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A. Introduction

The Icelandic Saga is a kind of prose narrative depicting conflicts among powerful families during the two centuries after 870 A.D. that mark the first Norwegian settlement of the area. Anonymous third person narrators, who generally seem disinterested in the events they describe, are characteristic of the family saga. Like narrators of modern novels, they often prefer to let the saga characters speak directly rather than to report the characters’ comments in indirect speech.

The seemingly objective narrator, with his use of direct speech, occasionally has led readers to conclude that the family sagas accurately record historical events. Supposedly this history was transmitted orally until it began to be committed to parchment in the late 12th century. In the scholarship of recent decades, however -- especially native Icelandic scholarship -- the claim has been made that the family sagas were fictional (not historical) accounts composed in a written form. There have even been attempts to identify the author of these otherwise anonymous works. Although few scholars still hold to the theory that the family sagas constitute accurate reportage of historical events, a sizable number continue to argue that the family sagas have their genesis in an oral tradition.

The conflicts and feuds described in the family sagas reach their climax in the courtroom as well as on the battlefield. Every family saga depicts at least several attempts to settle differences through lawsuits, mediation, and arbitration. Often a humiliated weaker party is forced to yield the right of self-judgment to the stronger. The legal system and judicial process form part of the stock material from which the family sagas are constructed. Of all family sagas, Njal’s Saga contains the greatest quantity of legal matter.
Scholarship on *Njál's Saga*\(^8\) recognizes that lawsuits and other legal elements are central to the saga, and there is little argument on the overall significance of law for the work as a whole. Some scholars have looked to *Njál's Saga*\(^9\) for historical information about Icelandic law and procedure of the saga age.\(^{11}\) Others have catalogued all the legal "errors" in *Njál's Saga* in order to demonstrate the author's woeful ignorance of Icelandic law and his dependence upon written sources for whatever legal knowledge he managed to acquire.\(^{12}\)

Although legal elements are structurally common to all family sagas and certainly formulaic to a considerable degree, I believe that the author of *Njál's Saga* employed legal material for a variety of artistic purposes and with specific literary and social objectives in mind. Whether or not he was fully conversant with the intricacies of Icelandic law, during either the saga age itself or his own contemporary Sturlung age,\(^{13}\) he exploited the jurisprudential matter masterfully. Legal elements, in conjunction with other features of the saga, serve to define the characters of the saga, advance the plot, and express the author's critique of saga age society -- and his own society as well.\(^{14}\)

Any character involved in the legal process emerges with an enriched personality, occasionally in ironic contrast to previous direct characterizations. Frequently, lawsuits advance the plot and build dramatic tension. But while characterization and plot partly justify the abundance of legal detail, law more importantly provides social commentary about both the saga age represented and the Sturlung age of the author himself. By illustrating the impotence of the judicial system upon which community peace is so dependent, the author expresses his despair, apparently offering a plea for political or legal reform. If the latter desire is as strong as I believe it to be, it also might explain why the author intentionally seems to have distorted procedures with which he indeed was familiar in order to lend greater emphasis to his social commentary by rendering events more dramatic.

The following section of this article briefly summarizes some of the previous scholarship on *Njál's Saga*. In particular, it focuses on the works discussing the significance of the saga's legal material. The article then investigates, explores, and elaborates upon the importance of legal elements to characterization, plot movement, and social commentary in *Njál's Saga*.

**B. The Critical Background**

Lehmann and von Carolsfeld\(^{15}\) opine that the author of *Njál's Saga* relied on written sources, especially the *Gríðrs*,\(^{16}\) for the legal elements of the saga but that he appeared unlearned in law. The author's jurisprudential dilettante example, in his failure to tailor the legal formulas of the Sturlungs and Gunnars to the particular conditions of each case, is unnecessary for Gunnar to follow Njál's advice and to file suit against Hrut through a special procedure.\(^{17}\) The author already accepted the special procedure, publication; at the Althing,\(^{18}\) return of Unn's property when Modr Fiddla acts on behalf of Unn (chs. 21-23), Lehmann and von Carolsfeld interpret the choice of procedure as follows:

> Clearly the author seized the second time in order to avoid repetitive peculiar masquerade arising from the author to add variety.\(^{19}\)

While Lehmann and von Carolsfeld do not explicitly discuss the literary functions of legal matters in *Njál's Saga*, it is definitively that the legal elements of the saga are accurate. In so doing, Lehmann and von Carolsfeld support those scholars, the book for the work as a whole. The following sections briefly summarize some of the previous scholarship on *Njál's Saga*. Lönroth\(^{20}\) takes issue with Lehmann and von Carolsfeld's conclusions that the author of *Njál's Saga* relied on written sources, especially the *Gríðrs*, for the legal formulas. Lönroth defends the author by demonstrating that in earlier scenes the legal elements of the saga correspond to the facts. He concludes that the author's legal elements reflect the author's pedantic preening. According to Lönroth, the lengthy segments of legal material display the author's clerical didacticism in order to instruct his reader about the legal system. He demonstrates just how knowledgeable he is about the legal system.

NJAL'S SAGA recognizes that lawsuits and suits central to the saga, and there is little significance of law for the work as a whole. Indeed to NJAL'S SAGA for historical information on procedure of the saga age. Others have errors in NJAL'S SAGA in order to demonstrate importance of Icelandic law and his dependence on whatever legal knowledge he managed to acquire.

Elements are structurally common to all family sagas to a considerable degree, I believe that the employed legal material for a variety of purposes in specific literary and social objectives in NJAL'S SAGA was fully conversant with the intricacies of either the saga age itself or his own legal skills, he exploited the jurisprudential matter that is, in conjunction with other features of the characters of the saga, advance the plot, and the structure of saga society -- and his own society evolved in the legal process emerges with an almost self-reflexive ironic contrast to previous direct and often unmediated, lawsuits advance the plot and build character and plot partly justify the plot, law more importantly provides social structure. The saga age represented the medieval legal order illustrating the impotence of the judicial power is so dependent, the author parently offering a plea for political or legal order is as strong as I believe it to be, it also seems that author intentionally seems to have distorted the facts because he was familiar in order to lend greater weight to the电缆 commentary by rendering events more extreme.

The conclusion of this article briefly summarizes some points on NJAL'S SAGA. In particular, it focuses on the significance of the saga's legal material. The author explores, elaborates upon the importance of character, plot movement, and social elements of the saga but that he appeared in fact not to understand the law. The author's jurisprudential dilettantism manifests itself, for example, in his failure to tailor the legal formulas contained in the written sources to specific factual circumstances. Instead the author of NJAL'S SAGA simply used the formulas in full as they appeared in the legal manuscript.

Lehmann and von Carolsfeld also contend that, at least in some cases, the author intentionally departed from legal procedures familiar to him. When discussing Gunnar's lawsuit against Hrut on behalf of Unn (chs. 21-23), Lehmann and von Carolsfeld explain that it is unnecessary for Gunnar to follow NJAL'S SAGA's advice in order to initiate the action against Hrut through a special procedure at Gunnar's home. The author already accepted the availability of an alternative procedure, publication at the Althing, to initiate the lawsuit for return of Unn's property when Mord Fiddle sued Hrut on Unn's behalf (ch. 8). Using the procedure suggested by NJAL'S SAGA, Gunnar must speak the formulas at Hrut's place of residence. The journey to Hrut's residence and the physical danger of summoning a man on his own property with his own forces at hand could have been avoided had the earlier procedure used by Mord Fiddle been employed. Lehmann and von Carolsfeld interpret the choice of the more complicated and dangerous course of action as follows:

Clearly the author seized the stefna procedure the second time in order to avoid repeating himself. The peculiarity of the masquerade arises from a simple whim of the author to add variety.

While Lehmann and von Carolsfeld do not analyze in detail the varied literary functions of legal matters in NJAL'S SAGA, they seem to establish definitively that the legal elements of the saga are not historically accurate. In so doing, Lehmann and von Carolsfeld lend considerable support to those scholars, the book prose adherents, who view the family sagas as primarily fictional rather than historical narratives.

Lönnroth takes issue with Lehmann and von Carolsfeld's conclusion that the author of NJAL'S SAGA was an amateurish in his use of legal formulas. Lönnroth defends the NJAL'S SAGA author by demonstrating that in earlier scenes the legal formulas indeed correspond to the facts. He concludes that rote recitation of formulas reflects the author's pedantic preening rather than amateurism. According to Lönnroth, the lengthy segments of procedural haggling display the author's clerical didacticism. The author seizes the opportunity to instruct his reader about the law -- and perhaps to demonstrate just how knowledgeable he is.

While Lönnroth agrees with Lehmann and von Carolsfeld that
Njal’s Saga is not historically accurate, he does not accept the inference that the author of Njal’s Saga relied on written sources rather than oral tradition. Since Lönroth espouses the view that the saga assembled numerous elements from oral sources, he seeks to identify the formula structures typifying oral literature. Thus, he relegates the legal proceedings principally to the role of one among the several building blocks that characterize the sagas as they developed from oral tradition. As such, the legal proceedings are in part historically accurate, but the author employs them in a more or less formulaic manner in the course of composing the saga. In general, under Lönroth’s analysis, the author draws upon stock legal descriptions in the same manner as he draws upon stock characters to fill in the gaps in the narrative.

