

# Peace and Protection in the Middle Ages

EDITED BY  
T.B. LAMBERT AND DAVID ROLLASON

That kings, prelates and even lowly freemen were, under certain specified conditions, capable of offering protection or “peace” to others, usually their inferiors, is relatively well known. That a breach of this protection might entitle, or indeed oblige, the protector to take action against the violator is similarly well understood. However, this protective dynamic has rarely received direct scholarly attention, despite its being evident in an extraordinary range of contexts. The emotional aspects of protection – the honour and love associated with the bond it creates, and the shame and anger that accompany its breach – resonate in both heroic and chivalric ideals, whilst in legal fiction at least, the king’s protection or peace would come to underpin the common law of trespass. Such a broad sweep, taking in social, legal, religious and cultural elements, suggests that protection as a concept may have a wider significance than its marginal role in current historiography would indicate. Indeed, the influence of protection both in forming social bonds and in providing a framework for the legitimate use of force suggests that the concept could serve as a valuable counterpoint to more traditional “institutional” understandings of power. This book explores peace and protection as a fundamental motor of medieval society, across a broad geographical and chronological span; brings together literary, legal and historical studies making use of a wide range of approaches; and focuses scholarly attention as never before on the concept of peace and protection viewed in relation to kings and lords, charity and mercy, and the action of feud and vendetta.



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MONOGRAPHS AND ESSAYS I

*Peace and Protection  
in the Middle Ages*

*Edited by*

T.B. LAMBERT and DAVID ROLLASON



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## Preface

This book had its conception in the bar of the Hogshead in Saddler Street, Durham City, and what it has in clarity of guiding ideas and approach is a tribute to the efficacy of Black Sheep Ale in stimulating thought, collaboration, and collegiality. The meeting in question was between the yet-to-be-appointed editors of the present volume together with one of the contributors, Helen Lacey, and Christian Liddy and Giles Gasper. As the talk flowed of royal pardons in connection with Helen Lacey's work and especially of protection in connection with Tom Lambert's, the idea emerged of calling together leading specialists in the early and late Middle Ages and in a range of disciplines to consider in the light of their own disciplines and their own periods what seemed to us then, and seems to us even more now, to be a fundamental issue of the nature of power in the Middle Ages, namely the role played in it by peace and protection.

At the meeting, we drew up a series of sub-themes to form the basis of suites of sessions at the International Congress on Medieval Studies at Kalamazoo in 2007 and at the International Medieval Congress at Leeds later in the same year, and we drew up also a dream-list of scholars we should like to involve in exploring peace and protection. Immediately after the meeting, Tom Lambert drew up a statement of the theme and the intellectual questions raised by it, and we used it as the basis for our invitation to our colleagues across Britain and North America. The response was generous and enthusiastic, and sessions at Kalamazoo and Leeds went forward with much enthusiasm, much presentation of innovative work, and much constructive debate. It seemed to all who were involved that here was a new and exciting approach, addressing a fundamental issue, and ranging across periods and disciplines. Hence the collective decision of all concerned to seek publication, and our gratitude to the newly established monograph and essay series of Durham University's Centre for Medieval and Renaissance Studies for undertaking it.

The editors are grateful to the colleagues whose papers are published here, for their enthusiasm in participating, their efficiency in delivering their papers, and their patience with the minutiae of editorial work; and we are all grateful also to those who participated in the sessions, including

Matthew Innes and Andrew Rabin whose papers it has not been possible to publish here. The whole experience has been, for us, a wonderfully inspiring and indeed educative exercise in the merits and value of collaboration, broad-mindedness, and good-will, and in the necessity to look at fundamental concepts boldly and in the wide perspective which collaboration makes possible.

T.B. Lambert  
David Rollason  
Durham, October 2008



## Abbreviations

Citations are from the first source given in each entry; we have also provided cross-references to other sources and translations for the reader's convenience.

- Abt                      Laws of Æthelberht. Edited and translated in Oliver, *BEL*, 60–81 and in Attenborough, *Laws*, 4–17; edited in Liebermann, *Gesetze*, 1: 3–8; partially translated in *EHD* 1, no. 29.
- Af                        Laws of Alfred. Edited in Liebermann, *Gesetze*, 1: 16–89; edited and translated in Attenborough, *Laws*, 62–93; partially translated in *EHD* 1, no. 33.
- [I–VI] As                Laws of Æthelstan. Edited in Liebermann, *Gesetze*, 1: 146–83; edited and translated in Attenborough, *Laws*, 122–69; translated in *EHD* 1, nos. 35–37.
- [I–X] Atr                Laws of Æthelred. Edited in Liebermann, *Gesetze*, 1: 216–70; edited and translated in Robertson, *Laws*, 52–133; translated in *EHD* 1, nos. 42–46.
- Attenborough, *Laws*    F.L. Attenborough, ed. and trans., *The Laws of the Earliest English Kings* (Cambridge: Cambridge University Press, 1922).
- CCR                     *Calendar of the Close Rolls Preserved by the Public Record Office* (London: H.M.S.O., 1892–1963).
- CIM                     *Calendar of Inquisitions Miscellaneous, Chancery, Preserved in the Public Record Office* (London: H.M.S.O., 1916–).
- [I, II] Cn                Laws of Cnut. Edited in Liebermann, *Gesetze*, 1: 278–371; edited and translated in Robertson, *Laws*, 154–219; extracts from both codes translated in *EHD* 1, no. 50.
- DB                        *Domesday Book*. Entries are cited by folio and by the column letter (a and b on the *recto*, c and d on the *verso*), followed by the name of the county. The standard editions of the text are A. Farley, ed., *Domesday Book* (London, 1783), and, on a county

