

# Choices and Constraints in the Pre-Industrial Countryside

Sheilagh Ogilvie

Faculty of Economics, University of Cambridge

sco2@cam.ac.uk

CWPESH no. 1

**Plenary Lecture for**  
***Population, Economy and Welfare, c. 1200 – 2000:***  
***a Conference in Honour of Richard Smith,***  
**Cambridge, 16 September 2011**

*Abstract:* This paper explores a key implication of Richard Smith's work on agrarian societies: the need to be attentive both to rural people's decisions as economic agents and to the constraints on their choices. It begins by examining evidence of goal-maximizing behaviour by rural people – not just peasant farmers but women, servants, serfs, landless workers, youths, and many others – in a diversity of pre-industrial societies. It then analyses some central constraints within which rural people made their choices: family and inheritance systems, village communities, manorial systems, legal rules and customs, and the actions of rulers. It concludes by discussing the implications of these findings for understanding the functioning of rural economies, now widely recognized as central to long-term improvements in economic growth and human well-being.

## 1. Introduction

This paper explores a central implication of Richard Smith's work on agrarian societies: the need to be attentive both to rural people's decisions as economic agents and to the constraints on those choices. As early as 1979, Smith pointed out that although people in the pre-modern English countryside made individualistic choices, 'This does not necessarily require us to approach this society with a purely voluntaristic model of social behaviour for we have to define the structural limits within which people interacted'.<sup>1</sup> In saying this, Smith put his finger on a tension between two sides of rural history – one stressing peasant choices, the other the constraints on those choices. For the one side, key concepts are 'individualism', 'autonomy', 'rationality', 'voluntarism', and 'agency'. For the other, they are 'class struggle', 'exploitation', 'extra-economic coercion', 'social structure', and 'institutions'.

In this paper I want to show how both sides of rural history have enriched and deepened our understanding – not just of England, but also of many other pre-modern societies, including the ones I know best, those of central and eastern Europe. Both strands of analysis, I believe, have important contributions to make to our understanding of the pre-industrial countryside. But pursuing the one and ignoring the other, I will argue, can lead us astray. Only by combining an attentiveness both to people's choices and to the constraints on those choices can we arrive at a just understanding both of the particular rural society we are studying and of rural development more widely.

## 2. Choices

Let us begin by considering whether rural people in pre-industrial societies really did have choices. It is surprising how often one still encounters views to the contrary, sometimes explicit, sometimes implicit and hardly recognized by the scholars who

---

<sup>1</sup> Smith (1979), 103.

enunciate them. The view that pre-industrial rural people were either unwilling or unable to make choices takes at least four different forms.

First there is the view most coherently put forward by Alexander Chayanov and his modern followers, that peasants did not make choices in many spheres because they were governed by a mentality that did not view those aspects of life as choice variables. So in the Chayanovian view, peasants do not make individual economic choices about labour inputs, use of capital, size of farm, agricultural technology, market participation, or style of consumption. Instead, they are governed by cultural norms that cause them to engage in self-exploitation (i.e. to go on putting labour into the farm past the point at which an individual agent making rational choices would stop), avoid debt and credit (i.e. accept the ups and downs of consumption and production and not try to smooth them by borrowing or lending), retain the family farm at all costs (i.e. not buy or sell land to adjust to changes in profitability or family labour), avoid markets (i.e. not choose between self-consumption or market sales), and consume only traditional goods (i.e. not choose new consumer objects even when they are available).

This view, according to which a deeply rooted peasant mentality so strongly guided rural people's behaviour that they could not – or at least did not – make individual choices about labour, capital, land, technology, markets or consumption, was not only strongly held by Chayanov himself as a descriptive truth about early twentieth-century Russian peasants, but is still often applied to rural societies, both historical and modern.<sup>2</sup> In the proto-industrialization debate, for instance, Peter Kriedte, Hans Medick and Jürgen Schlumbohm appeal to Chayanov in describing peasants and rural artisans as not making individual choices about costs, profits, or accumulation, but rather being guided by a pre-determined mentality of 'limited goals'.<sup>3</sup> In the discussion about rural development in medieval Germany, Werner Rösener portrays peasants as avoiding markets, ignoring profits, pursuing limited aims, valuing land for its own sake (even when unprofitable), working for below-market wage rates, minimizing risks at all costs, preferring leisure to income, seeking culturally-defined consumption

---

<sup>2</sup> See, for instance, Wolf (1966), 12-17, 37-50; Shanin (1988), 1-9; Thorner (1988), 62-7; Ellis (1988), 5-6; Huang (1985), 3-6. For a historiographical overview, see Dipper (1987).

<sup>3</sup> Kriedte / Medick / Schlumbohm (1981), 41, 43-46, 52-53, 99-100, 106-108, 114-115.

targets, and making decisions that were ‘economically speaking, unprofitable’.<sup>4</sup> Introducing a handbook on early modern German rural history, Christoph Dipper urges agrarian historians to adopt anthropologists’ concept of ‘peasant society’ since early modern rural people were distinguished by ‘a specific economic approach, world-view and morality’ and by a ‘special system of norms’.<sup>5</sup> Karl Bosl characterizes central and eastern-central European rural society in terms of the autarkic, Brunnerian ‘ganzes Haus’ of the peasant, which was only gradually penetrated and destroyed by the advance of ‘rationality’ and ‘individualism’ in the eighteenth century.<sup>6</sup> Many historians of Russia ascribe the country’s centuries of economic stagnation, its divergence from western Europe, the inevitability of violent revolution, and the difficulties of its twentieth-century history, to a distinctive peasant culture.<sup>7</sup> Into the twentieth century, according to Ioffe and Nefedova, low agricultural productivity even in regions of high soil fertility can be traced to Chayanovian mentalities leading the Russian peasantry to maximize employment and gross output rather than income per individual labourer, to reject machinery, and to stay with the three-field system long after more productive alternatives were known.<sup>8</sup> As Orlando Figes puts it, in Russia ‘[t]he peasantry’s egalitarian customs gave them little incentive to produce anything other than babies.’<sup>9</sup> According to all these scholars, people in rural society did not make individual choices but followed the dictates of peasant mentalities.

The second form taken by the view that peasants lacked choices recognizes the existence of voluntaristic behaviour in some rural societies but regards these as exceptional enclaves in a wider ocean of peasant culture in which such behaviour was lacking. That is, peasants made choices in some parts of Europe but not in others. Thus Alan Macfarlane argues that medieval and early modern England had a uniquely ‘individualistic’ culture that led rural people to regard as choice variables many things – land transactions, labour market participation, credit, market participation, marriage – which peasants on the continent of Europe regarded as beyond the realm of choice.<sup>10</sup> David Landes extends this view to the eighteenth century, arguing that England’s

---

<sup>4</sup> Rösener (1992), 122-125, 142.

<sup>5</sup> Dipper (1987), 27.

<sup>6</sup> Bosl (1991), 9-14, 96, 178-9.

<sup>7</sup> Figes (1989), 8-13; Mironov (1990); Mironov (1996), 333; Pallot (1999), 15-17, 242-9.

<sup>8</sup> Ioffe/Nefedova (1997), 195.

<sup>9</sup> Figes (2002), 258 (quotation).

<sup>10</sup> Macfarlane (1978).

individualistic and rational culture was unique and led to its economic primacy compared to other parts of Europe where such rational choice-making was absent.<sup>11</sup> Tine De Moor and Jan-Luiten van Zanden pursue the same argument, but include the Low Countries, arguing that together with England it formed a distinctive North Sea cultural region characterized by individualistic choices concerning marriage, female labour market participation, inheritance, and marital property rights; elsewhere in Europe, and in non-European societies such as China, they argue, people did not make individualistic choices about these matters, resulting in economic stagnation.<sup>12</sup>

Such views are not limited to English and Dutch or Flemish scholars. In rural Languedoc, for instance, James Thomson finds evidence of strongly individualistic and entrepreneurial choices, which he regards as distinctive and to which he ascribes successful proto-industrial development in the early modern period.<sup>13</sup> The German Wupper Valley, according to Herbert Kisch, was an exceptional enclave of individualistic choice and profit-maximizing behaviour in the Rhineland, leading to its two and a half centuries of vibrant agricultural and proto-industrial development.<sup>14</sup>

Many scholars who observe peasants making individualistic choices ascribe it to cultural influences from outside – in western Europe to influences from England, in eastern Europe to influences from western Germany. As early as 1809, when the Wupper Valley in the Ruhr became one of the first German regions to set up cotton factories, a traveller described it as ‘ein England im Kleinen’ (‘an England in miniature’).<sup>15</sup> Modern historians also ascribe individualistic choices among European peasants to influence from England or from western parts of the continent. Thus Renate Blickle argues that early modern Bavarian peasants abandoned their subsistence-oriented ‘principle of needs’ only because of English Enlightenment-influenced ‘liberal ideas, especially liberal conceptions of property’.<sup>16</sup> Winfried Schulze argues that the individualistic choices observed among early modern peasants in Germany east of the Elbe resulted from the ‘individualistic legal system’ arising out of the reception of Roman Law in Germany west of the Elbe, and could not have been

---

<sup>11</sup> Landes (1999), *passim*.

<sup>12</sup> De Moor / Van Zanden (2010), 6-9, 11-12.

<sup>13</sup> Thomson (1983), 66-7.

<sup>14</sup> Kisch (1972), 300-2.

<sup>15</sup> Quoted according to Engelbrecht (1996), 10.

<sup>16</sup> Blickle (1992), 377-382; Blickle (1987).

found among Polish or Hungarian peasants at the same period.<sup>17</sup> All these scholars see individual choices as restricted only to certain rural cultures, outside which voluntaristic action was not observed among peasants.

The third version of the idea ascribes the putative absence of peasant choice to manorial coercion. This view is widespread in the traditional, ‘manorial dominance’ view of serfdom, according to which overlords succeeded in suppressing all individual and communal agency among the peasants they governed.<sup>18</sup> A vivid illustration is provided by scholarly reactions to the individualistic behaviour revealed by the research of Lieslott Enders into peasants in the Uckermark of Brandenburg under the early modern ‘second serfdom’. Silke Göttisch claimed that this was caused by the fact that landlordship in the Uckermark was highly fragmented; by contrast, in territories such as Schleswig-Holstein where lordship was more unitary, ‘probably this individualized form of behaviour did not exist’.<sup>19</sup> Clemens Zimmermann went further, arguing that Uckermark peasants were profit-oriented only because of their proximity to a big city (Berlin) and that other German peasants under the ‘second serfdom’ still pursued the limited aims of the traditional ‘family economy’, avoided markets, and did not calculate costs and benefits with respect to prices – ‘at least not solely, and before 1750 not at all’.<sup>20</sup> This school of thought regards individualistic choices among peasants, especially under serfdom, as being essentially stifled by manorial dominance.

The fourth variant of this approach to rural societies contends that peasants were so poor that they did not make choices – rather, they were forced to behave in certain ways by pure necessity. Thus even when peasants appear to be choosing to borrow or lend money, buy or sell land, do more market work, or increase agricultural productivity, these cannot be regarded as true choices – peasants were simply compelled to do these things. If we find peasants borrowing money, for instance, it is because they were on the edge of starvation, not because they wanted to smooth their

---

<sup>17</sup> As quoted in Kaak (1995), 458-459.

<sup>18</sup> This view of serfdom is described and criticized for medieval England in Hatcher (1981), 3-8; for early modern Bohemia in Ogilvie (2005), 72-3; and for both Bohemia and Russia in Dennison and Ogilvie (2007).

<sup>19</sup> As quoted in Kaak (1995), 457.

<sup>20</sup> As quoted in Kaak (1995), 442-443.

production and consumption choices over time.<sup>21</sup> If we see peasants participating in market transactions, it was because they were being forced to pay feudal dues in cash and this compelled them to get it somewhere.<sup>22</sup> If we detect peasants working more hours, it is because they were so poor that they were forced to do so by rising food prices and falling real wages.<sup>23</sup> If we observe peasants introducing new agricultural techniques to increase the productivity of their farms, it was because they were being forced to pay higher taxes.<sup>24</sup>

But do these four images of the choiceless peasant hold up against a closer look at the evidence? For decades, it has been recognized that peasants engaged in individualistic choices in medieval and early modern England, and the work of Richard Smith has contributed significantly to our understanding of these choices.<sup>25</sup> By now, the debate is not so much about whether peasants took individualistic choices, but about the scope of their choices in different periods (e.g. before and after the decline of serfdom) and different regions (e.g. East Anglia or the Midlands).<sup>26</sup> Historians of the Netherlands, too, have pointed out that a great deal of individualistic peasant choice can be observed in the late medieval and early modern Dutch countryside.<sup>27</sup> In the western Dutch region of Holland, small farmers can be observed making individual choices about using land, transferring its ownership, and flexibly participating in market transactions as far back as the twelfth or thirteenth century.<sup>28</sup> A fifteenth-century register from one part of Holland shows that one-quarter of all peasants were involved in the capital market, rising to one-half by the early sixteenth century.<sup>29</sup> By c. 1350, according to Bas van Bavel, around one-quarter of the rural labour force in Holland was engaged in market-oriented, non-agricultural activities, rising to two-fifths by 1450.<sup>30</sup> Even in much less advanced regions, such as the eastern Dutch province of Drenthe, recent studies have found that as early as the fifteenth century,

---

<sup>21</sup> For a review of these ideas about early modern rural credit, see Ogilvie/Küpker/Maegraith (2011), esp. 1-2.

<sup>22</sup> Wolf (1966), 12-17, 37-50; Shanin (1988), 1-9; Thorner (1988), 62-7; Ellis (1988), 5-6; Huang (1985), 3-6.

<sup>23</sup> Van Zanden (2006), 192.

<sup>24</sup> Bieleman (1985), 114-15.

<sup>25</sup> Hilton (1973), 41; Smith (1974); Campbell (1984), 91; Macfarlane (1978); Whittle (1998), 27-8; Dyer (2007), 70, 75, 85; Campbell (2005), 8.

<sup>26</sup> Whittle (1998), 49ff.

<sup>27</sup> De Vries (1974); De Vries (1975).

<sup>28</sup> Van Bavel (2008), 20-1.

<sup>29</sup> Van Bavel (2008), 37-8.

