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Law and Institutions in the Shire

Abstract

Examines the evidence in Tolkien's writings to construct a history of the Shire as a social and political entity. Considers this another example of Tolkien's ability to imbue his Secondary World with a feeling of reality.

Additional Keywords

Tolkien, J.R.R.—Settings—Shire—History; Tolkien, J.R.R.—Settings—Shire—Politics and government;
Tolkien, J.R.R.—Settings—Shire—Social life and customs

Law and Institutions in the Shire

William H. Stoddard

As a fantasy writer, J.R.R. Tolkien is distinguished by, among other traits, a peculiarly high degree of realism in his imaginary worlds. One aspect of this realism is a vivid sense of how societies work, derived from the same source as the more scientifically intended studies of classical sociologists such as Weber: a lifelong immersion in actual texts from past societies. This sense is reflected by, among other elements in his writing, his portrayal of the Shire. In anthropological terms, the Shire is in transition between two forms of organization: the chiefdom and the state. The chiefdom level of organization is reflected in the system of folklands such as the Buckland and Tookland, and in such customs as the giving away of birthday presents on one's own birthday — reminiscent of the potlatch of the Pacific Northwest and of similar societies worldwide, which typically have redistributive economies. The state level of organization is reflected in the presence of a Shirewide civil government, which maintains safeguards for property boundaries (The Shirriffs) and communications (the mail carriers); in the widespread literacy of hobbits; and in the obvious presence of a thriving market economy. The Shire is unusual for this level of organization in being clearly a republican enclave; perhaps one might speculate that Tolkien was influenced by the 'distributivist' theories of Hilaire Belloc and G.K. Chesterton, English Catholic writers of an earlier generation with whom he was certainly familiar, and also by his knowledge of the literature and history of ancient Iceland.

The poet Marianne Moore called for poets who were "literalists of the imagination" and who would give readers "imaginary gardens with real roads in them." I have felt for many years that J.R.R. Tolkien's Middle-Earth meets this prescription in an exemplary manner. Indeed, the sense that Middle-Earth is a real place with a real history has been remarked by many of Tolkien's readers.

To a great degree, I believe, this is true because of Tolkien's lifelong immersion in reality: specifically, the reality of archaic societies, as reflected in their texts. For Tolkien's scholarly profession on the philological side of the English curriculum demanded that he spend many hours reading such texts and striving to understand them — which meant, in some part, to understand the circumstances of their making. In this Tolkien was at one both with the classical philologists from the Grimms down to his own time, and with the founders of sociology, such as Max Weber and Emile Durkheim, who wanted not only to produce a microlevel theory of one narrow slice of present-day society on which data could be collected by questionnaire surveys and analyzed through statistical software,

but to understand the total historical evolution of societies in the large, and who therefore had recourse to a great variety of documents from which social detail might be gleaned. And I think their method can be applied with some interest to Tolkien's own imagined societies. We cannot readily induce a random sample of orcs to answer questions about their early childhood socialization, but we can look at the customs and events Tolkien describes and ask what social forms and processes they grow out of, and how they compare with the customs and events of societies with which we are familiar.

Indeed, the very way in which Tolkien created Middle-Earth encourages such an approach. For Tolkien began with the creation of language: of Quenya and Sindarin and of the non-Elven tongues that surrounded them. And though you can read grammars and vocabularies of these languages that appear to freeze them at a single instant in their histories, Tolkien imagined them in no such way. His own wordlists are full of etymology, and therefore of metaphors crystallized into habitual use until their figurative character was forgotten, of slips of pronunciation become habitual, of names turned into common nouns, and of all the other historical phenomena that historical philologists learn about. His storytelling provided the context within which those languages were spoken and within which their changes took place, and he regularly offered historical comparisons for the societies he imagined — above all, of course, England at various stages in its history, from Anglo-Saxon to early modern, but England envisioned through the eye of a historical scholar.

I offer here a case study in Tolkien's realism: an analysis of the Shire as a social order. The Shire, that curiously utopian little enclave so well insulated from most of the history of Middle-Earth, smugly self-satisfied in the manner of Victorian and Edwardian England with its own stuffy matter-of-fact everydayness, yet also had its own history, from which we may learn something.

To begin with then, the quantitative facts, so far as we possess them: Karen Wynne Fonstad (1981, p.69) estimates that the Shire occupied and area of some 21,400 square miles. Based on the relative body sizes of hobbits and medieval farmers and on the efficiency of preindustrial agriculture, this might have supported some 3,852,000 hobbit farmers, with perhaps 10% as many in other occupations. In fact, Fonstad believes that the Shire was "well-settled, yet uncrowded, with lots of Hobbits but plenty of elbow room," (1981, p.69) and the picture Tolkien gives us seems to support this. So let us suppose that the Shire had between one-third and one-fifth as many in-

habitants as would fully occupy it, or between 850,000 and 1,400,000 hobbits.

