesen (1750–1857)', in: Pauser, Josef, Martin Scheutz, and Thomas Winkelbauer, eds., *Quellenkunde der Habsburgermonarchie (16.–18. Jahrhundert)*, (Wien, München: 2004), 278–290.
- Komlosy, Andrea, 'Ein Land – viele Grenzen. Waren- und Reiseverkehr zwischen den österreichischen und den böhmischen Ländern (1740–1918)', in: Komlosy, Andrea, Václav Bužek, and František Svátek, eds., *Kulturen an der Grenze: Waldviertel, Weinviertel, Südböhmen, Südmähren* (Wien: 1995), 59–72.
- Komlosy, Andrea, 'Migration und Freizügigkeit. Habsburger Monarchie und Europäische Union im Vergleich', in: Becker, Joachim, and Andrea Komlosy, eds., *Grenzen weltweit* (Wien: 2004), 101–24.
- Kotef, Hagar and Merav Amir, 'Between Imaginary Lines: Violence and Its Justifications at the Military Checkpoints in Occupied Palestine', in: Kotef, Hagar, *Movement and the Ordering of Freedom: On Liberal Governances of Mobility*, (Durham and London: 2015), 27–51.
- Kotef, Hagar, *Movement and the Ordering of Freedom: On Liberal Governances of Mobility*, (Durham and London: 2015).

- Kraus, Hans-Christof, 'Kriegsfolgenbewältigung und 'Peuplierung' im Denken deutscher Kameralisten des 17. und 18. Jahrhunderts', in: Asche, Matthias, Michael Herrman, Ulrike Ludwig and Anton Schindling, eds., *Krieg. Militär und Migration in der Frühen Neuzeit* (Münster, Berlin: 2008), 265-279.
- Krischer, André, 'Grenzen setzen: Macht, Raum und Ehre der Reichsstädte', in: Hochmuth, Christian, and Susanne Rau, eds., *Machträume der frühneuzeitlichen Stadt* (Konstanz: 2006), 135–54.
- Kundert, Werner, 'Juristische Dissertationen katholischer Universitäten. Eine terra quasi incognita?' *Tijdschrift Voor Rechtsgeschiedenis/Legal History Review* 62 (1994): 165-173.
- Künßberg, Eberhard, and Richard Schröder, *Lehrbuch der deutschen Rechtsgeschichte* (Berlin: 1966).
- Kunz, Rudolf, 'Kaisergeleit an der Bergstraße' *Geschichtsblätter für den Kreis Bergstraße* 1 (1968): 61–72.
- Kurt, Alfred, 'Als Messegut und Kaiserkrone durch Offenbach geleitet wurden' *Alt-Offenbach* 2 (1979): 11–17.
- Küther, Carsten, *Menschen auf der Strasse: Vagierende Unterschichten in Bayern, Franken und Schwaben in der zweiten Hälfte des 18. Jahrhunderts* (Göttingen: 1983).
- Landkreis Mühlendorf a. Inn, *Unser Landkreis Mühlendorf a. Inn: Eine Broschüre des Landkreises* (Bamberg: 1997).
- Landwehr, Achim, *Die Erschaffung Venedigs* (Paderborn: 2007).
- Lange, Peter, and Thomas Nitz, 'Die Letzte Pest in Thüringen (1681 – 1684)' *Blätter des Vereins für thüringische Geschichte* 13, no. 2 (2003): 6-13.
- Lange, Peter, 'Kleinstaatlichkeit und Wirtschaftsentwicklung in Thüringen', in: Jürgen John, ed., *Kleinstaaten und Kultur in Thüringen vom 16. bis 20. Jahrhundert* (Cologne, Weimar, Vienna: 1994).
- Lappenberg, Johann Martin, *Die Elbkarte des Melchior Lorichs vom Jahre 1568* (Hamburg: 1847).
- Laux, Stephan, *Gravamen und Geleit: Die Juden im Ständestaat der Frühen Neuzeit (15. - 18. Jahrhundert)* (Hannover: 2010).
- Lehfeldt, Paul, and Georg Voss, *Die Bau- und Kunst-Denkmäler Thüringens. Vol. 17, Großherzogthum Sachsen-Weimar-Eisenach. Amtsgerichtsbezirke Blankenhain und Ilmenau* (Jena: 1893).
- Lerner, Franz, 'Die Haupthandelswege zur Frankfurter Messe. Ein Zufallsfund aus dem 18. Jahrhundert' *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 79, no. 2 (1992): 177–188.

- Lingelbach, Gerhard, 'Geleit', in: Cordes, Albrecht, Heiner Lück, and Dieter Werkmüller, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 2 (Berlin: 2012), 37–4.