<sup>30</sup> Van Bavel/Van Zanden (2004), 509.



peasants were responding flexibly to changes in relative prices and engaging in strongly market-oriented behaviour.<sup>31</sup>

It might be argued, as a number of scholars have done, that England and the Netherlands were unique and that outside the North Sea region the absence of an individualistic culture meant that peasants were unable or unwilling to make voluntaristic choices.<sup>32</sup> But micro-studies of many other parts of Europe have also begun to unearth evidence of peasants making individualistic choices. In Italy, historians have found records of sales of land by rural people of modest means as early as the eighth century.<sup>33</sup> These developments accelerated in the eleventh century in the regions of Milan, Bergamo, Abruzzi, and Tuscany.<sup>34</sup> This has led historians to characterize farming in these regions, especially in the Po Valley and Tuscany, as ‘highly individualistic’ in the early medieval period, arguably more so than northwest Europe in the same period.<sup>35</sup> In the Westphalian bishopric of Paderborn, likewise, Lienen finds fourteenth-century peasants engaging in individualistic choices, leasing land and buildings for short periods to adapt to fluctuations in agricultural markets and use family labour optimally, buying and selling landholdings actively, and showing no indication of emotional attachments to the family farm.<sup>36</sup> In Upper Austria, Hermann Rebel finds poor peasants in rural communities manifesting careful economic calculation and individual maximizing behaviour in the early modern period.<sup>37</sup> In southern France, James Thomson describes individualistic, entrepreneurial, and profit-maximizing behaviour among proto-industrial producers in the sixteenth and seventeenth centuries.<sup>38</sup> For the southwest German village of Neckarhausen, David Sabeau rejected the whole Chayanovian concept of the peasant ‘family economy’ as inapplicable to the far-reaching autonomy of rural decision-making in the eighteenth and nineteenth centuries.<sup>39</sup> My own studies of the Württemberg Black Forest found widespread evidence of voluntaristic marriage

---

<sup>31</sup> Bieleman (1987); Bieleman (1988); Bieleman (1990).

<sup>32</sup> As argued for England, for instance, in Macfarlane (1978); Macfarlane (1984); Macfarlane (1987), esp. 191-222; and for the North Sea area in De Moor/Van Zanden (2010).

<sup>33</sup> For a number of examples, see Feller (2004).

<sup>34</sup> Wickham (1994); Wickham (1988), 242-56.

<sup>35</sup> Van Bavel (2008), 26-7.

<sup>36</sup> Lienen (1991).

<sup>37</sup> Rebel (1983), 118-119.

<sup>38</sup> Thomson (1983), 66-7.

<sup>39</sup> Sabeau (1990), 94-97.

behaviour and household formation, and individual choices in land, labour, credit, and output markets.<sup>40</sup> In northern Switzerland, Schnyder-Burghartz describes early modern peasants taking individualistic choices in land and credit markets.<sup>41</sup>

This still leaves open the possibility that peasants were able to make individualistic choices in the relatively free rural societies of western Europe but not in areas of manorial dominance. This would rule out peasant choice both during the first serfdom in medieval western Europe and during the so-called ‘second serfdom’ in early modern eastern-central and eastern Europe. Closer attention to the behaviour of enserfed populations, however, casts doubt on this view. Richard Smith’s own work and that of other distinguished medievalists has already shown the prevalence of voluntaristic behaviour long before the decline of serfdom in England.<sup>42</sup> Similar findings emerge for other parts of medieval Europe. In thirteenth-century Silesia, for instance, a charter drawn up in 1297 lists all the necessary procedures for buying and selling peasant land, describing them as applying to ‘all peasant farms that were sold in the village’.<sup>43</sup> For fourteenth- and fifteenth-century Bohemia and Moravia, Graus describes ‘quite a significant traffic in subject [i.e. serf] land, sales and purchases of subject [i.e. serf] fields’.<sup>44</sup> In the Uckermark and Prignitz districts of the East-Elbian German territory of Brandenburg, Enders observes peasant farmers transacting actively as individuals in the property market by the late medieval period.<sup>45</sup>

Similar findings emerge for early modern eastern and eastern-central Europe, where from the sixteenth century onwards peasants were subjected to extremely oppressive forms of manorialism under the so-called ‘second serfdom’. For the Uckermark of Brandenburg, for instance, Hartmut Harnisch describes peasants under this very strong manorialism as behaving like ‘small-scale agricultural entrepreneurs’, transacting in markets, employing wage labour, carefully calculating costs, pursuing accumulation, and seeking all ‘opportunities for profit’.<sup>46</sup> Jan Peters contended that

---

<sup>40</sup> Ogilvie (1997), esp. pp. 7-11, 181-186, 225-230, 301-307, 455-463.

<sup>41</sup> Schnyder-Burghartz (1992), 203-09.

<sup>42</sup> Whittle (1998), 47-9.

<sup>43</sup> Menzel (1977), 458; quoted in Cerman (2008), 62.

<sup>44</sup> Graus (1957), 230; as quoted in Cerman (2008), 62.

<sup>45</sup> Enders (1992), 148; Enders (1997), 404; Enders (2000), 191-2.

(quotations pp. 191, 193; translations mine).

<sup>46</sup> Harnisch (1989), esp. pp. 88-89, 92, 99, 106-108.

East-Elbian serfs in general manifested ‘individualistic’ economic behaviour: when one observes apparent leisure-preference, unpunctuality, lack of forward planning, traditionalism, or rejection of innovations, he argues, this is not because of deterministic peasant mentalities excluding the possibility of undertaking goal-maximizing action, but rather because rural people were using these forms of behaviour strategically to resist manorial coercion.<sup>47</sup> My own work on the Czech lands found that enserfed peasants in Bohemian villages in the sixteenth and seventeenth centuries engaged in a wide variety of individualistic choices and profit-maximizing activities.<sup>48</sup> Tracy Dennison’s detailed study of the Russian estate of Voshchazhnikovo showed serfs devising ingenious ways to participate in labour markets as workers and as employers, lend and borrow money, buy and sell land, sell their output in markets, and consume new things, despite the framework of extremely strong manorial controls within which they had to operate.<sup>49</sup>

Perhaps, though, these forms of voluntaristic action were open to elites but not to the lower rural strata who were too poor to do anything other than what they were forced to do? Deeper empirical studies of marginal groups in the medieval and early modern countryside are dispelling this myth as well. The land transactions identified for rural people in eighth- and ninth-century Italy included not just nobles and townsmen but peasants and even slaves.<sup>50</sup> Jeremy Goldberg’s work on medieval England showed that women, too, were able and willing to make individualistic choices about labour market participation, property transactions, and marriage.<sup>51</sup> Hermann Rebel found that in rural Upper Austria, the poorest groups showed careful economic calculation and maximization, even while the better-off supported bureaucrats’ and feudal officials’ ‘notions and practices of moral economy’.<sup>52</sup> Lieselott Enders found that all social strata in the east-Elbian German region of the Uckermark engaged in rational economic calculation, responded to market prices, balanced monetary costs and benefits, transacted eagerly in markets, pursued profits, and manifested every sign of economic and social ‘individualism’.<sup>53</sup> My own analysis of manorial court records in

---

<sup>47</sup> Peters (1991), 90, 92-93, 95-96, 100-102.

<sup>48</sup> Ogilvie (2001).

<sup>49</sup> Dennison (2011).

<sup>50</sup> Feller (2004); Van Bavel (2008), 26.

<sup>51</sup> Goldberg (1992).

<sup>52</sup> Rebel (1983), 118-19

<sup>53</sup> Enders (1995), esp. pp. 159-162, 170, 176.

sixteenth- and seventeenth-century Bohemia showed that even the poorest serfs – women, labourers, those subsisting at the edge of starvation – showed a clear understanding of their ability to make choices concerning wages, prices, rents, capital, interest, and profit, and an unmistakable eagerness to transact in markets, use money, and improve their individual economic position.<sup>54</sup> Research by Josef Grulich, Hermann Zeitlhofer, and Dana Štefanová on several different regions of early modern Bohemia show more frequent buying and selling of land among the lower rural strata of smallholders and cottagers than among the richer strata of full peasant farmers.<sup>55</sup>

These studies suggest that goal-maximizing behaviour by rural people was ubiquitous in pre-industrial Europe. Counter to the Chayanovian view, peasants regarded most aspects of their lives as choice variables. Counter to the ‘cultural’ view, such voluntaristic behaviour can be observed not just in ‘individualistic’ England and the Low Countries, but also in a vast array of other rural societies including in putatively ‘collectivist’ southern, central and eastern Europe. Counter to the ‘manorial dominance’ view, rural people can be observed making individual choices even in medieval western Europe under the first serfdom and in eastern-central and eastern Europe under the second serfdom, indicating that even the most severe forms of manorial coercion did not prevent peasants from making choices. Finally, counter to the view that poverty ruled out choice for poor peasants, even the poorest of rural people – not just substantial male peasant farmers but women, servants, serfs, landless workers, youths, and many others – can be observed taking voluntaristic decisions, admittedly within very serious constraints. It is quite clear that people in the pre-modern countryside made choices.

### 3. Constraints

But can we leave it at this? Is it enough to have discovered peasant agency, and can we now just focus on how peasants decided to exercise it? Precisely this approach now dominates some parts of the literature. The recognition that peasants could and did make choices about many aspects of life leads many studies to go to the opposite extreme and assume that the constraints on peasant choices stressed in traditional

---

<sup>54</sup> Ogilvie (2001), here esp. 437-9, 444-6.

<sup>55</sup> Grulich (2005), Štefanová (1999); Zeitlhofer (2001).

scholarship did not actually matter – that rural people just got around any obstacles. But does the existence of choice really imply that constraints – even humanly devised ones such as institutions – didn't matter?

Both theory and empirical findings, I believe, tell us that the answer is 'no'. In fact, there were a large number and variety of obstacles which people in rural societies could not get around. One set of obstacles were natural and environmental – climate, location, topography, land fertility, resource endowments, energy supplies. Individual choices had to take these factors into account then, at least as much as they do in the present day, as the work of scholars such as Bruce Campbell and Richard Hoffmann have so convincingly demonstrated.<sup>56</sup> But individual choices also had to take into account social institutions – the structure of norms, rules and practices constraining decisions in any society. Institutions affected peasant choices both directly, by laying down norms of behaviour, and indirectly, by rendering economies more or less vulnerable to natural and environmental forces.<sup>57</sup>

Just as it would be laughable to claim that 'peasant agency' was strong enough to remain unaffected by the natural environment, so too we should question the idea that it was unaffected by the human environment – the institutional rules and customs governing behaviour in rural societies. Institutions may or may not have been 'humanly devised' – in fact, we still have no commonly accepted theory of their origins, so their status as something 'devised' (rather than 'imposed', 'evolved' or 'stochastic') is still subject to debate.<sup>58</sup> But institutional rules and customs were certainly not devised by the individual peasants whose choices we are observing, and as a general rule they weren't even devised by the collectivity of the peasants. Even in their most concrete and local manifestation – i.e. as enforced rules of behaviour rather than abstract codes – rural institutions can hardly be regarded as lying within the realm of choice for peasants, either as individuals or as collectivities. In fact, I will argue, rural societies were full of institutional constraints on peasant choice – so much so that I doubt we will have time to explore them all in this entire conference, let

---

<sup>56</sup> Hoffmann et al. (2008); Campbell (2005), 3-4, 9; Campbell (2010).

<sup>57</sup> Campbell (2005), 4.

<sup>58</sup> The well-known characterization of institutions as 'the rules of the game in a society or, more formally ... the humanly devised constraints that shape human interaction' was first made by North (1990), 3. For a discussion of alternative explanations for the rise and survival of economic institutions in European history, see Ogilvie (2007).

alone in this lecture. Here I would like to focus on just three of ‘the structural limits within which people interacted’ which have been vividly illuminated by Richard Smith’s research over the past three and a half decades: manorial systems, peasant communities, and legal systems.

### 3.1. Manorial Systems

Let us start with manorial institutions. As we saw already, the traditional view of the manorial system – whether classic serfdom in western Europe or the so-called ‘second serfdom’ in central and eastern Europe – was that it imposed such severe restrictions on the rural population that peasants were unable to make their own choices.

According to this ‘manorial dominance’ view, under serfdom landlords used their institutional powers to prevent mobility, dictate marriage, control landholding, and restrict most other choices a peasant might make.

But recent years have given rise to a revisionist view, according to which manorial institutions did not constrain peasant choices because people simply got around them. According to this view, landlords did not have the quality or quantity of local-level personnel necessary to monitor individual behaviour or impose effective sanctions, so rural people easily circumvented manorial regulations. As a result, peasant agency meant that serfdom was perfectly compatible with economic growth and rural development. Edgar Melton, for instance, has argued that Russian serfs were able to get around landlords’ rules and regulations by buying passports permitting them to migrate, paying fees for permission to set up nuclear-family households, or paying wages to labourers to do their manorial *corvée* while they themselves engaged in more profitable activities.<sup>59</sup> John Bushnell has observed Russian serfs taking their own marriage choices and from this has concluded that manorial regulation of marriage did not matter.<sup>60</sup> Jacek Kochanowicz found Polish serfs engaging in individualistic family decision-making, which led him to the view that manorial controls had no effect on family formation.<sup>61</sup> Dana Štefanová observed considerable ‘scope for manoeuvre’ (Handlungsspielraum) in the land transactions and inheritance practices of peasants in

---

<sup>59</sup> Melton (1988), here esp. 315-6, 320-2, 333, 340-1.

<sup>60</sup> Bushnell (1993).

<sup>61</sup> Kochanowicz (1983), esp. 163-4.

three Bohemian villages in the seventeenth and early eighteenth century, which led her to dismiss the idea that manorial controls under the second serfdom had any effect.<sup>62</sup> Andrejs Plakans detected evidence of individual decision-making about familial behaviour in nineteenth-century Livonia, leading him to conclude that peasant demographic decisions were not constrained by overlords.<sup>63</sup> Lieselott Enders found strong evidence of free economic choices among peasants in the Uckermark of Brandenburg in the early modern period, which led her to dismiss the impact of manorial economic restrictions.<sup>64</sup> Richard Hoffmann found that peasants in late fifteenth-century Silesia took strategic market-based action, from which he concluded that these actions were not constrained by overlords.<sup>65</sup> William Hagen proposed an even more optimistic view of the Prussian ‘second serfdom’, which he regarded as hardly limiting peasant action at all: the well-being of early modern Prussian serfs, he went so far as to claim, was higher than that of free peasants in western Europe.<sup>66</sup> Markus Cerman surveyed the manorial system across the whole of eastern-central Europe under the so-called second serfdom, and concluded that manorial actions exercised no significant impact on migration, marriage, or market participation.<sup>67</sup> The finding that under strong manorialism peasants were able to make some individual choices in which the manor did not intervene has thus led many scholars to conclude that there were no peasant decisions in which the manor was able or willing to intervene, and thus that manorial restrictions did not really matter.

But does this logically follow? Once one thinks about it, the fact that people can be observed making choices does not imply that the restrictions on those choices have no effect. People make choices subject to the constraints they face – their own budgets, the prices of goods, the available technology, the natural environment, and the rules and customs of their society – which, in many pre-modern rural societies, included the constraints imposed by the manorial system. If people make a choice that violates socially defined rules, they face the risk of being penalized, i.e. of incurring costs. This risk does not have to be 100 per cent in order to have a non-zero expected value. Thus, for instance, if in seventeenth-century Bohemia selling one’s landholding

---

<sup>62</sup> Štefanová (1997), 205-9.

