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Making of States, c. 1100–1500*

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Benjamin de Carvalho

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# *Private Force and the Making of States, c. 1100–1500*

Benjamin de Carvalho

Understanding the role of private force in the making of states poses quite a conundrum. The current use of the term ‘private force’ is irremediably associated with the state, and when we refer to private force, we do not mean the use of force in the private sphere – private violence, so to speak, as opposed to violence in public display. Instead the term describes force wielded by private actors as non-state actors. The concept of private force is therefore unthinkable without the concept of the state, as it is precisely the emergence of the state that is the condition of possibility of private force. To be sure, we may find examples of force used by ‘non-rulers’ before the emergence of the state. Yet, that force is not similar to private force after the emergence of states as autonomous moral universes covering the entirety of the globe. In this world, force wielded by private actors is by definition non-state, and if not condoned by it, a *de facto* and *de jure* challenge to the authority of the state.

This chapter shows how the distinction between the public and the private emerges with respect to the use of force in conjunction with the long rise of the state in Europe. As Patricia Owens has convincingly argued, there is no a priori public or private violence, as violence ‘is made public or private through political struggle and definition’ (Owens 2010: 32). Through a conceptual historical account of the organization of warfare through the five centuries of consolidation and centralization of power which crystallized in the sovereign state, I show that ‘[s]ome forms of violence are *made* public and others are *made* private through historically varying ways of organizing and justifying force’ (ibid.: 32). Echoing Peter W. Singer (2008), Owens draws attention to the fact that the distinction between private and public violence has never been ‘solidly fixed’ (Owens 2010: 18). In drawing a historical conceptual analysis of the changing organization of military power in the making of states, I show why we need to take an empirical rather than an ideological approach to the distinction between different types of force, as only then can we hope to understand why and for what purpose power was organized in specific ways, and the consequences of that organization.

The chapter takes as its starting point the late eleventh century, a period when public authorities had been decimated throughout Christendom and where kings no longer held the aura of public authority, but were (private) contestants for public authority on equal footing with their competitors. Both public and private force was private, so to speak. I proceed in five sections. The first addresses the relationship between war-making and state-making, a relationship which is central to much of the literature on state formation and to our further discussion.

The next three sections address the chronology of changes in the organization of force, and move from warfare as a knightly (largely) private enterprise to the wars of mercenaries, culminating in the early attempts at holding standing permanent armies around the late fifteenth century. The claim is not that this process was linear or inevitable, and, as demonstrated in the last section, the centralization of the legitimate means of warfare in the hands of public authorities did not mean the end of private enterprise in a world of states. Rather, private enterprise continued alongside public force, albeit in a different character.

### **Force in the making of states**

The link between states and war is well established, and there is little doubt that wars have had an important impact on state formation in Europe (see Davis and Pereira 2008; Pereira 2008). Charles Tilly's *Coercion, Capital and European States* (1992), for example, has shown how the requirements of warfare forced states to consolidate their administrative and economic apparatus, and institutionalize the practice of war as an intrinsic part of the state. But the link between violence and the state is not just empirical. Violence is central to the state also at the conceptual level. As Max Weber put it:

If no social institutions existed which knew the use of violence, then the concept of 'state' would be eliminated ... Force is a means specific to the state. Today the relation between the state and violence is an especially intimate one ... We have to say that a state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory. (Weber 1963: 78)

This monopoly of legitimate violence in turn rests on a specific distinction between private and public property, a separation that first emerged during the Middle Ages. It is important to keep in mind, though, that although we can trace this distinction back to the Middle Ages, private and public force operate, and have operated, differently at different times and places. What is central to Weber's ideal type of the state, is that its central characteristic is the legitimate monopoly of the use of force. The key impetus behind this monopolization came during the Middle Ages, which saw an increasing tendency of states to monitor, control, and monopolize the effective means of violence in (what was to become) their territory. Illustrating this process is the fact that nobles lost their right to wage private war (Tilly 1992: 68–9). In fact, as Norbert Elias has noted:

The society of what we call the modern age is characterized, above all in the West, by a certain degree of monopolization. Free use of military weapons is denied the individual and reserved to a central authority of whatever kind ... The financial means thus flowing into this central authority maintain its monopoly of military force, while this in turns maintains the monopoly of taxation. (Elias 1996: 345–6)

While this is a fairly obvious state of affairs to the contemporary commentator, this was not the case in early medieval Europe. In fact, at the beginning of the twelfth century, the disintegration of the Roman Empire had resulted in a mosaic of fragments counting 'hundreds of principalities, bishoprics, city-states, and other authorities [exercising] overlapping control in the small hinterlands of their capitals' (Tilly 1992: 40). The story of the formation of the

modern state is the story of how this process was reverted; how the pieces of the European mosaic increased in size and decreased in number.

