

Borders and Freedom of Movement in the Holy Roman Empire

Luca Scholz

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In the autumn of 1653, Holy Roman Emperor Ferdinand III passed through Mühldorf, an exclave of the Prince-Bishopric of Salzburg within the Electorate of Bavaria. The passing of such a remarkable traveller took the form of a safe-conduct procession: the emperor marched up to Mühldorf under the protection of a Bavarian escort and was received on the city's border by the sheriff of Salzburg. The sheriff chose to greet the Bavarian delegation some fifty paces from the city gates, along a contested borderland between the two polities. Though the handoff took place without problems, Bavarian officials later wrote to Salzburg asking them to state that the sheriff's actions had not represented an encroachment on the Bavarian territory. The Salzburgians responded in kind. The event left a hefty paper trail of reports, interrogations, and even two maps: one from Salzburg and one from Bavaria, each containing visual distortions meant to enhance their respective territorial and political claims. This episode (98–103) is but one among many fascinating cases discussed by Luca Scholz in his *Borders and Freedom of Movement in the Holy Roman Empire*.

Borders and Freedom of Movement is Scholz's first book and an admirable one at that. This text is the culmination (or, perhaps, a new beginning?) to a vein of scholarship, popularised in English some twenty years ago by John Torpey, that focuses on the attempts of early modern states to secure a monopoly over the 'legitimate means of movement.'¹ Scholz is also in dialogue with recent scholarship on mobility that stems from Mediterranean studies,² transnational history,³ securitization studies,⁴ and global

¹ JOHN TORPEY, *The Invention of the Passport: Surveillance, Citizenship, and the State* (Cambridge: Cambridge University Press, 2000). See also JANE CAPLAN and JOHN TORPEY, *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton: Princeton University Press, 2002).

² CLAUDIA MOATTI, ed., *La mobilità des personnes en Méditerranée de l'Antiquité à l'époque moderne: Procédures de contrôle et documents d'identification* (Rome: École Française de Rome, 2004).

³ GUNILLA BUDDE, SEBASTIAN CONRAD, and OLIVER JANZ, eds, *Transnationale Geschichte: Themen, Tendenzen und Theorien* (Göttingen: Vandenhoeck & Ruprecht, 2006).

⁴ GADI ALGAZI, 'Sperrzonen und Grenzfälle: Beobachtungen zu Herrschaft und Gewalt im kolonialen Kontext zwischen Israel und Palästina,' in *Staats-Gewalt: Ausnahmezustand und Sicherheitsregimes: Historische Perspektiven*, eds ALF LÜDTKE and MICHAEL WILDT (Göttingen: Wallstein, 2008), 309–46; BARRY BUZAN, OLE WÆVER, and JAAP DE WILDE, *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner, 1998).

imperial history.⁵ Interestingly, perhaps the most fruitful perspectives that influence Scholz's book come from historians, sociologists, and scholars of international relations investigating mobility and state formation in the nineteenth and twentieth centuries.⁶ *Borders and Freedom* draws crucial insights from these scholars, including the premise that states are generally unable to control mobility and instead work towards 'channelling' it in useful ways (4). Scholz's book builds on this concept by focusing on what he calls the 'enclosure of mobility,' the processes through which early modern administrations large and small toiled, with mixed successes, 'to transform transit rights on public roads into excludable and therefore fiscally exploitable goods' (129). Combined with his impressive archival research, this approach allows Scholz to reconfigure the conversation about monopolising the legitimate means of movement along innovative lines.

Scholz's entry point into the study of mobility is a remarkably versatile medieval and early modern institution designed to protect travellers and channel movement: the safe conduct. His choice of the early modern Holy Roman Empire as a setting is also not by chance. Countless and often overlapping borders crisscrossed the Old Reich's political and territorial landscape. Its particular 'political density and culture of conflict' made questions of mobility, transit, and safe conduct a vital component of everyday life across the empire (27).

Within this context, Scholz asks one central question: did borders matter in the Old Reich? He answers that borders 'played a subordinate role in the channelling of moving goods and people until the mid-eighteenth century' (4). The crucial structural element for the channelling of mobility before that time was, instead, the thoroughfare (230–31). Scholz unfolds his central argument and several sub-arguments connected to the different scholarship veins he is conversing with throughout six rich chapters. Each chapter refutes strictly diachronic narratives in favour of a spatial and theme-based approach grounded in diverse sources such as notarial records, diplomatic correspondence, court cases, legal treatises, contemporary and early modern maps.

