The Borders of Banishment. Liminality and Penal Practice in the Early Modern Holy Roman Empire[1]

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Abstract

In the early modern period, the Holy Roman Empire consisted of several hundred territories. The boundaries of these polities marked political claims to power but posed few obstacles to the everyday life of the population. Using the example of penal expulsion, this article aims to show this ambivalent role of territorial borders in the Empire. It attempts in particular to illuminate the possibilities of social reintegration that were available to exiles due to the considerable trans-territorial interconnectedness of society in the Empire.

Keywords: Banishment, Liminality, Trans-territoriality

1. Introduction

What borders are, and how they relate to the social orders that have produced them at different times, is a question that seems simpler than it actually is. For decades, historians have dealt with this issue primarily from the perspective of the nation-state. Attention has been paid mainly to the emergence of modern forms of domination in space and the associated appearance of materially tangible and unambiguous linear borders, which gradually replaced older feudal dependencies that had been distributed in space in a rather diffuse and discontinuous manner. Paradigmatic for this view is Theodor Mayer's dictum of a shift from the medieval "state of associated persons" (*Personenverbandsstaat*) to the modern "institutionalized territorial state" (*institutionalisierter Flächenstaat*) (Mayer 1935, 466). This corresponded to the idea of a historical development of the border from a "seam" to a "line" (as summarized by Medick 1995). Both views on a linear and entangled development of state formations and the qualities of their borders (referred to as "borderness" by Green 2010, *passim*) are still encountered in research, even though more recent work has since made it clear that there can be no question of such epochal unambiguity. Spaces were already partly thought of as areas in the Middle Ages, and

1 I thank Luca Scholz (Manchester) for his help with the English version of this text.

person-based forms of rule persisted in many regions throughout the Early Modern Period. This also means that linear and non-linear, continuous and discontinuous forms of borders coexisted until the rise of the nation-state in the 19th century (Rutz 2018, 58–104).

This coexistence of different types of borders and the complex logics that were associated with them for social actors have come into view anew from a more contemporary perspective in recent years. The European Union (EU) and other structures of trans- and supranational cooperation mark the end of a traditional conception of the nation-state and the spatial order associated with it, which could be referred to as 'sovereign territoriality.' In many regions, political rule over a clearly delineated territory is now replaced by various forms of shared or overlapping sovereignties, which are accompanied by multiple affiliations of inhabitants and produce 'differential' borders that exist for some and not for others depending on their political, legal or social status. The considerable contrast between extensive free movement of persons within the EU and the numerous barriers that exist for refugees and other people with unclear, temporary, or otherwise precarious affiliations is the most obvious current example of this. Such a 'post-sovereign' territoriality (Jureit/Tietze 2015) in the post-modern era can be compared with a 'pre-sovereign' territoriality in the pre-modern era (Landwehr 2015), i.e., between the 16th and 18th century, which was associated with a similar diversity and contradiction of spatial constellations as well as the resulting logics of action of social actors. A look at spatial and border configurations in history, and at the social orders they represented, can help us better understand current situations and lend historical depth to contemporary diagnoses.

This is also true for the Holy Roman Empire, i.e., the multi-ethnic complex in the heart of Europe that existed from its foundation under Charlemagne in the year 800 until its dissolution during the Napoleonic Wars in 1806 (Whaley 2012; Wilson 2017). The Empire was a large political-social federation which included territories that today belong to Germany, Poland, the Czech Republic, Austria, Italy, France, Belgium, Denmark, and other countries (Illustration 1). It was not a centralized monarchy like France or England, but a complex hierarchical order consisting of many different constituent parts—principalities, counties, imperial cities, etc.—that both claimed autonomy over their own territory and participated in the government of the overall federation through their participation in the imperial institutions (Stollberg-Rilinger 2018). That this situation was accompanied by the existence of a multiplicity of borders and boundaries is obvious. At

the same time, these limits have been neglected by historical research so far. In a study published in 2018, Andreas Rutz focused more intensively on the techniques and procedures of border demarcation in the Empire (Rutz 2018). However, the role they played in the everyday life of its inhabitants is still largely unknown.

Illustration 1: The Holy Roman Empire on the eve of the French Revolution (1789), © Wikimedia Commons.

This is the point of departure for my chapter, which focuses on a specific sanction of penal justice—banishment, i.e., penal expulsion of convicts in the cities and other territories of the Holy Roman Empire. I am interested in how territorial borders structured the space of the Empire and what significance they had for the life of the exiles after the execution of their sentence. Empirically, the text focuses on the eastern parts of the Empire (Saxony, Brandenburg, Bohemia and many other, smaller territories). I will proceed in three steps: First, I will discuss some basic characteristics of territorial borders in the Holy Roman Empire. Next, I will briefly describe

the main features of banishment. Finally, I will use the concept of 'liminal space' to address the question of what effects the omnipresence of territorial borders had on social interaction in the Empire and on the fate of those sentenced to banishment.