This area was divided into four Farthings, with one outlying region, the Buckland, across the Brandywine River from the Shire proper. The Buckland was the home region of the Brandybuck family, whom in an early letter (Carpenter, 1981, letter #25) Tolkien lists as one of the twelve wealthiest families of the Shire — the others being Baggins, Boffin, Bolger, Bracegirdle, Burrows, Chubb, Grubb, Hornblower, Proudfoot, Sackville, and Took. Maps of the Shire, both Tolkien's and Fonstad's, show a region called the Tookland, located at the eastern end of the West Farthing, whose principal settlement, Tuckborough, was the seat of the Thain, the head of the Took family and leader of the Shire's military forces.

In these two regions, we may guess at the outlines of an earlier time in Shire history, when the great families were more powerful and also more tied to specific folklands. At such a time the Shire's excellent systems of roads and internal communication would have been little developed, its reliance on markets and trade small, and each region would have been very largely self-sufficient. Indeed, the Shire may for much of its history have had nothing very similar to government, not even the very limited government of Bilbo's and Frodo's time. Note Tolkien's remark about the comparable situation in Bree (Carpenter, 1981, letter #210):

The landlord does not ask Frodo to 'register'! Why should he? There are no police and no government... If details are to be added to an already crowded picture, they should at least fit the world described.

Nominally the Shirefolk owed allegiance to the King of Gondor and Arnor from whom they had received their land grant, but realistically generations might go by without any contact between the Shire and either of these states. And the Shirefolk showed no inclination to appoint their own king, nor to engage in large collective ventures apart from the occasional defensive war.

We are approaching one of the most difficult questions in anthropology: the origin and functions of the state. Whether the state is a functional entity that becomes useful at a certain stage of economic development, or a predator or parasite that becomes able to support itself when the people it controls take up a certain way of life, has been debated since anthropologists a century and more ago clearly recognized that many peoples throughout the world lived well enough without states. (For a lucid discussion of the question, see Camiero, 1970) We shall not resolve it here. But in any case, it seems clear that the Shire did not have internal conditions favorable to the formation of a state, either endogenously or in imitation of the external states with which it had contact. And, to its good fortune, it was never placed under such harsh and sustained military pressure as to force it to organize a state in self-defense.

We have ethnographic accounts of many real-world

stateless societies, which at first present a bewildering diversity. Anthropologists have discerned certain recurring types and patterns within these accounts. Of these, the customs of the Shire suggest the most complex and largest scale form, the chiefdom. Indeed, we may view the array of folklands we are imagining as a group of chiefdoms.

A chiefdom is a group of settlements unified by personal allegiance to a single leader who has few coercive powers but gains influence from wealth and prestige. Typical chiefdoms have a few thousand inhabitants, perhaps from one to ten thousand, though in exceptional circumstances they may attain to one hundred thousand or more. The chief is probably a center of ritual and a war leader, but in everyday life neither of these functions is primary. Rather, chiefs are important because they redistribute goods. We are not speaking here of anything like a welfare state funded by taxes and typically the activities of chiefs bring more goods to the already well-off than to the poor. But throughout the world chiefs customarily spend considerable effort on accumulating goods, not only by their own work, but by their ability to influence followers to work for them, and then hold large celebration at which they give these goods away. The potlatches of the Pacific Northwest Coast tribes are perhaps the most famous anthropological example, but the custom is widespread — it can be seen, for example, in the feasts of medieval Europe.

Now, I doubt that it has escaped anyone that the Shire had exactly such a practice, in the — to our way of looking at things curiously backward — hobbitish way of celebrating birthdays. Tolkien's letters in fact include (Carpenter, 1981, letter #214) a brilliantly lucid multi-page discussion of this custom, which he rightly notes "...opens yet more anthropological matters implicit in such terms as kinship, family, clan, and so on."

In brief, hobbits customarily gave presents away to others on their own birthdays, "as a recognition of services and friendship shown," and typically also held birthday parties at which all those attending received presents. The scale of the giving varied with the wealth and rank of the giver. Bilbo Baggins, for example, gave fabulously large parties and gifts, paid for with the proceeds of his journey to the Lonely Mountain. Other heads of wealthy families, though, such as the Tooks and Brandybucks, also appear to have given large parties and expensive gifts.

