

# PART V

## HISTORICAL ORIENTATION



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## 13. Law, society and landscape in early Scandinavia

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Let us start with the obvious question when analysing an early society and culture for our purpose: what is law? There are nearly as many definitions as there are legal historians and legal anthropologists out there. To make life easier I will pick one recent definition, by Francis Fukuyama (2012 pp. 245–46), who simplifies the predicament in the following way: ‘The law is a body of abstract rules of justice that bind a community together. In premodern societies, the law was believed to be fixed by an authority higher than any human legislator, either by a divine authority, by immemorial customs, or by nature.’ I suspect that someone like, for example, Bronislaw Malinowski would not wholeheartedly have embraced this definition with ‘rules of justice’. Instead, he might have stressed more complex reciprocal everyday obligations,<sup>1</sup> but many of the aspects I will discuss in this chapter are covered here: abstract (that is, implicit) rules which bind a collective together; the link between a divine authority and law; and (immemorial) customs.

No one has yet analysed the early Scandinavian laws from an anthropological perspective.<sup>2</sup> By contrast, in the study of Old Norse literature and the Old Icelandic sagas, such a perspective, when applied in the 1970s and 80s especially by Preben Meulengracht Sørensen (e.g. 1993) and others, gave this field of research a vital and productive boost. Instead of focusing on whether these sagas were dealing with history and historical events or were merely fictitious narratives made up by some author(s), Meulengracht Sørensen and others focused on the time and society when the sagas were written down; contextualised these sagas, reading them more or less like anthropologists in a societal context; and extracted themes and structures of which some obviously also mirrored a past, sometimes very distant.

The early Scandinavian laws were given thorough and excellent analyses during the 19th century, by scholars such as Konrad von Maurer (e.g. 1907–38 *posthumously*) and Karl von Amira (e.g. 1897). This research was very much based in the theory of *historicism*, and one important vein in this research was to find and prove a common Germanic origin of what are normally called the ‘Barbarian’ laws, including the Scandinavian laws – a Germanic *Urrecht* (‘Ancient law’) (cf. e.g. Brundage 2008 p. 60). Since the 1960s, an important strand in legal history in Scandinavia has been to show the great impact of continental jurisprudence on medieval Scandinavian laws and the influence from Canon Law.

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<sup>1</sup> Cf. the discussion by Roberts (1979 pp. 36–44 and *passim*), reading Malinowski – and other anthropologists dealing with the same topic – in a critical manner.

<sup>2</sup> The closest we come is probably the highly instructive and interesting analyses by William Ian Miller (esp. 1990), Professor of Law at University of Michigan Law School, Ann Arbor, and books by Jesse Byock (1982, 1988 and 2001), Kirsten Hastrup (1985) and Preben Meulengracht Sørensen (1993).

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An anthropologic approach, especially one with a comparative method, has been lacking, probably because this kind of research has come under heavy criticism ever since the methods used by James G. Frazer in his *The Golden Bough* (1890). Bernard S. Jackson (1968 pp. 372–73) expressed this animosity in the following way:

Today the study of comparative legal history is largely neglected, where not completely avoided. The reasons are understandable. Scholars are aware, to a greater degree than in the past, of the many pitfalls into which this science—if science it be—is prone to fall ... This is certainly a healthy trend. We cannot embark upon comparative jurisprudence before we are sure of our ground in each individual system.

Despite the hesitation and the enumerated pitfalls, such as laws taken in isolation out of their legal system and societal context,<sup>3</sup> Jackson makes a case for the theory: ‘Yet it would be wrong to outlaw all research into comparative legal history. Rather, we should attempt to apply our detailed knowledge of individual problems in individual systems to comparative problems.’

Similarly, the comparative method has been suppressed and refuted in the – importantly for Old Norse studies – field of history of religions. However, there has recently been a strong evocation for the benefit and usage of the comparative method in the study of the Old Norse religion (Schjødt 2017), and it is the present author’s belief that this is also the case when analysing the early Scandinavian laws. It is not possible in this chapter, however, to make such a comprehensive analysis of the early Scandinavian laws through an anthropological ‘filter’. This task must be postponed. What follows instead is simply an introduction to the early laws and legal society of Scandinavia.

Bronislaw Malinowski (1926), analysing legal customs in the Trobriands in Melanesia, famously stressed that in that culture, ‘law’ was not just ‘custom’ and criminal law but a much more complex ‘civil law’, where the concept of *reciprocity* was vital and at the core of their legal behaviour.<sup>4</sup> He is strongly against his early colleagues’ preoccupation with ‘criminal justice’ and punishment. Instead Malinowski (p. 73) is, as he states, studying ‘primitive law’ from the other end, not from its singularities, but rather by identifying patterns and structures in ordinary social life, where, hence, reciprocity is a key theme in his observations. His settlement with earlier research is somewhat (over-) polemic (cf. Hoebel 1954 p. 182–83; Gluckman 1971 p. 27) – obviously a way of carving out a niche for himself in the field – but the general observation is valid and mirrors what we find in the early Scandinavian laws.

Another valid point of departure for us, which Malinowski postulates, is that ‘[p]rimitive law is not a homogeneous, perfectly unified body of rules, based upon one principle developed into a consistent system’ (p. 100). This is clearly what we find in the earliest laws in Scandinavia, as we shall see, where paragraphs in the chapters very often are describing a case so unique and strange that such a ‘crime’ would very seldom occur, but the oddity and uniqueness of it was remembered and handed down in the communal legal tradition.

<sup>3</sup> See also, arguing for the usage of a comparative approach in legal history and anthropology and law, Pospíšil 1971, and the earlier but highly readable analysis by Hoebel 1954.

<sup>4</sup> For a discussion and (in many aspects, harsh) criticism of Malinowski’s analyses and definitions of law, see e.g. Hoebel 1954 pp. 177–210.

But perhaps the most important observation which Malinowski makes, and articulates many times *against* his colleagues in the field, is that ‘primitive law’ is not a clear-cut, logic system; it is much more complex, where individuals do not always adhere to the customs and rules, but take short cuts and disobey rules without being punished – hence, that there is some kind of leeway within the legal system (cf. Hoebel 1954 p. 178). This is exactly what Scandinavian legal historians are trying to understand regarding the earliest written laws: were they merely stipulative or were they actually accepted and functioned in society? Are they the expressions of some party, thus reflecting a power struggle in that society? And so on (see Brink 2015).

We must reckon with some kind of legal society in pre-Christian (i.e. AD *c.* 1000) Scandinavia. The sources we have to back up this claim are few. Many scholars have extrapolated backwards from what was law for Germanic-speaking people, before it was written down. To take one example, the eminent legal historian Katherine Fischer Drew (1988 p. 10) writes:

The Germanic barbarians had no written codes of law before their entry into the Roman Empire ... As a result of the study of these materials [Caesar, Tacitus and Procopius], there is little doubt about the general legal practices of the Germans at the time of the migrations. Their law was essentially customary law – the traditions or customs handed down by word of mouth from untold generations in the past. Such customs were preserved in the minds of the elders of the tribe who on occasion might be called together to speak the law.

When we approach this problem by consulting all available sources, we can build up an interesting picture. One noticeable aspect is that legal custom in Scandinavia at that early stage seems to have been closely tied to prevalent religious customs (cf. e.g. Brink 2002: 109 and *passim*). This is not something that is unique for pre-Christian Scandinavia. A striking piece of evidence of this link between law and religion is the case of *Enhelga*, discussed below – a small island with the name *Gupþø*, ‘the island dedicated to the gods’, which was also a thing (Old Norse (ON) *þing*) assembly for a *hundari* district (‘hundred’).

