PART I

Protecting Subjects, Projecting Power

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Protection and the Channelling of Movement on the Margins of the Holy Roman Empire

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Protection played a pivotal role in the channelling of goods and people in old-regime societies. In the fragmented political landscape of the Holy Roman Empire of the German Nation, escorts, guard patrols and letters of passage were often a precondition for unobstructed travel. At the same time the territorial rulers' protection of travellers and mobile populations could become a vehicle for gaining control over strategic thoroughfares and thereby provide considerable economic and political leverage. As this suggests, protection was an ambiguous notion, not only in early modern regimes of movement but also in the feudal collective imagination as a whole. It provided a fundamental justification for early modern state building while featuring in a range of key debates centred on the vexed relationship between protection, power and obedience.[1] Its prominence in early modern politics and thought has led some to the conclusion that 'security is *the* issue of modernity'.[2]

The co-existence of hundreds of fragmented, blurred and often overlapping polities that were integrated in a common imperial structure makes the Holy Roman Empire a valuable site for studying the role of protection in interpolity mobility in the premodern period. Made up of more than 300 quasi-sovereign political entities, the Old Reich challenges conventional conceptions of state formation.[3] The political entities at the heart of the so-called Westphalian system followed a 'manorial' rather than a 'territorial logic', and should be seen as 'aggregation of titles of ownership', rather than as 'states in the making'.[4] While the empire's political culture can be described in terms of 'organised hypocrisy',[5] aggressive pettiness and political deadlock, it provided religious toleration, the protection of the least powerful political units and a court system in which even peasants could appeal against their rulers.[6] Seen from afar, the empire's role was as pivotal as it was supine. As Brendan Simms has put it, the Old Reich lay 'at the heart of the European balance of power' and formed, together with its successor states, 'the crucible of the most important

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ideological changes in Europe: the Reformation, Marxism and Nazism were all incubated there'. Yet, as Simms notes, the Holy Roman Empire was politically weak and almost helpless in the face of the ambitions and conflicts of the major European powers.[7] Because of its peculiarity, the fragmented, polycentric complex of polities at the heart of Europe offers an opportunity for bridging the sometimes overemphasised gap that separates the historiography of Europe from that of its colonies and other parts of the early modern world. If early modern Europeans had wished to experience fully the idiosyncrasies of uneven, overlapping, fragmented territoriality that historians tend to associate with more remote parts of the world, a trip to Weimar or Frankfurt would have given them just that.

In many cases, the protection and governance of interpolity mobility in the Holy Roman Empire was framed as a matter of safe conduct. Consequently, in the first part of this chapter I will focus on this as a means of protection as well as an economic, political and symbolic instrument in the hands of the empire's territorial rulers. Here I provide a case study of a dispute around the dominion over a river in the empire's North during the late sixteenth and early seventeenth centuries in order to reconstruct a practical example of safe conduct. In the second part of this chapter I will survey the use of protection and security as strategic arguments for the justification of territorial expansion and a self-serving order of movement. In general I propose in this essay to broaden our understanding of protection's role in the ordering of movement by highlighting the importance of agency, contingency and ambiguity in everyday interactions between protector and protected.

DOUBLE-EDGED PROTECTION

Few institutions gave substance to hospitality and the protective duties of lordship as concretely as safe conduct. It was a routine institution throughout the medieval and early modern world.[8] However, in the context of the Holy Roman Empire's complex territoriality it acquired an extraordinary and lasting significance. It fulfilled important functions for the protection of travelling rulers and persons of rank, messengers, markets, and assemblies and their participants, especially during the Middle Ages. Safe conduct duties, which were levied on trade flows in addition to customs duties, sometimes merged with the latter to form a single transit duty.[9] Different forms of safe conduct letters for felons, debtors or foreigners, as well as safe conduct treaties between cities warranted their bearers' protection for limited periods of time.[10]