<sup>63</sup> Plakans/Wetherell (1988).

<sup>64</sup> Enders (1993), 197.

<sup>65</sup> Hoffmann (1989), 358-62.

<sup>66</sup> Hagen (2002).

<sup>67</sup> Cerman (1999), 1, 4-16.

without obtaining manorial consent carried a 10-Schock fine, even if there was only a 50 per cent chance of being caught, the expected cost of illegally selling that landholding was 5 Schock – which in some cases would exceed the expected benefit. Even if there was only a 10 per cent chance of detection, the expected cost would be 1 Schock. On the margin, some farmers would refrain from selling their holdings at this price, even while others would go ahead. The same theoretical reasoning applied to migrating without manorial permission, refusing to marry when ordered by the manorial officials, setting up as a proto-industrial linen weaver without paying your loom-dues, or buying beer from a private brewer rather than from the manorial brewery. All carried penalties of fines, imprisonment, or burdens on one's family; and for all, as Bohemian manorial court records show, there was at least some risk of detection. As a result, the expected cost of engaging in that action was non-zero, and there would therefore be some marginal migraters, marriers, linen-weavers, and even beer-drinkers who would refrain from making that choice (which they would otherwise have made), even while others would go ahead. Only if the penalty or the risk of detection for violating manorial restrictions were zero would no-one's choices be affected. The fact that some people can be observed making choices does not logically imply, therefore, that the institutional rules governing those choices had no effect.

Empirically, too, closer examination reveals few if any manorial systems in which landlords imposed absolutely no constraints on peasant choices. This is not to deny that serfs engaged in many individual actions without manorial interference. In most European serf societies, many marriages, land transfers, and even acts of migration occurred with little or no sign of manorial intervention. But just because we do not observe the manor intervening in all marriages or land transfers does not mean it lacked the power or interest to intervene in any. Quite the contrary. Even where manorial intervention took place, there are two reasons we should not expect to observe it actually being exercised very frequently. First, regulation was costly in terms of time and personnel, and overlords were only interested in forms of intervention that yielded benefits for themselves; this reduced the frequency of intervention. Second, awareness of manorial disapproval and the desire to avoid attracting it deterred many serfs from even trying to take certain actions. The very



existence of manorial power to intervene in serfs' economic and demographic decisions meant that it did not actually have to be exercised very frequently.

If manorial institutions truly exercised no significant effect on peasant choices, one would expect there to have been important arenas of decision-making that were off-limits to manorial intervention. Migration, marriage, and landholding are three of the most important choices rural people could make: they were central to the operation of the entire rural economy and are frequently adduced as spheres of peasant autonomy. But empirical findings on each of these spheres of action illustrates the structural limits to peasant choices under strong manorialism.

The ability to migrate is often portrayed as a touchstone of peasant freedom.<sup>68</sup> Most studies of rural societies under strong manorialism show that peasants did indeed desire to migrate in order to work, trade, marry, get access to land, learn a craft, visit kin, practise their religion, and for many other reasons. But although serfs were not always prevented from migrating by the manorial authorities, in deciding to do so they did have to take manorial constraints into account. In many serf societies, permanent emigration required an emancipation certificate from one's overlord showing 'that one was released in goodwill'.<sup>69</sup> Lacking this, not only was the serf legally obliged to stay in the estate of his own overlord, but other overlords were unwilling to tolerate his continued presence on their estates.<sup>70</sup> Illegal emigration was sufficiently costly that many serfs were willing to pay substantial fees for migration permits.<sup>71</sup> Even temporary migration – as by labourers who could not get jobs on the estate where they were born, craftsmen who wanted to lease workshops elsewhere, or journeymen who were required to go on the tramp by regional guilds – required serfs to obtain permission from the manorial authorities and often pay fees or provide pledges to ensure their return.<sup>72</sup> Those who migrated without permission were often penalized – by fining, whipping, gaoling, being ordered into forced service on the

---

<sup>68</sup> Hatcher (1981), 29-30.

<sup>69</sup> SOAD, HS, Kart. č. 315, Schriftstück 11, Jahrdings Artickeln 1636, fol. 4v, #27: 'dz er guttlich erlaßen worden'.

<sup>70</sup> On eleventh- and twelfth-century England, see Hatcher (1981), 30; on sixteenth- and seventeenth-century Bohemia, see Ogilvie (2005), 94.

<sup>71</sup> Ogilvie (2005), 94.

<sup>72</sup> On medieval England, see Whittle (1998), 46; Dyer (1980), 105-06; Hatcher (1981), 10-14. On early modern Bohemia, see Ogilvie (2005), 94.

demesne, or retribution against remaining family members.<sup>73</sup> Even threatening to emigrate sometimes attracted penalties such as being put into the stocks or being required to name pledges for future non-migration.<sup>74</sup> Manorial authorities also sometimes fined or imprisoned those who assisted illegal emigrants by issuing them with inheritance shares, making them gifts, providing them with information, or giving them shelter.<sup>75</sup> Overlords helped one another in capturing and penalizing each other's migrating serfs, as shown by the co-operation between eleventh-century English overlords or sixteenth-century Bohemian overlords in this regard.<sup>76</sup> On larger estates under the same overlord, movement within the estate from one village to another was in principle unconstrained, but in practice the manorial authorities could also forbid this when it threatened manorial interests, for instance by leaving a holding vacant in a thinly settled village, thereby threatening its ability to render dues, labour services, and taxes.<sup>77</sup> In early modern Bohemia, a serf could even be ordered to stay on a particular farm, if it was regarded as being important for communal rendering of manorial dues.<sup>78</sup>

Conversely, migration decisions were sometimes compelled by the manorial authorities. In early modern Bohemia, for instance, landlords can be observed ejecting corrupt demesne farm managers from their holdings or from the entire estate, banishing young women who had got themselves illegitimately pregnant, or moving a man who had illegally married to a completely different estate so that he could not continue cohabiting illicitly with the woman he regarded as his wife.<sup>79</sup> In eighteenth-century Poland, landlords can be observed forcibly moving families from one holding to another in order to ensure the allocation of serf labour in the interests of the landlord.<sup>80</sup>

This does not mean that all enserfed peasants who wanted to migrate (or wanted not to migrate) were deprived by their manorial authorities of any choice in the matter. But it

---

<sup>73</sup> Ogilvie (2005), 95.

<sup>74</sup> Ogilvie (2005), 95.

<sup>75</sup> Ogilvie (2005), 95-6.

<sup>76</sup> On medieval England, see Hatcher (1981), 30-1; on early modern Bohemia, see Ogilvie (2005), 96.

<sup>77</sup> Ogilvie (2005), 96.

<sup>78</sup> Ogilvie (2005), 96.

<sup>79</sup> Ogilvie (2005), 96.

<sup>80</sup> Plakans (1973); Plakans (1975); Kula (1972), 949-58; Czap (1978); Freeze (1976), 46.

did mean that before making decisions about their own geographical mobility, those subject to serfdom or hereditary servility had to take into account whether they would be allowed to move, how much they would have to pay for a permit, what the penalty would be if they violated manorial regulations, and what was the risk of being caught migrating illegally. As Jane Whittle points out, not every medieval English villein who migrated paid the chevage (manorial fine required for a permit to move), ‘but this does not undermine the point that they were liable to be charged because of their father’s tenure and status’.<sup>81</sup> As soon as the decision to migrate was made more costly, even in monetary terms, this constrained every serf’s choices and deterred the marginal migrater. There may have been important types of choice made autonomously by serfs without manorial intervention, but under most variants of serfdom migration was not one of them.

The same applies to marriage decisions. Many studies of rural societies under strong manorialism find that overlords did not interfere in a large number of serf marriages, and that marriage choices were influenced by a wide array of other factors – the individual preference of serfs, their family strategies, the state of the economy, pressures inside the kinship group or local community. But the fact that other factors influenced marriage choices and that the manorial authorities did not intervene in many marriages does not mean that serfs’ choices about whom to marry, at what age to marry, or whether to marry at all, were completely unconstrained by the manor. In many societies under strong manorialism, anyone wishing to marry someone from outside the estate of his or her own overlord was expected to apply for permission, and was imprisoned if he or she simply went off and married without getting it.<sup>82</sup> On some estates and in some time-periods, even when both spouses were from the same village on the same estate, they were expected to obtain manorial permission before getting betrothed, and to pay a fee to the manorial office for this permit.<sup>83</sup> Subjection of one marriage partner or the other to a different overlord was a major concern, since it created incentives to abscond and uncertainty about the servile status of offspring. A male serf’s marriage to a woman subject to another lord was often only permitted on

---

<sup>81</sup> Whittle (1998), 46.

<sup>82</sup> Ogilvie (2005), 98.

<sup>83</sup> Ogilvie (2005), 98.

condition that the couple settle in the man's estate.<sup>84</sup> Even a female serf's marriage to an outside male usually required payment of a substantial fee, promise of future reciprocity by the overlord to whom she was being released, relinquishment of property, debts, or inheritance entitlements on the estate, or even that her husband become a serf and the couple settle on the estate.<sup>85</sup> Orphanhood of one or both partners was also a manorial concern, partly because many landlords levied special fees when orphans married, and partly because under some manorial systems, such as that which prevailed in early modern Bohemia, orphans were required to carry out a certain number of years of forced service on the demesne farm.<sup>86</sup> Permission for a widow's remarriage was conditional on her finding a 'capable holder' for her existing farm – or to prove that her prospective husband satisfied that test.<sup>87</sup> Whether the couple would be able to support themselves independently could be another reason for manorial authorities to refuse permission to marry – putatively in the interest of the serfs themselves, but certainly in order to ensure that landholdings were occupied only by 'capable holders' who would be able to pay manorial burdens.<sup>88</sup> Failure to obtain a manorial marriage permit could prove costly or even catastrophic: in early modern Bohemia, denial of a manorial marriage permit led to betrothals being dissolved, illegitimate pregnancies not being legitimized, and serfs eloping.<sup>89</sup> Those who went ahead and got married without manorial consent were punished with fines, gaoling, and even forcible separation and the deportation of the groom to another estate.<sup>90</sup> Although such cases may have been rare, it is hard to believe that they did not deter serfs from attempting to undertake marriages likely to attract manorial opposition.

Conversely, overlords also ordered serfs – particularly widows, but also orphaned daughters of recently deceased tenants – to marry or remarry, in order to ensure that each serf holding was occupied by a married couple who would have offspring and be able to provide labour to the manorial demesne.<sup>91</sup> Even scholars who view medieval English serfdom as having been much milder than would appear from the traditional

---

<sup>84</sup> Ogilvie (2005), 99.

<sup>85</sup> Ogilvie (2005), 99.

<sup>86</sup> Ogilvie (2005), 99.

<sup>87</sup> Ogilvie (2005), 100.

<sup>88</sup> Ogilvie (2005), 100.

<sup>89</sup> Ogilvie (2005), 101.

<sup>90</sup> Ogilvie (2005), 101.

<sup>91</sup> On the existence of such rights in pre-Black-Death England, see Hatcher (1981), 13. On early modern Bohemia, see Ogilvie (2005), 101-02.

‘manorial dominance’ view describe such pressures on female villein heirs and widows as having been implemented quite often.<sup>92</sup> They acknowledge, too, that ‘these sums were a burden, and peasants had to adjust their budgets to afford them, and in bad years they would cause real hardship’.<sup>93</sup> In early modern Bohemia, likewise, overlords regarded female household heads as poor fiscal risks and put considerable pressure on them to remarry or vacate their farms, with the result that Bohemian female headship was extremely low by European standards and declined significantly between the sixteenth and the eighteenth century, as the ‘second serfdom’ progressed.<sup>94</sup>

Variants of manorialism in which landlords merely charged fees for marriage permits undeniably constrained peasant choices much less than those in which landlords prohibited certain marriages and enforced others.<sup>95</sup> But even when the manorial authorities only occasionally forced serf women to marry against their will, or only demanded a license fee, this increased the costs to the individual serf of making her own marriage choices. Likewise, variants of manorialism in which landlords were unsystematic in requiring serfs to obtain marriage permits were less restrictive than those in which all marriages were subject to manorial consent and fines. But as Jane Whittle points out, even though not every medieval English villein’s daughter who married paid the *merchet* (manorial fine), this does not take away from the fact that they were liable to do so, and thus that serfdom mattered.<sup>96</sup> Likewise, even though John Hatcher warns us not to over-estimate the burdens of serfdom in England before 1350 by focusing solely on the letter of the law, he is concerned not to deny ‘that the weight of monetary exactions could in itself constitute a grave restriction of freedom’.<sup>97</sup>

Similar findings emerge for manorial regulation of land transactions. Most studies of rural societies under strong manorialism show the existence of various forms of elective action by serfs in buying, selling, or bequeathing real property – so much so that it is sometimes claimed that although overlords enjoyed the right of consent as a

---

<sup>92</sup> Hatcher (1981), 13.

<sup>93</sup> Dyer (2007), 74.

<sup>94</sup> Ogilvie/Edwards (2000).

<sup>95</sup> As argued in Hatcher (1981), 10.

<sup>96</sup> Whittle (1998), 46.

<sup>97</sup> Hatcher (1981), 14.

legal entitlement, they seldom or never intervened in practice.<sup>98</sup> A major empirical bulwark of this view is the fact that manorial registers of serf sales and inheritances rarely recorded cases in which a farm transfer was prohibited by the landlord. The problem with this argument is that one would not expect to observe frequent evidence of manorial intervention in those land transfers that were formally recorded, since recording a transfer in the register was unlikely to have taken place before manorial approval had been obtained. Thus problematic transfers were stopped at an earlier stage or even deterred altogether (as with migration and marriage) by the awareness, on the part of both individuals and communal or manorial officials, that the overlord would oppose certain types of transfer.

This is borne out by findings from a number of serf societies showing that where a particular land transaction threatened the landlord's interests, the manorial administration was both able and willing to intervene. In various European societies under strong manorialism, landlords can be observed exercising their right to eject any serf from a farm if he could credibly claim that the serf had failed to render all obligations on it. Even if actual eviction was rare, the threat of eviction inevitably circumscribed peasant choices.<sup>99</sup> In almost every society under strong manorialism, a peasant had to obtain permission from the overlord before selling (or even bequeathing) his land, and this restriction can be observed being implemented in societies as diverse as pre-1350 England, the fourteenth-century English Midlands, late medieval Flanders, and early modern Bohemia.<sup>100</sup> Manorial consent could be refused if the buyer was subject to a different overlord or was not regarded as a 'capable holder' who would reliably render manorial dues.<sup>101</sup> In a number of rural societies under strong manorialism, including late medieval Flanders, sixteenth-century Austria, and seventeenth- and eighteenth-century Bohemia, landlords blocked

---

<sup>98</sup> See, for instance, Melton (1988), 340-1; Cerman (1999), 12-16; Štefanová (1997), 205-8.

