



Making, using and resisting the law in European history / edited by Günther Lottes, Eero Medijainen, Jón Viðar Sigurðsson. - Pisa : Plus-Pisa university press, 2008. - (Thematic work group. 1., States, legislation, institutions ; 3)

349.4 (21.)

I. Diritto - Europa - Storia I. Lottes, Günther II. Medijainen, Eero III. Sigurðsson, Jón Viðar

CIP a cura del Sistema bibliotecario dell'Università di Pisa

This volume is published thanks to the support of the Directorate General for Research of the European Commission, by the Sixth Framework Network of Excellence CLIOHRES.net under the contract CIT3-CT-2005-006164.

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Published by Edizioni Plus – Pisa University Press

Lungarno Pacinotti, 43

56126 Pisa

Tel. 050 2212056 – Fax 050 2212945

info.plus@adm.unipi.it

www.edizioniplus.it - Section "Biblioteca"

Member of



Association of American
University Presses

ISBN: 978-88-8492-549-7

Linguistic revision

Neil Herman

Informatic editing

Răzvan Adrian Marinescu

Making and Using the Law in the North, c. 900-1350

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ABSTRACT

This chapter explores both the relationship between Law and Power; between legislation and conflict resolution; and how legislation and conflict resolution was adapted to prevailing political systems in Denmark, Norway and Iceland in the period between 950 and 1350. Royal government was the prevailing system in Denmark and Norway, while the Icelandic Commonwealth (c. 930-1262/64) was ruled by its chieftain-class. The first part of this contribution traces ecclesiastical and secular legislation in these three countries, while the second part discusses the surviving, overwhelmingly Norwegian and Icelandic, sources that document conflict resolution in medieval Norway and Iceland.

Laws and legislation were important in all three countries. Kings, chieftains, bishops and archbishops sought ideological and political power by claiming legislative powers. Norwegian and Danish kings used their legislation to emphasise their exalted social position, while the Norwegian and Danish churches tried to steer a course guided by the principles of the Gregorian Reform independently of, and often directly opposed to, secular rulers.

During the Icelandic Commonwealth conflicts were mainly resolved through negotiation. When Iceland became a part of the Norwegian kingdom in 1262-64 a new royal judiciary was introduced. We have little detailed knowledge about how this worked in practice, but it is suggested here that the local *hreppr* (an institution that includes features of mainland European guilds and parishes) took over the responsibility for conflict resolution and the maintenance of public order.

Kapitlet utforsker både forholdet mellom lov og makt, og mellom lovgivning og konfliktløsning, i Norge, Danmark og Island i perioden ca. 900 til 1350, og hvordan lovgivning og konfliktløsning tilpasset seg forskjellige politiske strukturer i de forskjellige landene. I Danmark og Norge dominerte kongedømmet, mens Island i fristatstiden (ca. 930-1262/64) var dominert av en høvdingklasse. Første del omhandler sekulær og geistlig lovgivning i alle tre landene; mens andre del, i fravær av et dansk kildemateriale, diskuterer hvordan lov ble brukt i sammenheng med konfliktløsning i Norge og på Island.

Lov og lovgivning var viktig i alle tre landene. Konger, høvdingar og erkebiskoper søkte ideologisk og politisk makt gjennom lovgivende myndighet. I Norge og Danmark brukt kongene lovgivning for å understreke sin opphøyde samfunnsposisjon, mens kirken på 1100- og 1200-tallet forsøkte å bryte båndene til kongemakten gjennom egen lovgivning mer i tråd med den Gregorianske reformbevegelsen.

I fristatstiden på Island ble konflikter i all hovedsak avviklet gjennom forhandling. Da Island ble innlemmet i det norske kongedømmet i 1262-64 ble et nytt kongelig rettsapparat innført. Vi har lite kunnskap om hvordan dette fungerte. Det er mulig at de lokale gildene, hreppr, overtok ansvaret med å løse interne konflikter og opprettholde ro og fred i perioden.

I Norge i tidlig middelalder ble konflikter etter alt å dømme ivarettatt av tinget og dómen under innflytelse av lokale høvdingar. Mye ble endret med konsolideringen av enekongedømmet på 1100- og 1200-tallet. Kongen tilegnet seg lovgivende myndighet og domsmyndighet som leder av et kongelig rettsapparat med domsstoler i landets byer. I praksis førte disse endringene til at aristokratiet i økende grad kom til å løse konflikter i henhold til lovens bokstav ved kongedømmets domstoler, mens samme utvikling kuttet båndene mellom lokal opinion og kongedømmets rettsinstans. Dette styrket dómens rolle som lokal rettsinstans.

The sentiment expressed in the phrase “with law the land must be built” (*með lög skal land byggjast*) is found in many Nordic medieval law codes¹. Scholars often claim that in European societies during the early and high Middle Ages law was the highest authority². In this chapter we want to focus on the authoritative perspective of both the law-making process and the utilisation of laws for dispute settlement in the Nordic regions bordering on the North Sea during the period c. 900-1350. In Denmark and Norway new laws were supposedly proposed by the king and confirmed by the people. It was the king who held sovereign power, at least in theory. In Iceland, however, the local chieftains took on the same role as did the king in Norway and Denmark. After Iceland became a part of the Norwegian kingdom between 1262 and 1264 a new administrative system was introduced there. This chapter will focus upon this development in order to compare law-making and dispute settlement in societies with different political structures. The first section deals with the making of laws, both secular and

ecclesiastical, in all three countries. The second section, which deals with the settlement of disputes, focuses exclusively on Norway and Iceland given the absence of reliable evidence concerning the manner in which the law was utilised by litigants or applied by the courts in Denmark.

LAW-MAKING AND TYPES OF LAW

A characteristic of primitive societies with no formal written law is that the freedom of the individual is limited by rules and procedures that tend to be even more rigorously enforced than in societies based on written law. In addition, knowledge of the law is more widespread in orally-based societies. Where legal traditions mix oral tradition and written texts, much negotiation takes place in what has been called “the shadow of the law”, a space for legal negotiation that, because of its oral nature, leaves virtually no record³. Thus the absence of codified law does not mean the absence of legal rules or of a knowledge of law. However, these rules have not come down to us in an identifiable form and consequently we must focus our attention on what has been preserved of written law and extract from it what information we may concerning the oral law that preceded it. Within the field of formal law in the Middle Ages one can draw two useful distinctions; firstly between oral law and written law, and secondly between secular and ecclesiastical (or canon) law.

ORAL LAWS

It is clear that medieval Nordic law was transmitted orally long before it was written down. The Icelandic Free State law-book known as the *Grágás*, for example, specifically addresses its audience, reminding them that “tomorrow we go to the law mountain”⁴. Various other stylistic traits indicate previous oral transmission. Their incorporation of mnemonic techniques, for example, would have made the texts easier to memorise for those who recited them and more understandable to the listening audience. The laws frequently utilise other obvious forms intended to make them more memorable to the audience, such as jingles, proverbs and small narratives. But they also employ more subtle rhetorical devices, such as alliteration, rhythm and rhyme, in order to drive home legal points. The law codes of the North show different levels of skill and determination in editing out these oral remnants. The compilers of the *Grágás*, for example, seem to have had a particular dislike for them and discarded most instances of orality as soon as possible.

The law codes share a common vocabulary and rarely employ loan words. When these do appear they tend to cluster around terms for ecclesiastical and royal offices. Common terms include such central concepts as *bót* (“fine”), *morð* (“murder”), *dema* (“to judge”). One also frequently comes across complex concepts, such as *arfskot* (inheri-

tance taken up by a person not legally entitled to the inheritance), *dómrof* (a refusal to obey a legal decision), or *lögvilla*, an Icelandic term for “wrong legal decision”.

THE GROWTH OF LEGAL CULTURE IN THE NORTH

Eleventh-century Europe witnessed an almost explosive growth in the knowledge and use of the law. The so-called “investiture struggle” provided fertile ground for the development of legal scholarship as it demonstrated its usefulness by mustering legal arguments in the prolonged dispute between the Empire and the Church over the presentation and consecration of bishops⁵. Indeed, partially as a response to this conflict, new centres of learning were established, principally in Bologna and Paris. The latter city soon became the main conduit through which knowledge of the Church’s legal tradition flowed into Scandinavia. This was not a one-way process and it is well known that Scandinavian students were sent abroad to study as early as the late 11th century. The earliest reliable evidence of this traffic is a letter of 1076 from Pope Gregory to the Norwegian king Óláfr Kyrri requesting him to send young men to Rome to be “instructed diligently in holy and divine laws”. In return, these men were to assist the papacy by explaining political and ecclesiastical developments in their homelands⁶.

The rediscovery in the early 12th century of the principles of Roman jurisprudence, originally compiled during the reign of the Emperor Justinian I in the 6th century and preserved in the *Corpus Iuris Civilis*, sparked off a legal renaissance in western Europe initially centred in Bologna. The compilation of the impressive *Concordia discordantium canonum*, attributed for centuries to Gratian of Bologna, confirmed that city as a major centre for the study of European law.

Later sources, such as the *Gesta Regum Herorumque Danorum*, finished around 1200 by the Danish cleric Saxo Grammaticus, draw attention to the fact that both archbishop Anders Sunesen of Lund (d. 1228) and his brother Peter studied and taught abroad⁷. Anders Sunesen even paraphrased the Law of Scania in learned Latin in the early 13th century. The inclusion of several papal decretals sent from Rome to archbishop Eysteinn of Nidaros (Trondheim) in the so-called *Liber Extra*, an official compilation of Church law authorized by Pope Gregory IX in 1234, further testifies to the reception of the laws of the European Church in the North⁸.