While safe conduct provided powerful means for securing 'the wayfaring man' and establishing public safety, certain forms of safe conduct lost their

immediate protective function.[11] In the early modern period the institution gained considerable importance as a fiscal, political and symbolic instrument at the hand of territorial rulers.[12] The fiscal exploitation of safe conduct was particularly marked in the case of regalian safe conduct, which entitled the conductor to control, protect and tax movements of goods and people on public roads and rivers.[13] The letters of safe conduct that were issued to Jews as travel, residence or work permits could be a profitable source of income as well.[14] Different letters of safe conduct were granted to representatives of foreign potentates, especially those with whom the host was in enmity.[15] Letters were also issued when foreign officials performed acts that were seen as signs of sovereignty in the bestower's dominion, such as transporting prisoners. Physical acts of escorting were, moreover, an important means for symbolically asserting seigneurial prerogatives over roads and rivers and their boundaries.[16]

While regalian conduct was conceived as reciprocal in legal theory — the safe conduct authority being obliged to maintain the road and river infrastructure within its dominion and to vouch for the traveller's safety — this was not always translated into practice. Where travellers were physically escorted, safe conduct offered effective protection to travellers up to the nineteenth century,[17] but in many territories it was ministered by full- or part-time officials whose principal duty was to enforce the levy of conduct tolls and to patrol the roads in order to identify potential evaders.[18] Such regimes were more cost-effective than the physical escorting of travellers, and primarily served the fiscal and commercial interests of territorial rulers. Conversely, while the obligation of a ruler to pay compensation for damage and assaults suffered on his safe-conduct roads remained a cornerstone of the legal discussion of regalian safe conduct during the seventeenth century, it was not always satisfied in practice.[19] Thus, the history of safe conduct illustrates both the importance and the ambiguity of protection in early modern regimes of movement.

In times of crisis and conflict physical safe conduct remained the means of choice for protecting travellers. However, the same form of 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 brokering the mutuality of safe conduct. This can only be understood by observing interactions on the ground. The Weser, which was one of the most fiercely contested rivers in early modern Europe, provides a good example.[20] The last stretch of the waterway, called the Lower Weser, connected the city of Bremen with the North Sea (see Map 1). At the end of the sixteenth century Bremen numbered around 20,000 inhabitants and though it was de facto independent
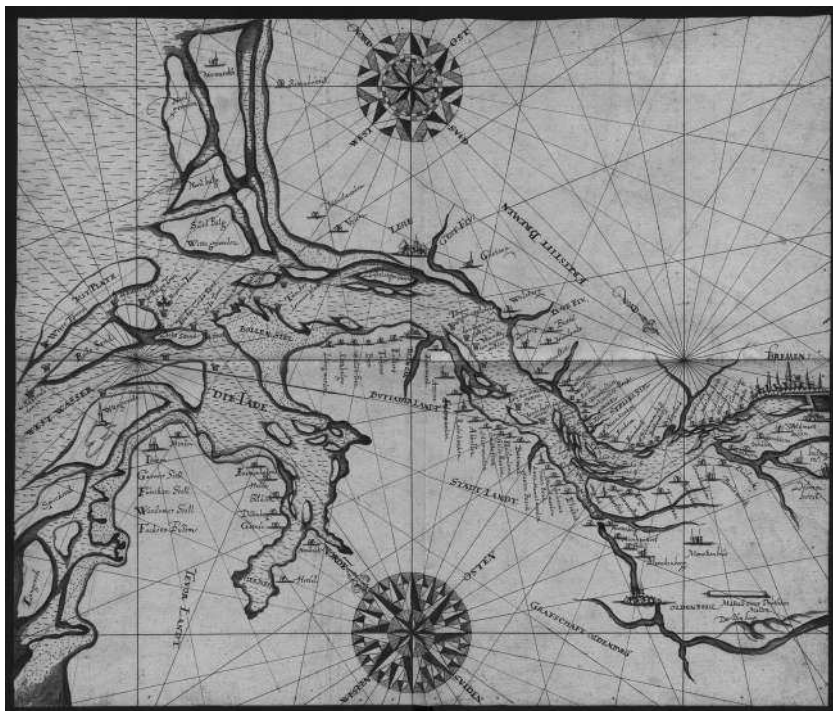
MAP 1: Manuscript Map of the Lower Weser from the Archives of the Elector of Brandenburg, c. 1600–20
(Geheimes Staatsarchiv Preußischer Kulturbesitz, I. HA Geheimer Rat, Rep. 19 Strom-, Schifffahrts- und Zollsachen, Nr. 71 a, Fasz. 2, © GStA PK)