Neither Lehmann and von Carolsfeld nor Lönroth addresses the skill with which the author of Njal’s Saga exploits his legal material. Even Einar Öl. Sveinsson in his analysis of Njal’s Saga, although generally quite sensitive to the literary skillfulness of the author of Njal’s Saga, acknowledges, but does not explore, the author’s literary craft in managing and manipulating the legal material. “No one else could have succeeded as he did in transforming the legal paragraphs and formulas of chapter 142 into effective and impressive saga material.” Later, in addressing the reaction of a reader ignorant of Icelandic law and the saga’s legal errors, Einar adds: “[t]he reader ... probably is often impressed and amazed at how much life has been injected into the dry matter of jurisprudence through the wizardry of the author.” But Einar does not go so far as Lehmann and von Carolsfeld, who ascribe a purely literary function to the legal material and then relegate that function to the author’s mere whim.

Kersbergen seeks a more direct literary function to the complicated trials of the Gunnar portion of the saga. She refuses to accept the Lehmann and von Carolsfeld theory of authorial whim. Kersbergen suggests that the author intentionally made matters convoluted in order to downplay incidents that conflict with the saga’s image of Gunnar. Similarly, Kersbergen views the Fifth Court episode (ch. 97) as an interpolation having a literary function. She rejects the episode as an historical source because she finds unlikely the emphasis on Hildigunn’s arrogant refusal to marry less than a chieftain. Kersbergen thus views the episode as a stereotypical love story, less a history than a standard marriage motif.

Gottzmann sees law within the saga more substantively as it relates to individual rights. In Gottzmann’s view, the emphasis on the individual explains why revenge operates even where no apparent legal right to retribution exists. For example, it was appropriate to avenge Gunnar even though he was an outlaw. According to Gottzmann, the saga is indeed tendentious. The saga’s author intentionally places jurisprudence in the foreground because these “expose more weaknesses of the internal Icelandic sources.” He concludes that the legal theme is intended to be both historical and as lived contemporaneously.

C. Characterization

Each major character in Njal’s Saga is crucial in the saga’s numerous legal disputes. The reader is never quite sure about these personalities through their legal or direct authorial descriptions of them. I believe this is done in order to make the female character, Hallgerðr, more complex and dimensional. Her character is only revealed through her dialogue and actions.

Women generally do not participate in the legal proceedings. Mord sues for his daughter Ónn’s divorce, but Hallgerðr’s husband, Óttar, and Leif, her brother, decide to handle the case. Women exert their power and influence in the household, initiate disputes, and goad men to action, such as when Hallgerðr’s father, Óttar, engages in a legal dispute with Óttar’s brother, Glaum, who is the author of Njal’s Saga. Women are usually not represented in Hallgerðr’s engagement, takes a direct role in the legal proceedings, and then she allows the law to decide the case. Einar Öl. Sveinsson points out that women are often represented in the legal proceedings.

Kersbergen is likely that the author of Njal’s Saga knew the engagement formula for herself and her husband. The engagement formula, known as the Hallgard formula, is likely that the author of Njal’s Saga knew it, but chose to deviate from it for the sake of the story.

Analogously, were it not for Herjólfsdóttir, Óttar would seem a rather uncouth man. She characterizes him directly as “a handsome man, skilled in arms, even-tempered and vigilant, with friends and enemies and always reliable in matters of honor.” This character description not only proves he is skilled in arms with his enemies, but also his restraint and generosity in dealing with them. She characterizes the handling of the dispute with Mord Fiddlecutter.
Gottszmnn, the saga is indeed tendentious. She concludes that the saga's author intentionally places jurisprudential problems in the foreground because these "expose most clearly the strengths and weaknesses of the internal Icelandic social structure." Gottszmnn concludes that the legal theme is intended as social commentary, both historical and as lived contemporaneously by the saga writer.

C. Characterization

Each major character in Njal's Saga becomes enmeshed in the saga's numerous legal disputes. The reader arguably learns more about these personalities through their legal interactions than through direct authorial descriptions of them. I begin my demonstration of this claim with the female character, Hallgerd, whose full potential as a character is only revealed through her dealings with the law.

Women generally do not participate in the legal process. Mord sues for his daughter Unn's divorce (ch. 7). Gunnar accepts legal responsibility for his wife Hallgerd's various trespasses (chs. 36, 38, 41, and 49), and men control the property their wives bring to the marriage. Women exert their power and influence when they run the household, initiate disputes, and good the men to act. Thus, it is significant when Hallgerd, whose father is available to arrange her engagement, takes a direct role in the formalities of that event. Lehmann and von Carolsfeld point out that, according to the written sources, it might be acceptable for Hoskuld to confer with Hallgerd about her engagement. However, she would not be permitted to speak the engagement formula for herself despite express approval of the procedure by the Lawspeaker. Thorarin Rag's Brother Olofsson. It is likely that the author of Njal's Saga knew well that the procedure was improper but chose to deviate for dramatic effect. By permitting Hallgerd to speak the legal engagement formula of her own betrothal to Glum, the author of Njal's Saga discloses the full breadth of her independence, pride, and willfulness. Even her father no longer dares to handle her marriage without consulting her first and securing her assent by having her speak the formula, thereby compelling her to assume the consequences of her own choosing (ch. 13).

Analogously, were it not for his legal dealings, Hrut Herjolfsson would seem a rather uncomplicated figure. The saga characterizes him directly as "a handsome man; he was tall, strong, and skilled in arms, even-tempered and very shrewd, ruthless with his enemies and always reliable in matters of importance" (ch. 1). He certainly proves he is skilled in arms when he embarks on raiding journeys during his sojourn in Norway (chs. 5-6), and he shows great restraint and generosity in dealing with the children who mocked his handling of the dispute with Mord Fiddle (ch. 8). Yet, Hrut displays a
darker side in his legal entanglements. He is relentless in pursuit of his Norwegian inheritance (chs. 3-6), even to the degree of becoming Queen Gunnhild’s lover. Thus, he curries favor in the Norwegian court in order to secure royal aid toward his goal. And Hrut is hardly a hero in challenging an old man, Mord Fiddle, to a duel, possibly contrary to the law, in order to avoid returning his former spouse Unn’s dowry to her (ch. 8).

If one were to envision the ideal saga hero, Gunnar Hamundarson would fit the image nearly perfectly. Gunnar “was a tall, powerful man, outstandingly skilful with arms. He was extremely well-bred, fearless, generous, and even-tempered, faithful to his friends but careful in his choice of them. He was prosperous (ch. 19).” Gunnar’s conciliatory nature reveals itself repeatedly in his approach to legal conflicts. He willingly offers to pay damages to Otkell and readily accepts arbitration even when he may not be in the wrong, as in the ambush prosecution (ch. 66). Only in Gunnar’s lawyering do his shortcomings manifest themselves, and then only to make him more lovable. The reader finally has found an activity that Gunnar cannot master. He is human after all!

When Gunnar wishes to help Unn recover her dowry, he elicits Njal’s assistance, and Njal sends him on a complex mission; Hrut is to be tricked into helping Gunnar to initiate proceedings against Hrut himself (chs. 22-23). But even with Njal’s help, Gunnar proves to be thoroughly inept in legal matters. He cannot advance the lawsuit successfully and resorts to his physical prowess to help Unn by challenging Hrut to a duel (ch. 24). He reveals himself, in a way far more effective than direct description, to be a man of action rather than words, strength rather than intellect.

Mord Valgardsson is at his most malicious and devious in legal matters. His role in litigation complements the saga’s direct descriptions of him. Compare Mord’s handling of legal process with the initial commentary on him: “He had a malicious cunning, and his advice was always calculated to cause trouble” (ch. 25). Always scheming, he falsely accuses Gunnar of violating the settlement in order to justify Thorgeir Otkellsson’s attack on Gunnar (ch. 67). But (at least to modern sensibilities) no episode in the saga parallels Mord’s depravity in destroying the case against Njal’s sons for the killing of Hoskuld Hvitassen-Priest. By taking part in the prosecution when he was himself one of Hoskuld’s killers, he causes a procedural error which, according to the saga, makes it impractical to continue the prosecution (chs. 111-121). Also, Mord’s readiness to yield the legal right of self-judgment to Hogni Gunnarsson shows the depths of his cowardice (ch. 79)

Mord, together with Njal, Eystolf Bolverksson, and Thorhall Asgrimsson, are the four outstanding lawyers in the principal litigation of the saga. The saga casts an unfavorable light on Njal and Thorhall Mord, Eyjolf is not demonic. His willingness only after receiving compensation and the win the case probably account for the opposite. He treats him. In the course of the saga, Thorhall law in a devious manner. Rather his role is legal machinations of Eyjolf.