Despite evidence of what was clearly a lively exchange of intellectual ideas, laws were codified in written form comparatively late in Denmark. None of the surviving compilations appear to be older than the later 12th century and no copies survive of the earliest compilations. The main body of Danish medieval law consists of four written compilations that covered three jurisdictions: the Laws of Scania were applied in the provinces of Skåne, Halland and Blekinge in present-day Sweden and the island of Bornholm; the Laws of Sjælland applied on the islands of Sjælland, Møn and Lolland-Falster and were attributed by contemporary sources to the kings Valdemar and Erik;

and the Law of Jutland applied to the peninsula of Jutland and contained additional rules of a constitutional character which were probably intended to apply to the entire realm⁹. The Scania and Sjælland law codes appear to be private compilations of the law, and were never officially promulgated, while the Law of Jutland seems to be a systematic attempt to create a legal code for the entire kingdom. Its prologue states that the code was presented at a meeting in Vordingborg castle in March 1241, a few months before king Valdemar II's death. It shows a strong influence from canon law; the prologue in particular echoes the legal discussion that introduces the *Decretum* attributed to Gratian¹⁰. A former student at Paris, the learned and mischievous Bishop Gunnar of Viborg, is said to have been one of the main composers of the Law of Jutland, but the document itself gives no clue regarding authorship.

The Law of Jutland was soon translated into Latin and Low German. The mid-15th century bishop of Viborg, Knud Mikkelsen (b. 1420), who had graduated in law at the University of Erfurt, compiled a series of Latin glosses, thus placing the text within the context of canon and Roman law traditions. In addition to this he also translated a treatise on canonical procedure. Taken together, his glosses and treatise provide the best evidence for the procedures late medieval Danish courts employed and are a valuable addition to the sparse documentation from the Danish Middle Ages¹¹.

Traditionally, the *Skånske Lov* (the Law of Scania) has been regarded as the oldest of the four codes. The text is generally believed to have been written 1202 and 1216, but it includes numerous revisions that reflect the Danish kingdom's desire to incorporate the latest developments in European jurisprudence. These included the rulings of Pope Innocent III, the decisions of the fourth Lateran Council of 1215, and the subsequent abolition of trial by ordeal. In addition to the Danish text of *Skånske Lov* there is a Latin paraphrase, the *Liber Legis Scanie*, attributed to Anders Sunesen, who may have been a fellow student of Innocent III in Paris. An ecclesiastic educated in Paris, Oxford, and Bologna, Sunesen had a strong association with academic law and, according to Saxo Grammaticus, taught abroad (most likely in Paris) before he was elected archbishop of Lund in 1202. His paraphrase – the earliest surviving example of legal scholarship in Denmark – is obviously the product of a mind trained in scholastic method. Whereas other compilations simply list normative rules, the *Liber Legis Scanie* explains the development of the rules and how contemporary practice differed from the practice of earlier times. It has therefore been suggested that it was used in the chapter school in the archdiocese of Lund or as a reference work for canon lawyers practising at the courts there¹². Despite being the earliest surviving code, it is clearly based on a lost document which also formed the basis for the later vernacular compilation of the Law of Scania.

Common to all four codes is an emphasis on problems of inheritance and the lack of concern for contracts. They also contain, in varying proportion, laws of compensation for assault and property crimes. Only the Law of Jutland contains clauses of a constitutional nature, which deal mainly with the king's right to propose laws and his duty

to maintain the peace. These four provincial law codes were only superseded in Denmark and Norway in the 1680s¹³. It is believed that the four codes originated in three distinct geographical areas of Denmark and thus specifically address the concerns of these areas. *Eriks Sjællandske Lov* and *Valdemars Sjællandske Lov* are derived from the legal tradition of the island of Sjælland, while the two other codes are influenced by the legal tradition of Jutland and of the southern part of what is now Sweden. However, the absence of rules regarding certain topics indicates that there was a certain amount of overlap, so much so that the rules of, say, *Eriks Sjællandske Lov*, may well have expressed the legal situation in other geographical areas¹⁴.

In Norway, four provincial law codes, corresponding to the provincial law-assemblies of *Gulapíng*, *Frostupíng*, *Borgarþíng* and *Eiðsivapíng*, are commonly believed to have been compiled in the first part of the 12th century¹⁵. Scholars assume that these vernacular codes existed in oral form prior to being committed to writing. They contain a combination of, on the one hand, legal customs and precedents which reflect the practices of the provincial assemblies from the mid-10th century onward, and on the other, elements from Roman and canon law¹⁶. Although Crown and Church were active and influential in the law-making process – both habitually used law as a means of asserting their authority – formal legislative power rested with the provincial assemblies until the mid-13th century. There is even some evidence to suggest that the provincial assemblies could legislate independently of monarchs and the Church. The *Frostupíngslög*, for instance, contains clauses which grant the assembly the right to rebel against unjust kings¹⁷.

The *Gulapíngslög*, which covered the western part of the country, is preserved in an edition from the mid-12th century. Part of this text is attributed to St. Óláfr, that is, king Óláfr Haraldsson, who reigned from 1015 to 1028. The remainder is believed to be the work of king Magnús Erlingsson, who was responsible for the 1163 compilation of the *Gulapíngslög*. The *Frostupíngslög*, which covered the province of Trøndelag, exists in an early 13th-century edition. The two codes from the eastern provinces of the realm, the *Eiðsivapíngslög* and *Borgarþíngslög*, are preserved only in short early 12th-century fragments¹⁸.

The legal reforms of king Hákon Hákonarson (1217-1263) and his son, Magnús the Law-mender (1263-1280), transferred legislative power from the provincial assemblies to the king and his council. This reflects the influence of the *Rex Iustus* ideology, and corresponds with the transfer of judicial power from assemblies to royal judges and the king. In 1274, Magnus the Law-mender initiated a major legal reform which included the introduction of a municipal law (1276) and a law for the royal administration. He also issued a single uniform law code for the entire kingdom, including the overseas provinces of Iceland (*Járnsíða* 1272 and *Jónsbók* 1281), Greenland, Shetland, the Faroes, and the Orkneys¹⁹. His death in 1280 marked the end of a period of intense legislative activity. From this point on the monarchs and their councils issued no more than isolated legal amendments²⁰. The decline in legislative activity can be illustrated

by the fact that Magnus the Law-mender's national law remained in force for more than 400 years and was not replaced until 1687, long after the Old Norse language had become incomprehensible²¹.

According to Ari Þorgilsson's *Íslendingabók*, which was written around 1125, a start was made in codifying existing practice in Iceland at Breiðabólstaður during the winter of 1117-18. Unfortunately, only two pages are preserved from these 12th-century records²². The Free State laws were first codified in the now lost manuscript known as *Grágás*. Versions of the text survive in two codices, the *Konungsbók*, from ca. 1250, and *Staðarhólsbók*, written around 1270. There are major differences between them. *Konungsbók* contains sections on constitutional matters not to be found in *Staðarhólsbók*. The reason for this is probably that the latter was written after Iceland had become a part of the Norwegian kingdom in 1262-4, and shortly after it had received a new constitution through the introduction of *Járnsíða* in 1271²³. On the other hand, *Staðarhólsbók* not only has clauses not found in *Konungsbók*; it is also in general more detailed. There are further differences in the formulation of the articles of each code, as well as in the structure of sections and paragraphs. Scholars have generally concluded that while the two works are not directly connected, they nevertheless did derive from a common manuscript tradition. Furthermore, it is believed that neither code represents an official collection, but instead either a private collection of Law Council enactments or a collection of rights and legal provisions which did not necessarily depend on Law Council decisions²⁴.

According to *Grágás* many registers (*skrár*) containing recorded law were available in the Free State, making it necessary to establish a hierarchy of importance. The Law Council Section stated that if these texts contradicted each other regarding a specific matter of law, the copies held by the two Icelandic bishops should be regarded as authoritative. If these too differed, the one which treated the matter in greater detail should be accepted; if they were equally detailed but differed in formulation, the *skrá* of the Skálholt bishop should be followed²⁵. We do not know how many law registers there were, just that there were many of them and that they were probably held by chieftains and other individuals expert in the law who looked on them as symbols of power.

Although it is generally agreed that the Law Council was the ultimate legislative authority, all the members of the General Assembly decided on certain important innovations, such as the Tithe Law of 1096-97²⁶. The legislative function gave the chieftains prestige and status. It signalled their power and authority and drew a line between them and the rest of society. This is moreover consistent with what we know about Europe in the early Middle Ages when Germanic codes of law also served as symbols confirming royal and princely power which rulers used to defend their position²⁷.

Although Iceland was absorbed by the Norwegian crown in the early 1260s, the real breach with the Free State was marked by the introduction of new law-books: *Járnsíða*

in 1271 and *Jónsbók* in 1281. *Járnsíða*, which took two years to be ratified, introduced some major constitutional changes, for example the abolition of local power structures and the implementation of the Norwegian administrative system. But given its unpopularity a new code, *Jónsbók*, was introduced in 1281. A major difference between the two codes is that *Jónsbók* made extensive use of *Grágás* provisions. Of its 215 sections, 196 were copied with few changes from the Norwegian National and Municipal Law (*Landslög, Bæjarlög*) of 1274-76. The structure of *Jónsbók* was also modelled on Norwegian law, but with two significant exceptions; a section on royal taxation replaced the latter's section on defence, and the *Farmannalög* (regulates ships, cargoes, etc.) was derived from Municipal Law²⁸.

