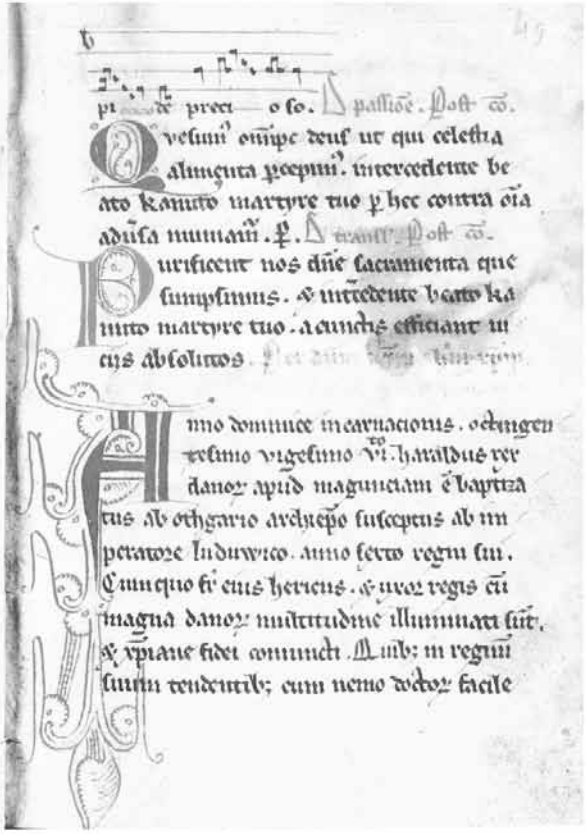
DENMARK AND EUROPE IN THE MIDDLE AGES, c.1000–1525

Essays in Honour of Professor Michael H. Gelting



Edited by
Kerstin Hundahl,
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and
Niels Lund

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Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2014 by Ashgate Publishing

Published 2016 by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN
711 Third Avenue, New York, NY 10017, USA

Routledge is an imprint of the Taylor & Francis Group, an informa business

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

The Library of Congress has cataloged the printed edition as follows:
Denmark and Europe in the Middle Ages, c.1000–1525 / edited by Kerstin Hundahl, Lars Kjær and Niels Lund.
pages cm
Includes bibliographical references and index.
ISBN 978-1-4724-1750-3 (hardcover) 1. Denmark–History–To 1241. 2. Denmark–History–1241-1660. 3. Scandinavia–History–To 1397. 4. Europe–History–476-1492. 5. Church history–Middle Ages, 600-1500. 6. Law–Denmark–History. 7. Denmark–Civilization. I. Hundahl, Kerstin. II . Kjær, Lars. III . Lund, Niels.
DL167.D46 2014
948.9'2–dc23

2014000534

ISBN 9781472417503 (hbk)
ISBN 9781315576534 (ebk)

Contents

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List of Figures

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Ebbe Nyborg, cand mag in history and medieval archaeology from Aarhus University 1975. Since 1978 he has been editor of the inventory Danmarks Kirker (Churches of Denmark) at The National Museum of Denmark in Copenhagen. He has published widely on early parish organization and medieval and renaissance art and architecture. His main research interest is wooden sculpture (crucifixes and saints images) c.1100–1300.

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Chapter 1
Introduction

Kerstin Hundahl and Lars Kjær

Michael H. Gelting has been one of the most influential historians working on medieval Denmark in his generation. On 24 September 2011, a large number of Scandinavian and British scholars gathered in the National Archives of Denmark in Copenhagen for a symposium in honour of Gelting, organised on behalf of the National Archives and The Medieval Circle at Copenhagen University on the occasion of his sixtieth birthday. The essays in this anthology were developed from several of the talks from the day as well as a number of other contributions.

Michael H. Gelting is Archivist and Senior Researcher at the Reference and Outreach Department of the Danish National Archives, and External Professor of Early Scandinavian Studies and Chair in Scandinavian Studies at Aberdeen University. Gelting's career and research both as an archivist and a medievalist has been marked by a wide-ranging scope and an innovative approach to difficult subject matters. He has an abiding interest in the effects of the Black Death, especially in the region of Maurienne in the Savoy, but has also made important contributions to the study of Danish medieval society, focusing on legal history, translations, the Danish church, kinship and European feudalism.

