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LAND AND LEASE MARKETS IN NORTHWESTERN EUROPE AND ITALY, C. 1000 - 1800

1. Introduction

The late medieval and early modern period forms a crucial era in the rise of the land market in Europe. In this period, at least in several parts of Europe, the exchange of land underwent strong changes, in direct connection with forceful developments with regard to the ownership and use of the land. In the early and high Middle Ages, the transfer of land was subject to numerous restrictions imposed not only by lords, but also by family and neighbours and other social frameworks in which the transfer of land was embedded. The land market in this period – if a market in an economic sense existed at all, in view of its limited scale – can thus be characterized as primitive and restricted. Whereas the market for goods and products in many parts of Europe already started to develop, or to recover, from the early Middle Ages onwards, and had become rather open and extensive by the high Middle Ages, this does not apply to the exchange of land, and neither to that of labour and capital. Factor markets remained weak, restricted and inflexible much longer, in many parts of Europe even until far into the modern period.

With respect to transfer of land, this situation started to change fundamentally first in some parts of Italy, with an acceleration in the 11th century, and in parts of Northwestern Europe, mainly from the 12th/13th centuries onwards. More and more land was traded on the market here, as has been amply demonstrated for 13th-century East Anglia,¹ for instance, and this trend continued in the following period. Moreover, in the course of the later Middle Ages, landownership was increasingly exploited by means of the lease system, which emerged strongly during this period. It has been shown for some parts of the Netherlands how the emergence of the modern short-term lease and the specific arrangement of the leasing system resulted in a competitive situation, a high mobility of the land and the strong commercialization of land.² This was not a general phenomenon, since regional differences were very strong, even between neighbouring regions. But, still, as a result of these developments, several parts of Europe in the early modern period possessed rather free, flexible and extensive land and lease markets, allowing for a high mobility of the land, determined by the market rather than by custom or social frameworks.

The influence of this development can hardly be overestimated, since land was the most important means of production and source of income. Also, developments with respect to landownership and exploitation of landownership had strong effects on society as a whole. Under specific circumstances, - i.e. in a situation where product, credit and labour markets, open marketing structures and favourable institutions of land-use were present -, a high mobility of the land and a competitive situation could lead to strong accumulation of land, the proletarianization of large parts of the rural population, a rise of wage labour, increasing commercialization and an increase of the agrarian surpluses. The rise of the land and lease markets thus constituted one of

¹ J. Williamson, 'Norfolk: thirteenth century', in: P.D.A. Harvey, (ed.), *The peasant land market in medieval England* (Oxford, 1984) pp. 30-105, and P.R. Schofield, 'Dearth, debt and the local land market in a late thirteenth-century village community', *Agricultural History Review* 45 (1997) pp. 1-17. Cf. the remarks by P.R. Hyams, 'The origins of a peasant land market in England', *EHR* 23 (1970) pp. 18-31.

² B.J.P. van Bavel, 'Land, lease and agriculture. The transition of the rural economy in the Dutch river area from the fourteenth to the sixteenth century', *Past & Present* 172 (2001) pp. 3-43.

the most crucial elements in the transformation of a medieval peasant society into a modern, capitalist society, and it contributed in no small measure to the further growth of trade and markets. Agrarian change and the rise of agrarian labour productivity can be considered a main element in economic development.³ The rapid development of the economy in Italy during the high and late Middle Ages and in the North Sea area during the late medieval and early modern period, and the rise of first northern Italy, Holland and later England to a prominent position in the European and later world economy, is thus to a large extent connected to these prior and/or simultaneous changes in the land market.

Here we will look closer at this development, that is, the rise and organization of the land and lease markets. This investigation will be focused exactly on the parts of Europe where it can be assumed that development was strongest, namely the North Sea area and Italy, where the economic leaders of the high and late Middle Ages can be found. More in particular, I should like to look at the changes allowing for the rise of the modern land and lease markets. What were the prerequisites for this rise? Firstly, it will be investigated how rights to land and exchange of land were organized in the high Middle Ages, and how this organization blocked the rise of a land market (section 2). Next, the focus will be on the gradual emergence of more absolute and exclusive property rights in parts of Northwestern Europe, which enabled the generation of a land market here (section 3). Subsequently, we will look at the way the land market in Northwestern Europe was organized (section 4) and to the rise and organization of the land market in Italy (section 5). Next, the rise of the lease market in Northwestern Europe and Italy will be investigated (section 6). Lastly, we will analyse the influence of these elements on the mobility of land in the land and lease market (section 7), in order to arrive at some final remarks (section 8). Special emphasis will be put on the regional differences between the areas mentioned but also within these areas. These differences were very strong, and by analyzing them it will be possible to gain more insight in the underlying mechanisms in the rise of the land market.

2. The rights to land in Northwestern Europe in the high Middle Ages

In the high Middle Ages, and in many regions until far into the modern period, there was an enormous variety of rights to land. Also, in many cases several people had various strong rights to the same plot of land, which makes it difficult – or even impossible – to establish who the owner of the land was. This applies to the land under manorial organization, and even more so to the common lands, to which lords, territorial princes (or the state) and/or commoners (or villagers) could claim strong rights at the same time. This situation fitted in the organization of society and economy in force. But at the same time, as can be reasoned but also demonstrated empirically, this was an enormous hindrance to the rise of a land market. The fact that several parties or persons had to agree before a sale could be concluded accommodated the primordial aims of these different parties, but it hindered the closing of a rapid and clear deal. Moreover, the parties involved often also imposed direct restrictions on the buying and selling of land on the market.

First of all, among these overlapping claims and rights to land, there is the strong influence of the family on the sale of land. The idea that land belonged to the family as a whole and should be kept within it was strong, as has been demonstrated for England.⁴ Single persons and generations

³ For the Netherlands: B.J.P. van Bavel, 'Agrarian change and economic development in the late medieval Netherlands', to be published in R. Brenner, J. de Vries & E. Thoen (eds.), *Agrarian change and economic development in Europe before the Industrial Revolution*, and for Italy: G. Federico & P. Malanima, 'Progress, decline, growth: product and productivity in Italian agriculture, 1000-2000', *Economic History Review* 57 (2004) pp. 437-464, or P. Malanima, 'Urbanisation and the Italian economy during the last millennium', *European review of economic history* 9 (2005) pp. 97-122, esp. pp. 107-114, albeit with a different explanation of the causes of agrarian growth.

⁴ R.J. Faith, 'Peasant families and inheritance customs in medieval England', *Agricultural History Review* 14 (1966) pp. 77-95, esp. p. 86, and C. Howell, 'Peasant inheritance customs in the Midlands, 1280-1700', in: J. Goody, J. Thirsk & E.P. Thompson (eds.), *Family and inheritance. Rural society in Western Europe 1200-1800* (Cambridge, 1976) pp. 112-155, esp. pp. 239-243.

were seen as stewards rather than owners of the family land. Although regional differences within England existed – with restrictions being weaker in such regions as Norfolk⁵ – in general these restrictive inheritance customs and family claims clearly limited the possibilities to sell land. Relatives, sometimes even distant ones, could resist or withdraw the sale of land to a non-family member and had to accord the sale of land, a practice exercised in England until into the 15th/16th centuries.⁶ It is probable that often their accordance first had to be bought by the person wanting to sell the land. Also, in some regions family members, sometimes up to the tenth degree of kinship, could claim back – often as long as a year and a day after the original sale⁷ – land which had been sold by their relative or buy it for the same price, thus increasing insecurity for buyers. All these elements, and the strong bond between family and land, hampered the growth of the land market.

Next, there was the influence exercised by neighbours and the village community. In some regions, all neighbours or villagers possessed a right of withdrawal of the sale, in order to buy it for the accorded price, with respect to land situated in the village, as in Drenthe, an inland part of the Netherlands.⁸ The feeling was that land should remain within the village community and not be sold to outsiders. Possibilities for selling land were even more restricted with respect to the commons. Often, rights to common land were linked to the inhabited farmyards in the village, and mostly they could not be sold separately, particularly not to non-villagers. Common lands were characterized by immutable rights to the land or periodic redistribution of the land by the community, the villagers, the commoners and/or the lord. These inflexible systems of inheritance and redistribution, and also the communal and family restrictions on the sale of land, are sometimes linked to peasant behaviour. Some authors have even used the presence of land sales as a criterion to label a certain society as non-peasant.⁹ This, however, is stretching the argument too far, since it is clear that peasants were not necessarily, or not under all circumstances, averse to buying or selling land. But, in general, these family and communal restrictions on the alienation of land indeed fitted into a peasant society,¹⁰ where land formed the long-term security of the community and of the family against the risks of life, and this security was valued as more important than short-term economic gains.

Along with these restrictions, there was the influence of feudal lords. On the Continent, until the beginning of the 13th century it was, in theory, forbidden to sell a fief at all, and until the late-13th century at least the permission of the feudal lord was required before a vassal could sell his fief.¹¹ Even later in the Middle Ages, when the practical function of the feudal system had mostly disappeared, feudal lords wanted to retain some control over the transmission of their feudal land. Transmission in their court and the payment of a relief at the investiture of the new vassal was obligatory, as was the payment of a tax, sometimes. Moreover, feudal lords often tried to restrict the possibility of non-noblemen, burghers, bastards, clergymen and religious institutions to obtain feudal

⁵ Cf. the comparison between Norfolk and Midland England by J. Whittle, 'Individualism and the Family-Land Bond: A Reassessment of Land Transfer Patterns Among the English Peasantry', *Past & Present* 160 (1998) pp. 25-63.

⁶ R.W. Hoyle, 'The Land-Family Bond in England', *Past & Present* 146 (1995) pp. 151-173, esp. pp. 154-158.

⁷ O. Moorman van Kappen, *Met open buydel ende in baren gelde. Enkele beschouwingen over het oud-vaderlandse naastingsrecht* (Deventer, 1973) esp. pp. 4-11.

⁸ J. Heringa, *De buurschap en haar marke* (Assen, 1982) esp. pp. 10 and 16: some 15th.-century examples.

⁹ A. Macfarlane, *The Origins of English Individualism: The Family, Property and Social Transition* (Oxford, 1978) pp. 23-24, basing his picture of a peasant society mainly on Eastern European material.

¹⁰ F. Ellis, *Peasant economics. Farm households and agrarian development* (Cambridge, 1988) pp. 8, 12 and 134.