2. Territorial Borders in the Holy Roman Empire

A case study may illustrate the specific characteristics of territorial borders within the Holy Roman Empire. In the spring of 1759, in Ottenhausen, a village in the district (*Amt*) Weißensee of the Electorate of Saxony (Illustration 2), the pregnant but unmarried Barbara Elisabeth Kieserin was accused of premarital sexual intercourse, which was strictly forbidden. The young woman was arrested and interrogated, but after a few weeks she was released from prison because of her condition. She then went to live with her parents in Gangloffsömmern, a village in the immediate vicinity. After another few weeks, the Ottenhausen court received a judgement that sentenced the young woman to leave the territory for several years. For this reason, the court servant was sent to look for her. However, he could not find her, neither in Ottenhausen nor in Gangloffsömmern. A short time later, an Ottenhausen resident had been shopping in neighboring Greußen, which belonged to the principality of Schwarzburg-Sondershausen. There he learned that the young woman had taken refuge there with her advocate, who lived in the town. The Ottenhausen authorities then applied for extradition, which was granted. The young woman was brought back to her home village, where she received her sentence in the courtroom. Thereupon, she was finally taken to the border by the court servant and two assessors—in the direction of "Greußen in the land of Schwarzburg where the border stone stands and next to it a large pebble stone lies," as the protocol noted.[2]

2 Landeshauptarchiv Sachsen-Anhalt, Abteilung Magdeburg, Außenstelle Wernigerode: D 52, D V, II K, no. 23, fol. 66 recto.

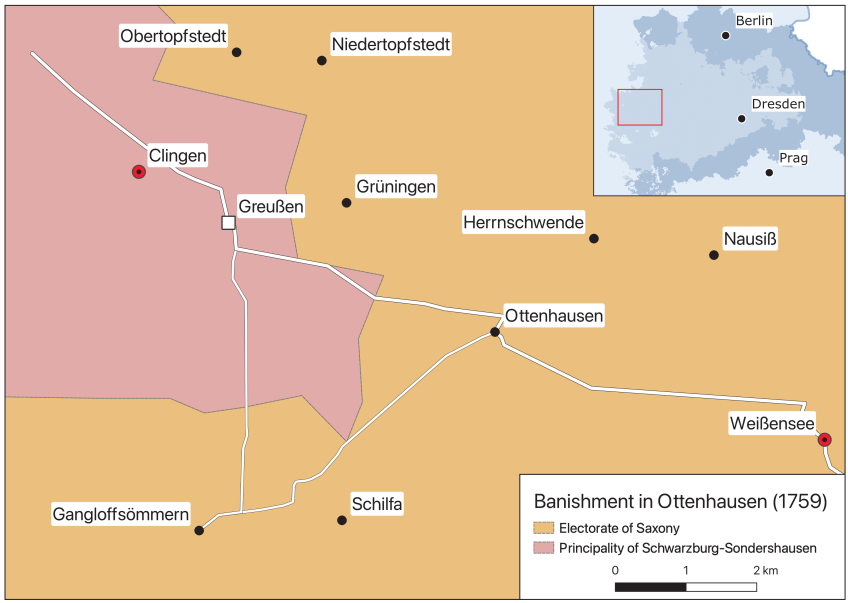

Illustration 2: Banishment in Ottenhausen (1759), © Falk Bretschneider.

From today's point of view, it seems quite absurd to banish a convict back to where she had fled. This procedure not only illustrates the authoritarian claim to punishment, but it also makes visible three features of territorial borders in the Holy Roman Empire. It shows how important these borders were for asserting dominance. The young woman had taken refuge in a neighboring territory. Therefore, the Ottenhausen authorities could not simply pick her up there but had to apply to the neighboring Schwarzburg authorities for extradition, a complicated and costly procedure. The extradition also followed a ritual with strict rules: Greußen officials took the wanted person to the border, where Ottenhausen officials received her. Thus, on the level of political coexistence in the Empire, the borders served mainly as spatial demarcation of political power and consequently produced a considerable fragmentation of space. However, the story of Barbara Elisabeth Kieserin also shows how natural it was for the residents of this region to cross these borders in everyday life. She herself had sought the help of an advocate living in the principality next door, while other Ottenhausen residents went shopping in Greußen, thereby learning where the convict had fled to. This border crossing did not seem problematic to anyone. On

the level of social coexistence and exchange between residents of different territories, the borders seem to have played only a limited role. Third, and finally, the case shows how close to a territorial border many people lived and how this border was a natural part of their everyday lives.