- Lippert, Friedrich, 'Der Verkehr auf den Bayreuther Geleitsstraßen 1248-1700' *Archiv für Geschichte und Altertumskunde von Oberfranken* 31, no. 2 (1931): 94–113.
- Löw, Martina, 'The Constitution of Space The Structuration of Spaces Through the Simultaneity of Effect and Perception' *European Journal of Social Theory* 11, no. 1 (2008): 25–49.
- Madler, Philipp, *Geschichte und Topographie der Stadt Miltenberg in Beziehung auf die bürgerlichen Wehranstalten* (Amorbach: 1842).
- Maier, Charles, 'Transformations of Territoriality 1600-2000', in: Budde, Gunilla-Friederike, Sebastian Conrad, and Oliver Janz, eds., *Transnationale Geschichte: Themen, Tendenzen und Theorien* (Göttingen: 2006), 32–55.
- Marchetti, Paolo, *De iure finium: diritto e confini tra tardo Medioevo ed età moderna* (Milano: 2001).
- Massey, Doreen, *For Space* (London: 2005).
- Mattern, Hans, and Reinhard Wolf, *Die Haller Landbeg: ihr Verlauf und ihre Reste* (Sigmaringen: 1990).
- Mau, Steffen, Heike Brabandt, Lena Laube, and Christof Roos, *Liberal States and the Freedom of Movement: Selective Borders, Unequal Mobility* (Basingstoke: 2012).
- Maurer, Georg Ludwig von, *Geschichte der Städteverfassung in Deutschland*, vol 1 (Erlangen: 1869).
- McAdam, Jane, 'Intellectual History of Freedom of Movement in International Law: The Right to Leave as a Personal Liberty' *Melbourne Journal of International Law* 12, no. 1 (2011): 1–30.
- McKeown, Adam, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: 2008).
- Meccarelli, Massimo, Paolo Palchetti, and Carlo Sotis 'Introduzione. Dimensione giuridica del fenomeno migratorio tra paradossi e artificialità', in: Meccarelli, Massimo, Paolo Palchetti, and Carlo Sotis, eds., *Ius peregrinandi: il fenomeno migratorio tra i diritti fondamentali, esercizio della sovranità e dinamiche di esclusione* (Macerata: 2012), 7–31.
- Meese, F. 'Das Geleitsrecht wie auch die Hoch- und Botmässigkeit auf der alten Heerstrasse von Mehle nach Poppenburg, und die Tempelherren zu Poppenburg' *Zeitschrift des historischen Vereins für Niedersachsen*, 1870, 185–202.
- Mill, David van, *Liberty, Rationality, and Agency in Hobbes's Leviathan* (Albany: 2001).

- Mingay, Gordon *Parliamentary Enclosure in England: An Introduction to Its Causes, Incidence, and Impact, 1750-1850* (London: 1997).
- Moatti, Claudia 'Introduction', in: Moatti, Claudia, ed., *La mobilité des personnes en Méditerranée de l'Antiquité à l'époque moderne: procédures de contrôle et documents d'identification* (Rome: 2004), 1–24.
- Möhlenbruch, Rudolf, *Freier Zug, ius emigrandi, Auswanderungsfreiheit: eine verfassungsgeschichtliche Studie* (Bonn: 1977).
- Monmonier, Mark, *How to Lie with Maps* (Chicago: 1991).
- Moser, Peter, *Mittel-und nordwesteuropäischer Landtransport. Die Frammersbacher Fuhrleute und ihr Beitrag zur Transportgeschichte (15.-19. Jahrhundert)* (Bamberg: 1990).
- Mommsen, Karl, 'Disputationen als historische Quelle', in: Mommsen, Karl, *Katalog der Basler juristischen Disputationen: 1558-1818* (Frankfurt am Main: 1978), 15–18.
- Morsel, Joseph, 'Algazi, Gadi, Herrengewalt und Gewalt der Herren im späten Mittelalter. Herrschaft, Gegenseitigkeit und Sprachgebrauch' *Revue de l'IFHA. Revue de l'Institut français d'histoire en Allemagne*, 2001.
- Muir, Edward, *Civic Ritual in Renaissance Venice* (Princeton: 1981).
- Müller, Gerhard, and Thomas Müller, "Maintzisch glaidtstein, Hessen ungestendig ...": Zur Geleitfrage im eichsfeldisch-hessischen Grenzgebiet' *Eschweger Geschichtsblätter* 11 (2000): 100–112.
- Müller, Hartmut, 'Karl V., Bremen und die Kaiserdiplome von 1541' *Bremisches Jahrbuch* 79 (2000), 13–28.
- Müller, Ulrich, *Das Geleit im Deutschordensland Preußen* (Köln, Weimar, Wien: 1991).
- N.N., 'Geleitstraßen - Handelsstraßen' *Rosbacher Geschichtsblätter* 16 (2001) 2–5.