Many of the students, colleagues and medievalists who have had the pleasure to get to know Michael Gelting know of his friendly and sociable nature. He is always willing to help discuss an undergraduate student's paper, take a look at a Latin translation, discuss more complicated issues, edit/correct articles or step up at the last minute if a speaker has been needed to give a paper. When Gelting, together with some of his students, in 1997 formed The Medieval Circle of Copenhagen, he could not have known that this would result in a symposium in 2011 and an anthology in his honour. The overwhelming response from his former students and colleagues to participate shows the importance Michael Gelting has had to medieval scholars not just in Copenhagen, or Denmark but also all over Northern Europe. Besides attending the meetings of 'The Circle' as frequently as his two jobs allow, he also takes the train across the sound to Sweden to partake both as speaker and listener at Lund's Medieval Academy (ALMA). Intermingling and participation with other students and faculties at universities outside of Denmark is greatly encouraged by Gelting, who not only invites scholars to come to Aberdeen, but also encourages his own students to travel frequently from Aberdeen to Copenhagen to participate in the meetings

of the 'Circle'. These circle meetings are most giving to the young scholar fortunate enough to sit next to Gelting on a Monday evening, drinking whisky with him until the wee hours of 2 o'clock, when, to one's great reluctance, the barkeep closes shop. Many of us have, after a talk with Michael, gone back to work the next day with renewed energy and a slight headache, knowing that with his guidance our research was on the right track.

Denmark and Europe

As Ebbe Nyborg remarked in the portrait he presented at the symposium, Gelting's first-hand acquaintance with the French material, his linguistic skills and familiarity with current European scholarship has enabled him to play an important role in changing the way historians have approached medieval Denmark in recent decades.

Until the 1990s, it had been widely accepted that there were essential differences between the societies of Western Europe on the one hand and Denmark and the Scandinavian countries on the other. Gelting has drawn attention to the central importance of the work of Kr. Erslev (1852–1930), the father of modern Danish historical scholarship, in cementing this perception. According to Erslev, Danish history (like that of Anglo-Saxon England) showed how 'a Germanic society (*Statsordning*) developed, independent of Frankish feudalism'.[1] The foundation of this society was the oath that bound free farmers to their ruler, not the contracts and fiefs which was then seen as central to the feudal system. While much of Erslev's vision of Danish society was discarded and challenged in the ensuing century of debate, the central idea, that the history of Denmark in the Central Middle Ages was 'an autochthonous phenomenon, the story of a special Danish (or Nordic) society's transformation under the influence of two imported, European institutions: the Monarchy and the Church' remained influential.[2]

In an article from 1999, 'Det komparative perspektiv i dansk højmiddelalderforskning' ('the comparative perspective in the study of the Danish Central Middle Ages'), Gelting offered a very influential critique of the idea that medieval Denmark was radically different from its European neighbours and needed to be studied in isolation.[3] In Denmark, as in the rest of Europe,

[1] Kr. Erslev, 'Europæisk Feudalisme og dansk Lensvæsen', *Historisk Tidsskrift*, 7/2 (1899): pp. 247–304, 284.

[2] Michael H. Gelting, 'Det komparative perspektiv i dansk højmiddelalderforskning: Om Familia og familie. Lið, Leding og Landeværn', *Historisk Tidsskrift*, 99/1 (1999): pp. 146–88, at 148.

[3] Gelting, 'Det komparative perspektiv'. See also the related articles, 'Mellem udtørring og nye strømninger: Omkring en symposierapport om dansk middelalderhistorie', *Fortid og Nutid*, 32

society was dominated by aristocratic landowners who lived off the work of the peasantry, here too the elite was divided between Christian clergy and a military aristocracy. Crucially, this elite was just as directly exposed to new ideas in religious life, intellectual debates about political organisation and chivalric culture as their Western European counterparts.[4] Essential in allowing Gelting to make these comparisons was his awareness that the international understanding of medieval society had changed radically in the second half of the twentieth century. Unlike in Erslev's time, 'the Northern French political feudal structure is no longer seen as a kind of absolute model for depictions of Europe's political structure in the twelfth and thirteenth centuries, but as one among countless variations' on a shared political and socio-economic form.[5] This new appreciation of the variations in Europe's medieval experience made it possible to see Denmark not as fundamentally alien, but as yet another variation of a common European theme. This made it methodologically feasible to place the developments in Denmark in a comparative perspective and to draw parallels and contrasts to the development in other European polities, which might help compensate for the inadequacies of the meagre, surviving Danish sources.

Gelting went on to discuss how such a comparative perspective should be handled and his suggestions here are central to the way the chapters in this volume approach Denmark and Europe in the middle ages. In the traditional vision of Denmark as an essentially non-European society that slowly succumbed to the influence of alien, European institutions, it was often assumed that medieval Denmark underwent the same developmental phases as Western Europe (read France), although with a couple of centuries' delay. The strong Valdemarian kingship, conventionally dated to the period between Valdemar I's accession in 1157 and the death of Valdemar II in 1241, was seen as comparable to that of the Carolingian emperors, while the dissolution of the monarchy that followed in the thirteenth and fourteenth centuries was believed to be similar to the 'feudal'

(1985): pp. 1–12; 'Danmark – en del af Europa', in Per Ingesman, Ulla Kjær, Per Kristian Madsen and Jens Vellev (eds), *Middelalderens Danmark. Kultur og samfund fra trosskifte til reformation* (Copenhagen: Gads Forlag, 2001), pp. 334–51; 'Danmarks egenart i højmiddelalderen', in Hans Schultz Hansen (ed.), *Forskningen i Statens Arkiver: Årsberetning for 2007* (Copenhagen: Statens Arkiver, 2008), pp. 18–25; 'The Problem of Danish "Feudalism": Military, Legal, and Social Change in the Twelfth and Thirteenth Centuries', in Sverre Bagge, Michael H. Gelting and Thomas Lindkvist (eds), *Feudalism: New Landscapes of Debate* (Turnhout: Brepols, 2011), pp. 159–84.

