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Law and Outlawry: Social Ties and Outcasts in Early Medieval Iceland

Up to the present the description of Icelandic society during the early medieval ages has almost exclusively been based on the family sagas. This thesis shows the necessity of bringing forward the thirteenth century saga literature in order to achieve a more balanced picture of the development of society. To evade that the analysis of the family sagas, which deal with the tenth and eleventh century, is too much influenced by the time when they were written down two centuries later, a comparison needs to be done with those sagas, in this case the *Sturlunga saga*, that describe this latter period.

In order to illustrate social changes a diachronically comparative perspective is assumed. Changes in terminology, both in content and time of first usage, can reveal much about the society being studied. The emphasis on terminology is in fact particularly relevant for Icelandic society, where consciousness of social definition was considerable, and the importance of language was stressed in many contexts. This was for example done in the form of oaths and promises which would confirm friendship and social balance, and in the *nið* (insults) and other verbal threats. (Chap. 2:1. Law in Icelandic society; 2:3. Medieval laws as historical sources; 2:4. The sagas as historical sources)

This study has been primarily guided by the hypothesis that Icelandic society contained structures also evident in other contemporary European societies, and that by posing new questions it would prove possible to identify such similarities. By questioning important characteristics, such as the significance of law and the importance of social belonging, it has proven possible to describe a more balanced picture of Icelandic society during the period 900–1300. (Chap. 1.1.1. Group affiliation; 1.1.2. Law in medieval society; 1.1.4. Goal of study. 1.2. Theoretical point-of-departure; Hypothesis and organization of study)

Medieval Iceland went through a gradual process of societal change. There were wide-ranging changes such as an increased social stratification, increased territorialism as well as an increased norwegianization. Such changes in socie-

tal structure and organization were similar to those in other European societies. By the importance of new social categories, I have chosen to stress the socio-economic status as criteria for social identification rather than legal status. Previous research has emphasized that the most defining characteristic for social categorizing during this period has been that of free/unfree. However, free/unfree as a criteria for group identification during the *Sturlunga* age cannot be used, as slavery more or less at that time had ceased. During this age, other communal forms based primarily on characteristics of vertical dependency became evident. (Chap. 3.1. Fundamental social categories; 3.1.2 Functional division of social categories.)

The increased social hierarchy in the thirteenth century is confirmed by new social terminology found in the *Sturlunga* saga. In addition to the "old" groups during the age of sagas such as slaves and *húskarlar* (servants) came, among others, *fylgðarmenn* (chieftain's men) and warriors. Additionally, there are examples of chieftains men being organized according to European patterns. Important changes such as these specialized bands of warriors provide evidence of an early form of feudalism. (Chap. 3.1.1. Increased social stratification)

The frequency of the expression *þingmaðr og vinr* in the *Sturlunga* saga stresses the importance of belonging to a powerful *goði* (chieftain), as well as the necessity of a chieftain having a large escort in order to maintain his status and power. For an individual, affiliation with a chieftain was of great importance, especially when help and protection was needed. This function had earlier more or less been a family matter in the age of sagas, and the change was evident in the *Sturlunga* saga. (Chap. 1.3.2. The legal structure: organization of the *alþingi* (assembly); 3.5. Assembly affiliation; 5.1. *Þorgils saga ok Hafliða*: "a break between the old and the new"; 5.2. Kinship and assembly affiliation)

A considerable change fall upon the farmers. Based on the family sagas it is difficult to draw any distinctions between free peasants and aristocracy. These difficulties derive either from the contents of the texts themselves or from the fact that during that age there was no great social difference. It is probably a combination of these elements. The *Grágás*, implies that during the twelfth century there were differences in wealth. Several categories of peasants are spoken of during the *Sturlunga* age; dependent peasants such as tenants (*leiglendingar*) as well as cottagers and wealthier peasants. (Chap. 3.1. Fundamental social categories; 3.1.1 Increased social stratification; 3.4. Household membership; 3.8.2. Beggars)

Also increasing social stratification in Icelandic society is confirmed by the law codes *Járnstíða* and *Jónsbók*. Elegant clothes, considered by the *Grágás* as a criteria of gender, changed to be considered as a criteria of class. Different oaths for different social categories also appear. Wives of peasants could

according to law trade for one *eyrir* in twelve months, knight's wives for two *eyrir*, and the wives of landed aristocracy for four *eyrir*. Thus, in the sagas and the *Grágás*, women are categorized according to civil status, while at the end of the thirteenth century, their social status was determined according to marriage. (Chap. 3.1.1. Increased social stratification; 3.2.1. Clothes and appearance)

There were great differences in the possibilities for social activity between men and women, a factor which can explain motives to the theme of incitement in the family sagas. With regard to blood feuds, women had few possibilities to react other than inciting a man to revenge. The fact that in the *Sturlunga saga* women did not incite to revenge as in earlier sagas can be explained first by the weakening of the kinship obligation to avenge, as well as the type of conflict which had changed from an exclusively private matter to those directed more against the overall social balance. One important explanation for incitement no longer filling the same advisory function is that in the age of the *Sturlunga* men had constant escorts around who probably could fulfill the same function. (Chap. 3.2.3. "Men had the sword, women their tongues")

Social ties was a precondition for survival during the Middle Ages, and the need for support and protection was great. Who could the individual turn to in threatening situations, one's own kin or a broader collective of relatives? In the *Grágás*, the significance of kinship is stressed; particularly with regard to inheritance, revenge against those who had raped women, with regard to marriage, guardianship, and fines. During the age of sagas it appears that kinship was particularly important in the previously listed circumstances except for the above named revenge for violated women, as there is no evidence in the material examined. During the age of sagas one sought protection and support amongst kinsmen and affines, yet it appears as if affines acquired possibly even more importance than did biological ties. Son-in-law and brother-in-law relations played a vital role in the saga literature. In-lawship was sometimes of greater importance than within brotherhood. (Chap. 3.3.1. The concept of kinship; 3.3.2. Kinship and status; 3.3.4. In-law-ship.)