¹¹ R. Opsommer, 'Omme dat leengoed es thoochste dinc van der weerelt'. *Het leenrecht in Vlaanderen in de 14^{de} en 15^{de} eeuw* (Brussels, 1995) pp. 422 and 427.

land. Particularly territorial lords were anxious to exclude non-noblemen from the possession of their feudal land, as appears from ordinances issued by the count of Flanders, the count of Holland, the duke of Brabant and other princes.¹² In general, these princely decrees were not very successful, and became even less so in the course of time. Nevertheless, the territorial lords, also because of the possibility this offered to line their purses by selling remissions, persisted in their attempts to influence the transfer of their feudal land. This certainly applies to the investiture of religious institutions, which was considered by most feudal lords until well into the 15th century as one step too far in view of the original function of the feudal system. Moreover, sales of feudal land were also hampered because feudal law recognized, next to a right of withdrawal of the sale for the family, also similar right for the lord,¹³ which hung over the head of the buyer like the sword of Damocles, and reduced the attraction of buying feudal land.

Most important of all the restrictions on the sale of land, at least in some regions, were those imposed by manorial (*grundherrliche*) lords. The lord had to accord every sale of land, and he often blocked a sale completely. Lords thus limited or prohibited sales directly. Next to this, manorial customs often prohibited the accumulation of land and the possession of multiple villeinage holdings, and, reversely, the splitting of standard landholdings, in order to prevent the fragmentation of the obligations connected to them, thus curbing the growth of the land market indirectly.¹⁴ By way of these manorial customs, and because servile status was a family matter, the manorial influence also strengthened family patterns indirectly,¹⁵ thus reinforcing each other, limiting possibilities for selling land outside the family. Lastly, lords were entitled to collect a fine from the seller and an entry fine from the buyer of the land. In some regions, for instance in the English Midlands, these fines could amount to very substantial sums, thus decreasing the attractiveness of buying and selling land. In most parts of the Low Countries – and particularly in the western parts, where there had always been little manorial influence or it had disappeared early – these restrictions were not very strong, but in most of the north of Germany they were strong, as result of the strong position of the lords, remaining in place up to the late-18th century.¹⁶ This influence of manorialism was perhaps strongest in late medieval England. Even in Norfolk, one of the less manorialized parts of England, manorial restrictions were important – much more so than other restrictions.¹⁷ In general, although the effect of manorial custom on land transfers on the market varied from manor to manor, in the late Middle Ages the influence of manorial restrictions seems to have been much stronger in England than on the Continent.

Thus, there were many restrictions on the selling of land, and sometimes on the buying of land, albeit with strong regional differences in their nature and their relative strength. At least in some parts of the North Sea area these restrictions remained forceful until far into the late Middle Ages, and even later. In this period, and linked to this, all the other kinds of rights of access to land

¹² Cf. D. Nicholas, *Town and countryside. Social, economic, and political tensions in fourteenth-century Flanders* (Brugge, 1971) pp. 280-281, and R. Koerperich, *Les lois sur la mainmorte dans les Pays-Bas catholiques* (Louvain, 1922) pp. 1-22.

¹³ R. Opsommer, 'Omme dat leengoed', pp. 463-471 and 478-480.

¹⁴ Cf. the examples for Norfolk by J. Williamson, 'Norfolk: thirteenth century', esp. pp. 93, 96 and 98-99, but even more so for the Midlands: R.M. Smith, 'The English peasantry, 1250-1650', in T. Scott (ed.), *The peasantries of Europe from the fourteenth to the eighteenth centuries* (London, 1998) pp.339-371, esp. pp. 355-360.

¹⁵ J. Whittle, 'Individualism', esp. pp. 57-58 and 60-61.

¹⁶ S. Brakensiek, 'Farms and land – a commodity? Land markets, family strategies and manorial control in Germany (18th-19th centuries)', in: B.J.P. van Bavel & P.C.M. Hoppenbrouwers (eds.), *Landholding and land transfer in the North Sea area (late Middle Ages - 19th century)*. CORN publication series 5 (Turnhout,2004) pp. 218-234.

¹⁷ J. Whittle, *The development of agrarian capitalism. Land and labour in Norfolk, 1440-1580* (Oxford, 2000) pp. 93 and 99.

and other ways of transferring and redistributing land outside the market were much more important. These non-commercial systems of land allocation were predominant, and the rules related to them hindered the rise of a modern land market.

3. The emergence of absolute and exclusive property rights to land in Northwestern Europe

These restrictions, and the non-market mechanisms of distributing land, slowly disappeared during the course of the late medieval and early modern period, and were replaced by market transactions. Various elements played a role in this. First of all, the Black Death and the 14th-century population decline perhaps provided possibilities to weaken restrictions on land sales, as land became more plentiful.¹⁸ This allowed families, for instance, to abandon all arrangements devised to keep the land within the family and to loosen their grip on the land. However, as will become clear below,¹⁹ in practice population decline did not always result in a higher mobility of the land; in fact, in many cases it had the opposite effect. Other factors were much more important, particularly those related to the structural changes in the economy and in society; for example, the decline of manorialism, which occurred in the 11th-13th centuries in most parts of Flanders and the Netherlands, and particularly in the decades around 1400 in England. But in many parts of the north of the Germany, there was even a rise of manorialism in the early modern period, with the dissolution of this *Gutswirtschaft* not occurring until far into the modern period.²⁰ Another important change was the dissolution and privatization of common lands. In Holland after the occupation of the region, there were no longer any common lands of any importance, and in many other parts of the western and central Netherlands the commons were privatized and parcelled out in the 13th/14th centuries, making these lands much easier to buy and sell. In the north of Germany, again, this privatization occurred only many centuries later, as was also the case in the north of France, where the bulk of the privatizations was carried out in the decades around 1800.²¹ Also, there was the decline of the importance of the extended family and the disappearance of kin control over the land in most parts of the North Sea area particularly in the 15th century, reducing the grip distant relatives had over the sale of land. In England, the nuclearization of the peasant family began first in East Anglia, in the 13th century, followed in the late-14th/early-15th century by other parts of lowland England.²² Then there was the fading away of real vassalage and, from the 13th century onwards, the relaxation of restrictions on the investiture of non-noblemen. The effect of this can be observed clearly in the Land van Heusden, a part of Holland. Here, the share of comital feudal land in the hands of burghers from the city of Heusden increased from 2% in 1375 to no less than 40% a century later, while in the Flemish district of Bruges already around 1325 one-third of the vassals were burghers of the city of Bruges.²³

¹⁸ R.J. Faith, 'Peasant families', pp. 86-92. However, this idea is nuanced, or even refuted, by Z. Razi, 'Family, Land and the Village Community in Later Medieval England', *Past & Present* 93 (1981) pp. 3-36.

¹⁹ Section 7, pp. x-x.

²⁰ Cf. M. North, 'From land mobility to immobility. The emergence of the early modern manorial economy', in: S. Cavaciocchi (ed.), *Il mercato della terra sec. XIII-XVIII. Atti delle "Settimane di Studi" e altri convegni* 35 (Prato, 2003) Prato 2003, pp. 261-269.

²¹ S. Brakensiek, *Gemeinschaftsteilungen in Europa. Die Privatisierung der kollektiven Nutzung des Bodens im 18. und 19. Jahrhundert* (Berlin, 2000), N. Vivier, *Propriété collective et identité communale. Les biens communaux en France, 1750-1914* (Paris, 1998), and various articles in M. de Moor, L. Shaw-Taylor & P. Warde (eds.), *The management of common land in Europe, c. 1500 - 1850*. CORN Publication series 8 (Turnhout, 2002).

²² Z. Razi, 'The myth of the immutable English family', *Past & Present* 140 (1993) pp. 3-44.

²³ P.C.M. Hoppenbrouwers, *Een middeleeuwse samenleving. Het Land van Heusden (ca. 1360-ca. 1515)*. A.A.G. Bijdragen 32 (Wageningen, 1992) p. 368, and D. Nicholas, *Town and countryside*, pp. 281-282.

In all these fields, there were strong regional differences, related to differences in social property systems and in the pace and nature of the development of the economy, or – put differently – in the chronology of the transition from a medieval feudal to a modern economy and society. A particular and perhaps underestimated element in this was the influence exerted by political regimes. This influence can be observed clearly in, for instance, Holland (i.e. the western part of the Netherlands) where absolute and exclusive rights to land evolved relatively early.

To understand the early rise of modern rights to land in Holland one has to start with the occupation history of the region. The majority of Holland consisted of peat lands, which were difficult to reclaim and largely uninhabited until the High Middle Ages. Here, reclamation projects really started only during the 11th/12th centuries, and they were carried out by small farmer-colonists. The large-scale reclamation projects were organized from above, by the sovereign lord. His aim in promoting reclamation was to increase the number of his subjects, and thus his military potential and his income from tithes and taxes.²⁴ Favourable conditions were offered in order to attract settlers to these labour-scarce regions to do the hard clearing work. The settlers were free from personal bonds and had to pay only a small fixed fee for the possession of the newly reclaimed land, thus becoming the virtual owners of the land.²⁵ Thus, the settlers of the land held absolute and almost exclusive rights to the land from the period of occupation onwards, a situation different from that in most other parts of north-western Europe. Also, feudal elements were very weak here, and manorial organization had only little importance from the onset,²⁶ following from the late and specific occupation history of the region, and further enforced by the strong growth of trade and cities from the 13th century onwards. The direct influence exerted by political regimes, however, was of particular importance in the rise of modern rights to land. This is apparent from the influence of sovereign lords on the large-scale reclamation projects and the rights granted to the settlers. It is also apparent from the public registration of land transfers and the organization of the levying of taxes (see below), and the consequences this had for the development of administration and the concomitant fixing of property rights, connected to the fiscal aims of the sovereign lords in the organization of their newly-reclaimed territory. We will return to this point below.

Thus, the social structure, the importance of the manorial system, the rise of trade and cities, and the influence of authorities all played a part in the rise of modern rights to land. In its turn, the emergence of absolute and exclusive property rights to land was an absolute prerequisite for the rise of the modern land market. There were land transfers before this emergence, and even a sort of land market, but they were hampered, restricted and insecure. So, the rise of exclusive property rights appears to have been the result of larger social and economic developments, more precisely the transition from a medieval feudal society to a modern one, but it also enabled this transition.

4. The organization of the land market in Northwestern Europe

The focus here will be here on two specific elements: the protection of property rights and the registration of land transfers. In both respects, the influence exerted by political regimes appears to have been crucial. First, there is the protection of property rights by authorities: the

²⁴ H. van der Linden, 'Het platteland in het Noordwesten met de nadruk op de occupatie circa 1000-1300', *Algemene geschiedenis der Nederlanden 2* (1982) pp. 48-82, esp. pp. 73-78.

²⁵ H. van der Linden, *De cope. Bijdrage tot de rechtsgeschiedenis van de openlegging der Hollands-Utrechtse laagvlakte* (Assen, 1956).

