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Prvih osem člankov v tej številki Acta Histriae je nastalo iz prispevkov za mednarodno spletno konferenco After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe. Konferenca je bila del podoktorskega projekta Z6-3223 Reševanje sporov med nižjimi sloji v baročni Notranji Avstriji: med fajdo in kazenskim pravom, ki ga je financirala Javna agencija za znanstvenoraziskovalno in inovacijsko dejavnost Republike Slovenije (ARIS) v letih 2021–2023, ter raziskovalnega programa P6-0435 Prakse reševanja sporov med običajnim in postavljenim pravom na območju današnje Slovenije in sosednjih dežel, ki ga sofinancira ARIS v letih 2022–2027./I primi otto articoli in questo numero di Acta Histriae provengono dagli interventi presentati alla conferenza internazionale online After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe. La conferenza faceva parte del progetto di post-dottorato Z6-3223 La risoluzione delle controversie plebee nell'Austria Interiore nel periodo barocco: tra faida e diritto penale, finanziato dall'Agenzia slovena per la ricerca e l'innovazione (ARIS) nel periodo 2021–2023 e dal programma di ricerca P6-0435 Pratiche di risoluzione dei conflitti tra diritto consuetudinario e statutario nell'area dell'attuale Slovenia e dei suoi territori limitrofi, cofinanziato dall' ARIS nel periodo 2022–2027./The first eight papers in this issue of Acta Histriae originate from papers for the international online conference After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe. The conference was part of the post-doctoral project Z6-3223 Plebeian Dispute Settlement in Baroque Inner Austria: Between Feud and Criminal Law, funded by the Slovenian Research and Innovation Agency (ARIS) in 2021–23, and the research programme P6-0435 Practices of Conflict Resolution Between Customary and Statutory Law in the Area of Today's Slovenia and Its Neighbouring Lands, co-funded by ARIS in 2022–27.

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FEUDING AND PEACEMAKING AMONG PEASANTS IN SEVENTEENTH-CENTURY DENMARK

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ABSTRACT

This article discusses instances of feud-like behaviour, enmities and peacemaking among peasants in seventeenth-century Denmark. It provides examples of early modern peasants declaring enmities, exacting vengeance, committing various forms of feud-related violence and making private peace settlements, and discusses whether such practices may be seen in continuation of late medieval peasant feuds. It is concluded that while such behaviours and mentalities were indeed rooted in earlier conflict resolution paradigms, they need to be interpreted in the context of social change, not least state-making, pacification and criminalisation, in order to estimate their significance and avoid selective use of evidence.

Keywords: feud, peacemaking, Middle Ages, early modern period, homicide

FAIDE E RICONCILIAZIONE TRA CONTADINI NELLA DANIMARCA DEL SEICENTO

SINTESI

Il presente contributo analizza casi di faide e comportamenti affini, di inimicizia e di riconciliazione tra contadini nella Danimarca del Seicento. Attraverso esempi specifici si illustrano inizialmente i modi in cui i contadini della prima età moderna si dichiaravano inimicizia, compivano vendette e vari atti di violenza legati alle faide e concludevano accordi privati di pace, per dibattere successivamente se tali pratiche possano essere considerate una continuazione delle faide contadine del tardo Medioevo. Si conclude che tali comportamenti e mentalità, sebbene effettivamente radicati nei paradigmi di risoluzione dei conflitti dei periodi storici precedenti, dovrebbero essere interpretati nel contesto dei cambiamenti sociali, innanzitutto della costruzione dello stato, della pacificazione e della criminalizzazione perché si possa valutarne l'importanza ed evitare un uso selettivo delle prove.

Parole chiave: faida, riconciliazione, Medioevo, prima età moderna, omicidio

INTRODUCTION

In the early spring of 1616, a big fight between two groups of peasants broke out in a field outside the village Hou in Northern Jutland. Locals had gathered to participate in the peaceful distribution of the rights to use the field, but soon preexisting tensions between claimants turned to violence. Opinions differed as to who had drawn first blood, but the end result was that Jep Sørensen was wounded with a knife by Christen Christensen. Jep Sørensen died a few days later, and his uncle, Niels Andersen, who had been present at the altercation, raised a formal accusation of "murder and man-death" against Christen Christensen at the hundred court (*herredsting*, a local rural court). Niels Andersen claimed that Jep Sørensen had been killed without "guilt or breach" (*uden skyld og brøde*), meaning that he had done nothing to justify Christen Christensen's killing of him. Niels Andersen also accused Christen Christensen's wife of complicity, because she "had been angry at, and not good to" Jep Sørensen during the quarrel, "and had helped causing the harm and not averted it". Niels Andersen moreover accused a man named Jes Pedersen of complicity because he had run toward Niels Andersen with an axe, and "threatened and defied" (*truede og undsagde*) him right after Christen Christensen's killing of Jep Sørensen (NLD 1616A, 89v–93v).

