

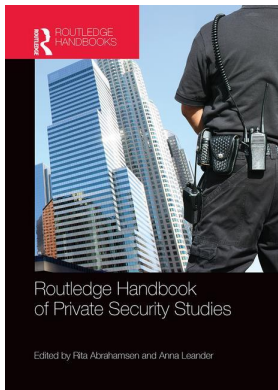
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PRIVATE FORCE AND THE EMERGENCE OF THE INTERNATIONAL SYSTEM

Halvard Leira

In a scene from ‘Two Swords’, the first episode in the fourth season of the TV series *Game of Thrones*, Prince Oberyn Martell asks the sellsword (i.e. the mercenary) Bronn whether he is a hired killer. Replying that he started out that way, Bronn points out that he is now a knight. When asked how that came to pass, he replies: ‘Killed the right people, I suppose.’ Much like the system of the European Middle Ages, on which it is based, the TV series depicts a system of various polities where different forms of private force are prevalent, where different forms of force shade into one another and where private force matters greatly for the trajectory of the system. As is often the case, fiction highlights phenomena that are overlooked in other accounts, in this instance the overall systemic importance of private force.

The main argument of this chapter is that private force has played an important, but often overlooked role in the emergence and development of the current international system; our world would have looked different, if not for the continuous presence of different forms of force not tied directly to the modern states. This goes for the character of the basic units of the system, as well as for the modes of interaction and the gradual spread of the system. In the literature on historical forms of private force, states have tended to be the focal point. Taking the Weberian definition of the state as its starting point, and drawing extensively on Tilly and other historical sociologists, the argument has been that the abolishment of private force is a key part of modern statebuilding (Thomson 1994; [Chapter 1](#), this volume). The tendency to focus on the state has been reinforced by the nationalist character of much historiography – the use of private force and its gradual banishment has traditionally been studied with the state as the container. There are two obvious problems with such an approach. First, studying the interplay between private force and state force (or control) solely through the lenses of the state, leads not only to a teleological reading of history, but also by necessity privileges the latter over the former, obscuring the possibility of private force undermining the very notion of stable states. Second, privileging the state also ignores what have become staple insights of historical sociology and constructivism over the last decades, namely that states and the state system should be understood as co-constitutive and that they thus emerged simultaneously. It follows logically from this that private force matters not only to the emergence of modern states, but also to the modern international system of states.

In the following pages, the relationship of private force to the emergence of the international system will be discussed in four steps, proceeding thematically rather than

chronologically. Before turning to the empirics, it is nevertheless necessary to establish the understanding of some key terms and to say a few words about existing literature. This is followed by the first substantive section, which deals with the importance of private force to the early emergence and spread of the international system. The second section discusses how varieties of non-traditional forms of force helped maintain what was in many ways an international system of empires. The third section turns to the rules, norms and values of the system, and how the gradual abolishment (or forgetting) of private force has helped foster ideational cohesion in the international system. Finally, in the fourth section, focus is on modes of interaction, and on how an unintended consequence of the use of private force has been a functionalist push for a tighter integrated system. The chapter concludes that private force should be understood as one of the central productive forces in the gradual emergence of the modern international system.

Private force, international system

Two brief points must be made regarding the key terms of the chapter. First, as discussed by several authors (e.g. Owens 2010), the distinction between public and private (or state force and private force) is problematic, and even more so when the object of study stretches back more than five centuries. In this chapter, 'private force' will be used to designate force that is not under the full legal, political or otherwise control of the recognized head of the polity that commands them and even this distinction will be problematized when looking at empires. Second, when discussing the emergence of the modern international system of states, reference will be to a long development which might be said to have started just before 1500. Different dates are suggested as an end-point for this process, and some might argue that it is yet to finish, but the bulk of this chapter is concerned with processes taking place between 1492 and 1919 – we are thus dealing with a very protracted emergence. As the ensuing sections will make clear, this delimitation is only Eurocentric to the extent that the emergence of the international system itself was a process forcibly driven by European powers and private force working against and alongside that process. Most historical literature on private force has had a statist bias. This has two important implications for our study of the international system. The first regards the importance of the oceans. Unless established on previously uninhabited land, terrestrial force has had to deal with someone claiming some sort of right to the land. Although the early European overseas empires tried to establish similar rights to the ocean, these were never enforceable. The sea thus introduces a qualitatively different variable into the statist accounts. While one might rightfully argue that ocean-going force was typically launched from some specific piece of land, it was nevertheless typically utilized in a space above and beyond state control, in a space where there would be inter-polity governance, hegemonic governance or no governance at all. It follows from this that whereas terrestrial private force mattered as much as, or more than, maritime private force for the emergence of states, maritime private force is of particular importance for the emergence and character of the international system. This is illustrated masterfully in Glete's (2000) discussion of the transformation in naval warfare between 1500 and 1650, and how it related to not only state-building, but to systemic interaction within and outside of Europe.