CHURCH LAWS IN THE NORTH

The *Decretum* attributed to Gratian stated that there are two kinds of law, divine and human. Only the latter needed to be codified and written down. The law of the medieval Church was based on authoritative texts. Biblical and patristic texts carried the highest authority and were the foundation of medieval codifications of law. In addition, canon law included synodal legislation (*canones* and *constitutiones*), papal decisions in individual cases (*decretals*), and the decisions of Church councils. In cases where there was no ruling by an ecclesiastical authority, the canonists turned to Roman Law. This mixture of ecclesiastical and Roman law is often referred to as *jus commune* and its rules, both implicit and explicit, applied throughout Europe. However, the piecemeal adoption of the *jus commune* can be gauged by a study of the statutes of individual dioceses and the numerous conflicts between secular and ecclesiastical rulers. In Scandinavia there is a clear overlap between the codification of secular and ecclesiastical laws. Here the strict separation between secular and ecclesiastical authorities that was such a feature of the Gregorian reform movement was only slowly implemented.

The separation of the secular and ecclesiastical arm seems to have been generally agreed to by 11th-century kings in the North. This may have been due to the influence of the English Church. In Norway, the *Gulapingslög* indicates that king Óláfr Haraldsson and his English bishop Grímkell reached an agreement over the division of secular and ecclesiastical jurisdictions sometime around 1020. At the same time king Canute the Great of England and Denmark confirmed this separation in his English laws of 1020. Other Scandinavian law codes contain further indications that conformity with the law of the Church was being demanded. The Norwegian *Borgarþingslög* has three surviving sections, one of which contains decisions concerning marriage attributed to Lög-Bessi, who lived during the reign of Óláfr Kyrri (r. 1067-1093)²⁹. Other Norwegian law codes, the *Eiðsivapingslög* and *Borgarþingslög* and the *Gulapingslög*, contain provisions demanding the annual attendance of the bishop, who was to preside over the public recitation of the law, celebrate mass, and deliver a sermon to the assembly³⁰.

The Norwegian law codes allowed the laity more influence over the election of bishops and the distribution of benefices than was the norm in Europe. The fact that these rules also appear to have been behind the dispute between Archbishop Absalon and the people of Scania in the late 1180s indicates that the rules were generally being implemented across Scandinavia. According to the Norwegian *Eidsivabingslög* and *Borgarþingslög*, the right to appoint priests fell to the parishioners, who thus enjoyed the *jus patronatus*. The *Eidsivabingslög* and *Borgarþingslög* also limited the bishop's power in cases wherein he wished to remove a priest from office. Such a deposition could only take place if two neighbouring priests bore witness to the fact that a lack of education rendered the priest unsuited for his position. The *Gulapingslög* also reserved the right to hear matters of ecclesiastical discipline. The Norwegian laws moreover confirm Adam of Bremen's observation that the Scandinavians did not pay tithes but rather paid for individual ecclesiastical services, such as extreme unction, burial, and the celebration of requiem masses.

After 1150 the authority of kings and bishops grew stronger, especially after the metropolitan see of Nidaros was established in 1153. Archbishop Eysteinn (1161-1188) ordered the compilation of a law code probably based on Gratian's *Decretum*³¹. King Magnús Hákonarson set out to update the provincial laws but the only result of his plan was a revised *kristinn réttur* for the *Borgarþing* and another for the *Gulaping*³².

There is little doubt that canon law was well known in Scandinavia and that northern kings and prelates were keen to encourage its use. However, it is currently impossible to provide anything but the sketchiest of outlines due to the loss of manuscripts during the Reformation and the subsequent destruction of important archives. Still, a manuscript of Ivo of Chartres' *decretum* with a 14th-century attribution to the monastery in Dalby has recently come to light³³. Ivo's text was not finished before 1096 and must be regarded as having been out of date by 1140. If this manuscript was indeed in Dalby while it was still current scholarship in the early years of its existence, one may very tentatively suggest that the area around Lund had good access to the most recent legal scholarship. This should not come as a surprise, given the sophistication of the Danish reaction a generation earlier to the responses of Archbishop Adalbert of Hamburg when Pope Leo IX consulted him about a Danish request for the elevation of a local diocese to metropolitan status in 1053³⁴. Much the same could be said about the fact that Asser, the first archbishop of Lund, endowed scholarships for members of the cathedral chapter to study abroad³⁵.

Bishop Absalon's invitation around 1160 to the Frenchman William of Æbelholt to reform the monastery of Eskilso is another example of the ways in which expertise in canon law came to the North. William remained for the rest of his life in Denmark and compiled a collection of letters which display an intimate familiarity with contemporary legal scholarship, particularly the works of his old master Stephen of Tournai³⁶. William passed on his scholarship to new generations and in 1194 the elderly Wil-

liam travelled with the young Anders Sunesen to Rome in order to put before Pope Celestine III the Danish case in favour of the marriage of king Philip II to king Canute VI's sister, Ingeborg. Sunesen was also well-acquainted with Church law and has been credited with authorship of the *Liber legis Scaniae*. Clearly then there exists sufficient evidence to conclude that there was an early and intense interest in the development of ecclesiastical law in medieval Scandinavia³⁷.

We have already discussed European influence upon early Norwegian and Icelandic codes which, although they contained clauses concerning ecclesiastical matters, must principally be classified as secular documents. However, we must consider a missing document, mentioned by *Sverris saga*, "which Archbishop Eysteinn had written" sometime between 1164 and 1180. The canons in the codex are referred to in the same breath as *guðs log rumversc* (God's Roman law). The laws were known as *Gullfjær* ("Gold feather") and parts of this legislation were later added to the *Frostupingslög*. In particular, modern scholarship attributes the inclusion of numerous rules in the assembly procedures, such as the demand that the assembly meet fasting and that the sale and consumption of beer at the assembly be prohibited to the archbishop³⁸.

In Iceland, the oldest ecclesiastical statutes appear to have been issued in the early 12th century by bishops Ketill of Hólar and Þorlákr Runólfsson of Skálholt. The first codification is found in the *Grágás* and dates largely to 1122-1132. Some clauses, however, apparently date to an earlier period. These include the prohibition of foreign bishops in the consecration of Icelandic bishops, evidence of which surfaces in the correspondence between Bishop Ísleifr of Skálholt and Adalbert of Hamburg-Bremen (1056-72). In addition, Archbishop Asser of Lund is believed to have confirmed some of the remaining clauses. However, in 1275, only one year after the second Council of Lyon, which reformed the procedure of the Church, the General Assembly formally accepted a new "Christian law" that was more solidly based on the principles of canon law and which incorporated edited versions of the previous canons³⁹.

Canon law also played an important role in Danish politics from the beginning of the 11th century. Significant evidence for this claim includes the earliest letters of king Canute to the English, Canute's father's appointment of English clerics to ecclesiastical positions in Denmark, and the conflict between Hamburg-Bremen and Denmark over the establishment of a Scandinavian archdiocese. However, it was not until the end of Archbishop Eskil of Lund's self-imposed exile around 1168 (which marked the end of a conflict over the election of bishops between king Valdemar I and Archbishop Eskil) that an ecclesiastical law for the archiepiscopal province of Lund was established⁴⁰. Statutes for the episcopal province of Sjælland followed a decade later. Although it could be argued that these measures preserved the spirit of Norwegian law, they are probably unique in their explicit insistence on a mutual contract between Church and people.

The codes contain the Church's renunciation of its right to levy fines for transgressions. The Church also acknowledged the principle of the burden of proof, as utilised by secular law, in return for the regular payment of tithes. Two years after his enthronement in 1178, Eskil's successor, the attempt by Absalon, who was a member of the most powerful Sjælland magnate family, the *Hvider* [the "Whites"], to enforce the payment of tithes provoked armed revolt on the part of large sections of the Scania population. In subsequent negotiations with the king the rebels argued that they did not need to make such payments as the new archbishop was not fulfilling the obligations of the Church. Although resistance to the payment of tithes ended rather quickly, whether tithes should be paid at all continued to be an issue. Absalon's successors Anders Sunesen (r. 1202-1224), Peder Saxesen (r. 1224-28) and Uffe Thrugotsen (r. 1228-1252), expended much energy in their attempts to introduce European canon law into their province. It was, however, Jakob Erlandsen (r. 1253-1274) who finally grasped the nettle and argued that, because canon law commanded all Christians to pay tithes, the Church did not need to argue the case against the locally negotiated Scania provincial law⁴¹.

The legal status of these provincial ecclesiastical statutes remained unclear. The Sjælland code does not seem to have played much of a role in the political conflicts between the Danish king and the metropolitan see between 1245 and 1290, but it was included unchanged in the printed edition of Erik's sjællandske law in 1505 and reprinted in 1576. It was also frequently copied in late medieval manuscripts along with the Scania law. The ecclesiastical statutes of Scania were also published in a separate edition in 1505. The texts of these laws thus remained stable during most of the Middle Ages.

The separation between the two systems of medieval law, the secular and the ecclesiastical, was almost total. Contemporary university graduates were educated in either canon or Roman law with the result that national laws seem to have been of little or no interest to the legal profession in Denmark. However, there is no doubt that many, if not all, of the prelates who pursued a career in the Church had some kind of legal training. Indeed, as in most other European countries at the time, a degree in law – whether canon, Roman or both – was virtually the *sine qua non* for ecclesiastical promotion.

DISPUTE SETTLEMENTS

As we have seen, codifying oral legal conventions clearly was a tradition in Danish, Norwegian, and Icelandic societies. The rest of this chapter will focus on the utilisation of these laws in the context of dispute settlement. Our focus will be on Norway and Iceland because the best sources are available there. In addition, these two countries provide us with the opportunity to analyse how the process operated within both centralised and de-centralised political systems.

ICELAND

Farmers who felt that their rights had been infringed usually asked their chieftain for support. The validity of the case and/or the underlying circumstances were of secondary importance to what mattered most, namely the level of support that could be mustered. Help from the chieftain was therefore almost a prerequisite for winning a case as it was he alone who could give and mobilise effective support⁴².