At that point, the parties had already met at the hundred court to exchange mutual peace promises. On behalf of the victim's family, Niels Andersen assured that they would leave the accused killer and his family in peace, "in words and deeds" and without "feud and quarrel" (*fejde og bordag*), until the case had been resolved by a jury "and for the rest of that day" (i.e. the day of trial). Representatives of Christen Christensen gave similar assurances and offered to pay wergeld for the killing of Jep Sørensen. They promised to yield "gold and money, pay and prayers, and all good, friendly love, and what wergeld should rightfully be paid for a dead man". However, when the case was tried at the high court of Jutland in April 1616, Niels Andersen rejected the offer of wergeld. Instead, he claimed that Jep Sørensen had been killed "without due cause" (*sagesløs*), and that Christen Christensen should be outlawed. Among other written evidence, he presented an eyewitness account, obtained eight months previously, to prove that Christen Christensen had held a grudge on Jep Sørensen and Niels Andersen since long before the killing. In August 1615, Niels Andersen had courteously approached Christen Christensen to divide a hay harvest that they both owned shares in. Christen Christensen's cryptic reply hinted at the underlying issue, namely that Jep Sørensen and Niels Andersen had acquired ownership rights in the farm that Christen Christensen inhabited and that they planned to move into it. Christen Christensen had said that "he would just as well endure that he would move into Hell as move in with him", and that Niels Andersen "would never eat a meal in peace" living at the same farm as Christen Christensen. Jep Sørensen and Niels Andersen had attained the

farm shares like "thieves and scoundrels", he continued, and were not to expect anything good from moving into it. Niels Andersen had immediately used the hundred court to document these barely concealed threats in writing, foreseeing that the conflict might escalate. This proved to be a wise move after the killing of Jep Sørensen, because it not only documented the killer's previous threats against the homicide victim, but also established a link between the original conflict over the partitioning of the farm and the division of its adjacent fields which became the direct cause of the killing.

At the high court, Christen Christensen's representative claimed that the killing had been committed in self-defence: Jep Sørensen had attacked a third man with a pitchfork, Christen Christensen had tried to separate them, and had accidentally wounded Jep Sørensen as the two wrestled. The high court jury rejected this claim, seemingly because it was based on prejudiced eyewitnesses (the alleged co-perpetrators), and outlawed Christen Christensen. This meant that, in principle, anyone could kill him with impunity, but more importantly that the authorities were obliged to apprehend and execute him. The alleged co-perpetrators were later acquitted (NLD 1616A, 152r–153r, 246v–248r).

Whether this conflict was a feud or not of course depends on how we define the concept of 'feud' (Netterstrøm, 2007b). It surely had some of the characteristics which historians often ascribe to that concept: It was a long-lasting, public enmity between two groups which resulted in (lethal) violence. If we demand of a conflict that it includes a long chain of revenge actions, preferably homicides, in order to perceive it as a 'real' feud, the conflict which caused Christen Christensen's killing of Jep Sørensen was not a feud. At least not as far as we know. We cannot rule out that it continued after the high court verdict, but it seems unlikely (for reasons that I shall return to) that it led to more killings. What we can say with relative confidence is that it included certain features, and a specific vocabulary, that were quite similar to what we find in medieval feuds and attached conflict resolution practices. It is therefore reasonable to see such instances as lying in direct continuation of the medieval feuding-and-peacemaking culture. By the most stringent definitions, there were not many full-blown feuds in seventeenth-century Denmark, but there was definitely "feud-like behaviour". How significant was such behaviour in seventeenth-century Denmark, vis-à-vis ongoing pacification, criminalisation and state-making processes? And how are we to view feud-like traits when they occur? As unimportant "remnants" of social behaviour and communication that had lost their "true" importance and meaning, perhaps only kept alive by linguistic inertia and legalistic formalism?

Relatively few systematic, detailed studies of late medieval and early modern peasant feuds exist in European historiography. For long, historians perceived feuding as an aristocratic prerogative and as an inherently medieval phenomenon that was rooted out by the early modern state (e.g. Brunner, 1990). Over the last two decades, German scholars have demonstrated that