- Nafziger, James, 'The General Admission of Aliens under International Law.' *American Journal of International Law*, 1983, 804–847.
- Nakhimovsky, Isaac, *The Closed Commercial State. Perpetual Peace and Commercial Society from Rousseau to Fichte* (Princeton: 2011).
- Nelson, Hildegard, 'Landwehren in Niedersachsen', in: Kneppel, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 235–254.

- Neu, Heinrich, 'Die Fehde des Würzburger Fürstenbischofs Julius gegen die Grafen von Löwenstein-Wertheim in den Jahren 1598 bis 1617' *Deutsch-evangelische Blätter* 28 (1903): 471–489.
- Nippert, Klaus, *Nachbarschaft der Obrigkeiten: zur Bedeutung frühneuzeitlicher Herrschaftsvielfalt am Beispiel des Hannoverschen Wendlands im 16. und 17. Jahrhundert* (Hannover: 2000).
- Noiriel, Gérard, 'Surveiller les déplacements ou identifier les personnes? Contribution à l'histoire du passeport en France de la I<sup>e</sup> à la III<sup>e</sup> République', *Genèses*, 30 (1998): 77–100.
- Nordman, Daniel, *Frontières de France* (Paris: 1998).
- Nordman, Daniel, 'Sauf-conduits et passeports, en France, à la Renaissance', in: Céard, Jean and Jean Claude Margolin, eds., *Voyager à la Renaissance* (Paris: 1987), 145–58.
- Nordman, Daniel, 'Sauf-Conduits et Passeports', in: Bély, Lucien, *Dictionnaire de l'Ancien Régime* (Paris: 1996), 1122–1124.
- Nöth, Stefan, 'Gleußen und das sächsische Geleit: Zur Wiederaufrichtung der Geleitssäule 'Heroldstein' bei Gleußen', in: Nöth, Stefan, ed., *Coburg 1056 - 2006. Ein Streifzug durch 950 Jahre Geschichte von Stadt und Land* (Stegaurach: 2006), 87–105.
- Nipperdey, Justus, *Die Erfindung der Bevölkerungspolitik: Staat, politische Theorie und Population in der Frühen Neuzeit* (Göttingen: 2012).
- Oelze, Patrick, *Recht haben und Recht behalten: Konflikte um die Gerichtsbarkeit in Schwäbisch Hall und seiner Umgebung (15. - 18. Jahrhundert)* (Konstanz: 2011).
- Oestmann, Peter, 'Die Rekonstruktion der reichskammergerichtlichen Rechtsprechung des 16. und 17. Jahrhunderts als methodisches Problem', in: Baumann, Anette, Siegrid Westphal, Stephan Wendehorst, and Stefan Ehrenpreis, eds., *Prozessakten als Quelle: Neue Ansätze zur Erforschung der höchsten Gerichtsbarkeit im Alten Reich* (Köln, Weimar: 2001), 15–54.
- Oswalt, Vadim, *Klett-Perthes Atlas zur Weltgeschichte* (Stuttgart, Gotha: 2011).
- Parker, Geoffrey, *The Army of Flanders and the Spanish Road, 1567 – 1659* (Cambridge: 2004).
- Pauls, Emil, 'Geleitsrechte des Herzogs von Jülich im Jülichschen und in Aachen' *Aus Aachens Vorzeit* 17 (1904): 49–128.
- Pelissier, Eduard. 'Der gegenwärtige Stand der Landwehrforschung' *Deutsche Geschichtsblätter* 11 (1910): 11–21.

- Perlinger, Werner, 'Als Kaufmannszüge und Reisende über den Grenzwald 'geleitet' wurden' *Beiträge zur Geschichte im Landkreis Cham* 13 (1996): 45–52.
- Planitz, Hans, 'Studien zur Geschichte des deutschen Arrestprozesses, II. Kapitel: Der Fremdenarrest.' *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung* 40 (1919): 87–198.
- Plechatsch, Thomas, 'Ins Glait nimbt man die Kauffleut an ...', in: Stahl, Patricia, ed., *Brücke zwischen den Völkern - Zur Geschichte der Frankfurter Messe*, vol. 2 (Frankfurt: 1991), 85–94.
- Pohl, Hans, 'Einführung', in: Pohl, Hans, ed., *Die Auswirkungen von Zöllen und anderen Handelsbemmnissen auf Wirtschaft und Gesellschaft vom Mittelalter bis zur Gegenwart* (Stuttgart: 1987), 7–18.
- Prange, Ruth, *Die bremische Kaufmannschaft des 16. und 17. Jahrhunderts in sozialgeschichtlicher Betrachtung* (Bremen: 1963).
- Prass, Reiner, 'Die Etablierung der Linie. Grenzbestimmungen und Definition eines Territoriums: Sachsen-Gotha 1640-1665' *Historical Social Research*, 2013, 129–149.