The Ottenhausen case was not an exception. Such omnipresence and proximity of borders within the Empire is also confirmed by other sources. The jurist and statesman Justus Möser wrote in 1770 that the Empire consisted of "nothing but borders" (Möser 1775, 364). This referred to the area around Munster and Osnabruck, where several medium-sized and smaller imperial territories collided. Elsewhere, the territorial situation was not as complex. Nevertheless, the role of the territorial border was comparable everywhere in the Holy Roman Empire. There were several reasons for this. First, the territories of many imperial estates were "composite monarchies" (Koenigsberger 1991; Elliott 1992) That is, they consisted of different parts, all of which were under the jurisdiction of one territorial sovereign who exercised different rights in each of them.[3] Second, these spaces were interspersed with a substantial number of exclaves and enclaves—i.e., individual portions of space, usually quite small, that were surrounded by the territory of another potentate (Duhamelle 2010). Lastly, there were manifold forms of a shared exercise of power, the best known of which is the condominium, in which several princes, counts, lords or cities shared the rule over a place or territory (Jendorff 2010). Even in the eastern part of the Empire, dominated by large principalities such as Electoral Saxony or Electoral Brandenburg, the territorial border was rarely far away. This is made clear by a map that shows the distance to the nearest territorial border for each point in this region (Illustration 3). In many places, the border was less than five kilometers away, or about an hour's walk—the radius of mobility for people carrying out their everyday lives, i.e., shopping at the market, going to the inn, or going to church and court (Ströhmer 2013, 121–127; Daschner 2017, 217). This, too, had to do with the special function of the border in the constitutional structure of the Empire: The territorial borders of the Holy Roman Empire were not state borders. They did not form the

3 It is difficult to correctly render the meaning of *Hoheit* and especially *Landeshoheit* in English, because every translation inevitably refers to Jean Bodin's concept of sovereignty, i.e. a power that does not have to justify itself to anything or anyone. This was not the case in the Empire, however, because here all potentates, from the electors to small lords, depended on the emperor as supreme liege lord. *Landeshoheit* here therefore means the power they exercised over the lands granted to them under the imperial constitution (see Quaritsch 1986).

outer shell of spaces of sovereign power but followed a logic of patrimonial exercise of power that tended to impose barriers on political action across space (Aretin 1993–1997, vol. 1, 58; Scholz 2020, 108).

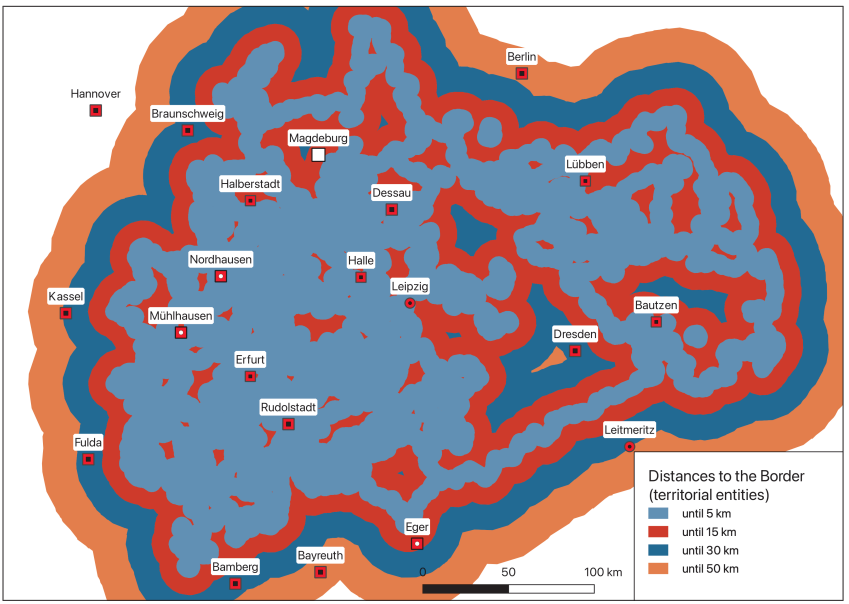

Illustration 3: Distances to the Border[4]*, © Falk Bretschneider.*

That is, the territorial borders did not act as total borders that combined all forms of political, social, economic, or confessional demarcation (Lehnert 2017). Rather, they were only one type of demarcation alongside others, indicating first and foremost the distribution of certain rights of domination that could well be at cross-purposes with the spatial organization of other dimensions of life such as language and dialect boundaries, economic linkages, confessional affiliations, kinship relations, or forms of sociability such as festive culture. These different forms of borders and boundaries intersected and overlapped in the most diverse ways. In Lenkersdorf, for example, a village near Zwönitz, which was divided between the Electorate of Saxony and the Schönburg dominion of Hartenstein, all main elements of

4 In order to take into account the composite character of many imperial territories, the borders presented here are not those of the entire principalities or counties, but those of their respective parts.

political power (high and low jurisdiction, taxation, administration) were divided between the two village lords. This did not prevent the inhabitants from cultivating the fields together, marrying each other, meeting in the tavern, celebrating church consecration together or acquiring property in the other part of the village. The common land was also administered jointly (Wetzel 2004). In other words, territorial borders were of only limited importance for the "customary back and forth of the peasant economy" (Schindler 1997, 350).

