

Village Communities as Cartels: Problems of Collective Action and their Solutions in Medieval and Early Modern Central Europe

by
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Abstract: In this paper, the causes of both the development and stability of medieval and early modern village communities in Central Europe are analysed. The hypothesis is that these organisations had the function of cartels. As is widely accepted, cartels are inherently unstable, suffering from free-riding and defection. Volckart shows that in the case of the communities examined in this essay, the problem of collective action was solved with the help of positive and negative sanctions, whose provision, in turn, posed similar free-rider problems. This second-order dilemma of co-operation was overcome because village communities were socially heterogeneous, the wealthier members whose market quota was larger having not only a stronger interest in the stability of the cartel, but being willing and able to supply the necessary sanctions. On the basis of this hypothesis, the study isolates a number of factors which determined the effectiveness of rural communities.

1. The problem

There is a pervasive strand in economic and social history which claims that the behaviour of medieval and early modern peasants was governed by psychic dispositions based on an essentially irrational aversion to the market. This is directly evident in the hypotheses of Marxist authors like Brenner (1976/95, pp. 59f; 1986, p. 29), according to whom peasants regarded the market as something threatening, utility maximising behaviour having developed only under the impact of capitalist institutions. Indirectly, a similar assumption is made by neo-Malthusian historians like Postan (1975, pp. 71ff) and Abel (1986, p. 89), as well. One hypothesis which they put forward is, for example, that late medieval peasants reacted to the secular decline of population by deserting marginal lands

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and settling in more fertile areas. The fact that they did not rather opt for economic diversification - e.g. by intensifying the production of industrial goods which at this time found a strong demand - is implicitly explained by the peasants' subsistence orientation and by the assumption that they resorted to market exchange only under compulsion. Finally, social historians like Bauer and Matis (1988, pp. 15, 35) claim that the behaviour of pre-modern peasants was governed by an ideal of distributive justice which "eliminated" individual self-interest and prevented the development of "chrematist" utility maximisation. This interpretation is closely related to the hypotheses put forward by the "moral-economy-school" of economic history (cf. Thompson, 1971).

Recently, however, a number of studies have demonstrated that many aspects of peasant behaviour can be conclusively explained under the assumption that peasants were no less rational and market oriented than their urban contemporaries or indeed than people who grew up in the modern industrial world (Epstein, 1991; Root, 1992). Hilton Root in particular analyses how pre-revolutionary French peasants exploited communal property relations so that they could produce more efficiently for the market. According to him, the fundamental conflict between village customs and capitalist practices assumed by much of the more traditional literature did not exist (Root, 1992, p. 10). While these studies are attractive because they make it possible to apply modern economic theory to the analysis of pre-modern agriculture, the behavioural assumption on which they are based - rational utility maximisation - gives rise to a question which hitherto has not been answered: How did peasants manage to solve the problem of co-operation or collective action (cf. Olson, 1965)? Co-operation was of central importance in pre-industrial agriculture, and peasant communities, whose existence required collective action, were a characteristic feature of rural society at least from the high Middle Ages to the late eighteenth century.

Assuming peasants to have been rational and self-interested agents, what was problematic about this? Rational individuals can be expected to co-operate when they want to produce a good which they cannot supply on their own, and when the costs of co-operation are lower than the returns, in other words, when there is a positive co-operation-defection differential (Posner, 1996, p. 137). Formally, the individual calculation leading to co-operation may be depicted like this:

$$(1) \quad CDD = (NB(C) - NB(D)) > 0$$

With:

CDD	Co-operation-defection-differential,
$NB(C)$	Net-benefit of cooperation,
$NB(D)$	Net-benefit of defection.

However, when the result of co-operation depends on the division of labour, it is costly to determine every producer's marginal output. Therefore, there are incentives for shirking (Alchian and Demsetz, 1972, p. 780). When the outcome of co-operation is a collective good, that is, when nobody can be excluded from consuming it once it has been provided, these incentives are particularly strong (Hechter, 1987, p. 41f). Then, everybody has the chance to consume the good without contributing to its production, that is, to free-ride or to defect. As all actors interested in the provision of the good face such incentives, co-operation is not easily achieved. In sum: common interests are not a sufficient basis for collective action. Rather, this is a fundamental problem; it cannot simply be taken as a matter of course, but needs to be explained.

