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## LORDSHIP AND VILLEINAGE BEFORE THE BLACK DEATH: FROM KARL MARX TO THE MARXISTS AND BACK AGAIN

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For well over a hundred and fifty years assiduous attention from medievalists and a wide range of scholars from other periods and disciplines failed to produce a lasting consensus on key characteristics of the relations between lords and villeins. Far from chronicling a steady progression towards a common understanding, the historiography of the subject since the mid-nineteenth century has exhibited a succession of sharp oscillations in opinion and interpretation as changing intellectual fashions and revisionist campaigns propelled the rise and fall of a range of divergent and conflicting hypotheses. Moreover, despite generations of study and the richness of the documentation available to protagonists, the last quarter of the twentieth century witnessed a surge in the heat of a debate that has only recently cooled. This makes the study of the historiography of villeinage and lordship worthwhile, although at times it reveals as much about the predilections of historians and the practice of history as it does about the nature of these classic medieval institutions.

Before commencing a reconstruction of the chronological sequence of the major writings on the subject it is salutary to note that issues that sparked enduring contention among generations of historians were being disputed over seven

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centuries ago when villeinage was in its prime. In the early fourteenth century a reader studying a copy of *De Legibus et Consuetudinibus Angliae* seems to have become so perturbed with confident pronouncements by the authors<sup>1</sup> that the denial of protection to the unfree by the royal courts meant that they held their lands entirely at the will of their lords and therefore were liable to be denied their inheritances and evicted, that he recorded his fundamental disagreement by writing in the margin:

Item usque ad tertium gradum inclusive illi de parentela et sanguine villanorum, sive mares fuerint sive feminae, succedent iure hereditario in terras et tenementa villanorum. Et si per iniquum dominum seu ballivum eiciantur, iniuriatur eis in hoc, quia legem suam habent ut liberi homines suam.<sup>2</sup>

Also, as far as the third degree inclusive, those of villein kinship and blood, whether they will have been males or females, succeed in land and tenements according to the inheritance law of villeins. And if they are evicted by an unjust lord or bailiff, they are wronged in this, because they have their law as freemen have theirs.

This intriguing contemporary dispute neatly crystallizes a debate about the extent to which lords exercised the powers granted to them by the royal courts that has persisted ever since. The sharply conflicting positions adopted by the lawyers who compiled *De Legibus* and the commentator exemplify how much the differing perspectives of the two parties determined their judgments. The common law was what mattered most to jurists, lawyers, and legal theorists, and since villeins had no access to the royal courts it ineluctably followed that they had no defence in law against their lords. However, what mattered most to our commentator, and to the unfree themselves, was not what would happen in the king's courts if a villein should attempt to plead a case there, but how villeins were treated on a daily basis in manors across England.

The authors of medieval legal texts and practitioners in royal courts, faced with the formidable task of laying down the principles of a new system of law based on a set of simple criteria and categories, had no wish to compromise the clarity of their message by acknowledging the respect for custom and the diversity of conditions of unfree tenure that proliferated all around them. What was material to them was that lords could lawfully increase rents, services, and

<sup>1</sup> Although Henry Bracton is no longer believed to be the sole author of *De Legibus et Consuetudinibus Angliae*, for convenience his name will be used in the text.

<sup>2</sup> This comment is written in a copy of Bracton in the Cambridge, MA, Harvard Law School Library (HLS, MS 1, fol. 8<sup>v</sup>). It is cited but not discussed in Pollock and Maitland, *History of English Law*, I, p. 416, n. 2.

finer; extract arbitrary tallages; seize goods and evict at will — not whether they commonly chose to do so. Thus, at a time when the conditions of villein tenure were steeped in custom and increasingly being spelt out in writing by lords and their agents, Bracton instructs that ‘all men are either free or serfs’, Britton deems that ‘whosoever is a bondsman is as absolutely a bondsman as any other’, and the *Mirror of Justices* proclaims that serfs ‘hold only from day to day at the will of their lords and for no certain services’.<sup>3</sup>

It is only rarely that everyday practice intrudes into the legal texts, and it is only in passing, and somewhat reluctantly for a work whose title embraces customs as well as laws, that Bracton mentions that ‘the power of custom and long use is not slight’ and that ‘the English have many things by custom which they do not have by law’.<sup>4</sup> A great deal of confusion was bequeathed to later generations of historians by this understandable partiality and with it a legacy of controversy that has persisted to the present day.

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There was little hard evidence available to Karl Marx when he addressed the relations between lords and their unfree tenants in the feudal period, but this did not stop him drawing firm conclusions. In the 1870s when Marx was writing the third volume of *Das Kapital*, which contains his most extended commentary on these matters, the weight of historical opinion followed the letter of the common law by assuming that lords exercised the powers it bestowed on them to impose oppressive and capricious exactions of rent and property on their unfree tenants.<sup>5</sup> But Marx was convinced that a society based on the ruthless and arbitrary expropriation of the product of the peasant class was unsustainable and that the relations between medieval lords and serfs were instead firmly entrenched in custom and tradition.<sup>6</sup> Although Marx’s analysis covers issues at the heart of lordship and villeinage it has been strangely neglected in subsequent debates and so is worthy of extended quotation:

Since the direct producer is not the owner, but only a possessor, and since all his surplus-labour de jure actually belongs to the landlord, some historians have expressed

<sup>3</sup> Pollock and Maitland, *History of English Law*, I, pp. 412–14; *The Mirror of Justices*, ed. by Whittaker, p. 75.

<sup>4</sup> Bracton, *De Legibus*, ed. by Woodbine, trans. and rev. by Thorne, II, p. 22; *Select Cases in Manorial Courts*, ed. by Poos and Bonfield, p. xxix.

<sup>5</sup> The third volume of *Das Kapital* was first published eleven years after Marx’s death in 1894.

<sup>6</sup> Marx, *Capital*, III, ch. xlvii, ‘Genesis of Capitalist Ground-Rent’, esp. pp. 793–96.

astonishment that it should be at all possible for those subject to enforced labour, or serfs, to acquire any independent property, or relatively speaking, wealth under such circumstances. However, it is evident that tradition must play a dominant role. [...] It is furthermore clear that here as always it is in the interests of the ruling section of society to sanction the existing order as law and to legally establish its limits through usage and tradition. Apart from all else, this, by the way, comes about of itself as soon as the constant reproduction of the basis of the existing order and its fundamental relations assumes a regulated and orderly form in the course of time. [...] If this has continued on for some time, it entrenches itself as custom and tradition and is finally sanctioned as an explicit law.<sup>7</sup>

Although Marx acknowledged that the extraction of rent in the last resort rested on force he did not put coercion and caprice at the heart of lordship. On the contrary, in direct contrast to the majority of historians of his own day as well as many of his later followers, he argued that custom exercised a powerful restraint over the amount of rent the unfree paid, rendering it 'a constant magnitude, legally regulated by prescription or written law'.<sup>8</sup> Marx also saw relative advantages for the unfree in the system of labour rent, making three points in support of this contention: first, the serf enjoys fixed obligations of, say, two days per week; second, these labour dues are reasonable for they constitute 'a much smaller portion of the direct producer's total labour than under developed modes of production, particularly the capitalist mode of production'; and third, the serf has free time to work for his own advantage and this 'will spur him on to a greater exertion of his labour-power' to serve the market, satisfy new wants, acquire wealth, and so on, thereby opening up 'the possibility [...] for definite economic development taking place'.<sup>9</sup> Engels, who devoted more detailed attention to the feudal period, expanded on the relatively favourable conditions enjoyed by the unfree and in particular the tendency 'for fixed peasant burdens to become lighter as time went on' and for their freedoms to increase. As a consequence, he argued, lords were unable to increase their incomes by raising the burdens on existing serfs, and when they sought to derive additional revenue by encouraging the expansion of cultivation and the creation of new tenancies they did so by 'friendly agreement with the colonists, whether villeins or free men'.<sup>10</sup>

<sup>7</sup> Marx, *Capital*, III, p. 793.

<sup>8</sup> Marx, *Capital*, III, p. 794.

