

Peasant Servitude in Mediaeval Catalonia

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Received 24 March 2012 · Accepted 20 May 2012

ABSTRACT

The essay looks at the late-mediaeval serfs in Catalunya Vella who were known as *remences*, peasants tied to the land they occupied and to their lords by the necessity to “redeem” themselves from servitude in order to obtain the freedom to move away. They also were subject to what were considered degrading payments known as *mals usos* (“bad customs”). The way such a condition came about, the reason it affected only part of the Principality of Catalonia and the origins of the *remences*’ revolt of 1462-1486 are the main topics of the article.

Keywords: *remença*, serf, Old Catalonia, peasants, seigneurie, land tenure

THE PECULIAR NATURE OF CATALAN SERFDOM

From 1462 until 1472, and again from 1484 to 1486, the serfs of Old Catalonia (defined at the time as the territories lying east of the Llobregat River) revolted against their masters. Their demands centered on what had become customary ties to their lords that rendered them legally unfree, subordinated by more than just being peasants and paying rent to a landlord. A key grievance was the obligation to pay a “redemption” fine in order to dissolve the bond their master held over them if they wanted to leave their tenancy and be considered free. This obligation represented a servile tie to the land they cultivated and a personal dependence on the lord that was transmitted hereditarily. If a peasant or his children wished to change lords or move elsewhere, he first had to render a manumission payment to his lord. This sometimes substantial sum for what in Latin was called “*redimmentia*” gave its name to a particular category of peasants known in a mixture of Latin and Catalan as “*homines de remença*,” and in modern Catalan as *remences* (singular *remença*).¹

The prolonged uprising in the late 15th century is known as the *Guerra de les Remences*. It is a fundamental event in Catalan history and European history in general as it represents a rare example of a sustained and ultimately successful peasant insurrection. A royal decree issued by King Ferdinand II of Aragon-Catalonia in 1486 (the

Sentencia Arbitral de Guadalupe) abolished the most oppressive seigneurial impositions.²

In effect, serfdom itself was ended, and in return monetary compensation was to be paid to the lords, the funds to be raised by local peasant collectives. In addition to the redemption fine, the traditional but burdensome payments now abolished included seigneurial demands occasioned by the death of a peasant without a male heir (*exorquia*), female adultery (*cugucia*), death without a valid will (*intestia*), damage from fire (*arsia*) and a marriage fine (*ferma d’espoli*). These exactions constituted seigneurial rights known collectively as “bad customs” (*mals usos*), and it is a signal of their legal and social representation that they could be considered on the one hand customary (sanctioned by time and place) while on the other violations of normal ethical conduct (essentially “bad” in nature).

Before the *Sentencia*, lords held other oppressive rights over their unfree tenants. The most significant in addition to the *mals usos* was the lords’ ability to mistreat their peasant tenants without any interference from the king or royal courts. This so-called *ius malectractandi* was at once a legal privilege and yet clearly unjust, even more flagrantly so than the *mals usos*. This, too, was abolished by the decree of 1486 which ended the Catalan Civil War. It is important to emphasise not only the catalogue of different exactions weighing on the *remences* but also the fact that their subordination was unbreakable except by manumission and was transmitted to their heirs and descendants.

The Catalan experience was unique, as we have stated, in that servile peasants were able to secure the official abolition of servitude by insurrection. Elsewhere, peasant re-

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volts were brutally and completely suppressed, as in Hungary in 1515 or Germany in 1525, or an uprising was put down but its goals were tacitly achieved with the weakening of servile impositions, such as in England after the unsuccessful 1381 rising. Thus, Catalonia was not at all unusual in experiencing a peasant revolt in the tumultuous social upheaval brought on after the Black Death of 1348 which killed a substantial proportion of the population. What was unusual, however, was the Catalan peasants' persistence over a century (their demands began to take shape by the 1380s), and their ultimate success.

Catalonia shared with almost all of the rest of Europe a system of land cultivation and social order whereby peasant labour enriched a dominant elite of nobles, church-

men, rulers and eventually the upper echelons of the urban bourgeoisie. Throughout the continent, a large class of agriculturalists tilled the land for both their own survival and the benefit of their lords. There were just a few small geographically remote regions where the control of the rural areas was not exercised by a military, ecclesiastical or commercial elite.³ Some of what would become Switzerland was made up of free peasant confederations. Other privileged areas of freedom were Dithmarschen in northern Germany and southern Denmark, and in certain respects Andorra, nestled between two jurisdictions, that of the bishop of Urgell and the count of Foix, and able to play them off each other.⁴ But in most of Europe in the period between 1200 and 1500, few peasants were independent of some form of seigneurial extraction of their labour or possessions.