Nevertheless, communities whose members co-operate were and still are ubiquitous. Obviously, many social groups succeeded in solving the co-operative dilemma linked with the creation and stabilisation of these organisations. The present paper analyses how this was done in the Middle Ages and in the early modern era, taking village communities as a case in point. Two basic problems are examined: first, it is analysed which goods these communities supplied to their members, in other words, what their function was (section 2). The hypothesis is that they were basically cartels who restricted competition, thereby generating monopoly rents. Thus, peasants, too, aimed at the "monopolistic appropriation of privileged modes of acquisition"; a behaviour which according to Weber (1978, p. 306) is characteristic of corporate social orders in all societies dominated by them. Second, it is necessary to examine the question of how the problem of co-operation posed by the provision of this good was solved (section 3). Here, the hypothesis is that this was achieved with the help of positive and negative sanctions which increased the utility of co-operation or reduced that of defection. However, the provision of sanctions is costly and poses a second-order problem of co-operation. Therefore, it needs to be examined which solution to this problem medieval and early modern village communities found (section 4). The hypothesis is that sanctions could be provided because these organisations included internal leading groups whose members had a particularly strong interest in stabilising the cartels and were therefore prepared to bear sanctioning costs. In fact, the leading groups within the communities could only emerge because of peasant involvement in agricultural markets, and tended to be the better organised, the more intensive market contacts where. Thus, far from being averse to market contacts, peasants used these to stabilise their communities.

2. *The functions of village communities*

Like all organisations, medieval and early modern village communities were based on institutions. The rules differed markedly from region to region and sometimes even from village to village (Ennen and Janssen, 1979, pp. 178ff; Nikolay-Panter, 1989, p. 68). However, they all assigned different rights and duties to the principal members of the communities, that is, to the heads of the peasants' households, and to the other villagers, to cottagers, artisans, women, children, farm hands etc. (cf. van Dülmen, 1999, pp. 27f, 47). They were no abstract institutions in the sense of von Hayek (1982, pp. 48f), but concrete rules. By prescribing or prohibiting certain activities to concrete actors, they allowed the communities to reach concrete aims which were *ex ante* defined. What these aims were is the question examined in this section.

Here, the village by-laws, called "*Flurzwang*" by contemporaries and later scholars, are of special importance (Rösener, 1999). They applied to economic activities under the open field system, that is, to the agricultural system based on the division of the area of the village into three or more open fields each of which was subdivided into long strips worked by the individual peasants. Every year one of the fields lay fallow while the others were used for summer and winter grain. A common used for pasture was also part of the area of the village. Still, the by-laws do not clearly indicate which aims the communities tried to reach with their help. Thus, there is ample room for different interpretations.

Checking through the relevant literature shows that it is possible to arrange these interpretations in two groups. On the one hand, there is the hypotheses that the main function of village communities was to improve the bargaining position of the peasants vis-à-vis their landlord (Slicher van Bath, 1963, p. 158; Genicot, 1966, p. 733). This is, of course, a plausible interpretation, especially in view of the fact that when the communities emerged, that is, during the high Middle Ages, the land-labour ratio was shifting to the disadvantage of the peasants. In fact, German sources show that villagers were indeed bargaining collectively and using their communal organisation in order to prevent their landlords from playing off one peasant against the others (Wunder, 1986, p. 33).

Still, there is another influential interpretation according to which the central function of the communities was the internalisation of the external costs of individual economic decisions taken by the villagers. As a matter of fact, this hypothesis comes in two variants. One, which is widely accepted in the historical literature, claims that the communities and their rules existed in order to prevent the peasants from harming each other within the open field system: given the close neighbourhood of the field strips worked by the individual peasants, mutual obstructions and damages inadvertently done to each other would have been frequent without such rules. Schubert (1992, p. 86) sums up the vast literature by stating that "neighbours had to agree on what to produce on the winter fields and

what on the summer fields. Apart from unavoidable disputes, the land forced the villagers to co-operate” (cf. Abel, 1978, p. 81). Thus, the village by-laws are interpreted as systems of institutions which aimed at saving the peasants the costs of individual measures against damages done by their neighbours. In other words: they were used to internalise the negative external effects of the close neighbourhood, the good supplied by the communities being a kind of legal security.¹

Village communities undisputedly did fulfil this function. Still, the hypothesis that it was the main purpose of the “*Flurzwang*” is not quite conclusive. In fact, several alternatives can be imagined. The peasants might have bargained among each other in order to internalise the external costs, or - if this solution foundered on high transaction costs (cf. Coase, 1960) - might have put together every villager’s scattered strips of land, thus creating consolidated holdings where the externalities of a too close neighbourhood could have been avoided.² Technology would have been no obstacle, the agricultural implements used at that time (see Abel, 1978, p. 45ff; Ennen and Janssen, 1979, p. 156ff) being in principle as well suited to long narrow field strips as to equally long but broader consolidated fields. Village communities and their by-laws were, at any rate, not absolutely necessary to internalise external effects.