- Quetsch, Franz Heinrich, *Geschichte des Verkehrswesens am Mittelrhein* (Freiburg: 1891).
- Quirk, Joel, and Darshan Vigneswaran, *Mobility Makes States: Migration and Power in Africa* (Philadelphia: 2015).
- Raffestin, Claude, *Pour une géographie du pouvoir* (Paris: 1980).
- Rahn, Thomas. 'Grenz-Situationen des Zeremoniells in der Frühen Neuzeit', in: Bauer, Markus, and Thomas Rahn, eds., *Die Grenze: Begriff und Inszenierung* (Berlin: 1997), 177–206.
- Rau, Susanne, *Räume: Konzepte, Wahrnehmungen, Nutzungen* (Frankfurt am Main: 2013).
- Reger, Anton, 'Stationen des Burglengenfelder Geleits' *Die Oberpfalz. Heimatzeitschrift für sen ehemaligen bayerischen Nordgau* 61 (1973): 40–47.
- Reibstein, Ernst, 'Transitus Innoxius. Ein verschollenes Kapitel des Neutralitätsrechts' *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (1961), 21, 429–472.
- Richter, Manfred, *Die Anfänge des Elsfl ether Weserzoll es. Beiträge zur Geschichte von Schifffahrt und Wirtschaft der Untereser im 17. Jahrhundert* (Oldenburg: 1967).

- Rieder, Otto, *Das pfalzneuburgische Geleite nach Regensburg und in das Kloster Prüfening. Mit einem Anhang über das mit Bayern und Regensburg streitige Geleitwesen überhaupt* (Stadtamhof: 1908).
- Ringleb, Frank, 'Das Geleit zu Prüfern' *Der Heimatbote. Ausflüge in Kultur und Geschichte zwischen Elbe und Mulde* 9, no. 30 (2004): 24–25.
- Roche, Daniel, 'Contrôle de la mobilité et des migrants : principes et pratiques. Introduction', in: Blanchard, Marie-Claude, Caroline Douki, Nicole Dyonet, and Vincent Milliot, eds., *Police et migrants France, 1667-1939* (Rennes: 2001), 23–32.
- Roche, Daniel, *Humeurs vagabondes: de la circulation des hommes et de l'utilité des voyages* (Paris: 2003).
- Rosenberg, Rainer von, *Soldatenwerbung und militärisches Durchzugsrecht im Zeitalter des Absolutismus*, (Frankfurt: 1973).
- Rothmann, Michael, 'Herrschaft und Schutz. Das Geleit der Markgrafen von Baden in Mittelalter und Früher Neuzeit am Beispiel Pforzheims und seiner Umgebung', in: Groh, Christian, ed., *Neue Beiträge zur Stadtgeschichte II* (Ostfildern: 2001), 23–40.
- Rothmann, Michael, 'Innerer Friede und herrschaftliches Gewaltmonopol. Zur herrschaftlichen Funktion von Fehde und Geleit in Spätmittelalter und beginnender Früher Neuzeit unter besonderer Berücksichtigung von Frankfurt und dessen Umland', in: Müller, Heribert, ed., *"...Ihrer Bürger Freiheit". Frankfurt am Main im Mittelalter* (Frankfurt am Main: 2004), 89–124.
- Rudorff, Hermann, *Zur Rechtsstellung der Gäste im mittelalterlichen städtischen Prozess: vorzugsweise nach norddeutschen Quellen* (Breslau: 1907).
- Rühl, Werner, 'Das abgegangene Steinkreuz bei Elsendorf, ein seltenes Beispiel für einen Geleitstein' *Heimatbote aus dem reichen Ebrachgrund* 19 (2006): 11–16.
- Rutz, Andreas, *Die Beschreibung des Raums. Territoriale Grenzbeziehungen im Heiligen Römischen Reich deutscher Nation* (Bonn: 2014).
- Sabeau, David Warren, 'Peasant Voices and Bureaucratic Texts: Narrative Structure in Early Modern German Protocols', in: Becker, Peter, and William Clark, eds., *Little Tools of Knowledge: Historical Essays on Academic and Bureaucratic Practices* (Ann Arbor: 2001), 67–93.
- Sack, Robert David, *Human Territoriality: Its Theory and History* (Cambridge: 1986).
- Sahlins, Peter, *Boundaries. The Making of France and Spain in the Pyrenees* (Berkeley: 1989).
- Sandgruber, Roman, *Ökonomie und Politik. Österreichische Wirtschaftsgeschichte vom Mittelalter bis zur Gegenwart* (Wien: 1995).