A central word for us is of course ON *lög* (neuter plural), Old Swedish (OSw), Old Danish (ODa) *lagh* ‘law’, which is one of the words borrowed into the English language during the Viking Age (English *law*, Old English *lagu*, Proto-Nordic \**lagu-*) (de Vries 1962: 373; von See 1964: *passim*). The borrowing of this word indicates that law must have been a central concept to the early Scandinavians. This word could also be used in the singular with a secondary meaning, namely a district where a specific law was in function; the most famous example is the *Danelaw* in England, which can be understood as ‘the area where Danish law was applicable’.

The earliest attestations of laws in Scandinavia are the so-called provincial laws, which were valid in certain judicial districts (normally an old province, *land*, or a region) in the 12th, 13th and 14th centuries. About 15 provincial laws have survived.<sup>5</sup> In 1274 a national law for the whole of the Norwegian realm was made (commissioned

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<sup>5</sup> These are being translated and given new and modern introductions and comments in an international project, *Medieval Nordic Laws* (see <http://www.abdn.ac.uk/medieval-nordic-laws/>). Publication of these laws are ongoing (see <https://www.routledge.com/Routledge-Medieval-Translations/book-series/RMT>).

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by King Magnús Hákonarsonar Lagabœtir). For Sweden, such a law was created in the 1350s (King Magnus Eriksson's Law of the Realm); a similar 'national' law was never made for Denmark.<sup>6</sup> There is evidence of an older, even pre-Christian, law in the form of a legal prescription written in runes on an iron ring, the so-called Forsa rune ring, probably from the 10th century (see below). Finally, in the *Vita Anskarii*, the hagiography of St Ansgar and his life as a missionary of the North, written by his successor Bishop Rimbert, there are some snapshots of legal customs prevailing in the town of Birka, Central Sweden, in the first half of the 9th century.

From this evidence, we can conclude that a rather sophisticated legal society existed from the 12th century onwards and during the Viking Age, and we must assume that this is also true for even earlier periods; however, we do not have a clear idea of how this kind of legal society worked. The information given by the Roman historian Tacitus in his *Germania* (AD 98) has been widely taken to depict a society with certain legal customs described by him for Germanic-speaking people, not only on the continent but also in Scandinavia. Whether this is accurate and a possible stance to take is however hotly debated in research.

### TACITUS *GERMANIA*

When legal historians tried to find a common ground, some kind of 'proto-law' or *Urrecht* for the earliest laws of the Germanic-speaking people – i.e. the Barbarian law codes (*Leges Barbarorum*), the Anglo-Saxon kings' laws and the Scandinavian provincial laws – they also turned their interest, for rather obvious reasons, to Tacitus' *Germania*. He describes a legal society which is intimately linked to the religious beliefs of those people at that time. When they are to assemble for a meeting, Tacitus informs us, silence is commanded by the priests, 'who have on these occasions the right to enforce obedience' (ch. 11). And when an agreement has been made at the assembly, the people (hence the armed men) approve this by clashing their spears: 'Showing approval with weapons is the most honourable way to express assent' (ch. 11). Before taking a decision of a legal, religious or profane kind, the people ask the gods by casting lots (ch. 10).

Tacitus hence reports that criminal cases among them were put in front of a thing assembly. For capital charges, the method of imposing the death penalty depended on the crime: traitors and deserters were to be hanged in a tree (hence to be exposed), whereas cowards who would not fight were to be thrown into bogs and hidden away (ch. 12). Smaller offences were to be regulated by paying a fine in livestock, in horses or cattle, of which one part went to the victim (or the relatives) and one part to the 'King' (ch. 12).

As mentioned, Tacitus' report of the Germanic-speaking people and their societies and customs is still heavily debated today. It is uncertain whether this information is reliable or instead simply mirrors Tacitus' Roman world and his imagination of a

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<sup>6</sup> There is an ongoing discussion in Danish legal history whether the *Jyske Lov* (the law for Jutland) was made with the intention of actually being a national law (see Gelting 2003, *pace* Vogt 2014).

people in the north contrasting (in his opinion) with a degenerated Roman society. It is, however, obvious that there must be some relevance and facts in his *Germania* that may be used for understanding the people, cultures and societies of northern Europe and Scandinavia at the beginning of the first millennium. For example, the custom of showing approval by clashing weapons, as noted earlier in this chapter, is well-established (*vápnatak*, cf. Eng. weapontake which was to be used for a district in the Danelaw area in England); similarly, throwing people into bogs for their crimes is also a well-known phenomenon in southern Scandinavia. We know of the act of casting lots for guidance in a legal case or for consulting the gods from other Scandinavian sources (one example is found in Rimbert's hagiography *Vita Anskarii*, when Ansgar is visiting the Swedish town of Birka in the 9th century). Also, the way in which law and religion are intimately connected in the pre-Christian Scandinavian society is well-established. A source-critical approach to *Germania* is necessary, but totally dismissing this source is to throw the baby out with the bath water (see, for example, Green 1998).

## THE FORSA RUNE RING: THE EARLIEST LAW IN SCANDINAVIA

It is, as mentioned earlier, clear that Viking society was a type of legal society, but it is very difficult to find traces of this and to reconstruct it. We have, however, almost indisputable evidence of this legal culture in the Viking Age. One is the inscription on the runic iron ring called the Forsa rune ring. In the parish church of Forsa in the province of Hälsingland, northern Sweden, an iron ring with a runic inscription has been hanging on a door for centuries. The ring was observed and mentioned in 1599, and the inscription was published and translated around 1700 by the famous Olof Celcius. The ring measures 43 cm in diameter, and it contains nearly 250 runes. Ever since an important and influential analysis by the Norwegian philologist Sophus Bugge in 1877, this inscription has been called the oldest legal inscription (law-rule) in Scandinavia. There has, until the 1970s, been consensus regarding the assumption that the inscription contains an ecclesiastical law-rule, either regulating tithes, the protection afforded by asylum in a church or the illicit cancellation of divine service. The main argument for an ecclesiastical formulation or Church law is the occurrence of two key words, *staf* '(bishop's) staff' and *lirþir* 'the learned (clergy)', so read and translated by Bugge. The ring and its inscription have therefore been assumed to be from the Christian period, although the runes on the ring are archaic; the same kind are found on, for example, the famous Rök runestone in the province of Östergötland (from c. AD 800).

In an important analysis of the inscription, the Norwegian runologist Aslak Liestøl in the 1970s was able to prove that Bugge's reading of the key word *lirþir* was wrong. Instead, one should read *liuþir* 'people'. This does away with the foundation of the earlier dating of the ring and thereby the interpretation that it has to be an ecclesiastical law. There is, hence, nothing that forces us to tie the ring to a clerical context. The inscription reads:

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**: uksatuiskilanaukauratua stafatfurstalaki :**

**uksatua aukaurafiurataþrulaki :**

**: inatþriþialakiuksafiuraukauratastaf :**

**aukaltaikuiuarRifanhafskakiritfurir : suaþliuþirakuatliuþritisuauasintfuraukhalkat :**

**inþarkirþusikþitanunra tarstaþum :**

**: aukufakra hiurtstaþum :**

**inuibiurnfaþi :**

which may be translated as:

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 [or: the negligence to explain what the law stipulates] 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 amends. This [thus, what the law-rule stipulates], 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 Hjortsta. But Vibjörn carved.<sup>7</sup>

Today it seems more obvious to date the Forsa rune ring to the 9th or 10th century, which makes its previous title of 'the oldest law-rule in Scandinavia' even more accurate (Brink 1996; Källström 2007 pp. 145, 201–202; 2010; 2011).