²⁶ J. de Vries & A.M. van der Woude, *The First Modern Economy. Success, Failure, and Perseverance of the Dutch Economy, 1500-1815* (Cambridge, 1997) pp. 159-165.

standpoints taken by courts of justice, the security against risk of confiscation by lords or other political regimes, and the protection enjoyed by tenants and landlords. Generally speaking, this protection was very strong on the Continent, at least from the 14th century onwards. The protection of property rights by authorities, for instance against the intrusions by manorial lords, also existed in England,²⁷ but to a lesser extent than on the Continent, as a result of both the stronger power of lords and the weaker position of public authorities in this field. It can be surmised that this difference, as well as that in the involvement of authorities in the registration of land transfers (to be dealt with below), is closely related to the different tax systems applied in the various regions. In England, the Anglo-Saxon system of land tax had been abandoned in the course of the Middle Ages, with the royal domains and the feudal and regalian rights becoming more important, next to a relatively low level of taxation, mainly on movables, goods going through the ports and indirect taxes.²⁸ On the Continent, the fiscal situation was clearly different. In the Low Countries, for instance, most taxes were levied on immovable wealth – particularly land – also because of the strong and successful opposition of urban governments to indirect taxes.²⁹ In the coastal and riverine parts of the Netherlands, the taxes for water management were often levied in strict proportion to the area of landownership. Because of the high and increasing fiscal interests they thus had in landownership, the authorities here were very keen to secure, clarify and register property rights. This fiscal element seems to have become more prominent in England only in the 16th/17th centuries, as the level of taxation was increased and land taxes became more important, at least in an absolute sense.

These regional differences can also be observed in the influence of authorities on the method of registration of land transfers. Such registration could be done by private persons, notaries, public courts, local lords or manorial courts, and in the case of feudal land, by feudal lords. In cases where registration was performed by lords, this was often connected to the desire to have some control over the transaction of land and the possibility to levy a tax. For instance, in Flanders feudal lords levied a tax of 10% of the sale price on sales of their feudal land.³⁰ The same applies to the local lords with judicial power, who registered land transfers, exercised some control over them and levied a tax. In the southern parts of the Low Countries, such as Flanders and Brabant, and in many parts of France, lords exacted a sum for each sale of land on the censal land under their jurisdiction, and sometimes for all sales of land, which mostly amounted to 8-16% of the sale price.³¹ This role of the lords was even stronger with the customary land in England, where lords vigorously enforced registration of all transfers in the manor court, not only because of the need to keep track of the obligations related to the land, but also because of the fines they were entitled to charge. The seller paid a fine and a heriot, and the buyer an entry fine; the stronger manorialism was in the region, the higher these fines were. In view of the interests at stake, and of the vigilance of these courts and the severe prosecution of people

²⁷ E. Kerridge, *Agrarian Problems in the Sixteenth Century and After* (London, 1969) pp. 65-93, and R. Hoyle, 'Tenure and the land market in early modern England. Or a late contribution to the Brenner debate', *Economic History Review* 43 (1990) pp. 1-20, esp. pp. 1-6.

²⁸ W.M. Ormrod, 'England in the Middle Ages', in: R. Bonney (ed.), *The rise of the fiscal state in Europe, c. 1200-1815* (Oxford, 1999) pp. 19-52, esp. pp. 21-33.

²⁹ W.P. Blockmans, 'The Low Countries in the Middle Ages', in: R. Bonney (ed.), *The rise of the fiscal state in Europe, c. 1200-1815* (Oxford, 1999) pp.281-308, esp. pp. 284-288.

³⁰ R. Opsommer, 'Omme dat leengoed', pp. 427 and 533-553.

³¹ E. Thoen, *Landbouweconomie en bevolking in Vlaanderen gedurende de late middeleeuwen en het begin van de moderne tijden. Testregio: de kasselrijen van Oudenaarde en Aalst (eind 13de - eerste helft 16de eeuw)* (Gent, 1988) pp. 779-880, E. Scholliers & F. Daelemans, *De conjunctuur van een domein: Herzele, 1444-1752* (Brussel, 1981) pp. 59-62, and G. Fourquin, 'Le temps de la croissance', in: *Histoire de la France rurale* part I (Paris,1975) pp. 377-547, esp. pp. 500-502.

buying and selling land without the lord's consent and outside the court,³² enforced registration by manorial courts was still a much-used practice in England.

In the northern parts of the Low Countries, the situation was very different: in most regions, the role of lords and notaries in this field was almost non-existent. Instead, the voluntary registration of private land transfers by public courts started relatively early and became more important than elsewhere. The same development can be observed in the adjacent parts of the Rhineland. From the 14th century onwards, registration by public courts in the aldermen books (*Schöffenbücher*) first became the practice in the cities. This practice was also applied to the surrounding countryside; later on – from the late-15th century onwards – it was applied to the villages, too.³³ The parties engaged in a transaction increasingly preferred to transfer land in a public court, and to have the transfer registered there, rather than to perform a private transfer, mainly because of the stronger legal security vis-à-vis third parties.³⁴ The court books or protocols had both legal validity and evidential value. Registration was not free; it entailed some costs, and smaller sums were charged for looking into the protocol or copying it, but the amounts involved were not very large.

In some parts of the Netherlands, the authorities went a step further and made judicial conveyance compulsory, sometimes even on penalty of nullification of the transfer. Also, the courts were increasingly compelled by the public authorities to register all enacted deeds, not so much because of the direct revenues, but because of the fiscal interests of the government.³⁵ By way of these protocols or registers the government was able to check the property returns of all taxable persons. As a result, an ever-larger proportion of land transfers was registered by the public courts. The pace of this development, however, differed from region to region. For instance, the conveyance of real property in the competent court was made compulsory in the Land van Culemborg in 1416, in Overijssel in 1457, and in Holland only in 1529.³⁶ In most parts of the Netherlands, the registration of these transfers by the court was made obligatory around the middle of the 16th century. In the Veluwe (a sandy, somewhat backward area of the Netherlands) this happened only in 1623.³⁷ However, despite these regional varieties, it is clear that in the Netherlands and the neighbouring parts of the Rhineland this development took place relatively early, compared to most other parts of north-western Europe. Registration by public courts was already common here in the 14th century and was made compulsory mostly in the 16th century. This also precluded a role of public notaries in the field, in contrast to areas more to the south in Europe, such as Italy (see below). Often, notaries were even explicitly prohibited to engage in registering land transfers.

The early rise of public registration in these parts of the Low Countries was connected to the early development of fiscal systems, the strong influence of the authorities and public courts in legal matters, and the development of a network of public courts in the countryside. In regions

³² B.M.S. Campbell, 'Population pressure, inheritance and the land market in a fourteenth century peasant community', in: R.M. Smith (ed.), *Land, Kinship and Life-Cycle* (Cambridge, 1986) pp. 87-134, esp. pp. 107-108.

³³ Cf. for instance D. Kastner, *Das Schöffenbuch der Stadt Zülpiich und die Urkunden des Stadtarchivs* (Köln, 1996), esp. pp. 12-14, and Id., *Das Troisdorfer Schöffenbuch* (Köln, 1997) esp. pp. 9-13.

³⁴ P.L. Nève, 'De overdracht van onroerend goed in de middeleeuwen', *De levering van onroerend goed*. *Ars notariatus* 32 (Deventer, 1985) pp. 23-37, esp. pp. 27-29.

³⁵ F.C.J. Ketelaar, 'Van pertinent register en ordentelijk protocol. Overdracht van onroerend goed in de tijd van de Republiek', *De levering van onroerend goed*. *Ars notariatus* 32 (Deventer, 1985) pp. 39-56, esp. pp. 39-42.

³⁶ F.F.X. Cerutti, *Hoofdstukken uit de Nederlandse rechtsgeschiedenis* (Nijmegen, 1972) pp. 192 en 247-251.

³⁷ F.F.J.M. Geraedts, 'De registratie van de gerechtelijke eigendomsoverdracht in het Kwartier van Veluwe, 1538-1733', *BMG&re* 85 (1994) pp. 40-60, esp. pp. 43-44.

where the jurisdiction by courts of aldermen emerged late, the writing down of transfers of real property was still done by various other persons or bodies, with an important role of private charters. In regions such as the central part of the Netherlands, the judicial organization in the countryside reached a high density already in the first half of the 14th century, which facilitated the early development towards judicial conveyance and registration.³⁸ As a result of this, and of the higher security it offered, private conveyance was worsted by the judicial, public conveyance and an alderman's deed, and ultimately became compulsory. This practice resulted in an extensive number of registers of 'voluntary' jurisdiction on land transfers. Also, great care was taken to safeguard these registers (*Schepenprotocollen* or *Schöffenbücher*), as demonstrated by the nearly uninterrupted series concerning the cities and their surrounding countryside from the 14th century onwards, and concerning the countryside from the late-15th century onwards.³⁹ The presence and accessibility of this registration at a central and public place strongly enhanced transparency and security for potential buyers. This even more so as the same increasingly applied to transactions in the capital market, with registration by a public court also made obligatory, thus preventing a buyer of a plot of land to be confronted with an unexpected rent burden on the land, as often was the case in France, for instance.⁴⁰ The position taken by the authorities on these matters thus strongly reduced the insecurity and the transaction costs on the land market, and thus contributed to the rapid growth of the land market in the 15th/16th-century Netherlands.

The preceding elements also stimulated the rise and organization of the lease market, which benefited both from the protection of property rights and from the registration by public courts. In some regions, public authorities also intervened in the way seller and potential buyers, and landlords and potential tenants, were brought together. At one end of the spectrum there were the underhand arrangements between the landlord and the sitting tenant or his son, sometimes even with a silent renewal of the lease, and at the other end there was the public auction. Underhand arrangements prevailed where tenants had, or claimed, strong customary rights to the land, but also where relationships between landlord and tenant had a personal character, as in inland Flanders, where landlords often used their tenant farms as country seat and provisioning base, and had a paternalistic relation with their tenants.⁴¹ A similar dependency can often be observed with sharecropping, with the tenant being dependent on the landlord for the procurement of working capital, and the link between landlord and tenant formed by a multitude of links instead of a single market determined one. Also, as observed for Central Italy,⁴² the landlord often assumed the role of protector and patron over the tenant, implying a personal relationship. Public auction, on the other hand, made contacts more anonymous. Also, it increased the competition for land, enabled the landlord to obtain the maximum price for his land, and increased enormously the mobility of lease land. In the Netherlands, the public auction of leases of tithes, mills and excises existed already in the late medieval period, but auctions of lease land

³⁸ J.A.E. Kuys, *De ambtman in het Kwartier van Nijmegen (ca. 1250-1543)* (Nijmegen, 1987) pp. 151-152.