- by county basis, John Morris et al., eds., *Domesday Book*, 39 vols. (Chichester: Phillimore, 1975–86).
- Downer, *LHP* L.J. Downer, ed. and trans., *Leges Henrici Primi* (Oxford: Clarendon Press, 1972).
- ECf *Leges Edwardi Confessoris*. Edited and translated in O'Brien, *GPKP*; edited in Liebermann, *Gesetze*, 1: 627–72.
- EETS Early English Texts Society
- EGu The Laws of Edward and Guthrum. Edited in Liebermann, *Gesetze*, 1: 128–35; edited and translated in Attenborough, *Laws*, 102–9.
- EHD* 1 Dorothy Whitelock, ed., *English Historical Documents*, vol. 1: c. 500–1042, 2nd ed. (London: Eyre Methuen, 1979).
- EHD* 2 D.C. Douglas and G.W. Greenaway, eds., *English Historical Documents*, vol. 2: 1042–1189, 2nd ed. (London: Eyre Methuen, 1981).
- Grið* The anonymous legal text *Grið*. Edited in Liebermann, *Gesetze*, 1: 470–73.
- Hl Laws of Hlothere and Eadric. Edited and translated in Oliver, *BEL*, 126–33, and in Attenborough, *Laws*, 18–23; edited in Liebermann, *Gesetze*, 1: 9–11; translated in *EHD* 1, no. 30.
- Hn *Leges Henrici Primi*. Edited and translated in Downer, *LHP*; edited in Liebermann, *Gesetze*, 1: 547–611; extracts translated in *EHD* 2, no. 57.
- Ine Laws of Ine. Edited in Liebermann, *Gesetze*, 1: 88–123; edited and translated in Attenborough, *Laws*, 36–61; partially translated in *EHD* 1, no. 32.
- Lex Ala* K. Lehmann and K.A. Eckhardt, eds., *Leges Alamannorum*, 2nd ed., MGH Legum Sectio I, 5(1) (Hanover: Hahn, 1966); K.A. Eckhardt, ed. and trans., *Die Gesetze des Karolingerreiches 714–911, II: Alamannen und Bayern*, Germanenrechte 2 (Weimar: H. Böhlau, 1934), 1–71.
- Lex Rib* F. Beyerle and R. Buchner, eds., *Lex Ribuarua*, MGH Legum Sectio I, 3(2) (Hanover: Hahn, 1951).
- Lex Sal* K.A. Eckhardt, ed., *Pactus Legis Salicae*, MGH Legum Sectio I, 4(1) (Hanover: Hahn, 1962). Idem,

- ed., *Lex Salica*, MGH Legum Sectio I, 4(2) (Hanover: Hahn, 1969).
- Lex Sax* K.A. Eckhardt, ed. and trans., *Die Gesetze des Karolingerreiches 714–911*, III: *Sachsen, Thüringer, Chamaven und Friesen*, Germanenrechte 2 (Weimar: H. Böhlhaus, 1934).
- Liber Const* Friedrich Bluhme, ed., *Leges Burgundionum*, MGH Leges in Folio, 3(3) (Hanover: Hahn, 1898, repr. 1965), 497–630.
- Liebermann, *Gesetze* Felix Liebermann, ed. and trans., *Die Gesetze der Angelsachsen*, 3 vols. (Halle: Max Niemeyer, 1903–16).
- MGH Monumenta Germaniae Historica
- N-K Gustav Neckel and Hans Kuhn, eds., *Edda. Die Lieder des Codex Regius. I. Text*, 3rd ed. (Heidelberg: Carl Winter, 1962).
- Nor Grið* The anonymous legal text *Norðhymbra Ciricgrið*. Edited in Liebermann, *Gesetze*, I: 473.
- O'Brien, *GPKP* Bruce R. O'Brien, ed. and trans., *God's Peace and King's Peace: The Laws of Edward the Confessor* (Philadelphia: University of Pennsylvania Press, 1999).
- Oliver, *BEL* Lisi Oliver, ed. and trans., *The Beginnings of English Law*, Toronto Medieval Texts and Translations 14 (Toronto: University of Toronto Press, 2002).
- Pax* The anonymous legal text *Pax*. Edited in Liebermann, *Gesetze*, I: 390–91.
- PROME* *The Parliament Rolls of Medieval England*, ed. Chris Given-Wilson, CD-ROM (Leicester: Scholarly Digital Editions, 2005).
- R *La chanson de Roland*, cited by line number. For the text, see *La chanson de Roland*, ed. Ian Short, 2nd ed., *Lettres Gothiques*, ed. Michel Zink (Paris: Livre de Poche, 1990).
- Robertson, *Laws* A.J. Robertson, ed. and trans., *The Laws of the Kings of England from Edmund to Henry I* (Cambridge: Cambridge University Press, 1925).
- Rolls Series Rolls Series (Rerum Britannicarum medii Aevi Scriptores or Chronicles and Memorials of Great Britain and Ireland during the Middle Ages)



T. B. LAMBERT  
*Durham University*

## Introduction

### *Some Approaches to Peace and Protection in the Middle Ages*

Peace and protection today are largely separate concepts. Peace, being a passive state – of inner calmness, external tranquillity or, more specifically, the absence of war – is not necessarily connected with the more active idea of protection, the positive prevention of harm. With a moment's reflection, however, we might well start to make some links between the two concepts. Protection is fundamentally about preservation from harm or danger, the preservation of a state of general tranquillity that could easily be termed peace. We can find links in modern terminology: “peace-keepers” today are soldiers whose primary duty is the protection of civilians; people might protect themselves against risks by buying insurance, and so gain peace of mind. Indeed, we might even wonder if the fact that we generally do manage to lead lives free from fear – that as a rule we can expect to be left in peace by our fellow humans – is to some extent the product of protection. Obviously this cannot be said for everyone; many people do live in daily fear of violence or robbery but – in modern, developed states, at least – these are a minority. Our peace has become so familiar, so constant a part of our normal way of life, that we have come to take it for granted. We no longer really even think of ourselves as enjoying peace; our protection by our states and our laws is remarkable to us only when it fails. Peace and protection are so far from our everyday concerns that their conceptual links are far from obvious.