The second implication of the statist bias concerns the availability of existing research. Insights into the importance of private force for the international system must typically be sought indirectly, in accounts dealing with states and their relations with different providers of private force. Overall, there is a dearth of general literature, and an overabundance of detailed case studies. Furthermore, the literature on piracy vastly outnumbers the literature on all other

forms of private force taken together. With the intention of providing a broad overview, although it draws on a number of more specialized works, this chapter primarily references general secondary sources. Brevity also necessitates focus, and the chapter deals primarily with mercenarism, privateering and piracy, the most important forms of private force for the emergence of the international system.

Early emergence and spread of the international system

Many of the forms of violence that we now call private predate the first emergence of something resembling modern states. Piracy and mercenarism can be traced back to antiquity, while privateering emerged in the late Middle Ages (Percy 2007; Starkey 2011). Depending on one's definition of feudal warfare, it could well be argued that some form of mercenarism dominated warfare in the Middle Ages, and increasingly so in the later Middle Ages, while privateering and piracy obviously correlated with ebbs and flows in maritime trade. With the emergence of somewhat more centralized monarchies in Europe, increasing interaction across further distances within Europe and European expansion to other continents in the fifteenth century, these modes of violence would in important ways influence both how something like a system emerged and how it spread outwards from Europe.

Within Europe, mercenary forces continued to play an important role in wars well into the nineteenth century (Percy 2007), although changing greatly in character over the centuries. In particular during the religious wars, mercenaries were crucial to the very ability to fight war. Continuous warfare was one of the factors tying the politics of the continent into a system, largely completed in geographical terms by the first half of the eighteenth century, and the reliance on mercenaries for war fighting implied that they, at least indirectly, made the emergence of systemic interaction within Europe possible. The same goes for naval warfare, where the growth of national navies was slow and fitful (Bromley 1987). By way of example, both the Spanish Armada and its English counterpart in 1588 consisted of large numbers of private vessels, fighting alongside the royal ships and the Dutch rebellion against Spanish rule would have been squashed without the actions of the 'Watergeuzen' privateers. Mass mobilization of populations was difficult in this era, and the elaborate industrial complexes associated with a large navy were unsustainable for most political entities. Thus, private force was a necessary component of most large-scale war-fighting.

Moving further away from state sanction, in the Mediterranean (and spilling into the Atlantic), force was wielded, from the middle of the sixteenth century to the end of the eighteenth century, by a mixture of private and semi-private actors (Earle 2003). Here private force served as its own multiplier. Muslim corsairs were operating from 'Barbary', that is the principalities of northern Africa, from the start of the sixteenth century. When there was a lull in war fighting between Spain and England/the Netherlands (from 1604 and 1609 respectively), they were joined by former privateers wanting to continue their lucrative careers. Teaching the North Africans the use of square-rigged vessels, as well as manning and captaining ships, these mariners wielded private force from the Newfoundland banks, via Iceland, Ireland and the English southwest, and deep into the Christian parts of the Mediterranean. Although frequently referred to as pirates, their basis of legitimacy in existing principalities and the possibility of curtailing their activity through treaty of payoff, implies that they should rather be understood as privateers. The results of this use of force was a forcible tying together of the different political entities into an embryonic system, and an expansion of the same system, as slave-raiding, alliance-building, treaty-making and protection money implied continuous interaction. This reading differs somewhat from Löwenheim's (2007) perceptive analysis. He focuses

on the corsairs as parasitical on the emerging international system, whereas I stress how there was also a productive element to their use of force. However, actions at sea were even more important for establishing and perpetuating systemic interaction outside of the European core.