peasant feuding was, in fact, widespread in the Empire, not just in the Late Middle Ages, but well into the early modern period (Peters, 2000; Reinle, 2003; Mommertz, 2003). In seventeenth-century Inner Austria, rituals of enmity and peace remained largely unchanged from the late Middle Ages, and vestiges of traditional conflict resolution practices were still present in the late nineteenth century (Oman, 2019). Continuities of, even increases in, feuding and enmities among peasants in early modern Italy, Germany, France and England have recently been tied to factionalism, civil wars, confessional conflicts and disruptive side effects of state-making (Carroll, 2023). In Scandinavia, late medieval and early modern feuding is scarcely researched, and most studies have centred on noble feuding (e.g. Poulsen, 2001; Opsahl, 2007; Netterstrøm, 2012). The Danish legal historian Ole Fenger's doctoral thesis, *Fejde og mandebod* (Feuding and Wergeld), from 1971, was groundbreaking in the Nordic context by directing the attention to feuding and peacemaking as legal and functional phenomena that survived until the middle of the seventeenth century, even among commoners, but his treatment of the late medieval and early modern periods focussed on legal aspects (the longevity of collective liability, i.e. the obligation of the killer's kin to pay wergeld), not on a detailed study of particular feuds or a systematic assessment of the prevalence or social significance of feuding (Fenger, 1971). In recent decades, Scandinavian historians have become increasingly interested in violence among late medieval and early modern peasants and townspeople, but only a few have done so by employing the scholarly concept of feud (Netterstrøm, 2003; 2007a; Lindström, 2007; Jansson, 2009; Dørum, 2016).

LATE MEDIEVAL FEUDING AND EARLY MODERN PACIFICATION

Feuding was, to our best knowledge, rather widespread in late medieval Denmark. Preserved sources are scarce, but we know that there were many noble feuds, including feuds between the highest-ranking noble families, and we have enough material to analyse some of them in detail. We also know that commoners engaged in similar activities, and that this behaviour was not more criminal than noble feuding. Although we only have one or a few sources extant for each peasant feud, usually charters from legal cases, we can piece together a picture of a deeply entrenched feuding culture in which vengeance and enmity were very real possibilities. We find peasants declaring enmities, exacting and exchanging blood vengeance, swearing to uphold truces, paying compensation, making peace and promising lasting friendship after the conclusion of feuds. In the absence of strong central institutions, 'private' violence and conflict resolution were not just possible, they were necessary components of social cohesion and legal-moral sanctioning. Late medieval feuding was socially layered according to the prevailing social hierarchy: Commoners feuded against other commoners and only rarely against social

superiors. If violated by a nobleman, peasants called upon the protection of their noble lord, and conversely, peasants sometimes took part in their noble protectors' feuds against other noblemen (Netterstrøm, 2003; 2007a; 2012).

King and Church had attempted to limit private violence since the High Middle Ages, and late medieval feuding was probably already a moderate form of earlier cultures of violence. Toward the end of the Middle Ages, feuding among peasants was increasingly criminalised. For example, in 1468, a royal ordinance had admitted the right to declare an "honorable feud" to any "good man", a social nomenclature which included peasants, but from 1513 provisions for such virtuous defiances only applied to "knightly men" (i.e. nobles). The royal central power was severely strengthened after a major civil war 1534–36 that also led to the Lutheran Reformation. The nobility lost much of its power, and the early modern state intensified its disciplining of the broad population (Krogh, 2017). In 1537, the death penalty was introduced for intentional homicide committed by peasants and townsmen, and private settlements were made illegal. Nobles could still atone for homicide by paying wergeld and performing peace rituals according to medieval laws, and they kept their formal right of declaring an honorable feud until the introduction of absolutism in 1660, but large-scale noble feuding ceased after 1536, and from around 1600 some noblemen were even executed for homicide (Jørgensen, 2007, 289–304; Fenger, 1971; Netterstrøm, 2017).

Harsher punishments, social disciplining, criminalisation of various forms of violence, and strengthening of the legal system (cf. Andersen, 2010; Kjær & Vogt, 2020) seem to have resulted in a major pacification of the Danish population. We do not have many reliable homicide statistics for early modern Denmark (and none for the medieval period), so it is not possible, at the moment, to ascertain precisely to what extent Denmark followed the conjunctures of other European regions, for instance whether an increase in homicides occurred in the second half of the sixteenth century (cf. Carroll, 2023), or exactly when a decisive decrease took place; rough estimates suggest that a major drop happened after c. 1640 (Næss, 1994). This article builds on the premise that, in Denmark, violence was much more widespread in the Middle Ages than later, and that it was falling (though not necessarily without temporary increases) over the sixteenth and seventeenth centuries. It follows from this that feuding among peasants decreased as well (Netterstrøm, 2017).