<sup>9</sup> Marx, *Capital*, III, pp. 793–94.

<sup>10</sup> Hobsbawm quoting Engels in Hobsbawm, 'Introduction', p. 55.

Although Marx and Engels characterized class struggle in history as the 'the great driving force of historical progress' and the historical process as a series of class struggles, they made little attempt to apply such a dynamic to the Middle Ages.<sup>11</sup> It was not until much later that claims began to be made that conflict between lords and tenants was a dominant and abiding feature of the Middle Ages and a main driver of the crisis of feudalism and the transition to capitalism.<sup>12</sup>

What Marx and Engels had determined largely by insight and intuition was soon to receive empirical support from English historians. Thorold Rogers in 1884 used his general knowledge of manorial records gained from gargantuan efforts compiling price and wage data and the particular example of Cuxham manor to conclude that the arrangements between lords and their unfree peasants were 'very far removed from the ideal state of villeinage which is described in our law books, and has been incautiously accepted by those who have written on the social state of England'.<sup>13</sup> Four years later W. J. Ashley was even more forthright, announcing in his pioneering economic history of England that 'it will be well to restrict our view to the evidence furnished by custumals and rentals and to pay no regard to the definitions of the lawyers' and complaining of 'The collision between legal maxims and the plain matter of fact [...] [that] has created so many difficulties'.<sup>14</sup>

Paul Vinogradoff's *Villeinage in England*, published in Russian in 1887 and English in 1892, marked a massive advance in the understanding of the institution and the evidential base for investigating it.<sup>15</sup> One of many strengths of Vinogradoff's study is its combination of a lawyer's appreciation of the common law with knowledge of estate documents that 'were intended to describe the matter-of-fact conditions of actual life'.<sup>16</sup> In order to make 'comparison between the views of lawyers and the actual facts of manorial administration', Vinogradoff divided his analysis of the condition of the peasantry into two parts, putting on one side records of trials in the king's court and the doctrines of lawyers based on them, and on the other records compiled by estate officials.

<sup>11</sup> Rigby, 'Historical Materialism', p. 488.

<sup>12</sup> See below.

<sup>13</sup> Rogers, *Six Centuries*, p. 44. Rogers named Henry Hallam (1777–1859) as one of the mistaken historians.

<sup>14</sup> Ashley, *English Economic History*, I, pp. 19–20, 38.

<sup>15</sup> Hilton termed this book 'The pioneer work on the subject, by no means superseded': *Decline of Serfdom*, p. 63.

<sup>16</sup> *Villeinage in England*, pp. 138–39.

Then, when he had satisfied himself of the robustness of the manorial evidence he had collected and addressed the methodological problems involved in making generalizations from a bewildering mass of local detail, he resoundingly concluded that 'the fundamental positions of legal doctrine we find opposed in daily life to the all-controlling rule of custom'; that 'the rule of common law dwindles down in daily life to a definition of power which may be exercised in exceptional cases'; and that '[e]verywhere customs arise which defend the villeins from capricious extortions on the part of the lord and steward'.<sup>17</sup>

Vinogradoff's researches in estate archives left him in no doubt that the impact of the common law on the conditions of the unfree peasantry was slight and that the system of customary rules he found on manors 'effectively provided against general oppression'. Echoing Engels, Vinogradoff also concluded that changes in the system were not the result of 'one-sided pressure on the part of the landlords, but of a series of agreements between lords and tenants'. Finally, like Marx, Vinogradoff believed that 'the impositions to which the peasantry had to submit left a considerable margin for their material progress'.<sup>18</sup>

F. W. Maitland's brilliant elucidation of the common law of villeinage was published just three years later in *The History of English Law*, a work to which all interested in this field still turn in search of guidance. However, it failed to offer straightforward advice on many matters of prime concern to economic and social historians. It is not a matter of blame that a book written by professors of law and devoted to the history of law should follow in the footsteps of medieval lawyers by viewing history primarily from the perspective of the common law. However, in this seminal work Maitland also tried to address the realities of villeinage on the ground, and it is these diversions that muddled the clarity of his exposition of the law and helped sow confusion among the historians who followed him.

For example, early in his discussion of unfree tenure Maitland wrote, 'tenure in villeinage is protected, and if we choose to say it is protected by "positive morality" rather than by "law properly so called", we are bound to add that it is protected by a morality which keeps a court, which uses legal forms, which is conceived as law, or as something akin to law'. In support of these sentiments he added, 'A good proof that the lords in general felt themselves bound more or less conclusively by the terms of the customary tenures is to be found in the care that they took that those terms should be recorded'.<sup>19</sup> And yet, just a lit-

<sup>17</sup> *Villeinage in England*, pp. 212–13.

<sup>18</sup> *Villeinage in England*, p. 312.

<sup>19</sup> Pollock and Maitland, *History of English Law*, I, pp. 361–62.

tle further on, when his attention turned to instances of lords increasing the services and rents of their unfree tenants, Maitland maintained, 'We cannot contend therefore that the lord's will was fettered by rigid custom, or that any man conceived it ought to be so fettered'.<sup>20</sup> In Maitland's next chapter, entitled 'Unfree Status', ambiguities and contradictions reappear as resounding statements trumpeting the supremacy of the common law are subsequently undermined by others asserting that lords rarely acted in accordance with the rights it bestowed on them. Thus, on the one hand, the reader is told that, 'As against his lord the serf can have no proprietary rights'; that the serf 'was a *servus* and his person belonged to his lord'; that 'he was merely a chattel of his lord to give and "sell at his pleasure"'; and that 'any moveable goods that he has, the lord may take these to himself'.<sup>21</sup> While, on the other hand, the reader is also told that, 'As a matter of fact we hear little of arbitrary seizures'; 'the lord habitually treats them [the unfree] as owners of chattels, he even permits them to make wills'; and 'We hesitate before we describe the serf as rightless even as against his lord, and, if we infer want of right from want of remedy, we feel that we may be doing violence to the thoughts of a generation which saw little difference between law and custom'.<sup>22</sup> It is small wonder that historians consulting Maitland have been able to use him to support directly contrasting positions.<sup>23</sup>

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Maitland notwithstanding, at the opening of the twentieth century the tide was flowing strongly in favour of the power of custom as a succession of leading historians well-grounded in the sources rejected a dominant role for the common law in regulating the relations between lords and villeins. On the first page of his 1900 article on the disappearance of English serfdom E. P. Cheyney wrote, 'It is true that not even in 1300, if ever, was actual serfdom, the real position of the *villanus*, *nativus*, or *servus*, that condition of practical slavery which is described in the law book', and two pages later added that 'Serfdom did not involve the personal degradation, nor the economic inferiority that is sometimes ascribed to it; nor, as has been said, did it ever probably have a tangible existence in England in the logical completeness asserted in Glanville,

<sup>20</sup> Pollock and Maitland, *History of English Law*, I, p. 379.

<sup>21</sup> Pollock and Maitland, *History of English Law*, I, pp. 414–16.

<sup>22</sup> Pollock and Maitland, *History of English Law*, I, pp. 416–18, 430.

<sup>23</sup> For example, see below for Kosminsky's favourable citation of Maitland's views on villeinage.