and commanded its own extramural territory the city was formally subject to the Prince-Bishops of Bremen on the right bank of the river.[21] To acquire the status of a Free Imperial City had been one of the Bremen's most important political projects since the thirteenth century, but it only achieved this after the Thirty Years' War. As the city's wealth and fiscal revenues largely depended on maritime trade, another key ambition throughout the late medieval and early modern periods was to secure safe passage on the Lower Weser. In the Late Middle Ages the city had managed to acquire some strategically important territories on the right side of the stream, but the possessions were not sufficient to control the river.[22] Bremen's principal opponents in its struggle for the Lower Weser were the neighbouring counts of Oldenburg. During the sixteenth and seventeenth centuries the counts controlled most of the left bank of the Lower Weser as well as some exclaves on the right side.[23] Their aim was not so much to safeguard maritime trade but to levy transit duties on the ships that navigated the river.[24]

Throughout the Middle Ages and the early modern period the Lower Weser had been troubled by pirates and freebooters.[25] 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. Both the Spanish and the Dutch required Bremen to supply ammunition, provisions and ships.[26] The Lower Weser and the river Jade presented lucrative hunting grounds for privateers. For example in 1592 a pirate looted a flotilla of twenty-two ships.[27] Comital subjects and officials colluded with the pirates.[28] Bremen stepped up its presence on the river during the 1570s. Its warships hunted the freebooters into the tributaries of the river Weser, where they fled on land. The counts of Oldenburg, however, denounced and opposed such pursuits as encroachments on their territory. The difficult terrain and the constant competition between the two polities thus favoured piracy in the region.[29] To counter the attacks of freebooters Bremen's convoys repeatedly escorted vessels to and from its ports during the sixteenth and seventeenth centuries.[30] In 1587 Bremen armed eight boats which accompanied ships from the sea to the city.[31] An ordinance from 1593 informed the travellers that the city's convoy ships would usher all vessels that requested this service.[32]

The ships that Bremen maintained on the Lower Weser were highly adaptable agents which the city hoped would help enforce a series of claims over the river. The protection of travellers was, it is evident, one of the soldiers' foremost duties. All instructions issued between 1620 and 1647 charged the captains with ensuring safe and unobstructed navigation.[33] This entailed monitoring and patrolling the entire Lower Weser (from Bremen unto the 'salty sea'), checking and inspecting suspicious vessels, escorting endangered ships, and persecuting freebooters and all those hampering navigation.[34] To ensure the enforcement of such measures the city gave its captains carte blanche. They were authorised to use whatever means 'the circumstances and exigency require[d]',[35] such as detaining delinquents and seizing or even sinking their vessels. Moreover, the warships were charged with ensuring the navigability of the river. This meant, for instance, removing the stakes to which local fishermen fixed their nets. Since the spikes could seriously encumber the river's navigability, the warships were instructed to remove all newly erected hazards. The city also enjoined its ships to prevent other parties from checking and inspecting ships using the river. This was aimed at officials of the Count of Oldenburg who had been attempting to enforce a toll of their own since 1624.[36]

Protecting trade and ensuring navigability, however, were not the warships' only purposes. They were also charged with preventing all actions 'to the pre-judice, detriment and disadvantage'[37] of the city of Bremen and its subjects.