<sup>99</sup> On manorial rights of eviction in medieval England, together with the rarity of its implementation, see Hatcher (1981), 10. On the southern Austrian region of Carinthia in the fifteenth and sixteenth centuries, see Mathieu (2004), 168-71, 175. On early modern Bohemia, see Ogilvie (2005), 104-05. On the phenomenon of forcible confiscation of subject land to add it to the demesne, which became quite common in some regions of Holstein and southern Sweden and very widespread in early modern Mecklenburg, see North (2004); Rusiński (1976).

<sup>100</sup> On pre-Black-Death England, see Hatcher (1981), 9. On fourteenth-century England, see Campbell (1984), 107-08; Whittle (1998), 48. On medieval Flanders, see Van Bavel (2008), 17-18. On early modern Bohemia, see Ogilvie (2005), 105-06.

<sup>101</sup> On medieval England see Homans (1941), 188; Hilton (1975), 107-08; Levett (1938), 241-3. On early modern eastern-central Europe, see Ogilvie (2005), 105-06; Cerman (2008), 61, 66.

any sale that threatened the impartibility of holdings which they regarded as a guarantee of fiscal viability.<sup>102</sup> Even where manorial authorities usually granted permission for land transfers, they were often entitled to collect a fee from both seller and buyer. These fees were not merely symbolic but in many regions, such as the English Midlands in the medieval period, amounted to substantial sums which restricted the choices of both seller and buyer.<sup>103</sup> Indeed, as Christopher Dyer has pointed out, such entry fines constituted ‘the largest sums that were paid into most manorial courts’, would have sent many incoming tenants to money-lenders to obtain the cash, and ‘must sometimes have discouraged them from buying a piece of land’.<sup>104</sup>

Manorial restrictions such as these affected not just peasants’ choices about how to allocate land as a key economic input, but also their ability to borrow money in times of need, their inheritance strategies, the options open to non-inheriting offspring, the stratification of rural society, the development of wage-labour and servanthood, the importance of the family-land bond, and even – according to some accounts – kinship links and household structure.<sup>105</sup> Even manorial rules that were violated affected peasant choices by shifting land transfers into the informal sector where risks were high, contract-enforcement poor, and exploitation rife.<sup>106</sup> As Bruce Campbell emphasizes for medieval England, the manorial system created rigidities and rent-seeking throughout the whole rural sector, circumscribed peasant choices with regard to both factor and product markets, and exercised harmful knock-on consequences for growth and development in the wider economy.<sup>107</sup>

Perhaps the most vivid illustration of the fact that manorial restrictions on landholding mattered for peasant choices is that peasants voted with their feet. In 1142, for instance, the earl of Lincoln offered 38 *rustici* the choice between taking servile land and leaving his domain: 31 of them chose to depart landless but lordless.<sup>108</sup> Five

---

<sup>102</sup> On medieval Flanders see Van Bavel (2008), 18. On early modern Bohemia, see Ogilvie (2005), 105-06. On early modern Austria, see Cerman (2008), 66.

<sup>103</sup> Van Bavel (2008), 17-18, 22-3.

<sup>104</sup> Dyer (2007), 80-1.

<sup>105</sup> On these effects of manorial regulations in medieval England, see Whittle (1998), 51-3; Razi (1993), 16-18; Campbell (2005), 49; Razi (1980), 94-8; Raftis (1996), 28-33.

<sup>106</sup> On how manorial regulation of land markets created illicit subletting in medieval England, see Campbell (2005), 48-9 with n. 134.

<sup>107</sup> Campbell (2005), 8, 50.

<sup>108</sup> Hatcher (1981), 31.

centuries later, in seventeenth-century Bohemia, the count of Friedland suffered a continual haemorrhage of serfs who chose to leave behind property and family to set up as labourers over the border in Saxony rather than retain their landholdings which, although inheritable, subjected their holders to hereditary servility and an array of manorial burdens and restrictions.<sup>109</sup> The Worcestershire tenant who drowned himself in the Severn in 1293 rather than be forced by the Earl of Gloucester's bailiffs in 1293 to accept servile land evidently ascribed a very high expected cost to the burdens of serfdom and bears witness to the fact that, at least for some members of medieval English society, serfdom mattered.<sup>110</sup> Likewise, the houseless Friedland lodger Christof Herbig who resisted manorial pressure to take on a serf holding and instead voluntarily chose in 1651 to live as 'only a lodger, and earn a living from all sorts of dealing, even though he could take on a servile holding' bears witness to the fact that, at least for some members of early modern Bohemian society, the burdens of hereditary servility mattered.<sup>111</sup> These two men may have been unusual in the sense that many other men in thirteenth-century England and seventeenth-century Bohemia did accept serf holdings and the numerous constraints that went with them, and most of these men did not choose suicide or life as a lodger instead. However, this merely meant that for many members of these rural societies accepting servile land was the best of the available alternatives, not that the constraints of serfdom did not matter.<sup>112</sup>

Even in rural societies which were not subject to serfdom, such as western territories of Germany in which the milder manorialism of Grundherrschaft rather than the more severe manorialism of Gutsherrschaft prevailed, landlord restrictions on land transactions had observable effects. In early modern Hohenlohe and Hessen-Kassel, for instance, there were lively markets in pure peasant land but very inactive markets in land subject to manorial law in which landlord consent was needed for all transfers and farms could not be divided.<sup>113</sup> Even when manorial regulations were not fully complied with, they exerted an observable effect on peasant choices by compelling people who wanted to do things the manor prohibited to operate in the black-market informal sector instead. In the Prussian county of Ravensberg, for instance,

---

<sup>109</sup> Ogilvie (2005).

<sup>110</sup> For this case, see Hilton (1949), 135.

<sup>111</sup> For further detail on this case, see Ogilvie/Cerman (1995), 344-5.

<sup>112</sup> See Hatcher (1981), 26.

<sup>113</sup> On Hohenlohe, see Schremmer (1963), 14-25; Robisheaux (1989), 79-83. On Hessen-Kassel, see Sakai (1967); Lütge (1967), 198-9; Fox (1993), 100-14.



eighteenth-century landlords exercised firm control over peasant borrowing and land transactions and stifled the emergence of credit and land markets; according to Stefan Brakensiek, even when these manorial restrictions were circumvented, it ‘promoted the adoption of illegal forms of arrangements among neighbours with respect to land use as well as unsecured and usurious methods of borrowing’.<sup>114</sup>

Individualistic choices on the part of peasants thus do not imply, either in theory or in practice, that manorial constraints on those choices were irrelevant.<sup>115</sup> It is true that peasants could – to differing degrees in different serf societies – make individual choices in which the manorial authorities did not intervene; but this does not mean that the manor could not intervene in those choices if it perceived its interests to be threatened. It is also true that peasants could – to differing degrees in different serf societies – circumvent manorial regulations; but this does not mean that the existence of those regulations did not affect peasants’ behaviour. Unless the penalty for violation or the probability of detection was nil, there was a non-zero expected cost associated with making that choice, deterring the marginal person from doing so. Even when a peasant did successfully make a choice that was prohibited by the manorial authorities, the actions he or she took to avoid detection and punishment themselves consumed resources, imposed costs, and affected people’s decisions. Most manorial systems, moreover, imposed some regulations – especially those affecting payment of seigneurial dues – that peasants could circumvent only with very considerable costs indeed.

On the other hand, both the overall structure of manorial regulations and the extent to which each specific regulation was enforced varied greatly – over time, across European societies, between regions of the same society, and even among individual estates in the same region. This makes it the more important to get behind the facade of ‘serfdom’ or ‘manorialism’ to investigate exactly what the manorial authorities and the peasants were trying to do. To do this, neither the traditional ‘manorial dominance’ view nor the more recent ‘serf agency’ approach are by themselves sufficient. To understand the impact of manorial systems of rural societies, we have to

---

<sup>114</sup> Brakensiek (2004), 228.

<sup>115</sup> As emphasized in Dyer (2007), 85-6.

recognize both that serfs made choices and that manorial actions constrained those choices – albeit in different ways in different times and places.

### 3.2. Communities

A second aspect of ‘the structural limits within which people interacted’ is the peasant village community. Here, too, the discovery of peasant agency has sometimes been taken to imply that it was totally unconstrained – even by community institutions. One widely held version of this view is to argue that the rural community was merely a geographical entity and not an institution with rules or customs that constrained individual choices. This view is proposed by Alan Macfarlane, who argues that in medieval and early modern England, at least, rural people’s individualistic decisions about land, labour, credit, market participation, and marriage were not restricted by communal rules or customs.<sup>116</sup>

A second widespread manifestation of this view is to regard the rural community not so much as a constraint on peasant choice as an expression of it. A whole ‘communal autonomy’ school of thought has grown up around the assumption that the village community should be viewed as an institution primarily directed at enabling peasants to implement their own choices against outside threats – from landlords, princes, priests, or the natural environment.<sup>117</sup> Thus in the historiography of most parts of Europe, studies of peasant resistance to manorial oppression regard communal institutions as constituting mechanisms for peasants to reduce the transaction costs of collective action in order to implement their own interests and choices, often by mobilizing the concept of village ‘custom’.<sup>118</sup> Peter Blickle extends this analysis to the realms of peasant resistance to state and church, going so far as to argue that we should regard the medieval and early modern German peasant commune as a form of proto-democratic institution.<sup>119</sup> Other scholars emphasize how in challenging ecosystems where private property rights in resources were hard to define, community

---

<sup>116</sup> Macfarlane (1978).

<sup>117</sup> On this vision of peasant communities in medieval England, see Homans (1941); Raftis (1964). On medieval and early modern Germany, see Blickle (1986); Blickle (1991).

<sup>118</sup> Hatcher (1981), 23, 33-4; Dyer (2007), 79, 85-6.

<sup>119</sup> Blickle (1998); Blickle (2003).

institutions enabled peasants to avoid the ‘tragedy of the commons’.<sup>120</sup> In a myriad different forms, therefore, the ‘communal autonomy’ view can be found in the historiography of most parts of pre-modern Europe. While differing from the ‘English individualism’ school in other ways, the ‘communal autonomy’ school shares the view that community institutions did not constrain peasant choice.

But what do the facts say? Village communities, like manorial systems, varied widely. At one end of the spectrum, some peasant communities indeed functioned mainly as settlements and imposed few rules constraining their inhabitants’ choices. In many parts of medieval and early modern England, for instance, village communities did not strictly regulate factor markets, output markets, settlement, or demographic choices and thus left many aspects of peasant choices relatively unconstrained.<sup>121</sup> Membership in medieval England communities was ‘fluid and insecure’,<sup>122</sup> and property tenure and access to common resources was acquired not through community membership but through possession of land as an individual.<sup>123</sup>

The same was true in the Low Countries. In many areas of the western and central Netherlands, village communities privatized and parcelled out common lands in the thirteenth and fourteenth centuries, removing one major source of communal regulation of individual peasant choice.<sup>124</sup> In the early modern period, almost no Dutch villages defined community membership via legal ‘citizenship’ rights on the model of closed corporative communities, and the few who tried had their claims rejected outright by the state.<sup>125</sup> In some regions of Italy, too, especially Tuscany and the Po Valley, common lands and communal rights were dissolved after the Black Death, reducing community influence on individual agricultural decisions.<sup>126</sup> It was not only in England, therefore, that there were peasant communities whose restrictions on individual choice were minimal from an early date.

---

<sup>120</sup> On Alpine Switzerland, see Netting (1981); on the eastern Dutch provinces of Drenthe, Overijssel and Gelderland, see Van Zanden (1999), 129-30.

<sup>121</sup> Schofield (2003), 5; Smith (1998), 340.

<sup>122</sup> Schofield (2003), 3.

<sup>123</sup> Smith (1998), 340.

<sup>124</sup> Van Zanden (1999), 128; Van Bavel (2008), 20.

<sup>125</sup> Van Zanden/Prak (2006), 122.

<sup>126</sup> Jones (1968), 206-14; Epstein (1998), 88-9; Van Bavel (2008), 27.

On the other hand, this minimalist type of peasant commune was not the pattern everywhere. Even in England and the Low Countries, community institutions did constrain individual choices in some regions and time-periods. In certain English villages before the Black Death, some of the pressures on female villeins to enter into marriage were exercised because village communities ‘were anxious to ensure that family holdings were efficiently run and able to meet their obligations’.<sup>127</sup> In the inland Dutch province of Drenthe in the fifteenth century, most rural communities could prevent the sale of any piece of private land to an outsider and some obliged residents to offer foodstuffs for sale first to village members before selling to outsiders.<sup>128</sup> As Bieleman shows, open-field villages in early modern Drenthe prohibited enclosing arable land, mandated common grazing on stubble, and prevented farmers from controlling weeds by ploughing and harrowing immediately after the harvest.<sup>129</sup> These regulations were enforced in practice, giving rise to low rye yield ratios of 1:3, which only rose to 1:5 or 1:6 after community institutions were weakened in the later eighteenth century.<sup>130</sup> Communal property rights also persisted in the Belgian provinces of Luxembourg and Namur well into the eighteenth century, which Dejongh regards as contributing to their low cereal productivity relative to other provinces such as East and West Flanders.<sup>131</sup> Even in England and the Low Countries, therefore, rural communities imposed significant constraints on individual choices in certain regions and time-periods.

In other European societies, communities exercised even more systematic constraints on peasant choices in many more spheres of activity. In many early modern German rural societies, for instance, almost all the rights of adult life were dependent on membership in a community as a citizen or ‘sojourner’. Communities strictly controlled admission of new citizens and ‘sojourners’, and placed numerous obstacles in the way of admitting outsiders – admission fees, documentary requirements, and conditions relating to a wide variety of personal characteristics including freedom from serfdom, confessional affiliation, legitimate birth, number of offspring, wealth and landholding, whether the applicant practised an occupation that was already

---

<sup>127</sup> Hatcher (1981), 13.

<sup>128</sup> Van Zanden (1999), 131-2; Van Bavel (2008), 17.

<sup>129</sup> Bieleman (1985), 111; Van Zanden (1999), 126.

<sup>130</sup> Bieleman (1985), 111, 114; Slicher van Bath (1957), 580; Van Zanden (1999), 136.

<sup>131</sup> Dejongh (1999), 18.