By the 13th century, the countryside of Old Catalonia was divided into *manses*, units of cultivation which conceptually resembled the modern *mas* or *masia*, but also units of control by the lords, the fundamental building blocks of what is termed "feudalism" or the "seigneurial regime".⁵ Characteristic of this era was the overwhelming importance of agriculture as the source of wealth even in comparison with the more obvious forms of commerce and industry in Barcelona and other trade and manufacturing entrepôts. Agricultural revenues were in the hands of an aristocracy whose rights extended beyond merely renting out land to cultivators to include jurisdictional control. Although the rulers of Catalonia tended to be quite powerful in comparison with those in other parts of Europe, they were not the sole possessors of legal or military force. The landscape of castles that still dominates so much of Catalonia is the legacy of an era in which aristocratic domination of the countryside was exercised by military intimidation and competition among members of this privileged upper class.

With the fragmentation of political authority, lords exercised rights over peasant tenants that combined what we would consider rent and taxes, blurring the difference between public authority and private property. Lords obtained their income from peasants in three basic forms: labour, produce and money. The peasant's obligation to the lord was a form of rent but went beyond modern notions of landlord and tenant. The peasant might owe a certain number of days of the year labouring on the lords' particular property (an obligation more characteristic of northern European areas such as England than Catalonia). More commonly, the Catalan peasant had to pay a percentage of what he cultivated. This could be as high as one-half of wheat and/or wine and various quantities of other agricultural products, from poultry to swine to eggs. Standard arrangements included the *tasca* of one-eleventh of produce and an often supplementary one-seventeenth payment known as *braciaticum*; however, the lord's share might be considerably higher, especially for intensively-worked parcels of land such as vineyards. Extra percentages might also be tacked on, including tithes,

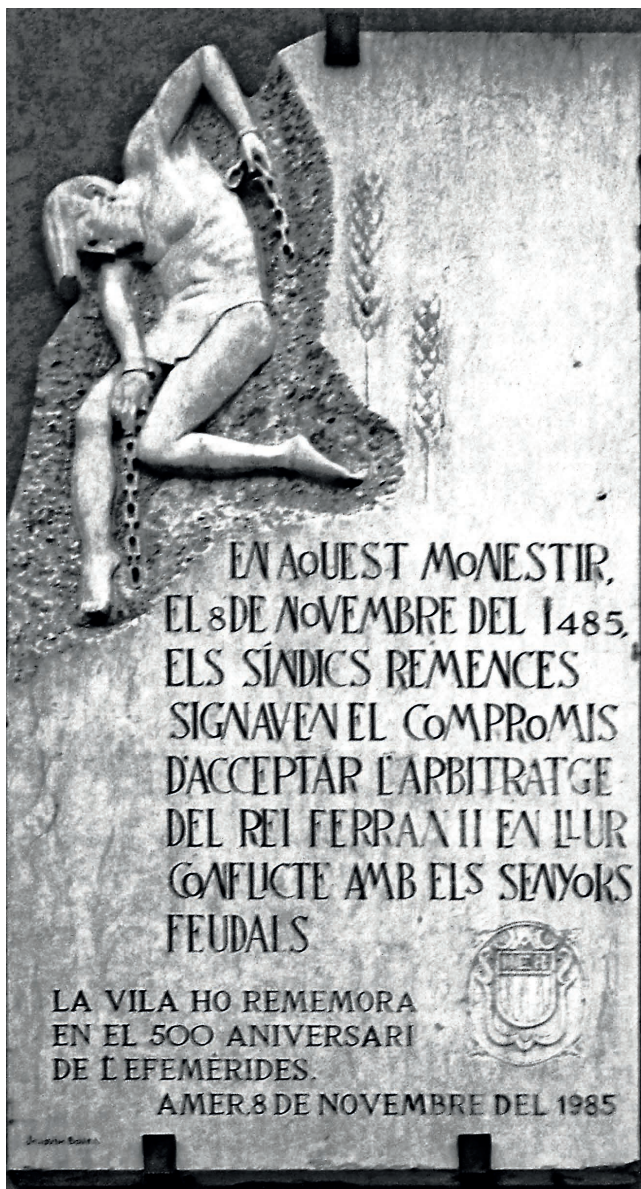


Figure 1. Stone tablet commemorating the meeting of the representatives of peasant serfs on the 8th of November 1485 in Amer (comarca de la Selva, Catalonia), to accept the mediation of King Ferdinand II in the conflict with their lords.

which were nominally payable to the church. The peasant was sufficiently tied to a market system so that money could also be demanded of him for various payments such as those symbolising the lord's control (*census*) or the redemption payments themselves. In addition, there were various forms of seigneurial monopolies which could include prohibitions on certain kinds of activities (hunting) or requirements that wheat be ground in the lord's mills (for a fee) or bread baked in the lord's ovens (also for a fee).

The presence of so many different kinds of rights and the fact that they were never standardised meant that the lords could effectively invent new exactions. Thus, the sources speak of *toltes et forcies* which are simply payments demanded or actually seized for no legitimate or even pseudo-legitimate reason at all, merely by coercive force. Here, arbitrary power overstepped the bounds otherwise imposed by custom.