In addition, the concrete forms of the border differed from region to region, from territory to territory, and sometimes even from place to place. There is no universally valid morphology of the territorial border in the Holy Roman Empire; rather, it was as different as the spaces it separated. For example, in Franconia or Swabia, the border occasionally ran on the level of individual estates or houses because several territorial lords or members of the Free Imperial knighthood often shared the rule over a village (Schuh 1995). Elsewhere, it coincided with the borders of the village parish or formed along the limits of individual lordships. Their material form also varied. Recent research repeatedly emphasizes how little visible territorial borders were in the landscape (Gotthard 2007, 101–110). In fact, these were regularly oriented to elements in space that were unstable over time: Streams whose course changed in severe weather, dirt roads overgrown by grass, trees that fell in a storm. Pits, mounds, ditches, or walls could also serve as foundations. However, since the 16th century it had become customary to mark them in one way or another, usually by so-called boundary stones (*Marksteine*) which described them as a sequence of individual points (Rutz 2018, 122–134). The same approach was used to demarcate the fields of a village or to indicate different ownerships within the community (Schildt 1995, 163–165).

In this respect, then, there was no fundamental difference between the various forms of border: the territorial border was tied to the local border (of houses, fields, or villages) and benefited from the great importance that the local demarcations had for people's everyday lives (Windler 2002). This also puts into perspective the observation that travelers or other people on the move hardly noticed territorial borders in the Holy Roman Empire, if at all. This is not surprising, since more elaborate border fortifications that could have been perceived from a traveler's carriage hardly existed at all. Customs and escort stations were also located in the interior of the country, i.e., in towns and villages or in inns along the country roads. For mobility, therefore, the territorial borders of the Empire posed no obstacle

(Scholz 2020, 119–120). The impression that quickly arises when reading travelogues—that borders between the political spaces of the Empire did not play a role for travelers or that their course was diffuse must therefore not tempt us to generalize such perceptions. Even though many borders were only faintly marked, the local people knew quite precisely where they ran, which house was under the lordship of which authority, and to whom which field, forest or pond belonged. The border was not vague or indeterminate, it was complex (also Nordmann 2007, 119).

The problem, then, was not whether it was perceptible, but by whom and in what concrete context. That is, its reality did not grow out of a materiality that was the same for everyone, but out of a cognitive presence it held for some and not for others. Those who travelled through the region in the stagecoach might notice little of it. On the other hand, those who tilled their fields along it every day, drove their cattle to pasture, or undertook processions and pilgrimages knew exactly where the border ran and how to recognize it (Kaiser 1998, 67; Duhamelle 2010, 137–198). The same applied to their political significance: while the inhabitants of the Empire crossed the territorial borders largely unhindered in everyday life, their course was one of the most important markers of the rule for the individual territorial Lords and therefore also repeatedly provided cause for legal and political conflict and dispute (Staudenmaier 2011).

3. Banishment

In short, the territorial border in the Holy Roman Empire did not have an effect of its own accord, but rather acquired meaning in concrete situations and through the significance that actors ascribed to it in each case. This is also evident when looking at its role in banishment. The sanction of banishment had originally emerged in the cities of the late Middle Ages as a form of corporative exclusion from associations of persons that had made the physical presence of their members the basis of social participation (Arlinghaus 2018, 306–325). Anyone who wanted to be part of society in the late Middle Ages had to belong to corporations such as houses, guilds, or towns, because access to social life could only be achieved through these institutions. Being excluded from such associations of people was therefore an effective means of punishment. This remained the case throughout the following centuries because the basic forms of socialization that linked participation to presence did not change (Schlögl 2014). And yet, the punishment

did not remain the same. Territorial authorities—i.e., princes, counts, bishops, or the councils of imperial cities—appropriated them and made them an instrument of their territorial policy. In other words, they charged the sanction with new functions it had originally lacked. In concrete terms, the territorial authorities now related the scope of punishment to the borders of the territories they dominated in order to lend emphasis to their claim to territorial rule. The late medieval city banishment (*Stadtverweis*) thus became the early modern territorial banishment (*Landesverweis*), which from the 16th century onward became a frequently and readily imposed punishment throughout the Holy Roman Empire (Schwerhoff 2006).

In addition to being used as punishment for crimes, banishment also became an important tool for the creation of territorial spaces in the Empire. It thus inscribed itself in the process of territorialization of domination, as can be observed everywhere in late medieval and early modern Europe (in France, e.g., Dauphant 2012). In France, Spain or England, this process took place at the level of a future nation-state. In the Empire, it remained tied to the various principalities, counties or imperial cities that formed it (Gerlich 1986, 279–297). Criminal justice played a particularly important role in this. For example, gallows and other execution sites were placed near borders, where they served as symbols of sovereignty (Bellabarba 2002; Härter 2020). This also produced recurring conflicts. The imperial city of Nordhausen, for example, had two execution sites, both located outside its gates but still on municipal territory. A third, a gibbet, was located within sight of a gate but belonged to the dominion of Lohra, which in turn was part of the county of Hohnstein. In 1609, the council complained about the local bailiff to the bishop of Halberstadt, who had occupied the county since the count's family died out in 1593, and let it be known that the gallows were too close to the border. Specifically, the requirement stated that at least 24 cubits of space must lay between the gallows and the border so that the gallows' shadow would not fall on the territory of the imperial city and interfere with its jurisdiction rights (Oßwald 1891, 159). Johann Oettinger's *Tractatus de jure et controversiis limitum*, first published in 1670, shows that such a rule indeed existed (Oettinger 1690, 368–369).