- Scattola, Merio, 'Die Grenze der Neuzeit. Ihr Begriff in der juristischen und politischen Literatur der Antike und Frühmoderne', in: Bauer, Markus, and Thomas Rahn, eds., *Die Grenze: Begriff und Inszenierung* (Berlin: 1997), 36–81.
- Schaab, Meinrad, 'Geleit', in: Bautier, Robert-Henri, ed., *Lexikon des Mittelalters*, vol. 4 (München: 1989), 1204–1205.
- Schaab, Meinrad, 'Geleit und Territorium in Südwestdeutschland', in: *Zeitschrift für Württembergische Landesgeschichte* 40 (1981), 398–417.
- Schaab, Meinrad, 'Straßen- und Geleitwesen zwischen Rhein, Neckar und Schwarzwald im Mittelalter und der Frühen Neuzeit' *Jahrbücher für Statistik und Landeskunde von Baden-Württemberg* 4 (1959): 54–75.
- Schäfer, Alfons, 'Der Anspruch von Kurpfalz auf die Herrschaft über den Rhein von Selz i.E. bis Bingen' *Zeitschrift für die Geschichte des Oberrheins* 76 (1967): 265–329.
- Schäfer, Rudolf, *Förderung von Handel und Wandel in Kurmainz im 18. Jahrhundert* (Frankfurt am Main: 1968).
- Schätzlein, Bernd, 'Alte Verkehrswege auf der fränkischen Platte. Die Wertheimer Geleitstraßen' *Wertheimer Jahrbuch*, 2010/2011, 113–136.
- Schlüpfinger, Heinrich, 'Nürnberger Handelsstraßen durch das Schwabacher Land', in: Schlüpfinger, Heinrich, ed., *600 Jahre Stadt Schwabach: 1371-1971: Festschrift zur 600-Jahr-Feier* (Schwabach: 1971), 355–91.
- Schmidt, Georg, 'Die frühneuzeitlichen Hungerrevolten: Soziale Konflikte und Wirtschaftspolitik im Alten Reich' *Zeitschrift für historische Forschung* 18, no. 3 (1991): 257–280.
- Schmidt, Georg, 'Reichsstadt und Territorialstaat. Esslingen, Württemberg und das Städtecorpus Um die Mitte des 16. Jahrhunderts' *Esslinger Studien* 21 (1982): 71–104.
- Schmitt, Carl, *Land und Meer: Eine weltgeschichtliche Betrachtung* (Stuttgart, 2008).
- Schmitt, Gebhard, 'Ein Grenzstreit zwischen Kurmainz und Kurpfalz', in: *Heimatkalendar für Neckartal, Odenwald, Bauland u. Kraichgau*, 2007, 181–83.
- Schmitt, Sigrid, 'Schutz und Schirm oder Gewalt und Unterdrückung? Überlegungen zu Gadi Algazis Dissertation "Herrengewalt und Gewalt der Herren im Späten Mittelalter"', *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 89, no. 1 (2002): 72–78.

- Schmoeckel, Mathias 'Zollgeleit', in: Erler, Adalbert, Ekkehard Kaufmann, and Wolfgang Stammler, eds., *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 5 (Berlin: 1998), 1757–1759.
- Schneider, Bruno, 'Geleitsteine, Kreuze oder Bildstöcke zeigten das Zoll- und Geleitsrecht an', in: Bayer, Lotte, ed., *1200 Jahre Schaippach mit Zollberg und Hohenroth* (Gemünden am Main: 2012), 204–226.
- Schneider, Reinhard, 'Lineare Grenzen - vom frühen bis zum späten Mittelalter', in: Haubrichts, Wolfgang, and Reinhard Schneider, eds., *Grenzen und Grenzregionen* (Saarbrücken: 1993), 51–68.
- Schnettger, Matthias 'Kleinstaaten in der Frühen Neuzeit: Konturen eines Forschungsfeldes' *Historische Zeitschrift* 286, no. 3 (2008): 605–639.
- Scholz, Luca, 'Frei und sicher? Geleitschutz und Bewegungshoheit im Alten Reich am Ende des 16. Jahrhunderts', in Christian Windler, Nadir Weber, Tilman Haug, eds., *Protegierte und Protektoren. Asymmetrische politische Beziehungen zwischen Partnerschaft und Dominanz (16. bis frühes 20. Jahrhundert)* (forthcoming in 2016).
- Scholz Luca, *La polyphonie du servage. Paysans, baillis et professeurs dans la controverse du droit de Wildfang palatin (1650–1669)* (M.A. thesis, EHESS Paris: 2012).
- Schöpfer Pfaffen, Marie-Claude, *Verkehrspolitik im Mittelalter. Bernische und Walliser Akteure, Netzwerke und Strategien* (Ostfildern: 2011).