In about two-thirds of the conflicts we have studied a third party mediated at some stage of the process. This figure did not involve himself directly in a case, but rather conveyed information about the evolution of the conflict to the interested parties. The mediators could give opinions and advice about what they believed to be in the best interests of the parties. Their main purpose, however, was to get the parties to agree to a temporary truce or to get the case admitted to arbitration and to keep the peace until a decision was made.

The mediators can be divided into three groups: chieftains, clerics, and friends and/or farmers. When chieftains acted as mediators, it was usually in connection with significant conflicts in which they represented a friend, an assemblyman, or a relative. The reason why chieftains rarely mediated in minor cases is that it was not a task that they considered worthy of their status or likely to enhance their prestige. The servants of the Church - bishops, abbots, and priests - seldom participated in mediation. Most of the cases in which clerics mediated were very serious ones involving the most powerful chieftains in the country. In many of the more important conflicts in the Free State, it was often a bishop who either mediated alone or led a group of clerical mediators. There were also instances of chieftains and clergy mediating jointly.

In less serious disputes it was primarily farmers with no direct interest in the case who mediated. In larger cases, farmers often mediated together with chieftains and clergy. Many farmers were friends of two or more chieftains and therefore a conflict of loyalty could arise. The farmers then either had to state that “we are friends of both and are obliged to intervene”⁴³ or to approach one or more chieftains whom they knew to be powerful enough to make an agreement.

Scholars have attached great importance to the fact that those who mediated were “kind men” (*góðgjarnir menn*)⁴⁴. In our opinion, however, the term mediator is more appropriate because those who undertook the job did not necessarily have to be *góðgjarnir menn*. They often mediated because they were friends or relatives of the rival parties and were thus unable to participate in the dispute without breaching the obligations that the bonds of kinship or friendship placed on them.

While direct negotiations between the parties were not unusual, mediators speeded up the process. The weight of their personal opinions and advice led disputes to develop differently. For example, conflicts could be ended by one party being granted self-judge-

ment, by putting the dispute to arbitration, or by the mediators reaching a conclusion that both parties were willing to accept.

Sending a case to arbitration usually meant that the parties to a dispute agreed to one or more arbitrators rendering a judgement or reconciliation. These private judges were not bound by formal rules of evidence. Instead, they gave their verdict on the basis of what was reasonable. Sending a case to arbitration was not a particularly formal process. The parties first had to give the arbitrators permission (by means of a simple handshake) to pronounce judgement as they saw fit. Usually, each party named an equal number of people to represent their interests. If the parties to a dispute tried to influence an arbitrator then according to *Grágás* it was a dishonourable agreement and the wrongdoer was punished with three years exile. *Grágás* also stated that if the arbitrators failed to agree they should draw lots, after which the winner had to swear an oath before making the declaration. They could also pass on their responsibility to a third judge of their choice.

Chieftains (rather than clerics or farmers) were more frequently chosen to arbitrate because they were at least as powerful and influential as the parties involved. According to *Grágás*, arbitrators were allowed to punish with fines but not with outlawry, exile or loss of land unless the parties involved had previously agreed to this. It was customary for those involved to agree on the type of punishment before the case was referred to arbitration. The arbitrators then merely had to decide the extent of the punishment. This is shown, for example, in the conflict between Þorgils and Hafliði. Hafliði was to “determine as large a fine as he wished for his injuries, excluding all degrees of outlawry, chieftaincy and estates, as had been stipulated from the first”⁴⁵.

The most frequent punishment handed out in arbitration was the so-called *bót* (a fine), often in conjunction with other punishments. Before the fines were set, it was customary to compare the damage suffered by the parties involved and to compensate for the difference. Fines varied from case to case. There were no standard fine for the different types of injury or insult. Each case was judged on its merits. Compensation depended on the amount of prestige attached to the case and was “linked to the social standing of the victim, his popularity, and to the wealth and power of his kin and affines”⁴⁶.

The most severe punishments in the Free State were outlawry and exile. Outlawry meant that the convicted person would lose all rights guaranteed by law and his property could be confiscated. Helping him was forbidden and anyone could kill him without having to pay compensation to his family or kin. He could not be buried in consecrated ground and any child of his born after the judgement would have no right of inheritance. Exile was not as harsh as outlawry, since it involved expulsion from the country for three years and confiscation of property. The condemned person had three years in which to leave Iceland. During this period his safety was guaranteed in the area immediately surrounding his farm and while on his way to the boat. If he failed to leave

Iceland within this period, he would become an outlaw. The common name for these two punishments was *sekt*. There were very few punishments of this type in arbitration because the parties to the negotiations would have agreed beforehand not to impose them. Banishment from a district was also used in arbitration judgements. This was a milder form of outlawry and meant that the condemned person could not remain in a particular part of the country⁴⁷.

It was important for a chieftain's demands to be accepted as this increased his prestige and ensured that more farmers would want to become his assemblymen. In a society without a central power capable of guaranteeing legal rights the accused had to defend themselves with the help of friends, relations and, most importantly, the chieftain. The best methods for establishing a lasting settlement were arbitration and direct negotiation. The advantage of settling conflicts in this way was that it was quick, safe and, in most instances, it satisfied the parties concerned. The arbitrators were not bound by any rules of evidence. In small societies such as Iceland the arbitrators presumably knew how conflicts had arisen and developed and therefore did not need witnesses. Their principal task was to set an appropriate fine that would satisfy both parties to the dispute.

Arbitrators acted under a great deal of pressure because, given the political culture of the Free State, it was important to make a ruling that both parties could accept and not regard as an insult. Arbitrators knew that if they were also accused then they risked being given the same punishment. At the same time, it was important for the disputing parties not to challenge a judgement of the chieftains since this would be interpreted as an insult and could result in problems. Arbitration was a face-saving mechanism in that it gave the parties an opportunity to withdraw from dangerous situations with their honour intact⁴⁸. Since chieftains were involved in most cases, it was natural for them to seek a ruling by someone as powerful and influential as themselves, such as other chieftains or bishops. For society in general it was more important that the conflict was resolved than for the legal provisions to be followed to the last letter.

While both the Icelandic and Contemporary Sagas mention, directly or indirectly, cases that were prepared for consideration by courts, there make fewer references to those cases actually dealt with by them. Although there were courts at both the General Assembly and the spring assemblies, this does not automatically mean that many court cases were settled with their help. The chieftains used the courts for political ends. For this reason, and because there was no central authority to enforce the law, the courts were not suitable for settling cases. If two equally powerful chieftains clashed and one of them was granted a decision at the General Assembly it was possible that the judgement would not be enforced because of opposition from his enemy⁴⁹.

The little information that the sagas provide about appointment to the courts does not always correspond with *Grágás*. The main reason why the sections in *Grágás* concerning

appointments to the courts were not used is that the number of chieftains and chieftaincies never tallied with *Grágás*. However, procedural rules did exist as, had they not, neither the chieftains nor the priest Guðmundr Arason would have succeeded in having their opponents declared outlaws. It was probably the chieftains, being the plaintiffs, who appointed men to the courts. If the opponent was powerful enough, he would normally try to break up the court or take the plaintiff to a different court. The summons to court, therefore, was primarily a means of putting pressure on the opponent. The existence of certain conditions- written laws which everyone accepted, records of cases and verdicts, written agreements between parties and a powerful central authority- were a precondition for an effective court system.

The main punishments in *Grágás* were outlawry, exile and fines of 3 to 6 marks. In practice, the courts merely decided whether the person concerned was guilty or not guilty. The judges “had no discretion in imposing the penalty; it followed automatically as a consequence of the successful prosecution of the claim”⁵⁰. It was important, therefore, to prepare a case for the attention of the court as the opponent could enter a counter summons.

It may be asked why chieftains and farmers met at spring assemblies and at the General Assembly given that the court system functioned so poorly. The main purpose of the assemblies, according to the sagas, was to serve as a meeting place for those involved in conflicts. It was easier to assemble friends and allies there, and greater social pressure could be applied than in the districts. Mediation could take place and cases could be resolved either through direct negotiations or through arbitration. The General Assembly was thus primarily a place to test political connections. Descriptions of the first assemblies in Iceland, at Kjalarnes and Þórsnes (both of which were presumably established before the General Assembly), do not mention any laws in connection with them. *Eyrbyggja saga*, however, tells of courts at Þórsnesþing which were probably places where people could meet and settle their conflicts with the help of friends, kinsmen, and others.

Disputes usually ended with an agreement in which the parties gave each other a *trygð*, that is, an oath stipulating that the case had been settled for ever. Keeping the oath was a serious duty and represented an effective instrument for settling disputes. The agreement took place in a social context to the extent that it defined or redefined the status, rights, and obligations of those involved. After conflicts new alliances were often formed. Those who were previously enemies became friends. This not only strengthened the chieftains’ power base. It also meant that their friends and assemblymen could feel safer from the demands of other farmers and their chieftains. Thanks to the frequency of these disputes the political climate in Iceland was unstable and changed from one year to the next.

Despite the absence of a consensus as to what actually constituted the law, insufficient respect for court rulings, and an impotent court system, laws were nevertheless important. They defined rights even though punishment was a matter for negotiation

According to the earliest provincial law codes- the *Gulapingslög* and the *Frostupingslög*- the judicial system of the eleventh and twelfth centuries rested upon two ancient legal institutions, *þing* and *dómr*. The *þings* were legal assemblies attended by freemen or by representatives from geographically defined regions. The *dómr* was a commission of six or twelve members (appointed by the disputants themselves) designed to resolve disputes through negotiation without the need to consult public assemblies. The *dómr* could either be set up to conduct negotiations between the two parties (*settardómr*), or it could function as a court (*skiladómr*). The latter was the norm in legal suits where there were uncertainties as to what had happened⁵¹. The *dómr* has been linked to judicial provisions found in early provincial laws that required litigants to prosecute offences. The assemblies are thought to have been consulted only when the *dómr* failed to resolve disputes in a manner acceptable to both sides. It would then be the responsibility of the assembly to arbitrate and to execute its verdicts. Such assemblies were organized on local, regional and provincial levels. Local assemblies were attended by all free men whereas provincial assemblies were attended by representatives appointed by chieftains. The assemblies represented the highest legal authority in the kingdom, both as judicial and legislative bodies. They are believed to have been supervised by a legal expert similar to the Icelandic *lögsögumaðr*, the law-speaker who knew the law and whose task it was to instruct the assemblies. The provincial assemblies were also considered the main arena for negotiations between the king and his subjects⁵².