Our medieval predecessors were not so lucky. Connections that we have to tease out were then impossible to avoid, particularly in early medieval societies where legitimate violence was a long way from being the preserve of governments. We need only think of terms such as the Old English *grið* and the Latin *pax*, which were used interchangeably to mean both peace and protection, to see that in certain contexts being in someone else's peace amounted to being under their protection.<sup>1</sup> However, though it was not unusual to talk about protection in terms of peace, it was equally

1 Angus Cameron, Ashley Crandell Amos, and Antonette diPaolo Healey, eds., *Dictionary of Old English: A to G Online*, <http://www.doe.utoronto.ca> (accessed 1 October 2008), s.v. “griþ.” Specifically, “1. protection / security guaranteed by someone (e.g., the king), usually limited to a particular place (e.g. a church) or time period” but also “3. peace, the state of friendly / peaceable relations; absence of

possible not to do so – other terms with no such connotations (like the Old English *mund*) could be used.<sup>2</sup> Likewise, the word “peace” could be employed, as it is today, to mean the absence of war or a state of tranquillity, without any explicit connection with protection whatsoever.<sup>3</sup> Yet, even with these objections noted, the relationship between the two ideas is striking, particularly so where they are amalgamated into a single concept but also in the much looser links between the two ideas that exist even today.

This introduction attempts to investigate these connections and suggest some potentially useful approaches to them. My intention is not to be comprehensive nor yet to draw any firm conclusions, but rather to speculate and, if possible, to stimulate. I hope, to borrow a phrase from Wendy Davies, “to ring bells in your heads and encourage you to think about possibilities.”<sup>4</sup>

### *Peace as Protective Power*

The obvious place to start an investigation of peace and protection is the point at which the two words share a single meaning. So, what exactly did it mean to be in someone’s peace, to be under their protection? We can, in fact, be rather precise in defining what was conveyed by this. When a word meaning peace (*pax*, *grið*) is used to mean protection we are generally confronted with a specific type of power, one which I shall here term “protective power,” that is defined by specific relationships and obligations. Firstly, we have a “protector” who offers his peace to a “protectee.” The protector need not be an individual – it could be a group or an institution, even a supernatural entity such as a saint – but collectively or individually the protector will almost always be the acknowledged superior of the protectee. If anyone then causes harm to the protectee, the protector is entitled, even obliged, to impose some sort of penalty on the attacker. This penalty may be physical, financial, or spiritual, but whatever its nature it is

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conflict.” R.E. Latham and D.R. Howlett, eds., *Dictionary of Medieval Latin from British Sources* (London: Oxford University Press, 1975–), s.v. “pax”: “1. (condition of) freedom from war, enmity, disagreement or sim. (between nations, groups, or individuals), peace” but also “4. freedom or immunity (from liability, interference, or restrictions); b (granted by God, the church, or a saint); c (granted by king or royal official)” and “6. (leg.) breach of the peace (usu. of the king or royal official).”

2 Joseph Bosworth and T.N. Toller, *An Anglo-Saxon Dictionary* (London: Oxford University Press, 1898), s.v. “mund.”

3 See, for example, Cameron, Amos and Healey, *Dictionary of Old English: A to G Online*, <http://www.doe.utoronto.ca> (accessed 1 October 2008), s.v. “frið”; Latham and Howlett, *Dictionary of Medieval Latin*, s.v. “pax.”

4 Wendy Davies, “‘Protected Space’ in Britain and Ireland in the Middle Ages,” in *Scotland in Dark Age Britain*, ed. B.E. Crawford (Aberdeen: Scottish Cultural Press, 1996), 1.

the penalty that underwrites the efficacy of the protection. It is the credible threat of a penalty, not any direct use of force, that defines this particular type of protection. This, perhaps, goes some way towards explaining the unity of the two concepts. What this protection provides, in fact, is a guarantee that the recipient will be left in peace, a guarantee whose efficacy depends on the ability of the protector to avenge any breach.

It is important to emphasize that this sort of protection is not based on the physical defence of the protectee by the protector. Being in someone's peace, under someone's protection, does not mean that they will constantly be there physically to prevent any harm from coming to you. This could be done – castle walls and military households obviously offered protection to important places and people – but it is conceptually different in that it depends on the direct application of raw military power. We should, I think, conceive of protection rather broadly as the goal of preventing harm, a goal that can be achieved by the application of a number of different types of power: military power, in the case of fortifications or bodyguards; or protective power, which involves the specific relationship of protector and protectee outlined above. Military power may in fact provide a greater degree of security, but it also makes large and constant demands on the resources of the protector, who must ensure that the protectee can be defended from attack even when there is no obvious threat. Protective power, on the other hand, requires no armed guards or fortifications; indeed the protector does not have to do anything at all unless his protection is violated. This, ideally, will happen infrequently, but when it does happen the protector must make sure that the violator is publicly and severely punished or the deterrent effect of his protection will be diminished. He may, in effect, at this point have to resort to military power, or it may be that its threat is great enough to impose a suitable financial penalty without the use of force. This is the key advantage of protective power: it requires only occasional displays of raw power to be effective. It is a fundamentally more efficient way of offering protection, of converting armed force into a meaningful guarantee of peace.

Protective power, then, is at its very root based on the sanctions that will result from its breach. A penalty of some sort must be inflicted for any breach or else the credibility of the protection will be reduced, and with it the respect in which the protector is held. The breach in itself is a grievous insult, and to allow it to stand would result in shame, dishonour, and exposure to mockery.<sup>5</sup> This type of protection is thus as much an emotional

5 See Wendy Davies, "Adding Insult to Injury: Power, Property and Immunities in Early Medieval Wales," in *Property and Power in the Early Middle Ages*, ed. Wendy Davies and Paul Fouracre (Cambridge: Cambridge University Press, 1995), 137–64, at 144–47.

concept as a legal one. It is a key part of the culture of feud and vengeance that pervaded the early and high Middle Ages and, in some regions, persisted well into modern times. Stephen White's contribution to this volume illustrates this well. He shows how *La chanson de Roland* revolves around this very concept of protective power – in this case termed “warranty” – drawing out how the poet juxtaposes honourable vengeance with shameful inactivity and neatly balances the breaches made and vengeance taken by both sides. Likewise, John McKinnell's paper shows how in the Icelandic literary tradition (though to a much lesser extent in contemporary legal sources) honourable vengeance appears as such a powerful imperative, the power of mockery for inaction so great, that it had to be attempted even when it was tantamount to suicide. Indeed, in the poems he examines so irrational and so irresistible is the pull of vengeance that McKinnell questions the extent to which this concept of peace or protection could in fact provide anything of the sort.