Such extensive gift-giving in fact played a vital role in the economies of societies at a certain scale organization. These societies were those which exploited several different groups of resources, indistinct but geographically neighboring environments. A chief organized production by his efforts to accumulate resources for a feast, and distribution by his giving away food and other wealth at the feast. Tolkien hints at a lingering effect of this kind in his remark about the usefulness of many of Bilbo's gifts (Tolkien, 1965, p.65), especially to the poorer hobbits in the area. This economic pattern in fact existed long before

anything resembling a market economy or the profit motive was thought of.

As a scholar of Northern European languages and literatures, Tolkien was certainly familiar with the kind of outlook that such a social order creates. Scandinavian kings, for example, were long praised as “ring-givers” for their habit of generously rewarding their followers. Even once a society has passed over the threshold of state formation, its upper classes may be expected to display their generosity at least on periodic ceremonial occasions or to selected people or families.

So far as the archaic Shire may have approached statehood, it did so primarily through its military organization. The office of the Thain provided a basis for military action when such was needed; the concepts of Shire-muster and Shire-moot embodied the collective will of the Shirefolk in the two crucial functions of armed force and establishment of binding customs.

At the time of Bilbo and Frodo, things were a little more complex. Tolkien refers (Carpenter, 1981, letter #183) to the “half republic, half aristocracy of the Shire,” and this is a fair summary: an archaic system of institutions based on the folklands and their chieftains coexisted with a somewhat republican system based on the Mayor and the two attached offices of Postmaster and First Sherriff, under which titles the Mayor managed the Messenger Service and the Watch.

This organization, too, was a rather minimal state, along the lines that Thomas Jefferson favored. Tolkien says (Tolkien, 1965, p.31)

The Sherriffs were the name that the Hobbits gave to their police, or the nearest equivalent that they possessed. They had, of course, no uniforms (such things being quite unknown), only a feather in their caps; and they were in practice rather haywards than policemen, more concerned with the strays of beasts than of people. There were in all the Shire only twelve of them, three in each Farthing, for Inside Work. A rather large body varying at need, was employed to ‘beat the bounds’, and to see that Outsiders of any kind, great or small, did not make themselves a nuisance.

Tolkien also notes that the messengers were more numerous and busier than the Sherriffs.

This second state formation appears to have grown in fact out of the needs of trade and commerce, that is, out of the Shire’s involvement in a market economy. This in turn had two aspects: the growth of a market within the Shire, one where for example it was possible to speculate in pipeweed, and the growth of economic relations between the Shire and other peoples, especially the dwarves of the Blue Mountains who travelled along the Great East Road. The Shire even had an export commodity in pipeweed, one which brought in many of the troubles that our century has inflicted on Third World countries that

produce agricultural or mineral products for export.

We must also note another significant fact about the Shire: a large part of its populace could read and write, and carried on extensive written communications which gave the Messenger Service its business. In fact literacy was deeply embedded into the laws of the Shire, which recognized such concepts as the Will, a written expression of a decedent’s wishes about his property, and prescribed traditional forms for legal documents — Tolkien mentions “seven signatures of witnesses in red ink” (Tolkien, 1965, p.66). So writing was a long established part of Shire customs. Now, writing and reckoning and such skills naturally accompany the growth of a market economy, as they make it possible to keep records and to determine profit and loss of enterprises and to exchange over a wider area than one can personally visit regularly. So, here too, we have evidence of a society well on the way to modernity.

Accompanying this was at least a degree of social mobility. Consider, for example, the life of Sam Gamgee. The Gamgees by ancestry were part of the Shire’s rural working class, but Sam’s learning to read from Bilbo Baggins and reading the histories of the Elves began his social ascent, which ended with his long service as Mayor — in effect, chief executive officer of a fairly large state. We are not seeing anything like a rigid class structure.

Now, a question does arise here: if the Mayor was the chief executive of the Shire’s civil government, where were the legislative functions assigned and who exercised them? There is no mention of any sort of regularly meeting lawmaking body in Tolkien’s descriptions. The Shire-moot, he tells us, had ceased to meet (Tolkien, 1965, p. 30), and in any case its meetings were too infrequent at any period to allow for regular legislation. One of Tolkien’s letters (Carpenter, 1981, letter #214) mentions the establishment of a rule regarding succession to the property of Shirefolk who passed over sea, and later refers to a “ruling of Master Samwise” (who was then Mayor); did the Mayor combine legislative and executive roles in his own person?