³⁹ One of the finest examples – the protocol of 's-Hertogenbosch – is analysed by M.H.M. Spierings, *Het schepenprotocol, 1367-1400* (Tilburg, 1984), and used extensively by H.P.H. Jansen, *Landbouwpacht in Brabant in de veertiende en vijftiende eeuw* (Assen, 1955).

⁴⁰ [G. Beaur in CORN, Credit]

⁴¹ Cf. for silent renewal of the lease below, Section 6, pp. x-x. Cf. for inland Flanders: E. Thoen, 'A "commercial survival economy" in evolution. The Flemish countryside and the transition to capitalism (Middle Ages-19th century)', in: P. Hoppenbrouwers & J.L. van Zanden (eds.), *Peasants into farmers? The transformation of rural economy and society in the Low Countries (Middle Ages-19th century) in the light in the Brenner debate*. CORN publication series 4 (Turnhout, 2001) pp. 102-157, esp. pp. 128-129.

⁴² D. Herlihy & C. Klapisch-Zuber, *Les Toscans et leur familles. Une étude du catasto florentin de 1427* (Paris, 1978) pp. 261-262 and 274-278.

became more common only at the end of the 16th century. At that time, after the Reformation, they were even made compulsory by the government for one type of property, namely the secularized possessions of religious institutions. In the province of Guelders, the government decreed in 1580 that these lands should be leased out by public auction, to be announced first in church and in the presence of government representatives, without any pact or arrangement made in advance.⁴³ Also, land was sometimes leased out by tender. In Holland, too, public auctions of lease land became more common in the 16th century, and here too the authorities took the lead, making auctions compulsory for their own lands and for those of religious and charitable institutions. Here, announcements were mostly made by way of printed posters hung in public places.⁴⁴

In various parts of the Netherlands, land was also sometimes sold in public, at least from the 15th century onwards. Although this maximized the sale price to the benefit of the seller, it was advantageous to both buyer and seller. If the auction was announced clearly and properly, for instance after Sunday mass, it was assumed that all relatives of the seller had had their chance to know about the sale and buy the land. If they did not come forward, they had thereby lost their right of withdrawal of the sale,⁴⁵ and buyers did not have to fear being confronted with one of the seller's eager relatives long after the sale. Therefore public auctions led in various ways to a more open and less restricted land market. Thus, formal, open and public markets for lease land existed in the Netherlands already in the late-16th century. Probably, they developed later in other parts of north-western Europe, although comparisons are hampered by the absence of similar data for other parts of the North Sea area. In Swabia (in southern Germany), a development towards the auctioning of land occurred later: in the 1740s real estate was sometimes sold by public auction, and by the 1780s this practice had become common.⁴⁶ Although this concerns a crucial element in the institutional arrangement of the land market, there are only these scattered data. Clearly, much more research is needed in this field.

5. The rise and organization of the land market in Italy

In Italy, a similar regional diversity in the emergence of land markets can be found as in Northwestern Europe, with sharp differences sometimes even between neighbouring regions. The general picture, however, is that absolute, exclusive property rights to land and a land market emerged here even earlier than in the North Sea area. Already in the 8th/9th century sales of land can be observed in various parts of Italy, including sales by peasants and even by slaves.⁴⁷ An acceleration of land sales in the market took place already in the 11th century,⁴⁸ that is, earliest in all of Europe, as observed for Tuscany, the areas around Milan and Bergamo, but also for the mid-Italian Abruzzi. The precociousness of Italy in this respect can be understood, firstly, from

⁴³ A.J. Maris, *De reformatie der geestelijke en kerkelijke goederen in Gelderland* ('s-Gravenhage, 1939) pp. 75, 83, 221 and 490. Cf. for the 17th century also P. Brusse, *Overleven door ondernemen. De agrarische geschiedenis van de Over-Betuwe, 1650-1850*. A.A.G. Bijdragen 38 (1999) pp. 140-145.

⁴⁴ J.A.E. Kuys & J.T. Schoenmakers, *Landpachten in Holland, 1500-1650*. Amsterdamse historische reeks 1 (Amsterdam, 1981) pp. 26 and 34 (a picture of a poster dating from 1603).

⁴⁵ O. Moorman van Kappen, *Met open buydel ende in baren gelde*, pp. 8 and 10, for instance in West-Friesland.

⁴⁶ D.W. Sabeau, *Property, production, and family in Neckarhausen, 1700-1870* (Cambridge, 1990) p. 356.

⁴⁷ Cf. the examples in L. Feller, in: S. Cavaciocchi (ed.), *Il mercato della terra*, pp. 21-45.

⁴⁸ C. Wickham, 'Land sales and land market in the eleventh century', in: Id., *Land and power. Studies in Italian and European social history, 400-1200* (London, 1994) pp. 257-274, and Id., *The mountains and the city. The Tuscan Apennines in the early Middle Ages* (Oxford, 1988) pp. 242-256.

the continuity from Roman times onwards. Sales of land had never fully disappeared here. Also, there is the high degree of literacy and the use of the written word, making its re-entry in a larger scale already in the 8th century, allowing for the registration of property rights and transfers, and thus increasing security and stimulating land sales. Moreover, manorial organization, the main obstacle for the rise of a land market in the Northwest of Europe, had always had less impact here, since it had been introduced to Italy at a relatively late date, and then in most regions only incompletely and weakly. Classical, bipartite manors and labour services were rare in early medieval Italy, compared to Northwestern Europe.⁴⁹ Partly connected to this, the *mansus*, as a standard family holding, protected by manorial custom and not to be divided, did not have this weight in Italy. In 11th-century Tuscany, except for the mountainous, marginal parts, the concept of a standard unit of tenant exploitation was already abandoned, with tenements first becoming fragmented and later on increasingly consisting of constantly changing complexes of scattered parcels.⁵⁰ This reduced the attachment to the land, and increased the inclination towards alienation and the mobility of land. Although land sales still remained highly influenced by social considerations and relationships,⁵¹ these elements gave most parts of Italy a clear lead in the emergence of an open land market over Northwestern Europe at the start of the high Middle Ages.

In the high and late Middle Ages, this lead was at first maintained, as can be understood from the fact that several elements singled out in the preceding sections as crucial in the rise of the land market took shape in many parts of Italy already at an early date, but from the 12th/13th centuries onwards the picture increasingly becomes more mixed. After the first signs of decline already in the 9th century, manorial organization started to disappear in most of the northern and central parts of Italy already from the 11th century onwards, with this process taking place mainly in the 12th and 13th centuries. The classical manor was fully dismantled in most regions in the north and center by the start of the Black Death.⁵² Only in parts of the south and in some mountainous regions in the north, such as Piedmont and Tyrol, the manorial system persisted longer. Also, the commons and communal rights were gradually dissolving in this period, although this process showed strong diversity. In some parts of Italy, as in Tuscany and the Po valley, agriculture was strongly individualistic and communal rights were limited. In the 15th and 16th centuries, further commons were parcelled out, privatized and/or sold. But the privatization of commons did not proceed that fast in all parts of Italy. Even at the beginning of the 19th century, many regions still had extensive common lands, as the Alpine regions in the north, where the neighbours held extensive communal properties and grazing rights, and in Umbria and the Apennines, where the communities did so. In southern Italy, too, communal goods and usage rights remained important, especially in the hilly and mountainous parts.⁵³ In the high Middle Ages, village communities strengthened their position, particularly as manorialism dissolved and they acquired the some power of self-regulation and various public rights, but they did not strive for a strict grip on land sales. In some cases, sales to outsiders were obstructed, but in general the

⁴⁹ P. Toubert, 'L'Italie rurale aux VIIIe-IXe siècles. Essai de typologie domaniale', in: *I problemi dell'Occidente nel secolo VIII* (Spoleto,1973) volume I, pp. 95-132, esp. pp. 104-111.

⁵⁰ C. Wickham, *The mountains and the city*, pp. 27-28 and 231-235.

⁵¹ Remaining the case until far into the modern era: G. Levi, *Le pouvoir au village. Histoire d'un exorciste dans le Piémont du XVIIe siècle* (Paris,1989) pp. 112-118.

⁵² P.J. Jones, 'From manor to mezzadria. A Tuscan case-study in the medieval origins of modern agrarian society', in: N. Rubinstein (ed.), *Florentine studies* (London,1968) pp. 193-241, esp. pp. 206-214, and S.R. Epstein, 'The peasantries of Italy, 1350-1750', in: T. Scott (ed.), *The peasantries of Europe*, pp. 88-89.

⁵³ G. Corona, 'La propriété collective en Italie', in: N. Vivier (ed.), *Les propriétés collectives face aux attaques libérales (1750-1914)* (Rennes,2003) pp. 156-173.

influence of village communities in this field was limited. Several of the social organizations that hindered the rise of a modern land market thus had lost their importance in many parts of Italy already at an early date.

On the other hand, in the later Middle Ages, some developments did hardly or not take place in Italy, or at least not in a pace comparable to that observed for some parts of Northwestern Europe. In the high Middle Ages, kin control had not been very important in the field of land transfer, connected to the early rise of the nuclear family here, but in the later Middle Ages the pace of retreat of this element slowed down. Some kin control, joined by the grip over strategic patrimonial goods exercised by the *consorti* emerging from the 11th century onwards in Lombardy and elsewhere,⁵⁴ remained in place longer than in Northwestern Europe. With respect to lordly power the picture is mixed. In the north and center of Italy this power was limited, even more so with the decline of manorialism and the rise of urban power over the countryside, forming a counterweight to the power of rural lords. However, a few restrictions have to be made. Firstly, in the south of Italy seigniorial dues and lordly power in general remained stronger. But also in the north and center some banal and seigniorial rights were rather strengthened or introduced in the high Middle Ages. In Tuscany, from the late-12th century onwards, lords were able to establish entry-fines on the sale of land and the right to demand licence for alienation.⁵⁵ Also, religious institutions acquired the right of first refusal at the sale of land under their lordship, often at a beneficial price, and the right to prohibit the sale of land to other lords. Insecurity can also be observed with respect to types of tenure such as the *livello*, a written contract, offering the tenant possession for longer periods or several generations. In the 11th and 12th centuries, this type of tenure could be considered favourable, compared to manorial tenure. But after the dissolution of manorialism, these tenures rather proved to be unfavourable compared to allodial property offering absolute and exclusive property rights to the land. This even more so as this tenure, being dominant in regions as the Veneto, burdened the tenant with all kinds of restrictions on inheritance, alienation and possession, thus creating insecurity.⁵⁶ Next to this, another negative influence in property rights to land made itself felt, particularly in the city-states of the center-north, as the cities and their elites were increasingly extending their non-economic power over the countryside from the mid-12th century onwards. The pace of development in the various parts of Italy thus seems to have slowed down in the later Middle Ages, and even new obstacles in the market transfer of land came in place.