Bracton, Britton, and the “Mirror”.<sup>24</sup> Nellie Neilson’s 1910 study of the variety of rents and dues owed by the unfree emphasized their customary rather than capricious character;<sup>25</sup> and for R. H. Tawney the small cultivators of the sixteenth century were ‘fettered by the remnants of the legal rightlessness of the Middle Ages, without enjoying the security given by medieval custom.’<sup>26</sup> New research revealing an increase in payments in money in preference to renders of food and labour was also used to indicate that the manorial system underwent progressive and largely amicable change in the thirteenth and early fourteenth centuries, and a series of statistical studies demonstrated that labour services on the lords’ demesnes, hitherto considered one of the key oppressive elements of villeinage, were of lesser importance than had previously been thought and in decline well before the Black Death of 1348–49.<sup>27</sup>

However, preparations for a brutal assault on this vision of seigniorial restraint in pre-Black Death England were soon to be commenced in an unlikely place — Soviet Russia. The fashioning of Marxism under Stalin was laying increasing emphasis on the Russian peasantry’s struggle against ‘bondage and exploitation’, which even after 1905 saw, in Stalin’s words, ‘the existence in the rural districts of the most hideous and most unbearable survivals of serfdom, coupled with the domineering of the landlords.’<sup>28</sup> The longstanding awareness that ‘[q]uestions entirely surrendered to antiquarian research in the West of Europe are still topics of contemporary interest to us,’<sup>29</sup> and the rigorous enforcement of state-directed intellectual orthodoxy, ensured that it was not long before this interpretation was being applied to English serfs of the long thirteenth century by the large number of Russian historians working on English history.<sup>30</sup>

<sup>24</sup> Cheyney, ‘Disappearance of English Serfdom’, pp. 20–21, 23 (although Cheyney added the caveat, that serfdom ‘constituted a very real limitation upon the freedom and the well-being of the masses of the English people.’ (p. 23)).

<sup>25</sup> Neilson, ‘Customary Rents’.

<sup>26</sup> Tawney, *Agrarian Problem*, p. 407.

<sup>27</sup> For example, Page, *End of Villeinage* (1900), and Gray, ‘Commutation of Labour Services’ (1915).

<sup>28</sup> Stalin, *Foundations of Leninism*, p. 59.

<sup>29</sup> Vinogradoff, *Villeinage in England*, p. v.

<sup>30</sup> For an account of the work done on English history by a long line of Russian historians see Kosminsky, ‘Russian Work on English Economic History’, and for Russian historians who specialized in English medieval history see Gatrell, ‘Studies of Medieval English Society’. For the imposition of academic intellectual orthodoxy in the U.S.S.R. see Barber, ‘The Establishment of Intellectual Orthodoxy’.

At the forefront of this revisionist movement was Evgeny Alexeyevich Kosminsky, who became well-known to western medievalists from his extensive publications in English. In his 1935 *Economic History Review* article, based on work published in Russia many years before, Kosminsky forcefully presented the outlines of an argument for the depression and oppression of the English peasantry by claiming that Henry II's legal reforms and the development of the common law had combined in 'delivering the property, and to a considerable extent the personal rights, of the villeins over to the mercy of the lord' and that ever greater numbers were condemned into servitude as the legal net of unfreedom widened.<sup>31</sup> In the same year Kosminsky's invaluable analysis of the Hundred Rolls was published in Moscow, and it was a revised version of this study that was eventually published in England in 1956.<sup>32</sup> Whereas the bulk of this book is devoted to an empirical account, its long concluding chapter launched a fierce attack on past and present Russian historians who failed to see the thirteenth century in terms of increasingly ruthless exploitation and growing social disharmony.<sup>33</sup> Vinogradoff, once held in the highest regard by Russian scholars, was accused by Kosminsky of naively underestimating the impact that the legal denial of rights had upon villeins' lives, and he derided his mentor, Dmitri Petrushevsky, for believing that 'manorial custom gave the villein a protection of his property rights that was in no way inferior to that enjoyed by the free man in the king's courts'. For Kosminsky, 'Manorial custom did not, and could not, become the shield of the peasants', and the introduction by royal courts of *exceptio villenagii* not only paved the way for making the plight of existing serfs progressively more miserable, 'it created pretexts for the reduction to serfdom of sections of the working population which had hitherto still been accounted free'.<sup>34</sup> Kosminsky found Maitland's judgments much more to his liking and he praised him for arguing that 'manorial custom gave the villein no firm guarantees, but rather created wide opportunities for arbitrary action' and for dismissing Vinogradoff's notion that religious and ethical obstacles stood in the way of the successful exploitation of the villeins. Kosminsky also cited Coulton favourably for stressing 'the miserable and unprotected position of the medieval peasantry'.<sup>35</sup>

<sup>31</sup> Kosminsky, 'Services and Money Rents', p. 46.

<sup>32</sup> Kosminsky, *Studies in the Agrarian History of England*.

<sup>33</sup> Kosminsky, *Studies in the Agrarian History of England*, pp. 319–59.

<sup>34</sup> Kosminsky, *Studies in the Agrarian History of England*, pp. 329–30, 332, 336.

<sup>35</sup> Kosminsky, *Studies in the Agrarian History of England*, pp. 332–33.

In the prevailing Soviet intellectual environment Kosminsky did not shrink from glossing Marx. Citing the same passage from *Capital* that has been quoted above,<sup>36</sup> Kosminsky came to very different conclusions, arguing that ‘custom [was] built up on the whole in a spirit unfavourable to the exploited “working majority”, and protected first and foremost the interests of the “ruling minority” [...] [and] left very wide margins for the increase of feudal rent’.<sup>37</sup> Kosminsky put forward scant evidence in support of his emphatic claims of increasing exploitation, but in support of his vision of continuous conflict in the thirteenth-century countryside he did recount a number of instances of bitter disputes that involved peasants attempting, largely unsuccessfully, to resist the demands of their lords.<sup>38</sup>

A striking example of the pressure on Soviet historians to conform to political orthodoxy is provided by Petrushevsky, who produced three further editions of his 1897 study of the Peasants’ Revolt of 1381 (*Vosstanie Uota Tailera*), in which he repeatedly attempted to eliminate all argument and evidence that had subsequently become unacceptable.<sup>39</sup> Yet, even so the final edition, published in 1937, contained an anonymous preface criticizing the author for producing a deviant analysis of feudalism.<sup>40</sup> It was in this manner that Soviet historians drove the story of medieval rural England back in line with the views of the bourgeois mid-nineteenth-century writers that Marx and Engels had so comprehensively rejected.

But, much more than this, the Soviet reinterpretation of the feudal period as a battleground between predatory lords and plundered villeins was instrumental in bringing about a sympathetic transformation of the views of a generation of British historians. For, within a remarkably short time, not only had an influential body of western Marxist historians and social scientists adopted this exegesis, many leading historians outside this circle, or even opposed to it, were persuaded to reject the consensus established by Vinogradoff’s generation.

The revolution of opinion in England was initiated by Maurice Dobb and led by Rodney Hilton, both founder-members of the Communist Party Historians Group with strong links to Soviet historians and knowledge of their work. Hilton was instrumental in getting Kosminsky’s monograph trans-

<sup>36</sup> See above.

<sup>37</sup> Kosminsky, *Studies in the Agrarian History of England*, pp. 333–34.

<sup>38</sup> Kosminsky, *Studies in the Agrarian History of England*, pp. 338–54.

<sup>39</sup> Gatrell, ‘Studies of Medieval English Society’, pp. 35–37.

<sup>40</sup> Gatrell, ‘Studies of Medieval English Society’, p. 37.

lated and published in England and he used the final chapter of this book as an intellectual framework for his influential 1949 article on English peasant movements before 1381, in which he proclaimed that no longer should peasant discontent be seen as a creation of the feudal reaction of the landlord class to the Black Death or the Great Revolt of 1381 seen as a 'bolt from the blue'.<sup>41</sup> For Hilton, discontent and conflict were bound to be endemic in a society in which 'the sustenance of the non-producing class depended on the transfer to themselves of the surplus produced by the peasant', and a few years later he went much further in propounding the case 'that the struggle for rent was the "prime mover" in feudal society' and in dramatizing the absolute irreconcilability of the rural class struggle by claiming that 'the principal feature of the mode of production in feudal society is that the owners of the means of production, the landed proprietors, are constantly striving to appropriate for their own use the whole of the surplus produced by the direct producers', while naturally 'the peasants [...] strive to increase the portion of the surplus kept by them'.<sup>42</sup>

Three years before the publication of Hilton's seminal 1949 article, Maurice Dobb had produced his influential account of the development of capitalism which contained a discussion of serfdom, feudalism, and the class struggle.<sup>43</sup> Although Dobb was an economist rather than a medieval historian, as a specialist in Russian economic development he had many academic and political contacts in the Soviet Union and was well-informed about contemporary currents in Soviet historical writing on English medieval history, which enabled him to cite a large number of books and articles published in Russian and quote extensively from them. Dobb took up with enthusiasm the banner of systemic destructive exploitation inflicted on peasants and the bitter class struggle it provoked: 'The villein we find everywhere despised as an inferior creature: regarded not at all as an end of policy but simply as an instrument — as a means to the enrichment of their lords'. Inevitably, Dobb maintained, the insatiable demands of the landlord class for income 'taxed the producer's strength beyond human endurance or else reduced his subsistence below the level of mere animal existence'. And, just as inevitably, 'For the system that rested on these foundations history was to have its own peculiar reckoning'.<sup>44</sup>

<sup>41</sup> Hilton, 'Peasant Movements in England'. This article was reprinted in 1956–57 by the Institute of History of the Academy of the Sciences in the U.S.S.R (see Works Cited).