By the end of the eleventh century, this transformation was far from completed. Great autonomy was exerted by the feudal lords, and ‘each castle in the country had become a center of rule independent of the [ruler’s] castle’ (Poggi 1978: 26). The kings of twelfth-century Europe were *primus inter pares*; they were the most powerful of the princes, but not strong enough to hold all their rivals in check. In twelfth-century Europe, heavily armoured knights were exercising direct lordship over nucleated peasant villages, and, final authority lay not with the king, but with the feudal lord, duke, count or baron (Stacey 1994: 29; Strayer 1973: 49–50). The inherent trend of feudalism towards fragmentation of power to the advantage of the vassal fief holders had led to the erosion of the landed patrimony of the kings, who by the twelfth century ‘had learned to conceive of the territories they ruled as their own [family] patrimonies’ (Poggi 1978: 35). In short, the starting point for the political centralization of the state was the private estates of rulers, in fierce competition with feudal rivals.

Thus, in order to maintain their fragile position as *primus inter pares*, the king engaged in ‘private wars’ against the other *seigneurs* of the country. The resulting trend towards the creation of a criss-crossing pattern of competing power networks, where rival lords and kings claimed sovereignty over the same territories had created a situation often referred to as ‘feudal anarchy’ (ibid.: 27, 31), where even the smallest knights ‘retained the rights and functions of rule within their estates; here they continued to hold sway like little kings’ (Elias 1996: 317). In these early times of state-building, the basis for the king’s power, as well as the resources he could draw on in order to fight the neighbouring barons or princes and assert his power, were his private family possessions (ibid.: 281). I will concentrate on the period between approximately 1100 and 1500, as this period marks the beginning of the era of the supremacy in combat of the mounted knight, while 1477 saw the collapse of the duchy of Burgundy, the last feudal alternative to the state. The end of the fifteenth century also witnessed a change in the political atmosphere in Europe: the economic situation was improving after the end of the Hundred Years War (1337–1453), and the frequency of warfare was declining. In so doing, I will account from how war changed from being a largely private matter to increasingly becoming the sole prerogative of the ruler. By successfully reforming the ways wars were fought, centralizing rulers were able to win the power contest against their feudal rivals, and reform a conduct that counteracted political centralization (see Avant 2000).

### **Social order and the medieval knight, c. 1100–1300**

While the early medieval period saw attempts at political centralization frustrated by private war making, it simultaneously marks the beginning of a number of processes that came to curtail the war-making rights of private knights. In fact, the early Middle Ages experienced important changes in the ideas about war. Between the year 1000 and the beginning of the twelfth century, Europe witnessed what amounted to a large-scale ‘peace programme’: repression of pillage, the birth of chivalry, the formation of the idea of the crusade and modification of the relationship between the powerful and the poor. In large part, the drivers behind these reforms were a ruling class, which now identified more closely with the need for order than their rights to wage war. Ecclesiastical efforts also ran in parallel with this, leading to the emerging chivalric code of conduct. Where knighthood had appeared from the early 1100s as an amalgam of military profession and social rank prescribing the behaviour of its adherents in both peace and war, the bearing of arms was increasingly ‘seen as a noble dignity connected

with a code of conduct, the violation of which might cost a man his status as a warrior' (Stacey 1994: 29–30).

Moreover, knighthood, with all its prescriptions of conduct, became a way of life for the medieval warriors. War in the Middle Ages was thus waged between members of the same class, who regarded each other as equals. This entitled them to certain privileges, for example the right to be ransomed – and not killed – if captured in war, but also bound them by obligations towards humane conduct towards prisoners of similar social rank. During war, these warriors gained honour and reputation on the battlefields, and during peaceful times tournaments gave them the opportunity to show their prowess in combat. But although the norms and ideals of chivalry emerged in the early Middle Ages, few attempts were made to record them systematically before the end of the thirteenth century. At this time, didactic treatises on warfare, military discipline and the organization of armies began to appear (Contamine 1984: 119). Examples of these are *Enseignements et ordenances pour un seigneur qui a des guerres et grans gouvernements a faire* (1327) by Theodore Paleologus, *L'arbre des batailles* (c. 1387) by Honoré Bovet, *Le livre des fais d'armes et de chevalerie* (1410) by Christine de Pisan and *Le Jouvencel* (c. 1470) by Jean de Bueil. Advocating honourable and virtuous conduct, these treatises also set forth to reform the role of the knight, turning the emphasis away from virtuous conduct in battle per se, to the virtuous qualities of 'public service'. In *Book of Order and Chivalry* (c. 1310) Raymon Lull makes the case that force must be put in public service: 'To a knyght appereyneth that he be lover of the comyn wele. For by the comynalte of the people was the chyvalrye founded and establysshed. And the comyn wele is gretter and more necessary than propre good and specyall' (cited in Vale 1981: 22–3). These treaties, in turn, were closely linked to the emerging state rulers. In fact, many were initiated by the rulers themselves, as their authors were either at the service of the kings, or eager to receive or retain their protection.

