



With a particular focus on *Njáls saga*, *Bandamanna saga* and *Gunnlaugs saga ormstungu*, consider what is presented as most effective in Icelandic saga literature, the legal system or feuding violence?

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Feuds are arguably at the very heart of the plots which form the backbone of the Íslendingasögur (Sagas of Icelanders), and where there is feuding, the law is never far away.¹ Both endeavour to achieve resolution, and their effectiveness in doing so will be contemplated in regard to *Njáls saga*, *Bandamanna saga* and *Gunnlaugs saga ormstungu*.

During the Commonwealth period (c.930-1260), in which the sagas are set, Iceland was a society ‘without a king, [and] without any commonly held executive power’,² and it existed with no such a central power for centuries.³ With a jurisdiction lacking central power, the responsibility for enforcing penalties fell to the people, and executions were left to the individual family to enact themselves. The absence of official prosecutors or executioners resulted in a society that was characterised by reciprocity and dependence between the chieftains and their followers. The drawbacks of such a legal system is of central concern in much of saga-writing. Each of the sagas that will be discussed, challenge some of the basic principles upon which society was founded; *Bandamanna saga* critiques the law and its susceptibility to corruption, *Njáls saga* questions the relationship between the law and feuding, and *Gunnlaugs saga ormstungu* addresses the value of duelling as an intermediary between violence and the law.

The Íslendingasögur present an interesting, and much debated, relationship between their function as a literary creation and a quasi-historical record of Iceland’s Commonwealth period. The sagas put forward a ‘tantalizingly full account of many aspects of the fabric of Icelandic life in the tenth and eleventh centuries’;⁴ however, we must resist the appeal to unreservedly accept the version of society that the sagas offer. This is primarily because of the large time gap between the 13th century, when the sagas were written down, and the time of the events they depict, as Durrenberger and Wilcox neatly summarise: ‘[Sagas] are thirteenth-century or later views of life and society of the tenth and eleventh-centuries, not direct representations of the social or historical reality of earlier times’.⁵ With this in mind we can recognise the interaction of history and literary invention, as well as the projection of contemporary concerns onto an early period depicted in the sagas. Modern anxieties find

¹ Vésteinn Ólason, *Dialogues with the Vikings*, trans. Andrew Wawn (Reykjavic: Heimskringla, 1998), p. 65

² H. Þorláksson, ‘Historical Background: Iceland 870-1400’, in *A Companion to Old Norse-Icelandic Literature and Culture*, (Oxford: Blackwell, 2005), p. 139

³ Gunnar Karlsson, *Iceland’s 1100 Years: The History of a Marginal Society* (London: Hurst, 2000), p. 1

⁴ Paul E. Durrenberger, and Jonathan Wilcox, ‘Humor as a Guide to Social Change: *Bandamanna saga* and Heroic Values’, in *From Sagas to Society: Comparative Approaches to Early Iceland*, ed. Gísli Pálsson (Enfield Lock: Hisarlik, 1992), p. 112

⁵ *Ibid.*, p. 119

expression in saga writing, which facilitates a dialogue between 13th century Iceland and its earlier ancestors. The focalisation of law and feuding in saga-writing can therefore be partly attributed to 13th century unease surrounding these issues, which is subsequently addressed in its depiction of an earlier period.

Sandvik and Sigfusson's assertion that 'The court system was fundamentally ineffective in dispute resolution because there was no central executive able to enforce a sentence' is a sentiment we see expressed in both *Bandamanna saga* and *Njáls saga*.⁶ *Bandamanna saga* offers a particularly scathing critique of the excessively bureaucratic state of the law, where unelected goði were responsible for pursuing justice. The lack of central power left the court vulnerable to corruption which is embodied by the caricatured chieftain figures. With money presented as the goðars' primary motivation, it is unsurprising that a great deal of the court proceedings focus on their manipulation of the loopholes of legislation. *Bandamanna saga* presents a law that is saturated with intricacies which are open to exploitation, as we see when Stymir finds a fault in Odd's preparation based on the technicality that he cited ten neighbours as witnesses at his domicile as opposed to at the Assembly (Chapter 5). Largely irrelevant glitches repeatedly divert us from the main purpose of the court case and elicit more attention than the claim for Vali's killing. This preoccupation is satirised in Thorarin's exclamation, 'og líst mér þó eigi ráðlegt að seinka málið' ('but I don't like the idea of throwing up obstacles').⁷ The overt irony in the statement is unmistakable, based on the chieftains' reliance on trivialities in overriding decisions they consider personally unfavourable. However, this focus on petty legal details is not solely a result of the chieftains' greed, but is also used to highlight the fundamental flaws of a legal system which accommodates this manipulation. The outright criticism of the law itself is achieved in a largely comic way, with entertainment used to cushion the blunt criticism.