Following rapidly from the great voyages of discovery, the Portuguese and Spanish tried to set up a duopoly controlling the interaction with the world outside of Europe, sanctioned by the pope through the treaty of Tordesillas (1494). The treaty effectively divided the globe into two spheres of interest. Political aspirations as well as religious difference following from the reformation, led other European polities to challenge this ordering of the globe. Dutch, English and French mariners would challenge the duopoly in the sixteenth and seventeenth centuries, in the Caribbean as well as in the East Indies. They were labelled pirates by the Spanish and Portuguese, and often sailed with deliberately unclear understandings with their principals, that is the political leaders to whom they owed allegiance – allowing for plausible deniability if need be, or simply because the principals had little possibility of enforcing a ban. In our current categorization, they can best be understood as privateers. Regardless of label, these privateers broke the duopoly, and made interaction outside of Europe systemic, in a political as well as in an economic sense. Politically, private force demonstrated the impossibility of fully controlling the oceans, thus forcing the early empires to reckon with the other polities. Economically, privateering and the capture of booty led to a truly system-wide spread of goods; around the year 1600 sugar from the Americas actually cost less in London than in Lisbon or the Indies. The capture of booty in turn increased the speed of system-wide market integration.

Private violence was thus crucial in making a system out of the ever more global interventions of the European powers. Of further importance to the spread of this system were the many trading companies (see [Chapter 4](#), this volume). The Dutch East India Company (VOC) was at its heyday the world's largest company, and in its initial phases it was an instrument of war, much more than an instrument of trade. The profits made from privateering were in turn essential for setting up the economic and military infrastructure that allowed for further territorial expansion. Acting as privateers in their own right, and hiring privateers and mercenaries when needed for consolidating power and fighting against other European powers or local opposition, the trading companies of the core European powers were productive of the global international political as well as economic systems.

Maintaining an imperial system

Private force was central to the emergence of a European system of polities, as well as to the establishment of global systemic interaction between empires, and it remained important for the further maintenance, spread and integration of this system. At home, armies would continue to contain significant numbers of foreigners, and should logically be categorized as some sort of private force; during the eighteenth century somewhere between one-third and two-thirds of the infantry forces of France, Prussia and Britain were recruited from outside of the borders of the polity (Percy 2007). The pattern was even clearer overseas. Even as some of the powers of western Europe gradually became more state-like, empires were dominating eastern and central Europe, and the major western European powers were all engaged in overseas imperial ventures. The pattern of rule, at least in Asia, followed the pattern of expansion. The companies, like the VOC and its British counterpart the East India Company (EIC) were private entities although often more or less entangled with the states, and they ruled in state-like fashion in their areas of control until 1799 and 1858 respectively. In particular the EIC relied on hired local forces for the maintenance of internal order and the occupation of new land. The British percentage of the EIC armed forces never exceeded 20, and was just above

10 per cent at the outbreak of the Indian Rebellion in 1857. In North America, even though there were trading companies like the Hudson Bay Company, political and military authority was never as hybridized as in Asia. Lack of available manpower at the outbreak of the revolution in 1776 thus necessitated the hiring of German mercenaries (collectively known as 'Hessians') to help make up the shortfall. Mercenaries accounted for up to half of the British forces in the different campaigns of the Revolutionary War.