Banishment played a similar role in the process of constructing territorial spaces. This was done primarily through the design of the punishment ritual. The condemned thus had to swear a special oath stating that they would abide by their punishment, respect the now forbidden zone, and not return secretly. In these oaths, called *Urfehden*, as well as in the judgments

of the courts that preceded them, these forbidden territories were explicitly mentioned. It was precisely this approach that contributed to the creation of territorial spaces. By being identified in the various documents, they were given a name and thus a cognitive reality of their own. Also, in this way, the different parts of a country were gradually joined together through acts of language and merged into a whole. If the expelled were brought to the border, then the territorial space was physically stepped out and marked as belonging to a territorial dominion, so to speak. Branding—which was particularly common in the south of the Empire and in the lands of the Habsburg Empire, where the condemned were labeled with gallows marks or letters on their backs or foreheads representing the territories they were forbidden to enter—also drew cognitive maps of these spaces.[5]

Banishment thus reveals a process that is commonly thought of from its end: the territorial space that is homogeneous and outwardly enclosed by unambiguous borders. However, the territory and its boundaries emerged from a long historical evolution (Rutz 2015) during which punitive practices such as banishment occurred simultaneously. An example of this can be seen in the named spaces mentioned in the oaths of the banished convicts. In 18th century Electoral Saxony, which consisted of 13 separate territories with varied constitutions, the individual territory names were only gradually integrated into the *Urfehden* oath sworn by those who were banished (Illustration 4). While the hereditary lands of the elector were among the forbidden zones from the beginning, other parts of Saxony's conglomerate of territories were only added later. One example among others is that of Upper and Lower Lusatia, which had become property of the Elector after the Peace of Prague in 1635 but remained Bohemian fiefs and were therefore administered independently of the electoral government in Dresden. The Elector merely governed them in personal union. Until 1740, therefore, offenders convicted to banishment in either of the two Lusatian territories were expelled only from their part of the territory. It was not until that year that the electoral government managed to have all parts of Saxony equally marked as forbidden in the *Urfehden*. This also applied to other regions such as the Schönburg dominions—subject to the Elector until 1740 by treaty— and the Electoral Saxon shares of the counties of Mansfeld, Barby, and Henneberg . In short, the territory eventually considered Electoral Saxony came into being after a long process,

5 See for example on the Kingdom of Bohemia Národní archiv Praha, Apelační soud v Praze: no. 83, fol. 273 recto.

which was reflected not only in the persistent differences in constitutional and administrative structures but also in the gradual approximation of the ranges of the banishment in the Electorate.

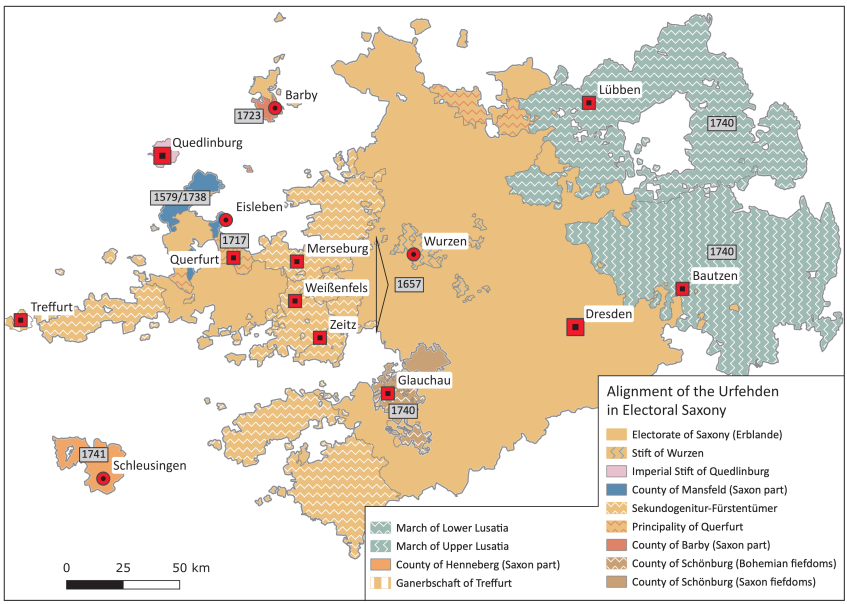

Illustration 4: Alignment of the Urfehden oaths in Electoral Saxon, © Falk Bretschneider.