<sup>42</sup> Hilton, 'Peasant Movements in England', p. 123; Hilton, 'A Comment', quotes on pp. 112, 115, 116.

<sup>43</sup> Dobb, *Studies in the Development of Capitalism*.

<sup>44</sup> Dobb, *Studies in the Development of Capitalism*, pp. 42–43.

The publication of Dobbs' book did not immediately attract much attention from the historical establishment, but it did spark a lively debate among Marxists drawn from other disciplines which focussed on disagreements over the nature of feudalism and the prime reasons for its decline.<sup>45</sup> Paul Sweezy, the major critic, stayed close to Marx and to Pirenne by objecting to Dobbs' diagnosis that the feudal mode of production with its dependence on peasant exploitation generated the preconditions for its own transformation and arguing instead that feudalism's demise was brought about by outside forces, primarily the growth of trade.<sup>46</sup> Surprisingly little attention in this debate was paid to the crucial issue of whether lords actually did substantially increase their exactions from their peasantry, but this lacuna did little to stop support rapidly assembling behind the interpretations of Dobbs and Hilton and reinforcing the commitment of English Marxists to characterize the whole of the Middle Ages as a period of discontent, conflict, and revolt engendered by a 'struggle for rent' that impoverished the peasantry and inevitably drove the system into crisis.<sup>47</sup>

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In the course of the 1950s and 1960s an alternative explanatory model was being fashioned by the application of economics, in particular the theories of Malthus and Ricardo, to history. In this model the main driver of economic and social change was neither the destructive internal contradictions and conflicts of the feudal system nor the insidious growth of commerce, but the fluctuating balance of population and resources. Evidence of a long era of rising population stretching back beyond the Norman Conquest was used to highlight the inevitable consequences of growing land scarcity, soaring food prices, plummeting living standards, and the increasing incidence of famines which culminated in the devastating subsistence crises of the second decade of the fourteenth century.

M. M. Postan's address to the 1950 International Congress of Historical Sciences elegantly surveyed and analysed this model and encouraged English and continental scholars to adopt it.<sup>48</sup> The threat posed to the paradigm

<sup>45</sup> See Hilton's 'Introduction' to *The Transition from Feudalism to Capitalism*, ed. by Hilton.

<sup>46</sup> Sweezy, 'A Critique', pp. 33–56, and 'A Rejoinder', pp. 102–08.

<sup>47</sup> For example, Hilton, 'Y eut-il une crise général de la féodalité?', pp. 23–30, which puts serfdom at the centre of the crisis and argues that the over-exploitation of the peasantry prevented them from investing in their holdings and introducing technical innovations.

<sup>48</sup> 'Economic Foundations of Medieval Society', pp. 3–27.

favoured by Soviet Marxism was swiftly recognized and the historians propounding this rival explanation were roundly condemned by Russian medievalists and other 'progressive historians' for simply 'reviving old liberal positivist conceptions' and applying 'reactionary neo-Malthusian theories' in an attempt to refute Marxism.<sup>49</sup> Yet, over the next decades some of the battle lines between the two camps, which had at first appeared stark and unbridgeable, began to blur as it was increasingly acknowledged by those stressing demographic and economic forces that over-population and over-exploitation might be complementary rather than competing forces driving the masses beyond the edge of subsistence.

Intriguingly, despite the continuing accumulation of hard evidence from estates across the country where there were 'no attempts to [...] violate custom', where 'customary money rents and dues in kind had remained practically constant from the twelfth century', where tallages and the money value of villein heriots were not increased, and where the rent per acre of new leasehold land was 'vastly in excess' of the tiny payments made by the tenants of anciently settled lands,<sup>50</sup> a number of leading British historians proceeded confidently to proclaim the weakness of custom and the facility with which lords were able to force rents and charges sharply higher. For example, Edward Miller in his 1964 survey of the thirteenth century pointed to 'the increasing toll which lords could levy from the peasantry in the form of rents, tallages, entry fines, payments for pasture rights and so forth'.<sup>51</sup> More explicitly and significantly, Postan in his classic exposition of the characteristics of agrarian economy and society which appeared two years later, highlighted the ease with which 'lords frequently found ways round the barriers of custom and contrived a variety of devices for bringing the actual payment for land nearer to its mounting economic value'. In an attempt to quantify the extensive range of payments extracted from customary tenants in addition to their annual rents, Postan asserted that on the manors of the bishop of Winchester and the abbot of Glastonbury in the vale of Taunton entry fines alone might account for as much as a third of the aggregate value of the crops raised on a holding during a tenancy lasting twenty years, that on many estates 'tallage was frequently a heavy annual tax, almost as heavy

<sup>49</sup> See, for example, the attack by Kosminsky in 'The Evolution of Feudal Rent', pp. 12–13.

<sup>50</sup> Titow, 'Land and Population', p. 38; Raftis, *Estates of Ramsey Abbey*, pp. 118 (n. 74) and 224; Smith, *Canterbury Cathedral Priory*, pp. 116–17; Miller, *Abbey and Bishopric of Ely*, pp. 110–11.

<sup>51</sup> Miller, 'The English Economy', pp. 25–26, 33.

as the rent itself', and that the liability to perform labour services frequently involved the villein in yet more outlays of money as well as time. All in all, Postan confidently concluded, 'the money dues of a villein tenant would absorb a very large proportion of his gross output. The proportions varied a great deal, but the average was very frequently near or above the 50 per cent mark'.<sup>52</sup> Small wonder then, he mused, that the persistent encroachments of landlords on the sparse resources of their unfree tenants met with resistance.<sup>53</sup>

Thus Postan, one of the foremost critics of many aspects of the application of Marxist theory to history, in perhaps his most powerful essay, adopted a position on the economic burdens of villeinage that was remarkably close to that espoused by Marxists in England, Russia, and elsewhere.<sup>54</sup> But, equally surprisingly, in the very same year he was outflanked by Hilton, who moved in the opposite direction by retreating from his former views that 'landed proprietors [were] constantly striving to appropriate for their own use the whole of the surplus produced by the direct producers'. After calculating the burden of cash payments on peasant holdings in the west Midlands, Hilton now acknowledged that unfree rents 'tended to get fixed at a low non-economic level by the influence of custom' and that even entry fines, which offered lords the opportunity of compensating for stagnant rents, remained 'fairly low' before the early fourteenth century. As a consequence, Hilton concluded, the rental per acre on competitive free leaseholds were normally higher than those paid by villeins for customary holdings.<sup>55</sup>

Hilton and Postan were leaders of opinion, and it was to be expected that such major shifts in their views would prove influential on their followers. However, Christopher Dyer, at that time one of Hilton's graduate students,

<sup>52</sup> Postan, 'Medieval Agrarian Society', pp. 552–53, 602–04.

<sup>53</sup> Postan, 'Medieval Agrarian Society', pp. 607–08.

<sup>54</sup> I can find no evidence to support Zvi Razi's contention that 'in the 1960s M. M. Postan "criticized [historians of medieval England] for overestimating the negative effects of serfdom" and "idealised the relationship between landlords and their tenants"' ('Serfdom and Freedom in Medieval England', pp. 182 and 187). For further confirmation of Postan's belief in the 'rapacious and exploitative' nature of feudal lordship see Campbell, 'The Agrarian Problem', pp. 5–6.