‘over-filled’, and good reputation from one’s previous community. These communal regulations were implemented in practice: in 1740 one Württemberg community refused a widow even temporary ‘sojourner’ rights because ‘the village is over-filled’;<sup>132</sup> in 1765 another refused citizenship to a woman who wanted to marry one of its members ‘because the community is already filled up with too many people, and poor ones’;<sup>133</sup> and in 1785 a third refused admission to a man desiring to marry the daughter of a local citizen ‘because he has the worst possible reputation and has revealed himself to be a poor householder’.<sup>134</sup> In Württemberg and many other central European rural societies, peasant communities not merely constrained demographic decisions and labour markets through restricting admission of new members, but also regulated most decisions taken by existing members, including marriage, residential arrangements, work, leisure, inheritance, and transactions in land, labour, capital, agricultural products and industrial output. Of course, even the strongest village communities did not perfectly define or enforce their rules, any more than any institution does. But as a plethora of detailed micro-studies have shown, in many parts of early modern central Europe, rural communities possessed extremely effective mechanisms for monitoring individual choices and enforcing restrictions on them.<sup>135</sup> And yet the same micro-studies richly document that peasants in these societies also exercised individual choices. Counter to the ‘English individualism’ approach, peasant choice and communal constraints co-existed – even in England. Pre-modern rural societies cannot be understood by focusing on the one while neglecting the other.

But nor do the facts support the ‘communal autonomy’ view. It could certainly be argued that managing challenging ecosystems and organizing political resistance were ways in which community institutions facilitated or even expressed peasant choices. But it must be recognized that the choices which communities expressed differed fundamentally from those discussed in the first part of this lecture. For one thing, these were the choices not of individuals but of groups – either the entire collectivity of local residents or, more often, of its most powerful subsets. Furthermore, even

---

<sup>132</sup> HSAS A573 Bü 7133, petition of 7 May 1740, fol. 1r.

<sup>133</sup> HSAS A573 Bü 43, 13 Sep. 1765, fol. 60r.

<sup>134</sup> HSAS A573 Bü 6948, petition of 17 May 1785.

<sup>135</sup> For examples, see Holzem (2003); Prass (1997); Ulbrich (1999); Volckart (2004); Ogilvie (1997), ch. 3; Sabeau (1990); Robisheaux (1989); Bierbrauer (1991); and many of the essays in Holenstein/Ullmann (2004).

where a community expressed the choices of the entire collectivity of its inhabitants, in order to manage resources or organize resistance it typically had to constrain the choices of individuals.

To manage common resources, communities typically imposed ceilings on grazing, limited wood-collection, forbade commercial as opposed to domestic use of resources, and refused resource access – or even settlement rights – to particular individuals and groups.<sup>136</sup> Nor did communities always do this in an egalitarian spirit, in which they distributed common costs and common benefits equally to all individuals in the community. It was more typical for communities to regulate common resources in the interests of a powerful oligarchy, often at the expense of marginal people such as cottagers, female household-heads, or new settlers.<sup>137</sup> Thus one cannot regard community institutions that managed environmental resources as merely enabling peasants to express their choices: typically, they expressed some peasants' choices better than others.<sup>138</sup>

Likewise, even though the village community did sometimes organize resistance against landlords, the state, or the church, this does not justify a rosy view that it expressed the choices of all of its members. There is a widely held assumption – especially in studies of central and eastern European serfdom – that greater powers for village communities meant more and better choices for rural people. But deeper empirical exploration casts doubt on any easy equation of powerful communities with opportunities or well-being for all their members. Peasant communes were not egalitarian and harmonious spheres within which each villager had an equal chance of securing a fair hearing from well-meaning neighbours. Rather, they were highly stratified and riven by conflict.<sup>139</sup> Communal officials were recruited

---

<sup>136</sup> On these constraints in the eastern provinces of the Netherlands in the medieval and early modern period, see Van Zanden (1999), 130-1, 134-5.

<sup>137</sup> On the differing access rights of full peasants and cottagers in the eastern provinces of the Netherlands in the medieval and early modern periods, see Van Zanden (1999), 130-1, 135; Bieleman (1987).

<sup>138</sup> This point is made for medieval English communities by Smith (1984), 174.

<sup>139</sup> On stratification inside village communities in medieval England, see Campbell (2005), 54-6, 62. On the eastern Dutch provinces of Drenthe, Overijssel, and Gelderland in the medieval and early modern periods, see Van Zanden (1999), 129. On early modern Bohemia, see Ogilvie (2005), 113. On eighteenth- and nineteenth-century Russia, see Dennison/Ogilvie (2007), 526-7.

disproportionately from the top stratum of rich peasant holders.<sup>140</sup> This oligarchy ran the commune in its own interests, and although its members and their relatives undoubtedly often benefited from powerful community institutions, this was not necessarily the case for women, the unmarried, the land-poor or landless strata, or other marginal groups. Many village communities implemented the choices of their most powerful members by limiting those of the least powerful – big farmers over labourers, men over women, middle-aged over young, insiders over migrants.<sup>141</sup> Conversely, for weaker villagers, manorial and princely courts, however biased their judgements, could provide a welcome alternative to village courts whose judgements favoured the village oligarchy and their cronies. As a result, in many serf societies we observe weaker villagers – the lower social strata of smallholders and cottagers, women, migrants, ethnic minorities, and even substantial peasants who incurred the enmity of the village officers – appealing to manorial or state authorities against the oligarchy within their own communities. Conversely, the oligarchy also sought to manipulate the voice of the village to obtain manorial or princely support to help them control labourers, servants, or the less respectable within their own communities.<sup>142</sup> Community officers complained vociferously when villagers appealed to the manor or to state courts against the officers' decisions, or against the rough justice meted out inside the community. In 1650, for instance, a poor cottager in the Bohemian village of Mildenau was beaten up by a village officer who admitted that he 'had given him a few blows, but it was not necessary that on this account he inform and run to the count's court, because this matter could well have been agreed out there in the village court'.<sup>143</sup> As such findings illustrate, the collective action undertaken by strong rural communities must be analysed critically. It did not always – or even typically – express the choices of women, youths, landless labourers, land-poor strata, or non-members of the oligarchy. It cannot be automatically equated with the choices or

---

<sup>140</sup> On medieval England, see Smith (1984), 159, 173-5; Campbell (2005), 46. On early modern Bohemia, see Ogilvie (2005), 97, 113. On eighteenth- and nineteenth-century Russia, see Dennison/Ogilvie (2007), 527-8.

<sup>141</sup> Ogilvie (2005), 113; Dennison/Ogilvie (2007). On the implications of social stratification for East-Elbian communes, see Melton (1988), 345-7; Blaschke (1991) 134-6, 141; and Rudert (1995), 197, 200-3, 212.

<sup>142</sup> Smith (1984), 175-7.

<sup>143</sup> SOAD HS, Kart. 79, Amtsprotokolle 1649-55, fol. 95v, 31.5.1650: 'ein Wenig schläge geben, es wehre aber nicht Vonnöthen gewehsen, dz er derthalben, dz Gräf.: Amt behölliget, Vndt vberloffen, Weilln dise händel woll in den gerichtten daraus hette Vertragen Khönnen Werden'.

well-being of all members of the village, let alone all members of the rural society more widely.

In some serf societies, indeed, recent research suggests that in normal times – i.e., except during peasant revolts – communal institutions often operated in ways that supported the manorial administration. In Bohemian and Russian serf communes, for instance, the village oligarchy were usually willing to become the local arm of the manor in return for manorial support in coercing less powerful members of the community. Communal officers and courts collaborated with manorial migration controls, for instance, by reporting acts of illegal emigration and even the unexplained absence of any of their own members, by asking the manor to help them eject undesirables, and by recommending conditions to impose for the grant of migration permits.<sup>144</sup> Serf communes in Bohemia and Russia can also be observed collaborating with manorial marriage controls by reporting village members' marriage intentions if village officers thought these might displease the overlord, preventing clandestine marriages, putting pressure on widows to remarry, threatening families unless their spinster daughters married, and deciding whether local women should be allowed to marry outside the village.<sup>145</sup> Russian and Bohemian communes also often collaborated with the manorial authorities in reporting land transfers for manorial ratification, deciding whether villagers should be permitted to sell land to outsiders, deciding whether widows would be allowed to keep their land or be ejected from their farms, determining whether male serfs would be allocated productive or poor plots, and deciding which village members would have access or usufruct rights to meadows, woods, and common lands.<sup>146</sup>

Empirical micro-studies of different European rural societies, therefore, suggest that community institutions can be regarded neither as merely expressing peasant choices nor as being irrelevant to them. Although peasants made many individual choices in which their communities did not intervene, this did not mean that their communities could not intervene in various realms of peasant choice, especially when the interests of powerful community members were at stake. To differing degrees in different

---

<sup>144</sup> Ogilvie (2005), 97; Dennison/Ogilvie (2007), 522-3, 525-6, 535-8.

<sup>145</sup> Ogilvie (2005), 103; Ogilvie/Edwards (2000); Dennison/Ogilvie (2007), 534, 536-8.

<sup>146</sup> Ogilvie (2005), 104-07; Dennison/Ogilvie (2007), 529-34.



societies, rural people circumvented community regulations, but in doing so they faced costs and risks that deterred the marginal individual from violating those regulations, and they consumed resources in evasive action. Even where communities enabled peasants to express or defend their choices against external challenges, they often did so only for a subset of village members. Communal institutions meant different things to different members of the community, and control over village offices and a voice in communal decision-making was not enjoyed by all. We must therefore recognize both that peasants made choices, and that these choices could be blocked, made more costly, amplified, or channelled into new pathways by the institutional rules and customs of the communities in which they lived. Neither dismissing the community as irrelevant nor viewing it optimistically as a vehicle of peasant interests does justice to its complex influences. Only by getting behind the facade of the peasant community as an abstract concept and analysing its empirical operation in the local context can we understand precisely how community institutions affected peasant choice at different times and in different places.

### 3.3. Legal Systems

The discovery of peasant agency has also sometimes been taken to imply that legal systems did not constrain peasant choices. This view takes two main forms, each with a plethora of variants. In its first form, the claim is that legal institutions were irrelevant to peasant action in all pre-modern societies, without distinction. Thus Greg Clark has recently argued that legal institutions cannot have significantly affected economic choices in either the rural or the urban sector, since the effectiveness with which those institutions guaranteed property rights and contract enforcement did not change in England between 1300 and 1800, even while agricultural growth and factory industrialization occurred. This is true in all developing economies, he claims –institutions simply efficiently reflect the decisions of people in an economy, maximizing its potential output, and do not exert any independent effect on how that society works or the choices its members make.<sup>147</sup> A different example of this view is Jürgen Schlumbohm’s argument that rural societies were largely unaffected by legal institutions because the pre-modern legal system consisted primarily of ‘laws that

---

<sup>147</sup> Clark (2007), 147, 173, 212-23.

were not enforced'. Schlumbohm claims that pre-modern European states did not enforce most of their laws, ordinary people did not comply with them, and hence the legal system did not affect people's choices. Instead, Schlumbohm argues, we should adopt Michel Foucault's view that medieval and early modern legal systems were not functional, but rather served a purely symbolic purpose – the assertion of sovereignty by a 'theatre state'.<sup>148</sup>

In its second main form, the claim is that legal institutions were irrelevant to peasant action only in some European societies, but did significantly constrain peasant choices in others. Alan Macfarlane, for instance, regards the English legal system as a non-obstructive and facilitative instrument for rural individuals to achieve their aims, and one that did not change significantly in that respect after about 1350. However, he contrasts English law with the more restrictive legal systems prevalent in continental European societies, where he argues that legal restrictions did constrain peasant choices.<sup>149</sup> Bas van Bavel has recently advanced very similar claims for the medieval Low Countries, where in his view the legal system provided much greater protection for peasant choices than in England.<sup>150</sup> Similar ideas have been taken up in the last decade or so by a group of economists who explain differential economic development in terms of what they call 'legal origins', according to which the 'common law' of the English-speaking legal world was non-obstructive and facilitative towards individual choices, whereas the 'civil law' tradition of the continental European economies and their colonies imposed significant constraints on individual action.<sup>151</sup>

Concerning both sets of claims – that legal systems did not constrain peasant choice anywhere, and that they constrained it only in certain societies – the empirical findings suggest a more differentiated view. Micro-studies suggest that even in England, the legal system was not fully facilitative towards peasant choices. In some regions of medieval England, as a diversity of scholars have discussed in detail, the public legal system did provide reasonably good property rights and contract

---

<sup>148</sup> Schlumbohm (1997), 649-50, 660-1; referring to Foucault (1975).

<sup>149</sup> Macfarlane (1978 - book); Macfarlane (1978 – T&S), 257-8, 261-2, 265, 273; Macfarlane (1984); Macfarlane (1987), esp. 191-222.

<sup>150</sup> Van Bavel (2008), esp. 20.

<sup>151</sup> Glaeser/Shleifer (2002); La Porta/Lopez de Silanes/Shleifer (2008), esp. 305-06, 312.

enforcement to rural people, who were not restricted to their own lords' manorial courts but were able and willing to resort to public courts operated by other lords, by the church, and by the crown.<sup>152</sup> These findings cast a certain amount of doubt on Van Bavel's claim that legal protection of peasant property rights was weaker in medieval England than in the Low Countries because of 'the stronger power of lords and the weaker position of public authorities'.<sup>153</sup> But counter to Greg Clark's portrayal, the medieval English legal system did constrain the resource-allocation decisions of rural people. To give just one example among many, customary law on some English manors permitted joint tenure and out-of-court land transfers from the fourteenth century onwards; on other manors these practices, which facilitated individual peasant choices, became legally permissible only in the fifteenth or sixteenth century.<sup>154</sup> Further changes, for instance to legal forms of leasing, only occurred during the sixteenth or seventeenth century.<sup>155</sup>

For the Low Countries, too, micro-studies cast doubt on the idea that the legal system was fully non-obstructive and facilitative towards peasant choices. For one thing, there was very considerable regional variation across the Netherlands, with much weaker legal protection for peasant property rights in interior Dutch provinces such as Drenthe than in western provinces such as Holland.<sup>156</sup> For another, between the fifteenth and seventeenth centuries, the Dutch state introduced compulsory registration of land transactions in public law-courts, prohibiting use of private charters as in England or notarial recording as in France.<sup>157</sup> Such public legal registration contributed to market transparency, according to Van Bavel; but it also limited peasants' choice by exposing them more fully to state regulations and, above all, fiscal exactions. The Dutch legal system thus did not merely facilitate peasants' choices but constrained them, in different ways and to differing extents at different periods.

Outside England and the Low Countries, the 'facilitative' – or potentially facilitative – components of the legal system, in enabling individuals to guarantee property rights

---

<sup>152</sup> As emphasized for instance in Campbell (2005), 6-7; Briggs (2006); Dyer (2007), 75, 78.

<sup>153</sup> Van Bavel (2008), 20.

<sup>154</sup> Whittle (1998), 34; Bonfield/Poos (1988).

<sup>155</sup> Overton (1996); Allen (1999); Van Bavel (2008), 31-3; Bowden (1967), 685-6.

<sup>156</sup> Van Bavel (2008), 23.