We have here a legal text, a kind of law-rule, from the early Viking Age. It has been proposed that it regulates the maintenance of a *vi*, a cult and assembly site (Ruthström 1990), or establishes the fines for the negligence, perhaps by the law-speaker, to explain the law (Källström 2011). For the failure of restoring the *vi* in a legal way, or this negligence to convey the law, you should pay fines, one ox and two *aura* (*ørar*) for the first time, two oxen and four *ørar* for the second time, and four oxen and eight *ørar* the third time, and failing this, all your property was to be suspended. Perhaps the most important part of the inscription is the phrase *svað liuðir æigu at liuðrétti* – 'that, which the people are entitled to demand according to the people's right' (hence, the law of the land). Thus, we have here evidence of a special kind of law of the people or the land (most certainly Hälsingland), a *liuðrétt*, cf. ON *lýðrétt* (see von See 1964 pp. 57–63).

This statement is unique for Viking Age Scandinavia, to my knowledge, and it supports a statement by the Icelandic law-speaker and historian Snorri Sturluson (c. 1179–1241) that different people had different laws in early Scandinavia. The Forsa rune ring must be looked upon as one of the most important artefacts of the early Viking Age, and for shedding light on early Scandinavian society.

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<sup>7</sup> The transliteration, translation and interpretation of this elusive runic text is still under discussion, and several key passages are obscure; see e.g. Liestøl 1979, Ruthström 1990, Brink 1996, Källström 2010, 2011.



## THE PROVINCIAL LAWS

The most important sources for a reconstruction of early medieval Scandinavian society (c. 1000–1300) are the laws, often called the provincial laws, together with the information we can squeeze out of the Old Icelandic sagas. As with all written – well, of course, all – sources, there are source-critical problems, such as: the societal background to these laws; whether they were ‘newly’ made, hence created during the time they were written down, or instead compilations of older law or legal customs and new laws; to what extent they were influenced by continental jurisprudence, by Roman and Canon Laws; why they were written in the vernacular (when in principle all other Barbarian laws were written in Latin – except for the Irish and the Anglo-Saxon kings’ laws); who wrote and who transcribed the earliest laws; who oversaw the project; who decided what was to be included in the laws; who commissioned them; and whether the earliest laws were only normative and stipulative or actually functioned in society such that the provinces actually followed the law-rules. Of course, there are many more possible questions to be asked about the earliest medieval laws in Scandinavia, but these are important ones that we are struggling to answer today.

### The Scandinavian Provincial Laws

We find early medieval laws throughout Scandinavia. In Iceland the oldest one was *Grágás* (the ‘Grey Goose’, so named for an unknown reason), which was replaced by *Jónsbók*, after the Norwegian takeover, in its turn replaced by *Járnsiða*.<sup>8</sup> In Norway the Gulathing Law was effective in western Norway, the Frostathing Law in Trøndelag. For eastern Norway we only have the Christian laws from two legal districts, the Eidsivating and the Borgarthing Laws. In Sweden most of the old provinces (OSw *land*, Sw *landskap*) seem to have had their own provincial laws: the Hälsinge Law (for northern Sweden), the Uppland Law, the Dala Law, the Västmannalaw, the Södermannalaw, the Östgöta Law, the Västgöta Laws, the Guta Law (for Gotland), the Småland Law (for Tiohärad, Värends lagsaga, only the Church laws exist today). Some provincial laws have been lost, others are mentioned in medieval documents, still others are not documented but hinted at, such as a Värmland Law, a Närke Law, an Ångermanna Law and a Jamta Law for the province of Jämtland. In medieval Denmark the situation is similar, with the Skåne Law, a couple of King’s Laws for Sjælland, and the Jyske Law (for Jutland).

The oldest and perhaps most archaic law of the Scandinavian provincial laws is the Gulathing Law from western Norway, with some fragments from the 12th century and a single complete manuscript, *Codex Ranzovianus*, from the 1220s; among the Swedish laws the Older Västgöta Law is considered to have been written c. 1220s, with the oldest surviving manuscript from the 1280s.

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<sup>8</sup> There is a tradition of an even older law, the so-called Ulfljóts Law, of which we have some fragmentary evidence in inter alia *Landnámabók*. Some scholars believe this law is a later counterfeit (e.g. Olsen 1966), while others, like the current author, believe in its authenticity (Brink 1996).

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Some complicated questions arise: who wrote the particular laws, and for what purpose were they written? Who commissioned them, and who physically wrote them down? The last questions can be answered, probably as expected, with: the Church, by scribes at monasteries, cathedrals and other ecclesiastical centres. It is more difficult to answer the first questions. Recent analyses indicate that there must have been regional differences regarding the background to these laws (see Brink 2013, 2014).

Luckily for us, a couple of contemporary documents tell us about the background to the creation of two of the early laws, the Icelandic *Grágás* and the Uppland Law for central Sweden. In *Íslendingabók* (ch. 10), written by Ari fróði in the beginning of the 12th century and surviving in two manuscripts from the 17th century, we can read:

The first summer that Bergþórr spoke the law [which was the year 1117], a new pronouncement was made that our laws should be written down in a book at the home of Hafliði Mátsson the following winter, at the dictation and with the guidance of Hafliði and Bergþórr, as well as of other wise men appointed for this task. They were to make new provisions in the law in all cases where these seemed to them better than the old laws. These were to be proclaimed the next summer in the Law Council, and all those were to be kept which a majority of people did not oppose. (*Íslendingabók*, ed. Grønlie p. 12).

When this writing down of laws took place in Iceland, there must already have been an extensive body of laws readily available to the men entrusted with this task (Foote 1977 pp. 52–55), some laws, according to Peter Foote (1987 p. 63), originating from well before the advent of Christianity. These must have been orally transmitted laws, legal customs and ‘sayings’, treasured and transferred by wise men knowledgeable in legal matters. The efforts of Hafliði and others did not result in one sanctioned book, but in many books or manuscripts (Foote 1977 pp. 53–54).

This work of the editors could, of course, have led to disputes and problems of interpretation and precedence. So it was therefore stated in the *Grágás* (*Konungsbók* §117):

if books differ, then what is found in the books which the bishops own is to be accepted. If their books also differ, then that one is to prevail which says it at greater length in words that affect the case at issue. But if they say it at the same length but each in its own version, then the one which is in *Skálaholt* is to prevail. (*Grágás*, eds. Dennis, Foote and Perkins, vol. I: pp. 190–91)

From this it is clear that in early Iceland there existed no well-defined and sanctioned law book from which identical copies were made for use throughout the country. Instead, several successive law books, and probably other legal documents, were used in the judicial process. Although Hafliði was given the job in 1117 of trying to collect scattered laws into a book, this was clearly not ratified as *the* law book for Iceland, but was rather an attempt to collect and write down oral law.

A second indication of the creation of a provincial law is the Uppland Law, which was effective in the province of Uppland in central Sweden. This province was, from ancient times, divided into three sub-districts – Tiundaland, Attundaland and Fjädrundaland – all of which seem to have had their own local laws. For some reason it was decided that a new law was to be made for the whole of the province, and the instigator

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seems to have been the Swedish King Birger in the 1290s. The law was collected and written in the late 13th century and ratified in 1296 by King Birger.