Seen from the point of view of historians, however, feud-like behaviour among peasants in a way becomes more clearly visible during the early modern period due to the enormous growth in surviving sources. Whereas analysis of conflicts among late medieval peasants is depending on a limited number of more or less randomly preserved charters, early modern historians can delve into an exponentially increasing amount of sources produced by the central administration and law courts at all levels of the legal system. Most importantly, whole record books containing verdicts, depositions etc., appear from

the beginning of the sixteenth century onward, first from urban law courts, then the supreme court (from 1537), and later local rural courts and the high court of Jutland (beginning in the second half of the sixteenth century). This means that although feuding among peasants was in all likelihood declining throughout the early modern period, this is so to speak "counterweighed" by the growth in sources as seen from the present-day historian's angle. In the following, I will give examples of feud-like behaviour among peasants taken from seventeenth-century court records and seek to contextualise them.

REVENGE

Revenge is the motive behind much feuding and is, directly or indirectly, included in almost all definitions of the scholarly concept of "feud" (Netterstrøm, 2007b). Danish seventeenth-century court records yield many instances of peasants retaliating transgressions by means of violence. In 1618, a peasant woman exacted vengeance on a man who had attacked her earlier the same day. After having broken a staff over his head, the woman put her hands on her hips and said to the victim, who lay bleeding on the ground: "damned be you, now you can keep what you got. I will take what I got, now blood has been given for blood" (NLD 1618B, 169r–170v). The intention to take blood for blood was also present in a case from 1617, when Niels Christensen, who had been injured by Jens Nielsen in a brawl at a dance party, told bystanders that he wanted to "avenge (*hævne*) his wound on Jens Nielsen". Niels Christensen then went back to the dance floor and attacked Jens Nielsen with a sword. Jens Nielsen, however, managed to draw his knife and kill Niels Christensen in self-defence (NLD 1617C, 134r–138r).

A particularly forceful exclamation of the desire for revenge was uttered by the peasant Christian Madsen when he came to his neighbour's door on a summer morning in 1617. The neighbour invited him in for food and drink, but Christian Madsen said that he "was not able to eat anything because his heart was bursting in his chest and he could not breathe before he got revenge (*hævn*) on that scoundrel", by which he meant another villager, Peder Nielsen. Christen Madsen then ran to Peder Nielsen's house with a drawn sword, pounded on Peder Nielsen's door and challenged him to come out and fight. The reason for Christen Madsen's anger is not revealed in the court transcript, but in the end Peder Nielsen came out and killed him with a pitchfork (NLD 1617B, 295v–296v).

As mentioned, seventeenth-century court records are replete with instances of peasants retaliating against perceived wrongdoers. Nevertheless, examples like the ones provided above, where the Danish word for revenge, *hævn*, is used explicitly, are much rarer than one might anticipate (cf. Fenger, 1971, 531). This has also been observed in late medieval Danish feuds (Netterstrøm, 2012, 306), meaning that the scarcity of explicit revenge terminology in seventeenth-century sources does not in itself indicate a decline in feuding.

DEFIANCE AND DECLARATION OF ENMITY

Defiances, public challenges to or warnings of feud, and declarations of enmity appear regularly in seventeenth-century conflicts between peasants. They are often marked by the verb *undsige* (noun *undsigelse*), a loanword from Low German (cf. High German *Entsagen*) which had been used in Denmark since the Late Middle Ages to denote the same as it did in German feuding discourse (cf. German *Absagen*, latin *diffidatio*): To renounce friendship or loyalty, declare enmity, and/or warn of or challenge to a feud (Netterstrøm, 2007a). For example, in 1633, a married couple from the estate of Herlufsholm on Zealand complained that one of their neighbours had tried to rape the wife on several occasions, and had threatened the husband, "and still regularly defies (*undsiger*) him". The manor court therefore forced the perpetrator to promise that he would leave the couple in peace, and not commit violence against them or pay anyone else to do so. In a different case at the same estate, a man was jailed at the manor because he was guilty of "threats and defiance (*undsigelse*) with hits and blows" against the estate's bailiff. He was released on assurances that he would not bother the bailiff with violence or defiance (*undsigelse*) in the future. Tellingly, in conclusion of both these cases, the receivers of defiance had to swear that they too would keep peace with the perpetrators, indicating that the acts of defiance had created a mutual enmity which had to be ended by public peace announcements on both sides (HBT, 1633, 165, 213). Other words could convey the same meaning as *undsige*, for example the verb *advare*, to warn someone of something. This was used in a case from 1616, when a boatsman from Jutland threatened the captain of a Danish ship outside Lübeck, "and warned him (*varede ham ad*), he should stay out of his sight", acted mischievously (*modvillig*, cf. German *mutwillig*) toward the captain, and later attacked him. In this case, the "warning" was clearly perceived as a declaration of enmity (NLD 1616A, 310r–312v).