<sup>157</sup> Van Bavel (2008), 23-4.

and enforce contracts, certainly affected peasant choices. Where the countryside was subject to a city-state, as in many parts of northern Italy, the urban legal system can be observed constraining peasants' options. To give just one example, in the countryside around Florence and Siena from the fourteenth century onwards, peasant choices were visibly constrained by urban courts extending their jurisdiction over the countryside and deciding legal cases in favour of urban elites, thereby reducing security of peasant property rights.<sup>158</sup> Where the countryside was subject to a territorial state, the princely legal system can be observed constraining peasants' choices. One vivid example is provided by the German principality of Hohenlohe, which became a rare island of impartible property rights in otherwise predominantly partible southwest Germany. This is because in the 1560s the rulers of Hohenlohe made impartibility a component of the national law-code for fiscal reasons, thereby restricting peasants' ability to divide their holdings among heirs or sell off individual fields to manage economic fluctuations or finance micro-investments.<sup>159</sup> Similar examples of the ways in which even the 'facilitative' aspects of the legal system could circumscribe peasants' choices can be replicated for most medieval and early modern European societies.

What about Schlumbohm's claim that the prescriptive components of pre-modern European legal systems did not constrain peasant choice because they consisted of laws that were not enforced? Schlumbohm's sole evidentiary support for the claim that early modern laws were not enforced is that states often reiterated the same law repeatedly and that it is possible to observe people violating such laws. Early modern European states certainly could not and did not enforce all their laws perfectly 100 per cent of the time. But did this mean they never enforced any of their laws even partially?

In theory, does the fact that we observe pre-modern people violating the law mean that the legal system did not constrain their choices? Not in the least. So long as the probability of being detected in a punishable offence was non-zero, this imposed a non-zero expected cost on someone who was trying to decide whether to make that choice. A good way of thinking about this is to take one of the 'prescriptive' laws on which Schlumbohm focuses – a sumptuary ordinance, for instance. Sumptuary

---

<sup>158</sup> Osheim (1989).

<sup>159</sup> Brakensiek (2004), 224-5.

ordinances forbade ordinary people from wearing costly clothing, holding lavish weddings, or engaging in other forms of luxurious consumption, and laid down penalties for violations. Unless the probability of being detected in a violation was nil, an individual thinking about choosing to buy a silk neckerchief, for instance, faced a non-zero expected cost of making that choice, over and above the cost of the neckerchief itself. This did not necessarily always prevent him – or her, usually – from making that consumption decision, but by increasing the cost of the choice, it deterred the marginal consumer. Moreover, the actions she took in order to avoid detection and punishment itself consumed resources and exercised an additional effect on the set of choices open to her.

Empirically, too, it is over-optimistic to assume that the prescriptive laws promulgated by early modern legal systems never limited peasant choices. Schlumbohm dismisses the idea that sumptuary regulations, for instance, were ever enforced. It is certainly true that there were European societies that either ceased to enforce sumptuary regulations very early on (like England after 1604) or never promulgated any (like the Dutch Republic after its establishment in the 1560s).<sup>160</sup> But in Germany, Austria, Switzerland, Scandinavia, Spain, Italy, and even France, sumptuary regulations survived long past 1600, were supported by many non-state institutions, and were enforced in practice, albeit selectively according to the interests of the social groups that endorsed them.<sup>161</sup> Indeed, it was precisely their frequent support by local elites that ensured that sumptuary regulations were enforced: the better sort wanted to demarcate their social status vis-à-vis the lower strata, men wanted to control women's behaviour, employers wanted to discipline servants and labourers, local guild masters wanted to protect their own markets against competition from exotic imports, and governments wanted to make ordinary people spend less on themselves so they could pay more in taxes.

Quantitative micro-studies show sumptuary laws sometimes being enforced quite systematically. For one rural Württemberg locality of only about 300 households, for instance, an early eighteenth-century register lists 110 individuals (91 per cent of them

---

<sup>160</sup> Hooper (1915), 448-9; Hunt (1996), 34, 40; Ross (2006), 385-6.

<sup>161</sup> Belfanti and Giusberti (2000), 359-61; Bulst (1993), esp. 32-8; Fairchilds (2000), esp. 420-1; Freudenberger (1963), 37, 40, 43, 46, 48; Hunt (1996), 17-41; Moyer (1996), esp. 231-6, 244-336; Roche (2000), 203-04, 279.

female) fined during a period of 12 months for wearing 218 forbidden garments, most of them small items of silk or calico. Fines varied from the equivalent of a day's earnings for an adult male weaver to two weeks' wages for a local maidservant. A fine of this magnitude for wearing a forbidden garment did not make it impossible to participate in a Consumer Revolution, but it made it more costly and cannot fail to have deterred the marginal consumer, especially among women and the less well-off. Furthermore, the enforcement of sumptuary controls evoked enormous resentment and enduring conflicts – in one case, a nine-year-long feud between two rural families – providing additional evidence that even those who could afford to violate them perceived them as a real constraint.<sup>162</sup> Inventory studies of rural Württemberg certainly find that clothing regulations were largely complied with until the abandonment of sumptuary legislation in the final decades of the eighteenth century; in turn, this may have contributed to the late onset of the Consumer Revolution in the rural societies of central Europe.<sup>163</sup>

Another aspect of the early modern legal system that Schlumbohm dismisses consisted of laws regulating geographical mobility. Certainly not all the brutal vagrancy laws of pre-modern rural societies were always enforced, but the fact that they could be enforced and the severity of the sanctions that were sometimes imposed set a high expected cost on violations which inevitably entered into the calculations of rural people in making their choices.<sup>164</sup> The 17 female gypsies hanged after a summary trial in eighteenth-century Franconia for no crime other than their itinerant way of life would have been surprised, had they enjoyed the privilege of reading Schlumbohm or Foucault, that the migration ordinances of this German legal system were 'laws that were not enforced' and merely served symbolic purposes in the assertion of sovereignty by a 'theatre state'.<sup>165</sup>

A final aspect of the legal system that constrained peasant choices were marriage laws. As Josef Ehmer has shown, many parts of Germany, Austria and Switzerland imposed increasingly stringent legal restrictions on permission to marry in the course

---

<sup>162</sup> So widespread is the evidence that consumption laws were enforced that even Schlumbohm is compelled to acknowledge (in a footnote) that 'admittedly there absolutely is evidence of cases in which violations of clothes ordinances were punished'; see Schlumbohm (1997), 653 n. 23.

<sup>163</sup> Medick (1996), 384-7, 398-406, 414, 427; Holzem (2003).

<sup>164</sup> Schubert (1983), 249-50, 295, 323.

<sup>165</sup> Schlumbohm (1997), 660-1.

of the early modern period, culminating in the notorious system of ‘politische Ehekonsens’ (political consent to marriage) after 1800. Micro-studies in a variety of central European territories show these laws being enforced – not perfectly, but enough to affect the choices not just of the 6 per cent of individuals observed being denied permits in one well-known study, but of a wider penumbra of people who knew they would be refused a permit and hence did not even apply.<sup>166</sup> Jerg Rauschenberger of the isolated hamlet of Monhardt in the Württemberg Black Forest, who was refused permission to marry a young woman from the nearest village in 1743 on the grounds that ‘the latest instructions from the district authorities relating to the many princely decrees and to the princely marriage ordinance totally prohibit recognition of such marriages any longer, and on both sides there is nothing but pure poverty present’, would have been surprised to learn that early modern German marriage legislation consisted of ‘laws that were not enforced’ and was merely a symbolic component of a ‘theatre state’.<sup>167</sup>

A major reason central European marriage laws were enforced, as Ehmer shows, is that they served the interests of local elites concerned to prevent the proliferation of poor householders, to keep welfare payments low, and to maintain a cheap workforce of unmarried labourers and servants. Between c. 1700 and c. 1870, marriage ages and celibacy rates increased across vast swathes of German-speaking central Europe, rising more in those territories where the marriage laws were stricter. These restrictions on access to marriage by ‘economically and morally weak persons’ not only limited the choices of ordinary people such as Jerg Rauschenberger, but had wider socio-economic consequences – epidemic male emigration, plummeting sex ratios, rocketing illegitimacy, and sky-high infant mortality. The central European marriage regulations illustrate vividly how even laws that are not perfectly enforced can affect individual choices and have far-reaching consequences for entire societies.

Local studies of ordinary behaviour – selling a field, buying a silk scarf, moving to a different village, or getting married – suggest strongly that legal systems, like manorial systems and village communities, circumscribed peasant decision-making, facilitating some choices and constraining others. Admittedly, legal provisions

---

<sup>166</sup> On this, see, e.g., Matz (1980), 233.

<sup>167</sup> PAE KKP Vol. IV, fol. 10v, 26.4.1743.

facilitated and constrained peasant choices in different ways in different European rural societies and time-periods. But even in those societies, such as England, which have been characterized as having legal systems that were most non-obstructive and facilitative towards peasant choice, the law did affect people's options. In many other pre-modern European societies, the legal system reached much further into the private choices of individuals, regulating consumption, migration, marriage, and many other spheres of action. Although laws were never enforced perfectly, they did not need to be. Legal prescriptions equipped conflicting parties – individual peasants, village oligarchies, landlords, and princes – with arguments enabling them to claim legitimacy for their attempts to impose legal coercion on others. Even when people circumvented the law, the law nonetheless affected their behaviour – through the actions they took to avoid it and the costs and risks they faced in acting illicitly. Even partial enforcement of laws governing property, migration, consumption, or marriage were capable of exercising long-term influences on peasant choices and, through them, on wider economic and demographic developments.

#### 4. Conclusion

Where does this leave us in thinking about choices and constraints in rural societies? In recent decades, as we have seen, an important strand of scholarship has illuminated the broad scope for personal choice available to pre-modern peasants. At the same time, a separate strand of scholarship has cast light on the strength, variety and complexity of the structural limitations on peasant choices. Yet these two strands of scholarship have often been conducted in apparent obliviousness of each other. If we bring these two strands together, in the spirit of Richard Smith, what implications does that hold for how we think about agrarian societies more widely?

First, bringing them together casts doubt on the usefulness of 'peasant culture' or 'the choiceless peasant' as an explanation for economic stagnation in rural societies. Many social scientists have ascribed development failures in rural economies, both in the modern Third World and in pre-industrial central and eastern Europe, to distinctive concepts and preferences among peasants, which prevent them from making choices in any meaningful sense of the term. Among economists, the assumption that peasants did not make choices – that they would not respond positively to development



assistance, but would also not respond negatively to deprivation – underpinned the disastrous post-1945 policies of ‘squeezing agriculture’ to support industry.<sup>168</sup> Among historians, the idea that peasants did not make choices underlay accounts of how agricultural change, proto-industrialization, and ‘forced commercialization’ were imposed on an inert rural population in Europe over the past eight hundred years.<sup>169</sup> Among historians of eastern-central and eastern Europe, the idea that peasants were actuated by a distinctive culture in which many decisions were not seen as choice variables has been used to explain centuries of economic stagnation, divergence from western Europe, the inevitability of violent revolution, and the difficulties of twentieth-century history.<sup>170</sup> The idea that peasants do not make choices implies that it is the peasant mentality, not the organization of peasant society, which generates exploitation, poverty and stagnation. This leads to the conclusion that peasant societies cannot change from within, but only through ‘forced commercialization’ of peasant culture by modernizing landlords, capitalists, or bureaucrats. A complete understanding of why rural economies are poor and undeveloped must await a more thorough analysis of their functioning, but the evidence we now possess on the broad scope of personal choices taken by people in rural societies throughout the European past suggests strongly that the obstacles to economic success for rural people, and hence those aspects of their economic world on which we must focus, were external and institutional, not inward and cultural.

The second set of implications relates precisely to these external and institutional obstacles. The evidence discussed here casts serious doubt on the view that ‘peasant agency’ is so powerful that institutional constraints do not matter. The powers of landlords over peasants under the manorial system varied across Europe, but empirical studies leave no doubt that they constrained peasant choice. In some manifestations, such as medieval England, manorial systems were fairly loosely organized, leaving interstices within which peasants could take their own choices; but even here people incurred costs in circumventing manorial regulations. Under other manorial systems, peasants had to incur enormous costs and risks, often operating in the grey or black market, to get around the constraints imposed by their overlords.

---

<sup>168</sup> Little (1982), 149-60.

<sup>169</sup> Kriedte / Medick / Schlumbohm (1981), 41-53, 99-115; Wunder (1996), 63-66, 87-91.

<sup>170</sup> Mironov (1990); Mironov (1996), 333; Figes (1989), 8-12; Pallot (1999), 15-7, 242-9.

Even where overlords exercised their rights of intervention rarely, their entitlement to do so still affected people's decisions. Even violations of manorial regulations simply created black-market 'informal sectors' in which the fact that transactions were illegitimate rendered them risky, costly, open to exploitation, and incapable of contributing to long-term development. The evidence suggests that manorial systems did matter, but in ways that can only be teased out by close, local-level investigation into how they affected the everyday options of serf women and men.

Communities constituted a second constraint on voluntaristic action by peasants. Communities sometimes enabled peasants to engage in effective forms of collective action, magnifying peasants' individual power to make choices. But in other cases, community institutions magnified the power of choice only for a subset of villagers, while limiting the choices of poorer and more marginal people. In surprisingly many cases, community oligarchies acted in alliance with landlords or princes, collaborating with tax-raising or conscription in order to obtain benefits for themselves. The strong communities of central Europe regulated nearly every realm of human action – which did not prevent individual rural people from making choices within the framework of communal prescriptions. In nearly every rural society, part of the social structure within which people took individual choices consisted of the community institutions within which they lived, and without taking this into account we cannot understand peasant behaviour or rural development more widely.

Finally, legal institutions influenced peasant choices. In some rural societies, the legal system guaranteed property rights and enforced contracts in ways that facilitated peasant choices. This was the case not just in England or the Netherlands, as Macfarlane or Van Bavel argue, but in most parts of medieval and early modern Europe. But this does not mean that there was no scope for change between 1300 and 1800 in the facilitative services offered by the English (or any other) legal system. Rather, changes over time and regional and cross-societal variations meant that contract enforcement and property rights varied in interesting ways which need to be taken into account in explaining divergent paths of development.

Moreover, in many European rural societies, particularly in the early modern period, legal systems not only facilitated people's existing choices but sought to alter those

choices. Although some scholars have argued that these prescriptive laws were of a primarily symbolic and theatrical nature and cannot be regarded as a constraint on peasant choices, local studies suggest this view is excessively optimistic. Where such laws promised benefits to local elites or powerful interest-groups they could be enforced to a surprising degree, sufficiently to impose significant constraints on the choices of rural people. Even laws that were not thoroughly enforced – governing migration, consumption, or marriage – imposed an expected cost on certain actions, altering the calculus of peasant choice in ways that can be observed on the level both of the individual person and of entire rural societies. Even laws that were not perfectly enforced shaped human action – if only in the forms of behaviour people undertook to evade the law. Individual choice alone was not sufficient: voluntaristic action on the part of individuals always took place in the context of legal systems and other social structures.