The *Praefatio* to the Uppland Law (*Upplandslagen*) declares:

Thus gives the sovereign King of the Svear and Götar, Birgir, son of King Magnus, to all of them, who lives between the sea and Sagå river and Ödmorden, this book, which contains Vigher's *flockar* and Upplandic law ... Law-maker was Vigher the wise, pagan in pagan time [*Lagha yrkir war vighær spa. hæþin i hæþnum tímæ*]. What we find in his law, which is for the benefit for all, we include in this book; that which is useless we will exclude. And everything which the pagan has not included, hence the Christian law and the Church law [*crístnu ret oc kirkio laghom*], we shall add to the beginning of this book. [Author's translation]

This was supplemented with King Birger's Ratification letter (DS 1154) for the new law:

Now our faithful servant Sir Birger, Lawman of Tiundaland, has credibly declared to us on behalf of all of them who settle and live in the three folklands of Uppland, that in their law, who were scattered in several communities, there were some things not quite fair, some things obscurely stated and some things very difficult to comply with ... we invited Sir Birger Lawman ... that he together with the most knowledgeable men from each of the folklands should establish both what old law there has been and then what ought to be stated and compiled in new law. He fulfilled our assignment with utmost promptness and assigned to his help a commission of twelve men, who are here named: from Tiundaland *Mæstær* Andreas dean in Uppsala, our knights Sir Rødh Kældorson and Sir Benedict Boson, Ulf Laghmanzson, Hagbardh from Söderby, Andreas from Forkarby and Thorstæn from Sandbro; from Attundaland our knight Sir Filip the Red from Runby, Hakon Lawman, Æskil the cross-eyed, Sigurdh judge and Jon goose-shoulder; from Fjädrundaland Ulf from Önsta, Gøtrik and Ulvhedhin judge ... After all these men had carefully considered and examined old law, and formulated, compiled and supervised new law, they declared it at the thing assembly, with those listening who were affected. Thereafter, when the thing assembly was in full agreement and accepted the law without any objections, they came back to us ... [Author's translation]

In the ratification letter and in the preamble it is hence stated that the three folklands had their own – older – laws, and that King Birgir invited the lawman of the largest folkland, Tiundaland, 'together with the most knowledgeable men from each of the folklands [to] establish ... what old law has been' and to elucidate what from the old laws ought to be included in the new law, as well as naming the men who should form the committee. The committee comprised twelve nominated delegates from the folklands: six from Tiundaland, four from Attundaland and two from Fjädrundaland. It is likely that the Church's representative, Andreas And, and the three lawmen from each folkland were obvious choices as members of the committee (Holmbäck and Wessén, eds. 1933 pp. 9–10, n. 11). Andreas And, the dean at Uppsala Cathedral, probably functioned as its secretary. He was the cousin of the lawman Birger Persson, had been educated in Paris and was thereby probably knowledgeable in Canon Law. In the '*Praefatio*' these older laws are called Vigher's '*flockar*', thus chapters or perhaps, in this case, collections. And here it is also stated that 'what we find in his law', if it was useful, was to be included in the new law book. Vigher's '*flockar*' is hence an epithet for the older laws, which were used and incorporated in the new Uppland law book,

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while the 'Upplandic Law', which is opposed to Vigher's 'flockar', must be understood as that part of the law which was newly made.

Furthermore, it is notable that when the job was done, the committee had to go back to the assembly to get the new law accepted: 'they declared it at the thing assembly, with those listening, who were affected', and this assembly must consequently be that of the whole province of Uppland. Thus, if we are to believe these two records (as I do, having seen no evidence that they are fraudulent), they contain ample evidence that there must have been older laws which were used when making the Uppland Law. It is not explicitly stated whether or not these earlier laws were written down. However, the translators of and commentators on the law, Åke Holmbäck and Elias Wessén (eds, 1933 p. 9, n. 8), note, with regard to the mention of laws of the three folklands, that the Latin version of the King's ratification letter says '*per plura volumina*', which they believe may suggest that these laws were actually written down.

There are thus indications and hints in the earliest law manuscripts and other documents from the 13th century that the laws, which by then had started to be written down for the different provinces, included older laws which were either oral laws or otherwise found in documents. This is, in my opinion, an important observation when we are discussing the earliest Scandinavian laws. Someone was thus given the order or mandate to write down a law, where newly composed law was sometimes obviously intermixed with earlier law. Hence what we find in these provincial laws is a mix of common law, Canon Law and royal law enforcement (Holmbäck and Wessén 1946 p. xlvi).

### **So What Do the Laws Deal With?**

In principle all the Scandinavian provincial laws are composed in a similar way, some with headings for every Book (*Balker*) and some with just paragraph numbers. Normally they start with a Book concerning ecclesiastical matters (*Kirkiu balker/ Kristinrétr* etc.), with rules on how to build a church, how a priest shall be chosen and ordained by the Church, how the vicarage shall be created, and how tithes are to be paid. Then, in the Swedish laws a Book normally follows which stipulates what the king can expect from the province, what the king's taxes and fines are and for what crimes, how the *ledung* (the naval military organisation) should be organised and manned, and so on.

Further Books then follow concerning how to deal with and prosecute arson, killings, mutilations of persons, robbery and other crimes affecting persons or society. There are Books for trading, inheritance, the usage of mills, and for how to function in the hamlet, how to organise the agrarian life and to be a good neighbour.

As is expected in medieval law, the punishment for even minor offences was harsh. So, for example, theft according to the Guta law often resulted in a death penalty:

#### *38. af þiaufa reth*

*En vm þiaufa reth þa iru lagh þaun huer sum stiel tua oyra eþa tueim oyrum minna þa bytj siex {VI} oyra. snattan bot Stiel hann millan tyggia oyra. oc marcar silfs þa scal hann þinfyra. oc merkia oc til wereldis dyma Stiel hann siþan en hann merctr ir þau et minna sej*

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*þa scal hann hengia Stiel hann til marc silfs eþa maira þa scal hann oc þau hengia.*  
(Schlyter, ed. 1852)

<38> Concerning the law of theft

And concerning the law of theft the legislation is this: whoever steals two öre or less than two öre, is to pay a six-öre fine for petty larceny. If he steals between two öre and a mark of silver, he will be taken before the assembly and marked and be committed to pay wergild ('the price or value of a man's life' – that is, that of the victim). If he steals again after he has been marked, even if it be less, then he shall be hanged. If he steals as much as a mark of silver or more, then he shall also hang. (*Guta Lag*, Peel, ed. 2015)

Very often a severe punishment was outlawry, to be excommunicated from society for good or for a defined period. To understand the severity of such a penalty one has to understand that an outlaw had no rights; he could be killed at random. This can be described as a 'social death', in principle on par with hanging, decapitation or some other legal putting to death.

As mentioned above, very often the laws include strange, unique cases, such as the problem of how to deal with intricate legal cases where an animal injures or kills a person. In the Dala Law (*Bygninga balker* 46) for the province of Dalarna, we find this case, for example:

*Marght ær ilz øki.  
Oc warþir hani manz bani.  
La bilder a wægh,  
fløgh wp hani oc a bild,  
niþir bildir oc i quid kall.  
Døþ hafþi þæn karl af.* (Collin and Schlyter, eds. 1841)

A lot of bad things happen.  
Even a rooster (cockerel) may be a man's slayer.  
A blade lay on a wall.  
A rooster flew up and [sat] down on the blade.  
Down fell the blade and into the belly of a man.  
The man thereby died. [Author's translation]

The case is certainly rather unique. One cannot expect such a bizarre demise happening very often, but the odd case was probably easy to remember, especially if we can reckon with this case having been passed on orally before being written down. This assumption is furthermore backed up by the fact that the Old Swedish text has a very rhythmic structure, nearly as a poem, which we often find as a mnemonic tool (Brink 2005 p. 98).