Accounts of 12th-century dispute resolution in the Kings' Sagas, indicate that disputes were conducted upon the same principles as in Iceland, as battles in an ongoing war between two parties, especially when powerful men were involved. Moreover, the accounts reveal that legal suits were influenced more by social status than jurisprudence and that courts and legal assemblies were highly susceptible to threats of violence. The absence of a single authority to enforce law in the kingdom, combined with the fact that provincial law codes were derived from precedence rather than abstract legal principles, meant that the laws were flexible and could be used at will by people with power. There was a thin line between making the law (legislation) and finding the law (jurisprudence). Only rules of procedure seem to have been universally respected and accepted⁵³. While the Kings' Sagas do not provide information on legal suits involving ordinary peasants, it has been suggested that 12th-century provincial law codes were applied more rigorously and with less flexibility when ordinary peasants were involved⁵⁴.

In the 13th century the Crown took effective control over legislation and set up a new legal apparatus, the royal judiciary. This comprised a new type of "service" aristocracy which, unlike the independent chieftains of the Viking Age, reached power mainly through their relationship with the king. This affected the autonomy of the assemblies

and *dómr* which came under the control of royal judges. It has been suggested that by the early 13th century the traditional legal expert, the lögsögumaðr, had become a royal official whose legal opinion amounted to a final judgment in cases which concerned property and goods. Royal judges had, by the end of 13th century, abandoned local and regional assemblies to set up permanent courts in towns, although criminal cases were still decided by the þings. Another royal official, the sheriff, took over the tasks of prosecuting criminal cases and executing verdicts. This gave the sheriffs the opportunity to conduct private arbitration without consulting royal judges or þings, which would likely have generated considerable unaccounted income⁵⁵. These changes corresponded with the introduction in 1274 of a uniform law, or Norwegian National Law, for the Norwegian kingdom under Magnus the Law-Mender, and the development of a public system of criminal justice. Under the latter violations were no longer perceived as private matters between two parties but as disturbances to the peace of the realm, which was ultimately the responsibility of the king⁵⁶. On the basis of these changes, the medieval Norwegian Kingdom has been commonly described as a *recht stat*.

Other scholars have pointed out that *local* legal matters between 1320 and 1350 were conducted mainly through ad hoc commissions and rarely by local assemblies. This has been explained by the legal reforms of the later 13th century and early 14th century by which the use of local commissions was systemized. It has also been pointed out that contemporary medieval charters indicate a congruence between legal practices and the letter of the law⁵⁷. There is, however, little to suggest that the law played a central part in the conduct of legal matters, as such dispute were mostly resolved according to principles of conciliation, and local opinion mattered more than official judgments in such disputes in this period⁵⁸.

Most legal disputes were conducted by various ad-hoc commissions. Regular assemblies appear only occasionally in medieval charters in connection with dispute settlement. Guilds and fraternities, which are thought to have been important social institutions, are, on the other hand, hardly mentioned. The commissions could range from local assemblies consisting of peasants, parish priests, and/or local ombudsmen, to royally appointed commissions comprising bishops, high clergy, and high-ranking royal officials. Arbitration was conducted in two ways. Sometimes independent commissions summoned the parties and allowed them to present their cases before an appropriate public. In such cases dispute settlement was probably arbitrated by local opinion. The alternative was for royal officials to instruct commissions to conduct investigations and to report back. In these cases dispute settlement was achieved in several stages, and involved local opinion as well as the courts of the royal judiciary. Royal judges instructed commissions to implement verdicts within local communities. There are, however, several examples of verdicts by royal officials which were either disregarded or otherwise negotiated. Commissions clearly had to balance the weight of local opinion against decisions made by the royal judiciary and the interests of the two parties.

Lawsuits filed under the authority of the Church were conducted differently. Legal records kept by the Bergen bishops in the early 14th century show that disputes concerning marriage and sexual behaviour functioned like inquisitions. Bergen bishops instructed local vicars to conduct investigations, to record testimonies, and to report back. They were thus kept well informed of both local opinion and the details of the case. This enabled the bishop to pass judgment from his office in Bergen and to oversee the local vicar's implementation of the decision. The ability of the bishop to conduct dispute resolution in local communities rested on organizational differences between Church and crown. The Church had a minister (a religious specialist with unrivalled moral authority) in every parish throughout the realm. Meanwhile, the royal judiciary had about fifty sheriffs (of dubious reputation)⁵⁹ and assistants at its disposal to implement the decisions of the ten royal judges.

USES OF LEGAL CONCEPTS IN DISPUTE RESOLUTION IN NORWAY

From 1200 to 1350 there were 3,157 entries registered in the *Diplomatium Norwegicum*, a collection of medieval manuscripts that concerned the Kingdom of Norway⁶⁰. About 900 of these entries contained references to concepts of “law” and “legality”, a figure that amounts to slightly fewer than one in every three entries. This indicates that the concept of law was important in the medieval kingdom of Norway; and reflects the relevance of the phrase “with law the land must be built” (*meth logh scal land byggæes*) found in many of the Nordic medieval law codes⁶¹. The figure does not, however, tell us anything about the circumstances in which these concepts appeared, to whom they mattered, and what they implied. In order to discuss the role of the law in dispute settlement two crucial questions must be addressed: were concepts of law applied universally or in a specific way, and was the law used by all members of society or by an exclusive minority?

Analysis of a selection of 111 charters containing terms denoting *law* and *legality* reveals that these concepts were used almost exclusively in connection with disputes. A connection can thus be established between concepts of law and actual conflicts. 86% of these entries were found in charters issued by kings, bishops, and their senior officials, in most cases royal judges. In contrast, only around 5% were issued by commissions of laymen which included local peasants. Furthermore, 83% of references to concepts of law are found in diplomas issued by third-party agents. This compares with only about 17% which were issued by the parties themselves – which in most cases were made up of kings, bishops, or representatives of ecclesiastical organizations⁶².

Moreover, 70% of these charters were authoritative decisions by senior royal and ecclesiastical officials, that is, formal judgments, confirmations of judgments, legal amendments, and various *de facto* decisions. The remaining 30% were made up of patent letters (13%), reports (9%), instructions (6%), and announcements (2%)⁶³.

Finally, in 78% of the charters the concept of law is used to denote a general legal ideal or principle. It was generally used as a metaphor of a *correct* or *fair* decision – in most cases in connection with legal procedures, legal representation, or estimated value of property and payment. On other occasions it was simply confused with the notion of judgment. Specific references to the letter of the law are found in a mere 15% of the entries, while the concept of law as a legal argument used by the conflicting parties appears in as few as 7%⁶⁴.

Although this study has noted a connection between the concept of law and disputes, it has also established that the concept of law was not applied universally. It flourished primarily in royal and ecclesiastical circles but was rarely used by local peasants. It was more in the hands of third-party agents, and seldom of the parties themselves, unless they were high clergy or kings. It thus seems fair to conclude that the concept of law had limited and particular functions in relation to dispute settlement, especially among the peasant population. It was not law itself, or the letter of the law, that enjoyed primary importance in the charters, but rather *ownership* of and *control* over the law. Disputes can thus be said to have been conducted more in the “shadow of the law”, than according to its letter⁶⁵.

This could easily be attributed to the general ambition of kings and bishops during the 13th and early-14th centuries to control the law (a privilege that is believed to have rested with the regional assemblies in the 10th and 11th centuries). This ambition can be observed in the formidable legislative activity of 12th-century kings, in the Christian-political ideology (as expounded for example in the *Mirror of Kings* literature), and in the competitive relationship between crown and Church. Royal attempts to control the law can be observed in the amendments king Eiríkr Magnússon issued in 1295. His attempt to regulate socio-political conditions in Bergen severely restricted the townspeople’s opportunity to create guilds and fraternities. The king banished all but three guilds (those of Mary, St Nicholas, and St Edmund), but more importantly he explicitly forbade anyone to compose rules or normative clauses, arguing that it was the exclusive privilege of kings and their councils⁶⁶.

Throughout the Middle Ages, the *dómr* was the common means through which disputes were arbitrated. This was the norm in provincial law codes from the 12th century as well as in the Norwegian National Law from the 1270s, and was found in numerous legal records issued beginning in the 1280s. It seems thus to have been the favoured legal instrument for kings and bishops as well as peasants.

There are reasons to assume that the importance of the *dómr* grew in local communities as a result of the political developments and legal reforms of the 12th and 13th centuries. The transformation of the aristocracy – which involved the replacement of local chieftains by royal officials, the reduction of the authority of assemblies, and the establishment of courts operated by royal judges in towns – meant that disputes could

be resolved by local opinion as well as by the royal judiciary. This created a situation that required a flexible and competent institution that could not only communicate and conduct negotiations between the two parties, but also between local opinion and the courts of the royal judiciary. The result was that the *dómr* acquired a pivotal position in the medieval legal system. This in turn encouraged a more flexible use of the law⁶⁷. The concept of law was important in medieval dispute resolution, but only in certain circumstances. It seems to have been used mainly for ideological purposes by the representatives of the royal and ecclesiastical judiciaries as a means of asserting authority. It was rarely used by parties involved in the dispute, and seldom as a legal argument, unless high clergy or royal officials were involved. This suggests that political developments and legal reforms had an effect on how the elites conducted disputes, that is, they increasingly conducted disputes according to the letter of the law. The rules of procedure, which proved to be the decisive element in the settlement of legal suits in the King's Sagas, were attributed importance in the diplomas but were rarely decisive.