In contrast, Lisi Oliver's detailed exploration of the mechanics of personal injury cases in early medieval law strikes a markedly less bloodthirsty note. She examines how kindreds could come together and exact protective penalties through a court process rather than through any use, or direct threat, of violence. The sharp divergence between the two pictures – legal and literary – highlights how well these different approaches can complement one another. Feud may not always have been as cruel and hopeless as heroic poetry tends to present it, but equally our very limited and generally rather terse legal sources probably do present the more civilized end of the spectrum of medieval disputes. Honour doubtless mattered a lot to early medieval kindreds who felt they had been wronged through violence, and to maintain it they needed to avenge the breach of their protection. However, we should remember that there was frequently more than one way of achieving this: relatively peaceful litigation, with the aim of financial compensation, and violent vengeance were in many ways just two different routes to the same destination.

But what about protection's relationship with peace? We must not be overly taken in by the dissonance between the pictures presented here. The process of litigation Oliver presents is only relatively peaceful; as she notes on a number of occasions, the threat of feud was constantly hanging over such cases. To an extent, early medieval litigation was just feud by other means. Indeed, McKinnell's question of whether a system with such a strong emphasis on vengeance can really be said to provide either peace or protection is a good one. McKinnell, in fact, is not the only contributor to have been struck by the contradiction here; Richard Kaeuper's paper examines the severe tension between the chivalric knight's need to maintain his honour through vengeance and the message of peace and forgiveness that was at the very heart of his religion. The solution he identifies, the



“Romance Compromise,” which was essentially vengeance to the point of utter defeat and humiliation for the unfortunate opponent followed by a magnanimous display of mercy by the victor, demonstrates the fundamental inconsistency of an idea of protection, or peace, that almost inevitably leads to violence. Clearly the concept in question is far from identical to the Christian ideal of peace which, to some extent, served to restrain it.

### *Peace as a Positive*

We have thus far been focusing on the ideas that accompany the negation of peace – shame, dishonour, vengeance, punishment – but what about those which are associated with its unbroken presence? What is the active meaning of peace? This is a question that Otto Brunner addressed directly in his seminal work *Land und Herrschaft*:

Unlike today, when the term peace merely means the absence of enmity, the original meaning was far more active. It included the concept of protection, the security that friends provide each other, the help and support to which they are mutually bound.<sup>6</sup>

Friendship, in the sense Brunner intended, meant more than it would do in a modern context. According to Brunner, “concepts such as peace, feud and retribution must be understood in their original context, that of friendship based on kinship.”<sup>7</sup>

Brunner’s ideas do now require some considerable caution – particularly when they touch on matters pan-Germanic, as they do here – but used critically they can still prove valuable, as the long-term popularity of his work testifies. In fact, Brunner’s observations on this point retain much of their value today. Gerd Althoff’s much more recent examination of kinship, friendship, and lordship reaches what are in effect rather similar conclusions, noting that members of kin groups were not only obliged to stay at peace with one another, but also to afford each other every help they could.<sup>8</sup> He also argues, however, that

6 Otto Brunner, *Land and Lordship: Structures of Governance in Medieval Austria*, trans. Howard Kaminsky and James Van Horn Melton (Philadelphia: University of Pennsylvania Press, 1992), 18.

7 *Ibid.*, 25.

8 Gerd Althoff, *Family, Friends and Followers: Political and Social Bonds in Medieval Europe*, trans. Christopher Carroll (Cambridge: Cambridge University Press, 2004), 59.

[a]s a rule, all bonds in the Middle Ages seem to have been based on the model of the family; the ideas and terminology of kinship even had an effect on the bonds of co-operative associations and the bond between a lord and his men. ... The result was a much larger, broader “family,” and bonds like these had one very clear outcome: they drew sharp lines between the people whom a person was to support, help and favour in all areas of life, and those to whom they had no such obligations.<sup>9</sup>

This broad family functioned, as he makes clear elsewhere, as “a larger community of peace and support” for its members.<sup>10</sup> If we follow Althoff, then, we can see peace as a concept defined by positive affective relationships following the model of kinship. At least in theory, then, peace defined a group, a community, with a positive obligation to support and help one another.

This sort of approach marries up well with Paul Hyams’s observation that peace settlements ending feuds often went beyond a simple cessation of hostilities and into “the construction of a fresh or revived, positive amity,” which could even go so far as the creation of kinship through a new marriage between the opposing parties.<sup>11</sup> Indeed, in one famous Northumbrian feud the chief opponents became blood-brothers in an attempt to make peace.<sup>12</sup> Though reality did not always live up to such high ideals (our Northumbrian example ended in disaster) the conceptual connection between bonds of kinship and a positive understanding of peace seems clear.

The idea of peace as a concept defining a group linked together by social bonds modelled on kinship also resonates with the anthropological model of “peace in the feud.”<sup>13</sup> According to this model, “peace” is underwritten by the fact that some individuals might have kinship links with both sides in any potential feud and, as a result, work to avoid the agonizing prospect of being forced to take sides and fight against their own kin. It is the strength of these “cross-linkages” joining two potentially hostile

9 Ibid., 160.

10 Ibid., 100.

11 Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca: Cornell University Press, 2003), 16, 201–2.