In addition an emergent body of military regulations and ordinances sought to regulate the relationship between private force and public service. Based on the treatises, ordinances were sent to the captains of most armies throughout Europe. *Estatutz, ordenances et cusutmes a tenir en l'ost* was issued by Richard II in 1385, and *Statutes and Ordinaunces to be keped in time of Werre* was published by Henry V in 1419; in Italy Orso degli Orsini drew up the *Governo et exercitio de la militia* for Alfonso I the Magnanimous of Aragon in 1447 (Contamine 1984: 119–21), and towards the mid-fifteenth century, the tract on *The Way Soldiers Dress in the Kingdom of France Both on Foot and on Horseback* was issued. During the same period, it also became common to issue a general edict announcing the disciplinary orders to each army at the moment it assembled. In these ways, private force was increasingly tied to public loyalty and institutionalized in uniforms and insignia borne in battle, symbolizing loyalty to the king. By the same token, private force was legitimized through its public utility. As Strayer (1973: 56) put it, 'loyalty to the state became more than a necessity and a convenience; it was now a virtue'.

Institutionalizing these new rules and regulations was not a straightforward process, and attempts at reforming the ideals of chivalry were often met with resistance from a warring class which had the *chevalier errant* (or roving knight), whose vocation was the pursuit of just quarrels, as its ideal. However, this aspect should not be overemphasized, as a large part of it is a fiction cast upon it by later writers. In fact, one should not leave from sight the fact that throughout the medieval period, money was the almost obligatory link between soldiers and authority, and that this is precisely what plunged Europe into a vicious circle of violence. From about 1250 to 1450, private armies of mercenaries, who made a living by plunder when they were not employed, ravaged most of Europe. The Great Companies spread terror in France and Spain, the Free Companies pillaged Italy and the Ecorcheurs ('skinners') ravaged France and the Western part of Germany. As one medieval commentator complained: 'I see all Holy

Christendom so tormented by wars and divisions, robberies and dissensions that one can scarcely name a petty province, be it a duchy or county, which enjoys peace' (Contamine 1984: 90, 123–5).

### **The wars of the mercenaries, c. 1250–1450**

The two last centuries of the Middle Ages saw little peace, as the professional soldier of the period was far from responsive to arguments concerned with public duty and common good. No matter if they fought because of feudal duty or wages, ransom and booty provided a major incentive for the medieval knight to wage war. The emphasis on private economic gain in warfare can be traced back to the law of arms, as knightly customs revolved around two fundamental propositions. Firstly, as Maurice Keen underlines, 'soldiering in the age of chivalry was regarded as a Christian profession, not a public service. Though he took up arms in a public quarrel, a soldier still fought as an individual, and rights were acquired by and against him personally, and not against the side for which he fought' (cited in Stacey 1994: 31). Every knight participated in wars with his own horse and equipment at his own risk. Thus, the medieval knight fought on his own, and not as a servant of the state. Secondly, the law of arms was of a contractual character, stipulating that serving in a war gave a right to a share of its profit. This right was legally enforceable and was judged by special courts, such as the Court of Chivalry in England and the Parliament of Paris in France. These profits were gained chiefly through pillaging, plunder and ransom.

The effectiveness and discipline of force depended largely on how well paid the soldiers were. Without reasonable wages, soldiers would use their power in their own private interest, even when under service of the prince. In the treatise on warfare *Le Jouvencel*, Jean de Brueil complained about the perfect lack of discipline in the armies, and the ease with these armies could dissolve into hordes of brigands and pillagers (Vale 1981: 164). In a system where 'public' force consisted of hired private individuals and groups on an ad hoc basis, the end of warfare often resulted in a surplus of large companies of men trained to fight and armed to the teeth. These soldiers 'either dissolved or formed a small and dangerous private army under the captain who had recruited them. Such 'free companies' were completely uncontrolled by any governmental agency' (Strayer 1973: 85). During the thirteenth and fourteenth centuries, Europe was constantly either at war, or threatened by these armies of uprooted mercenaries who had turned to brigandage and private wars, and whose loyalty lay with private captains rather than with public authorities (Vale 1981: 155).