When interpreting the use of words such as *undsige* and *advare* in seventeenth-century sources, it is sometimes difficult to distinguish between simple, spontaneous threats and declarations of total enmity, since the original meaning of those words (i.e. feud-commencement) had been somewhat watered down since the Middle Ages. When the case described in the beginning of this article mentions that Jes Pedersen had run toward Niels Andersen with an axe and "threatened and defied" (*truede og undsagde*) him, does that mean that Jes Pedersen had thereby declared a feud on Niels Andersen, or merely that he had threatened to strike him with the axe? The simple occurrences of words like *undsige* or *advare* cannot be taken as certain indicators of feuding without contextualisation. Conversely, expressions that usually denoted simple threats were sometimes utilised to express deep-seated enmities. For example, violent threats such as "you shall have a devil's ride", "you shall have a devil", or "you shall catch shame", were frequently spoken in drunken quarrels and impulsive

brawls, but in a homicide case from Jutland in 1612 it was clearly meant as something more than just a petty threat: The killer attacked his victim with the words "you shall have a thousand devils", and after stabbing him many times with a knife shouted, "now you got yourself a devil, I have promised you that for three years", the latter remark hinting at a long-standing enmity, which was corroborated by the fact that the killer had earlier told people about his intentions to harm the victim (NLD 1612A, 157v–160v). This means that, in other cases where less context is provided, threats that appear relatively harmless or spontaneous can obscure deeper enmities.

Commoners' feud declarations had been criminalised during the sixteenth century. The right to challenge someone to an "honorable" feud had become a noble privilege in the beginning of the century, as noted above, and royal ordinances from 1551 and 1558 made peasants' declarations of enmity punishable. Interestingly, these ordinances tied *undsigelse* closely to arson, indicating that "murderous arson" (*mordbrand*) was seen as the "poor man's feud", similarly to what has been observed in early modern Germany (Reinle, 2003, 258–262; Mommertz, 2003). This observation gives deeper meaning to a case from Sokkelund Hundred (close to Copenhagen) where a peasant publicly threatened his opponent with "the red rooster". He was immediately arrested by the royal bailiff (which was rather unusual), no doubt because his threat was perceived as a public declaration of deadly enmity and not just a simple threat to set fire to his adversary's house. Later, the man did indeed kill his enemy by "murderous arson" (Scocozza, 1991).

Peasants' public declarations of enmity are most often described negatively in seventeenth-century court records. Acts of defiance are often emphasised to prove premeditation behind subsequent unlawful violence. In some cases, however, the absence of a warning is portrayed as dishonest. In 1617, the peasant Rasmus Jørgensen was walking unarmed through the village late at night, "knowing of no danger or enmity (*fjendskab*) in any way", when a soldier named Christen Madsen came up from behind and hit him in the back with a sword, "entirely unwarned" (*uadvaret*). According to a witness, Rasmus Jørgensen had shouted, "now you struck me like a scoundrel", and "had you been an honest man you would have warned me first", after which he stabbed the soldier with a small knife in self-defence. Apparently, Christen Madsen's attack would have been deemed "honest" if he had announced the enmity and warned Rasmus Jørgensen beforehand (NLD 1617B, 93r–94v). The same way of thinking is present in cases where duel-like fights between peasants are considered "honest" and "rightly" (*redelig*) because a challenge had been given and accepted (e.g. NLD 1618A, 193r–193v; NLD 1622A, 172r–178r).

There was thus ambiguity in the attitude to peasants' defiances, challenges, warnings and declarations of enmity in seventeenth-century discourse: Sometimes they were described as reprehensible or criminal, sometimes as acceptable and honest. This ambiguity cannot simply be attributed to a divergence between

the state's legalist perception, according to which defiances were criminal, and popular mentalities that embraced such declarations of enmity as prerequisites of legitimate violence. Even the authorities sometimes accepted defiances as valid and "honest"; and conversely, peasants' condemnations of defiances were likely often heartfelt, even if litigants also exploited the fact that defiances were illegal in the eyes of the authorities. It should be remembered that declarations of enmity had never been universally accepted. There had always been ambivalence and subjectivity in the evaluation of concrete feuding behaviour (Netterstrøm, 2012). The ambiguity toward acts of defiance in the seventeenth century was not new, rather, it continued from paradoxes that had always been integral to the feuding culture.