If, however, deviousness and malevolence are grounds for condemnation of a character in the saga to condemn Njal as well. He seeks to be both devious and cunning. In the saga continually portrays Njal as a wise, trusted counselor while at the same time heaping scorn on his advice. Although devious manipulation of legal maneuvers by unscrupulous lawyers in the saga, it appears to accompany the question of behavior if the

Njal is initially described by the author as a skilled in law that no one was considered superior to him. His advice was sound and his integrity, he remembered the past and solved the problems of any man who came to him. Although his conduct in legal proceedings, he is depicted as a man of moral and favorable character.

Njal frequently manipulates the interests of the ends of someone he favors. Njal is not afraid of his advice. His advice to Gunnar in the Hvitassen-Priest case is trusted counselor when he provides bad advice. In order to advance his plan for a Fifth Court, he impasses existing judicial procedure in a way that compels adoption of his recommendation of the Fifth Court and accordingly hopes for a favorable marriage for his foster son.

If it is not sufficiently reprehensible, he places it in them when they come to be the devious character that was kills his mother Sigfusson (whom Njal’s sons killed), would foster her child Hoskuld, Njal arranges for Hoskuld. Then with Hoskuld’s consent
Asgrimsson, are the four outstanding lawyers who play key roles in the principal litigation of the saga. The saga portrays Mord and Eyjolf in an unfavorable light and Njal and Thorhall in a favorable one. Unlike Mord, Eyjolf is not demonic. His willingness to assume Flosi’s defense only after receiving compensation and the deceptive tactic he uses to win the case probably account for the opprobrium with which the saga treats him. In the course of the saga, Thorhall never manipulates the law in a devious manner. Rather his role primarily is to counteract the legal machinations of Eyjolf.

If, however, deviousness and manipulation of legal process are grounds for condemnation of a character, one might expect the saga to condemn Njal as well. He seems at least as manipulative and devious as Mord and Eyjolf. It is curious and somewhat ironic that the saga continually portrays Njal as a wise, benevolent, and trustworthy counselor while at the same time heaping scorn on Mord and Eyjolf. Although devious manipulation of legal process is common to unscrupulous lawyers in the saga, it appears that evil motives must accompany the questionable behavior if the author is to condemn it.

Njal is initially described by the author as follows: “He was so skilled in law that no one was considered his equal. He was wise and prescient man. His advice was sound and benevolent and always turned out well for those who followed it. He was a gentle man of great integrity; he remembered the past and discerned the future, and solved the problems of any man who came to him for help (ch. 20).” Although his conduct in legal proceedings is sometimes questionable, the direct depiction of Njal remains consistent with his initial favorable characterization.

Njal frequently manipulates the law to attain his own ends or the ends of someone he favors. Njal is devious in jurisprudential affairs. His advice to Gunnar in the Hrut-Unn property matter is anything but straightforward (chs. 22-23). He abases his role as the trusted counselor when he provides bad advice to numerous claimants in order to advance his plan for a Fifth Court. By providing such advice, Njal frustrates existing judicial process. He creates a legal impass that compels adoption of his recommendation for establishment of the Fifth Court and accordingly secures both a chieftaincy and a favorable marriage for his foster son Hoskuld (ch. 97).

If it is not sufficiently reprehensible that Njal betrays the trust others place in him when they come to him for advice, consider the devious manner in which he takes Hoskuld as a foster son. Knowing that Thorgerd Glumsdottir, Hoskuld’s mother, the widow of Thrain Sigfusson (whom Njal’s sons killed), would refuse an offer by Njal to foster her child Hoskuld, Njal arranges for Ketill Sigfusson to foster Hoskuld. Then with Hoskuld’s consent, but not Thorgerd’s, Njal
takes over the fostering responsibility from Ketill (chs. 93-94).\(^{50}\)

But Njal’s motives are pure; he acts for the general good and maintenance of peace. Worthy Gunnar is aided, and the Fifth Court is beneficial. Njal takes Hoskuld as his foster son because he hopes to avoid future bloody conflicts and to compensate further for the killing of Thrain.\(^{51}\) Njal lacks Mord’s evil motives and Eyjolfr’s quest for personal enrichment. His actions vis-à-vis the law are applauded by the author of Njal’s Saga rather than condemned. While Njal’s conduct in legal matters helps characterize him, one gets the impression that the author viewed Njal’s most underhanded actions through rose-colored glasses in order to describe him with consistent approbation.

D. Plot Advancement and Dramatic Tension

The Icelandic family sagas employ a variety of devices to explain events and advance or retard the plot as necessary in order to create, enhance, or adjust dramatic tension. Among these devices are dreams, prophesies, signs, and weather disturbances. But Njal’s Saga relies especially heavily on legal proceedings as its device of choice. In Njal’s Saga, legal claims without an identifiable foundation arise frequently to move the plot along, and litigation contributes meaningfully to dramatic tension.

Consider the two inheritance claims. Through an inheritance claim, the author provides the impetus for Hrut Herjolfsson’s journey to Norway (ch. 2). Hrut is introduced by the saga without mention of his genealogy on his father’s side. The reader is not aware that he has relatives or any other connection with Norway. The inheritance claim suddenly appears to disrupt rather routine wedding preparations leading to Hrut’s marital difficulties, as well as to his conflict with Gunnar. Similarly, an inheritance claim and an unusually simple procedural error positions Gunnar for the first ambush (ch. 60). Asgrim Ellida-Grimsson’s inheritance claim appears without earlier introduction in the saga. Lack of foundation for the claim may not be surprising in itself, but the procedural error accompanying the lawsuit is. The saga implies that Asgrim was a skillful lawyer. It states that the procedural error was unusual for him (ch. 60). But if Asgrim was at all skillful, he hardly would have made so basic an error as naming the wrong number of neighbors as jurymen. Thus the episode appears contrived to allow Gunnar to intervene on Asgrim’s behalf as well as to explain Gunnar’s journey to visit Asgrim unaccompanied by Njal’s sons. His return from that journey affords his enemies the opportunity for their ill-fated ambush.

Unless one assumes that the events the saga describes are historical, it appears that the author seizes legal proceedings to lay the foundation for future saga conflicts. At Hallgerd’s wedding to Gunnar, Thrain Sigfusson divorces his wife Thorhild. Hallgerd’s daughter Thorgerd. The ground Thrain’s wife Thorhild composes a verse and with Thorgerd at the wedding feast. Thorvald witnesses, declares himself divorced, and marriage, thereby proving that Thorhild Hallgerd soon appeals to their relationship. Thrain to kill Thord Freedmansson, the foster (41). Although Thrain refuses, he is presented which in turn leads to the animosity between Thran. That animosity ultimately results in Thrain’s death in the death of Njal’s sons. Although the in death is insults to Njal and his sons from Skarp-Hedin’s comments as he sets out to an unmistakable link between this new episode and Thord Freedmansson (ch. 92).\(^{55}\)

Similarly, Hrut’s divorce from Unn the dowry plays a material role in the move serving to contradict in part his previous conflict with Gunnar (chs. 22-24), but trivial compared to other conflicts in the saga. Hrut-Gunnar episode lies instead in the figure Gunnar steps to the fore, displaying his generosity toward Unn. He cows the threat of challenge,\(^{54}\) just as Hrut had done to Mork since henceforth and until his death claims a central role.

The Njal’s Saga story has three core Gunnar, resulting in his death, (2) the burn (3) the battle at the Allthing. Unsuccessful build the dramatic tension leading to each.

In the Gunnar segment, a series builds the animosity toward Gunnar that leads to his death. Otkel’s prosecution of Gunnar for the disintegrates for want of support. Otkel set. Since Otkel is not removed from the saga, anticipates the escalation of tensions through uncompensated claims (ch. 51). Skamkel’s is a function, at least in part, of the unexpected animosity and the accidental injury results (54). Geir the Priest then prosecutes Gunnar.
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Dramatic Tension

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In the Gunner segment, a series of failed lawsuits gradually builds the animosity toward Gunnar that ultimately results in his death. Otkel's prosecution of Gunnar for the burning of the storeroom disintegrates for want of support. Otkel settles without compensation. Since Otkel is not removed from the saga immediately, the reader anticipates the escalation of tensions that generally accompanies uncompensated claims (ch. 51). Skamkel's animosity toward Gunnar is a function, at least in part, of the unsuccessful prosecution. That animosity and the accidental injury result in Otkel's death (chs. 53-

Thrain Sigfusson divorces his wife Thorhild and immediately marries Hallgerd's daughter Thorgerd. The grounds for divorce are flimsy.
Thrain's wife Thorhild composes a verse critical of Thrain's flirtation with Thorgerd at the wedding feast. Thrain immediately names
witnesses, declares himself divorced, and asks for Thorgerd's hand in marriage, thereby proving that Thorhild's criticism was justified. Hallgerd soon appeals to their relationship as in-laws to persuade Thrain to kill Thord Freedmannson, the foster father of Njal's sons (ch. 41). Although Thrain refuses, he is present at the killing (ch. 42), which in turn leads to the animosity between Njal's sons and Thrain. That animosity ultimately results in Thrain's death, and more remotely, in the death of Njal's sons. Although the immediate cause of Thrain's death is insults to Njal and his sons from Hallgerd at Thrain's farm, Skarp-Hedin's comments as he sets out to kill Thrain draw an unmistakable link between this new episode and the earlier death of Thord Freedmannson (ch. 92).