CONCLUSION

Law and law making were important in all three countries discussed in this chapter. It was important for the kings and the Icelandic chieftains- as well as bishops and archbishops- who sought to control the law-making process from a political and ideological point of view. As Anthony Musson points out “[i]deologies of law are themselves multi-dimensional and operate on a number of different levels”⁶⁸. In Norway and Denmark the king's control over the law-making process underpinned his superior position in society. Beginning in the second half of the 12th century the Church tried to break its links with the king and began to make laws that were more in accordance with Gregorian reform.

Arbitration was the channel through which most disputes were settled during the Free State period. After Iceland was defeated by the Norwegian king a new court system was implemented. Due to of lack of sources we know little about how disputes were settled in the period between 1260 and 1350. It is possible that the local commune in Iceland (known as *hreppr*) acted as the arena for solving disputes between its own members. Like most other European states, the medieval Norwegian state was a rather fragile construction. It was, therefore, prudent to let the local communities deal with most of their own affairs since they knew best how to keep the local peace.

The legal system in early medieval Norway was built around the institutions of þing and *dómr* which were controlled by local chieftains. The process of state formation led to significant changes in the legal system: laws were codified, the king acquired legislative authority, and a new judicial system of royal courts operated by royal officials was established. These changes were supported by a new Christian-political ideology that focused on the king's role as principle judge and legislator. In practice, however, the

results of state formation were mixed. While the aristocracy came to resolve their differences at the courts of the royal judiciary, the majority of the peasant population was less affected by Christian political ideology. State formation wound up separating local opinion from the courts of the royal judiciary, while reinforcing the position of the *dómr* as the main legal body for arbitration.

NOTES

- ¹ G. Sandvik, J. V. Sigurðsson, *Laws*, in R. McTurk (ed.), *A Companion to Old Norse-Icelandic Literature and Culture*, Oxford 2005, pp. 223-244. Cf. the Prologue to *Jyske Lov* reproduced in the appendix.
- ² W. Ullmann, *A Short History of the Papacy in the Middle Ages*, London 2003 (1972); K. Helle, *Norge blir en stat 1130-1319*, Bergen 1974 (1964); A. J. Gurjewitsch, *Das Weltbild des mittelalterlichen Menschen*, Munich 1982 (1972).
- ³ S. F. Moore, *Law as Process: An Anthropological Approach*, London 1978; H. Jacob, *The Elusive Shadow of the Law*, in "Law and History Review", 1992, 26, pp. 565-590.
- ⁴ V. Finsen (ed.), *Grágás. Islendernes Lovbog i Fristatens Tid*, Copenhagen 1852, Ia, p. 45, "ver scolom fara til lobergas a morgin". The Free State period lasted from c. 930-1262/64.
- ⁵ See for example M. Bellomo, *L'Europa del diritto comune*, Catania 1988.
- ⁶ P. Jaffé, *Tomus Secundus (ab a. MCXLIII ad a. MCXCVIII)*. Vol. 2 of W. Wattenbach (ed.), *Regesta pontificum romanorum ab condita ecclesia ad annum post Christum natum 1198*, Leipzig 1888, no. 5096; E. Caspar (ed.), *Das Register Gregors VII*, Berlin 1920, vi, no. 13; L. Weibull (ed.), *Diplomatarium danicum 1053-1169*, vol. 2 of *Diplomatarium danicum, 1. Række*, in collaboration with N. Skyum-Nielsen, Copenhagen 1963, no. 18.
- ⁷ This information comes from the prologue to Saxo Grammaticus, *Gesta Danorum*, ed. K. Friis-Jensen and trans. P. Zeeberg, Copenhagen 2005.
- ⁸ A. Duggan, *The English Exile of Archbishop Øystein of Nidaros (1180–83)*, in L. Napran, E. van Houts (eds.), *Exile in the Middle Ages: Selected Proceedings from the International Medieval Congress, University of Leeds, 8-11 July 2002*, Turnhout 2004, pp. 109-30.
- ⁹ J. Brøndum-Nielsen, P.J. Jørgensen (eds.), *Danmarks gamle landskabslove med kirkelovene*, Copenhagen 1933-61.
- ¹⁰ This is hardly surprising since there are eight bishops among the eleven nobles mentioned among those who passed the law in Vordingborg. The other three were king Valdemar's sons Erik, Abel and Christoffer. See the translation of the prologue to *Jyske Lov* below.
- ¹¹ The Latin text of the glosses can be found in S. Iuul, P. Jørgensen (eds.), *Jyske Lov: Text 1: NkS 295 8°*, vol. 4 of *Danmarks Gamle Landskabslove med Kirkelovene*, Copenhagen, 1945. Most Danish medieval administrative documents were lost in the Copenhagen fire of 1728.
- ¹² Michael Gelting has recently suggested that the origins of the text lie in the preparations for the visit of a papal legation in connection with the fourth Lateran Council (1215). See his *Mellem udtørring og nye strømninger. Omkring en symposierapport om dansk middelalderhistorie*, in "Fortid og Nutid", 1985, 32, pp. 43-80.
- ¹³ P. J. Jørgensen, *Dansk Retshistorie*, Copenhagen 1947.
- ¹⁴ E. Kromann, *Danmarks gamle love: deres alder og indbyrdes slægtskab*, in "Acta Philologica Scandinavica: Tidsskrift for Nordisk Sprogforskning", 1971-72, 29, pp. 111-26.
- ¹⁵ S. Bagge, *Da boken kom til Norge. Norsk idéhistorie I*, Oslo 2001.

- ¹⁶ *Ibid.* cit.
- ¹⁷ C. Krag, *Vikingtid og rikssamling 800-1130*, Oslo 1995.
- ¹⁸ P. Sveaas Andersen, *Samlingen av Norge og kristningen av landet 800-1130*, Bergen 1977.
- ¹⁹ K. Helle, *Konge og gode menn i norsk riksstyring ca. 1150-1319*, Bergen 1972; Id., *Norge blir cit.*
- ²⁰ Anders Berge, doctoral thesis in progress.
- ²¹ Helle, *Konge og gode* cit; Sandvik, Sigurðsson, *Laws* cit.
- ²² Ó. Lárússon, *Lög og saga*, Reykjavík 1958.
- ²³ G. Karlsson, *Ritunartími Staðarhólsbókar*, in Ritnefnd (eds.), *Sólhvarfasambl. Saman borid handa Þorleifi Hauksyni fimmtugum 21. desember 1991*, Reykjavík 1992, pp. 40-42.
- ²⁴ K. Maurer, *Vorlesungen Über Altnordische Rechtsgeschichte I-V*, Osnabrück 1907-1938; Grágás, in F. Hødnebo et al. (eds.), *Kulturhistorisk leksikon for nordisk middelalder V*, Oslo 1960.
- ²⁵ P. G. Foote, *Aurvandilstá*, Odense 1984.
- ²⁶ S. Líndal, *Lög og lagasetning í íslenska þjóðveldinu*, in “Skírnir”, 1984, 158, pp. 138-147; Id., *Löggjafarvald og dómsvald íslenska þjóðveldinu*, in “Skírnir”, 1992, 166, pp. 171-178.
- ²⁷ H. Nehlsen, *Zur Aktualität und Effektivität Germanischer Rechtsaufzeichnungen*, in P. Classen (ed.), *Recht Und Schrift Im Mittelalter*, Sigmaringen 1977, pp. 449-483; P. Wormald, *Lex Scripta and Verbum Regis: Legislation and Germanic Kingship, from Euric to Cnut*, in P. H. Sawyer and I. N. Wood (eds.), *Early Medieval Kingship*, Leeds 1977, pp. 115-135.
- ²⁸ Ó. Lárússon, *Grágás og lögbekurnar*, in “Fylgirit”, Reykjavík 1922; Id., *Lög og saga*, Reykjavík 1958; P. Sigurðsson, *Jónsbók. The Icelandic Law Code of 1281*, in A. Romano (ed.), “*Colendo iustitiam et iura condendo*”. *Federico II Legislatore del Regno di Sicilia nell'Europa del Duecento. Per una storia comparata delle codificazioni europee*, Rome 1997, pp. 455-470; Sandvik, Sigurðsson, *Laws* cit.
- ²⁹ However, the earliest surviving manuscripts of these laws date from the 14th century and the attribution to Lög-Bessi may thus be from a later date.
- ³⁰ R. Keyser et al. (eds.), *Norges Gamle Love I, Gulathing*, Christiania 1846, law chapter 10.
- ³¹ Sandvik, Sigurðsson, *Laws* cit.
- ³² Helle, *Norge blir* cit.
- ³³ Vatican Library MS Pal. Lat 587.
- ³⁴ Cf. F. Pedersen, *Politics and Prelates: Kingdom, Church and Empire in Southern Scandinavia, 950-1076*, in P. Krafl (ed.), *Sacri canones servandi sunt*, Prague 2008 (in press).
- ³⁵ K. Hørby, *Denmark*, in P. Pulsiano (ed.), *Medieval Scandinavia: An Encyclopedia*, New York 1993, vol. I, pp. 127-30.
- ³⁶ Published in C.A. Christensen, H. Nielsen, L. Weibull (eds.), *Diplomer 1170-1199 & Epistolæ abatis Willelmi de Paraclito*. Vol. 3 of *Diplomatarium danicum, 1. Række*, Copenhagen 1976-77.
- ³⁷ R. Davidsohn, *Philipp II. August von Frankreich und Ingeborg*, Stuttgart 1888; N. Damsholt, *Medieval Women's Identity in a Postmodern Light: The Example of Queen Ingeborg*, in B.P. McGuire (ed.), *The Birth of Identities: Denmark and Europe in the Middle Ages*, Copenhagen 1986, pp. 225-42; M. Alenius, *Hvem skrev dronning Ingeborgs breve?*, in “Historisk Tidsskrift”, 1986, 86, pp. 286-89; G. Conklin, *Ingeborg of Denmark, Queen of France, 1193-1223*, in A. Duggan (ed.), *Queens and Queenship in Medieval Europe*, Woodbridge 1997, pp. 39-52; F. Pedersen, *The Danes and the Marriage Break-up of Philip II of France*, in P. Brand (ed.), *Adventures of the Law*, Dublin 2005, pp. 54-69.
- ³⁸ Hødnebo (eds.), *Kulturhistorisk Leksikon V*.
- ³⁹ M.L. Magnússon, “*Kátt er þeim kristnirétti, kerur vilja margar lera*”. *Af kristnirétti Árna, setningu hans og valdasviði*, in “Gripla”, 2004, 15, pp. 43-90.