12 R.A. Fletcher, *Bloodfeud: Murder and Revenge in Anglo-Saxon England* (London: Penguin, 2003), 119.

13 This approach has sometimes been viewed with suspicion by historians but still remains useful. Paul Hyams sums up the historiographical situation as follows: “In the wrong hands, the theory presented itself as just the kind of assumption of an easy, almost automatic equilibrium (‘Look! No hands!’) that gave functionalist anthropology a bad name. The underlying logic nevertheless retains a compelling power that still merits consideration” (Hyams, *Rancor and Reconciliation*, 15).

groups that prevents an outbreak of violence.<sup>14</sup> In a sense, then, this model brings us to a similar definition of peace to that of Brunner and Althoff: a peace that can only hold within a group that is bound together by links based on the idea of kinship.

However, the peace in the feud model does also lead to a question: did such bonds really, as Althoff argues, “draw sharp lines” between those within and those outside such a peace? The model relies on the existence of cross-linkages, people who have bonds with two potentially hostile parties which would otherwise be unconnected. This surely implies that some degree of peace extends not only to those with direct links, with friends, lords, and kinsmen, but also to the friends of friends, the kinsmen of lords, the friends of kinsmen and so on. We might well expect there to be not “sharp lines” but a substantial grey area between those “whom a person was to support, help and favour in all areas of life, and those to whom they had no such obligations.”<sup>15</sup> Might not, in other words, the level of obligation have been proportional to how closely bonded any two individuals were? Might we not expect kinsmen to offer their help and support to one of their number by asking favours of their own lords and friends? Might we, perhaps, want to think of a “peace” in relation to the individual as defined by the people whom he, through a chain of personal contacts, can induce to help him? This does strike me, at least, as a potentially useful way of imagining larger communities defined by a positive expectation of help and support.

How, then, does this positive form of peace based on bonds of kinship, or of what could be termed “artificial kinship,” marry up with the concept of peace as protective power that was identified above? Ought we to see the two as intrinsically related? There are some obvious and very good reasons to do so. Firstly, as should be plain by this point, kinship in a feud society fits perfectly into our concept of protective power. The group as a whole protects its members, the killing of an individual obliging the group to maintain its honour by exacting vengeance, or at least a fitting financial compensation. Likewise lordship, as White’s contribution to this volume makes abundantly clear, is a protective relationship, lords being expected to “warrant” their men, if needs be by avenging them. The positive bonds that make up the peace that Brunner, Althoff, and to some extent Hyams identify are fundamentally protective.

What we have in this peace, then, is to some degree the other side of the coin to White, McKinnell, and Kaeuper’s focus on vengeance. A protective bond, whole and unbroken, creates honour, friendship, and peace; it is only in its destruction that shame, enmity, and violence come to the

<sup>14</sup> Ibid., 14–16.

<sup>15</sup> Althoff, *Family, Friends and Followers*, 160.

fore. Whether the relationship is as simple as this is hard to say for sure. It may be that some form of peace, in fact, extends beyond those to whom an individual is directly bonded: to friends of friends, kinsmen of lords, and the like. If this is the case, we can still see protective power as fundamental – each link in the chain is a protective relationship, after all – but we should see peace in this context as an amorphous and constantly shifting web, extending beyond the immediate protective bonds of any individual, but diminishing in strength as it does so.

To some extent it is the relationship between this positive peace and protective power that David Rollason is investigating in his contribution to this volume. Rollason's approach to the idea of the hall as a protected place utilizes, it is true, legal texts that outline the protective power they enjoyed, but in drawing on the work of Michael J. Enright (who rather like Althoff sees lordship as, in effect, the patriarchal authority of the head of a "fictive family")<sup>16</sup> and in asking why this protection adhered to such buildings, he moves towards a more positive understanding of peace. Indeed, his suggestion of the "formalized and ritualized use of drink" as a potential explanation for the protected status of the mead-hall fits well with Althoff's understanding of banquets as attempts to "guarantee ... peaceful and friendly relations between the participants in the future."<sup>17</sup> Yet this type of peace – peace as the goodwill that accompanies positive social bonds – is fragile and eminently shatterable; its negation leads to potentially mortal enmity. Hence the importance of the Christian type of peace that, as Kaeuper illustrates to such good effect, was in direct conflict with these violent impulses.

### *Peace and Charity*

Christian peace was a multi-faceted idea. Thomas Renna, in his account of the idea of peace from 500 to 1150, divides it into three main conceptual strands: the monastic or ascetic peace of a pure heart and life devoted to prayer; the episcopal peace, or *pax ecclesiae*, of a properly functioning free and unified church; and the social or imperial peace of the world.<sup>18</sup> The dividing lines between these types of peace were often very blurred, as Renna himself notes, and they were all by their nature imperfect imitations of the celestial peace which good Christians could hope to attain in

16 Michael J. Enright, *Lady with a Mead Cup: Ritual, Prophecy and Lordship in the European Warband from La Tène to the Viking Age* (Dublin: Four Courts Press, 1996), 283.

17 Althoff, *Family, Friends and Followers*, 153.

18 Thomas Renna, "The Idea of Peace in the West," *Journal of Medieval History* 6 (1980): 143–67.

heaven.<sup>19</sup> This is a point also made by Roger Bonnaud Delamare in his substantial monograph on Carolingian ideas of peace. For the purpose of analysis he distinguished between “la paix du cœur,” the peace that the Christian finds within his heart, and “la paix sociale,” the peace of this world. But, he argued, for some Carolingian authors the two were inseparable: in effect, the aim of the social, worldly peace was the unanimity of all Christian hearts in a single united church, whilst the peace in the heart of the individual was the necessary foundation of any true social peace. The peace was, in fact, one, united in Christ and in the spirit of charity.<sup>20</sup> Indeed, in Bonnaud Delamare’s assessment, the concept of charity was crucial to the ninth-century understanding of Christian peace: the true Christian peace consisted of concord with one’s fellow man: “la vraie paix ... est assimilée à la charité.”<sup>21</sup>

There is a great deal more that could be said about Christian ideals of peace in this period than there is space for here, where our priority is their relationship with protection. For current purposes, it is this idea of peace as a state of charity that concerns us. It is here that we can see the link with the more limited idea of peace as something which accompanies social bonds modelled on kinship. As the “False Capitularies” of Benedict the Levite (a fraudulent mid-ninth-century “continuation” of the capitulary collection of Ansegisus) state, the unity of the Church obliges Christians to live in peace; they have one father in God, one mother in the Church, one faith, and one baptism, and they must therefore live in one peace.<sup>22</sup> Thus, even when it is imagined on the grandest of scales, as encompassing all of western Christendom, we still find exactly the same logic that Brunner identified: peace was the result of shared kinship.