The same picture of an early lead followed by relative stagnation can be seen in the registration of land transfers. In Italy, this was mainly done by public notaries, as also was common in the southern parts of France. Already in the 11th century, public notaries were active in this field, mainly operating in the cities, but also extending their activities to the countryside. By the 12th/early-13th century, the development of an elaborated system of public notaries, with their instruments having full legal value, was completed, with a written charter even made obligatory for more substantial transactions of immovables in various Italian city-states already in the 13th century.⁵⁷ The notary's signature was sufficient for legal value, and no additional validation by public courts was necessary. This system was very advanced, compared to the contemporary situation in Northwestern Europe, and made possibilities for registration of land

⁵⁴ C. Violante, 'Quelques caractéristiques des structures familiales en Lombardie, Emilie et Toscane aux XI^e et XII^e siècles', in: G. Duby & J. le Goff (eds.), *Famille et parenté dans l'occident médiéval* (Rome,1977) pp. 87-147, esp. pp. 118-124.

⁵⁵ P.J. Jones, 'From manor to mezzadria', p. 215.

⁵⁶ P. Jones, *The Italian city-state*, p. 240. [L.A. Kotelnikova]

⁵⁷ P. Schulte, *Scripturae publicae creditur. Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen,2003) pp. 100-108.

transfers widely available. This was coupled to a strict private registration by landowners and managers, developing from c. 1200 onwards, and consisting of inquests, cartularies and registers. But as elsewhere the system of public courts and public registration developed, as most clearly in the northern parts of the Low Countries, the Italian situation lost her advance, and even turned into disadvantage. This was mainly because registration by notaries was fragmented, not providing an overview of full areas and thus not easy to consult. This reduced transparency and brought insecurity for potential buyers. The numerosity of overlapping jurisdictions created insecurity, and also possibilities for more powerful parties to benefit from this. Also, especially from the 14th century onwards, the courts here were often siding with urban landowners. This, even enforced by the high costs of lawyers, made property rights to land insecure, particularly for peasants.

In the early modern period, the security of property rights to land and the flexibility of land transfer was not improved, but rather seems to have deteriorated. Control of the cities and the urban elites over the land was further strengthened. This happened, for instance, by way of the widespread use by aristocrats and patrician burghers of fideicommissary entails, first informally and ad-hoc, but from the 15th century onwards in a more structural way, often linked to adoption of primogeniture. This practise, also used in order to strengthen the burgher grip over the land, severely limited the possibilities of dividing and alienating landownership.⁵⁸ In the 17th century, in many parts of northern and central Italy more than half of the land, sometimes even up to three-quarters, was thus bound by entails or amortified in ecclesiastical ownership, obstructing land mobility. Only in the 18th century, this started to change for the better, as this situation, and its perceived or real negative consequences, was explicitly targeted by reformers, aiming at legislation prohibiting the fideicommissary entail, as in Piedmonte and Tuscany. In southern Italy, too, the development towards open and flexible land markets stagnated in the early modern period. Even a certain strengthening of lordly power can be observed in the course of the 17th century, as in the Kingdom of Naples, where feudal prerogatives re-appeared again, manorial obligations were resumed and coercion was used to dictate the terms on which peasants would work the land.⁵⁹ The general conclusion must be that many parts of Italy had a clear lead in the emergence of a land market in the high Middle Ages, but from the 12th/13th centuries onwards developments slowed down, particularly when compared to some of the regions in Northwestern Europe, or even turned into a negative direction, even further enforced in the early modern period.

6. The rise of the lease market in Northwestern Europe and Italy

The crystallization of rights to land, apparent in both parts of Northwestern Europe and Italy by way of the disappearance of overlapping claims and rights to the land, also enabled changes in the exploitation of landownership. From the 11th/12th century onwards in Italy, and from circa 1200 onwards in Northwestern Europe, the modern, short-term lease of land started to emerge from all types of medieval forms of grants. These leases were for short terms, varying from 1 year to 20 or 30 years, but mainly for 6 – 9 years, and for a market-determined, competitive rent. In the process of the introduction of short-term leasing, sharp regional differences in chronology become apparent. In the Low Countries there was an almost uninterrupted area in which the short-term lease had made its entrance at an early date, that is, from the first half of the 13th century onwards. This area of the early emergence of leasing consisted of the most urbanized regions, such

⁵⁸ M. Aymard, 'From feudalism to capitalism in Italy', *Review* 6 (1982) pp. 131-208, esp. p. 193, and J.P. Copper, 'Patterns of inheritance and settlement by great landowners from the fifteenth to the eighteenth centuries', in: J. Goody, J. Thirsk & E.P. Thompson (eds.), *Family and inheritance. Rural society in Western Europe, 1200-1800* (Cambridge, 1976) pp. 192-327, esp. pp. 277-288.

⁵⁹ D. Sella, *Italy in the seventeenth century* (London/New York, 1997) pp. 27 and 63-69.

as Flanders, Brabant and the Niederrhein region.⁶⁰ After its introduction, however, the further rise of leasing started to show strong regional differences, deviating from the ones in its emergence, but rather determined by the social distribution of landownership and power relationships between the various social groups. In the later Middle Ages, short-term leasing became dominant in such regions as the Guelders river area, which was dominated by large landownership but where the lords were losing their non-economic power with the dissolution of manorialism. In the 14th/early 15th century, already three quarters of the land was given out in short-term lease here, rising to some 85 % around 1500. However, even within a relatively small area such as the Low Countries contrasts were strong. In regions where non-economic force remained stronger or where peasants were predominant – such as Drenthe and, though to a lesser extent, inland Flanders – short-term leasing did not rise this fast: in these areas in the 15th century, only some 20 - 35 % of the land was leased out for short terms. The example of highly urbanized inland Flanders shows that not urbanization was determining in these differences, but rather the social property relations of the region in question.

The figures noted in some parts of the Netherlands, up to 85 %, were much higher than in any other part of Western Europe, including England, where figures like these were only reached in the 16th/17th century or even later. Although England in the high Middle Ages had an early experience with the leasing out of complete manors, this was just a mode of administration, not similar to modern leasing meant here. Only after 1360/1370, after some cautious attempts in the first half of the 14th century, short-term leasing really emerged in most parts of England.⁶¹ Most of these leases were not even the modern leases in the sense meant here, but had many manorial and/or customary elements (see below). England was therefore clearly late in this respect, and the further rise of the lease does not seem to have been very strong either, at least until the late 15th century. For eastern England, for instance, it has been established that after its expansion in the period between 1390 and 1420 the importance of short-term leasing waned again, and many leaseholds were commuted again into copyholds, fees, hereditary tenures or all kinds of other types of tenure.⁶² Only from the late-15th century onwards there was a further, gradual growth. Perhaps this resulted in an increase of the leasing degree to about 60 % at the beginning of the 16th century.⁶³ This, however, is nothing more than a reasoned guess.

Turning to Italy, it is clear that in most regions short-term leasing has developed early. In Tuscany, leasing sporadically starts to appear already in the 11th century, with commercial short-term leasing gaining momentum from the late-12th century onwards.⁶⁴ By 1300, short-term leasing here had become highly important, connected to the high share of burgher landownership and the preclusion of the possibility to coerce unfree labour anymore, after the dissolution of manorialism. The chronology of the rise of leasing is thus more or less similar here to the one observed for the most advanced parts of the Low Countries. The same applies to Lombardy and the Po Valley, where short-term leasing also acquired a high importance. This in contrast to peasant dominated regions, such as some of the mountainous areas, where its importance remained limited. The same applies to some of the southern regions, such as Lazio, Apulia and Sicily, where large landowners mainly created large-scale estates, managed by middlemen and worked by wage-labour, although next to

⁶⁰ B.J.P. van Bavel, 'The emergence and growth of short-term leasing in the Netherlands and other parts of Northwestern Europe (11th-16th centuries). A tentative investigation into its chronology and causes', to be published in: B.J.P. van Bavel & P. Schofield (eds.), *The rise of leasing* CORN publication series 10.

⁶¹ Cf. R.H. Britnell, 'Tenant farming: Eastern England', *Agrarian history*, part III, pp. 611-624, esp. pp. 613-616, and J.L. Bolton, *The medieval English economy, 1150-1500* (London, 1980) pp. 40-42, 88-89 and 208-220.

⁶² R. Britnell, 'Tenant farming: Eastern England', esp. pp. 615-616.

⁶³ According to one of the few estimates made: J. Whittle, unpublished paper (2001).

⁶⁴ R.L. Hopcroft & R.J. Emigh, 'Divergent paths of agrarian change', p. 14, and P.J. Jones, 'From manor to mezzadria', pp. 205 and 220-221.

these *latifondi* also other arrangements and forms of tenure existed.⁶⁵ Again, in Italy as well as in Northwestern Europe, the rise of short-term leasing, or its absence, appears to be directly connected to the property and power balance between the various social groups. Both in regions where lords were powerful, possibly backed by non-economic means, or where peasants were predominant, short-term leasing did not acquire a high importance; this only occurred where a balance between the various social groups existed.

There were strong differences between the regions also in the organization of leasing. Again, this was mainly dependent on the power balance between various social groups. In many parts of Northwestern Europe regions, particularly where peasants held a strong position, there existed the practice of the silent reletting (*tacita reconductio*) or after-letting of the tenancy.⁶⁶ In the county of Holland, short-term tenants even claimed this right of reletting, and their attitude was backed by custom and common law. In some cases, tenants even sold the right to reletting to third parties or made it an object of marriage or inheritance settlements. To remain in possession of the tenancy, ex-tenants often threatened or even attacked the new tenant, destroyed his crops and harmed his cattle.⁶⁷ As a result, lease lands often remained in the hands of the same tenant, or in those of his widow or son, for a long time. The lease land in question thus did not really enter the market, and the mobility of the land in practice was reduced considerably. A tendency towards continuation or hereditary transmission of the lease can also be observed in parts of England and France, such as Picardy and Lorraine.⁶⁸ Perhaps in large parts of Northwestern Europe the tendency towards a kind of heredity of the lease, even in the case of short-term leasing, was stronger than the idea of a strict limit at the end of the lease term. This practice sometimes even remained alive until far into the modern period. This even applies to many parts of England, often considered as the role model in the rise of leasing, where leases in practice often turn out to be not really "modern" short-term leases, but rather leases for longer periods and/or leases influenced by customary rights, for instance allowing the tenant some right to succession and becoming heritable in practice. Only in the 16th and particularly in the 17th century short-term leasing in the sense as meant here started to emerge in England.⁶⁹

This situation contrasted sharply with several parts of the Netherlands where the mobility of lease land was very high, not only formally but also in practice. This applied, for instance, to the Dutch river area and also to the adjacent northern parts of Brabant. In the Guelders river area, which was dominated by large landowners, the expiration of the lease was strictly upheld. Continuation of the lease here was only possible by way of a strong economic position in the lease market, not by way of silent renewal or personal bonds between owner and tenant. In the 15th century, parcels of land were rarely leased for a second time by the same tenant or his son.⁷⁰ The landlord sold the lease to the highest bidder, regardless of the wishes or pretended rights of the

⁶⁵ F.L. Galassi & J.S. Cohen, 'The economics of tenancy in early twentieth-century southern Italy', *EHR* 47 (1994) pp. 585-600, nuancing the older picture on this point.