The other variant of the hypothesis that the communities served to internalise the external effects of individual economic decisions claims that what was at issue were the costs of the use of the common (Slicher van Bath, 1963, p. 158). This hypothesis, which under the heading “tragedy of the common” has become paradigmatic in economics (cf. Ostrom, 1994) is almost completely absent from German agricultural historiography - a fact which is probably due to the tendency of many scholars to assume that medieval and early modern peasants were incapable of rational utility maximisation anyway. The argument is that, as no individual peasant could be excluded from using the common as pasture, there were incentives to keep more livestock than was collectively rational, thus causing overgrazing and the exhaustion of the soil. In order to prevent this, it is claimed, the number of livestock each peasant was allowed to keep was restricted. Such restrictions, called stint, were an important component of many medieval and early modern village by-laws.

Still, if the village by-laws are examined more closely, another interpretation suggests itself. Frequently, the rules of the “*Flurzwang*” did not only determine how many livestock a peasant was allowed, but restricted output in other ways,

¹Cf. Demsetz’ (1967) analysis of the emergence of property rights.

²Then, every peasant could have divided his plot into three fields and practised a crop rotation system. Alternatively, he could have experimented with other methods without needing the consent of other villagers.

too. Thus, limitations on the input of labour were common. Many rural law codes contained institutions which made it illegal for peasants to accept additional members into their households. In 1627, for example, the by-laws of Unterregenbach near Schwäbisch Hall stipulated that “no one in this community shall accept somebody from another village into his household without notifying the community beforehand” (Schumm and Schumm, 1985, p. 190). Similarly, Zaisenhäuser in Hohenlohe decreed in 1572: “Whoever wants to take a foreign member into his household shall not have authority to do so unless it happens first with the landlord’s, and second the community’s consent, and if he obtains this, the new member shall pay the community four shillings” (Schumm and Schumm, 1985, p. 496). In Atzbüll near Flensburg in modern Schleswig-Holstein, the community decreed in 1725: “If somebody wants to take a farm hand into his household, he shall first notify his neighbours. If he neglects to do so, both he and the foreign farm hand shall be entirely excluded from the neighbourhood and all its rights” (Rheinheimer, 1999, p. 60).

There were direct restrictions of output, too. Wüstenau near Schwäbisch Hall stipulated in 1568: “A member of the community has the right to graze two pieces of livestock among the community’s livestock, and not more” (Schumm and Schumm, 1985, p. 492). “From time immemorial until today, every household has been allowed to raise not more than four sheep, except when for good will’s sake the community allows one of its members to keep one or two additional sheep, but this must not be to the community’s detriment”, was decreed in the by-law of Weißbach in Hohenlohe (Schumm and Schumm, 1985, p. 194). In Bov in Schleswig, the community ordered in 1706: “Over summer, geese shall not be tolerated in the village. If somebody breaks this rule, he pays a fine of four shillings for every goose, and gets rid of his geese nevertheless” (Rheinheimer, 1999, p. 116). The fact that in 1575 the community of Bellershausen near Ansbach stated “that everybody who has a homestead and property in Bellershausen is allowed to keep cattle, horses, sheep and other livestock without limitation and according to his ability” (Schumm and Schumm, 1985, p. 228) shows that this freedom of action was unusual.

The effects of such institutions were analysed in detail by Boelcke (1964) in regard to a Württemberg peasant of the late sixteenth century. Many property rights in the land this peasant farmed were claimed by the village community which regulated for example how many cattle were to be kept and what the ratio of arable to pasture was to be (Boelcke, 1964, p. 258). Altogether, the “*Flurzwang*” had the effect that all peasants of one village produced the same kinds of crops and amounts of livestock working at the same time and using the same methods. Put differently: the communities prevented the peasants from deciding about the quantity, kind and quality of their product, that is, from making use of important parameters in competition. In other words: their institutions allowed them to function as cartels.