The technicalities which render the law ineffective, and impede its integrity, are openly referenced by Ofeig; 'Sýnist yður það með nokkurum réttindum að gefa gaum að slíku er engis er vert en dæma eigi hinn versta mann sekjan, þjóf og manndrápsmann?' ('do you think it at all just to pay attention to such trifles, yet to acquit this rogue, this thief, this killer?').⁸ Ofeig linguistically pits the 'slíku er engis er vert' ('trifles'⁹ or 'such things which are of no worth'¹⁰) against the terms 'versta mann', 'þjóf' and 'manndrápsmann', using three words to underline the absurdity of concentrating on the small and farcical trifles ahead of the serious crimes that Ospak has committed. Nevertheless, the juxtaposition of triviality with criminality does not inspire any form of epiphany for the goði, and it is rather Ofeig's exploitation of the corruption that underpins the law that serves to provoke any reaction. The saga-writer presents another contrast, this time between Ofeig's words, which advocate truthfulness, and his physical motion of lowering the money bag (Chapter 6), which implies bribery. His gesture undercuts his speech in order to illustrate that he is amenable to engaging in corrupt behaviour himself. Ofeig's appeal to ignore loopholes addresses the bureaucracy that prevents the law from successfully serving reasonable justice. However, he must instead utilise another flaw of the court; corruption. *Bandamanna saga* presents a legal system that forces plaintiffs to employ underhand bribery, in line with the chieftains, in order to gain any sort of favourable resolution. There is no protection from this corruption because of the lack of central regulation. If the

⁶ Gudmund Sandvik and Jon Vidar Sigurdsson, 'Laws', in *A Companion to Old Norse-Icelandic Literature and Culture*, ed. Rory McTurk (Oxford: Blackwell, 2005), p. 227

⁷ *Bandamanna saga*, accessed online at The Icelandic Saga Database (2012), http://sagadb.org/bandamanna_saga [24/04/2013], Chapter 5

Bandamanna Saga, trans. John Porter (Felinfach: Llanerch Publishers, 1994), Chapter 5, p. 46

⁸ *Bandamanna saga*, http://sagadb.org/bandamanna_saga, Chapter 6

Bandamanna saga, Chapter 6, p. 56

⁹ Ibid.

¹⁰ My own translation

principle of an effective system of law is to dispense impartial justice, then *Bandamanna saga* firmly asserts that Icelandic law is a failure in doing this.

Similarly, a legal system with its foundation in trickery and that is preoccupied with following the ‘letter of the law’ is portrayed in *Njáls saga* in the plotting that transpires between Eyjolf Bolverksson and Flosi in order to dodge an imminent legal decision (Chapter 141). When Eyjolf brings Flosi’s defence before the court he calls upon witnesses to observe a ‘legitimate’ objection that, ‘þér hafið sótt málið í Austfirðingadóm er sækja átti í Norðlendingadóm því að Flosi hefir sagst í þing með Áskatli goða’ (‘you prosecuted in the East Quarter Court a suit that should have been prosecuted in the North Quarter Court, because Flosi has declared himself a thingman of Askel the Godi’).¹¹ Again, as in *Bandamanna saga*, focus is placed on this technicality which is used to invalidate the case. Stephen Pax Leonard identifies that naming the correct witnesses or neighbours, approaching the right chieftain and choosing the correct court to hear the pleading are all realistic practicalities that would have been carefully considered in the 10th and 11th centuries.¹² *Njáls saga* addresses these concerns in its presentation of the to-and-fro between defendant and plaintiff, which becomes a repetitive pattern. We frequently see substantial arguments being undercut by practical concerns with prosecuting the case appropriately. The underhand nature with which Eyjolf constructs a defence based on deception and secrecy is nonetheless in accord with the law, and stands as a valid objection. Again, we are invited to recognise that one of the main weaknesses of the law is its susceptibility to invalidation due to minor details regarding how the case is prosecuted, as opposed to the core claim.

