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Christine Reinle. *Bauernfehden: Studien zur Fehdeführung Nichtadliger im spätmittelalterlichen römisch-deutschen Reich, besonders in den bayerischen Herzogtümern.* Stuttgart: Franz Steiner Verlag, 2003. 589 S. EUR 98.00 (cloth), ISBN 978-3-515-07840-5.

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Normal Peasant Feuds

Was it acceptable for late medieval peasants to engage in feuding? Christine Reinle's affirmative answer rebuts two prominent hypotheses about the late-medieval institution, first Gadi Algazi's recent characterization of feuding as a form of social warfare waged by nobles against peasants, and secondly Otto Brunner's paradigm-setting claim that the noble feud enjoyed a legitimacy which cannot be grasped within the frameworks of legal doctrine and positive law.[1] To interrogate these propositions, Reinle analyzes several hundred feuds waged by peasants and townsfolk in the Bavarian duchies during the fifteenth and early-sixteenth centuries. With respect to the putative "social function" of feuding, Reinle's catalogue of feuds waged by peasants against lords should put to rest any notion that the former were lamed by "passive submission to fate" (p. 104) or lacked accepted means of violent self-help.

But while Reinle's conceptual and methodological debts to Brunner are great and pervade this book, her empirical claims undermine Brunner's cultural history no less than they disrupt Algazi's account of feuding as an instrument of social control. Like Brunner, Reinle tends to assume that social relations are governed by universally held concepts of order and seeks to elucidate these assumptions through the analysis of social practice. But her evidence leads her to conclude that dependent status presented no barrier to feuding, nor did it distinguish non-noble from noble feuds in any practically significant way. Not even unfree status (*Leibeigenschaft*) proved to be a hindrance to legitimate feuding. Rather, as an extra-judicial method of pursuing justice through ritualized damage to the economic supports of an opponent, feuding constituted a customary, "pre-legislative" right that transcended distinctions of rank and was available to anyone capable of holding property and honor. The right to feud was not, in short, a hallmark of nobility.

This conclusion places Reinle at odds with several hypotheses, long-held by legal historians, about the possibilities of peasant self-help in the late medieval Empire. On its surface, the letter of late medieval law seemed to condemn peasant feuding as a "horrible crime." The older scholarship had accepted this as evidence of a noble prerogative and in support of this reasoning pointed to clauses in fourteenth- and fifteenth-century "territorial peace" (*Landfrieden*) legislation that forbade subjects to carry weapons. But as Reinle shows in the second chapter of her book, these bans were sumptuary in nature and intended originally to prevent subjects from bearing

arms on ceremonial occasions. For this and other reasons, she argues that the corpus of Bavarian *Landfrieden* legislation, while attentive to the sartorial signs and ritual manifestations of social rank in public settings, did not prohibit peasant feuding as such, but aimed instead at criminalizing the most physically destructive, geographically wide-ranging, and politically most disruptive manifestations of feuding, no matter the perpetrator's social rank. In a similar vein Reinle argues that the frequent references in *Landfrieden* laws to "destructive outlaws" refer not to sedentary subjects but to foreigners, vagrants, and thieves.

Even in cracking down on peasant feuding, Reinle argues, late medieval governments tacitly acknowledged its customary legality. To be sure, certain *Landfrieden* decrees were directed at the lower orders, but here too the idea was to criminalize specific feuding practices, not to redefine feuding as a mark of noble status. In this connection, the most telling interventions were efforts to reserve jurisdiction over crimes connected with feuding for the jurisdiction of a ducal lieutenant (*Viztum*); in exchange for accepting judicial mediation, feuding culprits were offered money fines in place of capital or corporal punishments. Here, the primary motivation was not social but fiscal. Moreover, by monetizing the penalties for feuding, ducal governments generated new possibilities for peasant feuding: no longer did a person risk life and limb by withdrawing (*Austreten*) from the authority of the territorial community in pursuit of justice through self-help. When a comprehensive prohibition against feuding was finally promulgated in 1508, it applied to everyone, noble and non-noble alike. For Reinle the implication is clear: considerations of rank and dependence remained secondary to the goals of preventing and containing extra-judicial violence.