⁶⁶ J.A.E. Kuys & J.T. Schoenmakers, *Landpachten in Holland*, pp. 23-25, and J.T. de Smidt, *Rechtsgewoonten. De gebruiken en plaatselijke gebruiken waarnaar het burgerlijk wetboek verwijst* (Amsterdam, 1954) pp. 105-106 and 126-133.

⁶⁷ C. Cau, S. van Leeuwen et al. (eds.), *Groot placaet-boeck*, part I, kol. 329-342 (1580) and 363-364 (1515), part II, kol. 2515-2520 (1658) and part III, p. 586 (1452).

⁶⁸ R.W. Hoyle, 'Tenure and the land market', (1990), p. 9 and more extensive Id., unpublished paper for the ESSHC conference in The Hague (2002), E. Miller, 'Tenant farming: Yorkshire and Lancashire', pp. 596-611, esp. 597-598 and 608, and M. Bloch, *French rural history. An essay on its basic characteristics* (Berkeley, 1966) pp. 179-180.

⁶⁹ P. Bowden, 'Agricultural prices, farm profits, and rents', *The agrarian history of England and Wales*, part IV (Cambridge, 1967) pp. 593-695, esp. pp. 685-686.

⁷⁰ H.P.H. Jansen, *Landbouwpacht*, pp. 77-80.

previous tenant. This particularly applied to situations where the land was auctioned in public, as we have seen. Moreover, the mobility of lease land was further increased because of the application of the 'dying-day breaks lease' and 'sale breaks lease' rules, whereas in Holland neither the sale of the land nor the death of the tenant or landlord were a reason for breaking a lease agreement. As a consequence of these elements, the mobility of lease land was much higher in the Dutch river area and northern Brabant than in Holland.

Around the middle of the 16th century there was one exception to the high mobility of lease land in the Dutch river area and in northern Brabant, namely the large tenant farms which were emerging around this period. Despite the short lease terms, these farms often remained in the hands of the same tenant or his offspring. However, this continuity was not the result of underhand renewal, silent reletting or claims made by the tenant, but of the financial strength of these large tenants. In the competition for the land they almost always outbid the others and they were the only ones capable of guaranteeing the payment of the high lease price and the sometimes enormously high entry fine.⁷¹ However, unlike the situation in Flanders and some parts of France and Italy, where often continuity was even stronger, there was still some competition for these large farms. Not only could some of the parcels of these farms be leased out separately, but also the number of persons wishing to lease these farms was relatively large in some of these regions of the Netherlands, because of the strong socio-economic polarization from which a substantial number of wealthy farmers emerged. At least, the lease land did enter the market here. This applied even more so to the separate parcels of land, which were the object of fierce competition and remained very mobile even after the 15th/16th century.

Another important element in the organization of leasing, and its effects on economic development, was the payment of the lease, with the main divide being between a fixed rent and a share of the gross output of the tenancy. This share could be a quarter, a third or half of gross output, with the latter being prevalent. Sharecropping was practiced at times in Northwestern Europe, but disappeared here in the later Middle Ages, only to return in times of war and insecurity, whereas in several parts of Italy it became the dominant mode of leasing. Particularly in the central regions such as Tuscany, Umbria, Emilia and the Marches, sharecropping massively spread from the 12th century onwards. In contrast to Northwestern Europe, sharecropping did not decline here in the later Middle Ages, but rather grew in importance in the 14th and 15th centuries to remain the dominant way of exploiting landownership until the decades around 1950.⁷² In explaining its dominance here, it must be noted that sharecropping was present particularly in regions where urban and burgher power was strong, and practiced mainly on burgher landownership. Apparently, sharecropping was well-suited to serve the burgher interests, as we can understand from its following characteristics.

Sharecropping contracts not only stipulated the share of output to be delivered, but also contained extensive regulations on the crops to be cultivated, and on the labour to be performed by the tenant, with specifications on the number of ploughings, the dates of sowing and harvesting, the extent of manuring, the digging of ditches, the instruments to be used, etcetera. In contrast to most short-term lease contracts in Northwestern Europe, the Italian sharecropping contract thus offered no freedom to the tenant in the exploitation and use of the tenancy and it almost fully determined the way the labour of the tenant and the members of his household was applied. In view of the strict regulation of labour, sharecropping can also be considered a labour contract, with

⁷¹ Cf. B.J.P. van Bavel, 'Elements in the transition of the rural economy: Factors contributing to the emergence of large farms in the Dutch river area (15th-16th centuries)', in: P.C.M. Hoppenbrouwers & J.L. van Zanden (eds.), *From peasants to farmers?*, pp. 179-201.

⁷² E. Sabelberg, *Der Zerfall der Mezzadria in der Toskana Urbana. Entstehung, Bedeutung und gegenwärtige Auflösungs eines agraren Betriebssystems in Mittelitalien* (Köln, 1975) pp. 116-146 and 217-219.

tenants paying in labour, renumerated below the market rate.⁷³ Its importance can thus be linked to the mal-functioning of the labour market and/or be seen as an instrument for the landlord to profit from his position by his grip on the tenant labour. Also, the sharecropping system enforced the provisioning of the urban landlord with foodstuffs and industrial raw materials at relatively low costs, with the landlord often having the right of first refusal and prior sale of the crops. In his turn, the landlord had ample possibilities to market these products, since he had easy access to urban markets, whereas access was often restricted for peasants and tenants.⁷⁴ Thus there is also a clear link between sharecropping and the specific organization of product markets in this part of Italy.

But most crucial in the rise and persistence of sharecropping here was the availability of capital. In general, links between the late medieval land and lease markets and the capital market were strong.⁷⁵ There is the importance of credit obtained for buying land, with most of the land being paid by way of credit. A reverse link also existed, since credit was often obtained by using land as collateral. But also the choice of type of leasehold – by way of fixed rents or sharecropping – appears to have been directly related to the accessibility of the capital market, since sharecropping could provide the tenant with capital that would not be available to him without a well-functioning capital market. Particularly for a short-term tenant it must have been difficult to procure his working capital or to obtain any credit without the presence of a well-functioning capital-market. This difficulty was bigger for tenants than for other farmers, since they did not have the possibility to offer his land as a security, as landowning peasants could, and thus did not have a collateral to obtain loans. This problem could in a way be solved by the adoption of sharecropping,⁷⁶ with the lessor bringing in a substantial part of the implements, cattle and sowing-seed. However, this only brought a partial solution, since the tenant still had to bring in capital; mostly half of it. Another possibility was to borrow the working capital from the lessor by way of cash advances or by way of the advance of an inventory, cattle, sowing-seed or crops in the field, as in the Flemish *lating* or the southern German *Gericht*.⁷⁷ This, but even more clearly the practice of sharecropping, can be considered to be an interlinkage of the capital market and the lease market, with the landowner being the source of capital for the farmer who leases the land. This situation created ample opportunities for the landowner to exploit his strong bargaining power.⁷⁸ This person often took the opportunity to link operations on both markets in order to increase his security, reduce monitoring costs and profit from his increased bargaining position. This brought the tenant in a rather unappealing situation of dependency, fitting more into a paternalistic leasing relationship, instead of a market-determined one. Also, it could be an element in binding the tenant to the land or in making him pay a non-economic rent for the land.

⁷³ A. Bhaduri, 'Cropsharing as a labour process', *Journal of peasant studies* 10 (1983), D.M.G. Newbery, 'risk sharing, sharecropping and uncertain labour markets', *Review of economic studies* 44 (1977).

⁷⁴ For urban dominance in product markets cf. S.R. Epstein, 'Cities, regions and the late medieval crisis: Sicily and Tuscany compared', *Past & Present* 130 (1991) pp. 3-50, esp. pp. 15, 28-33 and 38-39.

⁷⁵ Cf. for instance B. Poulsen, 'Rural credit and land market in the Duchy of Schleswig c. 1450-1660', in: B.J.P. van Bavel & P.C.M. Hoppenbrouwers (eds.), *Landholding and land transfer*, pp. 203-217, and, very nuanced, G. Béaur, 'Foncier et crédit dans les sociétés préindustrielles: des liens solides ou des chaînes fragiles', *Annales ESC* 49 (1994) pp. 1411-1428.

⁷⁶ D.A. Ackerberg & M. Botticini, 'The choice of agrarian contracts in early renaissance Tuscany: risk sharing, moral hazard, or capital market imperfections?', *Explorations in economic history* 37 (2000) pp. 241-257.

⁷⁷ M. Toch, 'Lords and peasants. A reappraisal of medieval economic relationships', *Journal of pean Economic History* 15 (1986) pp. 163-182, esp. 168-177, and E. Thoen, *Landbouweconomie*, pp. 569-588.

⁷⁸ Braverman & Srinivasan, in: H.P. Binswanger & M.R. Rosenzweig (eds.), *Contractual agreements*, 1984.

As in Umbria and Tuscany, this created excellent possibilities for rent-seeking for urban landowners, even more so as they could also use the market for goods to their advantage. This forced interlinkage of markets, which led to dependence and rent-seeking, and thus had negative economic consequences, was particularly found where capital markets in the countryside were absent, weak or mal-functioning. Indeed, in these parts of Italy it was difficult for farmers to procure working capital. Although capital markets had emerged early here, and advanced instruments of commercial credit were developed here centuries earlier than in other parts of Europe, there are indications that credit was not easily available for countrymen. Particularly before the Black Death, credit was very expensive, with perpetual rents amounting to 9 – 12.5 % per year, or even more.⁷⁹ Other forms of credit sometimes entailed harsh conditions, often leading to default, or had interest rates surging to 50 %. Although after 1348 interest rates in the rural capital markets declined and converged between regions, indicating their integration, capital in the Italian countryside remained expensive. Moreover, credit was only available to farmers possessing extensive collateral, and this was exactly what tenant farmers lacked. The problem in Tuscany and Umbria was even bigger since urban landowners in the 14th/15th centuries created large consolidated farms here, the *poderi*, that were too big to function independently from the landlord. These large farms were the fruit of a deliberate policy pursued by the landlords, very different from the gradual process of accumulation of parcels of land into larger tenancies by the tenant farmers themselves, as can be observed in parts of the Netherlands in the course of the 15th and 16th centuries.⁸⁰ Also, and connected to this, the Tuscan tenants were almost without resources, since their existence was not the result of a gradual process of economic rise giving them the financial resources, as was the case in parts of the Netherlands. This situation created strong dependency vis-à-vis the landlord.