This is just one of the many examples in *Njáls saga* where formal court cases come to nothing, and while there are certainly further examples of trickery, similar to those foregrounded in *Bandamanna saga*, the main problem faced by the law in *Njáls saga* is that it is consistently undermined by feuding violence. Regardless of the potential for corruption, the final legal decision in *Bandamanna saga* is respected and the ‘characters fight with words rather than with weapons’.¹³ This absence of violence instils settlements with greater authority, as they are not questioned by immediate physical retaliation. This certainly cannot be said of *Njáls saga*, where legal settlements are ignored in favour of pursuing violent revenge. Cook makes the suggestion that feuding is the chief structural element of *Njáls saga*,¹⁴ and this is certainly convincing when we consider that the central events of the saga can be linked together into one long feud between the Sigfussons and the family of Njál.¹⁵ The six reciprocal killings between members of the households of Hluderandi and Bergthorshvol (Chapters 35–45) provide a protracted example of how blood vengeance undermines the law. Here we see the development of a rather rigid cyclical relationship between feuding and law. Law settlements are rendered useless as they are so defiantly ignored, in favour of exacting revenge through killing, but nevertheless after each slaying we see the formality of a return to court. This persistent cycle is initiated by Bergthora and Hallgerd’s quarrel (Chapter 35), which accelerates through mutual acts of violence, with hostilities progressively ascending the social ladder.¹⁶ After each killing Njál and Gunnar come to a settlement and offer one another ‘sjálfðæmi’ (self-judgement), however these settlements are of no consequence whilst their wives continue

¹¹ *Brennu-Njáls saga*, accessed online at The Icelandic Saga Database (2012), http://sagadb.org/brennu-njals_saga [24/04/2013], Chapter 143

Njal's saga, trans. Robert Cook (London: Penguin, 2001), p. 264

¹² Stephen Pax Leonard, *Language, Society and Identity in Early Iceland* (Chichester: Wiley Blackwell, 2012), p. 8

¹³ Ólason, pp. 122–23

¹⁴ Robert Cook, ‘Heroism and heroes in *Njáls saga*’, in *Greppaminni*, ed. Margrét Eggertsdóttir et al. (Reykjavik: Hið íslenska bókmenntafélag, 2009), p. 74

¹⁵ William I. Miller, referenced in Cook, p. 74

¹⁶ Karlsson, p. 59

to order further killings.¹⁷ Feuding is ultimately ineffective as there is no prospect of finding a peaceful solution; instead there is only the potential for escalation of destruction. It is interesting that this cycle of feuding and self-judgement is finally broken when Gunnar does not seek compensation for Sigmund for a long period. It could be argued that the legal settlements fuelled the killings, as when the wives were discontented with the court settlements, because they perceived them to be immoderate, they would demand blood vengeance. Without the antagonism that the court settlements provided, the feud halted.

Perhaps these reciprocal killings seem inevitable considering the setting of a society where 'violence was the legitimate tool of anyone to restore justice, and the moral demand for courage turned that right into a duty'.¹⁸ As we have noted, there was no centralised executive power, and consequently punishments or executions had to be enacted by the people themselves once a legal decision had been delivered. It is important to appreciate that Icelanders were driven by an unavoidable and compelling force to seek either appropriate settlement or revenge. This inescapable force was honour. Honour would have been central to an individual's self-respect; ranking above all other values, and therefore consequently the law was unsuccessful when it threatened to diminish a person's honour. It is unsurprising then, that *Njáls saga* presents characters that are unwilling to accept any rulings that they deem unfit for the crime, and subsequently put their honour in jeopardy.