Private force was a widespread threat to the public peace, and also frustrated the attempts at centralization of power. Efforts to eliminate private wars, and the introduction of the idea of waging war on behalf of the public good were intended to limit pillage and banditry during war, but also to generate peace. Thus, the popularity of treatises such as *L'Arbre des Batailles* or *Le Jouvencel* among military leaders who were seeking to create disciplined chivalries is easily understandable, especially when contrasted with the medieval knight 'engaging in spontaneous acts of individual prowess' (Allmand 1976: 18). These manuals not only emphasized that soldiers should go nowhere at all without the license of the military commander, but also introduced the idea that paid soldiers were entitled neither to booty nor to ransom, and that those who went to war to pillage, were not to receive wages. This idea was crucial to the later public monopolization of warfare, as it introduced the idea of the soldier as a public servant bound to obey his paymaster, rather than fighting his own private battles. Theretofore, feudal knights and smaller barons had profited of declared wars between kings to fight each other, with the result that it was often difficult to see on which side they were fighting.

Illustrative of this is Robert Stacey's summary of the Hundred Years War:

in the extraordinary confusion...it was sometimes extremely difficult to tell who the prince was in whose name the various free companies, local lords, and wandering gangs of outright extortionists were in fact fighting. That they fought in the name of some prince mattered: without princely sanction their war was not a public one, and so by the law of arms they acquired no legally enforceable title to the ransoms and booty they captured. (Stacey 1994: 32)

The kings gradually claiming the profits of war for themselves, the knights and smaller barons were now losing what had been an important incentive to wage war.

While the medieval period witnessed a widespread *de jure* confusion in terms of who had the competent authority to wage war, there was increasingly a *de facto* monopolization of the means of war by greater lords and kings who controlled their territories in a quasi-sovereign manner. As such, while public authority did play a part in defining who had the right to wage war, and while there was an increasingly clear understanding of who was sovereign and who was not, there was still no 'absolute polarity between public and private warfare. The realities of power were simply too complex' (ibid.: 32). This is not to say that medieval warfare happened within a complete absence of rules, but rather to emphasize that the rules guiding warfare at the time were in place less to define the distinction between public and private than to 'protect the rights of the individual soldiers who joined in the fighting wherever they might choose to fight' (ibid.: 39). As individuals could no longer take part in looting wherever they wanted, a share in the plunder of war gradually came to depend on soldiers being duly enlisted on an army muster list and 'as the costs of war rose ever higher, only kings and a few other great lords could afford to maintain such a force' (ibid.: 32, 39).

By the fifteenth century, more or less successful attempts to restrict private war had been made by the kings of England, France, Castille and Aragon, whereas the German and Italian nobles still retained that right almost entirely to the extent that 'the feudal right of the noble to engage in private war whenever he considered justice to have been denied him existed [now] in direct proportion to the lack of central authority' (Allmand 1976: 27). Moreover, the introduction of permanent armies during the very end of the fifteenth century was not only the result of the evolution of institutions, a higher level of economic activity, or even improved systems of taxation. The standing armies were also a product of changes in the attitudes towards war. One of the conditions of possibility of their emergence were changes in the social function and role of the warring classes; from private feudal lords to servants of the public interest of the sovereign. In other words, the king's war had to become the kingdom's war, and rulers such as Charles VII of France were towards the mid-fifteenth century actively trying to break the privileged allegiance of the soldiers to certain princes or lords, and were now claiming for themselves alone the right to wage war (Contamine 1984: 168–9).

### **Towards permanent armies, c. 1450**

A strong demand for soldiers led to an overflow of mercenaries, and the limited resources for wages at the ruler's disposal could only strengthen their dependence on pillaging. This changed somewhat as rulers started to maintain under arms a certain number of soldiers, even in times of peace. This increasingly shifted the power from private warring groups and feudal lords towards centralizing (state) rulers. As Norbert Elias (1996) noted, the kings of larger states such

as France or England for a long time had internal rivals to their power; princes or barons that had some sort of claim to rule, and against whom they had to defend and strengthen themselves. This is echoed by Tilly, who argues that within ‘any particular state ... local and regional powerholders have ordinarily had control of concentrated means of force that could, if combined, match or even overwhelm those of the state’ (Tilly 1992: 69). It was this balance that was shifting at the end of the fifteenth century. Slowly the rulers of Europe were starting to gain terrain over their rival barons and dukes. Once the principle was generally accepted that only the king had the right to make war – and prevent others from doing so – it had to be admitted also that only soldiers in the king’s service or under his license were permitted to bear arms. Thus, together with a build-up of the ruler’s permanent armies, the disarmament of the nobility increased the power of the sovereign over his earlier rivals.