[4] Gelting, 'Magtstrukturer i Valdemarstidens Danmark', in Niels Lund (ed.), *Viking og Hvidekrist: Et internationalt symposium på Nationalmuseet om Norden og Europa i den sene vikingetid og tidligste middelalder* (Copenhagen: Reitzel, 2000), pp. 179–205.

[5] Gelting, 'Mellem udtørring', p. 6.

fragmentation that had taken place in France around the year 1000.[6] As Gelting emphasised, however, twelfth-century Denmark had a strong international orientation: the children of the Danish elite frequented the great universities of France and Italy, and Valdemar I employed the English clerk, Radulf, to organise a modern, royal chancellery.[7] More recently, Gelting has pointed out that the middle and second half of the twelfth century, the period in which Denmark's 'Europeanisation' is supposed to have taken place, is the same period in which ideas such as chivalry and a developed feudal terminology is now believed to have developed.[8] Denmark did not experience 'a late and incomplete adaptation of an already existing, European culture, but participated in a development that took place at the same time across Europe'.[9] There were considerable and important variations between different regions in Europe, not least Denmark, but these were not the results of an '"incomplete" adaptation of a diffuse cultural influence' but the result of conscious choices made by rulers and a native elite that was intimately aware of developments in contemporary Europe.[10]

A cursory look at the last decade of research on medieval Denmark shows how dramatically this comparative perspective has triumphed. Legal, political and religious culture in Denmark is now studied as part of a greater European whole. Just as in the *Reich* after Gerd Althoff, political life in Denmark is now seen as dominated by 'family, friends and followers' rather than the administrative apparatus of the medieval 'state', a change of direction pioneered by Gelting.[11] Former students of Gelting, such as Mia Münster-Swendsen and Thomas Kristian Heebøll-Holm, have shown the influence of ideals of courtesy and chivalry in the Danish elite.[12] The change of direction is perhaps most clearly

[6] See Kr. Erslev, *Valdemarernes Storhedstid: Studier og omrids* (Copenhagen: Jacob Erslevs Forlag, 1898), pp. 269–74; Aksel E. Christensen, *Kongemagt og aristokrati: Epoker i middelalderlig dansk statsopfattelse indtil unionstiden* (Copenhagen: Munksgaard, 1968), pp. 68f. Compare Gelting, 'en del af Europa', p. 336 and 'The Problem of Danish "Feudalism"', pp. 183–4.

[7] Gelting, 'Det komparative perspektiv': pp. 173, 182–3. See also Robert Bartlett, *The Making of Europe: Conquest, Colonization and Cultural Change, 950–1350* (London: Allen Lane, 1993), pp. 289–91.

[8] Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Clarendon Press, 1994). For chivalry, see David Crouch, *The Birth of Nobility: Constructing Aristocracy in England and France, 900–1300* (Harlow: Pearson/Longman, 2005), pp. 80–86; Robert Bartlett, *England under the Norman and Angevin Kings, 1075–1225* (Oxford: Clarendon Press, 2000), pp. 241–51.

[9] Gelting, 'Danmarks egenart', p. 22.

[10] Ibid., p. 25; Gelting, 'The Problem of Danish "Feudalism"', pp. 183–4.

[11] Gelting, 'The Problem of Danish "Feudalism"', p. 159, see Gelting, 'Magtstrukturer' and Lars Hermanson, *Släkt, vänner och makt: En studie av elitens politiska kultur i 1100-talets Danmark* (Gothenburg: Historiska institutionen, 2000).

[12] Mia Münster-Swendsen, 'The Formation of a Danish Court Nobility: The *Lex castrensis sive curiae* of Sven Aggesen reconsidered', in Sverre Bagge, Michael H. Gelting, Frode Hervik,

seen in the comparative and European orientation of the last decade's large-scale Danish research projects. The series of Carlsberg Academy Conferences on Medieval Legal History have asked the question 'How Nordic are the Medieval Nordic Laws?' And generally, the conclusion of recent research seems to have been that the law codes of medieval Denmark were the result of new legislation inspired by contemporary European developments in legal thought, rather than the writing down of ancient customs, as had often been assumed in earlier scholarship.[13] At Syddansk Universitet, the research project, 'Denmark and the Crusading Movement', demonstrated the influence of the international call for the deliverance of Jerusalem in the kingdom of Denmark.[14] Currently, at the University of Copenhagen, the project 'Danish Historical writing before 1225 and its Intellectual Context in Medieval Europe' seeks to revitalise research in the historical literature of medieval Denmark by placing it in the context of the wider renaissance of historical writing in twelfth-century Europe.