It is this peace, this charity towards fellow Christians, whose interaction with a vengeance culture Kaeuper’s paper seeks to elucidate. The rather utopian ideal of Christendom as, in effect, one large family united in peace, could clearly never entirely displace older and much more entrenched ideals of protection and honour, shame, and vengeance, but in the creation of Kaeuper’s “Romance Compromise” it seems clear that it had some effect. The outlook, at any rate, is significantly less gloomy than that found by McKinnell in Icelandic heroic poems. Daniel Thiery pursues a similar line of thought in his contribution, examining the extent to which

19 Ibid., 152.

20 Roger Bonnaud Delamare, *L'idée de paix à l'époque Carolingienne* (Paris: Les Éditions Domat-Montchrestien, 1939), 309–16.

21 Ibid., 210.

22 Ibid., 241–42. *Benedicta Capitularia*, Additio III, ch. 26 in G.H. Pertz, ed., *Pars Altera: Capitularia Spuria, Canones Ecclesiastici, Bullae Pontificum*, MGH Leges in Folio, 2(2) (Hanover: Hahn, 1837), 140.

“the sacred obligation of charity” functioned as a force for social peace in later medieval England. Did this ideal of charity among Christians in fact offer any meaningful protection to English parishioners, urging them towards peaceful relations with their neighbours? Thiery’s note of restrained optimism puts Stefan Jurasinski’s answer to a similar question about the protection of the mentally ill in Anglo-Saxon England into stark relief. Unlike other vulnerable categories of people – such as widows, foreigners, and the clergy – who were protected by Anglo-Saxon kings,<sup>23</sup> the mentally ill received no similar royal protection, nor indeed much by way of sympathy. Neither Christian peace nor Christian charity, he finds, extended to those who committed violence while insane, as insanity was so closely linked with demonic possession and hence with personal morality.

### *The Social Peace*

Peace as charity, then, fits in with all three of Renna’s conceptual strands. We have the peace within the individual’s heart, the peace of the united Church, and the social peace that emerges as a result. This social peace, however, was more than this. It did not arise simply out of charitable hearts and the unity of Christendom as one large family; it required the legal and political workings of medieval kingdoms. Peace is a pervasive concept in sources concerned with medieval justice and the workings of medieval governments. In Anglo-Saxon legal sources there are repeated references to a general peace (*frið*); the idea of the Peace of God was, as is well known, influential in and around eleventh-century France; in Germany there emerged a tradition of *Landfrieden*, peace legislation covering a specific territory, issued by both emperors and lesser princes; and in later medieval England there was the important legal concept of the King’s Peace. In this context peace is associated with temporal justice and good order far more than it is with charity.<sup>24</sup> As Ernst-Dieter Hehl notes, the Decretists of the later Middle Ages had few qualms about dispensing with the wider religious meaning of the term, using peace to mean something like “the safe and orderly existence of a political society.”<sup>25</sup>

23 For examples of such protections, see Abt 75–76; V Atr 21; VI Atr 26; VIII Atr 33–34; II Cn 42, 52–52:1; EGu 12; Hn 13:6.

24 Gerd Althoff, *Otto III*, trans. Phyllis G. Jestice (University Park, PA: Pennsylvania State University Press, 2003), 18. Cf. Thomas Head, *Hagiography and the Cult of Saints: The Diocese of Orleans, 800–1200* (Cambridge: Cambridge University Press, 1990), 2–3.

25 Ernst-Dieter Hehl, “War, Peace and the Christian Order,” in *The New Cambridge Medieval History*, vol. 4: *c.1024–c.1198, Part I*, ed. David Luscombe and Jonathan Riley-Smith (Cambridge: Cambridge University Press, 2004), 225.

In this worldly context the relationship between peace and protection could vary considerably. Peace could simply be, as Hehl noted, a general sense of good order with no link to protection except in anything but the loose sense that its presence would afford people a degree of safety. This, broadly speaking, seems to be the meaning of the Anglo-Saxon term *frið* when used by kings such as Æthelstan in early-tenth-century law codes – peace was largely about the suppression of theft.<sup>26</sup> Peace could, however, also be closely linked with the mechanisms of protective power, particularly when directed specifically against violence. This was the case with many of the councils of the Peace of God and, indeed, in much royal legislation up to the end of the twelfth century: when Louis VII issued his ten-year peace at Soissons in 1155 it consisted of a number of specific protections covering churches, peasants, merchants, and the like; it was not a general protection covering everyone.<sup>27</sup> Finally, it was also possible for the concepts of peace and protection to unite on a grand scale, the peace covering a kingdom being conceived as royal protective power, a peace that would be breached by any violence towards anyone in any location at any time. This was precisely what Frederick Barbarossa's great *Landfriede* of 1152 was meant to do – it was effectively an attempt to outlaw violence within his kingdom – and, as will be seen, it is possible to look at the later medieval King's Peace in England in a similar light.<sup>28</sup>

Some examples of this interaction between ideas of social peace and the exercise of protective power are examined in this volume. In Claire Taylor's assessment, the Peace of God was not a unilateral clerical attempt to pacify a violent and disorderly lay aristocracy, but rather an alliance between the clergy and the princely class, with the former providing an ideology of peace that served to legitimize the assumption of major protective powers by the latter. My own paper, in a sense, identifies almost the direct opposite development: churches augmenting their own secular power using ideas emanating from the crown. I argue there that in order to keep up with the conversion of numerous specific royal protections into one all-encompassing King's Peace, the churches of Ripon and Beverley may have performed a

26 V As Prol.; II As 20; J. Goebel, *Felony and Misdemeanor: A Study in the History of English Criminal Procedure* (New York: The Commonwealth Fund, 1937), 423–24.