This interpretation is all the more plausible because the importance of markets for agricultural products grew since the high Middle Ages. Though many inhabitants of towns continued far into the early modern age themselves to produce part of their food, the towns which sprang up since the eleventh and twelfth centuries depended on being supplied by the surrounding countryside - a matter that was, in fact, of constant concern for the urban authorities (Hohenberg and Lees, 1985, p. 87). As Abel (1986, p. 5) points out, by the thirteenth century subsistence production had disappeared in most parts of Germany, many manors and peasant holdings being instead adjusted to market production.

Admittedly, village communities had little leverage as far as prices were concerned: they did not control urban markets. However, the prices of goods which were sold in the villages were frequently fixed (Kelter, 1935, pp. 21ff). In Wettlingen near Rothenburg, for example, the community appointed two officials who were to tax meat, "and when a butcher makes meat, he shall send for these officials and shall get his meat taxed" (Ziegler, 1977, p. 168). Buchenbach near Hohenlohe fixed the price of the wine sold in the local pub, and decreed that the publican should "buy no foreign wine as long as there is local wine for sale in Buchenbach" (Schumm and Schumm, 1985, p. 677). Still, though being unable directly to fix prices on urban markets, village communities were in all other respects perfectly able to prevent competition among their members. Even their indirect measures caused a rise in prices and allowed the peasants who supplied the market to make an additional profit. Profits over and above those which could be realised under competitive conditions - monopoly rents, in other words - were the goods the village communities provided for their members with the help of their by-laws.

3. Incentives for defection, group size, and the role of sanctions

Still, what has hitherto been said does not constitute an explanation of why communal organisations developed and what were the causes of their century-long stability. For one thing, the functions indicated above were not mutually exclusive, one community being able to fulfil several of them at a time. Which function was most important is a question which cannot be answered only on the grounds of the arguments put forward in the previous section. What is more, all functions described there had one aspect in common: they all implied that what the communities provided for their members were public goods. Thus, if the communities' central function had been the improvement of the bargaining position of the peasants vis-à-vis their landlord, the outcome would have been contractual clauses which, very much like laws, would have affected all inhabitants of the village. If the communities had existed in order to internalise the external costs of the peasants close neighbourhood, they would have established a kind of

rudimentary legal security. Again, if they had existed to prevent the overgrazing of the village pasture, they would have secured the sustainable usability of the common, a public good par excellence. And finally, if they had been functional cartels, as suggested above, they would have caused a rise in prices which would have benefited all peasants. Thus, regardless of what function stood at the centre of the village communities, every single peasant was always facing incentives to free-ride on the contribution of his fellow-villagers. He was, in other words, in a prisoner dilemma situation where defection was the dominant strategy.

As is well known, there are a number of ways out of this dilemma. First, reputation may become effective. This, however, requires the game to be played repeatedly and with an open end. If the players know which round is the last, it is rational to choose defection in this round. If one knows, however, that one's partner will defect in the last round, it becomes rational to defect in the last but one round, and so on, so that ultimately co-operation cannot develop (Axelrod, 1990, p. 10). However, if the game is open ended, both players recognise that they can realise long-term gains of co-operation. In order to persuade the partner to co-operate, every partner becomes interested in appearing as reliable and honest, therefore showing a co-operative behaviour himself.

Still, the situation is more difficult when more than two parties are involved. Even when an n-person prisoner dilemma is open ended, there are incentives to defect if every player can assume that the production of the collective good is not made impossible by his own defection. This was the situation of medieval and early modern peasants. Suppose that the communities' central function was that of cartels: every peasant might well have been interested in the restriction of competition, but had the chance to maximise his individual utility by defecting. He could treat the prices achieved by the cartel-like behaviour of his fellow-villagers as data and could, for example, bring forward the harvest and take his products to the market earlier than the other villagers, or keep more cattle or employ more farm hands, thereby increasing his output and his profit. Except in very small villages, he did not need to be afraid of making the production of the collective good impossible, that is, of causing a fall in prices.

In a situation like this, co-operation becomes possible under two conditions: firstly, deviant behaviour must be observed, and secondly, positive sanctions must be provided for individuals who play by the rules and/or negative sanctions for individuals who break them (Axelrod, 1986, p. 1105; Hechter, 1987, pp. 33f).³ In order to determine the net-benefit of defection, every actor must then

³In Olson's (1965) terminology, positive and negative sanctions are "selective incentives", that is, incentives which selectively influence only those members of the communities which take part in collective action (positive sanctions) or choose to defect (negative sanctions).

take into account (1.) the probability of his or her violation of the institution being detected, and (2.) the level of the positive or negative sanction. Therefore

$$(2) \quad NB(D) = GB(D) - p * LS$$

With:

$GB(D)$	Gross-benefit of defection,
p	probability of detection,
LS	level of sanction.