This slow development of territorial space is also reflected in the fact that, even though this polity had specified the scope of punishment since the 16th century, the convicts were not systematically brought to the territorial border until the 18th century. Instead, they were often left to their fate on the periphery of towns or villages. Carrying out sentences was costly, and financial responsibility was expected to fall to the municipal communities because the convicts were too poor. Additionally, each territory was internally crossed by numerous administrative and jurisdictional boundaries, which made such transfers difficult. For example, city councils and district administrations of territorial rulers each claimed their own jurisdictional rights, which they scrupulously enforced, including a restriction that barred officials of one authority from entering the territory of another. In the Saxon trade fair city of Leipzig, two jurisdictional areas overlapped: that of

the city council and that of the district of the Electorate (*Amt*). Not only did this lead to the development of a gallows with two arms on which wrongdoers condemned by the city or the district administration were hanged, but if the electoral *Amt* expelled a criminal from the country, it also had to obtain permission from the council to have him led through the streets of the city—in which case the county servant was accompanied by a city servant. Even this process was only permitted by the bailiff with the verbally stated stipulation that no disadvantage was to arise to the elector, his regalia and rights.[6]

There were two main reasons for the reluctance to bring convicts to the territorial border. First, until the 18th century, banishment remained primarily a sanction that barred convicts from accessing their local communities, which was synonymous with participation in society at large. In this respect, it did not matter to those involved whether a convict actually crossed territorial borders as long as he did not return to the place from which they had been sent away. This is demonstrated by the fact that illegal returnees were almost never discovered and apprehended at the border, but were instead found within the towns and villages from which they had been expelled. Secondly, the lack of integration of territorial borders into the ritual of banishment punishment shows that the territory first emerged as an idea and a claim, not as a material reality. In the 16th and 17th centuries, even the rulers themselves often did not know exactly where their borders lay. Only gradually did they form a picture of their own country through descriptions of the land, statistical surveys, or the production of maps. Even for the condemned, without maps or GPS, it was very difficult to find their way around in a space whose borders were often only faintly marked. As a result, in many cases, the social exclusion intended by the punishment was not carried out spatially. Although a territory was named in the sentence, preventing convicts from interacting with its borders was impossible. In this respect, banishment primarily meant a symbolic exclusion from a local order of interaction to which the convicts had previously belonged.[7]

6 Stadtarchiv Leipzig, Ratsstube, Titelakten: no. VII E 76 (without pagination).

7 Of course, this only applied to people who had been part of society before their condemnation. For marginalised people such as beggars and vagrants, who largely fell outside the structures of the social, the punishment only reinforced an already valid social exclusion (Coy 2008).

4. The Empire as a Liminal Space

In this respect, the hesitant transport of the convicts to the border is also an indication that the territorial demarcations were only one form of structuring space and society in the Holy Roman Empire. In other words, society in the Empire cannot be reduced to the juxtaposition of territorial spaces (Bretschneider/Duhamelle 2016). This is also shown by the fate of the expelled. By looking at how the delinquents dealt with the consequences of their condemnation, it quickly becomes clear that territory was of limited importance to them. While the thoughts and actions of the authorities of principalities and Imperial cities were undoubtedly determined by territorial claims and ideas, the desires and aspirations of the condemned remained primarily focused on the concrete place from which they had been expelled and the social relations that were connected to it. It was primarily this place that organized their social belonging by assigning property, social status, and forms of recognition (Cerutti 2012). This is where the families of the convicts lived, where their immovable property was located (a little house, a piece of garden, a small field), where they had a job that fed them and their relatives, and where they had a support network of family and friends.

Above all, it was the place through which their position in society was defined. Conversely, the territory to which they were banished had not yet become a point of reference for an exclusive relationship of belonging (Grawert 1973) or a resource of social security, as was to be the case in the late 19th century (Ayaß et al. 2021). This had a specific effect on the decisions that the expelled had to make after receiving their sentences: a territory's size and morphology determined what access they could continue to have to the place that had hitherto been the center of their lives. Specifically, the smaller and the more fragmented a territory was, the shorter the distance of that place from the territorial border, which afforded a greater chance of settling near their former home and thus in a space that was familiar to them through everyday mobility and cross-border exchanges, and offered the possibility of staying in touch with relatives who had stayed behind.

One example may illustrate this: In 1714, Hans Christoph Schicht was banished from the territory of the monastery of Sankt Marienthal in Upper Lusatia, Saxony, for stealing grain (Illustration 5). Although the monastery was under the rule of the Elector, one of the abbess's special privileges

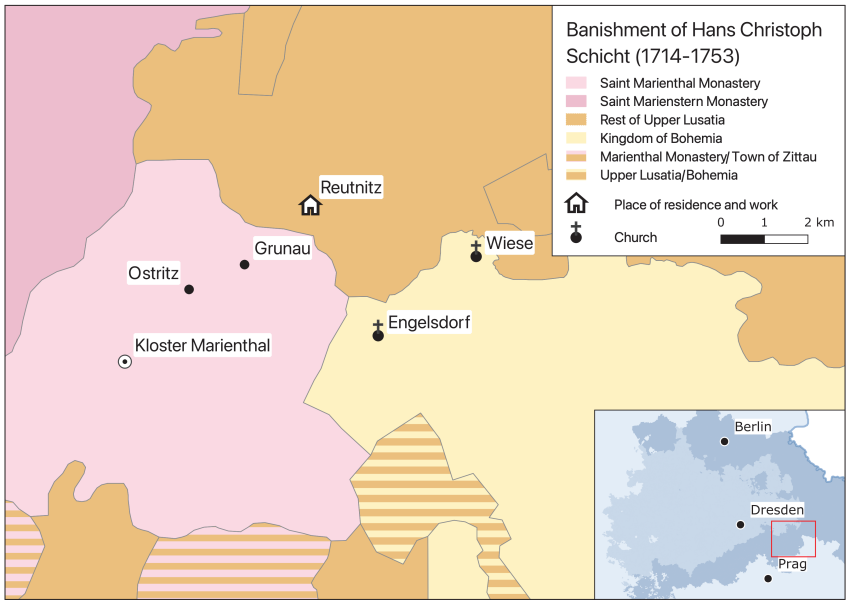

Illustration 5: Banishment of Hans Christoph Schicht, © Falk Bretschneider.