Claims of kinship and affines based on the *Grágás* and the family sagas concern two concepts; property and honor. Honor was an important concept of social identity particularly evident with regard to the kin's women. According to law, the collective of male kin and affines protected the woman, most particularly her sexuality. In later legal texts the role of women in sexual crimes was made clearer. Women were individualized and thus expected to answer for their own actions. Additionally, as a consequence of church influence, an increased moralistic responsibility was required of both men and women. (Chap. 3.3.5. Women and kin)

With regard to inheritance and land, the law also accorded prominence to kinship. As possibilities for possession of land decreased the wish for the kin

to maintain ownership increased. From the beginning, land ownership was based on individual possession of land, thus from this aspect collective ownership never made Icelandic society a kinship society. But there are other aspects to take into consideration concerning this, for example the function of kinship during the resolution of conflict because there was no public power. It was the kins and affines task to guard societal balance and thus its existence, a function which to a certain extent allows one to call it a society not only of kins, but of affines. The *baugatal* (list of fines) in the *Grágás* hints at the existence of an earlier patrilineal society, where male kinsmen were the first to receive fines. The later law code *Jónsbók* decreed that the earlier applicable bloodfeud should cease, providing a clear example of change in societal organization from one based primarily on the significance of kinship to a state society. (Chap. 3.3.3 Ownership and honor; 3.3.6. Kinship society or not?)

An important ideological change occurred through Christianity and ecclesiastical organization. The saga literature analysed here which tells of the pre-Christian period obviously lacks any real trace of Christian influence, while the arrival of ecclesiastics in the *Sturlunga saga* is related. In the latter considerable ecclesiastical influence is evident, for example, the telling of bishops as political and ideological actors, and the celebration of masses and saint days. (Chap. 1.3.4. Christianity and ecclesiastical organization; 5.4. Christian ideology and conflict resolution.)

It was not only Christian ideology which influenced society's attitudes and norms but also elements of feudalism. In the *Sturlunga saga* one finds expressions that courtly behavior is considered to be very fine, as well as expressions of appreciation for knightly clothing. The concept "courtesy" also appears in Icelandic society. Yet the worship of women from afar does not appear, rather the opposite is evident, with spoilation of women. Introduction of the term *kurteisi* (courtesy) and its application as a description primarily for men, but also sometimes women, demonstrates a influence upon Icelandic society from other European societies. Most likely this influence came via contact with the Norwegian king, particularly because Icelandic chieftains became the Norwegian king's men. (Chap. 1.2. Theoretical point-of-departure; 3.2.2. Courtliness)

An ever more stratified society grew, and "the need" for a king was shown time and again. This factor, in connection with the Conversion of Island, which itself occurred through contact with the Norwegian king and his desire to increase his power over the Icelandic population, made the connection between the two countries continually tighter. In fact, the influence of Norwegian king increased considerably over time, and contact between Norwegian royalty and Icelandic chieftains in the thirteenth century paved the way for a formal "unification" between the countries. Although during the period investigated Island lacked a formal king, an informal kingship was part of society's struc-

ture. That Islanders understood such concepts as king as leader is shown in both the *Grágás* and the *Sturlunga saga*. (Chap. 1.3.3. The Political Structure; 3.1.1. Increased Social stratification; 3.6. *Fóstbræðralag*, loyalty oaths and gestures)

Societal changes are often integrated logically on several levels, and I have chosen to employ the concept of *outlawry* as an indication of such changes. The fundamental principle of outlawry, a spatial, horizontal exclusion from society, changed during the *Sturlunga* age. Society's vertical expulsion downwards became the most important element in the punishment of outlawry and *féránsdóm* became a means of impoverishing one's opponents. The execution of a *féránsdóm* was a great event which assembled many people. The concept of outlawry changed in direction; partly a vertical, societal degradation and partly territorial designation. That is, a geographically specific outlawry developed where the outlaw could be *heraðssekr*, something which in its turn can be placed in connection with the development towards chieftains power becoming regionally based. (Chap. 4.3. Outlawry as spatial and social expulsion)

A refinement in terminological definition often corresponds to a similar phenomena in society itself. In earlier legal codes, *skógarmaðr* (outlaw of the forest) corresponds with a horizontal, spatial forced expulsion. This may be compared with the more frequent *sekr* (sentenced) during the *Sturlunga* age, which demonstrates that the most important form of punishment was no longer expulsion to the forest, but the actual conviction itself. This became primarily an issue of social and economic degradation. During the later part of the *Sturlunga* age the term *útleigð* (outside the law) was used, further demonstrating the influence of Norwegian terminology in Iceland. (Chap. 4.2. Terminology and its significance)

Threats to society's balance can be indicated by the given characteristics of outlawry. These same characteristics also indicate important changes in society; from crime on an individual level to crime directed against societal institutions. Crimes such as treason, forgery of seals or murdering of the king's own men indicated such changes. This investigation has shown that society's understanding of what constituted social threats also changed, thus making clear that important and interesting changes in the characteristics of crime indicate the growth of a state-organized society. (Chap. 4.4 Bounds of social life. Norms, values and their changes; 5.3. From conflict on an individual level to threats to the social balance)

Outlawry threatened societal balance similarly to the struggle for power amongst chieftains, as well as that between temporal and spiritual influences. During the *Sturlunga* age the ecclesiastical organization was threatened through crimes such as violation of sanctuary. Both temporal and spiritual authorities used excommunication respectively decrees of outlawry as a means