Correspondingly, the net-benefit of co-operation is the gross-benefit plus the benefit of a positive sanction (if co-operation has been observed) and minus the costs of co-operation.

$$(3) \quad NB(C) = GB(C) + (p * LS) - CC$$

With:

$GB(C)$	Gross-benefit of co-operation,
p	probability of observation,
CC	Co-operation costs.

Put briefly, negative sanctions reduce the pay-off of defection below that of co-operation while positive sanctions increase the pay-off of co-operation. In both cases, a positive co-operation-defection differential is created, and it becomes individually rational to co-operate and to contribute to the production of the collective good (cf. Posner, 1996, pp. 139f).

Changing the pay-off structure in this way requires an organisation which determines who is responsible for detecting the violation of rules and which supplies the sanctions. The formation of such an organisation, in turn, requires a political entrepreneur who, for reasons of self-interest, is prepared to bear the costs arising here (Hardin, 1982, p. 35). The sources do not show who took this part in medieval and early modern villages. In many cases, it were probably heads of peasant households who acted as political entrepreneurs. However, when in the areas touched by the colonising movement of the high Middle Ages peasants facing their landlord for the first time acted as a corporation (Wunder, 1986, p. 40), either the landlord himself or his agent who had recruited the settlers seems to have been responsible for the formation of the organisation. The landlord was interested in the collective action of his peasants because the costs of contracting with one organisation were lower than the costs of concluding

numerous agreements with many individual peasants. Furthermore, the organisation could reduce the costs incurred when the peasants' dues were collected (cf. Scribner, 1996, p. 302).

In many villages the entrepreneur just needed to initiate the foundation of the community. When the village consisted only of a few peasant households, the defection of a single peasant must often have been sufficient to prevent the production of the collective good. If the members of the community perceived this, everyone developed an interest in conforming to the rules agreed on when the organisation was formed. Here, positive or negative sanctions were unnecessary in order to bring about co-operation.

Still, in the course of the high Middle Ages rural settlements grew and hamlets and single homesteads disappeared in most regions (Abel, 1986, p. 27; Ennen and Janssen, 1979, p. 177; Blickle, 1981, p. 24). Though most medieval and early modern villages stayed small enough for all inhabitants to know each other, the conditions for collective action changed. The fact that many communities imposed controls on immigration (Wunder, 1986, p. 46) shows that their members feared that new inhabitants were prone to give in to the incentives for defection. The community of Leina in Thuringia, for example, stated in 1526 that "many foreigners and strangers are renting or buying plots in our village, which is not only to the detriment of the neighbours and their children because of the rise in prices, but also damages their income in the village, on the fields, in their gardens and otherwise" (Schildt, 1996, p. 113). Most Thuringian villages strictly regulated the immigration of foreigners. In Franconia, too, rural communities controlled that villages did not become "overpopulated" with immigrants (Endres, 1989, p. 87).

In larger villages like these, the defection of a single member of the community did not cause a perceptible fall in the prices of agricultural products, thus making it impossible to capture monopoly rents. Therefore sanctions were needed which changed the co-operation-defection-differentials of the members so far that conforming to the institutions of the "*Flurzwang*" became the individually rational strategy. As positive sanctions, goods and services which allowed individuals to be excluded from consumption could be used, so for example public baths and bakeries (cf. van Dülmen, 1999, p. 45) or, most importantly, the economic support communities provided for needy members. In many villages, peasants who had run into difficulties could receive credits paid out of the communal cash-box where court fees and fines were collected (Wunder, 1987, p. 37).

Goods and services like these may well have provided incentives for collective action. However, exclusion as a means of sanction seems altogether to have been rather seldom. There were some communities in the Moselle region which forbade individuals who had violated the by-laws to use communal baths or bakeries (Nikolay-Panter, 1989, p. 76), but on the whole negative sanctions like

short prison sentences, the pillory, and monetary fines were more frequent (van Dülmen, 1999, p. 51). This was probably due to the high control costs incurred when an individual was to be excluded from communal property, whereas especially monetary fines were attractive for fiscal reasons. Altogether, positive and negative sanctions were sufficient to ensure the organisational stability of village communities for several centuries and to allow their members to realise monopoly rents on the medieval and early modern agricultural markets.