- Schopp, Manfred, 'Das Deutsche Reich, die Königswahl und die Reichskleinodien im Licht der Seligenstädter Geschichte', in: Laube, Thomas, ed., *Seligenstädter Geleit* (Seligenstadt: 2011), 126–60.
- Schopp, Manfred, 'Das Geleitwesen zwischen 1500 und 1800', in: *Seligenstädter Geleit* 13 (1994): 6–27.
- Schrimm-Heins, Andrea, 'Gewißheit und Sicherheit. Geschichte und Bedeutungswandel der Begriffe 'certitudo' und 'securitas' (Teil 2)' *Archiv für Begriffsgeschichte* 35 (1992): 115–213.
- Schubert, Ernst, *Arme Leute, Bettler und Gauner im Franken des 18. Jahrhunderts* (Neustadt a. d. Aisch: 1983).
- Schütte, Ulrich, 'Stadtter und Hausschwelle. Zur rituellen Bedeutung architektonischer Grenzen in der Frühen Neuzeit', in: Bauer, Markus, and Thomas Rahn, eds., *Die Grenze: Begriff und Inszenierung* (Berlin: 1997), 159–176.
- Schwarzwälder, Herbert, *Geschichte der Freien Hansestadt Bremen*, vol 1 (Bremen: 1975).

- Schwerhoff, Klaus, and Klaus Schreiner, 'Verletzte Ehre: Überlegungen zu einem Forschungskonzept', in: Schwerhoff, Klaus, and Klaus Schreiner, eds., *Verletzte Ehre: Ehrkonflikte in Gesellschaften des Mittelalters und der Frühen Neuzeit* (Cologne: 1995), 1–28.
- Scott, James, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: 2009).
- Scribner, Robert W. 'Mobility: Voluntary or Enforced? Vagrants in Württemberg in the Sixteenth Century', in: Jaritz, Gerhard, and Albert Müller, eds., *Migration in der Feudalgesellschaft* (Frankfurt am Main: 1988), 65–88.
- Sczesny, Anke, 'Zur Verbesserung des Oeconomicum Civile Circuli. Wirtschaftsmaßnahmen des Schwäbischen Reichskreises zwischen Reichs- und Territorialpolitik im 17. und 18. Jahrhundert', in: Kießling, Rolf, and Sabine Ullmann, eds., *Das Reich in der Region während des Mittelalters und der Frühen Neuzeit* (Konstanz: 2005), 259–78.
- Sello, Georg, *Die territoriale Entwicklung des Herzogtums Oldenburg* (Göttingen: 1917).
- Sello, Georg, *Oldenburgs Seeschifffahrt in alter und neuer Zeit* (Leipzig: 1906).
- Seußler, Wilhelm, 'Das Wimpfener Geleit: 'Lebendiges' und 'totes' Geleit als Schutz für Reisende' *Hierzuland* 16, no. 32 (2001): 6–15.
- Shamir, Ronen, 'Without Borders? Notes on Globalization as a Mobility Regime' *Sociological Theory* 23, no. 2 (2005): 197–217.
- Simmerling, Franz, *Grenzzeichen, Grenzsteinsetzer und Grenzfrevler. Ein Beitrag zur Kultur-, Rechts- und Sozialgeschichte* (München: 1996).
- Simms, Brendan, *Europe: The Struggle for Supremacy, 1453 to the Present* (London: 2013).
- Sippel, Klaus, 'Landwehren und Warten in Nordhessen. Erforschung, Aussehen und archäologisch-topografische Erfassung', in: Knepe, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 277–306.
- Spahn, Marcellin, 'Das Seligenstädter Geleit' *Seligenstädter Geleit* 11 (1984): 23–25.
- Spicker-Beck, Monika, *Räuber, Mordbrenner, umschweifendes Gesind: zur Kriminalität im 16. Jahrhundert* (Freiburg im Breisgau: 1995).
- Sprotte, Bernhard, *Geleit im Tauberland. Als Nürnberger Kaufleute zur Frankfurter Messe zogen* (Wertheim: 1975).

- Stahleder, Helmuth, *Mühlendorf am Inn. Die Landgerichte Neumarkt, Kraiburg und Möirmoosen und die Stadt Mühlendorf* (Munich: 1976).
- Steffenhagen, Emil Julius Hugo, 'Boeckelman, Johann Friedrich', in: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, ed., *Allgemeine Deutsche Biographie*, vol. 3 (Leipzig: 1876), 24-25.
- Stern, Philip, *The Company-State* (Oxford: 2011).
- Stockert, Harald, 'Die Kaiserkrönung 1790 und die 'Schlacht von Kleinheubach'. Ein Streit um das Geleit der Reichsinsignien' *Wertheimer Jahrbuch*, 2000/1999, 89–106.
- Stollberg-Rilinger, Barbara, *Das Heilige Römische Reich Deutscher Nation: vom Ende des Mittelalters bis 1806* (München: 2006).