Similarly, Hrut's divorce from Unn and his refusal to return the dowry plays a material role in the movement of the plot while also serving to contradict in part his previous characterization. It puts Hrut into conflict with Gunnar (chs. 22-24), but this conflict seems almost trivial compared to other conflicts in the saga. The importance of the Hrut-Gunnar episode lies instead in the shift in plot focus it introduces. Characters who played central roles in the introductory chapters now retreat to the background. Hrut becomes a peripheral figure. Gunnar steps to the fore, displaying his physical splendor and his generosity toward Unn. He cows the once hero Hrut with the duel challenge, just as Hrut had done to Mord Fiddle (ch. 8). Gunnar henceforth and until his death claims a central role in the saga.

The Njal's Saga story has three climaxes: (1) the attack on Gunnar, resulting in his death, (2) the burning of Njal and family, and

In the Gunnar segment, a series of failed lawsuits gradually builds the animosity toward Gunnar that ultimately results in his death. Otkel's prosecution of Gunnar for the burning of the storeroom disintegrates for want of support. Otkel settles without compensation. Since Otkel is not removed from the saga immediately, the reader anticipates the escalation of tensions that generally accompanies uncompensated claims (ch. 51). Skamkel's animosity toward Gunnar is a function, at least in part, of the unsuccessful prosecution. That animosity and the accidental injury result in Otkel's death (chs. 53-
but this, too, fails. Gunnar agrees to arbitration and a monetary settlement and escapes the prosecution with his honor fully intact (ch. 56).

The failure of judgment against Gunnar only renders his enemies more zealous in their resolve. They ambush him, but he is again victorious. They lodge an unsuccessful claim against him for the injuries he caused during the ambush. They attempt a second ambush and another legal prosecution of Gunnar, but again both fail. Upon Njal’s advice, Gunnar agrees to arbitrated settlements with increasing penalties, including temporary exile in the last settlement. Gunnar accepts the settlements, yet the tension builds with each failed prosecution (chs. 62-63, 66, 72, 73-74). Of course, by all rights Gunnar should be free from prosecution for both ambushes, since he acted in self-defense. As Gunnar wins each battle and each legal skirmish, the reader feels the growing determination of Gunnar’s enemies to procure his defeat. The battles in the courtroom complement the battles in the field contributing to the drama of the episode.

The pace of narration decelerates as the story line moves from the Gunnar segment to the arson segment. Rather than building dramatic tension by the rapid succession of stacking battle upon battle and lawsuit upon lawsuit with only the bare essentials of legalistic detail, the author chooses to develop events at a more leisurely pace. The staccato motion in the Gunnar segment yields to the nearly casual plot movement of the arson episode. Instead of the chain of failed prosecutions that characterizes the Gunnar segment, a single failed prosecution leads equally effectively to the death of the hero in this next major portion of Njal’s Saga (chs. 121-123).55

Njal’s sons’ slaying of Hoskuld appears as an unusually heinous trespass. Hoskuld dies as a Christian martyr asking forgiveness for his killers (ch. 111). The crime cries out for justice and retribution through revenge or, at the very least, a judgment against Njal’s sons. Again the judicial system proves inadequate to provide a satisfactory result. Dread pervades the atmosphere at the Thing. The characters visit the various chieffains’ booths at the Thing trying to muster support. Each chieffain whom the defense solicits comments upon Skarp-Hedin’s unlucky appearance (ch. 119). Flosi’s group prepares the prosecution, but the reader knows that Mord has arranged for all to come to nought.57 Some dramatic relief emanates when Mord deals the prosecution the decisive blow (ch. 121), but the tension and frustration of Flosi and his supporters remain at a peak. Njal seeks to delay the ultimate confrontation by arranging arbitration and settlement. Without Njal’s sons being declared outlaws, this settlement is too fragile to survive. Flosi’s insult of Njal and Skarp-Hedin’s counter-insult finally break the tension (chs. 122-123). The attack and burning seem mere details; the real lawsuit.

In the next major segment of Njal’s Saga the arsonists, the author again retards the manual and brisk advancement of the Gunnar episode. Leading to the arson, the plot now proceeds on a number of richly detailed procedural machinations as the prosecution and counter-prosecution under the weight of procedural complexity. The author builds dramatic tension by allowing the tension to build up over Flosi’s and Eyjolf’s procedural ploys. Meanwhile, the reader follows with increasing anxiety by describing Eyjolf’s plan to use the law over Flosi. Eyjolf’s final trick is certain to frustrate the arsonists and lead to a new tragedy. Further discussion of the legal situation continues in the following section.59

E. Social Critique and A Plea for Peace

Judging from the family sagas, the period devoted inordinate quantities of time gathering support for, and prosecuting legal cases. It would appear that little was settled in the end. The Prosecutions are so very central to the plot that the reader would expect one party to win the other to lose. In actuality, there is not a single legal proceeding in the saga ruled on to the end. Whenever a settlement is forthcoming, it results not from force or the threat of force. In Njal’s Saga we observe a failure of intricate pleading rules were not unique to England’s legal system certainly suffered somewhat, the judicial process in Njal’s Saga is nowhere so hampered. The Prosecutions disintegrate before judgment, as does the dissipation of such procedural flaws as Gunnar’s clumsy and incomplete statements (ch. 24), Mord’s intentional destruction of his onions (ch. 121), and Eyjolf’s counter-insults. Procedural complexity leads to the manipulation of legal systems and the call to it to produce equitable outcomes.

The wise and noble Njal reveals too much of the legal system to point of collapse. Yet Njal does not eschew law, although he seeks court reform by establishing a council, although he risks considerable bloodshed by providing legal counsel to frustrate the lawsuits then in progress, and the improvement of the law than a child. He does think it was intended to be a child. He does think it was intended to be a child. He does think it was intended to be a child. He does think it was intended to be a child. He does think it was intended to be a child. He does think it was intended to be a child. He does think it was intended to be a child.
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attack and burning seem mere details; the real drama ended with the
lawsuit.

In the next major segment of Njal’s Saga, the prosecution of
the arsonists, the author again retards the motion of the plot. From the
brisk advancement of the Gunnar episode, to the leisurely progress
leading to the arson, the plot now proceeds with almost plodding
ludium. The reader follows seemingly endless and meaningless
procedural machinations as the prosecution again collapses, this time
under the weight of procedural complexity and manipulation. The
author builds dramatic tension by allowing Thorhall to neutralize each
of Eyjolf’s procedural ploys. Meanwhile, he increases the reader’s
xiety by describing Eyjolf’s plan to upset the court’s jurisdiction
over Flosi. Eyjolf’s final trick is certain to frustrate the prosecution and
lead to a new tragedy. Further discussion of this prosecution
continues in the following section.59

E. Social Critique and A Plea for Law Reform?

Judging from the family sagas, the Icelanders of the saga
period devoted inordinate quantities of time and energy to initiating,
gathering support for, and prosecuting legal actions. At the same
time it would appear that little was settled in the courtroom.60 Lawsuits
and prosecutions are so very central to the plot line in Njal’s Saga that
the reader would expect one party to win the odd case here or there. Yet,
not a single legal proceeding in the saga runs its course to a judgment.
Whenever a settlement is forthcoming, it results from arbitration61 or,
occasionally, from force or the threat of force.62

In Njal’s Saga we observe a failed judicial system.63 While
intricate pleading rules were not unique to saga age Iceland
(England’s legal system certainly suffered from that same short-
coming), the judicial process in Njal’s Saga is dysfunctional. All
prosecutions disintegrate before judgment, generally as the result of
such procedural flaws as Gunnar’s clumsy omission of witnessed
statements (ch. 24), Mord’s intentional destruction of the cause of
action against Njal’s sons (ch. 121), and Eyjolf’s legalistic trickery.64

Procedural complexity leads to the manipulation of law, rather than
the call to it to produce equitable outcomes.

The wise and noble Njal reveals to us a legal system on the
point of collapse. Yet Njal does not eschew legalistic tactics. Thus,
although he seeks court reform by establishing the Fifth Court,65 Njal
then risks considerable bloodshed by providing intentionally unsound
legal counsel to frustrate the lawsuits then in progress. Njal here seeks
less the improvement of the law than a chieftaincy for his foster son
Hoskuld (ch. 97). While the reader tends to abide Njal’s manipulations,
for they serve virtuous ends, the deteriorating system provides similar
opportunities to those less benevolent than Njal. The intention of the author may well be to bring precisely this understanding to his public.