A central line in Gelting's attack on the isolationist tendency has been that scholars from the countries that then constituted the periphery of Western Europe should not restrict themselves to studying the local adaptation of Western European cultural norms, but should actively participate in the international debate about the character of medieval societies. A challenge that requires Danish medievalists not just to use work on medieval Europe to throw new light on questions relating to Danish history, but to work on and familiarise themselves with the European sources.

The essays offered here in honour of Gelting illustrate how much the study of the Middle Ages has been transformed over the last decades in Denmark. They are divided into four sections, reflecting some of the central themes of Gelting's research: intellectual and religious culture, not least the history of the Danish Church; legal history, in particular the developments of the regional law codes in medieval Denmark, and political and aristocratic culture.

The first section is concerned with religious culture in Denmark and Europe. Kim Esmark explores donations to the Cistercian abbey of Esrum, from 1150 to 1250, and the conflicts that developed around these. As Esmark demonstrates, the material from Esrum shows remarkable similarities with similar monastic

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Thomas Lindkvist and Bjørn Poulsen (eds), *Statsutvikling i Skandinavia i Middelalderen* (Oslo: Dreyers forlag, 2012), pp. 257–79; Thomas K. Heebøll-Holm, '*Priscorum quippe curialum, qui et nunc militari censentur nomine*: riddere i Danmark i 1100-tallet', *Historisk Tidsskrift*, 109/1 (2009): pp. 21–69.

[13] See especially Ditlev Tamm and Helle Vogt (eds), *How Nordic are the Nordic Medieval Laws?* (Copenhagen: University of Copenhagen Press, 2005), the question was revisited in the 2013 Carlsberg Academy Conference. See now Per Andersen, *Legal Procedure and Practice in Medieval Denmark* (Leiden: Brill, 2011).

[14] Ane Bysted, Carsten Selch Jensen, Kurt Villads Jensen and John Lind, *Jerusalem in the North: Denmark and the Baltic Crusades* (Turnhout: Brepols, 2012).

foundations in France. Through comparisons with these it is possible to offer a detailed portrait of the social relationships surrounding monasteries in medieval Denmark. In his chapter Ebbe Nyborg explores the introduction of Byzantine motifes, showing Christ suffering on the cross, into Denmark in the twelfth century. Most of the crucifixes found in Denmark, however, are hybrids, with elements of Christ as eternal ruler and suffering human being intermingled. Nyborg explores how these images might have been intended to satisfy both the current, European-wide fascination with the humanity of Christ and traditional Nordic concerns about dignity and stoicism. Agnes Arnórsdóttir continues the investigation of how religious ideas and images were adapted in a Scandinavian context. Her chapter shows that the cult of the Virgin Mary in Iceland was not merely a pale reflection of European ideas, but a vibrant and dynamic force that influenced both the theory and practice of motherhood on the very edge of Europe. Johnny Grandjean Gøgsig Jakobsen explores how the Dominicans of Denmark and the other Nordic countries responded to the continent-wide catastrophe of the Black Death, charting the spread of rumours associating the Black Friars with the plague from the Pyrenees to Gotland.

The second section investigates intellectual culture in medieval Denmark and its European connections. Steffen Harpsøe investigates a recently discovered manuscript fragment from the mid-eleventh or early-twelfth century, containing a reference to the Flemish St Aldegunde. The fragment turns out to offer tantalising hints about international contacts at the very beginning of the period in which Denmark began to adopt aspects of Western European culture. Mia Münster-Swendsen continues the exploration of the intellectual networks of the Danish elite. Her chapter analyses the intriguing case of how Archbishop Eskil of Lund came to lose a large amount of money, which he had deposited at the Abbey of St Victor in Paris, and the international scandal that followed. The case offers a fascinating insight into the functioning of political and intellectual networks of friends and reveals just how deeply entwined the twelfth-century Danish elite was in the wider Western European world. Niels Houlberg Hansen explores the ways in which this interaction changed Denmark. His chapter explores the rapid development of the Danish language in the central medieval period, in which Danish parted ways with the other Scandinavian languages, and argues that this development must be seen in relation to the still more intensive contact between Danes and their European neighbours. Carsten Jahnke continues the investigation of encounters between the Danish elite and Western Europe into the later middle ages. His article explores two journeys by King Christian I and Queen Dorothea to Rome in 1475 and 1476, respectively. Amongst the outcomes of these two very different journeys were not least the papal licence for the foundation of the University of Copenhagen.