Chapters 3 and 4 constitute the empirical heart of Reinle's analysis. The eight vivid case studies that make up Reinle's third chapter show just how closely non-noble feuds conformed to the paradigm of noble feuding, not just in Bavaria but throughout the empire. Thus four cases narrate the feuds of non-Bavarians, including the Tirolean Peter PaÃler (1524-1527) and his famous Brandenburg contemporary, Hans Kolhase (1534-1540), whose feud provided the stuff of Kleist's play. Beyond all differences of place, duration, and tactics, these case studies yield several common characteristics. An unjust court decision or failed judicial negotiation usually formed the backdrop of feuding and legitimated it in the eyes of contemporaries. In the extra-judicial pursuit of right and justice, non-nobles declared their feuds openly and formally withdrew from the legal community, just as nobles did. No feud was possible, moreover, without numerous supporters, and their sheer number and social diversity suggests again that anyone could feud. Thus Cuntz Ãrtel, an Upper Bavarian peasant, found support among Franconian nobles in his feud against a NÃ¼rnberg patrician (1459-1461); similarly the merchant Hans Kolhase was given refuge in no fewer than eighty localities and was abetted by fifty-one individuals, including many nobles and ecclesiastics. As the case of Hans StrauÃ shows, the customary right to feud extended even to an impoverished salt-porter (1514-1517). Reinle's fourth and final chapter, a serial analysis of peasant feuds based on district court protocols and the account books of ducal lieutenants, systematizes and for the most part confirms the impressions gleaned in chapter 3. Her analysis of feud-related acts locates each along a continuum of escalating of hostilities from enmity to "legitimate" forms of feuding and finally to outright criminality. A prosopography of *dramatis personae* in non-noble feuding reveals that despite the social diversity of initiators, victims, and abettors, most feuds were carried out among males and within the peasant milieu.

A curiously static picture of medieval Bavaria emerges from these pages. True to her intellectual commitments, Reinle gives short shrift to the possibility that peasant feuding was related to social inequalities or protests. Peasant feuds were almost always defensive in nature, waged to prevent a deterioration of rights or to restore personal honor, and in that sense all were fundamentally conservative. Another test is whether village communes conducted feuds. Although feuding sometimes overlapped with collective resistance, as in the case of Peter PaÃler, Reinle defines resistance as collective and finds no instance in which a village commune conducted a feud. She also rejects the proposition that in feuding, peasants might have been appropriating the behaviors of the powerful in order to legitimate self-defense. Feuding was neither pathological nor imitative but simply a fixture of legal culture, having early medieval origins, an accepted method of compelling an opponent to enter negotiations. Underlying these claims is a holistic understanding of medieval law and social order, founded on a consensus that transcended all divisions of rank and dependence, in which state power and positive law represented a competing and disruptive influence. In such a framework the possibility that different social groups might comprehend the same legal concepts differently–as Gadi Algazi proposed–cannot arise.

All this raises questions of social control and cultural

change–how the institutions of rural society failed to prevent feuding and how it lost legitimacy over the long run. One is left to wonder, for example, whether peasant feuds were more common in Bavaria than elsewhere and whether the strength or weakness of village communes might explain why everyday hostilities escalated to feuding more often in one region than another. Instead, the truly dynamic force in society was the ever-consolidating ducal state, which gradually succeeded in crowding out extra-judicial alternatives to its own mediation. In this sense, Reinle's is a narrative of state-formation, specifically the process of juridification. But it is not, ultimately, a story of acculturation: against the backdrop of cultural stasis, state-driven change did not so much change minds as it reorganized risk. To the question why or how feuding became abnormal, this otherwise rich and provocative book provides few answers.

Note

[1]. Gadi Algazi, *Herrengewalt und Gewalt der Herren im spÃ¤ten Mittelalter* (Frankfurt: Campus Verlag, 1996); Otto Brunner, *Land und Herrschaft: Grundfragen der territorialen Verfassungsgeschichte Ästerreichs im Mittelalter*, 5th ed. (Darmstadt: Wissenschaftliche Buchgesellschaft, 1984).

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