Lack of necessary but esoteric legal knowledge, failure to follow a known procedure precisely, and outright trickery by the cleverest legal characters, immobilize the judiciary and prevent it from playing a meaningful role in resolving the serious disputes in *Njal's Saga*. The reader shares Thorhall's Asgrimsson's anger with Eystein's manipulation of the legal process: “[T]ell them that they should not let themselves be tricked by lawyers' quibbles, for this time Eyjolf's cleverness has failed him” (ch. 142).66

Observing that the recurrent failure of the judicial process in *Njal's Saga* leads to repeated tragedy, the reader more than empathizes with Thorhall's frustration when the prosecution of the arsonists collapses. Like Thorhall, the reader loses confidence in the available judicial process. Thorhall's immediate, violent reaction seems intended to shock (ch. 145). While the reader anticipates that grave consequences will flow from Eyjolf's legal "trickery," the blood revenge is so swift and immediate, that Thorhall's personal tragedy, his loss of faith in the law, overshadows the direct human tragedy of the victims of the battle at the Thing.

Upon learning of Njal's death, Thorhall became enraged. "[H]is whole body swelled up; a stream of blood spouted from his ears and could not be staunched.... 'My only wish now is to take vengeance'" (ch. 132). Yet he contains his rage, suppressing his wish for revenge in favor of a peaceful, judicial resolution. He seems a true believer in Njal's admonition: "With laws shall our land be built up but with lawlessness laid waste" (ch. 70). However, failure of the legal system peacefully to resolve this dispute compels Thorhall to abandon his reliance on the judicial process and to resort to violence--his first response and the response of too many Icelanders--for satisfaction of claims.

The battle at the Allthing ensues. The site for peaceful resolution of disputes through law becomes the scene of violence and bloodshed. The juxtaposition of warfare at the Thing grounds indeed must have had a powerful impact on the Sturlung age Icelanders who were the audience of the tale.

The author of *Njal's Saga* seems to have been a law reformer bemoaning the problems of the judicial system of his own age through his descriptions of the failure of that process in the saga age. The parallels would have obvious to the reader (or listener) of the Sturlung age. Taken together, the legal trickery and other shortcomings of the legal system displayed in *Njal's Saga* appear to express a common theme. The author exposes the serious dangers lurking as a result of this dysfunctional legal system. Possibly he hopes thereby to avert the disaster that will inevitably befall the society--most probably his own age--that has permitted its judicial system to fall apart. The author's critique is especially deceptively appears as a merely object moved-concept transferred to another generation.68

Nevertheless the author of *Njal's Saga* is well aware that the public without hope. Hall Thorsteinsson offers himself for the death of his son Ljot, who was killed in the combatants in the Allthing battle. Hall Thorsteinsson's life is the world of the family saga where family is not to leave a close relative unavenged and there can be no shame in seeking revenge, subjecting to derision those who seek revenge.69 Like the battle at the Allthing it juxtaposes and turns Hall's act into an act of vengeance. For the sake of peace in the land, Hall is forced into his own family's honor (ch. 145). Hall's sacrifice leads the author with the final reconciliation of the two remaining major characters with a blood curse.

F. Conclusion

Not all scholars would agree with Einar, for example, accepts the importance of the composition of the saga but rejects the author's tendentiousness.70 Although Einar refuses to accept a Christian message to the saga, he observes its influence. He contends: "[F]undamentally native, but it has undergone a unique development, the warm breeze from the south."71 Lómorn considers the saga a product of the clerical mind.

It is true that much of the Christevent events is difficult to explain satisfactorily through interpolation, without conceding that the author is preaching or at least arguing in favor of Christ. Whether the author's willingness to allow his son's death to rest on the hands of his enemies (ch. 145), Hóskuld Hvitánness-Priest's prayer for the dead (ch. 111), and Flosi's and Kari's receipt of a Christian reconciliation (chs. 158-59) express the author's wish to resolve human discord, the author sought to advance Christian principles that legal failures similarly should be propagated for a propaedeutic purpose.

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functional legal system. Possibly he hopes
thereby to avert the disaster that will inevitably flow from it. He is
critical of the society -- most probably his own society of the Sturlung
age -- that has permitted its judicial system to disintegrate. Reform is
essential. The author's critique is especially effective because it
deceptively appears as a merely objective description of events
transferred to another age.68

Nevertheless the author of Njal's Saga does not leave his
public without hope. Hall Thorsteinnson of Sida forgoes compensation
for the death of his son Ijot, who was killed when trying to separate
the combatants in the Althing battle. Hall's act is unprecedented in
the world of the family saga where family honor is so important. To
leave a close relative unavenged and uncompensated would normally
be shameful, subjecting to derision the person responsible for
revenge.69 Like the battle at the Althing, the author exploits the
juxtaposition and turns Hall's act into an act of ultimate self-sacrifice.
For the sake of peace in the land, Hall is even willing to compromise
his own family's honor (ch. 145). Hall's sacrifice is complemented by
the author with the final reconciliation of Kari and Flosi (ch. 159), the
two remaining major characters with a blood score to settle.

F. Conclusion

Not all scholars would agree with the foregoing reading of
Njal's Saga, but neither is it irreconcilable with the views of others.
Einar, for example, accepts the importance of events contemporaneous
with composition of the saga but rejects the notion that the saga might
be tendentious.70 Although Einar refuses to acknowledge a purely
Christian message to the saga, he observes the presence of Christian
influence. He contends: “[F]undamentally, the life view of the saga is
native, but it has undergone a unique development because of the
warm breeze from the south.”71 Lönroth, on the other hand, views
the saga as a product of the clerical mind.72

It is true that much of the Christian aura surrounding saga
events is difficult to explain satisfactorily, except as subsequent
interpolation, without conceding that the author may have been
preaching or at least arguing in favor of Christian ethics. Hall of Sida's
willingness to allow his son's death to remain uncompensated (ch.
145), Hoskuld Hvitaness-Priest's prayer for forgiveness of his killers
(ch. 111), and Flosi's and Kari's receipt of absolution followed by their
reconciliation (chs. 158-59) express the author's preference for the
Christian approach to resolving human conflicts. If, as it would
appear, the author sought to advance Christian ethics, why reject the
possibility that legal failures similarly served an educational and
propagandistic purpose?

Such a view of the Njal's Saga author's purpose explains in
part why he presents legal proceedings in such detail. While I am in accord with Lönnroth that the proceedings serve a didactic function, the author by no means is trying to demonstrate how much he knows. He is not a pedant imparting information for its own sake. Einar persuaded us long ago that the author of Njáls Saga is far too skillful for us to render such a judgment against him. For, on several levels the arson trial is among the most effective and memorable portions of the saga. As the reader wades through the seemingly endless pointless-counterpoint of the trial, dramatic tension builds. The author skillfully defers the inevitable bloody climax. The reader waits anxiously, as Mord (with Thórhall’s assistance) barely manages to counteract each of Eyjolf’s efforts to lay waste the trial with procedural maneuvering. Like his cleverly legalistic heroes, the author manipulates his reader. Anticipation and dread grow as the author exposes the devastating shortcomings of a legal system that allows the protracted presentation of a case, requires strict adherence to complex formulas and procedures, and yet, even for those who succeed in mastering the trial techniques, is unable to render a verdict to resolve the dispute.

Njáls Saga exposes the futility of relying on a paralyzed legal system that ultimately forces adversaries to resort to revenge. It is easy to see why a segment of the Icelandic Commonwealth’s populace would be more attracted to the Norwegian Crown’s functional rule of law than to the dysfunctional democratic one already in place. Perhaps the author is observing that Iceland compromised its freedom for the rule of law Norway seemed to offer.74

Many thanks to Ilene Ordower, my spouse, who encouraged and ultimately persuaded me to return to an earlier interest and write this article, which lay dormant for many years. Ilene’s critique of the various drafts of this article made the final product what it is. Thanks also to my colleague, Dennis Tuchler for reading and commenting upon an earlier draft of this article.

1. Not all literary specialists would agree that the family saga constitutes a discrete literary genre. For a brief general overview of the Icelandic saga, see Stefán Einarsson, A History of Icelandic Literature (Baltimore, 1957), or Peter Hallberg, The Icelandic Saga, Paul Schach trans. (Lincoln: U. of Nebraska Press, 1962).

2. Traditionally, historians attribute the initial impetus for the emigration from Norway and settlement of Iceland to Harald the fair-haired’s unification of Norway under a single crown. Rather than submitting to Harald’s rule, many Norwegian nobles chose to emigrate.

3. Some scholars have advanced the view that the disinterest is a mere stylistic characteristic. The author clearly favors some characters and causes over others, while maintaining a seemingly objective stance with respect to his material. See, for example, Lars Lönroth, Njáls Saga: A Critical Introduction (Berkeley: U. of California Press, 1976), and see also Carola L. Gottzmann, Njáls saga. Rechtsproblematik im Dienste sozio-kultureller Deutung (Frankfurt am Main: Peter Lang Verlag, 1982) for an exploration of the development and resolution of legal conflicts in the work.

4. This article extends Lönnroth’s and Gottzmann’s disinterest is only apparent. The author is very much a part of it. The term “saga” probably best translates to English the same ambiguity concerning the reality of the events. “Geschichte,” the French “histoire,” or the earlier English “History” are all synonyms. Compare the Oxford English Dictionary’s first definition of incidents in early use, either true or imaginary, later to include “Oxford English Dictionary” (Oxford: Oxford U. Press, 1940).