was that she could only expel convicts from her own territory. Almost four decades later, in 1753, Schicht asked for the right to return to his former home. It was discovered that after his expulsion in 1714, he had settled in the nearby village of Reutnitz (today Ręczyn) and found work as a gardener for the local landowner. Reutnitz belonged to a neighboring Upper Lusatian manor. However, his new lordship was Protestant, and Schicht, as a former subject of the abbess, was Catholic; thus, he attended Catholic church services in the villages of Wiese (Ves) and Engelsdorf (Andělka), which were on the soil of the Kingdom of Bohemia.[8] Here it becomes quite clear what significance and effect the various borders had for the expelled man. First, they allowed Schlicht to start a new life only a few kilometers away from his previous place of residence, with everything indicating that he had acquaintances in Reutnitz, which made the new beginning easier. Second, the proximity of Bohemia, a Catholic territory, made it possible for him to fulfill his religious duties—for early modern subjects who saw themselves first and foremost as part of a community with God, this was almost more impor-

8 Sächsisches Hauptstaatsarchiv Dresden, 10025 (Geheimes Konsilium): loc. 5828, vol. 1, fol. 72 recto.

tant being part of an earthly community. Finally, his desire to return to his old homeland, expressed decades after his expulsion, shows that he maintained a connection to his home territory during his long absence.

In sum, territorial spaces and their borders ultimately played little part in the exclusionary consequences of punishment. More often, the complex territorial structure that characterized the constitutional fabric of the Holy Roman Empire proved to be a resource that enabled the expelled to escape the worst consequences of the sanction. It allowed them to settle nearby and thus maintain contact with their relatives, which facilitated a later return—it was precisely these relatives who repeatedly asked for mercy or delivered supplications from the convicts to the authorities. The fact that this was possible was directly related to the Empire. Not only did it guarantee a great variety of Imperial Estates and thus a multiplicity of borders; it also enabled social networks that spanned the Empire without being constrained by territorial borders. These included cross-border personal relationships such as kinship, acquaintances, and friendships, but also the organization of the labor market, which was not bound to the guilds (for servants or domestic staff, for example) who changed positions frequently and repeatedly moved back and forth between territories. Many expellees found employment as farmhands, maidservants or unskilled laborers with a farmer in a neighboring territory and hibernated in these jobs, so to speak, until they obtained the right to return by way of mercy.

This shows that even if, according to the wording of the sentences, the punishment of banishment excluded people from a certain territorial area, it first cut them off from access to the local orders of interaction of which they had previously been a part of. At the same time, however, it was impossible to exclude the condemned from the social network of relationships across the Empire itself. This was summed up in a legal dissertation defended at the University of Wittenberg in 1744, which argued that an expulsion "only cuts off the privileges to which the inhabitants of such province are peculiarly entitled," but not the rights based on the "general laws of the Empire" or in common law (*ius commune*) (Leyser/Francke 1744, 9). This also meant that the convicted person had to leave a certain territory but arrived on the other side of the border in another, which was also part of the imperial union. Accordingly, the concrete consequences of a sentence of expulsion for the individual were not measured only by the exclusionary effect of the territorial border, but rather by the possibility of tapping into the resources of those social networks whose reality these borders could not prevent due to their porosity.

In this respect, the Empire can also be understood as a liminal space, i.e., as a third space (Schiffauer et al. 2018) that existed alongside the binary logic of territorial space, which was characterized by an opposition of the inside and outside and was decisively defined by the territorial border. The space of the Empire overarched and transcended this binary space of territories and allowed its different parts to merge into a whole (Bretschneider 2018). However, this did not apply equally to all actors. Thus, the territorial space was primarily a space of competition between the different rulers in the Empire. Its relevance for society at large, however, was limited—if only because of the often-small size of the imperial territories. From the point of view of the authorities, therefore, it can be understood as a container space that served the goal of coming closer to the ideal of autonomous rule within the framework of the sovereignty of a territory (*superioritas territorialis*). The Empire as a whole, however, established not only a common political space of action for the several authorities based on cooperation, but also an overall context that can be called society because it structured social relations and organized mobility across the various territorial borders (Scholz 2020). Imperial law played a central role in this, regulating various forms of migration between territories such as emigration for confessional reasons (Duhamelle 2015) and departure for economic or other reasons (Möhlenbruch 1977). Due to a lack of research, it is still disputed how freely the inhabitants of the Holy Roman Empire were able to move within its inner borders and what concrete conditions governed their mobility (Härter 2015). What is certain, however, is that the social relational space of the Empire offered numerous opportunities that also made it possible for expellees to survive the period of banishment or to start a new life by finding temporary accommodation with relatives or working in the neighboring territory.