Why does this matter? The functioning of rural economies is now widely recognized as central to long-term improvements in economic growth and human well-being. Policies based on the idea that rural people are not able or willing to make choices will fail. But policies based on the idea that peasant agency is sufficient and that rural people will just get around any constraining institutions will also fail. We need to recognize both that rural people make choices and that their choices are constrained in particular ways by specific institutions. Only then will we understand why different rural economies follow different paths of development. Richard Smith's path-breaking work on choices and constraints in rural economies has shown us the way to a better understanding of these issues, both for the past eight centuries and for the challenges of the future.

## References

- Allen, R. C. (1999). 'Tracking the agricultural revolution in England'. Economic history review 52(2): 209-235.
- Bath, B. H. S. v. (1965). Een Samenleving onder spanning. Geschiedenis van het platteland in Overijssel. Assen.
- Bavel, B. J. P. v. (2008). 'The organization and rise of land and lease markets in northwestern Europe and Italy, c. 1000-1800'. Continuity and change 23(1): 13-53.
- Bavel, B. J. P. v. and J.-L. van Zanden (2004). 'The jump-start of the Holland economy during the late-medieval crisis, c. 1350 – c. 1500'. Economic history review 57: 503-532.
- Belfanti, C. M. and F. Giusberti (2000). 'Clothing and social inequality in early modern Europe: introductory remarks'. Continuity and change 15(3): 359-365.
- Bieleman, J. (1985). 'Rural Change in the Dutch Province of Drenthe in the Seventeenth and Eighteenth Centuries'. Agricultural History Review 33(2): 105-117.
- Bieleman, J. (1987). Boeren op het Drentse zand 1600-1910: een nieuwe visie op de 'oude' landbouw. Utrecht, HES.
- Bieleman, J. (1988). 'Boeren en Rekenmeesters'. Tijdschrift voor geschiedenis: 201-221.
- Bieleman, J. (1990). 'De verscheidenheid van de landbouw op de Nederlandse zandgronden tijdens "de lange zestiende eeuw"'. Beijdragen en Mededelingen betreffende de geschiedenis der Nederlanden 105: 537-552.
- Bierbrauer, P. (1991). 'Die ländliche Gemeinde im oberdeutsch-schweizerischen Raum'. Landgemeinde und Stadtgemeinde in Mitteleuropa. Ein struktureller Vergleich. Munich, Oldenbourg: 169-190.
- Blaschke, K. (1991). 'Dorfgemeinde und Stadtgemeinde in Sachsen zwischen 1300 und 1800'. Landgemeinde und Stadtgemeinde in Mitteleuropa. Ein struktureller Vergleich. Ed. P. Blickle. Munich, Oldenbourg: 119-143.
- Blickle, P. (1986). 'Kommunalismus, Parlamentarismus, Republikanismus'. Historische Zeitschrift 242(3): 529-556.
- Blickle, P. (1991). 'Kommunalismus: Begriffsbildung in heuristischer Absicht'. Landgemeinde und Stadtgemeinde in Mitteleuropa. Ed. P. Blickle: 5-38.

- Blickle, P. (1998). 'Einführung. Mit den Gemeinden Staat machen'. Gemeinde und Staat im Alten Europa. Ed. P. Blickle. Munich, Oldenbourg: 1-20.
- Blickle, P. (2003). Von der Leibeigenschaft zu den Menschenrechten. Eine Geschichte der Freiheit in Deutschland. Munich, C. H. Beck.
- Blickle, R. (1987). 'Hausnotdurft. Ein Fundamentalrecht in der altständischen Ordnung Bayerns'. Grund- und Freiheitsrechte von der ständischen zur spätbürgerlichen Gesellschaft. Ed. G. Birtsch. Göttingen, Vandenhoeck & Ruprecht: 42-62.
- Blickle, R. (1992). 'From Subsistence to Property: Traces of a Fundamental Change in Early Modern Bavaria'. Central European History 25(4): 377-385.
- Bonfield, L. and L. R. Poos (1988). 'The development of the deathbed transfer in medieval English manor courts'. Cambridge law journal 47.
- Bosl, K. (1991). Gesellschaft im Aufbruch: die Welt des Mittelalters und ihre Menschen. Regensburg, Pustet.
- Bowden, P. J. (1967). 'Agricultural prices, farm profits, and rents'. The agrarian history of England and Wales. Ed. J. Thirsk. Cambridge, Cambridge University Press. Vol. IV: 593-695.
- Brakensiek, S. (2004). 'Farms and land - a commodity? Land markets, family strategies and manorial control in Germany.'. Landholding and land transfer in the North Sea area (late Middle Ages - 19th century). Eds. B. J. P. v. Bavel and P. Hoppenbrouwers. Turnhout, Brepols: 218-234.
- Briggs, C. (2006). 'Manor court procedures, debt litigation levels, and rural credit provision in England, c. 1290-c. 1380'. Law and history review 24(3): 519-558.
- Bulst, N. (1993). 'Kleidung als sozialer Konfliktstoff. Probleme kleidergesetzlicher Normierung im sozialen Gefüge'. Saeculum 44(1): 32-46.
- Bushnell, J. (1993). 'Did Serf Owners Control Serf Marriage? Orlov Serfs and Their Neighbors, 1773-1861'. Slavic review 52(3): 419-445.
- Campbell, B. M. S. (1984). 'Population pressure, inheritance and the land market in a fourteenth-century peasant community'. Land, kinship and life-cycle. Ed. R. M. Smith. Cambridge, Cambridge University Press: 87-134.
- Campbell, B. M. S. (2005). 'The agrarian problem in the early fourteenth century'. Past & present 188: 3-70.
- Campbell, B. M. S. (2010). 'Nature as historical protagonist: environment and society

- in pre-industrial England'. Economic history review 63(2): 281-314.
- Cerman, M. (1999). 'Gutsherrschaft und untertäniges Gewerbe: die Herrschaften Frýdland und Liberec in Nordböhmen'. Jahrbücher für Geschichte Osteuropas 47(1): 2-19.
- Cerman, M. (1999). 'Serfdom and Family'. Paper presented to the conference on "Households and Families in Past Times: New Frontiers, New Approaches", Palma de Mallorca, 8-11 Sep. 1999.
- Cerman, M. (2008). 'Social structure and land markets in late medieval Central and East-central Europe'. Continuity and change 23(1): 55-100.
- Clark, G. (2007). A farewell to alms: a brief economic history of the world. Princeton, NJ, Princeton University Press.
- Czap, P. (1978). 'Marriage and the Peasant Joint Family in Russia'. The family in imperial Russia. Ed. D. L. Ransel. Urbana, IL, University of Illinois Press: 103-123.
- De Moor, T. and J.-L. van Zanden (2010). 'Girlpower: the European marriage pattern and labour markets in the North Sea region in the late medieval and early modern period'. Economic history review 63(1): 1-33.
- De Vries, J. (1974). The Dutch rural economy in the golden age, 1500-1700. New Haven, CT.
- De Vries, J. (1975). 'Peasant demand patterns and economic development: Friesland 1550-1750'. European peasants and their markets. Eds. W. N. Parker and E. L. Jones. Princeton: 205-238.
- Dejongh, G. (1999). 'New Estimates of Land Productivity in Belgium, 1750-1850'. Agricultural History Review 47(1): 7-28.
- Dennison, T. K. (2011). The institutional framework of Russian serfdom. Cambridge, Cambridge University Press.
- Dennison, T. K. and S. Ogilvie (2007). 'Serfdom and social capital in Bohemia and Russia'. Economic history review 60(3): 513-544.
- Dipper, C. (1987). 'Bauern als Gegenstand der Sozialgeschichte'. Sozialgeschichte in Deutschland. Entwicklungen und Perspektiven im internationalen Zusammenhang, Bd. 4, Soziale Gruppen in der Geschichte. Eds. W. Schieder and V. Sellin. Göttingen: 9-33.
- Dyer, C. (1980). Lords and peasants in a changing society: the estates to the Bishopric of Worcester, 680-1540. Cambridge, Cambridge University Press.

- Dyer, C. (2007). 'The ineffectiveness of lordship in England, 1200-1400'. Past and present 195: 69-86.
- Ellis, F. (1988). Peasant economics: farm households and agrarian development. Cambridge, Cambridge University Press.
- Enders, L. (1992). Die Uckermark: Geschichte einer kurmärkischen Landschaft vom 12. bis zum 18. Jahrhundert. Berlin, Berliner Wissenschafts-Verlag.
- Enders, L. (1993). 'Die Landgemeinde in Brandenburg. Grundzüge ihrer Funktion und Wirkungsweise vom 13. bis zum 18. Jahrhundert'. Blätter für deutsche Landesgeschichte 129: 195-256.
- Enders, L. (1995). 'Individuum und Gesellschaft. Bäuerliche Aktionsräume in der frühneuzeitlichen Mark Brandenburg'. Gutsherrschaft als soziales Modell. Vergleichende Betrachtungen zur Funktionsweise frühneuzeitlicher Agrargesellschaften. Ed. J. Peters. Munich, Oldenbourg: 155-178.
- Enders, L. (1997). 'Das bäuerliche Besitzrecht in der Mark Brandenburg, untersucht am Beispiel der Prignitz vom 13. bis 18. Jahrhundert'. Gutsherrschaftsgesellschaften im europäischen Vergleich. Ed. J. Peters. Berlin: 399-427.
- Enders, L. (2000). Die Prignitz: Geschichte einer kurmärkischen Landschaft vom 12. bis zum 18. Jahrhundert. Berlin, Berliner Wissenschafts-Verlag.
- Engelbrecht, J. (1996). Das Herzogtum Bern im Zeitalter der Französischen Revolution. Modernisierungsprozesse zwischen bayerischem und französischem Modell. Paderborn etc.
- Epstein, S. R. (1998). 'The peasantries of Italy, 1350-1750'. The peasantries of Europe: from the fourteenth to the eighteenth centuries. Ed. T. Scott. London / New York, Longman: \*\*\*88-89\*\*\*.
- Fairchilds, C. (2000). 'Fashion and freedom in the French Revolution'. Continuity and change 15: 419-433.
- Feller, L. (2004). 'Quelques problèmes liés à l'étude du marché de la terre durant le Moyen Âge'. Il mercato della terra: secc. XIII-XVIII: atti della trentacinquesima Settimana di studi, 5-9 maggio 2003. Ed. S. Cavaciocchi. Florence, Le Monnier: 21-47.
- Figes, O. (1989). Peasant Russia, civil war: the Volga countryside in revolution (1917-1921). Oxford, Clarendon.
- Figes, O. (2002). Natasha's dance: a cultural history of Russia. London, Allen Lane.

- Foucault, M. (1975). Surveiller et punir: naissance de la prison. [Paris], Gallimard.
- Fox, T. (1993). 'Land tenure, feudalism, and the state in eighteenth-century hesse'. Themes in rural history of the Western world. Ed. R. Herr. Ames, Iowa, Iowa State University Press: 99-139.
- Freeze, G. L. (1976). 'The Disintegration of Traditional Communities: The Parish in Eighteenth-Century Russia'. The Journal of Modern History 48(1): 32-50.
- Freudenberger, H. (1963). 'Fashion, sumptuary laws, and business'. Business history review 37(1/2): 37-48.
- Glaeser, E. L. and A. Shleifer (2002). 'Legal origins'. Quarterly journal of economics 117(4): 1193-1230.
- Goldberg, P. J. P. (1992). Women, work, and life-cycle in a medieval economy: women in York and Yorkshire, c. 1300-1520. Oxford, Clarendon Press.
- Graus, F. (1957). Dějiny venkovského lidu v Čechách v době předhusitské 2 Dějiny venkovského lidu od poloviny 13.stol. do roku 1419. Praha, Státní nakladatelství politické literatury.
- Grulich, J. (2005). 'Besitztransfer und regionale Mobilität der untertänigen Bevölkerung (Südböhmen, vom 16. bis 18. Jahrhundert)'. Untertanen, Herrschaft und Staat in Böhmen und im "Alten Reich". Sozialgeschichtliche Studien zur Frühen Neuzeit. Eds. M. Cerman and R. Luft. Munich, Oldenbourg: 127-151.
- Hagen, W. W. (2002). Ordinary Prussians. Brandenburg Junkers and villagers 1500-1840. Cambridge, Cambridge University Press.
- Harnisch, H. (1989). 'Bäuerliche Ökonomie und Mentalität unter den Bedingungen der ostelbischen Gutsherrschaft in den letzten Jahrzehnten vor Beginn der Agrarreformen'. Jahrbuch für Wirtschaftsgeschichte 1989(3): 87-108.
- Hatcher, J. (1981). 'English Serfdom and Villeinage: Towards a Reassessment'. Past & Present(90): 3-39.
- Hilton, R. H. (1949). 'Peasant Movements in England before 1381'. The Economic history review 2(2): 117-136.
- Hilton, R. H. (1973). Bond men made free: medieval peasant movements and the English rising of 1381. London, Temple Smith.
- Hilton, R. H. (1975). The English peasantry in the later Middle Ages. Oxford, Clarendon Press.
- Hoffmann, R. C. (1989). Land, liberties, and lordship in a late medieval countryside:



- agrarian structures and change in the Duchy of Wroclaw. Philadelphia, University of Pennsylvania Press.
- Hoffmann, Richard C., N. Langston, James C. McCann, Peter C. Perdue, et al. (2008). 'AHR Conversation: Environmental Historians and Environmental Crisis'. The American Historical Review 113(5): 1431-1465.
- Holenstein, A. and S. Ullmann, Eds. (2004). Nachbarn, Gemeindegossen und die anderen. Minderheiten und Sondergruppen im Südwesten des Reiches während der Frühen Neuzeit. Oberschwaben - Geschichte und Kultur. Epfendorf.
- Holzem, A. (2003). 'Religiöse Prägungen des Konsumverhaltens in frühneuzeitlichen Dorfgesellschaften: Das Beispiel des Fürstbistums Münster'. Der lange Weg in den Überfluss. Anfänge und Entwicklung der Konsumgesellschaft seit der Vormoderne. Ed. M. Prinz. Paderborn: 79-103.
- Homans, G. C. (1941). English villagers of the thirteenth century. New York.
- Hooper, W. (1915). 'The Tudor sumptuary laws'. English historical review 30(119): 433-449.
- Huang, P. C. (1985). The peasant economy and social change in North China. Stanford, CA, Stanford University Press.
- Hunt, A. (1996). Governance of the consuming passions: a history of sumptuary law. Houndmills, Basingstoke, Macmillan.
- Ioffe, G. and T. Nefedova (1997). 'Persistent features of the Russian countryside: communal attachment and reform'. GeoJournal 41(3): 193-204-204.
- Jones, P. J. (1968). 'From manor to mezzadria: a Tuscan case-study in the medieval origins of modern agrarian society'. Florentine studies. Ed. N. Rubinstein. London: 193-241.
- Kaak, H. (1995). 'Diskussionsbericht'. Gutsherrschaft als soziales Modell. Vergleichende Betrachtungen zur Funktionsweise frühneuzeitlicher Agrargesellschaften. Ed. J. Peters. Munich, Oldenbourg: 439-501.
- Kisch, H. (1972). 'From monopoly to laissez-faire: the early growth of the Wupper Valley textile trades'. Journal of European economic history 1(2): 298-407.
- Kochanowicz, J. (1983). 'The peasant family as an economic unit in the Polish feudal economy of the eighteenth century'. Family forms in historic Europe. Eds. R. Wall, J. Robin and P. Laslett. Cambridge, Cambridge University Press: 153-166.