Abuse and slander is dealt with in most laws. In several cases these paragraphs have been constructed as a fictitious dialogue, such as this one from the Older Västgöta Law (*Rættlösæ balkær* 4), valid for western Sweden:

Someone is calling someone else a puppy. "Who is that?" he says. "You," he answers. "I proclaim before witnesses, that you called me with abusive words". This is a case with 16 örar in each lot. He shall sue him in court and on a single day present witnesses of the proclamation and strengthen it with oaths by twelve witnesses ... "that you called me with abusive words, and you are guilty in this case, which I charge you with." This is the proper

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procedure for prosecuting someone for abusive and bad words. If someone calls another an emancipated, a freeborn, or says: "I saw that you ran for another man, and had a spear on (or at) your back," those are abusive words, a case of thrice 16 örtugar. "I saw that a man had fornication with you." "Who is that?" "You," he said. "I proclaim for witnesses that you called me with abusive and bad words." That is a case of thrice 16 örtugar. "I saw that you had your lust with a cow or a mare." Those are abusive words, a case of thrice 16 örtugar. He shall be prosecuted for that. He cannot say no to that. These are abusive words to a woman: "I saw that you straddled a gate with your hair brushed out and in the shape of a troll, when the night turned into day." If they say that she can destroy a woman or a cow, those are abusive words. If you call a woman a whore, those are abusive words'. [Author's translation from Holmbäck & Wessén 1946 p. 110.]<sup>9</sup>

This paragraph is indeed archaic, a paragraph which one would assume could have been transferred orally before being written down (Brink 2005 pp. 81–82); however, whether this is the case is impossible to prove.

Slavery was part of early Scandinavian society until roughly 1300, and the law-rules regulating slaves and slavery are often extensive and detailed. They deal with slaves who have committed crime, stray slaves, how to free a slave from bondage, and the compensation for killing a slave, as in this paragraph from the Frostathing Law (Chap. V: 20), valid for Trøndelag in Middle Norway:

*20. Ef maðr drepr þræl.*

*Ef maðr drepr þræl sinn til dauðs. þá skal hann segja mönnum til samdögres. þá varðar hann þat allz ecki nema við guð. En ef hann gerir eigi svá. þá er hann morðingi.* (NGL 1 p. 181.)

If a man kills his own slave, then he shall speak about it among people the same day. Then he shall not have to answer for the killing more than before God. But if he does not do it accordingly, then he is a killer. [Author's translation]

What we find here is the obvious, namely that a slave – in Scandinavia, as in the rest of the world – was an object, a 'tool', which the owner could hit, punish and even kill at his will, with no legal consequence or compensation (see Brink 2012). Another interesting aspect is the custom that if you have committed a crime, you should immediately admit it and speak about it in front of people. This is typical for an oral society (Brink 2005 *passim*).

<sup>9</sup> Kallar *maþær* man bykkihúælp har ær. þæt sighthir. han þu koþ hæm. Iak skyskutæ þy at þu kallæpe mik vkuæþins orþ. þæt ær sextan örtughæ sak i hvan lot. han skal hanum þing uisæ at skyskutæ vittni lata bæra at endagha ok vitæ *mæþ* tylptær eþe. biþi sva sær guþ holl. ok vattum sinum at þu kallæpe mik. vkuæþins orþ. ok þu æst sandær at sak þerri. ær iak giuar þær Sva skal vkuæþins orþ sökia ok firmær orþ. §1. Kallar *maþær* annæn frælsgevæ. þæn ætboren ær ællær sigir iak. sa at þu rant en firi enom ok hafþi spyut a baki. þæt ær vkuæþins orþ. þrænni sextan ortoghæ sak. §2. Iak sa at *maþær* sarþ þik hvar ær þæt. þu koþ han. Iak skyskutæ þy at þu kallæpe mik vkuæþins orþ. ok firmær orþ. þæt ær sextan ortoghæ sak. i hvan þriþiung. §3. Iak sa at þu atti þin vilia. viþ ko. ællær mæra. þæt ær firmær orþ. þranni saxtan örtoghæ sak. þæt skal sökia a hændær hanum. kumbær eigh ne viþ. §4. Iac sa at þv atti moþor þina. þæt ær firmær orþ. ok þrænni sextan ortoghæ sak ok kombær eigh ne viþ. §5. þættæ aru vkuæþins orþ kono. Iak sa at þu reet a quiggrindu lösharæþ. ok i trols ham þa alt var iamrist nat ok dagher. kallar hanæ kunna firigæra kono ællær. ko. þæt ær. vkuæþins ord. kallær kono hortutu. þæt ær vkuæþins ord. (Collin and Schlyter, eds. 1827: 38; Holm B59 at <http://project2.sol.lu.se/fornsvenska/>.)

Finally, we return to Malinowski's 'civil law' – not the law-rules dealing with criminal behaviour and punishments, but rather how people and communities organised their living: how to get married, how to arrange for inheritance, proper social conduct, ownership of land and farm, purchase and selling of land and farms, proper farming of shared arable land, how to utilise common land in forests and meadows, and so on. Here the laws mirror the different socio-economic and environmental preconditions, so that in southern Scandinavia – with an aristocracy and tenants, villages and arable fields divided into plots – laws regulated how and when to work these fields, how to pay rent, etc., whereas in the forest regions we find law-rules on how to deal with grazing and lost cattle, how to utilise the commons, monitor the fences around arable land, keep major roads open during the winter, and so on (see Myrdal 1985, 1999 and 2012, esp. p. 35; Hoff 1997).

In the Uppland Law for the province of Uppland in eastern Sweden, the Book on inheritance (*Ærfþæ balkær*) starts with a paragraph on how to lawfully marry a wife:

*Maþær skal kunu biþiæ. ok æi mæþ waldi takæ. han skal faþur hænnær ok næstu frændær hitiæ. ok þeræ goþ wiliæ letæ. Nu kan hanum wæl swaræs. þa a faþir wald fæstnæþæ fæ takæ ...*

*Nu ær fæstningæ fæ takit. þa skal han fæstæ mæþ attæ mannum. þa skulu þer fastær at wæræ. fiuri aff kononnæ [halfwm]. ok fiuri aff manzins halfwm. þa æ fæstingæ fæ baþi laghlika borit. ok wiþ takit. (Collin and Schlyter, eds. 1834)*

A man shall ask for himself a wife and not take her by force. He shall go to her father and closest relatives and try to win their approval. Now he receives a good answer; then the father has the right to take the betrothal gift ...

Now the betrothal gift is received, then he [the father] shall commit her to him in the presence of eight men. They shall be 'commitment witnesses', four from the woman's side and four from the man's side. Then a legal betrothal gift has been both given and received. [Author's translation]

In medieval Scandinavia, marriage was still a transaction between two families, and the rules for getting married were rather complicated in some laws. Land could not be easily sold off. Land and farms were possessions belonging to a family and had ancestral 'links', it was ON *óðal* 'ancestral property, patrimony, inheritance (in land)'. If you were to sell off *óðal* land you first had to go to your relatives, and if none of the relatives accepted to buy, you could sell outside your family. In the Hälsinge Law, for northern Sweden, this is regulated in the following way (*Jorþæ balker* 1):

*Huru Jord skal laghbiudhas. I. Flokker.*

*Later man iord fala, gambla byrd sina, Han skal skyldastu mannum sinum biudha, fore grannum ok kirkiu sokn, ok a tingi. Wilia ther æy kiöpæ, ok æy*

*lof til læggia, Tha ma han sæliæ til triggia ara födho, ok ey mera fyr æn han annæn tima skyldæstæ mannum medh witnum biudher ok at spör, sum fyr ær sagt. Wilia the ey æn tha köpæ, æller lof til giwa, Tha ma han saklöst sæliæ hwem han siælwer wil. (Schlyter, ed. 1844)*

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#### I. How land shall be offered legally to kin.

If someone wants to sell his ancient inherited land, he shall offer it to his kinfolk in the presence of neighbours and church-goers and at the thing assembly. If they do not want to buy it and to give him consent (to rent/sell it), then he may rent/sell it for three years' maintenance and no more, before he offers it to his nearest kinfolk for a second time, with witnesses, and asks them as mentioned before. If they still do not want to buy it or to give him consent, then he is free to sell it to whomever he wishes. [Author's translation]

### **Law in the Landscape**

The earliest known districts we know of in Scandinavia are the so-called *land* or *fylki*. As the latter word reminds us, *fylki* being a derivation of the word *folk* (people), a territorial aspect was not predominant from the beginning, but rather the aspect of a people, which in Latin sources would be found as *gens* and *gentes*. What seems to have constituted these districts was law; they seem to have been legal districts with a common legal custom and presumably also a kind of general assembly for that particular realm (see Brink 2008).