27 Aryeh Graboïs, “De la trêve de dieu à la paix du roi: Étude sur les transformations du mouvement de la paix au XII<sup>e</sup> siècle,” in *Mélanges offerts à René Crozet*, ed. P. Gallais and Y.J. Riou (Poitiers: Société d'Études Médiévales, 1966), 594–95.

28 Brunner, *Land and Lordship*, 29; Alan Harding, *Medieval Law and the Foundations of the State* (Oxford: Oxford University Press, 2002), 91–92, 128–31. On England, see Frederick Pollock, “The King's Peace,” in *Oxford Lectures and Other Discourses* (London: Macmillan, 1890), 87–90, and note 29, below.

similar transformation – converting their Anglo-Saxon sanctuary rights into zones of high jurisdiction. Both papers show, albeit in rather different contexts, that the combination of specific protective powers with more general ideas about social peace could prove a powerful one.

Perhaps the most far-reaching combination of peace and protection is the third of the three options outlined above: when the general social peace covering a kingdom is understood as protective power, with the ruler as protector and the entire population as protectee. In the case of Barbarossa's *Landfriede* this seems to have been more wishful thinking than a realistic effort at reform, but a case certainly can be made for seeing the English King's Peace from the reign of Henry II as a more practical application of the same principle. There is no space here to go into detail on the merits of such a case – in the 125 years since Sir Frederick Pollock's seminal public lecture on the subject there has been little agreement and some confusion<sup>29</sup> – but it does seem clear enough from the thirteenth-century legal text

29 Pollock argued for a general peace emerging out of specific Anglo-Saxon protections shortly, perhaps even immediately, after the Norman Conquest (Pollock, "King's Peace," 87). This basic framework was accepted by F.W. Maitland, though he shifted the transition to Henry II's reign (Frederick Pollock and Frederic William Maitland, *The History of English Law Before the Time of Edward I*, 2nd ed., 2 vols. [Cambridge: Cambridge University Press, 1968], 2: 457–64). This interpretation received a degree of support from Alan Harding's investigation into Scottish protections (Harding, "The Medieval Brieves of Protection and the Development of the Common Law," *Juridical Review*, n.s., 2 [1966]: 115–49) and is now regarded, at least by some, as being well established (see Hyams, *Rancor and Reconciliation*, 224). A surprising number of writers, however, have continued to use Pollock's periodization (David Feldman, "The King's Peace, the Royal Prerogative and Public Order: The Roots and Early Development of Binding Over Powers," *Cambridge Law Journal* 41 [1988], 101–28, at 106; Jack K. Weber, "The King's Peace: A Comparative Study," *Journal of Legal History* 10 [1989]: 135–60, at 135 and 149; David A. Carpenter, "Kingship and the Maintenance of Peace: England in the Twelfth and Thirteenth Centuries," in *England and Germany in the High Middle Ages*, ed. Alfred Haverkamp and Hanna Vollrath [Oxford: Oxford University Press, 1990], 105–25, at 106). All this is in spite of a powerful attack on the idea by Julius Goebel, who questioned the plausibility of specific protections combining into a general peace (Goebel, *Felony and Misdemeanor*, 429–34). Goebel never finished what was intended to be a three-volume work, so we cannot be sure how he would have explained the later King's Peace. A reasonable guess, however, is that he would have interpreted it as an ideological statement whose importance was limited to justifying more significant procedural innovations (this is the approach taken in John Hudson, *The Formation of the Common Law* [London: Longman, 1996], 83). These issues are discussed in detail in my thesis, "Protection, Feud and Royal Power: Violence and Its Regulation in English Law, c.850–c.1250" (PhD thesis, Durham University, forthcoming).



known as *Bracton* that all homicides and serious assaults did come to be punished, at least in part, as a breach of the King's Peace.<sup>30</sup> This suggests that the Crown was providing a peace that was not just ideological but a functioning protection against violence that covered the entire population.

This vast and uniform peace can be seen (as, broadly speaking, it was by Pollock) as the climax of a process by which a plethora of royal protections merged and expanded until they covered the entire realm, thus making any serious act of violence an offence against the Crown.<sup>31</sup> From one angle, then, it is a triumph of protective power. From another, however, it can be seen as its destruction. Because of this development, the old protective relationships between kinsmen, between lords and men, and maybe even between friends, lost a key element. Violent vengeance was no longer a legitimate obligation: the threat of a penalty, the feature which for centuries had underwritten protective power, became uniquely that of the king. Furthermore, because in theory everyone was protected equally, the fact of being protected lost most of its meaning. What mattered in any given case was not the protected status of the victim but the precise nature of the offence committed. Making law became as it is today, a question of defining prohibited acts rather than protected people; we might say that it became a matter of almost pure "prohibitive power."

### *The Middle Ages and Beyond*

The contributions to this volume, at least, tend to accord with such an interpretation for England. Though Helen Lacey's contribution shows that specific protections did have an afterlife of sorts in later medieval England, they did not function as they had before. Men still acquired personal protections from kings, but much of their value was as protection not from homicide or assault (which were crimes regardless) but from litigation or from interference with property in the protectee's absence. The use of protections was, as Lacey emphasizes, intimately tied up with the symbolic

30 Samuel E. Thorne, ed. and trans., *Bracton on the Laws and Customs of England* (Cambridge, MA: Harvard University Press, 1977), 2: 340, 345, 388.