In the third section, focus is directed at legal culture and customs in medieval Denmark. Bertil Nilsson's investigation of the Church Law of Scania

demonstrates how well Denmark had been integrated into the European Church community by the twelfth century. The Danish church laws were dealing with exactly the same problems about episcopal and lay authority as are found in the rest of Europe and reaching similar answers and compromises. Per Andersen continues the investigation of the regional secular and church law codes in medieval Denmark. Based on a close investigation of the manuscripts and language of the different editions of the laws, Andersen argues that these important sources may need to be re-dated. In her chapter, Helle Vogt also looks at the regional law codes and explores the question of whether the crown desired to see these replaced by a national law. Per Ingesman uses the Danish material to offer a different perspective on the relations between monarchy and papacy in the later middle ages. The often-cited English, French and imperial instances of conflict may not have been typical and in a smaller kingdom like Denmark relations between the crown and the See of St Peter turns out to have been amicable and centrally important for the crown.

The last section investigates aristocratic and political culture in Denmark and Europe. Thomas Kristian Heebøll-Holm looks at the First Crusade, a pan-European campaign which also, as recent research has highlighted, had Danish participants.[15] Heebøll-Holm focuses on the possible effects of the trauma of war on the knights who returned from the First Crusade, investigating in particular the sanguine career of Thomas de Marle. Lars Kjær looks at the way in which the twelfth- and thirteenth-century kings of Denmark sought to mobilise the Danish past, through an interest in the stories and artefacts of legendary heroes. Placing this in the context of similar efforts in France, England and the Holy Roman Empire reveals that the interest in the old Nordic past was paradoxically a very European phenomenon. In her chapter, Kerstin Hundahl explores the complex situation surrounding the struggle for the Danish throne in 1259, approaching the topic from a new angle, in the light of the involvement of the Rügish prince Jaromar II. Her article shows that the claim of King Christopher I and his descendants may have been more tenuous than previously perceived, and that Danish succession was not just a 'Danish' matter but involved many actors, both ecclesiastical, royal and lay from all over Europe and Scandinavia.

Finally the editors would like to thank Robin Whelan for reading and revising several of the chapters and Emily Yates from Ashgate for all her help with the publication. They would also like to thank the National Archives for providing assistance and beautiful facilities for the symposium and the helping hands from the Medieval Circle.

[15] Janus Møller Jensen, 'Danmark og den Hellige Krig. En undersøgelse af korstogsbevægelsens indflydelse på Danmark, ca. 1070–1169', *Historisk Tidsskrift*, 100/2 (2000): pp. 285–327.

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PART I
Religious Culture

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Chapter 2

The Settlement of Disputes by Compromise According to Some Early Danish Charters

Kim Esmark

The Cistercian monastery of Esrum in northern Zealand was founded around 1150 by Eskil, archbishop of Lund, and quickly established itself as not only a spiritual centre but also one of the wealthiest landowners in the kingdom of Denmark.[1] The popularity of the white monks, brought in from Clairvaux in 1153 by the archbishop thanks to his personal friendship with St Bernard, animated a flood of gifts from the lay and ecclesiastical elite, including members of the royal lineage and of course Eskil himself. However, as one scholar has aptly put it, 'if monastic gains in twelfth century Denmark were huge, they were often hard won'.[2] Properties donated to Esrum Abbey as pious gifts were sometimes claimed by kinsmen or heirs to the donors or former owners. Records of the resulting disputes, drawn up at the occasion of their settlement, are preserved as copies in the late medieval Esrum cartulary.[3] These records are the earliest extant examples from Denmark of the kind of 'dispute charters' that have been

[1] On the somewhat obscure history of the foundation of Esrum Abbey, see Niels Skyum-Nielsen, *Kvinde og slave* (Copenhagen: Munksgaard, 1971), p. 120; Brian P. McGuire, *The Cistercians in Denmark* (Kalamazoo: Cistercian Publications, 1982), pp. 49–51; James France, *The Cistercians in Scandinavia* (Kalamazoo: Cistercian Publications, 1992), pp. 46–9; Thomas Hill, *Könige, Fürsten und Klöster. Studien zu den dänischen Klostergründungen des 12. Jahrhunderts* (Frankfurt am Main: Peter Lang, 1992), pp. 193–205; Tore Nyberg, *Monasticism in North-Western Europe, 800–1200* (Aldershot: Ashgate, 2000), pp. 117–18, 136, 145.

[2] McGuire, *Cistercians*, p. 77.