In Sweden, many of the old *land* (in modern Swedish *landskap* 'province') had their own provincial law, such as the Västgöta Law in the province of Västergötland, the Uppland Law in the province of Uppland, the Guta Law in the province and island of Gotland, and so on. Denmark had – for geographically rather obvious reasons – a more 'European' legal tradition or organisation in that laws were promulgated by and some also named after a king: the large peninsula Jutland had the law of Jutland (*Jyske Lov*), the southernmost tip of the Scandinavian peninsula, Scania (*Skåne*), the law of Scania, and the largest island, *Sjælland*, had King Valdemar's and later King Erik's laws of *Sjælland*. Norway is a special case since here the *fylki* did not have their own laws, but the *fylki* were instead incorporated into larger legal units, which took their names from the actual name of the law. The Gulathing Law was valid in southwestern Norway and took its name from the general thing assembly site *Gula*; the Forstathing Law was valid in Trøndelag in central Norway, and it took its name from the general thing assembly site *Frosta*. The general assembly site *Gula* is unknown, but the *Frosta* thing site is identified. For Norway there are fragments of laws for the area around Viken and Oslo, the Borgarthing Law, and another for the district called Opland around Lake Mjøsa, the Eidsivathing Law. For these two latter laws only the Church law (*Kristinrétt*) is preserved. It is not known whether comprehensive laws, including secular law, similar to the Gulathing and the Frostathing Laws, also existed there.

In the later Middle Ages, the assemblies for the different legal districts seem to have moved around in those districts. This is evidenced by medieval documents settling legal cases. The assembly was held at that site where the judge (OSw *hæraþshøfþingi*) was present. In some documents it is stated, however, that the thing assembly was held *a rættom þingstæper* (at the correct/accurate thing site), which looks like an old formulaic expression. This indication of a fixed thing assembly site is substantiated with a couple of very important runic inscriptions from the 11th century.

In Bällsta in Vallentuna, just north of Stockholm, it is possible even today to visit a Viking Age thing site. It consists of a square of stones and two runestones. The reason we know that this was a Viking thing site is that one of the runestones (U 225) bears the inscription: [Ulfkil] uk arkil uk kui þir karipu iar pikstap – 'Ulvkel and Arnkel



and Gye they made here a thing site (*þingstæper*). The runic inscription can be dated to about 1050, hence Late Viking Age. Also there is similar evidence for what was probably the thing assembly site for Rönö hundred (*hundari*) in the province of Södermanland. Beside a large burial mound, which traditionally has been locally called *Tingshögen* (the thing mound), is a runestone (Sö 137) bearing the inscription: **stain : sar:si : stanr : at : ybi : o þikstapi : at : þuru : uar** – ‘This stone stands in memory of Æpir on the assembly-place in memory of Þóra’s husband’.

A most illuminating example is found in the hundred (*hundari*) of Trögd in the province of Uppland, Sweden. During the Middle Ages the thing assembly met at a place called *Enhelga*, on what during the Viking Age was a small island at the bottom of an inlet from the Lake Mälaren. The name comes from Old Swedish *Øin hælgha*, ‘the holy island’, which has all the features of a secondary name. Its older name is, no doubt, to be found on the name of a nearby farm, *Gåde* < *Gupþø*, ‘the island of the gods’, which intimates that the island also must have had some cultic importance in the pre-Christian religion for this region. This case is illuminating since it clearly suggests that in Viking Age society law and cult were intimately connected, probably by invoking some god or gods in oath-taking.

### The Thing Assembly Site

As mentioned above, it is still possible to visit a Viking Age thing site, the Bällsta thing site, just north of Stockholm. We don’t know where to place this thing assembly in the legal hierarchy of that time. It was most probably not the thing site for the hundred (*hundari*) district, which we know was at another place. It is however notable that three men, mentioned in the runic inscription, claim to have ‘made’ the thing site. Perhaps it was used by a family or a sub-district to the hundred; we simply don’t know.

More illuminating is a description of the Gula thing assembly for western Norway. We find this description in one of the famous Icelandic sagas, *Egils saga*:

*En þar er dómrinn var settr var völlr sléttur ok settar niðr heslistengr í völlinn í hring, en logð un útan snæri umhverfis; váru þat kólluð vébønd. En fyrir innan í hringinum sátu dómendr, tólf ór Firðafylki ok tólf ór Sygnafylki, tólf ór Hqrðafylki. (Egils saga, Bjarni Einarsson, ed. ch. 57, p. 88)*

The court was held on a level stretch of ground on which hazel poles had been arranged in a circle, with ropes called ‘holy ropes’ (*vébønd*) going all around. Inside the circle sat the judges, twelve from Fjord Province, twelve from Sogn and twelve from Hordaland (*Egil’s saga*, Herman Pálsson and P. Edwards, eds. ch. 56, p. 136)

In the Gulathing Law itself (ch. 91) it says that the *þing* site should have a round shape (*þinghringr*; cf. Robberstad 1937: 198; Schledermann 1974: 374), and in the early Frostathing Law (I:2) we find the word *vébønd*; it says that the *ármenn* (bailiffs) from all *fylki* shall enclose with *vébønd* the place of the men in the *lögrétta*. In the so-called *Hundabrévið* from the Faroe Islands, *vébønd* is mentioned in a context with *logþing*: *Var þetta gort a logþingi innan vebanda* (Barnes 1974: 386), ‘This was done at the law thing within the hollow bands.’ Finally, the regulation of the use of *vébønd* is also found in *Magnus Lagabøters landslov* (Law of the Realm) (3:2) and *bylov* (Town Law) (3:2). The usage of hazel poles on which to fasten the *vébønd*, as mentioned in *Egils*

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*saga*, may also be based on fact. This custom is for example known from Frankish Law (*Lex Ribuaria* 67:5) in the 8th century. In other words, this description in the *Egils saga* is potentially a description of an actual Viking Age thing assembly site, although the *saga* was written down much later.

## SUMMING UP

The earliest written laws in Scandinavia, the provincial laws written in the vernacular and a runic inscription from the Viking Age give us an insight into an early legal society and culture. The written laws are similar to the Barbarian laws, as to what the law-rules deal with, but it is clear that we also find regional and even local variations in the laws, and adaptations to special environmental preconditions in the different provinces and regions. Also, the influence from continental European jurisprudence and legal tradition is notable, as is the impact from Canon Law. At the moment we are struggling to understand to what extent these early laws were functional, thus in actual usage in society, or merely stipulative.

The indications we have of the pre-Christian legal society in Scandinavia are that law and religion (cult) seem to have been intimately connected, something which we find in many 'primitive' cultures. As is well known in legal anthropology, this 'religious' aspect of early law has long been discussed and disputed, but the link between the two seems rather obvious according to the evidence we have from Scandinavia. Finally, we can see that in Scandinavia, at least during the Viking Age, we had certain fixed assembly sites, where local districts and also larger congregations, such as a province, met for settling disputes, reciting law and proclaiming new laws.

To be able to understand early law in Scandinavia, it is in my opinion vital to see the law in a societal context and to have an anthropological perspective. This is partly due to the fact that we have so few sources, especially for the period before the provincial laws were written down, but also because it is impossible to understand these laws if they are not set in such a cultural and societal context.

