

## Linking Law:

### Viking and Medieval Scandinavian Law in Literature and History

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Blurb: Ongoing interdisciplinary developments have cast light on the surprisingly sophisticated world of Viking-Age and Medieval Scandinavian law and its wide-ranging influence in these societies.

In many ways, the Viking Age and its inhabitants are more familiar than ever before. From video-games to television and films, new narrative frontiers and bigger budgets make the past – and the ever-popular Viking Age in particular – more accessible and accessible in more ways than at any point in modern history. It is curious then that the popular image of all things ‘Viking’ remains, predominantly, male, pale, and if I might say so, rather stale. While the Viking Age had no shortage of warlike men, the common compression of ‘the Vikings’ to the stereotype of marauding barbarians robs the diverse populations of the Viking Age of their complexity and even some of their humanity, turning them into crude symbols prone to misappropriation.

Recent buzz around the exciting finds related to the Viking Great Army or the woman buried at Birka with a variety of military equipment, is wonderful for attracting interest to the period,<sup>1</sup> but it actually does very little to combat the prevailing view of Viking-Age Scandinavians as violent and lawless invaders, especially here in the UK. In fact, law is often one of the very last things that is popularly associated with the peoples of Scandinavia popularly described as ‘Vikings’. And yet the very word *law* in present day English is actually a loanword from Old Norse that utterly replaced the native English word *ǣ*. In reality, *lǫg*, the Old Norse word from which we derive *law*, was a central concept to Viking-Age and medieval Scandinavian historical reality and exploring its complexity, sophistication, and cultural relevance can help flesh out aspects of life in the period.<sup>2</sup>

#### Accessing Old Norse law

The word *lǫg* in Old Norse not only refers to the abstract concept of formal rules that governed a region, but also to the region itself that recognised that common body of legal regulation. This is perhaps most famously demonstrated in the case of the Danelaw, the region of modern England that was purportedly agreed to be governed under Scandinavian legal custom in the treaty between King Alfred and Guthrum, a leader of the Great Army identified by the treaty as a king himself.<sup>3</sup> The fact that such a treaty, a formal legal agreement, was able to be reached with substantial benefits for Guthrum and his followers helps to show that Viking-Age Scandinavians were no strangers to complex legal negotiations. Furthermore, the stated protections for both sides – in such matters of boundaries, compensation, oath-taking, and intercultural interaction – also attests a nuanced understanding of compromise and reciprocity which, at least superficially, stands somewhat opposed to the ‘raid, pillage, and plunder’ characterisation often ascribed to the Great Army.

Law was so central to these people that the most commonly prescribed punishment for grave legal transgressions in the earliest Scandinavian laws is actually outlawry – the exclusion of

the perpetrator from both the protection of the law and the region that recognised it.<sup>4</sup> It is often supposed that this outlawry would facilitate vengeance for the aggrieved party, but this is never stated at any point in the laws. Furthermore, if we take the plots of several medieval Icelandic sagas (e.g. *Gísla saga* or *Grettis saga*) at face value, it seems that the achievement of this vengeance was anything but assured, or even necessarily encouraged.

While these sagas and early laws only survive to us in medieval manuscripts, some tantalising and tangible hints of Viking-Age law are preserved in the runic corpus. One example is the Swedish Oklunda rune stone,<sup>5</sup> dated to the ninth century, which purportedly documents an outlaw named Gunnarr seeking out a *vi*, a sanctuary or space of heightened legal protection sometimes associated with pre-Christian religious practice.<sup>6</sup> The wider context of the inscription is frustratingly inaccessible, but the implication seems to be that, from this sanctuary, Gunnarr might have been able to negotiate a settlement.

A somewhat more visually arresting example is the runic inscription found on the large iron ring from Forsa in northern Sweden, also from the ninth century.

One ox and two *aura* [in fine] [to?] *staf* [or] *aura staf* [in fine] for the restoration of a cult site (*vi*) in a valid state for the first time; two oxen and four *aura* for the second time; but for the third time four oxen and eight *aura*; and all property in suspension, if he doesn't make right. That, the people are entitled to demand, according to the law of the people that was decreed and ratified before. But they made [the ring, the statement or?], Anund from Tåsta and Ofeg from Hjorsta. But Vibjörn carved.<sup>7</sup>

The Forsaring inscription (HS 7) details an exponentially escalating series of fines or compensation payments required to restore a *vi*, which not only demonstrates that legal protection was taken seriously and articulated in a communal customary law, but that recidivist transgression of that legal protection was not tolerated lightly.