Furthermore, private force was part and parcel of imperial interaction at sea. No practice illustrates this better than the success of the armed merchantmen – ships sailing primarily with the intent of trade, but with privateer commissions allowing them to capture prizes if opportunity arose. Particularly for long-distance voyages, such ships might carry flags, papers and commissions from a number of polities, allowing for a play of ambiguity in their interaction with representatives of other polities in distant seas. More generally, after having successfully challenged the Iberian duopoly in the sixteenth century, privateering continued to play an important part in the wars between European empires until the Napoleonic Wars. The French deliberately chose a naval strategy of privateer warfare in the wars around 1700, with extensive intermingling of private and public aspects of force. Ministers of state were investing in privateers, while the navy lent ships and even crews to privateers, in the process giving the privateering captains officer's rank. Privateering also provided, in France and elsewhere, an opening for money and manpower that was denied regular outlets during wartime, thus also partaking in the circulation of manpower and goods central to the functioning of markets. The consequences of this drive for investment could be challenging to political aims, as when citizens of the rebel Dutch provinces were partly financing privateers from the Spanish Netherlands in an effort to gain access to desired goods and markets, and to make a larger profit. Likewise, French merchants would be investing in Barbary corsairs, at the same time as the French government was negotiating to end their raids. When wars ended, piracy often increased, as a surplus of sailors found yet new outlets for their force. Privateering, sometimes shading into piracy also provided an important opportunity for investment in the colonies, particularly relevant for the British North American and Caribbean colonies, where money would be raised and commissions issued with little regard to the nationality of the captain and crew. Thus, when the American colonies rebelled in 1776, they could draw on a long tradition for privateering. Without a regular navy, they were forced to rely on privateering, and the dislike of standing forces implied that even during the war of 1812, the commissioned privateering vessels of the United States outnumbered the ships of the regular navy seven to one.

Private force also continued to influence the relationship between European empires and local rulers, and between other empires than the western European ones. When William Kidd stood trial for piracy in London, his major problem was that he had taken a ship in the Indian Ocean that was leased to a high official of the Mughal court. His use of private force thus threatened the interests of private investors in the EIC, another wielder of private force. The naval success of the English and Dutch, in particular, implied that sailors and captains from these countries would be hired by other political entities as well, as during the Cretan war between Venice and the Ottoman Empire (1645–69), when sailors and captains from these countries provided a kind of force that the galley fleets of the Mediterranean could not provide.

The numerically most important form of private force was the kind raised in the overseas possessions. However, the categorization of such force is not obvious. One could argue that imperial possession makes this kind of force public and that at least with increasing central control over the colonies, such as happened with the end of company rule in India in 1858, the force changes character from private to public. This would fit well with the argument that the nineteenth century in general saw a move from mercenarism towards citizen armies (Avant

2000). On the other hand, the continued participation and importance of colonial force in ordering colonies of origin, ordering other colonies and in fighting the wars of the imperial core, also implies that such force undermines any notion of 'national' armed forces. Whatever they were, they were not citizen armies (Barkawi 2010), and these forces were crucial to the fighting of both world wars. Even today, French and British armed forces employ significant numbers of foreigners, such as the Foreign Legion and the Gurkhas, as does the US armed forces.

The rules, norms and values of the system

The centrality of private force to the international system of empires did not imply a private morality or lack of public rules and norms in the wielding and valuations of such force. On the contrary, the systemic existence of private force provided some of the earliest examples of joint action based on common interests as well as values, in efforts to control, and eventually suppress, private force. Put briefly, private force mattered for the spread and development of international law (and/or varieties of communal imperial law), as well as for the gradual codification of regulations of force and the normative prerogative of the allegedly sovereign states. Private force helped spread rules and norms, but also became the focus of normative judgment.

Starting with the spread of norms and rules, the early development of norms against the use of mercenaries (Percy 2007) constitute the first kind of widespread reaction against one form of private force. Starting in the late Medieval Age, mercenaries became more and more unpopular, for a number of reasons. Their association with plunder and sheer banditry obviously played a part, as did the desire of princes and nobles to control their territory, but just as important (sometimes more so) was the notion that one should only fight for a right cause. Making money was not considered to be such a cause. Thus, a lot of the arguments against mercenarism were made in religious terms. However, what was deemed problematic was not private force as such, but uncontrolled private force. Mercenaries could be accepted, indeed embraced, if placed under appropriate authority. While the practice of hiring individual mercenaries was largely abandoned during the sixteenth century and completely after the Thirty Years' War, mercenary companies (more often than not organized geographically) were integral parts of armies for centuries after.