[3] *Codex Esromensis*, Copenhagen, Royal Library, *E don. var.* 140, 4°. Edited O. Nielsen, *Codex Esromensis. Esrum Klosters Brevbog* (Copenhagen, 1880–81), and – each charter separately in chronological order – in *Diplomatarium Danicum*, ed. C.A.Christensen, Herluf Nielsen, Lauritz Weibull, Niels Skyum-Nielsen, Franz Blatt, Gustav Hermansen, Adam Afzelius, Kåre Olsen, Thomas Riis, Aage Andersen, Russell Friedman (Copenhagen: Munksgaard, 1938–2000), *passim* [hereafter DD].

studied intensely in the last three to four decades by American and European historians within the field often referred to as 'legal anthropology' or 'medieval dispute studies'. Breaking off from conventional legal history's focus on laws and institutions this historiography aims to investigate the actual practices and processes of litigation. Drawing on anthropological studies of conflict resolution in pre-modern societies and focusing on the narrative content rather than the diplomatics of charters it asks what medieval people actually did when they were contesting power, property, honour and other assets or when they tried to redress violence and wrongdoing.[4] What was going on, viewed from the perspective of the men and women involved? And how do we make sense of it?

Today it may appear obvious to approach the early dispute records from Esrum Abbey from the perspective of legal anthropology or dispute studies, and draw on the huge international, inter-disciplinary historiography on medieval conflict. But it was Michael H. Gelting who, in a critical review article in 1999, first proposed the idea of looking at the Esrum documents within a larger European context, pointing, specifically, at the 'striking need' to test the problems and findings of historical anthropology on Danish source material.[5] Always a stern proponent of the comparative method as a way 'to reach an understanding of the complexity behind the fragmentary sources for the history of the high medieval Nordic societies',[6] Michael has not only systematically pursued this method in his own research but also diffused it with catching enthusiasm among numerous students and colleagues, including the present author. Thus, three years after publishing his review article he encouraged me to actually try out the legal anthropological approach on the evidence from Esrum. At that time I had just completed a Ph.D. thesis on ritual and conflict in eleventh- and twelfth-century

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[4] On the field of medieval dispute studies, see the historiographic introductions and critical discussions in Patrick J. Geary, 'Moral Obligations and Peer Pressure: Conflict Resolution in the Medieval Aristocracy', in Claude Duhamel-Amado and Guy Lobrichon (eds), *Georges Duby: L'écriture de l'Histoire* (Brussels: De Boeck Université, 1996), pp. 217–22; Stephen D. White, 'From Peace to Power: The Study of Disputes in Medieval France', in E. Cohen and M. de Jong (eds), *Medieval Transformations: Text, Power, and Gifts in Context* (Leiden: Brill, 2001), pp. 1–14; Warren C. Brown and Piotr Górecki, 'What Conflict Means: The Making of Medieval Conflict Studies in the United States, 1970–2000', in W.C. Brown and P. Górecki (eds), *Conflict in Medieval Europe: Changing Perspectives on Society and Culture* (Aldershot: Ashgate, 2003), pp. 1–36; Kim Esmark, 'Feudalisme og antropologi. Nye perspektiver på magt, orden og konfliktregulering i højmiddelalderen', (Swedish) *Historisk Tidskrift* 126 (2006): pp. 3–22; Kim Esmark and Hans Jacob Orning, 'General Introduction', in Kim Esmark, Lars Hermanson, Hans Jacob Orning and Helle Vogt (eds), *Disputing Strategies in Medieval Scandinavia*, (Leiden: Brill, 2013), pp. 1–28.

[5] Michael H. Gelting, 'Det komparative perspektiv i dansk middelalderforskning. Om Familia og familie**,** Lið, Leding og Landeværn', (Danish) *Historisk Tidsskrift*, 99/1 (1999): pp. 146–88, 149, 164–6.

[6] Gelting, 'Det komparative perspektiv', p. 168.

Anjou, much influenced by the above mentioned historiography.[7] I had hardly done any work on Danish sources before, but thanks to Michael's kind support I managed to make a broad study of the charters from Esrum Abbey's first century. Drawing heavily on the international historiography on ritual, gift-giving, social transaction and dispute settlement, the study concluded that 'the conflict processes concerning donations of property to Esrum Abbey had dimensions extending far beyond those of strict economic concerns or property law; that conflict processing was in fact a practice of broad significance for the regulation of power, status, and social order in twelfth- and thirteenth-century society'.[8]

In this chapter I intend to revisit some of the earliest disputes involving the monks of Esrum Abbey, this time with a narrower focus on the particular issue of *compromise settlement*. The fundamental role of compromise in medieval conflict processing – primarily (but not exclusively) in the period preceding the emergence of centralised states and professionalised jurisdiction – first came to historians' attention in the 1970s with the defining studies by Fredric L. Cheyette and Stephen D. White.[9] Analysing a large number of disputes from Languedoc and Western France between the eleventh and thirteenth centuries Cheyette and White observed a marked propensity among members of the social elite to avoid courts and regular judgements in favour of negotiated compromise settlements, marked by ritual acts and gift exchanges. Even when judicial institutions and some kind of formal legal procedures were in fact available, monks and lay nobles alike generally preferred to terminate conflicts out of court. Rather than seeking to outdo the other party completely, litigants strove to reach solutions that would somehow satisfy both sides and create or re-create mutual social bonds.