Given the onerous nature of the seigneurial regime, the question arises of what distinguished the *remences* from free peasants? In general terms, the burden of the seigneurial regime fell on all tenants but was more oppressive for the *remences*.⁶ This does not mean, however, that the *remences* were always the poorest tenants nor that they lacked any control over their lives. In northeastern Catalonia, for example, the *remença* system was widespread, and a more substantial proportion of the peasantry was subject to servile status than elsewhere. However, there were tenants who had extensive properties and considerable economic means even though their legal standing was lowly.⁷ The preservation of so many redemption documents from this area demonstrates both the strength of the *remença* system and the tenants' ability to purchase mobility within it.⁸

The seigneurial regime and the feudal society for which it was the economic engine tended to transfer wealth from the labour of the peasantry to the projects of the elite, but of course it was hardly the only economic system in world history to operate for the benefit of a privileged minority. It allowed for a degree of upward social mobility and individual fortune, especially in the expansive economic climate of the 12th to 14th centuries.⁹ Peasants had opportunities for their own gain, including direct control over land, as their masters were usually absentee landlords. The difficulty of enforcing such complicated dues affected each manse or peasant differently, not to mention the lords' own need for revenue to support their often ruinous military and lifestyle expenses. Particularly in areas near Barcelona and other thriving cities, land could become an investment, not merely a source of seigneurial revenue. There were forms of tenancy in which peasants could gain effective control by subdividing increasingly valuable land. The aristocratic owner earned a steady income while the enterprising tenant could keep the profits from the division and inflation of property characteristic of rural lands close to cities, and even more of formerly rural property given over to intensive suburban or new

urban settlement. This was especially characteristic of the surrounding *territorium* of Barcelona and the region of the Vallès.¹⁰

Thus, there were wealthy peasants as well as townsmen and even nobles whose ancestors had been simple cogs in the seigneurial machine. This was a society with considerable social dynamism despite its hierarchical ideology. Nevertheless, the organisation of the society and economy was designed to squeeze the rural majority. The oppressive seigneurial rights did more than just transfer money from the peasantry to the nobility; they also served to differentiate a class of unfree peasants as serfs.

Serfdom (of which the Catalan *remença* was but one example) was a form of agricultural tenancy, or peasants tilling land that they rented from a superior, and this was an economic and social system that was known in many other parts of Europe.¹¹ Not all peasants were serfs, but all serfs were peasants. Serfdom was not the same as slavery because the serfs were allowed to marry and occupied particular pieces of land rather than being moved around at the lord's will as slaves were.¹² Firmly attached to particular pieces of land that they cultivated for their subsistence, serfs were unfree in the sense of being unable to leave the property rather than simply being a kind of animated, living tool, as slaves were.

Serfs, therefore, were unfree, and just like slaves, their offspring were as well, but they retained a measure of legal personality and autonomy. They might be considered a lower order of humanity, but unlike slaves they formed valid marriages and held property in both land and movable items, including animals.

The ambiguity of their social condition meant that the line between serf and free person was unclear, whereas with slavery, which involves total subjugation of one person by another, this distinction was relatively simple and easily identifiable. Saracens captured for the salt works of Ibiza or Tartars purchased as household slaves in Barcelona were living property, and because they were foreign, there was little difficulty in defining and enforcing their subordination, in accord with the customs of the time. This was not as clear for *remences*, who were not only Christian (and so possessed of an intrinsic equality with their masters) but Catalan as well.

In all parts of medieval Europe there were signs or indices of servitude: payments and obligations that determined whether one was free or enserfed. The *mals usos* and the *ius malectractandi* served this function in Catalonia, so that the *homines de remença* were serfs, identified as such by redemption, another key sign of subordination. The abolition of redemption and the other symbolically significant customs rendered them legally free. Catalonia was unusual not because a substantial number of its peasants were serfs, but because serfdom was never completely free of the sense that it violated or at least tended to go against good customs and the freedom of Catalans. This was not just an intellectuals' concern, since there are not only traces of the opinion of the affected peasants but also

some sense that the lords themselves were occasionally uncomfortable with the bad customs. In 1240, Bernat de Clariana freed his peasants in Pallejà (just east of the Llobregat, near Molins de Rei) from *exorquia*, *cugucia* and *intestia*, not for any monetary compensation but for the good of his soul, out of fear of penalties to be suffered in the afterlife because of the injuries he had inflicted upon his tenants.¹³

How was serfdom implanted in Catalonia, which had been settled by free peasants in its formative period, the 9th and 10th centuries? Why did peasant servitude seem to affect only Old Catalonia, the territories ruled by Christian counts in the post-Carolingian age, and not the regions to the south and west conquered from the Muslims in the 12th century? Why was serfdom in Catalonia so significant in terms of numbers of peasants affected and the survival of the landed economy when it was either non-existent or not widespread in neighbouring polities and regions such as Languedoc, Valencia, Aragon or Provence? And why were the peasants successful in destroying the legal apparatus of serfdom in the 15th century? These are fundamental questions connected with the history of Catalan society in the transition from the mediaeval to the modern world.