- ⁴⁰ For a general introduction to the period, see A.E. Christensen, *Tiden 1042-1241*, in A.E. Christensen et al. (eds.), *Tiden indtil 1340*. Vol. 1 of *Danmarks historie*, Copenhagen 1980, pp. 211-399.
- ⁴¹ N. Skyum-Nielsen, *Kirkekampen i Danmark 1245-1290: Jacob Erlandsen, samtid og eftertid*, Copenhagen 1963.
- ⁴² The discussion is based on J.V. Sigurðsson, *Chieftains and Power in the Icelandic Commonwealth*, trans. J. Lundskaer-Nielsen, Odense 1999.
- ⁴³ B. Sigfússon (ed.), *Ljósvefninga saga með þáttum. Reykdæla saga ok Víga-Skútu. Hreiðars þáttur*, Íslenzk fornrit X, Reykjavík 1940, p. 136, “[e]n vér erum beggja vinir ok skyldir til at ganga vel í milli”.
- ⁴⁴ W.I. Miller, *Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland*, in “American Journal of Legal History”, 1984, 28, pp. 95-134; J.L. Byock, *Feud in the Icelandic Saga*, Berkeley 1982.
- ⁴⁵ J. Jóhannesson et al. (eds.), *Sturlunga saga I*, Reykjavík 1946, p. 48, “gera fé svá mikit sem hann vildi fyrir áverkana, en frá skilðar sektir allar ok goðorð ok staðfesta, sem boðit var í fyrstunni”.
- ⁴⁶ W. I. Miller, *Bloodtaking and Peacemaking. Feud, Law, and Society in Saga Iceland*, Chicago 1990, p. 27.
- ⁴⁷ L. Ingvarsson, *Refsingar á Íslandi á þjóðveldistímanum*, Reykjavík 1970.
- ⁴⁸ J. L. Byock, *Medieval Iceland: Society, Sagas, and Power*, Berkeley 1988.
- ⁴⁹ Ingvarsson, *Refsingar* cit.
- ⁵⁰ Miller, *Avoiding Legal*, p. 109.
- ⁵¹ Helle, *Norge blir* cit; Sveaas Andersen, *Samlingen* cit.
- ⁵² *Ibid.*
- ⁵³ S. Bagge, *Law and Justice in the Middle Ages: A Case Study*, in L. Bisgaard (ed.), *Medieval Spirituality in Scandinavia and Europe*, Odense 2001, pp. 73-85.
- ⁵⁴ *Ibid.*
- ⁵⁵ Helle, *Norge blir* cit.
- ⁵⁶ *Ibid.*
- ⁵⁷ S. Imsen, *Norsk bondekommunalisme fra Magnus Lagabøte til Kristian Kvart*, Trondheim 1990.
- ⁵⁸ *Ibid.*
- ⁵⁹ A. Holmsen, *Nye studier i gammel historie*, Oslo 1980.
- ⁶⁰ Charters that were issued in or sent to Norway, or which concerned Norwegian affairs.
- ⁶¹ Sandvik, Sigurðsson, *Laws* cit.
- ⁶² Anders Berge, doctoral thesis in progress.
- ⁶³ *Ibid.*
- ⁶⁴ *Ibid.*
- ⁶⁵ Moore, *Law as Process* cit.
- ⁶⁶ C.C.A. Lange et al. (eds.), *Diplomatarium Norvegicum XIX*, Christiania-Oslo 1849-1976, nr. 397: “Þat firir biodum ver ok fulkomlega. bedi indlendzskum ok vtlendzskum at þeir take ser nokor samheldi. ædr gere nokor samlaup ædr dicketi ser nokor lagh ædr settningar. þui at þetta synezst oss enghin mega gera. nema konungr med godra manna raade” (“We forbid any man, resident or foreign, to join a social organization or to participate in the making of rules or normative clauses, as this is the exclusive privilege of the King and his Council”).
- ⁶⁷ This flexibility, however, is not likely to have been as much the result of sheer power of the parties, as was the case in legal suits described in the Kings’ Sagas, but rather the result of arbitration depending on negotiations between different legal bodies.

- ⁶⁸ A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt*, Manchester 2001, p. 7.

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SOURCES

1. The coming of Christianity to Iceland in the year 999/1000:

Íslendingabók (The Book of Icelanders), written by Ari fróði (wise) c. 1125, describes some major events in the history of Iceland from the time of the settlement, c. 870 AD, to winter 1117-18. Ari's main focus is on important laws, such as the countrywide calendar, division of the country into quarters c. 965, the introduction of Christianity, foundation of the supreme Fifth court c. 1005, the claim of Skálholt to be the seat of the bishop of Iceland, introduction of the tithes c. 1097, and finally the writing down of the laws in winter 1117-18. The text that follows is from chapter seven of the edition by Jakob Benediktsson, *Íslendingabók, Landnámabók, Íslenzk fornrit I*, Reykjavík 1968, p. 16-17. The translation is based on <http://en.wikisource.org/wiki/Íslendingabók>.

En þeir Gizurr fóru, unz þeir kvómu í stað þann í hjá Ölfossvatni, es kallaðr es Vellankatla, ok gørdu orð þaðan til þings, at á mót þeim skyldi koma allir fulltingsmenn þeira, af því at þeir höfðu spurt, at andskotar þeira vildi verja þeim vígi þingvöllinn. En fyrr en þeir færi þaðan, þá kom þar ridandi Hjalti ok þeir es eptir váru með hónum. En síðan ridu þeir á þingit, ok kvómu áðr á mót þeim frændr þeira ok vinir, sem þeir höfðu est. En enir heidnu menn hurfu saman með alvepni, ok hafði svá nær, at þeir myndi berjask, at <eigi> of sá á miðli. En annan dag eptir gingu þeir Gizurr ok Hjalti til lögbergs ok báru þar upp erendi sín. En svá es sagt, at þat beri frá, hvé vel þeir mæltu. En þat gørdisk af því, at þar nefndi annarr maðr at öðrum vátta, ok sögðusk hvárir yr lögum við aðra, enir kristnu menn ok enir heidnu, ok gingu síðan frá lögbergi. Þá báðu enir kristnu menn Hall á Stíðu, at hann skyldi lög þeira upp segja, þau es kristninni skyldi fylgja. En hann leystisk því undan við þá, at hann keypti at Þorgeiri lögsögumanni, at hann skyldi upp segja, en hann vas enn þá heidinn. En síðan es menn kvómu í búðir, þá lagðisk hann niðr Þorgeirr ok breiddi feld sinn á sik ok hvíldi þann dag allan ok nóttina eptir ok kvað ekki orð. En of morguninn eptir settisk hann upp ok gørdi orð, at menn skyldi ganga til lögbergis. En þá hóf hann tölu sína upp, es menn kvómu þar, ok sagði, at hónum þótti þá komit hag manna í ónýtt efni, ef menn skyldi eigi hafa allir lög ein á landi hér, ok talði fyrir mönnum á marga vega, at þat skyldi eigi láta verða, ok sagði, at þat mundi at því ósetti verða, es vísa ván vas, at þer barsmiðir gørdisk á miðli manna, es landit eyddisk af. Hann sagði frá því, at konungar yr Norvegi ok yr Danmörku höfðu haft ófrið ok orrostur á miðli sín langa tíð, til þess unz landsmenn gørdu frið á miðli þeira, þótt þeir vildu eigi. En þat ráð gørdisk svá, at af stundu sendusk þeir gersemar á miðli, enda belt friðr sá, meðan þeir lifðu. ”En nú þykkir mér þat ráð,” kvað hann, ”at vér látim ok eigi þá ráða, es mest vilja í gegn gangask, ok miðlum svá mál á miðli þeira, at hváirtveggju hafi nakkvat síns máls, ok höfum allir ein lög ok einn síð. Þat mon verða satt, es vér slitum í sundr lögin, at vér munum slíta ok friðinn.”

En hann lauk svá máli sínu, at hváirtveggju játtu því, at allir skyldi ein lög hafa, þau sem hann réði upp at segja. Þá vas þat mælt í lögum, at allir menn skyldi kristnir vesa ok skírn taka, þeir es áðr váru óskirðir á landi hér; en of barnaútburð skyldu standa in fornu lög ok of brosakjósát. Skyldu menn blóta á laun, ef vildu, en varða fjörbaugsgarðr, ef vátum of kvæmi við. En síðarr fám vetrum var sú heidni af numin sem önnur.