4. The provision of sanctions and the second-order problem of co-operation

Still, pointing to positive and negative sanctions as a means of enforcing the “*Flurzwang*” does not mean conclusively explaining why village communities remained stable for so long. Sanctions just moved the problem of co-operation to another level. In principle, every peasant may have been interested in the validity of his village’s by-laws. However, occasional violations of the rules did not prevent the supply of the collective good. What is more, not only detecting violations was costly, but providing the sanctions was impossible without incurring costs as well. Therefore no member of a village community can be assumed to have been directly interested in taking part in rewarding co-operation or punishing defection. Everybody behaved like one of J.S. Mill’s (1861/1998, p. 209) Hindus who were prepared rather to tolerate crimes than to bear the effort of punishing the criminal or to expose themselves to the revenge of the sanctioned person. In short: as everybody could benefit from the enforcement of the institutions of the “*Flurzwang*” without contributing to the provision of sanctions, there was a second-order problem of collective action (cf. Hechter, 1987, p. 51f), that is, a problem which arose when the first-order problem of co-operation analysed above was to be solved. The situation did not change when there were meta-institutions which obliged the members of the community to take part in sanctioning individuals who had broken the rules of the “*Flurzwang*”. Enforcing these meta-institutions gave rise to another similar problem of co-operation, and so on.

In the course of the last two decades, social scientists have discussed a number of ways in which this dilemma may be overcome. According to Axelrod (1986, p. 1101), for example, the members of a social group where an institution is to be enforced need to be equally “vengeful” against persons who violate this institutions and against persons who do not take part in punishing violations. Axelrod claims that such a behavioural disposition is to be expected from the members of voluntary organisations first because violating a rule which one has agreed to oneself would tend to lower one’s self-esteem; furthermore because members of voluntary organisations similarly assess the utility of a certain rule so that enforcing it becomes easier, and finally, because an agreement about the

formation of an organisation helps to define which behaviour is to be expected of its members, thereby clarifying when defection occurs and when sanctions are called for (Axelrod, 1986, pp. 1105f). In the present context, these hypotheses are problematic because many medieval and early modern peasants were no voluntary members of their communities, having usually rather been born into them and often facing prohibitive exit costs. Moreover, when Axelrod makes vengefulness a necessary condition for the enforcement of institutions, he abandons the assumption of rational utility maximisation.

Geiger's (1987, p. 94) analysis of the provision of informal sanctions is problematic, as well. According to him, there are a number of necessary conditions: individuals must blend into their group in a way which makes it possible for their imagination to be to a large degree determined collectively; their personal emancipation must be weakly developed; and their way of life must exhibit a certain intimacy which manifests itself most strongly in relatively homogeneous and weakly differentiated milieus. Individual imagination is of course always collectively co-determined so that this condition is given in all social groups. Apart from this, however, the causal mechanism linking the weak personal emancipation and intimacy of the way of life with the individual willingness to bear the sanctioning costs remains unclear. Here, too, it is probably necessary to abandon the assumption of rational and self-interested behaviour.

McAdams (1997, p. 355) and Brennan and Pettit (2000), finally, steer clear of the whole problem by assuming that every individual is interested in social esteem which is rendered by his or her group. As esteem is something which one can withhold without incurring costs, actors have a chance costlessly to punish individuals who violate the rules of their group: they simply need to withhold their esteem from them. This sanctioning mechanism requires not more than that the members of the group agree about which behaviour merits sanctions, and that this behaviour is sufficiently observable. What is problematic about the argument is not so much the assumption that individuals strive for social esteem, but rather the hypothesis that it is possible costlessly to punish actors who break the rules. The individual who violates an institution and the individual who imposes a negative sanction on this behaviour are not isolated from their environment but live within a group with whose members they strategically interact. In such a situation somebody who feels harmed by the withdrawal of social esteem can try to build up a threatening reputation by himself harming the individual who punished him, thereby deterring others from taking part in the provision of sanctions (cf. Axelrod, 1990, pp. 151ff). Thus, everybody supplying a negative sanction must take the possibility of a reaction costly to himself into account; consequently, there are no costless sanctions.