### Law and order in Asgard

Even in the often amplified, larger-than-life context and setting of mythological sources, law looms large – and not always in ways that one might expect. Sources like the poems comprising the *Poetic Edda* or Snorri Sturluson's treatise on Old Norse poetry, the *Prose Edda*, demonstrate a subtle omnipresence of law across mythological poems and stories. While some scholars have suggested that certain gods of the Old Norse mythological world have some sort of control over or connection to law, the weight of the evidence seems to suggest that law was something that deities are involved with, participants in, and even subject to themselves.

*Völuspá*, the first poem of the *Poetic Edda*, is a sweeping account by a seeress narrator recounting the creation and destruction of the Scandinavian mythological cosmos. The poem is an essential source for information on various mythological beings, cosmic events, and helps to provide a rough chronology to the Old Norse mythical world, but it also provides an excellent example of how central law and order were perceived to be.

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After the cosmos as we know it is created by Óðinn (Odin) and his brothers, it becomes clear to the gods that certain housekeeping is in order. Described as *regin ǫll*, ‘all the powers’, the gods go to their *rökstólar*, literally ‘judgement seats’, to consider the problems that face them. From these judgement seats, decisions are made on how to organise the passage of time, the creation of new beings, whether war should be fought, and what to do with those who disrupt social order. Even in the mythological world, important decisions are put to formal discussions resembling the *þing* (thing), the legal and political open-air assemblies that governed early Germanic and Norse societies.<sup>8</sup>

The *þing* is even mentioned by name in *Vǫluspá*’s description of *ragnarǫk*, the end of the Norse cosmos brought on by combat with the giants and their more monstrous associates. As the seeress foretells the signs leading up to this cataclysmic event, the Æsir, the extended family of gods, takes council at the *þing* despite their knowledge that the end of the world is nigh. This move to the *þing* before any violence or retaliation can occur even in the face of, quite literally, the direst of circumstances, strongly demonstrates that all the gods are beholden to certain normative pressures including law.

Despite the clear interest in law that early Scandinavian sources exhibit, it is worth stressing that this legal environment should not be thought of as the oppressive, royally-imposed law that populates so many popular reimaginings of the medieval past. *Vǫluspá* actually suggests that law was conceptualised, at least in part, as coming not from the gods or kings, but from the *norrs* – often thought of as the Fates of Old Norse mythological world.

From there come girls, knowing a great deal,  
three from the lake standing under the tree;  
Urd one is called, Verdandi another –  
They carved on a wooden slip – Skuld the third;  
they laid down laws, they chose lives  
for the sons of men, the fates of men.<sup>9</sup>

The equivalency here makes law naturally arising and universal in the same way as fate, which makes a great deal of sense given the customary and communal nature of early Scandinavian law. It is not something imposed by gods or kings, but a natural order to things that all are subject to. It can be shaped and augmented, but not escaped.

### Cosmic transgressions

For example, both Óðinn and King Atli (Attila the Hun), are held to the common legal practice of swearing oaths in the poetry contained in the *Poetic Edda*. Both king and god swear their respective oaths on a ring, a practice which sources like the *Anglo-Saxon Chronicle* (e.g. the entry for 876) suggests was historical reality for Viking-Age Scandinavians. The swearing of oaths is central to early Scandinavian legal practice and remains a central mechanism for establishing veracity in Scandinavian legal systems well into the late medieval period. Due to this centrality, the violation of these sworn oaths is viewed as an especially transgressive act both in terms of law and social norms. It is telling then that even chief deities, such as Óðinn himself, are cast in an extremely unfavourable light for such actions in the poem *Hávamál*.

I think Odin will have sworn a sacred ring-oath,  
 how can his pledge be trusted?  
 He left Suttung defrauded of the drink  
 and made Gunnlod weep.<sup>10</sup>

The centrality of these oaths is also stressed in Snorri's *Prose Edda* in, among other places, the story of the killing of the god Báldr (Baldr). After having several unnerving premonitory dreams suggesting his life is in danger, Óðinn's son Báldr shares his concerns with his fellow gods and goddesses. After a discussion of the matter, it is decided that Frigg, Báldr's mother, will travel through the world and collect sworn oaths from all manner of threats – including plants, animals, iron, stone, disease, and fire amongst others – to ensure her son's safety. These oaths were tested by the gods and goddesses and it became a matter of entertainment at the *þing* of the gods for those in attendance to attempt to hurt Báldr, who of course would remain unharmed due to the truly sworn oaths collected by his mother. However, the cosmic transgressor *par excellence*, Loki, is unhappy with this turn of events and seeks out mistletoe, who Frigg thought was too young to swear an oath, and, once back at the *þing*, tricks Báldr's brother into shooting him with the plant. Since mistletoe had not sworn an oath, the shot is tragically fatal.