<sup>55</sup> Hilton, *A Medieval Society*, pp. 143–48; 'Lord and Peasant in Staffordshire', pp. 230–31. However, even in Hilton's earlier work very brief acknowledgements that '[rent] was usually constant over a long period of time' can be found tucked away among lengthy expositions of the claim that 'landowners [...] had all the means of coercion in society in their own hands' (see, for example, his 1949 article 'Peasant Movements', pp. 123–26).

also researching the west Midlands, took a different line from his supervisor by claiming in 1968 that, 'The "struggle for rent" in the thirteenth and fourteenth centuries was usually won by the lords'.<sup>56</sup> And in the following year Jan Titow, one of Postan's former graduate students, informed by a deep knowledge of the richly-documented estates of the bishop of Winchester, roundly contradicted the disparagement of the power of custom by both his mentor and Dyer by concluding that, 'Thirteenth-century villeinage was neither arbitrary nor unpredictable, even though it was deprived of the protection of the royal courts; the lord knew what he was entitled to and the peasants knew what to expect, since such matters were governed by the Custom of the Manor which was binding on landlords and peasants alike'.<sup>57</sup> As a result, Titow claimed, rents were rendered largely immobile as the value of land continued to rise and, although entry fines soared to very high levels in the vale of Taunton, he agreed with Barbara Harvey's contemporary judgment that even by the late thirteenth and early fourteenth century they remained moderate on most manors elsewhere.<sup>58</sup>

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By the close of the 1960s a formidable body of new research was lending weighty corroboration to the conclusions reached by Vinogradoff and his contemporaries more than half a century before. When Ambrose Raftis wrote in 1957 that on the Ramsey Abbey estates, 'While theoretically, the lord might have a jurisdiction "at will" over his villeins, in the practical order custom was upheld as law', his words had been largely ignored,<sup>59</sup> but now they were finding widespread confirmation from the records of estate after estate and manor after manor, and the Soviet-inspired counter arguments that had proved so persuasive in the late 1940s and 1950s were being progressively undermined. During the 1970s empirical evidence of a prodigious gap between the common law and the common practice of villeinage continued to mount. Examination of the earliest records of the Cornish manors of the earls of Cornwall, dating from the late 1280s, revealed that the rents of the *nativi* had been fixed for a long time and were far lower than those paid by conventional leaseholders.<sup>60</sup> Barbara

<sup>56</sup> Dyer, 'Redistribution of Incomes', p. 33.

<sup>57</sup> Titow, *English Rural Society*, pp. 58–59.

<sup>58</sup> Titow, *English Rural Society*, pp. 73–78, Harvey, 'Population Trend in England', pp. 25–27.

<sup>59</sup> Raftis, *Estates of Ramsey Abbey*, p. 118, n. 74.

<sup>60</sup> Hatcher, *Duchy of Cornwall*, pp. 60–61,

Harvey's study of the Westminster Abbey estates concluded that, 'Remarkably, in view of the inflationary character of the period, the annual dues for villein holdings [...] changed little in the century that separated the making of the custumal of c. 1225 from the Black Death.'<sup>61</sup> Edmund King reported that on the Peterborough Abbey estates entry fines were rarely high for villeins inheriting family landholdings, and a little later judged that throughout the realm the burden of rent borne by villeins was not as great as might first appear.<sup>62</sup> A series of studies of Ramsey Abbey manors by Raftis and his students offered complementary evidence from a new perspective by rejecting the concentration on relations between lords and peasants that characterized most of the literature and replacing it with an emphasis on relations between peasants and the workings of the village community.<sup>63</sup> Based primarily on court rolls these studies claimed that the lord and his officials made only moderate demands on tenants and interfered infrequently in peasant affairs with the result that dealings between the abbey and its villeins were marked more by cooperation and conciliation than conflict. Finally, at the end of the decade, Paul Hyams's commanding study of the common law of villeinage strongly endorsed the importance of manorial custom and the wide gap that existed between the plea rolls and legal treatises and the manorial evidence.<sup>64</sup>

It was into this environment of mounting evidence of the nature of lordship and villeinage that Robert Brenner's old-style Marxist tornado burst onto the pages of *Past and Present* and once again sent the carousel of opinion spinning.<sup>65</sup> Brenner's 1976 article was an intellectual tour-de-force that covered wide vistas of history, and his insightful attack on the dominance of rigid demographic determinism in explanations of long-term socio-economic change in the medieval period and beyond exposed significant weaknesses. However, because Brenner believed in the primacy of the relations of production over the forces of production he necessarily placed great weight on the conflictive relations of serfdom and villeinage and the class struggle they generated. To this end he resurrected the contentions made thirty years earlier by Kosminsky and Dobb

<sup>61</sup> Harvey, *Westminster Abbey*, p. 219. For improvements in the legal and public status of the unfree see Richardson and Sayles, *Law and Legislation*, pp. 138–49.

<sup>62</sup> King, *Peterborough Abbey*, pp. 166–67; King, *England 1175–1425*, pp. 57–60.

<sup>63</sup> See, for example, Dewindt, *Land and People in Holywell-cum-Needingworth*; Raftis, *Warboys*; Britton, *Community of the Vill*.

<sup>64</sup> Hyams, *King, Lords and Peasants*.

<sup>65</sup> Brenner, 'Agrarian Class Structure'.

that predatory landlords, unrestrained by custom or law, mercilessly plundered their unfree tenants, asserting that 'the lord's most obvious mode of increasing income from his lands was not through capital investment and the introduction of new techniques, but through "squeezing" the [unfree] peasants, by increasing either money-rents or labour-services'. Brenner further argued that 'the lord's surplus extraction (rent) tended to confiscate not merely the peasant's income above subsistence (and potentially even beyond) but at the same time threaten the funds necessary to refurbish the peasant's holding and to prevent long-term decline in its productivity', thereby damaging the productive base of the economy to the point of collapse and driving relations between the two classes into open conflict.<sup>66</sup>

For Brenner seigniorial exploitation was a prime force behind the deterioration and eventual collapse of the productive base of the economy, but beyond citing Postan's speculation that lords grasped around half of the product of their villein tenants he conspicuously failed to substantiate his assertions that pre-Black Death landlords were 'imposing extra-economic or arbitrary payments upon the peasantry — payments beyond custom or beyond what the relative scarcity of factors might dictate'.<sup>67</sup> Neither in this nor in subsequent publications did he attempt to quantify the rents and charges on villein holdings, to track changes in them over time, or to compare them with the rents of lands that were influenced by market forces. Nor did Brenner confront the long line of historians from Vinogradoff onwards who had demonstrated the long-term stagnation of rents on villein holdings and the strong property rights enjoyed by their occupiers.<sup>68</sup>

Notwithstanding these failings, Brenner's overarching thesis created a stir among historians and social scientists and attracted considerable support. Unfortunately, however, the contributors to the medieval section of the lively debate that swiftly arose tended to focus on the relative merits of competing class struggle and demographic models and neglected to provide much in the way of guidance on the validity of Brenner's belief in the ease and thoroughness with which landlords plundered the resources of their dependent peasants. Hilton, in his introduction to the book of essays on the debate, commented

<sup>66</sup> Brenner, 'Agrarian Class Structure', pp. 48–52.

<sup>67</sup> Brenner, 'Agrarian Class Structure', p. 35.