5. The earliest manuscripts of the family sagas date generally to the period commencing in the late 12th and early 13th centuries. Njáls Saga being among the latest is regarded as having been created in the late 13th century.

6. In order to demonstrate the lack of historicity, Cædman has carefully examined place names, topographical descriptions for inconsistences. See, for example, Sigurður Njáls, “Hrafnskála,” 7 Studia Islandica (Reykjavík, 1940), P. Cowley, ed., Hrafnels Saga Freygoða: A Study (Cambridge: 1948). They sought to identify influences from other writing sources. The authors did not simply transcribe from oral sources stories with borrowings from other written sources.

7. See, for example, Peter Hallberg, “Snorri Sturluson och hans försök till språklig författarbestämning” 20 Studia Islandica.

8. Lars Lönroth, for example. See supra note 3, and the text.

9. Njáls Saga is the name of the saga in the standard Penguin Books translation by Magnus Magnusson and Peter Haining (Harmondsworth: Penguin, 1960, 1974 reprint). Another article from Njáls Saga are from this translation, and several standard Icelandic texts, Einar Sveinsson, ed., Bray. The Icelandic title translates as “Burnt Njáls Saga,” by Sir George Webb Dasent was titled The Story of Freygoða. This article will identify references to and quotes from Njáls Saga by the diminutive.

10. This is a brief note about aspects of the Iceland-inflected language containing certain letters that do not: “þ” is an unvoiced “ð” in English; the letter “ó” approximates a “ó” with a similar sound. Proper nouns inflect along with other words. The singular case of names because it generally approximates a Danish inflection. Many place names and nicknames in Icelandic are example, Húsakulur Hvitannesgöði is Hóskuld Hvitanessgöði.

11. See, for example, Vilhjálmur Finsen, Om den oprørsfrislandske Frigælds Institutioner (Copenhagen, 1888) at p. 9; “Om Njála,” 19 Aarbøker for Nordisk Oldkyndighed (Copenhagen, 1904) at p. 89 et seq.

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If the view that the disinterest is a mere stylistic device favors some characters and causes others, while his stance with respect to his material. See, for example, Critical Introduction (Berkeley: U. of California Press, 1979). Njal’s Saga, Rechtss problematik im Dienste sozialer沙滩 Main: Peter Lang Verlag, 1982) for an exploration of the development and resolution of legal conflicts in a social context from the period. This article extends Lönroth’s and Gottzmann’s views and demonstrates that the disinterest is only apparent. The author is very much involved in his subject matter.


6. The earliest manuscripts of the family sagas date to the early 13th century. Scholars generally agree that the sagas were written (or at least transcribed from oral tradition) during the period commencing in the late 12th and ending in the late 13th century. Njáls Saga being among the latest is regarded as having been composed around 1280.

7. In order to demonstrate the lack of historicity, so-called “book prose” adherents carefully examined place names, topographical descriptions, and other written sources for inconsistencies. See, for example, Sigurður Nordal’s famous study of Hrafnfiskel’s Saga: “Hrafnfiskel,” 7 Studia Islandica (Reykjavík, 1940). English translation by Frank Stenton Cowley, ed., Hrafnfiskel Saga Freysgða: A Study (Cambridge: Harvard U. Press, 1952). They sought to identify influences from other written sources to demonstrate that saga authors did not simply transcribe from oral sources but independently composed their stories with borrowings from other written sources.

8. Lars Lönroth, for example. See supra note 3, and text infra, at note 23.

9. Njáls Saga is the name of the saga in the standard English edition, which is the Penguin Books translation by Magnus Magnusson and Hermann Pálsson, Njáls Saga (Hammondsworth: Penguin, 1960, 1974 reprint). English language quotations in this article from Njáls Saga are from this translation, and Icelandic language quotations use the standard Icelandic text, Einar Sveinsson, ed., Brems-Njáls Saga (Reykjavík, 1954). The Icelandic title translates as “Burnt Njál’s Saga,” and the earliest English translation by Sir George Webb Dasey was titled The Story of Burnt Njal (1861). Scholars frequently and fondly refer to Njáls Saga by the diminutive “Njál.”

This article will identify references to and quotations from Njáls Saga and the Icelandic Brems-Njáls Saga with chapter numbers corresponding to the standard texts. Both the Icelandic and English texts use the same chapter divisions. These references are embedded in the text in the form of a chapter number in parentheses (Ch. 23) for example.

10. This is a brief note about aspects of the Icelandic language. Icelandic is a highly inflected language containing certain letters that do not appear in English. The letter “I” is an unvoiced “th” in English; the letter “O” approximates a voiced “th” in English. Proper nouns inflect along with other words. The English text adopts the accusative singular case of names because it generally approximates the root form of the name. Many place names and nicknames in Icelandic are translated in whole or part. For example, Hofskuluv Hvitansgoði is Hofskuluv Hvitans Priest in English.

11. See, for example, Vilhjálmur Finsen, Om den oprindelige Ordning af nogle af den islandske Fristeres Institutioner (Copenhagen, 1888) at p. 100 et seq. and Finnur Jónsson, “Om Njáls,” 19 Aarbøger for Nordisk Oldkyndighed og Historie, ch. 2 (Copenhagen, 1904) at p. 89 et seq.

12. Karl Lehmann and Hans Schnorr von Carolshald, Die Njálsage insbesondere in ihren
juristischen Bestandteilen (Berlin, 1883). This monograph will be referred to by the authors’ names as Lehmann and von Carolsfeld.

13. The Icelandic Commonwealth lasted from about 930 A.D. when the first Alltingi was seated until Iceland became subject to the rule of the Norwegian crown in 1262-64. The part of this era during which the family sagas were composed has come to be known by the name of one of the powerful families of the time, the Sturlungs. Essentially contemporaneous stories of the events taking place during the family saga composition period make up the Sturlunga Saga. Sturlunga Saga appears in an edition by Jón Jónasson, Magnús Finnbugason and Kristín Eldján (Rejявление, 1946), English translation by Julia H. McGrew (New York: Twayne Publishers, 1970-74).

14. The Sturlung age was extremely volatile. The various chieftaincies (see infra, note 48) became concentrated in ever fewer hands. As the dominant families sought to consolidate their power, bloodshed ensued. After 1200 the system of quarter courts declined rapidly as an effective judiciary, and revenge and warfare became the order of the day. (On the quarter courts and their control by chieftains who were resident in the given quarter, see Lehmann and von Carolsfeld, supra note 12, p. 109; on the jurisdiction of the quarter courts generally, see William Ian Miller, Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland (Chicago: U. of Chicago, 1990), pp. 16-19.) The period was even bloodier than the saga age. The Norwegian king attempted to bring Iceland under his rule. When use of armed force in 1220 failed, he searched out other methods to gain a foothold. He secured control of some chieftaincies in which he installed his Icelandic followers. The crown, with the assistance of the Icelandic church, gradually became an arbiter of disputes in Iceland. Ultimately, the king subverted the deteriorating system of self-rule, and Iceland voluntarily yielded its independence in favor of the stability the Norwegian crown had to offer.

15. See supra note 12.

16. Grægos (English: Grey-goose) is a collection of Icelandic laws from the period of the Icelandic Commonwealth which includes both the age in which the action of the family sagas takes place and the later Sturlung age during which the family sagas were committed to parchment. The earliest manuscripts of Grægos date from the middle to late 13th century; but Vilhjálmur Finsen in his 1852 edition assumes that the 13th century manuscripts were based on manuscripts dating from the middle of the 12th century.

17. Lehmann and von Carolsfeld contend, for example: "...that the form of the týsing is a thoughtless copy of the formula in the lawbooks without adaptation to the instant case," supra note 12, p. 105, translation by author.

18. The Althing [Icelandic: Alltingi] was the annual national meeting of chieftains and their adherents. The meeting took place at Thingvellir [þingvellir] (the Thing grounds) where the Lögberg (the law rock) is located, some 1000 years old, and is near the capital of Iceland. Althing also refers to the þing, or the courts that met to hear cases during the meeting; in addition, it refers to Iceland met during the Allthing. In addition to this, the Althing also referred to the Þing, or the courts that met to hear cases during the meeting; in addition, it also referred to Iceland itself, or the Althing.

19. In Icelandic Möðr is nicknamed “gigja” which is “careful”.


22. Id. at 248. Lönroth infers that the author may have been able to take it for granted that he was comfortable dictating them to a scribe. Lönroth

23. If this was the situation, it is easy to understand a very thorough lesson in legal points of narrative structure. As every professor stereotypes unnecessarily lecturing as much as a good opportunity for esoteric learning. Id.