- Kriedte, P., H. Medick and J. Schlumbohm (1981). Industrialization before industrialization: rural industry in the genesis of capitalism. Cambridge, Cambridge University Press.
- Kula, W. (1972). 'La seigneurie et la famille paysanne dans la Pologne du XVIIIe siècle'. Annales. Histoire, Sciences Sociales 27(4/5): 949-958.
- La Porta, R., F. Lopez de Silanes and A. Shleifer (2008). 'The economic consequences of legal origins'. Journal of economic literature 46(2): 285-332.
- Landes, D. S. (1999). Wealth and poverty of nations: why some are so rich and some so poor. London, Abacus.
- Levett, A. E. (1938). Studies in manorial history. Oxford, Clarendon Press.
- Lienen, B. H. (1991). 'Aspekte des Wandels bäuerlicher Betriebe zwischen dem 14. und dem 17. Jahrhundert an Beispielen aus Tudorf (Kreis Paderborn)'. Westfälische Forschungen 41: 288-315.
- Little, I. M. D. (1982). Economic development: theory, policy, and international relations. New York, Basic Books.
- Lütge, F. (1967). Geschichte der deutschen Agrarverfassung vom frühen Mittelalter bis zum 19. Jahrhundert. Stuttgart.
- MacFarlane, A. (1978). 'The Origins of English Individualism: Some Surprises'. Theory and society 6(2): 255-277.
- Macfarlane, A. (1978). The origins of English individualism: the family, property and social transition. Oxford, Blackwell.
- Macfarlane, A. (1984). 'The myth of the peasantry: family and economy in a northern parish'. Land, kinship and life-cycle. Ed. R. M. Smith. Cambridge, Cambridge University Press.
- Macfarlane, A. (1987). The culture of capitalism. Oxford, Basil Blackwell.
- Mathieu, J. (2004). 'Use, Property and Market of Land Areas, 15th to 19th Centuries'. Il mercato della terra: secc. XIII-XVIII: atti della trentacinquesima Settimana di studi, 5-9 maggio 2003. Ed. S. Cavaciocchi. Florence, Le Monnier: 159-178.
- Matz, K.-J. (1980). Pauperismus und Bevölkerung. Die gesetzlichen Ehebeschränkungen in den süddeutschen Staaten während des 19. Jahrhunderts. Stuttgart.
- Medick, H. (1996). Weben und Überleben in Laichingen 1650-1900. Untersuchungen zur Sozial-, Kultur- und Wirtschaftsgeschichte aus der Perspektive einer

- lokalen Gesellschaft im frühneuzeitlichen Württemberg. Göttingen, Vandenhoeck & Ruprecht.
- Melton, E. (1988). ‘*Gutsherrschaft* in East Elbian Germany and Livonia, 1500-1800: a critique of the model’. Central European history 21(4): 315-349.
- Menzel, J. J. (1977). Die schlesischen Lokationsurkunden des 13. Jahrhunderts : Studien zum Urkundenwesen, zur Siedlungs-, Rechts- und Wirtschaftsgeschichte einer ostdeutschen Landschaft im Mittelalter. Würzburg, Holzner.
- Mironov, B. (1990). ‘The Russian peasant commune after the reforms of the 1860s’. The world of the Russian peasant: post-emancipation culture and society. Eds. B. Eklof and S. Frank. Boston ; London, Unwin Hyman: 7-44.
- Mironov, B. (1996). ‘When and why was the Russian peasantry emancipated?’. Serfdom and slavery: studies in legal bondage. Ed. M. L. Bush. Harlow, Longman: 323-347.
- Moyer, J. B. (1996). ‘Sumptuary law in Ancien Régime France, 1229–1806’. (Ph.D. dissertation, Syracuse University).
- Netting, R. M. (1981). Balancing on an Alp: ecological change and continuity in a Swiss mountain community. Cambridge, Cambridge University Press.
- North, D. C. (1990). Institutions, institutional change and economic performance. Cambridge, Cambridge University Press.
- North, M. (2004). ‘From land mobility to immobility: the emergence of the early modern manorial economy’. Il mercato della terra: secc. XIII-XVIII: atti della trentacinquesima Settimana di studi, 5-9 maggio 2003. Ed. S. Cavaciocchi. Florence, Le Monnier: 261-269.
- Ogilvie, S. (1997). State corporatism and proto-industry: the Württemberg Black Forest, 1580-1797. Cambridge, Cambridge University Press.
- Ogilvie, S. (2001). ‘The economic world of the Bohemian serf: economic concepts, preferences and constraints on the estate of Friedland, 1583-1692’. Economic history review 54: 430-453.
- Ogilvie, S. (2005). ‘Communities and the “second serfdom” in early modern Bohemia’. Past and present 187: 69-119.
- Ogilvie, S. (2007). ‘“Whatever is, is right”? Economic institutions in pre-industrial Europe’. Economic history review 60(4): 649-684.
- Ogilvie, S. and M. Cerman (1995). ‘The Bohemian census of 1651 and the position of

- inmates'. Histoire sociale/Social history 28(56): 333-346.
- Ogilvie, S. and J. S. S. Edwards (2000). 'Women and the "second serfdom": evidence from early modern Bohemia'. Journal of economic history 60(4): 961-994.
- Ogilvie, S., M. Küpker and J. Maegraith (2011). 'Household debt in early modern Württemberg: evidence from personal inventories'. Cambridge working papers in economics 1148.
- Osheim, D. J. (1989). 'Countrymen and the law in late-medieval Tuscany'. Speculum 64: 317-337.
- Overton, M. (1996). Agricultural revolution in England: the transformation of the agrarian economy 1500-1850. Cambridge, Cambridge University Press.
- Pallot, J. (1999). Land reform in Russia, 1906-1917: peasant responses to Stolypin's project of rural transformation. Oxford, Clarendon Press.
- Peters, J. (1991). 'Eigensinn und Widerstand im Alltag. Abwehrverhalten ostelbischer Bauern unter Refeudalisierungsdruck'. Jahrbuch für Wirtschaftsgeschichte 1991(2): 85-103.
- Plakans, A. (1973). 'Peasant Families East and West: A Comment on Lutz K. Berkner's 'Rural Family. Organization in Europe: A Problem in Comparative History''. Peasant studies newsletter 2(3): 11-16.
- Plakans, A. (1975). 'Peasant Farmsteads and Households in the Baltic Littoral, 1797'. Comparative Studies in Society and History 17(1): 2-35.
- Plakans, A. (1975). 'Seigneurial authority and peasant life: the Baltic area in the eighteenth century'. Journal of interdisciplinary history 5(4): 629-654.
- Plakans, A. and C. Wetherell (1988). 'The Kinship Domain in an East European Peasant Community: Pinkenhof, 1833- 1850'. The American Historical Review 93(2): 359-386.
- Prass, R. (1997). Reformprogramm und bäuerliche Interessen. Die Auflösung der traditionellen Gemeindeökonomie im südlichen Niedersachsen, 1750-1883. Göttingen.
- Raftis, J. A. (1964). Tenure and mobility. Studies in the social history of the mediaeval English village. Toronto.
- Raftis, J. A. (1996). Peasant economic development within the English manorial system. Stroud, Sutton, 1997.
- Razi, Z. (1980). Life Marriage and death in a medieval Parish : Economy Society and Demography in Halesowen 1270-1400. Cambridge, Cambridge University

- Press.
- Razi, Z. (1993). 'The myth of the immutable English family'. Past & Present 140: 3-44.
- Rebel, H. (1983). Peasant classes: the bureaucratization of property and family relations under early Habsburg absolutism, 1511-1636. Princeton.
- Robisheaux, T. (1989). Rural society and the search for order in early modern Germany. Cambridge, Cambridge University Press.
- Roche, D. (2000). A history of everyday things: the birth of consumption in France, 1600-1800. Cambridge, Cambridge University Press.
- Rösener, W. (1992). Peasants in the Middle Ages. Urbana / Chicago.
- Ross, R. (2006). 'Sumptuary laws in Europe, the Netherlands and the Dutch colonies'. Contingent lives: social identity and material culture in the VOC world Ed. Nigel Worden. Cape Town, University of Cape Town.: 382-391.
- Rudert, T. (1995). 'Gutsherrschaft und ländliche Gemeinde. Beobachtungen zum Zusammenhang von gemeindlicher Autonomie und Agrarverfassung in der Oberlausitz im 18. Jahrhundert'. Gutsherrschaft als soziales Modell. Vergleichende Betrachtungen zur Funktionsweise frühneuzeitlicher Agrargesellschaften. Ed. J. Peters. Munich, Oldenbourg: 197-218.
- Rusiński, W. (1976). 'Das Bauernlegen in Mitteleuropa im 16.-18. Jahrhundert'. Studia Historiae Oeconomicae 11: 21-56.
- Sabeau, D. W. (1990). Property, production and family in Neckarhausen, 1700-1870. Cambridge, Cambridge University Press.
- Sakai, E. (1967). Der kurhessische Bauer im 19. Jahrhundert und die Grundlastenablösung. Melsungen, Bernecker.
- Schlumbohm, J. (1997). 'Gesetze, die nicht durchgesetzt werden - ein Strukturmerkmal des frühneuzeitlichen Staates?'. Geschichte und Gesellschaft 23: 647-663.
- Schnyder-Burghartz, A. (1992). Alltag und Lebensformen auf der Basler Landschaft um 1700 : vorindustrielle, ländliche Kultur und Gesellschaft aus mikrohistorischer Perspektive ; Bretzwil und das obere Waldenburger Amt von 1690 bis 1750. Liestal, Verl. des Kantons Basel-Landschaft.
- Schofield, P. R. (2003). Peasant and community in medieval England, 1200-1500. Basingstoke, Palgrave Macmillan.
- Schremmer, E. (1963). Die Bauernbefreiung in Hohenlohe. Stuttgart, Fischer.

- Schubert, E. (1983). Arme Leute, Bettler und Gauner im Franken des 18. Jahrhunderts. Neustadt a.d. Aisch, Degener.
- Shanin, T. (1988). 'Introduction: peasantry as a concept'. Peasants and peasant societies. Ed. T. Shanin. London, Penguin.
- Smith, R. M. (1974). 'English peasant life-cycles and socio-economic networks: a quantitative geographical case study'. (Ph.D. dissertation, University of Cambridge).
- Smith, R. M. (1979). 'Some reflections on the evidence of the origins of the 'European marriage pattern' in England'. The sociology of the family: new directions for Britain. Ed. C. C. Harris. Keele: 74-112.
- Smith, R. M. (1984). 'Families and their land in an area of partible inheritance: Redgrave, Suffolk 1260–1320'. Land, kinship and life-cycle. Ed. R. Smith. Cambridge, Cambridge University Press: 135-196.
- Smith, R. M. (1998). 'The English peasantry, 1250-1650'. The peasantries of Europe: from the fourteenth to the eighteenth centuries. Ed. T. Scott. London / New York, Longman: 339-371.
- Štefanová, D. (1997). 'Herrschaft und Untertanen. Ein Beitrag zur Existenz der rechtlichen Dorfautonomie in der Herrschaft Frýdlant in Nordböhmen (1650-1700)'. Gutsherrschaftsgesellschaften im europäischen Vergleich. Ed. J. Peters. Berlin: 199-210.
- Štefanová, D. (1999). Erbschaftspraxis und Handlungsspielräume der Untertanen in einer gutsherrschaftlichen Gesellschaft. Die Herrschaft Frýdlant in Nordböhmen, 1558-1750. Munich, Oldenbourg.
- Thomson, J. K. J. (1983). 'Variations in industrial structure in pre-industrial Languedoc'. Manufacture in town and country before the factory. Eds. M. Berg, P. Hudson and M. Sonenscher. Cambridge, Cambridge University Press: 61-91.
- Thorner, D. (1988). 'Peasant economy as a category in history'. Peasants and peasant societies. Ed. T. Shanin. London, Penguin.
- Ulbrich, C. (1999). Shulamit und Margarete: Macht, Geschlecht und Religion in einer ländlichen Gesellschaft des 18. Jahrhunderts. Vienna / Cologne / Weimar, Böhlau.
- Van Zanden, J.-L. (2006). 'Wages and the standard of living in Europe, 1500–1800'. European Review of Economic History 3(2): 175-197.

- Van Zanden, J.-L. and M. Prak (2006). 'Towards an economic interpretation of citizenship: the Dutch Republic between medieval communes and modern nation-states'. European review of economic history 10(2): 11-147.
- Volckart, O. (2004). 'Die Dorfgemeinde als Kartell: Kooperationsprobleme und ihre Lösungen im Mittelalter und in der Frühen Neuzeit'. Jahrbuch für Wirtschaftsgeschichte 2004:2.
- Whittle, J. (1998). 'Individualism and the family-land bond: a reassessment of land transfer patterns among the English peasantry'. Past and present 160: 25-63.
- Wickham, C. (1988). The mountains and the city: the Tuscan Appenines in the early Middle Ages. Oxford, Clarendon.
- Wickham, C., Ed. (1994). Land and power: studies in Italian and European social history, 400-1200. London, British School at Rome.
- Wolf, E. R. (1966). Peasants. Englewood-Cliffs (N.J.): Prentice-Hall.
- Wunder, H. (1996). 'Agriculture and agrarian society'. Germany: a new social and economic history, Vol. II: 1630-1800. Ed. S. Ogilvie. London, Edward Arnold: 63-99.
- Zanden, J. L. v. (1999). 'Chaloner Memorial Lecture: The Paradox of the Marks. The Exploitation of Commons in the Eastern Netherlands, 1250-1850'. Agricultural History Review 47(2): 125-144.
- Zeitlhofer, H. (2001). 'Besitztransfer und sozialer Wandel in einer ländlichen Gesellschaft der frühen Neuzeit. Das Beispiel der südböhmischen Pfarre Kapličky, 1640–1840'. (Ph.D. dissertation, University of Vienna).