<sup>68</sup> Bois claimed in his contribution to the debate that for Brenner 'theoretical generalization always precedes direct examination of historical material' ('Against the Neo-Malthusian Orthodoxy', p. 110).

only briefly on the powers landlords possessed to extract rent and on the conflicts their expropriations gave rise to, and did not discuss the level of those expropriations despite the fact that his recent publications had shown that they were considerably more moderate than Brenner was claiming.<sup>69</sup> Postan and Hatcher's riposte to Brenner offered confusing rather than clear guidance on these issues. Early in their contribution the work of Postan was cited to show that he had 'attached to feudal rent much of the blame for the villeins' impoverishment and for their inability to invest in their holdings or even keep their land in good heart', and it was further claimed that 'the payments borne by peasant holdings in the thirteenth century were crushingly heavy'. However, later in the essay Brenner was criticized for greatly exaggerating the elasticity of villein rents, and it was contended that 'villein tenure in the thirteenth century could often provide a measure of protection against the rigours of the market in a period of inflation and land hunger'.<sup>70</sup> Similar ambiguities were in evidence in Miller and Hatcher's survey of economy and society before the Black Death published in the same year.<sup>71</sup>

The 'Brenner Debate' also re-opened divisions between Marxists, and, paradoxically, some Marxist-oriented historians produced more radical alternatives to Brenner's claims of triumphant landlords and unbounded peasant exploitation than those provided by so-called neo-Malthusians. Guy Bois in his 1976 book had argued that lords in Normandy were frustrated in their attempts to increase the rental from their established peasantry and suffered substantial falls in real income when the growth in population and new settlement slowed and then ceased from the late thirteenth century, and in his contribution to the 'Brenner Debate' he broadened this argument to include England.<sup>72</sup> Bois's lead was followed by Hilton, who wrote in 1978 that 'it was in the nature of feudal landownership to be passive rather than active' and that the 'declining exploitability of the peasantry' played a major role in the 'stagnation of landowner income derived from peasant rent before the demographic crisis' of the fourteenth century.<sup>73</sup> On the other hand, in the following year the criticisms that Zvi Razi levelled at Raftis and the 'Toronto School' for rebutting the 'accepted

<sup>69</sup> Hilton, 'Introduction', in *The Brenner Debate*, ed. by Aston and Philpin, pp. 5–6.

<sup>70</sup> Postan and Hatcher, 'Population and Class Relations', pp. 65–66, 72, 74–76 (quote on p. 76).

<sup>71</sup> Miller and Hatcher, *Rural Economy and Society*, esp. chapter 5.

<sup>72</sup> Bois, *Crise de Féodalisme*; Bois, 'Against the Neo-Malthusian Orthodoxy'.

<sup>73</sup> Hilton, 'A Crisis of Feudalism', pp. 127, 128, and 132.

view' that lords exploited their tenants with oppressive demands had much more in common with Brenner's thesis, as did Razi's claim that the two classes 'coexisted in a constant state of tension and conflict rather than in harmony'.<sup>74</sup>

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Since Robert Brenner's spectacular re-ignition of a debate that had been smouldering for more than a century was not based on substantial new evidence or interpretation, it gave a clear signal that there remained enduring weaknesses in the historiography of lordship and villeinage and in the manner in which it had been assimilated. Critical areas of the subject were still being conducted in theoretical rather than empirical terms: too often lists of the range of obligations of the unfree were compiled without any assessment of their overall weight, and most commentaries on peasant poverty failed to define the part played by seigniorial charges.

The resolution of the plethora of contradictory claims that villein rents and charges were either 'crushingly heavy' and 'forced up beyond market levels' or stagnant and left far behind the rising value of land lay in systematic quantification and categorization. However, despite their importance to historical analysis and explanation there had been a reluctance to measure them and a notable lack of agreement on how their levels should be judged. Although some historians maintained that all rent was unjustified because peasant communities probably pre-dated feudal lordship,<sup>75</sup> and others believed that deeming rents to be 'high' or 'low' or 'reasonable' or 'exploitative' was unhistorical since such judgments involve moral issues and reveal more about the values and political attitudes of historians than they do about the past,<sup>76</sup> it cannot be denied that tenants were acutely sensitive to the absolute and relative amounts of rent and other charges to which they were subject. However resentful villeins might have been about paying rents that were higher than those levied on ancient freeholdings, or perhaps even paying any rents at all, it mattered greatly to them how they compared with those payable for non-villein lands to which they might have access. For, apart from the direct impact on family budgets and welfare, if villein rents were in excess of the value of the land they occupied then strict coercion would have been required to extract them and to keep the tenants on their holdings,

<sup>74</sup> Razi, 'The Toronto School's Reconstitution of Medieval Peasant Society'.

<sup>75</sup> For example, Hilton, 'Peasant Movements', p. 123; Hilton, 'Introduction', in *The Brenner Debate*, ed. by Aston and Philpott, pp. 5–6.

<sup>76</sup> For example, Rigby, *English Society*, pp. 56–57.

while if they were lower then villeins would have had little incentive to abandon their holdings and every opportunity to sub-let them at a profit.<sup>77</sup>

Fortunately, England is blessed with rich manorial documentation capable of providing a solid base for estimating the weight of villein payments across large sections of the country. Moreover, although there might appear to be some degree of artificiality in imposing the abstract concept of a market rent on the Middle Ages, it need not be the alien concept that some historians have claimed. For, on most manors there was land outside the villeinage let on competitive terms and the rent it commanded provides a ready means of comparison with the cost of villein land.

A start on these tasks was made in 1981 with the publication of 'English Serfdom and Villeinage', in which the present author argued that the scale of thirteenth-century villeinage and the weight of its economic burdens had been exaggerated.<sup>78</sup> Across the centuries the balance of disadvantages and advantages of unfreedom shifted dramatically and, whereas rents and charges were undoubtedly oppressive for much of the twelfth century, in the era that followed they stagnated or rose only sluggishly while the demand for land escalated rapidly. The net result was that, in an increasingly overcrowded countryside, while competitive rents soared villeins enjoyed considerable protection from the buffeting of adverse market forces. In support of these contentions evidence was drawn from across England of remarkably inelastic customary rents and relatively low entry fines, of villeins routinely paying much less than leaseholders and recent assarters for lands of similar quality, and of villeins commonly receiving substantial premiums when they sold or sub-let their lands. It was also argued that lords generally respected villein property rights and inheritance customs and systematically treated kin far more favourably than those who had no right of inheritance, who were required to pay much higher entry fines and rents.

Richard Smith soon followed with additional precise examples of villeins transferring their lands to others in which the 'prices' realized were very substantially higher than the customary rents they bore, and Kathleen Biddick provided further evidence of customary rents falling sharply in real terms on Peterborough Abbey manors where they remained unchanged from at least 1231.<sup>79</sup> But Christopher Dyer was not persuaded and deemed that 'Hatcher's

<sup>77</sup> For widespread sub-letting by the unfree, and its economic and demographic implications, see Campbell, 'The Agrarian Problem'.

<sup>78</sup> Hatcher, 'English Serfdom and Villeinage'.

<sup>79</sup> Smith, 'Thoughts on "Hereditary" and "Proprietary" Rights in Land', pp. 116–19; Biddick, *The Other Economy*, pp. 58–60.

article [...] seek[ing] to show that the unfree, peasants of the thirteenth century were not overburdened with seignorial exactions [...] does not ring true [...] and does not even fit the economic evidence that villeins paid large sums of money to convert their supposedly protected villein tenures into apparently vulnerable leaseholds'. Dyer expressed regret that Hatcher's article had not 'provoked critical comments and replies' and expressed the hope that 'someone will state a contrary view at length, in a *Past and Present* essay of the old-fashioned kind'.<sup>80</sup> Although Dyer did not write such an article he continued to express his opposition, and in 1989 developed at some length his repudiation of arguments that 'customary rents were actually below the "market rate" [...] [and] customs under which the villeins held their land were not adjustable at the lord's whim, but protected the tenant against the chill wind of market forces', and he cited with approval what he deemed to be 'the accepted view [that] has maintained that rents depended on the lord's power, and that therefore lords were able to demand payment according to their needs and above market levels'.<sup>81</sup>

In the same volume Dyer modelled the income and expenditure of villein half-yardlanders on the Gloucestershire manor of Bishop's Cleeve at the close of the thirteenth century who, he noted, paid rents 'at a rather higher rate than most of their contemporaries'.<sup>82</sup> However, when S. H. Rigby re-worked the data in 1995 he judged that 'the villeins of Bishop's Cleeve seem to have owed far less than 50 per cent of their gross output as rent to their lord, their rents amounting to less than a quarter of their gross output'.<sup>83</sup> Further, in his investigation of the weight of burdens faced by villein tenants across thirteenth-century England Rigby stressed the customary constraints on the ability of landlords to obtain the full benefit of the growing demand for land and wryly concluded that, if the market value of land were to be taken as the yardstick, 'Paradoxically, in this perspective, one could say that it was the peasants who "exploited" the landlords' resources, since the latter were prevented from obtaining an economic return on their property'.<sup>84</sup>

Yet, the depiction of feudal lords as successful devourers of their villein tenants' surpluses remained resilient, and when J. A. Raftis pronounced in 1996

<sup>80</sup> Dyer, review of T. H. Aston (ed.), *Landlords, Peasants and Politics in Medieval England*, p. 208.