Chapter 1 ('The Ordering of Movement') introduces early modern mobility regimes, the Old Reich, and safe conduct. The chapter first notes that 'old regime societies made consistent efforts to promote, restrict, and channel different forms of mobility' (14), and then discusses the attempts by late medieval and early modern rulers to channel trade flows through tariff and non-tariff barriers (15–16). Scholz then focuses on the Old Reich, not only setting the stage for his arguments but also making a case for the comparative relevance of this European region, the spatial orders of which 'were just as complicated and underdetermined as those in other parts of the

⁵ LAUREN BENTON, ADAM CLULOW, and BAIN ATTWOOD, eds, *Protection and Empire: A Global History* (Cambridge: Cambridge University Press, 2017).

⁶ DARSHAN VIGNESWARAN, *Territory, Migration, and the Evolution of the International System* (Basingstoke: Palgrave, 2013); VALESKA HUBER, *Channelling Mobilities: Migration and Globalisation in the Suez Canal Region and Beyond, 1869-1914* (Cambridge: Cambridge University Press, 2013); JOEL QUIRK and DARSHAN VIGNESWARAN, *Mobility Makes States: Migration and Power in Africa* (Philadelphia: University of Pennsylvania Press, 2015).

early modern world' (37). The final part of the chapter addresses the genesis of safe conducts. Scholz describes the transformation of this institution from a purely protective instrument to a political and financial tool and details the different forms of safe conduct existing in the Old Reich. He concludes that 'while safe conduct always maintained a protective function, at the hands of the Empire's territorial authorities it became a powerful political, fiscal, and symbolic tool' (49).

Chapter 2 ('Theatres of Transit') and 3 ('Boundaries') are the core of *Borders and Freedom*. They begin by exploring safe-conduct processions. This practice consisted in the escorting, sometimes with great pomp, of important travellers (from emperors to merchants) across the roads and waters over which a prince claimed territorial superiority; that is, among other things, the right and duty to protect travellers in exchange for transit duties (50–51). Rulers used these 'highly public events' (76) to reaffirm the boundaries of their dominions symbolically (66–67). Scholz reconstructs several, sometimes violent, disputes stemming from safe-conduct processions and concludes that 'the fear of diminishing one's political and social status' (85) and of 'setting a precedent against the legal titles of their respective rulers' caused these controversies (89).

However, as Scholz examines the incident between Bavaria and Salzburg mentioned at the start of this review, he notes how 'a boundary that was fiercely, even violently, defended during a safe-conduct procession could have no significance whatsoever when crossed by a commoner' (109). Scholz further shows that, from the perspective of most travellers, 'practices and infrastructures for controlling movement were not anchored at the outer border of a territory for much of the early modern period' but were instead distributed along major thoroughfares (109). The book reinforces this point with several 'punctiform' (89) maps that plot safe-conduct and customs stations across various territories of the Old Reich (111–15 and 121–22). This effective deployment of digital humanities is crucial for visualising *Borders and Freedom's* conclusion that the thoroughfare is the 'appropriate spatial framework for understanding the topography of most forms of governed mobility' in the early modern period (110).

Chapter 4 ('Channelling Movement') and 5 ('Protection') rely on case studies to explore the instruments and strategies through which early modern polities attempted to enclose everyday mobility along crucial thoroughfares. Scholz first examines the tools deployed for these purposes: letters of passage and toll station tickets (135–46); the practice of distinguishing between legitimate roads with toll stations and illegitimate ones without (146–54); 'agents of enclosure,' the officials responsible for channelling mobility on the ground (154–68). In each case, Scholz is keen on exploring 'the difficulties that authorities faced in their attempts at channelling movement' rather than their tentative successes (169). Territorial rulers might contest the validity of imperial passports or those of other rulers (141–42). Toll officers and other players in charge of regulating mobility often had high social and economic stakes in the

negotiations that they enacted with travellers, which made the enforcement of any policy piecemeal and wildly dependent on the reality on the ground (155–56).

In chapter 5, Scholz further notes that early modern traffic flows were more likely to shape state infrastructure and policy than the other way around. He thus follows the city of Bremen's efforts to secure control over a crucial commercial thoroughfare, the lower River Weser. Scholz shows how Bremen and its agents shaped their military, diplomatic, and administrative interventions in the region around the contested goal of becoming the ultimate provider of protection and safe conduct along the river (174). Taken together, chapters 4 and 5 support Scholz's conclusion that 'flows of goods and people shaped the geography of the state more than the state could shape these flows itself' (157).

Borders and Freedom's last chapter (chapter 6, 'Freedom of Movement'), though interesting, stands out for seeming relatively disconnected from the rest of the text. Here, Scholz focusses the discussion on a corpus of thirteen early modern German dissertations and legal treaties that address freedom of movement, as well as on the works of well-known authors such as Grotius and Pufendorf. The goal is to 'complement earlier chapters [...] by examining how learned contemporaries made sense of the very practical problems encountered by escorts, merchants, carters, and travelling noblemen' (210). The analysis shows yet again that concepts such as freedom of movement, though characterised by what other scholars have described as a 'fairly obvious pattern of free movement'⁷ (205), was a contested arena that developed in sync with the discussions taking place on the ground.