The open wording of this instruction illustrates the malleability of Bremen's territorial claims over the river. In practice, the instruction covered all potential encroachments on the city's titles of dominion. One of the most obvious of these was a vessel's refusal to strike its sails at the passage of the warships. This was not simply a technical question. By striking its sails, which forces it stop, a ship attested its subjection to the local rulers. Consequently, the city regarded the obligation as an important symbol of its superiority over the river.[38] The legal deductions commissioned by the city in defence of its prerogatives put a similar emphasis on the quarrel's symbolic dimension. In the 1630s, when Bremen increasingly presented the toll dispute as a question of territorial superiority, such badges of sovereignty gained in importance.[39] 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 river Danube, Regensburg, which could block 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'.[40]

In 1576 Bremen agreed to inspect armed vessels only but in practice its warships made civilian ships strike their sails as well. Many boatmen refused to comply with the requests of Bremen's warships even though the captains of the warships were authorised to shoot at them.[41] In May 1613 two boatmen gave revealing accounts of their encounters with Bremen's warships to a comital notary.[42] The two men had sailed on the river, each with one ship transporting construction material for the Count of Oldenburg. When the first vessel passed Bremen's warship, the boatman bared his head and wished the soldiers 'a good morning'. The latter, however, fired three shots at the sails without warning. When the boatman asked for an explanation the captain shouted that he should have struck his sails in the presence of Bremen's warship. The visitor replied that he knew Bremen's ship well, but that 'thank God, he was not aware of any war'. When the captain learned that the boatman was from Oldenburg, however, he let him leave. The second boatman found the official in a less affable mood. When he passed Bremen's warship the soldiers fired several times and forced him to sail towards them. He was then required to come aboard the man-of-war. The captain defiantly asked 'Is this the wilful knave who refused to halt?' at which the boatman replied that 'he was no knave' and that the river belonged to the Count of Oldenburg. When the captain asked him to pay a buoy toll the boatman retorted that, as a subject of the Count of Oldenburg, he was exempt. When the captain demanded an indemnity of half a *Reichstaler* for every shot fired at him the boatman laughed and asked whether he was serious. The captain,

however, was in no mood for joking and asked: 'Do you hold the shot in such low regard[?] If you received it on your skin [...] you would perhaps speak differently.' 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 had thought the boatman came from Frisia, and let him go with 'nice words'.

Like the 'beer money'[43] that Bremen's soldiers had requested on earlier occasions, asking boatmen to 'reimburse' the shots fired at their ships recalls the terminology with which early modern officials and travellers referred to bribes.[44] The exaction of 'beer money', 'voluntary presents' and 'reimbursements' was not uncommon. Some safe conduct ordinances even formally sanctioned officials' reception of 'voluntary presents' from travellers.[45] Moreover, these were not the only cases in which escorts posed a threat to the people they were supposed to protect. In 1480, for instance, 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.[46] In 1635 escorts of the Duke of Jülich took 25 new pistols from the gunsmiths of Aachen whom they were escorting, even though the gunsmiths possessed an imperial letter of safe conduct.[47] On another occasion the escorts ran away and abandoned the merchants whom they were escorting to the highwaymen.[48] While the significance of such cases should not be overstated they challenge the assumption — one might call it a 'myth of rationality'[49] — that feudal power relationships were, by and large, reciprocal and that protection always meant protection. As the example of the Lower Weser suggests, historians should be wary of taking premodern protection talk at face value.

Perhaps the most controversial of Bremen's activities was the taxation of shipping.[50] In 1585 the city began to levy a new toll in order to finance its fleet. Two of Bremen's warships, positioned at the mouth of the river, requested a receipt from every vessel proving that the conduct toll had been paid at Bremen.[51] The new impost was despised by many boatmen, as it forced every boat to proceed to the sea via Bremen in order to pay the tariff and receive a ticket.[52] Many crafts were thus forced to make a long detour if they wished to avoid any incident with the warships. This procedure very much resembled the *cartaz* system with which the Portuguese established monopolies along certain sea routes and collected revenues and prizes.[53]

In 1585 four boatmen complained about Bremen's practice to the Count of Oldenburg.[54] As they had entered the Lower Weser from the sea their vessels had been stopped and inspected by Bremen's soldiers. The captain then ordered them to travel to Bremen to pay the safe conduct toll, the buoy and beacon levy, and an excise duty. If they wanted to leave the river on their

return they could only proceed if they presented a written confirmation from the hand of the toll keepers in Bremen. Otherwise, they would be violently chased up the river again.[55] This was not an empty threat. Another skipper testified that he had seen Bremen's soldiers violently pushing five ships towards Bremen to pay the duties.[56] A boatman from Emden, who complained about the request, was struck to the ground by Bremen's captain with a blow to the neck.