We have identified a legal system that depends very much upon the autonomy of individuals. Thus the law is reliant upon a person's perception and interpretation of what constitutes acceptable justice. The law is subject to the influence of differences in perspectives, with such deviation being particularly apparent in the varying attitudes towards the law based on age. We see a critical difference between Njál and his sons. The younger generation, represented by Njál's sons, display blatant disregard for the settlements, in favour of undermining them with feuding. We see this when Skarphedin and his brothers murder Sigmund in revenge for the killing of their foster-father (Chapter 45), despite the settlement made between Njál and Gunnar. Njál displays a more respectful attitude to the law, and is generally seen to place his faith in it as a means of dispute resolution. In contrast to his sons, Njál is restrained, and values peace over vengeful violence, as we see in his numerous attempts throughout the saga to use the law as a tool to bring about reconciliation. It could be suggested that if Njál's attitude was shared by all characters, the law would be much more successful, as it would not be so constantly defied in favour of feuding, and it would have a much greater degree of authority regardless of its lack of central power. However, we must note that Njál is not always calm and reasonable in his attitude to the law, as we see when he advises the Sigfussons to kill a man in revenge for Gunnar's murder (Chapter 78). Furthermore, Njál is shown to conform to the 'vengeance culture' in which he lives, as we see when he recognises that he would be unable to avenge his sons and consequently chooses to burn to death rather than irreparably injure his honour (Chapter 129).¹⁹ We see that even a character that has great faith in the law and looks to it to find peace, is well aware that feuding violence, driven by honour, is the dominant force in society.

The weight of honour's influence is truly conveyed in the disintegration of the settlement between Flosi and Njál's family (Chapter 123), regarding Hoskuld Thrainsson's killing, into a predictable return to violence. Feeling his honour under threat, because of the contribution of a questionably feminine robe to the pile of compensation money, Flosi is obliged to instigate an exchange of verbal insults which eventually leads to Njál's burning. At the faintest hint of a wound to his honour, Flosi is compelled by the 'vengeance culture' to instead pursue reparation in blood. The burning of Njál and his family is undoubtedly the most

¹⁷ *Brennu-Njáls saga*, http://sagadb.org/brennu-njals_saga, Chapter 36

¹⁸ Karlsson, p. 57

¹⁹ Ólason, p. 166

extraordinary act of blood vengeance in the saga, and after this momentous climax there is nothing to do but return to the law. The pinnacle of feuding facilitates a parallel legal climax in the form of the case brought against Flosi for the burning. Ólason goes as far as to claim that ‘Nowhere else in the *Íslendingasögur* are these efforts [to reach peace,] as intense as after the burning of *Njál*’, but in spite of the intensity of these attempts, the law is still utterly ineffective at achieving this goal.²⁰ As we have discussed, the case is marred by the exploitation of technicalities by Eyjolf, and culminates in an outbreak of fighting (Chapter 145), which we may cite as the ultimate undermining of the law by violence. The manifestation of the legal case into full-blown battle serves to underline the complete lack of power of the law in regulating hostility. The presentation of total disregard for the law is accomplished by showing that the combat takes place at the Thing itself, a place where men were supposedly forbidden to fight. The law-place is not treated as sacred, in much the same way that the law itself is not respected.