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[7] Kim Esmark, *De hellige døde og den sociale orden: relikviekult, ritualisering og symbolsk magt (Anjou, 10.-12. århundrede)* (Roskilde: Roskilde Universitet, 2002). Michael was no stranger to the Angevin sources. The first collection of charters from the region I looked at when I started working on my Ph.D. was The Royal Library's copy of Broussillon's three-volume edition of the *Cartulaire de l'abbaye de Saint-Aubin d'Angers*. Excited by the prospect of delving into what in traditional Danish historiography was certainly a foreign, almost exotic territory I opened the first volume. Out fell an old borrower's ticket. It was from the year 1980 and carried the name of *Michael H. Gelting*.

[8] Kim Esmark, 'Godsgaver, *calumniae* og retsantropologi. Esrum kloster og dets naboer, ca. 1150–1250', in Peter Carelli, Lars Hermanson and Hanne Sanders (eds), *Ett annat 1100-tal. Individ, kollektiv och kulturella mönster i medeltidens Danmark* (Lund: Makadam, 2004), pp. 143–80, 176–7.

[9] Fredric L. Cheyette, 'Suum CuiqueTribuere', *French Historical Studies*, 6 (1970): pp. 287–99; Stephen D. White, '*Pactum ... legem vincit et amor judicium*: The Settlement of Disputes by Compromise in Eleventh-Century Western France', *The American Journal of Legal History*, 22 (1978): pp. 281–308.

When trying to explain the preference for compromise settlements Cheyette and White pointed to several factors related to both social structure and cultural attitude. In the close-knit face-to-face societies of medieval France members of the aristocratic elite were linked together in complex, criss-crossing networks of binding ties (family and friends, lords and vassals, religious association, etc.). In any given conflict there would usually be members of the community with a strong interest in reconciliation. A straight-forward court decision might determine, say, who was the rightful owner of this or that property, but it was also prone to disregard 'the subjective feelings of the persons involved, their pride, honour, or shame'[10] and thus often unable to establish durable peace. In the absence of permanent law-enforcing powers (state authorities) a clear-cut judgment would not necessarily deter the losing party in a dispute from continuing the quarrel anyway. Furthermore, in the legal culture of these societies 'law' in the sense we think of it today was not always distinguishable from observed practice, religious norms, morals or general rules about proper conduct. A variety of different but equally valid principles could, therefore, be applied to the same case and without objective criteria derived from a systematic legal theory, litigants, mediators and judges were often unable to decide which rule or principle should take priority. Only some sort of mutually agreed concord could take account of the fact that there might in fact be 'right on both sides'. All in all, the settlement of disputes by compromise was more effective, provided more security and was regarded as basically more 'just' than formal court judgments.[11]

Numerous studies have since confirmed the same preference for compromise in medieval societies across Europe.[12] How, then, does Denmark fit into this general picture according to the evidence from Esrum? In the following I shall discuss four disputes from the period 1158–1182 in the light of the works of Cheyette and White with the aim of proposing some cautious answers to the question.[13]

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[10] Cheyette, 'Suum Cuique Tribuere', p. 289.

[11] For a much fuller discussion of the many complex factors involved, see White, '*Pactum*', pp. 300–307.

[12] See works mentioned in the introductory articles listed in note 4.

[13] For previous discussions of the four disputes, see Brian P. McGuire, 'Property and Politics at Esrum Abbey: 1151–1251', *Medieval Scandinavia*, 6 (1973): pp. 122–50 and Helge Paludan, *Familia og familie. To kulturelementers møde i højmiddelalderens Danmark* (Aarhus: Aarhus Universitetsforlag, 1995), pp. 75–87. Paludan's interpretation of the Esrum disputes as testimony of a clash between a traditional native Danish mentality and a foreign continental European culture brought to Denmark by the Church has been strongly criticised by Michael H. Gelting, 'Det komparative perspektiv', pp. 149–69, for repeating traditional isolationist views.

