Introduction

Law and ritual are uneasy bedfellows. On the one side is law, a highly technical subject that provides its own specialised vocabulary to describe itself and to provide the basic tools of its analysis. Scholarship on medieval legal history has tended to focus on explaining these technicalities within their own terms, focusing on procedure and doctrine, and exploring how various legal phenomena develop over time.[1] Moreover, since most modern western legal systems have their roots in medieval phenomena—whether customary legal practices or those derived from Romano-canonical law—medieval legal-historical research can have a marked retrospective quality, with the analytical categories used to approach medieval law bearing heavily the inflections of present-day law, embedded within different national traditions.[2] On the other side is ritual, an approach to the past (and present) deeply indebted to anthropological techniques of thinking about social practice.[3] Medievalists have found ritual to be ubiquitous across the Middle Ages, and the concept has helped traverse national differences in historiography by emphasising common types of practice, in part shaped by a Judeo-Christian framework common across Europe.[4] Furthermore, ritual, as a way of understanding social practices, has often been used by scholars to frame a critique of a legal-institutional approach

[1] The phenomenon is perhaps best seen through scholars engaging in modern translations and commentary. For but a few examples, see *The Lombard Laws*, trans. by Fischer Drew (Philadelphia, 1973); *The Beginnings of English Law*, trans. by Oliver; *God's Peace and King's Peace*, trans. by O'Brien; *The Danish Medieval Laws*, ed. by Vogt and Tamm; *The Borgarthing Law and the Eidsivathing* Law, ed. by Collinson, Landro, and Nilsson; *The Older Gulathing Law*, ed. by Simensen; *Guta lag and Guta saga*, ed. and trans. by Peel. For but a few works synthesizing legal procedure and doctrine, see Wormald, *The Making of English Law*; Lambert, *Law and Order*; Nijdam, *Lichaam, eer en recht in middeleeuws Friesland*; Rio, *Legal Practice and the Written Word*.

[2] Bellomo, *The Common Legal Past of Europe*; Conte, *Diritto comune*.

[3] Two of the most frequently used such anthropological models are Durkheim, *Les formes elémentaire*; and Marcel Mauss, *The Gift*. For critiques of such approaches, see Buc, *The Dangers of Ritual*; Moeglin, '"Performative turn".

[4] For examples, see Meens, 'Penitential Questions'; Petkov, *The Kiss of Peace*; Koziol, *Begging Pardon and Favor*; Carré, *Le baiser sur la bouche*; Esmark, Hermanson and Orning, ed., *Gaver, ritualer, konflikter*.

to the medieval past. Ritual has fought against the technicalities of law, doctrine, and procedure, and been thought to represent a 'truer' social world of practice.[5]

Medieval scholars have often constructed an oppositional relationship between law and ritual: whatever types of social or legal practice one observes either reflect law, or are taken as evidence of ritual practices that respond to an altogether different (i.e. non-legal) social logic.[6] Rarely, in contrast, are law and ritual seen together, as a set of mutually reinforcing practices. In approaching law and ritual not as oppositional analytical categories, but instead as complementary ones, the essays for *Law and Ritual in the Middle Ages* will open new lines of inquiry into how scholars can think about socio-legal practice in the medieval west. By viewing law *as* ritual, and ritual *as* law, the essays in this collection showcase possible ways in rethinking the relationship between law and ritual. In particular, they encourage scholars to rethink the implicit narratives of evolution and progress that continue to plague medieval scholarship, with a ritualised, non-institutional, and non-legal early Middle Ages (before *c*.1140) and juridical, institutional later Middle Ages of the post-*c*.1140 period, with a corresponding decline in the ritual dimensions of law.

There is an absence in Anglophone scholarship of work that brings law and ritual together.[7] While non-Anglophone traditions have a growing body of scholars who explore the relationship between law and ritual at both a historical and analytical level, English-language work still tends to approach either law or ritual, privileging one approach over the other, often due to a combination of the reasons as outlined above.[8] One of the primary aims of *Law and*

[5] E.g. Althoff, *Spielregeln der Politik*; Althoff, *Die Macht*; Jezierski, ed., *Rituals, Performatives, and Political Order*; Koziol, 'Baldwin VII of Flanders'; Esmark, Hermanson and Orning, ed., *Gaver, ritualer, konflikter*.
[6] E.g. Rabin, 'Ritual Magic or Legal Performance?'; Althoff, 'The Variability of Rituals;
[7] As recently highlighted by Benham, *International Law*, pp. 119-23.
[8] For examples of non-Anglophone scholarship exploring law and ritual, see Gauvard and Jacob, ed., *Les rites de la justice*; Moeglin, 'Pénitence publique'; Dilcher, 'Mittelalterliches Recht und Ritual'.