I believe that this was not the case. There is at least one other way of interpreting Tolkien’s statement which is consistent with his phrasing: that Master Samwise was acting not as a legislator consciously designing a wholly new law, but as a magistrate extending existing law to cover a new case, in the traditional manner of English common law. It would be natural enough for the Mayor also to be the principal magistrate of his country when that function was needed. And, in fact, such an approach appears consistent with what Tolkien says elsewhere (Tolkien, 1965, p.30) about the Shirefolk’s view of law:

Yet the Hobbits still said of wild folk and wicked things (such as trolls) that they had not heard of the king. For they attributed to the king of old all their essential laws; and usually they kept the laws of free will, because they were The Rules (as they said), both ancient and just.

Legislation indeed in the states of medieval and early modern times was a far less common matter than in our present time. Law was believed to derive either from nature itself or from the general custom of a people. It was thought to be a judge's office to find the law, that is, to research into a general body of principles for the correct solution of a specific problem to which they might be applied — and indeed, much new law grew up in this way over time. But it was no one's office to make new law by deliberate decision, unless indeed that of the whole people assembled. Tolkien seems to have given us a fairly clear portrait of this view of law.

The Shire at the time of the War of the Ring seems to have moved most of the way from chiefdom to state and from aristocracy to republic. The aftermath of the War, though, brought at least a brief revival of the old offices and functions. In effect, the old offices seem to have lain in reserve — and behind them, the old habits of looking to the regional chieftains for leadership. So, in effect, the two legal and political orders managed a harmonious coexistence.

Now, this mixing of institutions with different origins and histories and roles is nothing surprising in the primary world. Indeed, hardly any society even approaches having the symmetry of rational design from first principles. Real societies have histories and therefore are complex and not entirely rational — just as is the case with real languages. Tolkien as an inventor of languages clearly was aware of this, in contrast to such utopians as the creators of Esperanto and Loglan. A similar awareness may have shaped his approach to history in general and thus helped give his imagined societies the feeling of reality that pervades them.

The Shire is perhaps unusual, though, in its blend of aristocracy and republicanism. There have certainly been aristocratic republics enough in history, but they have seldom been anything like the Shire. Characteristically they have been city states, from ancient Rome to Florence to Novgorod, where a wealthy mercantile class had come into power. Most rurally based aristocracies have been unified instead by monarchy. So there is some question as to why the Shire took that particular form. And here I am going to turn away from description of Tolkien's Secondary World to something closer to literary criticism: since Tolkien in fact does not tell us any of the history that might account for the origins of the Shire's dual government, I am going to talk about the sources for the idea of such a system in Tolkien's own intellectual background.

One of these two sources, I believe, was two writers of the generation before Tolkien: G.K. Chesterton and Hilaire Belloc. Tolkien refers explicitly to Chesterton, notably in his essay "On Fairy Stories," and though I do not know of any such mention of Belloc, he does turn up elsewhere in the Inklings' writings — Lewis mentions his theory of Distributivism in *That Hideous Strength* (Lewis, 1946, p.19) — and it seems virtually certain that Tolkien at least heard about it frequently. Belloc and Chesterton were the two

leading Catholic intellectuals in their generation in England; their prose and poetry was widely read; and they joined in advocating a social order which was in effect an idealization of the Middle Ages, a system in which as many people as possible were small property owners — most notable in Belloc's own *The Servile State* (Belloc, 1913/1977), but in many other writings as well. John P. McCarthy's *Hilaire Belloc: Edwardian Radical* (McCarthy, 1978) traces the evolution of Belloc's views in detail, showing in his early views a synthesis of republican liberalism and Catholic traditionalism that Tolkien's own offhand remarks bear considerable resemblance to. The "estates, farms, workshops, and small trades" (Tolkien, 1965, 30) that Tolkien describes could be a portrait of the society Belloc recommends. On the other side, Belloc's critique of modern industrialism as leading inevitably toward a revival of slavery seems akin in turn to Tolkien's fictional portrayal of Sauron and Saruman and to his factual comments about the horrors of the modern society.

A second source can be found in Tolkien's philological studies. One of the numerous languages he studied in his life was ancient Icelandic. Now, ancient Iceland was a thoroughly rural society, scattered about the coastal margins of an inhospitable island. At the same time, it was a highly literate and well-educated one, which in fact left us one of the most impressive bodies of literature from before the invention of printing, and doubly so considering its small population. Its political institutions were a mix of aristocratic chieftainship, republicanism and anarchy. (A very useful brief account of these institutions is given by Friedman [1989].) For example, the entire island had only one paid official, the Lawspeaker, elected for a three-year term of service, whose principal duty was to recite the entire legal code over the course of three annual Things or meetings for the settling of disputes — any legal rule that the Lawspeaker failed to remember and that no one else protested against having dropped being removed from the legal code thereafter.