<sup>81</sup> Dyer, *Standards of Living*, pp. 136–38.

<sup>82</sup> Dyer, *Standards of Living*, pp. 110–40, quote on p. 135.

<sup>83</sup> Rigby, *English Society*, p. 32.

<sup>84</sup> Rigby, *English Society*, p. 56.

'That early, and one might properly say primitive, notion that the lord simply employed his feudal monopoly power to exploit tenants has been gradually discarded', Richard Britnell countered by stating that 'None of the economic developments of the thirteenth century removed the disabilities of unfree status or made the weight of manorial obligations any lighter', and stressed the exceptional powers lords enjoyed under the civil law, the vulnerability of serfs and villeins to arbitrary actions, and the rise in their monetary and labour obligations over time.<sup>85</sup> Britnell was supported in this pessimistic vein by Edmund Fryde, whose book published in the same year resonated with 'conservative and oppressive lordships' and 'oppression and injustice'.<sup>86</sup>

However, over the next few years quantitative studies of impressive size and integrity were dramatically to narrow the scope for dispute. The first to appear was Junichi Kanzaka's analysis of the rents and other dues levied on 29,625 holdings in Cambridgeshire, Huntingdonshire, Oxfordshire, and Warwickshire recorded in the Hundred Rolls of 1279–80.<sup>87</sup> By conducting a systematic comparison of the charges on villein holdings with those of comparable freeholdings let on more competitive terms, Kanzaka was able to demonstrate statistically that 'Villeins held lands on highly advantageous tenure'. Far from being burdened by rents above market levels, Kanzaka concluded, the total payments of villeins, including tallage, heriot, merchet, entry fines, and other dues, were 'well below the competitive rent' to be found elsewhere on the huge sample of manors he studied. Two years later Kanzaka's results were endorsed by Sandra Raban's analysis of the Normancross Hundred Rolls.<sup>88</sup>

The empirical capstone for the proof of the relative lightness of villein payments was cemented in place in 2006 by a monumental study of English lay estates undertaken by Bruce Campbell and Ken Bartley, which rested on a massive database extracted from almost 9300 *inquisitiones post mortem* relating to the estates of over 1800 lay lords and almost 5000 separate places in the first half of the fourteenth century.<sup>89</sup> The authors' rigorous assessment of this cornucopia of robust evidence of lordship, wealth, land, and agriculture

<sup>85</sup> Raftis, *Peasant Economic Development*, p. 11; Britnell, *Commercialisation of English Society*, pp. 140–41.

<sup>86</sup> Fryde, *Peasants and Lords*, passim.

<sup>87</sup> Kanzaka, 'Villein Rents in Thirteenth-Century England'.

<sup>88</sup> Raban, *A Second Domesday?*, pp. 132–38. See also the complementary evidence in Raban, 'Landlord Return on Villein Rents', pp. 21–34.

<sup>89</sup> Campbell and Bartley, *England on the Eve of the Black Death*.

not only yielded massive additional quantitative evidence of comparatively low villein rents it also demonstrated that the significance of villeinage had been commonly overestimated due to an inherent bias in surviving records towards conservative ecclesiastical estates, large estates, and large manors, and that a comparable bias towards the records of eastern and central England had led to a substantial overestimation of the weight of labour services.<sup>90</sup> As Campbell elegantly and persuasively argued in his 2005 article, the evidence was now overwhelming that the great majority of villeins paid less than a full market rent for their land and that 'tenants rather than lords largely had the upper hand and they maintained it by asserting an array of institutions, rights and values that collectively constituted custom'.<sup>91</sup>

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Confirmation of the final crumbling of residual beliefs that predatory thirteenth-century lordship rode roughshod over custom came in 2007 with the publication of a commemorative volume of essays written by Rodney Hilton's former colleagues and students.<sup>92</sup> The most striking contribution on this theme is Christopher Dyer's essay entitled 'The Ineffectiveness of Lordship in England, 1200–1400', in which he recited the arguments and evidence of his longstanding adversaries with approval rather than censure, confirmed 'the relatively low rents that are found through much of rural medieval England',<sup>93</sup> concurred 'that many lords could not extract a great deal from their tenants',<sup>94</sup> and highlighted the 'extravagant language in which lords and their officials expressed their claims over their subordinates' and the 'element of bluster and bravado in the routine claims by lawyers that lords could dispose of their serfs' property as they wished'.<sup>95</sup> Despite uncertainty being a defining feature of villeinage in both medieval law books and Marxist narratives, Dyer concluded, 'whatever the legal position over peasant property, in practice their possessions were respected by lords, who normally expected to ratify the hereditary succession of holdings,

<sup>90</sup> Campbell and Bartley, *England on the Eve of the Black Death*, esp. pp. 251–68. For the generally low levels of profits from lay lordship exercised through manorial courts, see pp. 271–73.

<sup>91</sup> Campbell, 'The Agrarian Problem', *passim* (quote on p. 69).

<sup>92</sup> Dyer, Coss, and Wickham, *Rodney Hilton's Middle Ages*.

<sup>93</sup> Dyer, 'Ineffectiveness of Lordship', p. 78.

<sup>94</sup> Dyer, 'Ineffectiveness of Lordship', p. 78.

<sup>95</sup> Dyer, 'Ineffectiveness of Lordship', pp. 73 and 75.

and registered the transfer of land by gift or sale, as long as the court was notified, and he acknowledged that tallage, marriage fines, recognition, and other theoretically arbitrary dues 'were not as variable and arbitrary as lords and their lawyers wished to believe', and that entry fines charged to heirs did relatively little to compensate lords for the declining real value of annual rents.<sup>96</sup>

Phillipp Schofield's essay on lordship and peasant economy *c.* 1250–*c.* 1400 stresses the psychological damage and social stigma of villeinage and explores how its 'bonds and impedimenta [...] irrespective of their economic worth, weighed upon tenants and their families', and provides a case study of tenants of the abbey of Bury St Edmunds being 'scorched by the failing flame of seigneurialism' in the later fourteenth century as the abbot strove to prove they were unfree in order to profit from their prosperity. But Schofield also noted that rents comprised a 'fairly small' element in many villein budgets and that 'In the mid- to late thirteenth century, when population was at or near its medieval peak, land's worth increased exponentially but fixed customary rents remained at the levels set in earlier centuries'. In dismissing Kosminsky's assertion that 'the main body of the English peasantry, the villeins occupying virgates and half-virgates, were not rich solid peasants but a middle peasantry crushed by feudal exploitation', Schofield drew attention to evidence from peasant inventories, taxation assessments, and occasional outlays that indicate the potential they possessed for substantial capital accumulation.<sup>97</sup>

Chris Wickham fights a plucky rearguard action in his 'Conclusions' to the volume by asserting his belief in 'the continuing pressure of seigneurial subjection' in England, but Zvi Razi's essay, the last on this subject in the volume, although sub-titled 'A Reply to the Revisionists' and emphasizing the strength of the class struggle, follows Dyer and Schofield in acknowledging that 'Hatcher and Kanzaka are probably right about the low level of rents for customary land'.<sup>98</sup>

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The final emergence of a consensus on the reduced scale and significance of villeinage and a pronounced softening of the character of lordship has implications for our understanding of a host of prime areas of medieval and early modern history. Prominent among them is the need for a reassessment of the role

<sup>96</sup> Dyer, 'Ineffectiveness of Lordship', pp. 77 and 78.

<sup>97</sup> Schofield, 'Lordship and the Peasant Economy', pp. 56–57; Schofield, *Peasant and Community*, p. 30.