Ritual in the Middle Ages then is to facilitate discussion across disciplinary boundaries, and open new lines of inquiry that may help scholars question the analytical distinctions between law and ritual, as well as challenge the ways in which the categories of 'law' and 'ritual' have been used as ways of describing stages of development within and between past societies. While the essays in this special issue certainly do not provide a collective answer to these questions, we believe that they showcase the variety of ways in which scholars might begin to reframe their questions about the relationship between law and ritual. Our authors come from several disciplinary backgrounds—including art history, history, linguistics, and law—while the essays further make use of a diverse range of source material, written and non-written, from across the medieval west. Equally, a collection of essays authored by international authors will reflect well the different national approaches to law and ritual, whilst simultaneously providing a springboard from which to question those approaches.

The collection begins with three articles that challenge some of these disciplinary and historiographical boundaries by examining performative law. Ole-Albert Nordby focuses on the different requirements for the number of compurgators (or oath-helpers) an individual needed to clear himself from charges of certain offences in the thirteenth-century Norwegian laws. By arguing that offences that polluted, in a sense, the community required a greater number of oath-helpers, thereby restoring a ritual order, he shows how ritual can enhance our understanding of legal practice and procedure, without rejecting law as an analytical category. The study offers a finely balanced piece of scholarship engaging equally with legal-historical scholarship and ritual theory, and shows how much can be gained by combining legal and ritual analysis.

Another well-known legal procedure – the ordeal – is the focus of the next article. Stefan Jurasinksi revisits the *ordines* for Anglo-Saxon ordeals edited by Félix Liebermann and argues that such texts were introduced to England in the ninth century, owing to Frankish influence. Jurasinksi thus overturns longstanding assumptions that ordeals were a primitive and native feature of Anglo-Saxon law, thereby challenging the evolutionary narratives of one of the central rituals of medieval law. If ordeal was introduced to Anglo-Saxon England via continental texts, then Jurasinksi invites scholars to probe the linear narrative of medieval law more broadly, which starts with irrational 'ordeals' and progressively becomes more rational, as ordeals declined. This analysis also helps to put more law and legalism back into Anglo-Saxon law by discarding the 'irrationality' of ordeal; by embedding concepts of ordeal in textual traditions, Jurasinksi contributes to the ongoing scholarly rehabilitation of the textual traditions of early medieval law. Kim Esmark continues the discussion of ordeal by focusing on the transformative powers of this ritual in a specific case: that of King Knud IV of Denmark. Following the murder in 1086 of this unpopular monarch, Denmark experienced years of crop failure and famine, which gave rise to ideas that Knud had died a martyr's death and would lead to his official canonisation by the pope in 1099. As Esmark points out, however, Knud was already by 1095 recognised as a saint when his remains were subjected to an ordeal by fire—a *probatio ignis*. Esmark explores the meanings, functions, and effects of this ritual through which an unpopular monarch was transformed into a saint. By setting up multiple processes of canonisation—one broadly papal, the other local—Esmark draws attention to the differences attached to ritual acts in transforming legal orders.

The next three articles of this collection grapple with law and ritual from the perspective of conflict and dispute resolution. They examine and demonstrate the blurring between what we might think of as 'international' and 'domestic' applications of law and ritual, while further

highlighting differences and similarities of studying these categories using divergent written sources. Hermann Kamp's paper brings a focus to inter-ruler relations across Europe in the tenth to twelfth centuries. He uses the approach to ritual to understand politics at a scale and during a period when it has often been thought that there was no formalised law. What he shows from this analysis is that the individual circumstances attendant upon any political situation shape the particular configuration of how law and ritual relate to each other and interact in treaties between rulers. Kamp also raises intriguing questions about the interrelationships between law, ritual, and writing, suggesting that there was a decline in the written and normatively-shaped treaties of alliance between the tenth and twelfth centuries. He therefore examines the place and role of rituals in shaping the form and substance of treaties of alliance in this period.