24. See, for example, Albert B. Lord, The Singer of Tales (1960) for a general discussion of the formulaic theories.

25. Lönroth, supra note 3, pp. 61-82.

26. Translated as Íslensk Saga: A Literary Masterpiece (hereinafter “Íslensk Saga”).

27. Id. at 27.

28. Id. at 34.

29. See text supra, at note 20.


31. Kersbergen writes:

32. Kersbergen, supra note 29, at 46.

33. Gottzmann, supra note 3, at 294.

34. Id. at 306-7, translation by author.

35. Gottzmann writes:

[When] this individualistic-liberalistic element merges with the material leads to the nearly total destruction of two-faced man... so-called social-cultural problems, which played a role not just for the middling class (around 1000) and the period of the common.
This monograph will be referred to by the abbreviations (Carolsfeld).

Laid from about 930 A.D. when the first Alþingi met to the rule of the Norwegian crown in 1262-66. The family sagas were composed has comes to be the powerful families of the time, the Sturlungs. The events taking place during the family saga Sturungsaga (Carolsfeld). More generally, see William Ian Miller, Bloodtaking and Firing in Saga Iceland (Chicago: U. of Chicago, 1990), the former than the saga age. The Norwegian king his rule. When use of armed force in 1262 failed, he gain a foothold. He secured control of some his Icelandic followers. The crown, with the gradually became an arbiter of disputes in Iceland. The deteriorating system of self-rule, and Iceland were in favor of the stability the Norwegian crown had

A collection of Icelandic laws from the period of the Sturlings age which the family sagas were first written manuscripts of Gjögs date from the middle to the 13th century. The 1852 edition assumes that the 13th century dates from the middle of the 12th century.

The Gjögs accurately records the laws of medieval Iceland, those of the lawgivers that are an arbitrary body in the law books. No legislature enacted in which the manuscripts transmit them—all unless one could preserve the law texts verbatim through a record. Moreover, the compiler of the laws may well be a compiler who set about recording the laws from memory. Further, for example: On the form of the fissing is in the lawbooks without adaptation to the instance by author.

The Alþing was the annual national meeting of chieftains and the place at Thingvellir (Thingvellir) (the Thing grounds) where the Logberg (the law rock) is located, some thirty miles from modern Reykjavík, the capital of Iceland. Allthing also refers to the parliament itself and generally to the courts that met to hear cases during the meeting. The courts for the four quarters of Iceland met during the Allthing. In addition to the Allthing, there were district meetings and court sittings in the spring which also were referred to as þing [things]. See, generally, Jesse L. Byock, Medieval Iceland, Society, Sagas, and Power (Berkeley: U of California Press, 1988) at 63-67 and William Ian Miller, supra note 14, especially chapters 1 and 7.

In Icelandic Móðr is nicknamed "gíga" which translates as "fiddle."

Lehmann and von Carolsfeld, supra note 12, p. 48, translation by author.

Lönnroth, supra note 3, pp. 243-45.

Id. at 248. Lönnroth infers that the author may have known the formulas so well that he was comfortable dictating them to a scribe. Lönnroth continues: If this was the situation, it is easy to understand that he decided to give his audience a very thorough lesson in legal procedure, partly at the expense of narrative structure. As every professor should know, nothing breeds unnecessary lecturing as much as a good opportunity to unburden oneself of esoteric learning. Id.


Lönnroth, supra note 3, pp. 61-82.

Translated as Njáls Saga: A Literary Masterpiece (Lincoln: U. of Nebraska, 1971) hereinafter "Einarr."

Id. at 27.

Id. at 34.

See text supra, at note 20.

Anna Cornelia Kersbergen, Literaire Motieven in de Njáls (Rotterdam, 1927).

Kersbergen writes: It does not seem unlikely to me that something other than simply a personal inclination brought the author to these complicated trials. Perhaps through Njal's advice, he intended to create a closer link between Gunnar's Saga and Njal's Saga, or perhaps the oral tradition included all kinds of material which did not accept the image was the writer had formed of Gunnar, and he hoped, without it being noticed, to push these to the background by adding so much detail. (Id. at 12, translation by author).

See discussion of this episode infra, text at note 47.

Kersbergen, supra note 29, at 46.

Gottzmann, supra note 3, at 294.

Id. at 306-7, translation by author.

Gottzmann writes: [When] this individualistic-liberalistic element within the legal theme leads to the near total destruction of two important families, then the saga certainly is supposed to shed light upon one of the most central social-cultural problems, which played a role both in the period depicted (around 1000) and the period of the compilation (around 1280). The
Icelandic cooperative, social structure was shaken fundamentally by the inadequate legal order and the lack of a sense of community that resulted from it. (Ib. at 307, translation by author).


37. The lawspeaker [lógsogaður] was the only significant office holder in saga age Iceland. He was the legal expert for the country, and his major occupation was to recite the laws at the annual meeting of the Althing. He served a three year term and recited one-third of the laws at each of the three meetings during his term. The legislative council, logræta, and the parties to a lawsuit also consulted with him from time to time when there was uncertainty about the law. See, generally, Byock, Medieval Iceland, supra note 18, pp. 64-65.

38. Lehmann and von Carolusfeld: That Hallgerðr is permitted to handle her own engagement here, and that the lawspeaker expressly could sanction it as legal, cannot be understood from the perspective of the law books. supra note 12, p. 39, translation by author.

39. See supra, note 9 for translation information.

40. While duelling did not become illegal until somewhat later, after the introduction of Christianity (see text, infra, at note 67), Hrut makes it clear in ch. 22 that duelling was not the appropriate means of resolving legal disputes, so that Mord could have revived the claim.

41. Jeffrey Slusher offers a slightly differing approach to this episode in his interpretation of Njal's Saga in the present volume. See Slusher, "Runic Wisdom," 3 CSLL at p. 24. With Njal's assistance, Gunnar proves more adept in defending against the prosecution for Oktell's killing (ch. 56).

42. The falsity of the accusation becomes clear in ch. 70.

43. Lehmann and von Carolusfeld aver that, according to the written legal sources, initiation of the prosecution by one who himself took part in the killing would not void the prosecution of those he summoned and was an error easily correctable at the court. See supra note 12, p. 98. Again it appears that the author of Njal's Saga either was not knowledgeable about the law or chose to ignore it in order to advance the plot.

It is likely that the author was aware of at least some of the problems with the saga's legal premises. To serve his esthetic and his social criticism, he seems intentionally to have built them into the saga. The fact that he repeatedly has his characters reveal that errors are curable leads to the conclusion that the author was in fact a knowledgeable jurist. With my conclusion, accord Lönroth but contrast Lehmann and von Carolusfeld; see supra, respectively at notes 21 and 17.

44. The saga permits Mord to redeem himself in part by handling the prosecution of Fjolnir Thordarson, the leader of the arsonists.

45. The saga also bills Mord Fiddle as an excellent lawyer, but the litigation with Hrut over Unn's divorce in which he is involved seems of far lesser significance to the story than other lawsuits.

46. Imagine criticizing a lawyer today for accepting a fee for services rendered. Lehmann and von Carolusfeld assert that the action against Eyjolf for accepting a bribe in taking the fee is not supported by the written legal sources. There was nothing untoward about accepting a fee for assuming a defense. The Njal's Saga author seems to have made a legal error, unless he injected the mistake intentionally to enhance the reader's animosity toward him. Lehmann and von Carolusfeld also say that Fjolnir is flawed in that one could not shift to another proceeding like that Eyjolf recommends. See supra note 47.

47. Other sources do not attribute the establishment of the estate account in Njal's Saga appears wholly fictional. See published in Jakob Benediktsson, ed., Islendingasögur (Reykjavik, 1968), and discussion in Lehmann and von Carolusfeld supra note 48.

48. Goddr (nominative plural is the same as the singular) formal chieftaincies which existed during the Common Law period was a goddr who was free to sell or grant his addition to his secular duties of calling the Thing to or on which a goddr was originally the priest of the pagan temple as a chief and willing to sell his chieftaincy to Hoskuld.

49. See also text infra, at note 65.

50. Lehmann and von Carolusfeld express the view that the responsibility, even in accordance with Hoskuld's direct nature of the legal relationship. Fostering is essentially a substitution of fiduciaries without the agreement of all improper. See supra note 12, p. 92.

51. It is odd that Njal does not foresee the ultimate disaster.

52. Lehmann and von Carolusfeld inform us that the common law marriage are both legally and socially erroneous. There Hoskuld for Thorgil's hand, as Hallgrímur had the right, customarily the engagement period was considerable, but the marriage follows the engagement is a breach of norm.

53. The scene is among the most entertaining in the saga axe bumps the wall awakens Njal who finds his sons asks Skarp-Hedin where he is going.

"To look for sheep," he replied.

"You said that once before," said Njal, "but then you Skarp-Hedin laughed and said, "Do you hear that the old man.""

Kari asked, "When was the other time you said that?"

"When I killed Sigmund the White, Gunnar and Skarp-Hedin.

"What for?" asked Kari.

"He had killed Thorl Friedmansson, my foster-brother," (ch. 92).

54. The duel challenge is not a permissible legal proceeding. See supra note 22. The author undoubtedly shares this knowledge, see supra note 22. The duel challenge, once again, serves a literary and social function. The reader may feel that Hrut is merely getting his due, or down. Even the people who wish to avoid bloodshed are willing when -- as Gunnar feels here -- they cannot rely on the laws of justice.