This chapter shines when it establishes direct connections to the rest of the book. Scholz shows that legal theorists concentrated their discussions on the 'arteries' of mobility like roads and rivers, not on borders, as the reader might expect having read his previous arguments (214). However, this example is one of the few direct connections to previous chapters. In some cases, these missing connections can lead to confusion. In chapter 4, Scholz had explained that when letters of passage mention the right to travel 'freely,' this usually entailed exemption from 'paying tolls and duties' (137). Is this definition the same one implied by the legal scholars in chapter 6? Or are the jurists referring to a more general conception of free movement? This point remains unclear, except in the section that addresses Pufendorf (226–27).

In sum, *Borders and Freedom* is a significant achievement. Its main conclusion about the importance of thoroughfares over borders may not come as a complete surprise to scholars of early modern mobility, but Scholz argues his point effectively and with great nuance. His book has the great value of combining multiple source typologies, including innovative maps, and of providing the reader with a multiplicity of perspectives ranging from the commoner forced to take part in a safe-conduct procession to the legal scholar defending free movement. This feat is not merely a

⁷ Here Scholz quotes from JAMES NAFZIGER, 'The General Admission of Aliens under International Law,' *American Journal of International Law* (1983): 804–47, quote at 809.

technical achievement. Thanks to it, and thanks to his solid theoretical background, Scholz shows that the real question at stake is not if borders mattered in the early modern world but rather when, how, why, and for whom they mattered. Thus, rulers and their agents might fight fiercely over borders during the highly performative safe-conduct processions; conversely, thoroughfares, toll stations, and local officials, as well as the diverse forms of negotiation that these institutions entailed, were critical for everyday travellers. Many early modernists struggle to provide a similarly nuanced analysis of the connections between what was intended in theory by administrations and what took place in practice on the ground. Scholz provides an admirable example of how to address this challenge, moving beyond sometimes abstract claims that the nature of power in the early modern world was negotiated or contested.

One possible weakness of Scholz's overall excellent book lies in some of his text's comparative aspects. In chapter 1, Scholz establishes a tentative comparison between mobility regimes in the Old Reich, the Ottoman Empire, South East Asia, and early modern Japan (35–37). Each of these comparisons is rather summary and rests upon a limited, though influential, set of references.⁸ These sections' goal, which has some recurrences in other chapters (for example, in chapter 4, 147), is admirable. They mean to open the history of the old Reich to scholars with different regional expertise. However, the curtness of these comparisons is notable. We should not fault Scholz for not delving further into the comparative aspects towards which he hints. He is a scholar of the Holy Roman Empire with an admirable command over his topic. However, the limitations of these sections highlight the significant challenges faced by scholars of mobility, a topic which by its very nature is not bound by rigid regional distinctions, when attempting to establish parallels between areas of expertise.

Regardless of this limitation, *Borders and Freedom of Movement in the Holy Roman Empire* is impressive, especially considering it is Scholz's first book. Far from being a stopping point, this text leaves the reader with many productive questions. Does it suggest, perhaps, that the concept of monopoly over the legitimate means of movement is limiting the study of mobility? Scholz never pushes that far, though he is keen on clarifying that 'there is no one linear direction in which the politics of mobility developed over the three early modern centuries' (14). In fairness, even Torpey had not described monopolisation processes as linear. It is also true that Scholz's narrative essentially ends in the eighteenth century, which is where Torpey's mainly begins. Nevertheless, Scholz's approach is so successful in highlighting the complexities and contradictions inherent in all attempts to enclose mobility, not just in the Old Reich but in contemporary settings as well, that his work begs the question: would it be productive to eschew the use of concepts such as monopoly over the legitimate means of movement in favour of ideas more capable of capturing the historical dynamism of

⁸ For the Ottoman Empire, see PALMIRA BRUMMETT, 'Imagining the Early Modern Ottoman Space, from World History to Piri Reis,' in *The Early Modern Ottomans: Remapping the Empire*, eds VIRGINIA H. AKSAN and DANIEL GOFFMAN (Cambridge: Cambridge University Press, 2007), 15–58; SURAIYA FAROQHI, *Pilgrims & Sultans: The Hajj under the Ottomans* (London: Bloomsbury, 2014).

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mobility regimes? Scholz already favours terms such as channelling and enclosing over controlling. Hopefully, other scholars, or perhaps Scholz himself, will continue this trajectory in the years to come.