Case 1: Veksebo

According to a charter dated 8 August 1158 Archbishop Eskil visited Esrum in the summer that same year to consecrate the monastery's altar. After the ceremony and the subsequent mass the prelate and the monks were approached by Svend, head of a local land-owning family, and Rane, his son, who wished to make peace concerning a disputed piece of land in the village of Veksebo.[14] Some years before Svend and Rane had sold the land to Archbishop Eskil's kinsman Count Niels, who subsequently granted it to Esrum Abbey before becoming a monk there. After Niels' death, in April 1156 at the latest,[15] Svend and Rane had made a *calumnia* (legal claim or challenge[16]) against the transaction, although, according to Eskil, the donation had been made with due observance of relevant rules and precepts. Allegedly by the inspiration of God Svend and Rane had changed their minds, however, and now turned to peace and reconciliation (*ad pacem et graciam*). And so, on the day of the solemn altar consecration, in the presence of many witnesses, they surrendered the property to Archbishop Eskil, in order for it to remain the possession of the Esrum monks. The conveyance was effected by way of the traditional ritual procedure known in Old Danish as *skødning* (Latinised as *scotatio*): the alienators – *in casu* Svend and Rane – placed a sod from the land in Veksebo at the altar or in the corner of the altar-cloth (held out by attending clerics and monks), while they formally pronounced the land to be henceforth the rightful possession of the new owner (a *pars pro toto* symbolism resembling similar rituals practised in many other parts of Europe).[17]

Why Svend and Rane regretted the sale of the Veksebo land to count Niels – or opposed the count's subsequent alienation of the land to Esrum Abbey – is not explained in the text, but it was no doubt Count Niels' death that gave them hope of regaining the land.[18] The negotiation process that must have preceded

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[14] DD 1.2.127.

[15] For the dating of Count Niels' death, see the editors' remarks to DD 1.2.126, p. 239, and 1.2.127, p. 243.

[16] On the meaning of the term *calumnia* in medieval dispute records and its translation in Danish historiography, see Esmark, 'Godsgaver', pp. 172–3.

[17] A lay recipient would have the sod placed in the corner of his cloak (the *skød* in Old Danish, hence *skødning*). On the scotation ritual in general, see the informative discussion in Michael H. Gelting, 'Circumstantial Evidence: Danish Charters of the Thirteenth Century', in Marco Mostert and Paul S. Barnwell (eds), *Medieval Legal Process. Physical, Written, and Spoken Performance in the Middle Ages* (Brepols: Turnhout, 2011), pp.157–95, 163–6.

[18] Exactly which link in the chain of transactions Svend and Rane objected to was apparently not clear to the editors of *Diplomatarium Danicum* either. In notes to the charters relating to the case it is said alternately that the two men would have the *sale*, i.e. their own alienation to Count Niels, annulled (DD 1.2.127, p. 242), and that they complained about the *gift*, i.e. Count Niels' alienation to the monks (DD 1.2.126, p. 239).

the reconciliation is also passed over by the charter, but Eskil seems to intimate that the settlement was facilitated by him, and this was very likely the case. In 1158, five years after his installation of the Burgundian monks in Esrum, the archbishop was still the monastery's most important patron, and in his great charter of privileges for the abbey, issued shortly before the meeting with Svend and Rane, he emphasised his own contributions to the foundation in quite immodest terms.[19] He may also have felt personally responsible for protecting his kinsman Niels' gift – in the same charter Eskil refers to the count as 'most close to me in flesh and blood' (*carne et sanguine michi proximus*).

That Svend and Rane were persuaded (or pressured) by Archbishop Eskil into renouncing their claim did not mean they 'lost' their case (or face). From the outset, Eskil seems to have recognised the fundamental legality of Svend and Rane's claim: in his above mentioned charter of privileges, issued before the conclusion of the dispute, he omitted Veksebo from the list of Esrum's properties, awarding, in effect, the *calumnia* a sort of 'delaying effect' in relation to Esrum Abbey's definitive acquisition of the land and suggesting that some sort of negotiation was going on.[20] Furthermore, the ritual staging of the settlement – the fact that the scotation ceremony was performed in the abbey church, at the very occasion of the consecration of the holy altar – indicates that Svend and Rane were awarded some kind of share in the benefits pertaining to the count's gift of Veksebo. It certainly embedded the legal issue in a ritual context of social reconciliation and religious solemnity. In the charter the grant of Svend and Rane is represented as almost equal to the original gift by Count Niels: his is called 'the first donation', theirs 'the second *scotation*'. The participation of Rane in the publicly witnessed scotation ceremony was of course imperative, viewed from the perspective of the monks. As son and heir he was a potential future claimant. By making him a part of the act chances of a durable peace increased.

Case 2: Villingerød

Some years later Eskil saw one of his own donations to Esrum Abbey, the village of Villingerød, challenged. The property of Villingerød had a somewhat complicated prehistory, which can be at least partly reconstructed from a group of charters. In 1138 Herman, a German-born canon of Lund, was made bishop of Schleswig (Southern Jutland), where for some years he ousted a rival bishop ordained by the metropolitan church of Bremen. In the end, however, Herman was forced to relinquish the see and in 1145 he was granted political asylum by King Erik the Lamb. In recognition of services rendered the king awarded him

[19] DD 1.2.126.

[20] Cf. the editors' remarks, DD 1.2.126, p. 239.