<sup>98</sup> Wickham, 'Conclusions', p. 306; Razi, 'Serfdom and Freedom in Medieval England', p. 84.

that has often been allotted to villeinage in such epochal events as the crisis of the fourteenth century, the collapse of the feudal system and the nature of the transition that followed in its aftermath. This reassessment has been in progress for a while, but is gathering pace. In his 2009 article on villeinage in Suffolk and Norfolk, Mark Bailey argued that 'villeinage cannot have caused any crisis of agrarian productivity before the Black Death' nor 'have been the prime mover behind the transformation of the landholding structure and the emergence of agrarian capitalism' because it was neither significant enough nor strictly enforced.<sup>99</sup> In an essay in this present volume, Bailey goes further by proposing that the longstanding ineffectiveness of English lords and of the villeinage they were able to impose destined the post-Black Death 'seigniorial reaction' to be a damp squib and the decline of villeinage a far more rapid and less savagely-contested process than has hitherto generally been recognized.<sup>100</sup>

There were other consequences of the surprisingly benign economic nature of villeinage, as Bruce Campbell demonstrated in 2005 when he approached the subject from a novel perspective by arguing that lords were agents of increasing poverty in the early fourteenth century not because they drained the resources of their unfree tenants but because they were compliant: 'By yielding to tenant demands for access to land on terms that were so favourable to the tenants, lords created the preconditions for the subdivision and subletting that stoked population growth and thereby engendered the rural congestion that was the source of so much under- and unemployment.'<sup>101</sup>

Marx and Engels did not give prominence to a class struggle in the Middle Ages, but it has long been enshrined in Marxist accounts of the feudal system. In *Rodney Hilton's Middle Ages* Chris Wickham declared that 'nothing in this book gives any indication that class conflict is an outdated explanatory model for the Middle Ages'.<sup>102</sup> In his advocacy of the centrality of the 'permanent agonistic relationship' between peasants and their lords, Wickham received support from Dyer, who in his 'Ineffective Lordship' chapter in the same volume cautioned that 'Some readers will be tempted to take the argument [of the incompleteness of seigneurial power] further than I have attempted to do, and play down the antagonism between lords and peasants. I would warn against

<sup>99</sup> Bailey, 'Villeinage in England', p. 430.

<sup>100</sup> Bailey, 'Was There a "Seigniorial Reaction" in England?', this volume; see also Bailey, *Decline of Serfdom*.

<sup>101</sup> Campbell, 'The Agrarian Problem', p. 9.

<sup>102</sup> Wickham, 'Conclusions', pp. 315–16.

such a tendency.<sup>103</sup> However, now that there is general acceptance that long-standing judgments on the balance of power between lords and peasants need to be radically revised, if the class struggle is to survive as a plausible prime mover of economic and social change it will have to assume a form very different to the bitter conflict between rapacious mighty lords and defenceless peasants that was once envisaged.

A full and convincing explanation of why lordship was so weak in the long thirteenth century when the legal and economic environments were so favourable is still awaited, and its construction will require a deeper and wider understanding of the social and cultural mentalities of the age than has so far featured in the narratives of most economic and social historians. The challenge is made all the greater by the fact that lordship had not always been so passive and peasant burdens so moderate. For if rents and charges on villein land did not increase much in the inflationary thirteenth century it follows that they must have been extremely onerous in earlier times and the ability of lords to impose them commensurately greater.<sup>104</sup>

The vital role played by peasants and their communities in restraining the behaviour of lords and contesting their ability to exploit has long been recognized, but the motivations behind peasant actions and attitudes need further elucidation.<sup>105</sup> It is not difficult to understand why impoverished villeins struggled to retain as much as they could of their product in an age of rising prices and falling real wages and employment opportunities, when even low rents could threaten the subsistence of those with holdings too small to feed their families. But resentment and resistance was also deeply expressed by better endowed villeins, who sometimes paid out substantial fees to lawyers to contest insubstantial obligations which their lords were trying to impose on them.<sup>106</sup> The defence by the peasantry of what they saw as their rights manifestly often went far beyond monetary consequences, just as the social stigma that attached to unfreedom went beyond any strictly economic calculation of its burdens. The contemporary usage of 'villein' as a common term of abuse proves by itself that unfreedom was viewed as a degrading condition. Although the panoply of demeaning restrictions of unfreedom were not sufficient to encourage more than a sprinkling of villeins to desert their holdings or purchase manumission at

<sup>103</sup> Dyer, 'Ineffectiveness of Lordship', p. 85.

<sup>104</sup> Discussed in Hatcher, 'English Serfdom and Villeinage', pp. 26–33.

<sup>105</sup> Peasant resistance has attracted a substantial and disputatious literature; for a discussion and references see Hatcher and Bailey, *Modelling the Middle Ages*, pp. 79–83, 99–120, 246.

<sup>106</sup> Dyer, 'Attitudes towards Serfdom', pp. 289–90.

a time when land was scarce and expensive and economic opportunities severely limited, there is no denying the depth of their bitterness at the baseness of their legal and social position. As early as 1966 Hilton drew attention to the fear and uncertainty that villeins must have lived under because of the sweeping powers that their lords claimed over them, whether or not they were used, and that 'It must have been this, as much as their actual weight, which caused resentment'.<sup>107</sup>

Pressure on landlords to moderate their behaviour also came from the church, and it is time to probe deeper into the influence that religion exerted on lords as well as peasants. Hilton viewed the parish clergy first and foremost as 'very important conveyors of the ideology of the rulers of society to the peasants',<sup>108</sup> but there was much more to the teachings of the church than persuading rustics to obey their superiors because their lowly position in three estates was divinely ordained and rebellion against God's will. In sermons, books, and in the confessional the rich and powerful were repeatedly told that merciful and charitable behaviour held out the prospect of spiritual and social rewards whereas ruthless and oppressive behaviour by them or their bailiffs provoked God to anger and contemporaries to condemnation. As far back as the mid-twelfth century Gratian had argued that 'natural law' was superior in dignity to both custom and legal enactments, which if 'contrary to natural law, they are to be held null and void'.<sup>109</sup> In similar vein the *Memoriale Presbiterorum*, a handbook for priests written around 1344, decreed lords who abrogated custom to be 'robbers and men of bad faith' and warned that 'no temporal lord ought by natural or canon law to exact anything from his tenant beyond what is owed to him by the same, by custom or by contract made between him and his tenant, or by imposition made from of old'.<sup>110</sup> Some churchmen went further by cautioning lords that taking what was due by custom could be a sin if it left their tenants in distress, and it was in this spirit that the Gilbertine monk, Robert Mannyng, said of the temporal lord, 'though God have given him the seignury | He gave him no leave to do robbery'.<sup>111</sup> That the lords of ecclesiastical estates often failed to abide by these precepts only adds to the complexity of the reality.

<sup>107</sup> Hilton, *A Medieval Society*, p. 145.

<sup>108</sup> Hilton, 'Medieval Peasants: Any Lessons?', p. 118.

<sup>109</sup> Cited in Tierney, *Medieval Poor Law*, pp. 27–30.

<sup>110</sup> Quoted in Pantin, *English Church*, p. 208. For a discussion of this treatise see Haren, *Sin and Society*.

<sup>111</sup> Robert Manning of Brunne, *Handlyng Synne*, cited in Gibbs, 'Restraints on Landlords', pp. 30 and 41. Gibbs's dissertation provides a valuable review of attitudes found in the moral literature of the period.

Nor did the pressure on lords to behave justly and mercifully towards their tenants come only from the church, for 'good lordship' was an ideal disseminated across all social strata and 'bad lordship' could result in a loss of face among peers as well as dependents. Moralists were also swift to draw parallels between the lordship that landlords enjoyed over their peasants and that enjoyed by the king over his vassals, and to remind lords that they too were reliant on the exercise of restraint by their overlords and that just like their peasant tenants they were quick to call on custom when threatened with unreasonable demands.

Medieval history is much more complex than the simple ideologies and models that have often been used to describe and explain it. There was far more to the relations between lords and villeins than the law and economics and far more to legal and economic matters than the letter of the law and the struggle for rent.

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