- Stollberg-Rilinger, Barbara, *Des Kaisers alte Kleider. Verfassungsgeschichte und Symbolsprache des Alten Reiches* (München: 2008).
- Stolleis, Michael, *Geschichte des öffentlichen Rechts in Deutschland*, vol 1 (München: 1988).
- Stolz, Otto, 'Zur Entwicklungsgeschichte des Zollwesens innerhalb des alten deutschen Reiches' *Vierteljahrschrift für Sozial-und Wirtschaftsgeschichte* 41, no. 1 (1954): 1–41.
- Stopani, Antonio, *La production des frontières: état et communautés en Toscane (XVIe-XVIIIe siècles)* (Rome: 2008).
- Straube, Manfred, *Geleitwesen und Warenverkehr im thüringisch-sächsischen Raum zu Beginn der Frühen Neuzeit* (Köln: 2014).
- Straube, Manfred, *Zum überregionalen und regionalen Warenverkehr im thüringisch-sächsischen Raum, vornehmlich in der ersten Hälfte des 16. Jahrhunderts* (Leipzig: 1981).
- Suganami, Hidemi, *The Domestic Analogy and World Order Proposals* (Cambridge: 1989).
- Szabó, Thomas, 'Die Straßen in Deutschland und Italien im Mittelalter', in: Schwinges, Rainer Christoph, ed., *Strassen-und Verkehrswesen im hohen und späten Mittelalter* (Ostfildern: 2007), 71–118.
- Taub, Hans, *Beiträge zur Geschichte und Theorie des sicheren Geleits. Ein rechtshistorischer Versuch* (Borna-Leipzig: 1906).
- Teichmann, Albert, 'Linck, Heinrich', in: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, ed., *Allgemeine Deutsche Biographie*, vol. 18 (1883), 660–661.

- Thiessen, Hillard von, 'Korruption und Normenkonkurrenz. Zur Funktion und Wirkung von Korruptionsvorwürfen gegen die Günstling-Minister Lerma und Buckingham in Spanien und England im frühen 17. Jahrhundert', in: Engels, Jens Ivo, Andreas Fahrmeir, and Alexander Nützenadel, eds., *Geld, Geschenke, Politik: Korruption im neuzeitlichen Europa* (München: 2009), 91–120.
- Tilch, Karl, 'Die beiden letzten Geleitsteine im Grabfeld' *Schönere Heimat* 89 (2000): 107–110.
- Torpey, John, 'Coming and Going: On the State Monopolization of the Legitimate 'Means of Movement'', *Sociological Theory*, 16 (1998), 239–259.
- Torpey, John, *The Invention of the Passport: Surveillance, Citizenship, and the State* (Cambridge, New York: 2000).
- Torre, Angelo, 'Introduzione', in: Torre, Angelo, ed., *Per vie di terra. Movimenti di uomini e di cose nelle società di Antico Regime* (Milano: 2007) 9–20.
- Trefftz, Johannes, 'Der Überfall Arnstadts Im Jahre 1711' *Zeitschrift des Vereins für thüringische Geschichte und Altertumskunde* 20, no. 2 (1911): 380–400.
- Treitschke, Heinrich von, *Deutsche Geschichte im neunzehnten Jahrhundert* (Leipzig: 1879).
- Trostel, Eugen, 'Vom Geleitwesen im Geislinger Raum' *Helfenstein. Geschichtliche Mitteilungen von Geislingen und Umgebung* 17 (1962): 115–118.
- Tümmler, Hans, 'IV. Das Kurmainzische Thüringen', in: Patze, Hans, and Walter Schlesinger, eds. *Geschichte Thüringens*, vol. 5, Cologne and Vienna: 1982), 573-589.
- Ulbrich, Claudia, 'Grenze als Chance? Bemerkungen zur Bedeutung der Reichsgrenze im Saar-Lor-Lux-Raum am Vorabend der Französischen Revolution', in: Pilgram, Arno, ed., *Grenzöffnung, Migration, Kriminalität* (Baden-Baden: 1993), 139–146.
- Vassberg, David E., *The Village and the Outside World in Golden Age Castile: Mobility and Migration in Everyday Rural Life* (Cambridge: 2002).
- Völkl, Matthias, 'Sankt Lorenzen und Umgebung im Spiegel der Geschichte. Das pfalzneuburgische Geleite nach Regensburg und in das Kloster Prüfening' *Die Oberpfalz. Heimatzeitschrift für den ehemaligen bayerischen Nordgau* 65 (1977): 134–141.
- Wackerfuß, Winfried, 'Das Maintal zwischen Miltenberg und Wertheim im Spiegel handgezeichneter, archivalischer Karten vom Ende des 16. bis Anfang des 18. Jahrhunderts' *Beiträge zur Erforschung des Odenwaldes und seiner Randlandschaften*, 1986, 419–66.