## BIBLIOGRAPHY

- von Amira, Karl, 1897, *Grundriss des germanischen Recht* [*Outline of Germanic Law*], 2nd edn (Grundriss der germanischen Philologie 5 [Outline of Germanic Philology]), Strassburg: Karl J. Tübner.
- Barnes, Michael, 1974, 'Tingsted. Vesterhavsoyene for øvrig' ['Thing site. The rest of the Western Isles'], in *Kulturhistorisk leksikon for nordisk middelalder* [*A Lexicon of medieval Nordic Cultural History*] 18: 382–87, København: Rosenkilde og Bagger.
- Brink, Stefan, 1996, 'Forsaringen – Nordens äldsta lagabud' ['The Forsa Rune-Ring – The Oldest Law in Scandinavia'], in *Femtende tværfaglige Vikingsymposium* [*The Fifth Interdisciplinary Viking Symposium*], Aarhus Universitet, E. Roesdahl and P. Meulengracht Sørensen, eds., Århus: Hikuin, pp. 27–55.
- Brink, Stefan, 2002, 'Law and Legal Customs in Viking Age Scandinavia', in *The Scandinavians: From the Vendel period to the tenth century: An Ethnographic Perspective*, J. Jesch, ed (Studies in historical archaeoethnology 5), Woodbridge: Boydell.
- Brink, Stefan, 2005, 'Verba Volant, Scripta Manent? Aspects of the Oral Society in Scandinavia', in *Literacy in Medieval and Early Modern Scandinavian Culture*, P. Hermann, ed. (Viking Collection 16), Odense: Odense University Press.

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- Brink, Stefan, 2008, 'People and *land* in early Scandinavia', in *Franks, Northmen, and Slavs: Identities and State Formation in Early Medieval Europe*, P. Geary et al. eds. (Cursor Mundi 5), Turnhout: Brepols.
- Brink, Stefan, 2012, *Vikingarnas slavar. Den nordiska trälldomen under yngre järnålder och äldsta medeltid* [*Slaves of the Vikings. The Nordic Slavery during the Late Iron Age and Early Middle Ages*], Stockholm: Atlantis.
- Brink, Stefan, 2013, 'The creation of a Scandinavian provincial law: How was it done?', *Historical Research* 86 (233): 432–42.
- Brink, Stefan, 2014, 'The Hälsinge Law between South and West, King and Church, and Local Customs', in *New Approaches to Early Law in Scandinavia*, S. Brink and L. Collinson eds. (Acta Scandinavia 3), Turnhout: Brepols, pp. 37–56.
- Brink, Stefan, 2015, 'Early Law in the North', *Questio Insularis* 16: 1–15.
- Brink, Stefan, and Collinson, Lisa, eds., 2014, *New Approaches to Early Law in Scandinavia* (Acta Scandinavia 3), Turnhout: Brepols.
- Brundage, James A., 2008, *The Medieval Origins of the Legal Profession. Canonists, Civilians, and Courts*, Chicago: Chicago University Press.
- Bugge, Sophus, 1877, *Rune-indskriften paa ringen i Forsa Kirke i nordre Helsingland* [*The Runic Inscription on the Ring in Forsa Church in northern Helsingland*], Christiania: Jensen.
- Byock, Jesse, 1982, *Feud in the Icelandic saga*, Berkeley: University of California Press.
- Byock, Jesse, 1988, *Medieval Iceland: Society, Sagas, and Power*, Berkeley: University of California Press.
- Byock, Jesse, 2001, *Viking Age Iceland*, London: Penguin.
- Collin, H.S. and Schlyter, C.J., eds., 1827, *Westgötalagen* [*The Law of Västergötland*] (*Corpus iuris Sueo-Gotorum antiqui. Samling af Sweriges gamla lagar 1*), Lund: P. A. Norstedt & Söner.
- Collin, H.S. and Schlyter, C.J., eds., 1834, *Codex iuris Uplandici = Uplands-lagen* (*Corpus iuris Sueo-Gotorum antiqui. Samling af Sweriges gamla lagar 3*), Lund: P. A. Norstedt & Söner.
- Collin, H.S. and Schlyter, C.J., eds., 1841, *Codex iuris Vestmannici = Westmanna-lagen* (*Corpus iuris Sueo-Gotorum antiqui. Samling af Sweriges gamla lagar 5*), Lund: Berlingska boktryckeriet.
- DS = *Diplomatarium Suecana: Svenskt diplomatium*, 1–, Stockholm: Kungl. Vitterhets historie och antikvitetsakademien/Riksarkivet 1829 ff.
- Egils saga = *Egil saga Skallagrímssonar*, vol. 1: A-redaktionen, ed. Bjarni Einarsson (Editiones Arnarnæ. Series A: 19), Copenhagen: C. A. Rietzel, 2001.
- Egil's saga*, translated with an introduction by Hermann Pálsson and Paul Edwards, Harmondsworth: Penguin, 1976.
- Fischer Drew, Katherine, 1988, *Law and Society in Early Medieval Europe. Studies in Legal History*, London: Variorum Reprints.
- Foote, Peter, 1977, 'Oral and literary tradition in early Scandinavia: Aspects of a problem', in *Oral Tradition Literary Tradition. A Symposium*, H. Bekker-Nielsen et al. eds., Odense: Odense University Press, pp. 47–55.
- Foote, Peter, 1987, 'Reflections on *Landabrigðisþátr* and *Rekaþátr* in *Grágás*', in *Tradition og historie-skrivning. Kilderne til Nordens ældste historie*, K. Hastrup and P. Meulengracht Sørensen, eds. (Acta Jutlandica 63:2), Aarhus: Aarhus University Press, pp. 53–64.
- Fukuyama, Francis, 2012, *The Origins of Political Order. From Prehuman Times to the French Revolution*, London: Profile Press.
- Gelting, Michael H., 2003, 'Skånske Lov og Jyske Lov: Danmarks første kommissionsbetænkning og Danmarks første retsplejelov' ['Law of Scania and Law of Jutland. Denmark's first missionary consideration and Denmark's first Law of administration of justice'], in *Jura & historie. Festskrift til Inger Dübeck som forsker* [*Law & History, Festschrift to Inger Dübeck as researcher*], Copenhagen: DIØF, pp. 43–80.
- Gluckman, Max, 1971, *Politics, Law and Ritual in Tribal Society*, Oxford: Basil Blackwell.
- Grágás = Laws of Early Iceland: The Codex Regius of Grágás, with Material From Other Manuscripts*, 2 vols., A. Dennis, P. Foote and R. Perkins eds. and trans., 1980–2000, Winnipeg: University of Manitoba Press.
- Green, D. H., 1998, *Language and History in the Early Germanic World*, Cambridge: Cambridge University Press.
- Guta Lag* [*The Law of the Gotlanders*], see Peel 2015.
- Hastrup, Kirsten, 1985, *Culture and History in Medieval Iceland: An Anthropological Analysis of Structure and Change*, Oxford: Clarendon Press.
- Hoebel, E. Adamson, 1954, *The Law of Primitive Man. A Study in Comparative Legal Dynamics*, Cambridge, Mass.: Harvard University Press.