The availability of credit in the market could play an important role in solving these difficulties. In the Low Countries, it can be clearly observed how important well-functioning credit markets were in the rise of short-term leasing. The most important credit instruments here were the perpetual rents and life rents, which were secured on real property, mainly land. These rents emerged in Flanders and Brabant in the 13th century, and they were created in massive numbers from the early-14th century onwards, both in town and countryside. At this time, the sale of rents also started to emerge in the northern parts of the Low Countries. This made long-term credit for relatively low rents available for large groups in society, including farmers and even peasants, while at the same time offering ample security to the rent-buyer. This instrument became even more attractive with the decline of interest rates, which mainly reflected the improvements in the organization of the capital market in the Low Countries. In Flanders, the interest rate of perpetual rents sold by private parties and secured on land was 10 % in 1275-1281, 8 % in 1429-1431 (redeemable, thus even more favourable to the rent-payer) and 6.3 % in 1569-1571.⁸¹ The decline of interest rates was even stronger in Holland, and accessibility was better here, even for the peasants with smallholdings. A fiscal register from Waterland, a part of Holland, shows that in the late 15th century almost all peasants were already heavily involved in the capital market, as were the village communities, which were all able to obtain credit at low costs within an institutional framework

⁷⁹ S.R. Epstein, 'The peasantries of Italy', pp. 98-101, and a more pessimistic view in R.L. Hopcroft & R.J. Emigh, 'Divergent paths of agrarian change', p. 16. Cf. also D. Herlihy, 'Population, plague and social change in rural Pistoia, 1201-1430', *EHR* 18 (1965) pp. 225-244.

⁸⁰ P.J. Jones, 'From manor to mezzadria', pp. 226-227. Cf. for the Netherlands: B.J.P. van Bavel, 'Land, lease and agriculture'.

⁸¹ E. Thoen & T. Soens, 'Appauvrissement et endettement dans le monde rurale. Etude comparative du crédit dans les différents systèmes agraires en Flandre au bas Moyen Age et au début de l'Epoque Moderne', (Prato, 2003) pp. 703-720, esp. pp. 710-711.

offering maximum security to both creditor and debtor.⁸² The near absence of rent differentials also shows how the capital market in Holland was better integrated than elsewhere between town and countryside, reflecting the favourable institutional framework of the capital market here.

In some parts of the Low Countries, such as in Holland and the Guelders river area, it became possible to sell rents without land as collateral, but only funded on movables. This innovation was particularly important for tenant farmers, who did not own any land to offer as collateral and could rapidly become dependent on their landlord for credit. In one of the regions where short-term leasing emerged the strongest – that is, the Guelders river area – tenants in the 16th century could sell a rent with only their movables as security. Thus, they could obtain working capital, sometimes amounting to a substantial sum. In most other parts of Western Europe, however, landownership remained necessary in order to obtain credit other than at Lombards at high interest. This also applied to some parts of the Low Countries, and in even in big cities, such as Brussels, where in 1606 it was still prohibited to sell a rent without real property as security. The opening up of the possibility to obtain credit without offering land as security could mainly be expected in highly urbanized regions, where landownership was only one of the many forms of property and where it was more common to grant credit on movable assets. As appears from the example of Brussels, however, this was not necessarily the case. The security in the capital market and the guarantees offered by authorities seem to have been more crucial. In its turn, a secure and accessible capital market was crucial in making power relations between the various parties involved in the lease more balanced, contributing to the rise of open, flexible and competitive lease markets. The favourable situation as existed in parts of the Netherlands, however, was exceptional in Europe at the time. In England, as in most parts of Europe, problems with rural credit were strong and insecurity high, particularly for tenant farmers. This formed a major obstacle in the rise of short-term leasing, developing much later than in parts of the Low Countries. In Italy, however, the effect of the situation in the rural capital market was strongest, since it was coupled with the deliberate creation of large tenant farms by urban landlords, using their non-economic power and privileges to link operations in the markets for goods, capital, labour and land, mainly by way of the specific sharecropping system, creating ample opportunities for rent-seeking.

7. The mobility of land in the land and lease market

The mobility of land on the market has been reconstructed quantitatively for some regions. At first sight, material is abundant for England. On the basis of this material it has been suggested that land markets were very active there already from the 13th/14th centuries onwards. However, this is based only on series of numbers of transfers per year for particular manors, and there is no indication of the proportion of the total area sold on the market each year – the only indicator which would allow for a real comparison. Here, we will limit ourselves to calculations of the annual turnover of land on the market in a particular area, expressed as a percentage of the total area, or to data allowing us to calculate this turnover. All of these calculations available for Northwestern Europe, at least those I have come across in the literature, are brought together here.⁸³ Similar calculations for Italy are unfortunately not known to me.

Figures for an area as a whole are available for the Guelders river area, where on average 0.9% of the total area was transferred each year in the period 1515-1518, and 2.0% was transferred each year in the period 1542-1557. This figure is remarkably close to the figures for a

⁸² J. Zuijderduijn, several unpublished papers (2004 and 2005) and current PhD research.

⁸³ Cf. for a more extensive discussion and references: B.J.P. van Bavel & P.C.M. Hoppenbrouwers, 'Landholding and land transfer in the North Sea Area (late Middle Ages – 19th century)', in Id. (red.), *Landholding and land transfer*, pp. 13-43. Additional figures are obtained from G. Beaur, 'Land markets in the Parisian basin (17th-19th centuries). Changes over time and variations in space', in: B.J.P. van Bavel & P.C.M. Hoppenbrouwers (eds.), *Landholding and land transfer*, pp. 86-100.

later period, viz. 1680-1847, for Zeeuws-Vlaanderen, the Dutch part of the Flemish polders. There, an average of about 1.6% of the land was transferred on the land market every year. Also a few data for Germany exist, for instance for the Swabian village of Neckarhausen. Here, the mobility of land in the land market increased from 1.2% of the total area in 1700-1709 to 1.4% in 1740-1749, and to 2.6% in 1780-1789. In the district of Schöningen, in Braunschweig, during the period 1661-1808, the mobility of land was much lower: less than 0.1% of the area was sold on the market per year. In this area, lords and family restrictions had a strong influence, and this reduced mobility sharply, as becomes apparent from the very low annual turnover of land. For England, calculations like these for areas as a whole are absent, due to a lack of the required sources. One can only make a reconstruction of the number of land transfers per manor per year, limited to parts of particular manors, specific types of land or a set of parcels within a manor. In the manor of Redgrave (north Suffolk), which was investigated for the period 1260-1320, for instance, on average customary land was sold on the market every 60 years, that is, 1.7% of the total area of customary land per year. As the English studies show, differences between the various types of land could be strong; particularly copyhold was often very mobile. This is a relevant observation with respect to the calculation related to a manor in the Lea Valley, north of London. In the period 1528-1562, nearly 5% of the copyhold land of the manor in question was transferred each year. This extraordinarily high figure, however, is only a partial indicator for a mobile type of land, and it does not automatically hold for other types of land within the same area.

Table 1

Yearly turnover of land
(percentage of total area sold per year)

region/locality	present-day country	type of land	yearly turnover	period
Redgrave (Suffolk)	England	customary land	1.7%	1260-1320
Martham (Norfolk)	England	customary land	c.1.6%	c.1300
Guelders river area	Netherlands	all land	0.9%	1515-1518
			2.0%	1542-1557
Slaidburn (Yorkshire)	England	copyhold	1.3%	1520-1570
			1.4 %	1570-1620
			2.2 %	1620-1670
			2.1 %	1670-1720
			1.5 %	1720-1780
Lea Valley (Middlesex/Essex)	England	copyhold	c. 5 %	1528-1562
Schöningen (Braunschweig)	Germany	all land	0.1%	1661-1808
Zeeuws-Vlaanderen	Netherlands	all land	1,6%	1680-1847
Neckarhausen (Swabia)	Germany	all land	1.2%	1700-1709
			1.4%	1740-1749
			2.6%	1780-1789
Maintenon (Beauce)	France	all land	0.7 %	1760-1789

Janville (Beauce)	France	all land	1.2%	1760-1789
Domfront (Normandy)	France	all land	0.8 %	1789-1815
Mormont (Brie)	France	all land	1.6%	1793-1865
Argences (Normandy)	France	all land	0.9%	1859-1966

What do the figures, as summarized in table 1, tell us? The number of data is small and does not allow for clear conclusions yet, but still there are some points of interest. First of all, there were strong regional and temporal differences concerning the mobility of land on the market, with the annual turnover varying from 0.1 to no less than 5% of the total area. It should be noted, however, that for England indicators are only partial and concern particularly those manors or types of land which were relatively active, as is ascertained by the authors in some of these cases. Numerous other English manors, for instance in the Midlands and the north, did not have a significant land market,⁸⁴ but they are absent from these quantitative reconstructions. Perhaps, active land markets are more inviting to quantitative reconstruction than non-active markets are. If so, this distorts our picture severely. Secondly, it can be noted that periods of high population pressure (the decades around 1300 and the middle of the 16th century) are characterized by a rather high mobility. Generally, during subsistence crises a peaking of land transactions can be observed,⁸⁵ although in some regions tight kin or family control over the land could also have the reverse effect, namely restricting mobility in times of land scarcity.

Apart from this temporary element, mobility in the late medieval land market seems to have been high in various parts of the Netherlands and England, as a result of the factors highlighted above. The prevalence of partible inheritance and a reduced stress on preserving the integrity of the standard holding has stimulated mobility in the market. Another element in land mobility, perhaps even the main element, was the extent to which property rights to land became more exclusive and absolute. Where rights to land were crystallized and became and exclusive, as happened in Holland already at an early date, land mobility increased, whereas non-exclusive rights to land hindered mobility. This can be seen from the fact that differences in the mobility of various kinds of land in the later Middle Ages were still substantial. This applies, for instance, to the difference in annual turn-over between feudal and non-feudal land, even though the practical function of the feudal system had already vanished to a large extent, but even more to customary and villein land.