55. Compare discussion in Lehmann and von Carolusfeld infra note 49.
structure was shaken fundamentally by the inadequate
sense of community that resulted from it. (Ibid. at 307,
Lawson and William Ian Miller: Law and Literature in
Iceland and the Saga Age (Icelandic Studies, 16). Oxford:
Clarendon Press, 1979.)

[JC 139] was the only significant office holder in saga age
for the country, and his major occupation was to recite
the laws of the Althing. He served a three year term and recited
the three meetings during his term. The legislative
law or lawsuits also consulted with him from time to time
about the law. See, generally, Byock, Medieval Iceland,
Supra note page 12, p. 39, translation
in information.
The illegal until somewhat later, after the introduction of
the first law code in 1257), Hrut makes it clear in ch. 22 that dwelling was
living legal disputes, so that Mord could have revived

an animosity toward him. Lehmann and von Carolsfeld also point out that Eyjolf’s advice to
Flosi is flawed in that one could not shift to another chieftain’s district in a secret

47. Other sources do not attribute the establishment of the Fifth Court to Njal. The
account in Njáls Saga appears wholly fictional. See Ari Íorgilisson: Islendingabók,

48. Gödodir (nominative plural is the same as the singular) were the limited number of formal chieftaincies which existed during the Commonwealth period. The owner of a gödodir was a godi who was free to sell or gratuitously transfer his chieftaincy. In
addition to his secular duties of calling the Ting to order and naming the judges, the

See also text infra, at note 65.

50. Lehmann and von Carolsfeld express the view that transfer of the fostering
responsibility, even in accordance with Hulskold’s direct wish, would be contrary to the
nature of the legal relationship. Fostering is essentially a fiduciary responsibility so that
substitution of a foster without the agreement of all parties, including Thorgierd, is
improper. See supra note 12, p. 92.

51. It is odd that Njal does not foresee the ultimate disaster when his sons kill Hulskold.

52. Lehmann and von Carolsfeld inform us that the engagement and the immediate
marriage are both legally and socially erroneous. There was no reason for Thrain to ask
Hulskold for Thorgierd’s hand, as Hulgerd had the right to act in that role. Moreover,
customarily the engagement period was considerable, so that the rapidity with which the
marriage follows the engagement is a breach of normal conduct. See supra, note 12, p. 40.

53. The scene is among the most entertaining in the saga. The sound of Skarp-Hedin’s
axe bumping the wall awakens Njal who finds his sons and Kari dressed for battle. Njal
asks Skarp-Hedin where he is going.

74. To look for sheep,” he replied.

75. “You said that once before,” said Njal, “but then you hunted men.”

76. Skarp-Hedin laughed and said, “Do you hear that? He’s not so innocent, the old man.”

77. Kari asked, “When was the other time you said that?”

78. “When I killed Sigmund the White, Gunnar’s kinsman,” replied Skarp-Hedin.


80. “He had killed Thord Freedmansson, my foster-father,” said Skarp-Hedin.

(ch. 92).

54. The duel challenge is not a permissible legal procedure, as Hrut well knows. See ch.
22. The author undoubtedly shares this knowledge, see discussion supra at note 43. The
duel challenge, once again, serves a literary and social criticism function. While the
reader may feel that Hrut is merely getting his due, the law once more has broken
down. Even the people who wish to avoid bloodshed are prepared to resort to violence
when – as Gunnar feels here – they cannot rely on the judicial system to serve the ends of
justice.

55. Compare discussion in Lehmann and von Carolsfeld, supra note 12, pp. 68-71, supporting
this position on the basis of material in the Grímn.
56. Some Njal's Saga scholars have theorized that Njal's Saga is an amalgamation of several discrete sagas. In addition to the Christianization episode, chapters 100-105, and the Brian episode, chapters 154-157, which scholars commonly trace to other sources, they hypothesize the existence of separate Gunnar's and Njal's sagas. See the translators' notes to the English edition, supra note 9, pp. 216 and 341; see also note 2, p. 255 and note 6, p. 439 of Bremner-Njal's Saga, supra note 9, concerning the Christianization and Brian episodes. Of course, the existence of separate sagas would account for the radical change in pacing and style that occurs following Gunnar's death. Note, however, that the pace decelerates again following the burning of Njal, so that one might conclude that the repeated change in pace results from a conscious decision concerning narrative technique.

57. According to Lehmann and von Carolfeld, Mord could not destroy the case against Njal's sons in this manner. See supra, note 43, and text infra at note 71.

58. Outlawry carried with it penalties of forfeiture of property and temporary exile. The law allowed the outlaw some time to prepare for his exile. Upon expiration of the grace period, anyone was permitted to kill him without legal penalty for the killing or entitlement to revenge. Gunnar agreed to exile and outlawry in the last of his settlements (ch. 74). When he failed to leave the country (ch. 75), he became fair game. Since the Icelandic judicial system lacked an enforcement mechanism, interested parties were forced to rely on their own devices to enforce the judgment. Killing Gunnar proved no easy task (chs. 76-77). Not all forms of outlawry were identical; some carried milder penalties than others. On Icelandic penal law during the saga age, see Andreas Heusler, Das Strafrecht der isländersagas (Leipzig, 1911).

59. See text infra, at note 66.

60. Of course, many would say the same of modern American legal proceedings. Only a small minority of legal disputes become lawsuits, and only a small portion of those go to judgment.

61. Parallels to modern American jurisprudence are striking.


63. Compare text supra, at note 35.

64. See, for example, chs. 143-44.

65. Other sources do not support this account of the establishment of the Fifth Court. See supra, note 47.

66. It is stimulating to discover that some things remain constant; litigation still centers frequently on resolution of procedural rather than substantive matters.

67. Judging from Sturlunga Saga, the collapse of the judicial system during the Sturlung age was nearly complete. The Sturlunga Saga is gorier than the family sagas. Bloodshed is ubiquitous. See supra, note 14.

68. This perception of the author's apparent objectivity is familiar to saga scholarship. Compare Lönnroth's discussion of the saga as assuming a stance with respect to events that transpire in the course of the narrative: Lönnroth, supra note 3, pp. 82-99. Lönnroth points out: "our impression of "objectivity," then, must at least in part be illusory. If we look more closely at the narrative technique inherent in the action patterns and structural components, we discover a variety of traditional devices whereby the narrator leads us to accept his point of view.

Id. at 82.
have theorized that Njal's Saga is an amalgamation of themes to the Christianization episode, chapters 100-105, and 144-157, which scholars commonly trace to other sources, of separate Gunnar's and Njal's sagas. See the translators' supra note 9, pp. 216 and 341; see also note 2, p. 255 and supra note 9, concerning the Christianization and existence of separate sagas would account for the radical shift occurring following Gunnar's death. Note, however, that following the burning of Njal, so that one might conclude no results from a conscious decision concerning narrative events.

von Carolsfeld, Mord could not destroy the case against supra, note 43, and text infra at note 71.

regulatives of forfeiture of property and temporary exile. The same to prepare for his exile. Upon expiration of the grace period to kill him without legal penalty for the killing or to agree to exile and outlawry in the last of this failure to leave the country (ch. 75), he became fair game. The parties were interested in the enforcement mechanism. supra note 5, supra note 5.

Not all forms of outlawry were identical; some carried with them a threat of civil or criminal penalties. On Icelandic penal law during the saga age, see Andreas undersagas (Leipzig, 1911).

the same of modern American legal proceedings. Only a few cases become lawsuits, and only a small portion of those go to trial.

Analogies to modern American legal proceedings. Hrut challenges Mord Fiddle in ch. 8, and Gunnar supra, note 54.

35.

But for this account of the establishment of the Fifth Court.

41. The Grettis saga, the collapse of the judicial system during the Sturlung Era. Sturlunga Saga is not the same as the family sagas. Bloodshed.

42. Mord's apparent objectivity is familiar to saga scholarship. The saga as assuming a stance with respect to events in the narrative. Lomnroth, supra note 3, pp. 88-99. Lomnroth supra note 3, p. 104-64.

69. Compare Njal's reaction when Flósi offers him the opportunity to leave the burning house because he has no disagreement with Njal. "I have no wish to go outside," said Njal, "for I am an old man now and ill-equipped to avenge my sons; and I do not want to live in shame." (ch. 129). 70. Óinarr supra note 25, p. 165 et seq.

71. Id. at 184-85.

72. Lomnroth, supra note 3, pp. 104-64.

73. Id. at 243.

74. Iceland became part of Norway around 1262, and Njal's Saga generally is dated to the latter part of the 13th century. If the dating is accurate, the author would have known this history when he composed the saga. The Norwegian crown introduced a new legal system to Iceland based on Norwegian law, specifically introducing the lawbook called Järnstað around 1271. See Vilhjalmur Finsen's introduction to Grettis saga, Skálholtsbók (Copenhagen, 1883, reprinted Odense, 1974), p. iii. And compare Lomnroth, supra note 3, p. 165 and p. 188 concerning the Fifth Court and 13th century law reform.