Even the history of Iceland bears at least a superficial resemblance to that of the Shire, in that it was settled by a series of migrations from the East, from Norway, into unoccupied land. The original settlement in each case was by numerous small groups each led by a chieftain. I am left wondering to what degree Iceland furnished a model for Tolkien's imagining of the Shire. At the very least it offers a case for the plausibility of such a rural aristocratic republic as a social order.

Law and government were not, to be sure, Tolkien's primary interest. But he spent most of his adult life in the intellectual effort to comprehend manuscripts from an earlier time in history, for many of which questions of law were vitally important — for example, the Icelandic sagas where one of the main interests of ancient Nordic warriors seems to have been suing each other. It would be somewhat surprising if none of this had crept into his portrayals of societies of an imagined past, especially when his own

remarks show concern that what is attributed to such societies be appropriate to their actual historical circumstances. In fact, I believe that much did, and I hope that this little case study of the Shire has helped to convince you of this and to persuade you to share my appreciation of Tolkien's realism even in the creation of fantasy. This realism, I think, is part of what makes Tolkien one of our greatest writers of fantasy: he is not just making things up in sheer fantasy, he is creating imagined worlds with an inner consistency approximating that of the real world which he had studied so carefully.

ARTISTS' Comments

Cover: "Tell Them Up There That I Have a Sick Hobbit"

by Paula DiSante

'I'll never get him there,' thought Pippin. 'Is there no one to help me? I can't leave him here.' Just then to his surprise a boy came running up behind, and as he passed he recognized Bergil Beregond's son.

'Hullo, Bergil!' he called. 'Where are you going? Glad to see you again, and still alive!'

'I am running errands for the Healers,' said Bergil. 'I cannot stay.'

'Don't!' said Pippin. 'But tell them up there that I have a sick hobbit, a *perian* mind you, come from the battlefield. I don't think he can walk so far. If Mithrandir is there, he will be glad of the message.' Bergil ran on.

This is a relatively simple scene. I wanted to do it in watercolor, which is a medium I had not yet used in *Mythlore*. I consider watercolor to be my best painting medium—at least, it is the most enjoyable. There are precious few children mentioned in *The Lord of the Rings*, and I have always liked the character of Bergil, brave and friendly boy that he is. I don't recall ever seeing an illustration of him, so that's why I chose to include him in the painting, instead of merely having Pippin struggling up the street with the fading Merry.

I have set the scene a little forward in time (one paragraph, actually), so Pippin has already let Merry sink to the ground. This is supposed to happen after Bergil is gone, but since it made for a more interesting composition, I took some liberties. The patch of sunlight has become a swath. I was not equipped to deal with a bunch of funny shadows, so that's why the sunlight is more prominent.

I kind of blew the treatment of the sky. I wanted to make it look like there was still smoke from the battle in the air, but it looks more like it is merely a cloudy day. This makes the scene look a little bizarre, because the far background and the foreground are flooded with light.



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Back Cover: "Queen Lucy"

by Nancy-Lou Patterson

I got the idea from an article by Walter Hooper in which he says he visited the real Narnia in Italy and discovered that St. Lucy was venerated there — what a great idea! Lucy herself, as a queen of Narnia is in the middle, using the portrait of a young girl I once knew, who, like Lucy, did not believe she was beautiful and did not know she was spiritual. Aslan above, of course, and to the left, Father Christmas above and the Flask of Healing Coridial below, with Mr. Tumnus between [all from *The Lion, the Witch and the Wardrobe*], and to the right the Bearded Glass above, the Magic Book below and Coriakin between [all from *The Voyage of the Dawn Treader*]. I made it a little smaller, but to the same proportions, so it would look jewel-like, since it is a kind of icon.

Page 51: "A Long-expected Party"

by Denis Gordeyev

While we do not have a description of the picture by the artist himself, I thought you would like to know something about him. He lives in Moscow, Russia, and has attended art school where he has learned formal techniques in drawing. I first became aware of him and his art at the Centenary Conference to my great excitement and delight. Once the initial shock of seeing our favorite characters from *The Lord of the Rings* looking so strongly Slavic wears off, one can see the great talent inherent in this artist. You will be seeing more of his art in an on-going basis in *Mythlore*. —GG

Appreciations of The Mythopoeic Society for its 25th Anniversary

will be printed in the following issue instead of this one, as previous planned, so that photos and a report of the Celebration on September 27th can be included. If you have not yet written an appreciation, and would like to see yours included, please send it to the Editor, Glen GoodKnight, 742 S. Garfield Ave., Monterey Park, CA 91754, as soon as possible before November 14.