Then there is the important factor of social landownership structures. Markets within areas appear to have been socially segregated to a large extent. Also – and partly related to this – the mobility of the land appears to have depended to some extent on the social group of the buyer/seller. Noble landownership consisted mainly of large parcels of land or complexes of parcels, often attached to noble mansions or jurisdictional rights, and this limited mobility. Peasant landownership was relatively mobile, it seems. Not much research has been done on this, but data from the Guelders river area for the period 1547-1557 show that in both districts investigated, the mobility of peasant-owned land in the land market was more than twice as high as that of the land owned by noblemen, viz. 1.5/1.9% as opposed to 3.5/3.8% of the total area

⁸⁴ This applies to the period before 1350, as well as to the 16th/17th centuries. Cf. the overview by J. Whittle, 'Individualism', pp. 49-50 and 55-56. Cf., for instance, also the general impression one obtains from A. Jones, 'Bedfordshire: fifteenth century', in P.D.A. Harvey (ed.), *The peasant land market in medieval England* (Oxford, 1984) pp. 178-251, esp. pp. 192-223.

⁸⁵ For instance: B.M.S. Campbell, 'Population pressure, inheritance and the land market', esp. pp. 107-120.

per year.⁸⁶ Although these are the only precise quantitative data available, the more partial data and absolute numbers from English studies also support the idea that peasant landownership was highly mobile already in the late Middle Ages. It can be surmised, therefore, that the land market in peasant-dominated regions was more active than it was in regions dominated by large landownership.

It is clear that the mobility of land on the lease market was much higher than that on the land market. A first indicator is the terms for which the lease is concluded. These terms could differ strongly, but it is possible to discern some patterns. In most parts of the Netherlands, the lifelong lease was still important in the 14th century, along with leases for eight to twenty years. In the 15th/16th centuries, however, the term of ten years became predominant. From the middle of the 16th century onwards, also terms of eight, six or even three years were applied,⁸⁷ resulting in a reduction of lease terms to an average of less than eight years. This picture more or less corresponds to that for other parts of north-western Europe. Terms for five to ten years were predominant in the 15th/16th centuries; often six- or nine-year terms were used, perhaps related to the operative three-crop rotation system in these regions. This dominance of leases for six or nine years can be observed in central France, Normandy, Flanders, Brabant and the Lower Rhine area.⁸⁸ Mainly longer terms can be found in the county of Namur (nine to twenty-seven years), the bishopric of Cologne (twelve and twenty-four years) and particularly in large parts of England (twenty-one years, and sometimes even longer).⁸⁹

However, in practice the length of a lease agreement could be longer, as a result of the lease being extended. Moreover, in some regions there existed the practice of the silent reletting (*tacita reconductio*) or after-letting of the tenancy. But in several parts of the Low Countries, the landlord just sold the lease to the highest bidder, regardless of the wishes or pretended rights of the previous tenant. This particularly applied to situations where the land was auctioned in public. In general, the lease market was thus much more mobile and accessible than the land market, although there were strong regional differences. In England, lease terms were much longer than elsewhere. In Flanders, the north of France and Holland, continuity in lease agreements was strong, with leases often renewed with the same tenant. The mobility of lease land was the strongest in the Dutch river area and its surrounding regions. Here, lease land entered the market every six to ten years on average, whereas land was sold only once every forty-five to fifty-five years, as observed above. The importance of leasing – an element which is indirectly linked to social landownership structures – thus highly influenced the average mobility of land on the market. The mobility of lease land on the lease market was much higher than that of land on the sale market. Transfers of lease land were up to six times as frequent, as shown by a comparison of the above figures on the mobility in the lease and in the land market. The more important leasing was in a region, - and this was particularly in regions dominated by large landownership where non-economic power had disappeared -, the more mobile the land, at least on the level of the land user.

⁸⁶ B.J.P. van Bavel, *Transitie en continuïteit. De bezitsverhoudingen en de plattelands-economie in het westelijke gedeelte van het Gelderse rivierengebied (ca. 1300 - ca. 1570)*. (Hilversum, 1999) pp. 418-423.

⁸⁷ B.J.P. van Bavel, *Transitie en continuïteit*, pp. 536-537.

⁸⁸ Cf. G. Bois, *Crise du féodalisme* (Paris, 1976) p. 219, P. Vandewalle, 'Het pachtkontraat in westelijk Vlaanderen, 1550-1645. Een analytische studie', *Handelingen van het genootschap voor geschiedenis 'Société d'Emulation'* 118 (1981), pp. 5-61, esp. pp. 26-27 and 44, E. Thoen, *Landbouweconomie*, pp. 361-363, H.P.H. Jansen, *Landbouwpacht in Brabant*, pp. 91-92, and C. Reinicke, *Agrarkonjunktur und technisch-organisatorische Innovationen auf dem Agrarsektor im Spiegel niederrheinischer Pachtverträge, 1200-1600*. Rheinisches Archiv 123 (Köln/Wien, 1989), pp. 127-131.

⁸⁹ L. Genicot, *L'économie rurale Namuroise au bas moyen âge, 1199-1429* (Louvain, 1943) pp. 280-281, C. Reinicke, *Agrarkonjunktur*, pp. 127-131, and J.P. Cooper, 'In search of agrarian capitalism', pp. 163 and 172.

8. Tentative conclusions, problems and desiderata for further research

Differences in the rise of the land and lease markets between the various regions investigated were very strong. The crucial factors behind these regional differences – and particularly those in the institutional framework of the land and lease markets – appear to be connected, directly or indirectly, to socio-political structures and their development. Some elements stand out in this respect. In the center and north of Italy the main element was the dominance of cities and the non-economic power of the burghers, highly influencing the land and lease markets. The rise of these markets was early here, already in the high Middle Ages, but development stagnated from the late Middle Age onwards, mainly as a result of the application of non-economic force. In most parts of England, there was a strong dominance of manorial influences, whereas the role of the government and other authorities was only small. Norfolk and other parts of eastern England were an exception to this, since there this influence was clearly weaker.⁹⁰ It was first there that manorial elements and lordly influence in this field started to decline, and the rural economy underwent drastic changes; later, this occurred also in other parts of England. In the latter respect, the 16th/17th centuries seem to have been crucial. Lordly influence was strong also in many parts of northern Germany; fundamental changes only started to take place in the decades around 1800, as agrarian reforms were carried through and lordly influence was broken.⁹¹ In the eastern parts of the Netherlands and in parts of Flanders, there was some manorial/feudal influence, but less than there was in most parts of England and northern Germany. In these parts of the Netherlands and Flanders, the peasant structure was relatively strong, and remained so until well into the 18th/19th century. Particularly in the eastern parts of the Netherlands, this was linked to strong forms of communal farming, extensive commons and a high coherence of village communities, all hindering the rise of a land market. In the western and central parts of the Netherlands there was no manorial influence, at least not after the 13th century, and the government had a large influence on the organization of the land market, increasing security and reducing transaction costs. Also, communal elements in farming had always been absent or had disappeared early, and a transition from peasant agriculture to capitalist farmers occurred relatively early here, helped by the rise of open markets for credit, goods and labour.

These differences are reflected in the chronology of the rise of open land and lease markets, in their turn forming an element in the further transition of the rural economy. The processes were related in two reciprocally active ways, with the rise of land and lease markets stimulating the transition, and the transition further speeding up this rise. This first part of Europe where this happened was Italy, in the 11th-13th centuries, but this process developed only partially and was followed by stagnation. The first real break-through to open land and lease markets occurred in the western and central parts of the Netherlands (a rapid development from the 13th century onwards) and in East Anglia and other parts of eastern England. It then occurred in the eastern and southern parts of the Low Countries, in a gradual development in the late medieval and early modern period, and in the other parts of England, with a rapid development in the 16th and 17th centuries. Finally, it occurred in the northern parts of Germany, in a rapid development in the late-18th/early-19th century. This chronology confirms the importance of the rise of land and lease markets for the general development of the economy. The periods indicated here all coincide with the flourishing of the economy of the area in question: in northern and central Italy (high Middle Ages), the Low Countries (late Middle Ages), England (early Modern Period) and Germany (19th century). To be more precise, the economic flourishing of these areas

⁹⁰ Corresponding to the impression about the peasant land market in England having evolved earliest in East Anglia, or in eastern England in general: P.R. Hyams, 'The origins', p. 19.

⁹¹ W. Achilles, *Deutsche Agrargeschichte im Zeitalter der Reformen und der Industrialisierung* (Stuttgart, 1993) pp. 109-120.

was in all these cases preceded by one or two centuries by the emergence of open land and lease markets, indicating that the latter was a crucial element in economic growth.

It is also clear from the preceding that regional differences in this process were very strong, even between neighbouring regions. Generalizations in this field, therefore, do not work and do not help in understanding developments, since the determining factors appear to have been at play mainly at the regional level. This caveat would apply even more to big comparisons such as those between Europe and China. The preceding also shows that the rise of open land and lease markets was a very slow and protracted process, that took many centuries to unfold. In the case of Italy, an early and rapid development in the high Middle Ages was even followed by a slow down, stagnation and even deterioration in the late Middle Ages and early modern period. Apparently, there was nothing automatic in the emergence of open land and lease markets, since it required a very specific social, political and economic constellation, only to be found in the late Middle Ages in a few parts of Europe.

In order to come further in understanding this process, comparative analysis is necessary. But there are difficulties in facilitating this. There are problems with the sources, since the situation and nature of the source material is very uneven per region or per country. Moreover, each of the national traditions focuses on a different field. Also, the terminology used in this field is very different, as the terminology used in each country is firmly entrenched in that country's national research tradition. Even such basic terms as property, ownership and tenancy cause problems. These elements severely hamper international comparisons. Moreover, there is a clear lack of quantitative reconstructions of land markets in different regions. Needed are series of land and lease prices, preferably divided according to the various types of land (allodial, feudal, customary, unfree, etc.), which could help to establish the effect of the legal status of the land and its development over time. There is an even greater need for data on the frequency of land transfers and the mobility of land. Currently, the latter kind of data is almost non-existent. After having built the databases in this field, the next step would of course be to interpret these data. This, in its turn, would require a clear understanding of the social and economic context of the data.

The main desideratum concerns exactly this social and economic context of the land market. Too often the development of the land market is studied as an isolated phenomenon, and is not placed within the wider structure of economy and society, even though studies like the present one indicate that this was crucial to specific organization of land transfers. Also, too often investigation concerns 'the' land market, whereas the function, nature and mobility of land on the market appears to have differed strongly from social group to social group. Related to this, the social distribution of landownership and the power relationships between the various social groups appear to have been one of the most important determinants of the functioning of the land market in a particular region. Analyzing this link, preferably within a comparative perspective would greatly enhance our understanding of the strong diversity in the rise of land and lease markets.