31 Pollock, "King's Peace," 83, 87. Broadly similar developments have been suggested elsewhere. Harding, for example, sees this as a process that culminated in Scotland in 1357 (Harding, "Medieval Brieves of Protection," 137). For France he identifies a gradual development across the thirteenth and fourteenth centuries (Harding, *Medieval Law*, 240–42), which Brunner believed failed to achieve "true success" until the late fifteenth century (Brunner, *Land and Lordship*, 29). For a more sceptical assessment of the abilities of medieval rulers to claim a genuine monopoly on the legitimate use of force, see Howard Kaminsky, "The Noble Feud in the Later Middle Ages," *Past and Present* 177 (2002): 55–83.

invocation of ancient liberties to affect a rather different legal present. Thiery's paper demonstrates well that ideas of social and religious peace had considerable relevance to the parishioners of the early sixteenth century, but protective power does not feature. Indeed, their disputes seem to inhabit a different world entirely to those dealt with by McKinnell, White, and Kaeuper. The contrast here is, of course, greatly exaggerated by the different types of sources used, but it may also reflect a genuine shift. It is perhaps reasonable to suggest that though ideas of social peace are of perennial importance for reducing the effects of the inevitable conflicts that occur when humans live together, the use of protective power is usually associated with cultures where violence is not effectively monopolized by the state.

Protective power, however, need not be thought of as entirely alien to modern societies. It remains an important concept for the understanding of illegal groups that make frequent use of violence, such as the Sicilian mafia. Indeed, both the Sicilian and Russian mafias have been modelled by sociologists as businesses offering "private protection" as a commodity genuinely valued by their clients, not merely as a euphemism for extortion.<sup>32</sup> Whether we believe this or not, few would deny that the logic of the "protection racket" is as viable today as it was a thousand years ago. As medievalists, we ought not to be surprised at suggestions that such exactions might ripen into custom and acquire a degree of legitimacy. We might, though, want to question the insistence on modelling the mafia as a business in the light of epitaphs such as this one, belonging, bizarrely, to two distinct mid-twentieth-century Sicilian mafia bosses: "With both words and deeds he proved that *his* mafia was not one of delinquency but rather one of abiding by the law of honor, protecting every right; it was greatness of soul, it was love."<sup>33</sup> The parallels with lordship, it seems, go well beyond the provision of protection.

Furthermore, if we trust the judgement of the eminent sociologist, political scientist, and historian Charles Tilly, who once provocatively compared nation-states to protection rackets, we still have to think of modern political power as being to some extent about protection.<sup>34</sup> Though this

32 Diego Gambetta, *The Sicilian Mafia: The Business of Private Protection* (Cambridge, MA: Harvard University Press, 1993), 28–33; Federico Varese, *The Russian Mafia: Private Protection in a New Market Economy* (Oxford: Oxford University Press, 2001), 189–90; see also Henner Hess, *Mafia and Mafiosi: The Structure of Power* (Farnborough, Hants: Saxon House, 1973), 139–43.

33 Gambetta, *Sicilian Mafia*, 248. Emphasis in original.

34 Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985), 169–91.

protection need not necessarily be understood as protective power (in the sense that the term is used here), protection as a somewhat broader theme remains a relevant concept in modern discussions of power. Protection is even crucial to some visions of the future. Whether the idea of “cooperative anarchy within the institutional framework of anarcho-capitalism in which private, for-profit agencies offer sets of legal codes and enforcement of these codes,” as studied by the economist Daniel Sutter, is in any way realistic is, of course, debatable, but comparisons with certain medieval periods do not give much cause for hope<sup>35</sup> The idea of a society in which the security of the vast majority depended on unregulated competition between a number of powerful protectors would probably not sound too utopian to, for example, historians of millennial France.<sup>36</sup> Whether the game theory models used by scholars such as Sutter could be of any use to medievalists in understanding the functioning of protection remains to be seen.

The point I am trying to make is not so much that medieval historians should familiarize themselves with the sociology of twentieth-century organized crime, or with theoretical models of a potentially utopian anarchic future, but rather that peace and protection are of enduring interest for the study of humanity as a whole, not just the Middle Ages. Some degree of protection, of peace, is ultimately a necessity of society. It need not be perfect, but for humans to live successfully together there has to be some force acting as a deterrent to violence. Whether it comes from kinship, lordship, friendship, guild membership, kingship, the state, the mafia, a “for-profit protection agency,” or some combination of these, a form of peace must be provided somehow; for in its complete absence we would, in effect, have the nightmare vision of a Hobbesian state of nature:

35 Daniel Sutter, “Asymmetric Power Relations and Cooperation in Anarchy,” *Southern Economic Journal* 61 (1995): 602–13, at 602.

36 For a good flavour of the different approaches historians have taken to this period, see T.N. Bisson, “The ‘Feudal Revolution,’” *Past and Present* 142 (1994): 6–42, and the wide-ranging debate that ensued: Dominique Barthelemy and Stephen D. White, “Debate: The ‘Feudal Revolution,’” *Past and Present* 152 (1996): 196–223; Timothy Reuter and Chris Wickham, “Debate: The ‘Feudal Revolution,’” *Past and Present* 155 (1997): 177–208; T.N. Bisson, “The ‘Feudal Revolution’: Reply,” *Past and Present* 155 (1997): 208–25. Sutter’s own view is cautiously optimistic: examining the possibility that “protection agencies” might “degenerate into exploitative gangs,” he concludes that the relationship between such agencies and individuals “may not be as one-sided as the division of power” (Sutter, “Asymmetric Power Relations,” 602–4, 610).

There is no place for Industry; because the fruit thereof is uncertain; ... no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.<sup>37</sup>

That such a state has never truly prevailed – that humans have always formed groups both for protection against external threats and for the creation of a peaceful social environment in which positive affection is possible – demonstrates, I believe, the universality and importance of the themes addressed in this volume.

37 Thomas Hobbes, *Leviathan*, ed. Richard Tuck, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press, 1991), ch. 13.