For all its importance, the peasants' war was not the object of very much attention until quite recently, since the work of Jaume Vicens Vives in the 1940s and 1950s and that of Santiago Sobrequés i Vidal and Jaume Sobrequés i Callicó shortly thereafter.¹⁴ This is in part because the *remença* war was caught up with a more general civil war in which the Generalitat of the Catalan Corts was pitted against the king. The monarch was an ally of the peasants, although later Catalan historical memory regards the Trastámara rulers (a Castilian dynasty) as disastrous for Catalonia. It is hard to extract a single Catalan "side" to this conflict, which is of course an aspect of its being a civil war.

The fact that Catalonia, with its traditions of liberty and commercial advancement, should be a country with a harsh and durable form of servitude in the Middle Ages has not been easy to incorporate into either official or romantic history. In 1986, the 500th anniversary of the *Sentència Arbitral* was commemorated as a milestone in Catalans' love of freedom, but there were also official ceremonies in 2009 marking the 650th anniversary of the Generalitat, which had spearheaded the opposition to the king and the *remences*. Both the *remences* and the medieval Generalitat have been assimilated into the modern Catalan identity, but the 15th century as a whole is a difficult era from the point of view of later inspiration. The events of 1462-1486 in particular are not usually celebrated in historical memory, as they are considered chapters in the process of the destruction of Catalonia's prosperity and independence, a process that would continue into the subsequent period of Castilian domination.

It is interesting that the first studies on serfdom in Catalonia were by non-Catalans. Vladimir Piskorski wrote

a short examination of the *mals usos* published in 1899 against the backdrop of the recent history of Russian serfdom, and the legal historian Eduardo de Hinojosa discussed the evolution of Catalan serfdom in terms of what now seems like an excessively long backward view, relating it to Roman imperial laws and institutions.¹⁵

There is a case to be made that a focus on the bad customs and their abolition in 1486 obscures the real dynamic of the subordination of the peasantry. The civil war did not end land tenancy or landlords' extraction of wealth from peasants. Against the long backdrop of feudalism – the aristocratic domination of the countryside – and its complicated methods of control, servile condition is perhaps not so important. The imposition of the seigneurial regime dated back to the 11th century, perhaps earlier, and the seigneurial regime persisted well into the modern era.¹⁶

Indeed, the history of the *remences* is part of the history of the feudal agrarian regime, but their servile status was important in itself. The legal subordination of the peasantry was a vehicle for economic exploitation, and in addition, the conditions of Catalan servitude had a number of unusual features that distinguish its history within the European-wide phenomenon of aristocratic exploitation of the rural landscape.

SERFDOM AND LORDSHIP

The aspect in which the Catalan experience most resembles a common (but not universal) European model is in the imposition of aristocratic control over the lower orders. The most characteristic feature of medieval social organisation is that the nobility had power not only as a result of wealth but also stemming from military and political independence from the rule of kings. The great and even lesser magnates possessed powers we associate with the public authority of the state: the ability to wage war, levy taxes, judge crimes and litigation and exact punishments. They also at various times and places regulated commerce and coined money. One aspect of this essentially private and divided jurisdiction is that they controlled the peasants on whose labour they depended, not only in the economic sense (by which one could say that factory owners "controlled" their workers in the industrial era) but also legally, holding the powers of the state as well as the ability to arbitrarily decide what served their own interests.

The breakdown of centralised government was conventionally seen by historians as a feature of the 11th century, a "conjuncture" or "mutation" as it was called in French scholarship.¹⁷ Catalonia served as a clear example of this dramatic social change around the year 1000, as demonstrated by the monumental study by Pierre Bonnassie. The Catalan counts enjoyed unusual power until 1020, when their position was destabilised in favour of aristocratic domination by a combination of the influx of

Muslim gold from tribute payments, a succession of weak rulers and the usurpation by powerful lords who built castles, defied royal justice, warred against each other and exerted their authority over the peasants.¹⁸ In some sense, therefore, the origin of the *remences*, a subjugated class of peasants, should be sought in the era of aristocratic domination.

The trouble with this view is that it exaggerates the 11th century as a turning point on which all later developments hinge, minimising the diversity of events and different places, for if the aristocratic assertion of the 11th century was a widespread phenomenon, Catalonia's particular experience was not. The servitude of the *remences* was quite different from areas that never experienced serfdom (such as Normandy), or where it was less common or harsh (Languedoc) or where it was widespread but grounded upon different principles (England). As early as the 12th century, we have peasant grievances brought before the king concerning the oppression of lords and royal bailiffs who held peasants for ransom, terrorised them, seized their properties and forced them to submit to their exactions.¹⁹ The existence of these complaints and their official form (preserved in archives even if they were probably not effectively answered) shows that these impositions were regarded as abusive, not as the lords' accepted rights over their tenants.