But Gizurr and his companions travelled until they came to the place by Ölfossvatn which is called Vellankatla, and they sent word from there to the general assembly that all their supporters should come to meet them, because they had found out that their opponents

wanted to bar them by force from the assembly plain. And before they departed, Hjalti and those who were back with him rode up to them. And thereafter they rode to the general assembly, and their kinsmen and friends came to meet them before they came to the assembly, as they had requested. But the heathen people gathered together, fully armed, and it was so near to coming to a fight that no-one could see a way out. But the next day, Gizurr and Hjalti walked to the Lögberg and presented their mission there. And it is said that it was amazing how well they spoke. And because of that it turned out that one person named another as a witness, and each side – the Christian and the heathen people – declared the other outside their laws, and walked then from the Lögberg. Then the Christian men asked Hallr of Síða to present their laws – the ones which the Christians had to follow. But he passed on the responsibility by striking a deal with Þorgeirr, that Þorgeirr the law-speaker should present them, though he was still heathen then. And afterwards, when everyone returned to his hut, Þorgeirr laid himself down and drew his cloak over himself and rested all of that day and the following night and did not say a word. But the next morning he got up and announced that everyone had to go to the Lögberg. And when the people had arrived there, he began his speech, and said that it seemed to him that everyone's situation would be untenable if they did not all share one law here in this country, and spoke before the people in various ways, that that must not be allowed to happen; and he said that the discord would ensue which was a certain outcome, that fighting would take place between people and the land be laid waste. He spoke about how the kings of Norway and Denmark had had discords and wars between themselves for a long time, until the people of those countries made peace between them, even though they didn't want it. And the way that negotiation turned out was that at times they sent each other precious gifts, and while they lived, that peace held. "And now the idea suggests itself to me", he said, "that we also should not accept the course where people fall into the greatest opposition, and let us settle on a compromise between them, so that both have their way to an extent, and we all have one law and one set of customs. It must be true that when we break the law in two, we also break our peace."

And he closed his speech, such that both sides agreed that all had to have one law, the one which he pronounced. Then it was declared law that all people had to be Christian and accept baptism who had previously been unbaptized here in this country. But the exposure of children, along with the eating of horse-meat, would remain in the laws. People had to make sacrifices in secret, if they wanted to avoid three-year outlawry, which would happen if there were witnesses. And a few years later, that heathen practice was also taken away, like the others.

2. The Prologue to the Law of Jutland (1241):

The law of Jutland is the last of the four Danish law codes to be compiled and the only one to have a date of composition, March 1241. It is also generally considered to be the last law code to be compiled in the Nordic kingdoms and its principles remained in force in Denmark-Norway until the publication on 5 April 1685 of "Christian V's Danish law" and the comparable "Christian V's Norwegian law", published 15 April 1687. In contrast to previous medieval compilations of Danish laws the *Jyske lov* law was proposed at a meeting of the royal council and was the only one of the four law codes to contain articles of a constitutional character, explaining the principles of law. The law was proposed a few months before the king's death in the presence of the kingdom's prelates and his three sons. It gives the impression of being an attempt by the ailing king to secure a peaceful transition to the

new king by applying the principles of Canon Law as they are explained in the first part of the fundamental text book of medieval canon law, the *Concordia Discordantium Canonum*, for centuries attributed to Gratian of Bologna. The Prologue of the *Jyske lov* is the most concise expression of the process of royal legislation in the medieval Nordic law codes. The principle that "the law is given by the king and accepted by the land" is a clear adaptation of the principles of papal legislation to the circumstances of the Danish kingdom.

From: Johannes Brøndum-Nielsen's *Danmarks Gamle Landskabslove med Kirkelovene*, Copenhagen 1926, p. 3-7, as translated by Frederik Pedersen.

Swa byriæs en for talen a iute logh ther kunugh waldemar gaf oc dane tokæ wither Math logh scal land byggas, æn wilde hwær man oruæs at sit eghæt, oc late men nutæ iafnæth. tha thurftæ men ekki logh with. æn ængi logh ær æm goth at fullughæ sum sanænd. æn hware sum mæn æuer um sanænd. there scal logh letæ hwilt sannænd ær,

Ware ey logh a landæ tha hafithæ hin mest ther mest matæ gripe. Thu scal logh æfter allæ men gøres. at retæ men oc spakæ oc saclosæ nutæ there spakæ. oc u rete men oc fole ræthæs thet ther i loghen ær scriuet, oc thor ey for thu fulkumæ there undscap ther thø hauæ i hughæ.

Wal ær thet oc ret. at then ther guz ræzel oc retens ælscughæ mughæ ez lockæ til godz. at høft-hings ræzle oc landens wither logh for fangæ them at gøre illæ oc pine them af the gøre illæ

Logh scal wære ærlig oc ret. thollich. æfter landens wanæ, quemelich oc thurftælic oc openbare. swa at alle mæn mughæ wite oc unerstande hwat loghen sigher, Logh scal ey gøres æth scriuæs for ænnen manz særlig wild, num æfter allæ mæniz thurft ther i land bo, Ænge man scal oc dømæ gen then logh ther kunungh giuær oc land taker wither, num æfter then logh scal land dømæs oc retæs, Then logh ther kunungh giuær oc land taker with, then ma han oc ey skiftæ æth af take uten landzæns wilie, uten han ær openbarlic gen guth,

Thet ær kunungs æmboth oc høftthings ther i land ær, at gøre dóm oc gøre ret. oc frælsæ them ther meth wald thuynges, swa sum ær widue oc weriløsæ børn, pelegim oc ut lanz mæn oc fatokæ men. them gøres tithest wald, oc late illæ men ther ey wilæ retæs. i hans land ey lifuæ, for thu at ther han pinær æth dræper u dethæs men, tha ær han gudz thianæstæ man oc landz giætzle man, for thu at swa sum hin hælge kyrki stures meth pauen oc biscop, swa scal hwart land stures meth kunungh æth han underretær oc weriæs. There meth ære oc alle skuldugh ther i hans land bo at wære hanum hørsom. och luthen oc underdanugh, Oc for thy ær han oc sculdich at gøre them al frith. Thet scule oc wite allæ wærelz høftthyng. at meth thet wald ther guth salde them i hand i thes wærelz. tha salde han oc them sin hælugh kyrki at weriæ for alt thet thær a bethæs. æn worthæ the glømond æth wildugh oc weriæ ey sum ret ær, tha scule the a dømæ dagh swære af kyrkiens frælsæ oc landzæns frith minzkæs for there sculd i there time.

Wite scule allæ men ther thenne bok se, at waldemar kunungh annæn waldemar sun ther sancte knuts sun war, then timæ han hafithæ wæret kunungh ni winter oc threthyughæ. oc at wor hærre war fød ware gangen thusænd winter oc tu hundræth winter oc fyur thyugh winter .i. marz manæth ther næst æfter loot han scriuæ thænne book oc gaf thenne logh ther hære stander scriuen a danske .i. worthingburgh meth hans sunær rath. ther wit ware. kunungh erich. hertogh abel. iuncheræ kristofor. oc uffæ ther tha war ærkibiscop i lund. oc biscop niclæs i roskæl. biscop ywar i fyun. biscop pæter i arus. biscop Gunnar i ripe, biscop Gunner i wybergh. biscop ionæs i wændel. oc biscop ionæs i hethæbu, oc there til alle bæstæ mæniz rath ther i hans rikie ware.

Thus begins the prologue to the Law of Jutland which King Valdemar gave and the Danes agreed.

With law the Land must be built. If everyone would be content with his own and let others enjoy theirs equally there would be no need for any law. No law is equal to following the truth, but when some men doubt what Truth is, law will lead to the Truth.

If there was no law in the land, the man who could grasp most for himself would have most. Therefore the law must be made to serve everyone's needs so that the just and the meek and the innocent can enjoy peace and the unjust and the evil can be fearful of what is written in the law and therefore be afraid to commit the wickedness they have in mind.

It is also right that fear of the secular authorities and the criminal code of the land can prevent those who cannot be tempted to do well by the Fear of God and love of the law from doing harm and punish them if they do.

The law must be honest and just, bearable, follow the customs of the land, be temperate and clear so that everyone can understand and comprehend the word of the law. Law must not be made or written for the advantage of any particular man but should serve all those living in the land. Nor should any man pass judgement contrary to the law that is given by the king and accepted by the land; but according to that law the land shall be judged and governed. The law that the king gives and the land accepts, he cannot change or cancel without the consent of the land unless he manifestly acts against God.

It is the duty of the king and the chieftains of the land to make judgements and to do right and protect those who are compelled by force, such as widows and the defenceless, children, pilgrims and foreigners and paupers—these are most often the ones who are coerced—and not allow bad people who will not better themselves to live in the land; because when he punishes and kills miscreants he is the servant of God and the guardian of the land. Because just as Holy Church is governed by the pope and bishops, every land is governed and guarded by the king and his officials. Therefore everyone who lives in his land must heed, obey, and subject himself to him, and in return he is obliged to give peace to all. In addition every secular lord must know that with the power God granted him in this world, He also charged them with the protection of Holy Church against all claims. But should he become forgetful or biased and not provide justice as is right he will answer for his actions on Judgment Day if the liberties of the Church or the peace of the land is diminished through his actions in his time.

Let it be known to all who see this book that King Valdemar, the second son of Valdemar who was the son of St Canute, when he had been king for thirty-nine winters and one thousand two hundred forty winters after the Lord was born, in the subsequent month of March let this book be written and gave the law which is here written in Danish in Vordingborg with the consent of his sons, who were present - King Erik, Duke Abel, and Junker Christopher - and Uffe, then archbishop of Lund and Bishop Niels of Roskilde, Bishop Ivar of Fyn, Bishop Peder of Århus, Bishop Gunnar of Ribe, Bishop Gunnar of Viborg, Bishop Jens of Vendsyssel, and Bishop Jens of Hedeby and in addition with the consent of all the best men who were in his realm.