This insight should not lead to misunderstanding the punishment merely as an invitation to move to another territory and thus as a mild sanction. Support from the social environment—which was a central resource for survival in a society based primarily on family ties—was not easily transferred to or established in another place. As a form of forced migration, banishment also exhibits another dimension of liminality. For the convicted, the Empire not only acted as a third space, but their sentence also placed them in a status of transition regarding their social affiliation. They no longer belonged to the association of persons from which they had been expelled, and they could not easily become part of another group because the right to settle permanently and acquire subject status in another terri-

tory was conditional (i.e., based on the payment of an admission fee or the production of character references). It is true that imperial law protected banished persons from being completely excluded after their sentence was handed down, by preventing them from losing their property or falling prey to "civil death," for example, as was the case in France with banishments from the kingdom (Garnot 2009, 475–477). However, it largely deprived them of the possibility of having access to such resources by cutting them off from the residency required for claiming certain rights in the early modern period. For example, they could only take care of their property through representatives (such as family members or friends who had stayed behind) who acted in their stead. Therefore, the limited legal protection offered by the Empire did not mean that the consequences of punishment were nullified. Instead, it transferred the convicts into a state of limbo in which social belonging was not completely abolished but suspended.

How long this state of affairs lasted depended primarily on what opportunities convicts had to become part of a group that assigned them a position in society in another territory. Many of them succeeded in doing so. Andreas Schenk, who had been banished from Leipzig in 1612, is one example. A short time after his expulsion, he submitted a request to the council to be allowed to re-enter the land to trade. He announced that he had built a new life in the neighboring archdiocese of Halle, had married and bought a house "only 3 miles from here in the *Stift* of Halle".[9] Another example is the story of Magdalena Catharina Cumerow and her husband, expelled from Berlin in 1725, who found accommodation first in the town of Königsberg (now Chojna) in the Brandenburg Neumark and later in Haldensleben in the Duchy of Magdeburg, where they traded in gallantry goods as grocers and became recognized members of the town community.[10] However, not all of those convicted were granted such an amicable outcome to their punishment. Although cases of successful settlement elsewhere in the Empire are clearly underrepresented in the sources (precisely because they were successful, i.e., they did not produce any conflicts and thus no files in the archives), the fact that a considerable number

9 Stadtarchiv Leipzig, Richterstube, Akten Teil 1: no. 853, fol. 32 recto-verso. The term *Stift* (also *Hochstift* or *Erzstift*) is used to designate the terrestrial area of authority of a bishop or archbishop of the Holy Roman Empire who, in addition to being a dignitary of the Catholic Church, was always also a vassal of the emperor and thus a prince at the head of an ecclesiastical principality.

10 Geheimes Staatsarchiv Preußischer Kulturbesitz Berlin, I. Hauptabteilung Geheimer Rat: Rep. 49, F, no. 4 (without pagination).

of expellees slipped into the marginalized class of beggars and vagrants who permanently dropped out of the social order cannot be overlooked. Their condition was no longer characterized by liminality, but by total exclusion. Therefore, in their case, territorial borders no longer mattered, because they were chased away wherever they went (Ammerer 2003, 245–248). The internal borders of the Holy Roman Empire were no longer of existential importance to them—only the impenetrable boundaries of their external social lives.

5. Conclusion

This closes the circle to the reality of the present: For many migrants today, state and domestic borders in Europe and elsewhere act as obstacles and bulwarks that other people overcome without much difficulty because their political or social status allows them to do so. Even if the territorial line has been successfully crossed, they find themselves in a liminal phase to which a separate time-space corresponds. Especially for asylum seekers, a phase of waiting and uncertainty about their own fate begins (Leutloff-Grandits 2020). How long this liminal phase lasts and whether it is possible to start a new life at its end, or whether permanent exclusion awaits them, depends in turn on numerous factors that are difficult to reduce to a common denominator. In this respect, the situation of migrants today is only slightly different from that of expellees in the Holy Roman Empire. Although they could not count on friendly supporters and a welcoming culture, their integration or non-integration was in many cases as difficult as that of refugees in the present, because in many cases they were able to draw on cross-border family relationships or other networks of support. Many of them could thus count on being members of a society that transcended the space from which they had been expelled. It is true that various territorial authorities in the Empire endeavored to fix the people living in the territories they ruled to a relationship of belonging that was oriented solely to them and their respective sovereignty. Until the end of the Empire, however, this succeeded only partially at best. The exclusion from a territorial area as a result of banishment had only limited effects. Rather, the consequences remained primarily tied to the fact that the convicts were now denied access to those places that had hitherto constituted their life and participation in society. Whether they were able to acquire such access elsewhere was in many cases a question of the individual situation. The Empire, however, which acted

as a large social relational space for its inhabitants, arching over territorial spaces, did not preclude such reintegration—and in many cases even made it possible.

6. References

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