At what point did a common practice of seigneurial violence become legally recognised? There is a significant difference between illicit raids and depredations and the exercise of institutionally sanctioned repression, even if the hapless victim does not experience the distinction. Another significant element of Catalan serfdom is that it was supposed to receive recognition from the counts, whose power was resurgent after 1060 but who nevertheless engaged in a series of struggles and compromises with the nobility. In many parts of Europe, the power of the military aristocracy was exerted over agrarian labour, but it was not everywhere institutionalised, and Catalonia served as an unusually graphic example of state-sanctioned private violence by the nobility against the peasants.²⁰

Two important milestones in this regard are the royal recognition of a seigneurial *ius maletractandi* at the parliamentary council (*Corts*) of Cervera in 1202, and the statue of the *Corts* of Barcelona in 1283 known from its Catalan opening words as "*En les terres o llocs*" (In the lands or places") that defined redemption payments as the most significant element in peasant subordination. In both cases, the king was compelled to agree to limitations on his powers. The 1202 constitution prohibited peasant tenants of magnates from taking allegations of mistreatment to the royal courts. This does not mean that mistreatment was morally justified, but the law made it impossible to contest it and was thus understood by jurists as conferring a right exempting lords from normal legal remedies.²¹

In 1283, the *Corts* of Barcelona required tenants of seigneurial estates to pay a redemption fine if they wished to

move to royal lands. This recognised the seigneurial right to levy a manumission payment, and the king, in effect, gave up the possibility of settling new tenants regardless of where they came from. The 1283 constitution went further than that of 1202 in distinguishing different degrees of lordship based on geography. It refers to "land or places where peasants [*homines*] are accustomed to make redemption payments."²² By this time, that territorial distinction was based on the Llobregat River, which roughly corresponds to a separation between Old and New Catalonia. In fact, there were some *remença* families beyond the Llobregat in regions such as the Penedès or Conca de Barberà, and there were many free peasants east and north of this supposed dividing line.²³ The river did serve as an explanation for the seeming anomaly of diverse conditions of freedom among Catalan tenants, as well as for an unusual example of different laws applied within Catalonia, otherwise conceived of as a place with a single public law.

The idea of a land of liberty versus a land of servitude has its origins in the Catalan conquest of previously Muslim territories beginning with the fall of Tarragona in 1118 and culminating with the capture of Lleida and Tortosa and their hinterlands in 1148-1149. Privileges were offered to Christian settlers that exempted them from various forms of arbitrary levies, and the frequent conferral of charters of freedom (*franqueses*) affected the new territories disproportionately. A measure of their success was that in certain areas of Old Catalonia, especially those near the northern frontier, the lords were forced to grant similar charters in order to prevent the peasants from leaving to find better conditions nearby and to induce them to populate the newly-fortified settlements.²⁴ Old Catalonia would increasingly be thought of as the territory of serfdom, and the map of peasant organisations participating in buying out the lords' oppressive rights in 1488 shows that by then this distinction had, in effect, become a reality.²⁵

The origins of this distinction go back to the beginning of the 13th century. The Llobregat was the boundary between the Penedès (which benefited from the privileges accorded to Vilafranca del Penedès) and the rest of the County of Barcelona.²⁶ In 1215, the monastery of Sant Llorenç del Munt claimed that a certain Ramon Fabre was their serf, an assertion he denied. The abbot said that all of its tenants "this side" of the Llobregat (*citra Lupricatum*) were serfs. While Sant Llorenç lost this contest, the Llobregat became an officially recognised border in the second half of the 13th century. The jurist Pere Albert, the author of what became the authoritative statement of feudal customs, defines Old Catalonia as consisting of the bishopric of Girona, most of the diocese of Vic and that part of the diocese of Barcelona lying to the east of the Llobregat. Here, the vassals (*homes solius*) who were not knights were so bound to their masters that their sons were unable to move from their tenancy or marry without the lord's permission. In order to win this freedom, they

had to pay a redemption fine. West of the Llobregat, neither knights nor peasants were constrained in this way.²⁷ Legal scholars of the 14th and 15th centuries repeated this distinction and made up an historical explanation for it: Charlemagne had called on the Catalans to help his armies free them from Moorish domination. Some brave men (the ancestors of the nobles of Old Catalonia) answered this summons, but many of the inhabitants did not. Charlemagne reached the Llobregat and ordered that those Christians who had failed to show up to aid his conquest should be held in servitude, specifically the *mals usos*. This historical myth was a way of acknowledging the contradiction between the bad customs and the basic teachings of Catalan and even divine law, which held that Christians should not subjugate other Christians. The servitude of the *remences* was a licit punishment for the sins of a distant but authoritative past. The legend also cited the Llobregat as the frontier between Old Catalan servitude in the former Carolingian territory and the freedom of the regions conquered by the Catalans in the 12th century.²⁸

By the era of Bertran de Ceva, Joan de Soccarat and other late-mediaeval jurists, the *mals usos* in general, not just redemption, had become the signs of servitude and the substance of the supposed punishment for the cowardice of the *remences'* ancestors. Unlike the redemption payment, which was always applied exclusively to serfs, *exorquia* and *intestia* had at one time been paid by free men, even nobles.²⁹ The widening conceptual as well as economic gap between the ways in which knights and peasants pledged loyalty meant that certain kinds of obligations became honourable and others dishonourable. The purpose of the *mals usos* and the *ius maletractandi* as a whole was to indicate, rather graphically, the subordination of a segment of the peasantry and their dependence on the whim of the lord. These payments were arbitrary in their nature and defined as contrasting with the ordinary good customs of Catalonia to show the power of the lords and restrict, at least in theory, the ability of peasants so afflicted to seek outside support from the king or other alternative lords.