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- Hoff, Anette, 1997, *Lov og landskab: Landskapslovenes bidrag til forståelsen af landbrugs- og landskabsudviklingen i Danmark ca. 900–1250* [Law and Landscape. The contribution of the Provincial Laws for the understanding of the development of agriculture and landscape c. 900-1200], Aarhus: Aarhus University Press.
- Holmbäck, Åke, and Wessén, Elias, eds. and trans., 1933, *Östgötalagen och Upplandslagen* [The Law of the Östergötar and the Law of Uppland] (Svenska landskapslagar [Swedish Provincial Laws] 1), Stockholm: Geber.
- Holmbäck, Åke, and Wessén, Elias, 1946, *Äldre Västgötalagen, Yngre Västgötalagen, Smålandslagens kyrkobalk samt Bjärköarätten* [The Older Västgöta Law, the Younger Västgöta Law, The Church Book of the Law for Småland and the Bjärkö Law] (Svenska landskapslagar [Swedish Provincial Laws] 5), Stockholm: Gebers.
- Íslendingabók = Íslendingabók, Landnámabók, Jakob Benediktsson, ed. (Íslensk fornrit 1), Reykjavík: Hið íslenska fornritafélag, 1968. [in trans.: *Íslendingabók = The book of the Icelanders. Kristni Saga = The story of the conversion*, Siân Grønlie trans. (Viking Society for Northern Research. Text series 18), London: Viking Society for Northern Research, University College London, 2006.]
- Jackson, Bernard S., 1968, 'Evolution and Foreign Influence in Ancient Law', *American Journal of Comparative Law* 16(3): 372–390.
- Källström, Magnus, 2007, *Mästare och minnesmärken. Studier kring vikingatida runristare och skriftmiljöer i Norden* [Masters and Memorials. Studies on Viking Age rune carvers and scriptorial milieu in Scandinavia] (Acta Universitatis Stockholmiensis. Stockholm Studies in Scandinavian philology. New Series 43), Stockholm: Institutionen för nordiska språk, Stockholms universitet.
- Källström, Magnus, 2010, 'Forsaringen tillhör 900-talet' ['The Forsa Rune-Ring belongs to the 10th century'], *Fornvännen* 105: 228–232.
- Källström, Magnus, 2011, 'Brottet på Forsaringen – ett tolkningsförslag' ['The Crime on the Forsa Rune Ring – an interpretational proposal'], *Hälsingerunor*: 38–47.
- Liestøl, Aslak, 1979, 'Runeringen i Forsa. Kva er han, og når vart han smidd?' ['The Forsa Rune-Ring. What is it, and when was it forged?'], *Saga och sed* [Saga and Custom]: 12–27.
- Malinowski, Bronislaw, 1926, *Crime and Custom in Savage Society*, London: Routledge & Kegan Paul.
- von Maurer, Konrad, 1907–38, *Vorlesungen über altnordische Rechtsgeschichte* [Lectures on Old-Nordic Legal History], 6 vols, Leipzig: Deichert.
- Meulengracht Sørensen, Preben, 1993, *Saga and Society: An Introduction to Old Norse Literature*, J. Tucker trans. (Studie borealia 1), Odense: Odense University Press.
- Miller, William Ian, 1990, *Bloodtaking and Peacemaking. Feud, Law, and Society in Saga Iceland*, Chicago: University of Chicago Press.
- Myrdal, Janken, 1985, *Medeltidens åkerbruk : agrarteknik i Sverige ca 1000 till 1520* [Agriculture in the Middle Ages: Agrarian technique in Sweden c. 1000 to 1520] (Nordiska museets handlingar [Papers from the Nordiska museet] 105), Stockholm: Nordiska museet.
- Myrdal, Janken, 1999, *Jordbruket under feodalismen : 1000–1700* [Agriculture during Feudalism: 1000–1700] (Det svenska jordbrukets historia [The History of Swedish Agriculture] 2), Stockholm: Natur och kultur.
- Myrdal, Janken, 2012, *Boskapskötseln under medeltiden : en källpluralistisk studie* [Animal Husbandry during the Middle Ages : A source-pluralistic study] (Nordiska museets handlingar [The History of Swedish Agriculture] 139), Stockholm: Nordiska museet.
- NGL 1 = *Norges gamle Love indtil 1387* [Norwegian Old Laws until 1387], vol. 1, Christiania, 1846.
- Olsen, Olaf, 1966, *Hørg, hov og kirke : historiske og arkæologiske vikingetidsstudier* [Hørg, hov and church: Historical and Archaeological Viking Age Studies], København: Gad.
- Peel, Christine, 2015, *Guta Lag and Guta Saga: The Law and History of the Gotlanders* (Medieval Nordic Laws), Abingdon: Routledge.
- Pospíšil, Leopold, 1971, *Anthropology of Law. A Comparative Theory*, New York: Harper & Row.
- Robberstad, Knut, 1937, *Gulatinglovi* [The Law of Gulating], Oslo: Det norske samlaget.
- Roberts, Simon, 1979, *Order and Dispute. An Introduction to Legal Anthropology*, Harmondsworth: Penguin.
- Ruthström, Bo, 1990, 'Forsa-ristningen – vikingatida vi-rätt?' [The Forsa Carving – Viking Age vi-law?], *Arkiv för nordisk filologi* 105: 41–55.
- Schjødt, Jens Peter, 2017, 'The Reintroduction of Comparative Studies as a Tool for Reconstructing Old Norse Religion', in *Theorizing Old Norse Myth*, S. Brink and L. Collinson, eds. (Acta Scandinavia 7), Turnhout: Brepols.

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- Schledermann, H., 1974, 'Tingsted' ['Thing site'], in *Kulturhistorisk leksikon for nordisk middelalder* [A *Lexicon of medieval Nordic Cultural History*] 18: 373–76, København: Rosenkilde og Bagger.
- Schlyter, C. J., ed., 1844, *Codex iuris Helsingici = Helsingelagen ; Codicis iuris Smalandici pars de re ecclesiastica = Kristnu-balken af Smålands-lagen ; et, Juris urbici codex antiquior = och, Bjärköa-rätten* (Corpus iuris Sueo-Gotorum antiqui. Samling af Sveriges gamla lagar 6), Lund: P. A. Norstedt & Söner.
- Schlyter, C. J., ed., 1852, *Codex iuris Gotlandici = Gotlands-lagen* (Corpus iuris Sueo-Gotorum antiqui. Samling af Sveriges gamla lagar 7), Lund: Berlingska boktryckeriet.
- von See, Klaus, 1964, *Almordische Rechtswörter. Philologische Studien zur Rechtsauffassung und Rechtsgesinnung der Germanen* [Old Nordic legal words. *Philological Studies on Germanic legal conception and legal attitude*] (Hermaea. Germanistische Forschungen [Hermaea. Germanic Research]. Neue Folge 16), Tübingen: de Gruyter.
- Sjöholm, Elsa, 1988, *Sveriges medeltidslagar. Europeisk rättstradition i politisk omvandling* [Swedish Medieval Laws. *European Legal Tradition in Political Transformation*] (Rättshistoriskt bibliotek [Legal Historical Library] 41), Stockholm: Institutet för rätthistorisk forskning.
- Sö = *Södermanlands runinskrifter* [The Runic Inscriptions of Södermanland] (Sveriges runinskrifter [Swedish runic inscription], 3), Stockholm: Almqvist & Wiksell international 1924–36. [Referring to nr.]
- Tacitus *Germania = Tacitus Agricola and Germany*, 1999, trans. with an intro. and notes by A. R. Birley, Oxford: Oxford University Press.
- Tamm, Ditlev, and Vogt, Helle, eds., 2016, *The Danish medieval laws : the laws of Scania, Zealand and Jutland* (Medieval Nordic Laws), Abingdon: Routledge.
- U = *Upplands runinskrifter* [The Runic Inscriptions of Uppland] 1–4 (Sveriges runinskrifter [Swedish runic inscriptions], 6–9), Stockholm: Almqvist & Wiksell international 1940–58. [Referring to nr.]
- Upplandslagen [The Law of Uppland] (see Holmbäck and Wessén, eds., 1933).
- Vogt, Helle, 2014, 'Regional or Central? Legislation and Law in Thirteenth-Century Denmark', in *Denmark and Europe in the Middle Ages, c.1000–1525. Essays in Honour of Professor Michael H. Gelting*, K. Hundahl, L. Kjør and N. Lund, eds., Farnham: Ashgate, pp. 203–14.
- de Vries, Jan, 1962, *Almordisches etymologisches Wörterbuch* [Old Nordic Etymological Dictionary], 2nd edn, Leiden: Brill.