As far as medieval and early modern village communities are concerned, it is helpful to consider a fundamental insight of Olson (1965, p. 49f): the ability to co-operate depends to a large degree on the size of the group, smaller groups

being, other things equal, better able to act collectively than larger ones. Since Olson published his hypothesis, a number of its aspects have been criticised.⁴ However, there is no dispute that social control of individual co-operation becomes more difficult when a group is growing (Udéhén, 1993, p. 242). Now, consider that the income of medieval and early modern peasants could differ considerable even within one community (van Dülmen, 1999, pp. 16ff). Income divergence became even more pronounced as a consequence of increasing contacts to markets because fluctuating yields affected households with different market quotas with different severity (Abel, 1986, pp. 9f) In most villages, a group of peasants existed who brought a larger portion of their output on the markets than the other villagers, and who benefited proportionally more of the institutions of the “*Flurzwang*”. These larger peasants faced stronger incentives to provide sanctions and to bear the costs necessary to enforce the by-laws than smallholders and cottagers who visited the market only occasionally and had few chances to capture monopoly rents.

Where the group of larger peasants was so small that the defection of a single member caused a fall in prices which made it impossible to capture a rent, everybody was prepared to conform to the rules out of reasons of self-interest. Similarly, everybody was interested in punishing smallholders who for example experimented with new agricultural methods, thereby threatening to increase their output and to compete on the agrarian market. The members of the leading group of larger peasants were willing to bear the costs of providing sanctions as long as these costs did not exceed their monopoly rents. They could, for example, organise the village court, act as jurymen or judges, or determine appointments to other communal offices etc. Therefore, social distinctions within the village communities did not harm their stability, but rather improved it (cf. Press, 1989, p. 116) - at least in cases where the internal leading group was not so large that defection once again became the dominant strategy.

Now, suppose that the central function of the village communities would have been the improvement of the peasants bargaining position or the internalisation of external costs. In all probability, internal leading groups of villagers would not have emerged. Improving their bargaining position vis-à-vis the landlord was in the interest of all peasants, regardless of how large their income was. Avoiding mutual damages and preserving the usability of the common was primarily in the interest of smallholders who were too many form a leading group, and not affluent enough to finance the provision of sanctions. Thus, it

⁴In this context, it was pointed out that Olson stresses non-excludability from consumption. When the collective good is characterised by a lacking rivalry in consumption, individual utility does not grow less when the group is expanding - a fact which at least is not making the provision of the public good more difficult in larger groups (Udéhén, 1993, 241).

would not have been possible to solve the second-order problem of co-operation on the grounds of those functions of the village communities stressed by traditional research. A solution was only possible because villages were functional cartels and comprised leading groups of peasants willing and able to bear sanctioning costs. Thus, the communities' function as cartels was central to their existence and stability. Peasants were not only not averse to the market, as assumed by the authors quoted at the begin of this essay; peasants were actively using the market and their involvement in it in order to stabilise their communal organisations.

These observations make it possible to isolate a number of factors which were responsible for the changes within village communities over time and for regional variations among them. Communities which were so small that a problem of collective action did not arise were probably relatively efficient and stable. Here, every peasant was prepared to participate in co-operation because the defection of a single member made it impossible to realise monopoly rents. Furthermore, large communities whose members differed considerably in wealth and income, were probably able efficiently to co-operate as well. Here, a leading group of peasants existed who had a large market quota and who consequently were strongly interested in enforcing the rules of the "*Flurzwang*" in order to stabilise their cartel. On the other hand, where the members of the community were relatively homogeneous or had few contacts with the market, their organisation was probably comparatively weak. Here, overcoming the dilemma of co-operation was more difficult because it was hard to solve the second-order problem of collective action which arose when sanctions were to be provided.⁵

The above hypotheses have some implications for agricultural history in a wider sense. Thus, in a famous article which sparked off the debate that later was to bear his name, Brenner (1976/95, pp. 40ff) claimed that the diverging development of rural society in early modern eastern and western Europe - specifically in East Germany and England - is to be explained by the different social cohesion of peasant communities in these countries. Communities in the East were weaker and therefore less able to resist the increase of labour services which landlords dictated, the outcome being social conditions which have somewhat misleadingly been called "second serfdom". Brenner's challenge was taken up by Wunder (1995, pp. 92f) who demonstrated that at least initially, that is, in the thirteenth and fourteenth centuries, when the lands east of the Elbe were settled by German peasants, communities in Eastern Germany were quite