Exemption from such levies defined the rights of towns.³⁰ Privileges accorded to settlers in New Catalonia as well as to northern populations near the contested frontier with France also made immunity from the bad customs an attraction for immigrants. There was thus a geography of servitude, not just the contrast between Old and New Catalonia but the identification of privileged spaces through the applications of charters (*franqueses*) to towns and other favoured settlements. In the late 12th and early 13th centuries, when servitude was defined and those subject to it identified, the forms of exemption from it were given a complementary status. The map of exemption was not static, however. The inhabitants of Sant Celoni in the Vallès Oriental had to battle the knights of the Hospital, who in the 13th and early 14th centuries repeatedly claimed that as landlords and holders of jurisdiction, they

were entitled to levy the bad customs. The villagers' victory shows their power and resourcefulness, but the fact that the Hospitallers could press their claims in the face of impeccable documentary evidence against them is suggestive in a different direction.³¹

The significance of the bad customs was not merely symbolic or instituted for the convenience of lawyers. While levies on inheritance or adultery could not constitute routine seigneurial levies by their very nature, they were substantial penalties amounting usually to the confiscation of one-third of movable property (furnishings and livestock). The seigneurial right of *intestia* would seem to be easy to avoid simply by making a will, but lords were able to impede the creation of such documents or demand the fine not only from male peasants who died intestate but from widows as well. *Exorquia*, death without a surviving male heir, could also be defined generously (from the point of view of the lord) to affect any estate without a male son twelve years of age or over as the successor.³²

In a colloquy between peasants and lords in 1463, the nobles answered the peasants' complaints about the *mals usos* by claiming that they were not, in fact, very profitable.³³ However, routine documents of disputes over such rights suggest they were a source of considerable income.³⁴

With regard to the *ius maletractandi*, one might think that this was a merely theoretical extreme of seigneurial privilege, but in fact it was applied by lords and was the object of complaints and litigation, such as in a case involving lands and tenants near Castellfollit in the early 14th century, as well as a legal opinion regarding a specific case in the *comarca* of Segarra which would be discussed by jurists, who found the law to be odious, but nevertheless valid.³⁵

ORIGINS OF THE REMENCES

On a basic level, it is clear that the serfdom in Catalonia originated in connection with the triumph of aristocratic lordship, of what has been termed "feudalism". Beginning with the aforementioned sweeping synthesis by Pierre Bonnassie in the 1970s and continuing throughout succeeding decades, the military and economic power of the landed nobility has been viewed as the impetus behind the nature of Catalan society and the export of many of its institutions to Valencia and the Balearic Islands.³⁶ The 11th century, more specifically 1020–1060, as identified by Bonnassie, was the key period when centralised comital power was challenged and the nobles arrogated castles, tributes, jurisdiction and private armies for their own use. The opportunity and indeed necessity was afforded for the military elite to extort from the peasantry, whose labours supported their expensive way of life. The upheaval of the 11th century both weakened the counts' political strength and removed the protection of public authority

afforded to the peasants. Even when comital power and jurisdiction were re-established, the arbitrary seigneurial hegemony as well as the oppression of over-mighty royal bailiffs and other administrators debased the status of the peasants, whose complaints of mistreatment have survived in poignant *querimoniae*, memoranda of abuses especially common in the 12th century, which were submitted to the counts but, we assume from the ensuing silence, not effectively answered.³⁷

We can see the growth of serfdom by the survival of documents in which peasants pay for their freedom or charters by which they enter into a relation of dependence, or even others in which they recognise that such a tie already exists. The first redemption documents date from the mid- and late 12th century. Just around the year 1200, three types of documents become very common in much of Old Catalonia, especially in the dioceses of Girona and Vic: 1) Charters in which peasants promise to reside on a particular property and acknowledge their obligation to pay manumission in order to transfer to another location. 2) Proclamations that they already “belong” in their bodies, possessions and descendants to the lord, although this is not accompanied by any explicit mention of the bad customs other than redemption. On the other hand, in transfers of property between lords, land is conferred with all the rights appertaining to it, usually specified exhaustively and often stated as including the redemptions of men and women along with all the good and bad customs (*cugucia, intestia, exorquia*), *toltes* and *forcies*, although never the *ius maletractandi*. 3) Documents stating that the peasant has paid a manumission fine and is freed by the lord. Usually the former *remença* promptly enters another servile tenancy by means of a document such as type 1) as above.