PUBLIC ENMITY

Explicit mentions of ongoing public enmities appear from time to time in seventeenth-century court records. Interestingly, these enmities did not always entail acts of violence, at least not violence that was serious enough to be reported in the court rolls. In Hvetbo Hundred in northern Jutland, a man and two brothers disputed for several years about cattle and landed property. In 1631, at the local hundred court, one of the brothers, Las Laursen, offered to guarantee that he would stay clear of their opponent, Peder Nielsen, and abstain from "feud and fighting" (*fejde og bordag*), to which Peder Nielsen replied that he had "never threatened or feuded" (*fejdet*) Las Laursen, but Las Laursen had threatened him with a gun. In 1633, the parties gave mutual assurances that they would not engage in "feud and fighting" (*fejde og bordag*), and two weeks later they reached a settlement concerning the disputed property (HHT, 1631, 15; 1633, 812, 858 et pass.). In a number of instances, reference to enmity was used to undermine the credibility of witnesses or accusers in court trials. For example, in 1618, three peasants from eastern Jutland were suspected of giving false testimony in a homicide trial out of "hatred and enmity" (*had og avind*) toward the alleged perpetrator (NLD 1618B, 404r–407r). In 1633, the Zealand peasant Jep Nål used this kind of reasoning against himself, so to speak, to avoid giving testimony against Niels Madsen who had challenged him to stand by accusations of theft. Jep Nål said that "Niels Madsen is his enemy (*fjende*) and un-friend (*uven*) so that he could not rightfully bear witness against him, because they had had a dispute (*trætte*) with each other for a long time" (HBT, 1633, 244). The language of enmity can, of course, also be found in cases that culminated in lethal violence. An inheritance dispute among peasants from southwest Jutland ended with a man killing his own uncle after the uncle had thrown himself at him with a knife. Eyewitnesses said that the uncle had previously "threatened and defied" (*truede og undsagde*) his nephew, who had accused him of theft of a silver belt from the disputed estate. During a quarrel, the uncle had drawn a knife and said to his nephew: "Were you not my brother's son, you would

never get out of this house alive". The uncle had also told people that he had become his nephew's "enemy" (*uven*). The uncle had then gone to his nephew's home and called him out to fight, and when the nephew came to the door and asked to be left in peace, the uncle attacked him; but the nephew killed him in self-defence (NLD 1620C, 198v–200r).

FEUDING AND PEACEMAKING FOLLOWING HOMICIDE

In medieval Denmark, any homicide automatically led to a state of feud between the kins of killer and victim. This mortal enmity, or blood feud, would then have to be resolved either by the parties making peace or the perpetrator getting outlawed. Peacemaking comprised payment of wergeld and oaths and rituals designed to compensate the honour of the victim's family; to end the feud and restore friendship between the kins; and to make peace with God by atonement (penance) and receive forgiveness from the Holy Church. Even if the killer was outlawed, he could regain his peace by paying a fine to the king, obtaining ecclesiastic absolution and paying wergeld to the victim's family, an arrangement that required that the latter abstained from its right to revenge. Compensation and reconciliation were therefore, as far as we know, the outcomes of most homicide cases in late medieval Denmark. The oath taken by the victim's family to end the blood feud was called *orfejde*, another loanword from German, *Urfehde*, meaning something like non-feud or end-of-feud. A significant number of preserved *orfejder* sworn by peasant families is important evidence of peasant feuds in late medieval Denmark (Netterstrøm, 2007a).

The new legislation of the sixteenth century supposedly rendered peacemaking, wergeld and *orfejde* irrelevant in cases of intentional homicide among commoners, since the only possible outcome in such cases was the death penalty or outlawry, depending on whether the killer was arrested (see above). An ordinance of 1547 precluded outlawed commoners from buying back their peace from the king, and ordinances issued during the second half of the century illegalised out of court settlements in homicide cases. The obligation to pay wergeld was, however, kept as sanction for manslaughter in self-defence and accidental killings (Netterstrøm, 2017). When we turn to legal practice as expressed in seventeenth-century court records, we encounter many instances of payment of wergeld and swearing of *orfejde* following homicide. It is often not stated positively that these killings had been done in self-defence or by accident. Suspicions that many of them were in fact wilful homicides that were concealed (by both parties) as killings in self-defence or by accident have been confirmed by recent research (Netterstrøm, 2017; Kivivuori et al., 2022). Such strategies to evade criminalisation are interesting in themselves, but in the present context they are particularly relevant because they may reveal a continuity in feuding and peacemaking practices.

A case from Jutland may serve as an, in many ways, unusual example which however reveals a way of thinking that may have been more widespread than normally disclosed in homicide trials. In 1605, a peasant killed another peasant and was outlawed by the high court for intentional homicide. After that, the perpetrator reached an agreement with the victim's family to pay wergeld and receive *orfejde*, and this settlement was recognised and published by the local hundred court (all against the letter of the law). The settlement stipulated that the killer should pay wergeld in instalments, but before the last instalment was due in 1607, the victim's family assaulted and wounded him on the verge of his life, claiming that the killer had not kept his part of the agreement. The killer then sued the victim's family and attained a verdict (at an unknown law court) that they should forfeit the wergeld because they had broken the *orfejde* that had been sworn in connection with the original settlement. The victim's family in turn got the local hundred court to proclaim that the killer should keep his obligation to pay the full wergeld. This verdict was finally appealed by the killer to the high court which, to the chagrin of the killer, scrapped the original wergeld settlement on grounds that the killer had been outlawed and that the settlement was therefore illegal (NLD 1608A, 332r–335r).