- Walter, Rolf, 'Merkantilpolitische Handelshemmnisse (im territorialen Vergleich) am Beispiel eines territorial relativ zersplitterten Gebietes', in: Pohl, Hans, ed., *Die Auswirkungen von Zöllen und anderen Handelshemmnissen auf Wirtschaft und Gesellschaft vom Mittelalter bis zur Gegenwart* (Stuttgart: 1987), 84–120.
- Wander, Karl Friedrich Wilhelm, *Deutsches Sprichwörter-Lexikon*, vol. 3 (Leipzig: 1873).
- Wansbrough, John 'The safe-conduct in Muslim chancery practice' *Bulletin of the School of Oriental and African Studies* 34, (1971): 20-35.
- Weber, Max, *Wirtschaft und Gesellschaft* (Tübingen: 2010).
- Wegener, Wolfgang, 'Zum Zustand der Landwehren im Rheinland', in: Kneppel, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 307–322.
- Weig, Gebhard, *Das Ius conducendi der Bischöfe zu Würzburg. Eine Studie zur Rechtsstruktur, politischen Funktion und Organisation des Geleitsrechtes im Hochstift Würzburg während des 15. und 16. Jahrhunderts* (Würzburg: 1975).
- Weinryb, Bernard Dov, *The Jews of Poland: A Social and Economic History of the Jewish Community in Poland from 1100 to 1800* (Philadelphia: 1973).
- Weiss, Elmar, 'Geleitstraßen und Geleitrechte - der Anschluß an die "weite Welt"', in: Weiss, Elmar, ed., *Geschichte der Brunnenstadt Kilsheim* (Kilsheim: 1992), vol. 1, 230–36.
- Weiß, Ulman, 'Von der frühbürgerlichen Revolution bis zur völligen Unterwerfung durch Kurmainz vom Ende des 15. Jahrhunderts bis 1664', in: Gutsche, Willibald, ed., *Geschichte der Stadt Erfurt* (Weimar: 1986), 103–44.
- Whaley, Joachim, *Germany and the Holy Roman Empire* (Oxford: 2012).
- Widmer, Berthe 'Geleitbriefe und ihre Anwendung in Basel zur Zeit des hier tagenden Generalkonzils von 1431-1449' *Basler Zeitschrift Für Geschichte Und Altertumskunde* 92 (1992): 9–99.
- Wiederkehr, Georg Robert, *Das freie Geleit und seine Erscheinungsformen in der Eidgenossenschaft des Spätmittelalters* (Zürich: 1976).
- Wilhelm, Rainer, *Die Handhabung des Zollgeleits in der Grafschaft und im Herzogtum Württemberg von den Anfängen bis zum Dreißigjährigen Krieg* (Tübingen: 1957).
- Williams, Megan Kathryn, *Dangerous Diplomacy & Dependable Kin: Transformations in Central European Statecraft, 1526-1540* (Columbia University: 2009).

- Willoweit, Dietmar, *Rechtsgrundlagen der Territorialgewalt* (Cologne: 1975).
- Wilson, Peter H., 'Still a Monstrosity? Some Reflections on Early Modern German Statehood' *The Historical Journal* 49, no. 2 (2006): 565–76.
- Wüst, Wolfgang, and Doris Pfister, eds., *Reichskreis und Territorium: Die Herrschaft über der Herrschaft? Supraterritoriale Tendenzen in Politik, Kultur, Wirtschaft und Gesellschaft. Ein Vergleich Süddeutscher Reichskreise* (Stuttgart: 2000).
- Wüst, Wolfgang, and Michael Müller, eds., *Reichskreise und Regionen im frühmodernen Europa: Horizonte und Grenzen im 'spatial turn.'* (Frankfurt am Main: 2011).
- Wüst, Wolfgang, *Bettler und Vaganten als Herausforderung für die Staatsraison im Hochstift und der Reichsstadt Augsburg* (Augsburg: 1987).
- Zehm, Bodo, 'Landwehren im Wiehengebirge. Zur verkehrsgeografischen Neustrukturierung eines Grenzgebiets', in: Knepe, Cornelia, ed., *Landwehren: von der mittelalterlichen Wehranlage zum Biotop* (Münster: 2007), 255–275.
- Ziekow, Jan, *Über Freizügigkeit und Aufenthalt: paradigmatische Überlegungen zum grundrechtlichen Freiheitschutz in historischer und verfassungsrechtlicher Perspektive* (Tübingen: 1997).
- Zimmermann, Kurt, *Obrigkeit, Bürgertum und Wirtschaftsformen im alten Wertheim* (Würzburg, Schweinfurt: 1975).



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