This short episode not only contains surprising legal details – such as an apparent minimum age requirement in even mythological oath-swearing, something that is of special import in human oath-swearing – but also provides something of a window into early Scandinavian thinking about punishment. Following these events, it is relayed that the gods and goddesses unanimously consider Loki to be at fault for the murder of Báldr, but 'no one could take vengeance, it was a place of such sanctuary'.<sup>11</sup> Instead, after attempting and failing to free Báldr from death, the gods and goddesses capture Loki, bind him to three stones with the viscera of his son, and fasten a snake over his face to continuously drip poison on him.

While this venomous waterboarding has no known historical parallel and seems to be a suitably mythological punishment to fit a cosmic transgression, the fact that Loki – 'who has done the most evil among the Æsir'<sup>12</sup> – is punished in a non-lethal way by the wider community sits surprisingly well with the earliest legal material. The early Scandinavian laws point to a practice of assessing transgression and prescribing a suitable punishment in the communal *þing*. The *þing* also enjoys a heightened state of legally-protected sanctuary that could not be violated, very much recalling Gunnarr and his *vi* from the runic inscription from Oklunda. Furthermore, compared to neighbouring legal spheres like Anglo-Saxon England, the early laws of Scandinavia have a noticeably higher reliance on non-lethal punishments like fines and outlawry. This is, no doubt, due in part to the fact that early Scandinavian legal systems lacked executive power and policing, but the systems themselves also reinforce a communal approach to legal matters.

### Law and ritual

Real-world *þing* sites, like the famous mounds at Gamla Uppsala in central Sweden offered a forum for the people of the region to gather together to make, ratify, augment, try, and enforce their laws. Despite this communal and customary approach to law, the legislation governing these *þing* assemblies reminds us that Viking-Age and medieval Scandinavia was, for all its sophistication, far from a social utopia. Rather it was plagued by its own stratification and

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implicit biases. For example, while women and unfree people could attend these events, they normally would not have a say in decision making.

Medieval Icelandic sagas suggest that these assemblies were important social events and even attendance could have wide-ranging social implications – for better or worse – due to the variety of activities associated with the meetings, such as markets and sporting events. Intriguingly, the archaeology of many of these sites seems to corroborate this, with much of the evidence pointing to these as complex and multi-purpose sites that are used for substantial spans of time. Gamla Uppsala, for example, appears to have been comprised of a *þing*-site, high-status buildings, a sacred site, and several associated burial grounds. Evidence of repeated ritualised communal feasting and a massive processual route-way at the site has led to conclusions that locations like these attest a substantial overlap of ritual and the communal and customary law that was so central to these people. An overlap that is further reflected in the substantial legal details retained in mythological sources.

### Law as a link between ages

It is precisely this intersection of law and ritual that may have helped to facilitate the sweeping political and religious changes in the later Viking Age associated with the Christianisation of Scandinavia. Sites like Gamla Uppsala appear to have retained their legal and political significance, but under the auspices of new religious influence with churches popping up in close association with many *þing*-sites. The one that came to stand at Gamla Uppsala was of particular import, acting as the archbishopric until it was moved to its current location in the thirteenth century. It even served as the original resting place of King Erik IX of Sweden, later Saint Erik, upon his death in 1160.

These churches were intimately woven into the very mechanics of the Scandinavian laws, with oaths being required to be taken and witnessed at the doors of such churches according to the medieval Scandinavian provincial laws. To bring matters full-circle, it is intriguing then that the Forsaring, with its ninth-century runic inscription, had purportedly hung for centuries on the inner door of the parish church of Forsa, itself only a short distance from the *þing*-site at Hög.