Unsurprisingly, opposition to Bremen's new toll rose quickly and several captains grumbled about the new duties to their authorities, who then protested to the Council of Bremen. The city of Emden, for instance, complained that it was without precedent and obstructed the commerce on the river, thus violating the empire's constitution.[57] The Council of Bremen reacted with incredulity and rejected the designation of the toll as a 'customs duty'. It was rather a temporary conduct levy to be enforced only as long as the navigability of the Lower Weser was endangered.[58] Instead of complaining, the merchants should thank Bremen for its protection. The Duke of Saxe-Lauenburg received an analogous reply in 1589 after he had forwarded the complaint of a subject whom Bremen's warships had forced to pay the impost.[59] Bremen replied that its 'safe conduct or protection toll'[60] benefited all merchants. If the city could no longer protect the river from piracy, Bremen threatened, there would be dire consequences.

SECURITY AND LEGITIMACY

The city's strong emphasis on protection in the debates around the legitimacy of its safe conduct duties was not coincidental. Bremen's use of defence against piracy as a political argument allowed it to take politics 'beyond the established rules of the game'[61] in a strategy of 'securitisation'.[62] Securitisation, Barry Buzan explains, 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'.[63] It amounts to 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 that are deemed to be beyond politics.

Protection thus became the figurehead of the eclectic body of arguments that Bremen used to justify its policies in the face of adversity.[64] As a matter of fact the city did contribute significantly to safeguarding navigation on the waterway both from piracy and obstructions of the channel, which added plausibility to its claim to be protecting the Lower Weser. In a commissioned legal disquisition of 1619 a jurist elaborately deduced Bremen's jurisdiction over the river from its service of protection.[65] Protection and jurisdiction were

intrinsically connected, the argument went, because no polity could pacify a stream without having jurisdiction over it. Bremen's right to shield the merchants on the river was presented both as a consequence of and proof for its superiority and jurisdiction over the river.[66] The thesis echoed that used by Venice in its defence of its sovereignty over the Adriatic, namely that the Venetians had gradually acquired dominion over the sea by guarding it from pirates.[67] The logic also recalls the seventeenth-century debates around piracy in which ships were frequently understood as 'vectors of crown law thrusting into ocean space'.[68]

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.[69] The City Council of Bremen strongly emphasised the dangers that privateers and freebooters as well as the claims of the counts of Oldenburg posed to the navigability of the river. When justifying its conduct tolls to the Duke of Saxe-Lauenburg in 1589 the council painted a particularly bleak image. If the city were to remove its warships, traffic on the river would be exposed to 'barbaric confusion'.[70] With few exceptions all merchants would be robbed of their goods, ships and even their lives. All commerce would be interrupted. Ultimately, Bremen's retreat from the Weser would open the floodgates to 'the ruin of public peace'. 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 themselves.[71] They were thankful and asked the city to continue its important service. No prince, city or subjects (except for Oldenburg) had complained about its protective measures.[72]

In Bremen's account pirates were not the only existential threat to navigability. As soon as Oldenburg's plan to introduce a 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 the council painted a dismal scenario.[73] Since large quantities of foodstuffs were transported to his territory via the Weser, the levy would cause a considerable rise in food prices. The inflation would hurt the already poor commoners.[74] Permanent price rises would 'exhaust and emaciate'[75] the landgrave's subjects and make them 'languish' to the bones. Moreover, the city predicted a reduction of the landgraviate's exports via the Weser and a considerable depletion of his own revenues derived from the river, which would lose its significance as a trade route.[76] Finally, Bremen suggested that Oldenburg's toll would set a dangerous precedent for other princes, who would seek to impose further tariffs on a river that counted already twenty-six toll stations.[77]