Yet one should not overemphasize the importance of this in practice, as the level of discipline of the fifteenth-century standing armies was initially not very different from their predecessors. A number of measures were therefore introduced which aimed to increase the discipline and corporate identity of these armies. In 1473, the Burgundian army was the first to be differentiated by insignia that had no connection with social status. The role of the individualistic knight was thus more and more downplayed in the armies of the fifteenth century. As emphasized by Tilly (1992), the maintenance of a regular army required more resources and thus the introduction of new taxes. By the end of the fifteenth century, the *taille des gens de guerre*, a temporary tax levied in order to be able to pay mercenaries to stop them from plundering that had been introduced after the Hundred Years War, had become a permanent tax in France (Howard 1976: 18). As expenses related to the permanent maintenance of armed forces increased, only kings had resources to maintain standing armies. Warfare was now not only an activity reserved for the emerging states, but also an activity that was demanding increasingly higher resources. By maintaining larger standing armies, the business of war became the *de facto* and *de jure* monopoly of the state; noble knights and barons were losing both their right to engage in private warfare as well as the resources necessary to do so. The monopolization of warfare contributed to the centralization of power in the state. The fact that one now had to be enrolled on the official muster list of an army in order to get any share in plunder was a strong blow to the feudal knights and lords, for whom ‘the only way [to] get hold of more than the produce of their own fields was by plundering the fields of others ... and ransoming prisoners of war’ (Elias 1996: 317). Eliminating in part the economic rationality of war for the private competitors of the emerging states thus weakened their economic foundation and socio-political function. The king was now taking control of the checks and balances typical to feudalism. Unconditional loyalty to the kingdom – the last blow to the feudal independence of the nobility – was finally achieved by drawing the knights to the royal courts.

## Conclusion

The state’s claims to monopolize the legitimate means of violence did not emerge *ex nihilo*, but was rather the result of a long process through which private force was increasingly bound to public service. The claim of the monopoly of the armed forces was not effective as long as the territory was constantly pillaged by roving companies of bandits. For a long time, rulers’ claim of the monopoly of the right to make war conflicted with the fact that large portions of the population were constantly under arms. By establishing regular standing armies the king could now put an end to the plundering of mercenaries in peacetime through fighting them, but also by eliminating their appearance at the end of wars – since the king’s soldiers now kept their functions also in times of peace.



The nobility had now lost its economic incentives and possibilities to wage war, and was increasingly losing its function as warriors. The warrior nobles were also losing their rights to bear arms; a right now reserved to the soldiers of the state – mostly laymen by the end of the fifteenth century. Revolutions in the practices of war such as the increased use of artillery also tipped the balance in favour of large states, which were the only ones to possess the resources to maintain sizable standing armies. Warfare was becoming a public business; a business assumed by soldiers no longer recruited from the nobility. Janice Thomson (1994) has argued that the rise of the sovereign state happened with the elimination of private violence. Her argument, in short, is that the emergence and enforcement of the idea of sovereignty as a new geo-spatial conception of politics led states, willingly or unwillingly, to address the ‘problem’ of private force, and in the end eliminate it. In her account, the state rose on the ashes of private violence, so to speak. It was the process of eliminating private force, by nationalizing armies on land and outlawing privateering at sea that led to the consolidation of a specific type of polity, the state. Yet, the fact that states increasingly became the only units able to legitimately wage wars does not mean that private force disappeared. Contrary to Thomson’s argument, there is no necessary linearity to such long-term processes, and the public monopolization of the means of violence did not bring the demise of private force altogether. As Tarak Barkawi (2010) has reminded us, even long after the age of nationalism, states came to draw upon foreigners for their armies. Moreover, as this chapter argues, and as shown throughout this Handbook, distinctions between public and private force vary across time and place, and we should avoid seeing the two in straightforward opposition, but rather as intertwined. Private force continued to play a role in international politics long after the consolidation of the state: states used privateers in a wide range of settings for centuries (Leira and de Carvalho 2010), states sponsored private military companies in the wars of religion (de Carvalho 2003, 2014), and private enterprise was, paradoxically enough, the central component of most (state) colonial ventures in the Atlantic (de Carvalho 2015; Chapter 4, this volume). As such, the sovereign state did not emerge as private force was eliminated. Rather, it emerged as the role of private force changed, and as it was re-intertwined with public force in different ways.

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