Does the large iron ring provide a tangible link between the legal and ritual practices at Viking-Age *þing*-sites, the ring-oaths sworn in literary and historical sources, and the Christian laws of medieval Scandinavia? Set in this wider context, it is not so unlikely. Our picture of these relationships is not complete, but increased attention in recent years to matters of Old Norse law and norms is very welcome. This renewed study of the earliest phases of Scandinavia's legal history is constantly providing new insight into this vital aspect of the complex and nuanced lives of the inhabitants of Viking-Age and medieval Scandinavia.

### Further reading on Old Norse law, including translations:

S. Brink (2013) 'The Creation of a Scandinavian Provincial Law' in *Historical Research*, 86(233), pp. 432-442.

A. Dennis, P. Foote, and R. Perkins, eds. and trans. (1980) *Laws of Early Iceland: Grágás I*, Winnipeg: University of Manitoba Press.

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- A. Dennis, P. Foote, and R. Perkins, eds. and trans. (2000) *Laws of Early Iceland: Grágás II*, Winnipeg: University of Manitoba Press.
- L. M. Larson, ed. and trans. (1935) *The Earliest Norwegian Laws*, New York: Columbia University Press.
- C. Peel, ed. and trans. (2015) *Guta lag and Guta saga*, London: Routledge.
- D. Tamm and H. Vogt, eds. and trans. (2016) *The Danish Medieval Laws*, London: Routledge.

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 REFERENCES

- <sup>1</sup> For a recent example about the exciting new discoveries relating to the Great Army at Repton, see the recent documentary *Britain's Viking Graveyard*, aired 21 April 2019, which can be accessed at <https://www.channel4.com/programmes/britains-viking-graveyard>. For a fuller discussion of the Birka grave, see N. Price, C. Hedenstierna-Jonson, T. Zachrisson, A. Kjellström, J. Storå, M. Krzewińska, T. Günther, V. Sobrado, M. Jakobsson, and A. Götherström (2019) 'Viking warrior women? Reassessing Birka chamber grave Bj.581' in *Antiquity*, 93(367), pp. 181–198.
- <sup>2</sup> For further detail on the nuances of the influence the Old Norse word had in Old English, see S. Ponz-Sans (2007) *Norse-Derived Vocabulary in Late Old English Texts*, Odense: University Press of Southern Denmark, pp. 70-124. For a wider discussion on the multivalence of the word in Old Norse, see S. Brink (2002) 'Law and Legal Customs in Viking Age Scandinavia' in *The Scandinavians from the Vendel Period to the Tenth Century: An Ethnographic Perspective*, ed. by J. Jesch, Woodbridge: The Boydell Press, pp. 99-100.
- <sup>3</sup> For a recent and accessible reflection of the complexity of the Danelaw itself, see *The Vikings in the East Midlands* research project blog, <https://emidsvikings.ac.uk/blog/the-danelaw-a-place-or-an-idea/>.
- <sup>4</sup> For more on early punishment of grave legal transgressions, see K. Ruiter and S. P. Ashby (2018) 'Different Strokes: Judicial Violence in Viking-Age England and Scandinavia' in *Viking and Medieval Scandinavia*, 14, pp. 153-184.
- <sup>5</sup> Full information on this inscription (identifier number: Ög N288 \$) and the Forsaring inscription discussed below (identifier number: Hs 7), including transcriptions and translations, is available for free in the Scandinavian Runic-text Database (<http://www.nordiska.uu.se/forskn/samnord.htm>)
- <sup>6</sup> These sites of heightened protection appear to have also potentially included markets and assembly sites. For more detail see, N. Myrberg (2008) 'Room for All? Spaces and Places for Thing Assemblies: The Case of the All-Thing on Gotland, Sweden' in *Viking and Medieval Scandinavia*, 4, pp. 133-157.
- <sup>7</sup> S. Brink (2008) 'Law and Society: Politics and Legal Customs in Viking Scandinavia', in *The Viking World*, ed. by S. Brink with N. Price, London: Routledge, pp. 28-29.
- <sup>8</sup> See A. Sanmark (2017) *Viking Law and Order*, Edinburgh: University of Edinburgh Press, especially chapters 1 and 2.
- <sup>9</sup> C. Larrington, trans. (2014) *The Poetic Edda*, Oxford: Oxford University Press, p. 6.
- <sup>10</sup> Larrington. *Poetic Edda*, p. 27.
- <sup>11</sup> Snorri Sturluson (1987) *Edda: Translated from the Icelandic and Introduced by Anthony Faulkes*, London: Everyman, p. 49.
- <sup>12</sup> Snorri. *Edda*, p. 51.

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