The spread of these documents and their evolution as formulaic records in the 13th century seems to have established what can be considered a *remença* system. The payment of redemption fines did not necessarily mean the degradation of the peasant to a position of helplessness with regard to the lord. In many instances, these payments amounted to seigneurial revenue more than an arbitrary form of control, part of the dynamic of a system of land exploitation and the landlords’ quest for sources of income.³⁸ The 13th century saw both the construction of the institutions of Catalan peasant servitude and the elaboration of its legal structure. The two are linked; the latter is more than merely a rationale for the former. In his *Commemoracions*, the jurist Pere Albert defined the characteristics of servile status, and by the time he wrote in the mid-13th century, routine documents provided evidence for who was and was not a serf.³⁹ According to legal theory, obligation to the *mals usos*, in particular the redemption payment, defined the servile nature of certain peasant tenures. The *ius maletractandi* further served as a kind of emblem of the *remences*’ removal from the usual legal protections enshrined in Catalan law. The records by which peasants entered into servitude recognised that

such a bond already existed, or existed in effect, and defined in a practical fashion a class of people held to a greater degree of control by their lords than had usually been the case in previous Catalan land tenure arrangements. If the aristocracy’s assertion in the 11th century was the first stage in the exploitation and organisation of the peasantry, the more peaceful but effectively codified legal definitions of the 13th century represent a second and, in my opinion, crucial stage in establishing the *remences*.

There is clearly another later stage in which the *remença* system would be disputed, triggering a crisis of the seigneurial regime which culminated in the wars of 1462–1486. Agitation by the peasants for the abolition of the bad customs and occasional efforts by members of the royal household to obtain this through interventions with the Church and the restoration of lapsed royal rights characterised at least eight decades leading up to the final civil conflict. Beginning in the 1380s, peasant agitation against the exploitative forms of the seigneurial regime disrupted the countryside and induced the kings to attempt, inconsistently but nevertheless urgently, to alleviate what was acknowledged to be a set of practices that ran counter to Catalan customs pertaining to all other members of the nation.⁴⁰ In 1388, King Joan I ordered his archivist to search for a record that would show that “the time of servitude has already passed”, implying that if the peasants had been subjugated as a result of their failure to aid Charlemagne’s liberating armies (as argued by legal scholars), this was not a punishment that was supposed to be inflicted forever but had a limited duration.⁴¹ At the beginning of the 15th century, Queen Maria de Luna unsuccessfully tried to intervene with her kinsman, Pope Benedict XIII, to abolish the bad customs on lands belonging to the Church.⁴²

The reasons for the peasant revolts have something to do with the economic and demographic crisis of the 14th century, which was heightened, if not caused, by the Black Death of 1348 and successive visitations of the plague that afflicted the European economy and eventually had a particular effect in Catalonia. The problem is with the word “eventually”. The 14th century, despite its famines and wars, was not uniformly a period of decline.⁴³ The Black Death, cataclysmic as it was, cannot be singled out as the direct cause of every subsequent development in the next century and a half. Nevertheless, there is a common Europe-wide phenomenon in response to the population decline resulting from the epidemic, in which the surviving peasants would, following the laws of supply and demand, have commanded better terms for their now scarce labour. To the degree that they did not obtain higher wages or better conditions on the land, their resentments against seigneurial intransigence created a series of violent demonstrations and insurrections.⁴⁴

We can see the conflict in Catalonia not only through incidents of peasant resistance but also in the writings of the jurists attempting to explain Catalan serfdom. Legal

scholars repeatedly cited the *ius malettractandi* enacted at Cervera in 1202 and the redemption requirement codified at Barcelona in 1283. They sometimes acknowledged that bad customs and especially the *de facto* right of lords to arbitrarily mistreat their serfs violated the norms of Catalan law and the precepts of Roman and even divine (Christian) law as well. Jaume de Socarrats, writing during the civil war, admitted that *intestia* and *exorquia* were “onerous and odious” but nevertheless permitted. He asserted that it was possible for natural law to be derogated by human institutions and rules.⁴⁵ Not all of his colleagues were so confident. Writing about the right of mistreatment, in the 1440s Tomàs Mieres denied that such legislation could be considered valid, violating as it did basic tenets of divine law.⁴⁶

It was to answer these anxieties that the legendary origins of the *remences* in the history of Charlemagne’s conquest were developed. The peasants were mistreated, to be

sure, and in ways violating the normal rights of Catalans, but their oppression was historically justified by an act of cowardice or treachery which might have merited death for their ancestors. There are all sorts of licit violations of natural and divine law, after all, such as imprisonment or slavery, and these are justified on the basis of crimes committed or capture in battle (the classic reason advanced for enslavement).

The effect of the historical myth of the origins of Catalan servitude was to place the *remences* outside the Catalan nation. It is impossible to measure how convincing this was, but an answer is preserved from the peasants themselves, or at least as formulated by their advocates during and on the eve of the civil war. In 1448 and 1449, King Alfonso IV allowed the *remences* to elect representatives to form a *sindicat* to raise money from the peasants to buy out the lords’ rights over their bodies (i.e., the rights to hold them as serfs).