Moving out to sea, Benton (2009) stresses how the growing empires would try to project sovereignty across vectors of naval space. After the possibility of dominion, that is actual ownership of the sea, had been rejected, polities (and lawyers) still insisted on the possibility of claiming jurisdiction. Jurisdiction followed the ships, and concerned both activities onboard the ships and interactions with other entities. As an illustration of this, in closely connected ways, privateering and piracy spread notions of legality and rule-bound behaviour across the oceans.

With privateering followed a need for legitimate authorities that could issue commissions, that is legitimize privateering, for practices which would allow for effective privateering far from home-ports as well as for prize courts where captured ships could be condemned and the surplus divided. Imperial expansion and captures overseas thus led to three distinct developments in international maritime juridical interaction. First, governors were given the right to issue commissions. Second, established practices of ransom and parole, were perpetuated in colonial waters. These practices were building on medieval traditions that allowed for the release of prizes with their original crew and with promises of future retributions or the cessation of fighting, making privateering more effective and efficient by doing away with the need for a return with the prize to a friendly port. Third, a system of prize courts was established in the colonies. There were clearly a lot of shenanigans going on with the issuing of commissions

and in and around these courts. Furthermore, ransom and parole were often used to avoid paying the state its share of the prize, and it was common practice to have different commissions (with different specified targets) from different issuers. The key point is nevertheless that there was a mutual expectation that commissions did matter, that ransom and parole were to be respected and that prizes were to be condemned in an official way, even if that official way might involve bribery and swindling of investors and the state. The high number of protracted cases involving the condemnation of prizes suggests that these concerns were real, and that complaints had a chance of being heard.

International law was also developed through such processes; among early founders of international law, Gentili worked as a prize lawyer, while Grotius wrote *De iure praedae* as part of the legitimization for Dutch privateering and the expansion of the VOC. What emerged was less a new form of the law of nations than attempts at universalizing the law of the powerful empires, as the polities had different regulations and different court systems. Nevertheless, there was a common expectation of the proceedings being rule-bound, with translatability across systems. As Benton (2009: 160) argues, prize law was fashioned into ‘a loose international regulatory framework – an early example of global administrative law’ around 1750.

Turning from privateering to piracy, the importance of notions of legality becomes even clearer. The classical image of pirates rejecting all authority and embracing the role of ‘villains of all nations’ does not really fit well with piratical practice (see [Chapter 6](#), this volume). Most pirates were working on the margins of the system, rather than rejecting it outright. The stress on legal forms underscores this point, even during the ‘golden age’ of piracy (1715–25), pirates would typically try to obtain some kind of papers legitimating their venture. These papers might be stolen, outdated or forged, but were carried as some sort of insurance in case of capture. Again, the stress on a veneer of legality suggests that legal norms mattered.

Even if emerging international laws and regulations helped regulate the use of private force in the international system, the growing power of states and the increasing importance of global trade gradually increased pressure for doing away with such force all together. Not surprisingly, piracy was the first form to be challenged on a system-wide level. Although piracy has been condemned for millennia, the political character of most definitions of piracy implied that system-wide norms against piracy did not develop until the seventeenth century. Until then, local piracy, often committed by mariners and fishermen in collusion with local notables, would be tacitly accepted. By way of example, whereas ‘local’ piracy had traditionally been seen as condonable in northwestern Europe, by the 1620s and 1630s, this was no longer the case. One reason could well be the perceived threat from Barbary corsairs. Faced with the effects of long-range naval raiding, it became less possible to condone the local varieties (Earle 2003). International wielding of private force helped create a normative reaction against such force.