Many important points can be deduced from this case. It shows that peasants were still inclined to reach settlements, which carried economic benefits for the victim's family, rather than pushing for the punishment required by state legislation, and that they felt entitled to set aside such legislation if needed. In doing so, they employed ancient practices of conflict resolution that had been part of the medieval feuding culture, i.e. the settlement. Indeed, both parties seem to have perceived the whole process as a feud: The killing had created a state of enmity, and a right to exact vengeance on the part of the victim's family, which was terminated by the settlement; when the victim's family felt that the killer did not live up to his obligations, their right to revenge was reactivated, and they attacked the killer; the killer in turn interpreted the almost fatal attack to mean that satisfactory vengeance had now been taken and that wergeld should therefore not be paid, since the meaning of wergeld was to replace rightful vengeance. What is entirely unusual about this case is that the local law court had accepted and contributed to this process, as if unaware of the royal ordinances issued over the past three quarters of a century. It is also odd that the killer appealed to the high court believing that he, still an outlaw, could get it to convict the victim's family to forfeiture of the (illegal) wergeld. Peasants were normally shrewder than this, but the killer's openness and the local court's cooperation have left us this evidence of continued feud mentalities.

As said, killing in self-defence or by accident should still be sanctioned by wergeld, and payment of wergeld was therefore, of course, not necessarily illegal; to the contrary, in such cases it was the only possible outcome according to the law. When seventeenth-century court records regularly report instances of killers offering to pay wergeld at the local law court early in the trial (before

conviction), it was technically not against official homicide legislation, since the case might end with a court order to pay wergeld. Still, this practice seems to demonstrate a significant degree of continuity from medieval feuding and peacemaking practices. The language in which such wergeld offers were put forward is in itself revealing. We have already seen one example in the beginning of this article, where the killer's family offered "gold and money, pay and prayers, and all good, friendly love, and what wergeld should rightfully be paid for a dead man" (NLD 1616A, 89v–93v). Other examples could be mentioned, such as "goodwill and gifts, hour and assembly, silver and money, amends and atonement" (NLD 1618B, 329r–330v), with "hour and assembly" referring to the proposal of a peace meeting at an appointed time. Archaic and characterised by frequent pleonasms and alliterations, such language is indistinguishable from late medieval peacemaking terminology. Equally important to note is that, in the seventeenth century, such offers of wergeld ahead of the trial verdict were not demanded in current legislation. If the trial ended with the death penalty or outlawry for intentional homicide, earlier offers of wergeld were entirely irrelevant, and if it ended with wergeld payment for killing in self-defence or by accident, such offers were somewhat superfluous, since the payment of wergeld in such cases followed from the court verdict and not the will of the killer and his family. It is never explicitly stated what the peasants hoped to achieve, but offers of wergeld most likely represent conscious attempts to influence the course of the homicide trial, including the contents of eyewitness testimonies and decisions made by persons of authority, in the direction of settlement by compensation instead of death penalty or outlawry.

Much the same can be said about a related phenomenon which figures even more prominently in seventeenth-century homicide trials than wergeld offers, namely mutual agreements to keep the peace for the duration of the trial. An example of this is included in the case described in the beginning of this article, where the parties promised not to "feud or quarrel" against each other until the jury had spoken its verdict. From a legal point of view, such assurances were unnecessary, since revenge actions ahead of the verdict were entirely illegal. But apparently, peasants found them necessary. They indicate that peasants perceived that the homicide was embedded in a preexisting mutual enmity, or that it launched a feud which not only gave the victim's family a right to exact vengeance, but could also cause further violence by the killer and his family. Conditions that the truce lasted until a fixed time, in most cases the day of the trial "and the rest of the day" (giving the parties time to leave the high court in peace), seem to expose that the threat of violence was perceived to be realistic, and presupposed that feuding could continue after that point in time. In a case from 1616, the temporary peace was set to last until eight days after the trial, indicating that the duration of the truce was negotiated in a conscious manner from case to case (NLD 1616A, 205r–206r). Such temporary peace arrangements and the whole mindset behind them were in direct continuity of medieval peacemaking practices and mentalities (Netterstrøm, 2007a).