In a record of the separate meetings representing about 20,000 peasants, the prologue offers a religious as well as historical statement of the injustice of imposing serfdom on Christian Catalans.⁴⁷ By making His sacrifice, Christ had freed humanity from servitude to the devil and restored its original liberty lost by the fall of Adam (an idea derived from Pope Gregory I). The serfs were not descended from Christian cowards or traitors at the time of the liberation of the land from Islam, but rather from Muslims who had not initially converted to Christianity. The bad customs were never supposed to be imposed on Christians, and in fact all of the inhabitants of Old Catalonia had long ago adopted Christianity. The perpetuation of the bad practices applied to Christian Catalans was a violation of natural and divine law and also of the historical reason for the invention of the oppressive customs, which were supposed to be applied only to recalcitrant Muslims.

What is extraordinary about this document, and about the negotiations of peasants and lords during the revolt, is the peasants’ ability to frame grievances and to answer the justifications of the lords and their apologists for manifestly unjust practices. It may not exactly be a monument along the road to modern theories of human rights; it specifically applies to the *remences* as Christians and as members of the Catalan polity rather than being extended to humanity in a universal fashion. Nevertheless, the defence of natural liberty as the basic condition of humanity appears here not merely as a learned theory of the nature and typology of law but as something understood and defended by ordinary people.

The imposition of servitude in Catalonia may be the result of contingent events rather than an inevitable process with a single beginning. It is related to the power of a landed military aristocracy that characterised most of Europe, but which took different forms in different places, and in this case different forms within Catalonia itself. The most unusual aspect of the Catalan experience is the official abolition of servitude with the *Sentencia* of 1486.

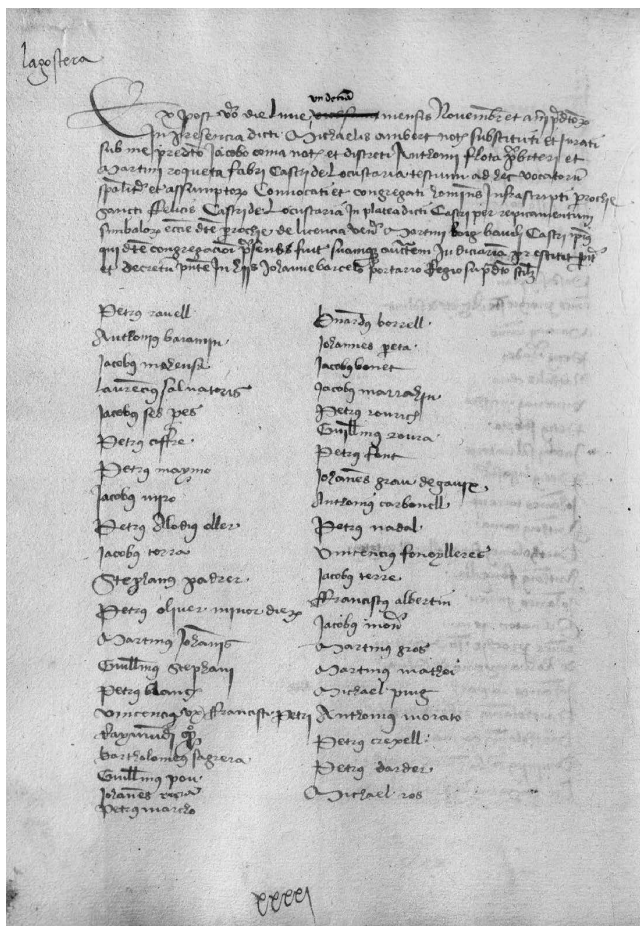


Figure 2. Page from the “Book of the Serf Syndicate”. This book is a document handwritten in Latin that contains the minutes of the meetings held by the serfs (*remences*) between 1448 and 1449 in different dioceses of Catalonia. The purpose of these assemblies was to choose the representatives who would be in charge of negotiating the abolition of servitude with the monarchy in light of the lords’ abuses of the system. The group of peasants in 1448 is exceptional, since it established a precedent of expressing the will of the serfs from a large geographic area.

The background to that is also a series of events involving the monarchs and the Catalan estates, cities and peasants. Behind the events, however, is a concept of law, rights and customs that shows the power of ideas to shape society and the ability of people beyond the learned circles of power to be involved in that process.

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Paul Freedman earned a PhD in History at the University of California at Berkeley and is a Professor of History at Yale University (USA). His doctoral work focused on medieval Catalonia and how the bishop and canons interacted with the powerful and weak elements of lay society in Vic, north of Barcelona. This resulted in the publication of *The Diocese of Vic: Tradition and Regeneration in Medieval Catalonia* (1983). He is a specialist in medieval social history, the history of Spain, comparative studies of the peasantry, trade in luxury products and history of cuisine. He has written about the Church, institutions, society and the Catalan peasantry from the 10th to 15th centuries. A Fellow of the Medieval Academy of America, Freedman is also a corresponding fellow of the Real Academia de Buenas Letras de Barcelona and of the History and Archaeology Section of the Institut d'Estudis Catalans.