We are ultimately left with a perpetual cycle, with violence leading to legal suits and vice versa, and since neither appear to bring peace there is no way for the cycle to be broken, especially when it is fuelled by the characters’ unrelenting need to enhance and protect their honour. In both *Njáls saga* and *Bandamanna saga* the law is broadly ineffective, and the alternative that *Njáls saga* offers, in the form of violence as a resolution, is no more successful and far more destructive. We may look then to *Gunnlaugs saga ormstungu* as a narrative that puts forward an effective solution to disputes: providing a compromise between feuding-violence and the law in the form of a duel. The initial duel between Gunnlaug and Hrafn at Oxararholm (Chapter 11) is controlled by strict parameters and shows the characters’ awareness of the rules governing such a duel. However, these regulations lead to somewhat of an impasse when both men believe they are victorious, as we see in their dialogue: ‘Þá mælti Gunnlaug: “Nú kalla ek, at Hrafn sé sigraðr, er hann er slyppr.” “En ek kalla, at þú sér sigraðr,” segir Hrafn, “er þú ert sárr orðinn.”’ (‘Then Gunnlaug said, “I submit that Hrafn is defeated, because he is weaponless.” “And I submit that you are defeated,” Hrafn replied, “because you have been wounded.”’)²¹ Hrafn’s retort mirrors Gunnlaug’s claim, and confirms the stalemate they have reached, which is arguably caused by a certain ambiguity in the law, and its openness to different interpretations. Again we are encouraged to recognise that the duel takes place in a controlled manner as the prescribed order that the competitors adhere to suggests, ‘Hrafn was to strike the first blow, since he had been challenged’.²² The allocation of turns at the beginning of the contest instantly denotes a just and structured event. This contrasts with the unrestrained violence present in *Njáls saga*, which is driven by fury and unchecked by any such rules of combat. This is typified by the instance where Thorhall drives his spear through the first of Flosi’s kinsmen that he encounters, in a fit irrepressible rage (Chapter 145). That is not to say that in the duel in *Gunnlaugs saga ormstungu* is not driven by aggression or passion; there is clearly deep animosity between the characters. However, in this instance the rules of duelling are capable of moderating this. Following the abolition of duelling in Iceland we see continued respect for regulations as Gunnlaug and Hrafn resume their unresolved duel abroad. Hrafn displays his concern that both sides must be of ‘jafnmargir’ (equal number), so that they should either fight one-on-one or both adopt the help of kinsmen.²³ When their companions fall the protagonists are aligned against one another in an equal and fair test of strength. At this point

²⁰ Ibid., p. 203

²¹ *Gunnlaugs saga ormstungu*, accessed online at The Icelandic Saga Database (2012), [http://sagadb.org/gunnlaugs_saga_ormstungu.on_\[24/04/2013\], Chapter 11](http://sagadb.org/gunnlaugs_saga_ormstungu.on_[24/04/2013], Chapter 11)
The Saga of Gunnlaug Serpent-tongue, in *Sagas of Warrior-Poets*, trans. Katrina Attwood (London: Penguin, 2002), Chapter 11, p. 140

²² Ibid.

²³ *Gunnlaugs saga ormstungu*, http://sagadb.org/gunnlaugs_saga_ormstungu.on, Chapter 12

the duel appears to provide a legitimate and controlled outlet for the violent impulse motivated by honour. However, the potential for a successful balance between violence and order is compromised by Hrafn. We are shown that the duel, as a branch of the law, is vulnerable to the same corruption and trickery as the law itself, when Hrafn deceives Gunnlaug and brings about the demise of both men. The death of both characters does not provide a neat resolution because of Hrafn's unmanly and dishonourable conduct; ultimately duelling relies on the integrity of those involved. Yet again the onus for honour to be upheld is unavoidable and leads to violence. Without compensation for his son, Illugi considers that his honour is injured, and is forced to make an attack on Onund's kinsmen. The systematic initial duel has descended into a dispute between the preceding generations, which culminates in an act of blood vengeance, leading us to question the effectiveness of duelling as a basis for any sort of enduring peace.

In conclusion, it seems that neither law nor feuding are presented as very successful in the sagas that have been discussed. Both have fundamental flaws which the texts address. The law is shown to be ineffective for two reasons. The first is its lack of central power, which permits the unbridled display of corruption that we see in *Bandamanna saga*. The second is the way that it is undermined by feuding violence, which is it unable to control in *Njáls saga*. Ultimately, the law presented in these sagas is not powerful enough to exert any control over the strong forces of corruption or honour. Feuding violence is equally flawed by its destructive nature and incapability to achieve resolution, which ultimately leaves the plot of *Njáls saga* trapped in a continuous cycle of law and violence. Whilst duelling is initially presented as holding the potential to be an effective compromise, between the legal system and violence, in *Gunnlaugs saga ormstungu*, it is eventually shown to be susceptible to the same duplicity as the law.

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