Shifting the discussion geographically further north, Hans Jacob Orning asks what happens to analytical categories of law and ritual when approached through the lens of conflict and dispute-studies. By analysing twelfth-century narrative accounts of rebellion against Sverrir, king of Norway, Orning takes the view that conflict itself was a ritual that had multivalent meanings and layers of interpretation, of which the legal was just one. For Orning, the same conflict could mean not only different things to different actors, but might have had multiple layers of meaning to a single actor. He thus implies that when approached through lens of conflict, the analytical categories of law and ritual collapse as meaningful distinctions. Louisa Taylor approaches law and ritual through this same lens of conflict and dispute-processing as Orning, but adds a comparative perspective to draw out differences and similarities in aspects of Norwegian and English kingship. The comparison is a particularly useful one because it contrasts a polity that has often been approached from a legal-constitutional lens (England), with one that has often been approached through a more anthropologically-informed lens of

ritual (Norway). Since the two kingdoms possess very different surviving source materials—with England having a much more abundant and diverse corpus of evidence than Norway—Taylor's analysis brings new insights drawn from a 'legalised' historiography to temper an over-emphasis on ritual in the Norwegian narrative texts, whilst, conversely, bringing in more ritual to the 'legalised' English material.

The final section of the volume brings a much-welcome spatial dimension to law and ritual, while also expanding the chronology into the later medieval period. Nathan van Kleij examines the transformations in the construction of legal space during the fourteenth and fifteenth centuries in the Low Countries. Van Kleij highlights the dynamic relationship between people and space, and how this relationship both shapes and is shaped by legal procedure. The great advantages of this type of analysis and approach are twofold: first, the spatial dimension advances our study of law and ritual beyond the performances of legal actors and towards the construction of the ritual stage itself, bringing in actors, participants and audience in a single form of analysis. Secondly, this approach implicitly suggests that any analytical distinction between law and ritual makes, in these terms, little sense, since attention to spatial organisation is intrinsic to the construction of the legal sphere itself. Following on from van Kleij's approach on the spatial dimensions of the legal sphere, Per Andersen and Helle Vogt explore the legal assembly (*thing*) in Denmark c. 1150-1600 in order to investigate the disjuncture between the *thing* as a formalised legal space on the one hand, and the actual behaviour of individuals at the *thing*, behaviours which could be characterised as drunkenness, brawling, and lewd behaviour. They consider, like van Kleij, the assembly holistically as a space that combines both legal order and social rituals, examining strategies for the reconciliation between different registers of action and meaning. In addition, they also consider the *thing* over time, drawing

attention to the ways in which standards of good and bad behaviour changed and how these standards related to the identity of the *thing*.

Rounding off this special issue is Matthew McHaffie's contribution, which brings many of the questions around law and ritual into sharp focus. Using charters from eleventh- and twelfth-century western France, McHaffie investigates the practices surrounding the forgiveness of pecuniary fines incurred for violent acts against property to re-evaluate how historians have used the categories of ritual and law to explain transformations in legal practice. Forgiveness and pardons have often been interpreted on the 'ritual' side of law/ritual, corresponding to a social world characterised by the prevailing importance of honour and dispute-settlement, whereas payment of fines has been seen as falling on the 'legal' side, representative of a more coercive and institutionalised legal order. McHaffie reconsiders the meaning of these practices and argues that the rituals accompanying the forgiveness of fines helped to construct a legal-institutional identity for eleventh- and twelfth-century courts.

Law and Ritual in the Middle Ages aspires to challenge disciplinary and historiographical boundaries, thereby engaging in the holistic and interdisciplinary aims of *The Mediaeval Journal* as well as the international network 'Voices of Law: Language, Text and Practice'. This network – a collaboration between the universities of Cambridge, Cardiff, Copenhagen and Glasgow, and also Fryske Akademy in the Netherlands – seeks to illuminate the ways encounters and negotiations between legal culture and the wider culture of society took place in northern Europe in the medieval period. The eight articles contained in this special issue are a selection of those presented at a few convivial conference days hosted by the network in Leeuwarden and Cambridge between 2016 and 2018, in addition to some further commissions. 'Voices of Law' has been able to rely greatly on the facilities and support available at the

institutions of the network, together with the expertise of its committee members (Carole Hough, Han Nijdam, John Hines, Paul Russell, and Sara Pons-Sanz). The network would like to acknowledge the generous financial support from the Leverhulme Trust (award reference IN-2015-037), which enabled us to hold the conferences and to invite participants from Britain, continental Europe and the United States, and the support and patience of the editorial staff of the journal.

As the articles in this special issue emphasize, research on the history of law and ritual in the medieval period is evidently thriving. It is hoped that their publication will continue and further future discussion.

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