⁵Peasants from villages without institutions restricting competition - that is, with inefficient communities - can be expected over time to have been more successful. Then, however, they intensified their market contacts and quickly developed an interest in creating and enforcing anti-competitive institutions.

as well developed and effective as further west. While Brenner's hypothesis that the intensification of serfdom was due to an original weakness of communal structures in the east was thus conclusively refuted, Wunder's argument does not imply that the efficiency of village communities did not at all affect social developments in early modern Germany. The emergence of the so-called "second serfdom" fell into the late sixteenth and seventeenth centuries, and at this time, east German peasant communities were indeed comparatively weak. For example, both village courts and the enforcement of their verdicts came increasingly under seigneurial control (Blickle, 1981, p. 44; Wunder, 1986, p. 93).

If peasant communities in East and West Germany were equally well developed in the high Middle Ages, how is it then possible to account for the fact that a few hundred years later those east of the Elbe had become comparatively inefficient? The most widely accepted explanation has been found in the weaker urbanisation of the newly settled lands east of the Elbe. There, towns had in general been founded later than further west, they were smaller, and there were fewer of them. The usual argument is that fewer towns provided peasants with fewer exit options, and that this weakened their bargaining position vis-à-vis the landlords (Wehler, 1987, p. 73). This may, of course, have been the case, even if not all towns were willing to accept immigrants who had neither capital nor skill in urban trades (Hohenberg and Lees, 1985, pp. 91f). However, the argument presented in the previous section suggests another, additional explanation: the fact that peasant communities in East Germany became comparatively weak and proved eventually unable to withstand the landlords' pressure was due to the small importance of urban markets. Market development had in the first place been arrested by the Black Death, which put a stop to the high medieval migration eastward and to the further urbanisation of the lands east of the Elbe. However, even when population resumed its growth in the late fifteenth century, this did not invigorate eastern towns. By now, landlords relied on Dutch and English merchants for their supply of industrial goods; they bypassed regional urban markets, whose development was stunted. As a result, towns in Eastern Germany - as in most parts of Eastern Europe - stayed as they were: small, few, and far between (Malowist, 1957, pp. 45f). Consequently, peasants had fewer market contacts, income was distributed more evenly among the villagers, and no leading groups of larger peasants willing and able to enforce communal institutions emerged. Altogether therefore, the pattern exhibited by the development of late medieval and early modern rural society supports the hypotheses advanced in this paper.

5. Conclusion

Is the interpretation of village communities as cartels consistent? The village by-laws cited above show that the communities prevented competition among their members in a number of ways. Thereby they caused a rise in prices paid for agricultural products which inevitably were higher than prices paid under competitive conditions. The communities generated monopoly rents which their members could capture; they had doubtless the function of cartels.

Taking this function into account makes it possible to explain a number of other traits medieval and early modern village communities had. Monopoly rents have the character of a collective good. Therefore, there were almost always - except in very small villages - incentives to capture them without contributing to their provision. This first-order problem of collective action could be solved with the help of positive and negative sanctions. Many communities did not only provide the collective good which was of central importance to their members, but other goods and services which allowed individual exclusion from consumption. These goods and services had the function of positive sanctions which increased the utility of co-operation over that of defection. Negative sanctions had the form of e.g. monetary fines and reduced the utility of defection so far that co-operating - that is, conforming to the rules of the "*Flurzwang*" - became the dominant strategy.

Because every member of the communities could profit from the enforcement of the "*Flurzwang*", but providing sanctions was costly, a second-order problem of co-operation arose here. The way it was solved shows that the communities' cartel-like function was of central importance. As not all members of the communities were to the same extent integrated into the agricultural market, there were almost always some who had a stronger interest in stabilising the cartel than the others. Wealthy peasants with a large market quota formed an internal leading group within the village whose members were not only prepared themselves to conform to the rules of the "*Flurzwang*", but also to bear higher costs in order to enforce the rules against others. As long as the costs of enforcing the by-laws did not exceed their monopoly rents, wealthy peasants were willing to provide both positive and negative sanctions. If, in contrast, the core function of the communities had been an issue of equal interest to all members - like for example internalising externalities caused by the near neighbourhood of the peasants' individual plots of land - such a leading group would not have formed, and the second-order problem of co-operation could not have been solved. Thus, interpreting village communities as cartels is not only consistent with what the sources show, but is also the only approach which makes it possible to explain how the second-order problem of co-operation which is linked to the provision of sanctions could be solved.

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