The Barbary Corsairs also provide an illuminating example both of the systemic importance of values and norms, and the limits to their effectiveness. There was no doubt that all the Christian powers abhorred the slave-raiding practices of the north African principalities, and some of them were at times able to co-ordinate action against them, but at no time were all the major navies working together to curb the threat. The possibilities of ‘using’ the principalities to gain political and mercantile advantages were greater than the desire to be rid of them once and for all (*ibid.*). The fight against the typical pirates, in particular the Caribbean and Atlantic ones, faced fewer such hurdles. From Gentili, pirates were defined as the enemies of all mankind, and with increasing world trade and increasing British naval force from around 1700 followed a push to eradicate piracy. Although the British navy was quite clearly the leading one in the fight, French, Spanish, Dutch and Portuguese forces were often also involved, and even if outright co-operation in battle was not common, there would typically be exchange of

information and news. The joint condemnation of pirates as being the enemies of mankind gave a joint normative purpose to the hunt for them. By 1725, the classical pirates were all but eradicated in the Atlantic, even though a new outbreak in the aftermath of the Latin American wars of independence also had to be handled, and gradually piracy was combatted in other oceans as well.

While privateering faced less normative condemnation than piracy, the growing power of the norms of sovereign control and the many complaints against unchecked privateering implied a growing normative pressure for its abolishment. The Treaty of Paris (1856), outlawed privateering, and even non-signatories (like the US) adhered to it. If at first providing a field for the growth and spread of legal thinking about relations between entities, and what comes close to an international regime regulating privateering, with the rise of the territorial national states, the regulatory regime lost out to prohibition.

Apart from the imperial forces, mercenaries fell victim to the same kinds of pressure. Building on the existing distrust of mercenaries, states in the aftermath of the American and French revolutions gradually moved towards citizen armies. As discussed by Percy (2007) this move has been explained by material changes, the ideational preference (bolstered by nationalism) for citizen armies and by domestic politics; her compelling argument is that in addition to these factors, the further development of a wider norm against mercenarism was crucial to the system-wide adoption of citizen armies. The movement was twofold – states on the one hand reduced, and later stopped, recruiting foreign nationals, on the other hand they also enacted laws prohibiting their own citizens to enlist in foreign armed forces. Although there have been obvious exceptions to the rule, the norm of non-use of mercenaries and the ideology of citizen soldiers persisted through most of the twentieth century.

Forms of systemic interaction

The systemic application of private force was couched in a normative and legal framework, and upheld by specialized institutions (like prize courts). However, private force also influenced more general forms of systemic interaction, in effect fuelling the tighter integration of the system. Interestingly, these consequences were largely unintended.

Of particular interest in this respect is the wider system of interaction set up around privateering. As noted above, the increase and spread of privateering necessitated the establishment of prize courts in colonial outposts. However, if far from their home base, privateers would also regularly seek neutral ports. This in turn necessitated some sort of representation in these ports, both for polities outfitting privateers and for polities having their ships captured (Leira and de Carvalho 2010). These representatives, typically consuls, would protect the interests of their sending polity in local court proceedings, support privateers, ransom captured sailors, arrange for prisoner exchanges and in general facilitate interaction. Typically, such consuls would remain after the cessation of hostilities, continuing to protect the interests of their sending polity. Likewise, in the north African principalities, the constant influx of slaves and the need to provide constant gifts for the maintenance of peace led to a permanent diplomatic presence. Thus, privateering led to a gradual increase in the density of networks of information and interaction, functionally tying the system closer together.

Conclusion

This chapter has presented the case for the importance of private force to the gradual emergence of the international system which we live in today. Private force – and the reaction to it

– was central to the emergence of the system as a system, it helped spread the system from Europe to the rest of the world, it underpinned the system as a system of empires, it played a central part in the development of norms and rules of interaction and it spawned further systemic institutional developments.

However, the argument is not that private force somehow made the modern international system. Rather, I have stressed how private force has tended to be ignored in accounts of the international system; private force has been viewed as something negative, and primarily something to be eradicated through processes of state-building. In contrast, I suggest that private force, as a boundary-crossing or boundary-challenging phenomenon, must necessarily be studied in a systemic perspective. Likewise, the system can profitably be studied through the lenses of private violence. What thus emerges is a picture of a system where private violence played an integral and productive part to the gradual systemic development. Our accounts of both the system and of private violence become better through studying them together, rather than separately. There seems to be little doubt that this is also the case for current affairs, and the historical record should thus provide ample inspiration for studying both the systemic effects of the current growth of private force and the systemic character of this private force. It obviously also helps that the historical record provides for a fascinating read; raise the black flag!

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