That peasants went to great lengths to avoid harsh punishment by settling even lethal violence out of court, thereby activating traditional peacemaking mechanisms to override the role of law courts, is manifested by the existence of "contracts" between participants in brawls where one of the parties had been seriously injured but was still alive. In these extra-judicial contracts, the perpetrator (or the less injured person) promised to pay compensation, and the victim declared that he had thereby been satisfactorily recompensed, and that further prosecution of the perpetrator should be abolished, even if the victim died (e.g. NLD 1618A, 23v–26r, ; NLD 1618B, 151v–153r, ; NLD 1619B, 282v–284r). Private settlements in cases of non-lethal violence were very common and completely legal (if the guilty party remembered to also pay a fine to the king's representative) (Stevnsborg, 1984; Appel, 1999). But the prevention of a homicide trial in case the victim died was certainly not in keeping with the spirit of the law. Contrary to the wishes of contract participants, such cases did indeed often lead to a homicide trial, and judges and juries almost always rejected these private settlements when they were brought before them. Still, peasants continued to draw up such contracts, most probably hoping to gain a fair chance of avoiding punishment. We typically learn of these contracts when they are referred to in homicide trials, so we only see the ones that failed. Perhaps many more were drawn up in cases that did not lead to a homicide trial even when the victim died; we do not detect them in the court records exactly because they were successful. In any case, this type of settlement is yet another example that peasants felt that the right to decide whether infringements should be avenged or forgiven belonged to them, not to representatives of the state.

An important factor behind the continued uses of traditional peacemaking practices was that they were often supported by the noble lords of the involved peasants. Noble landowners were endowed with the "privilege of neck and hand" (*hals- og håndsret*, cf. German *Halsgericht*), i.e. the right to prosecute and punish their subject peasants and receive all royal fines from them when convicted of crimes. Over the 1530–50s, the royal government had to repeatedly impress upon the nobility that arresting and executing subject peasants guilty of intentional homicide was not just every noble landowner's right, but also his duty. Further ordinances throughout the sixteenth century reveal that noble lords often perceived it more economical to avoid executing or outlawing peasant tenants, and instead take a bribe to turn the blind eye and let the peasants negotiate a settlement; such practices were now explicitly prohibited (Netterstrøm, 2017). Noble lords participated as prosecutors or defenders in some of the above-mentioned seventeenth-century cases, when intentional homicides were most likely concealed as killings in self-defence, allowing for public payment of wergeld. In other cases, homicides were apparently resolved without involving the law courts at all. In 1607, the noble lady Karen Banner wrote a private letter to the nobleman Manderup Parsberg to defend her peasant who stood accused of homicide. Karen Banner pleaded with Manderup Parsberg,

whom she feared would prosecute on behalf of the victim's kin, that "if the dead's kin come to you and declare the case to you, that you would do well and help my poor servant, so that everything would remain and be in friendliness [friendship] between him and the dead's kin, whether it [the homicide] should come before the jury or not". Karen Banner expected that the case might be resolved without going to court, explaining that the victim had settled amicably with the offender before he died. She promised that her peasant would pay even more in compensation "so that everything would be in friendliness, and so that he [the accused] would not be punished more than that". Manderup Parsberg, however, wished to get the offender outlawed and had Karen Banner's letter read aloud at the high court, thereby exposing her intent to keep the killing a secret, and at the same time proving that it could not have been committed in self-defence (NLD 1608A, 46v–47r). In this case, the attempt to conceal the killing from the law courts failed because the interests of the involved noble landowners diverged, but it is highly probable that similar clandestine communication among noble landowners proved effective in other cases; if so, they have not left traces in the court records.

VOCABULARIES OF LEGITIMATE VIOLENCE

A final illustration of the continuity of mentalities rooted in a medieval feud culture can be observed in the manner in which seventeenth-century peasants spoke about killing and violence. There was an entire discourse on killing and violence, that was often shared by state representatives and even present in legislation, from which can be deduced that some homicides and acts of violence, while illegal, were deemed more acceptable than others. For example, killings might be described as being done "rightly" or "un-rightly" (*redeligt*/*uredeligt*) depending on circumstances (see above). Frequently, it was asserted that a person had been killed or assaulted "innocently" (*uskyldig*), "without due cause" (*sagesløs*) or "without guilt or breach" (*uden skyld og brøde*), suggesting that, under different conditions, the victim might not be perceived as entirely innocent, potentially rendering the violence more justified. An example of this was seen in the case study at the beginning of this article. Distinctions between "murder" (*mord*) and "manslaughter" (*drab*, *manddød*, *mandslet*) had been made since the High Middle Ages, the former of course denoting the heinous and entirely inexcusable form of homicide, and the latter by contrast the less disgraceful one. The boundary had originally been drawn between killings committed secretly vs openly, but over the Late Middle Ages this categorisation changed as perpetrators began to conceal otherwise honest homicides, and other factors came to decide whether a homicide qualified as murder. Early modern homicide legislation did not distinguish between murder and manslaughter (only between intentional and non-intentional homicides), but the distinction lingered on in legal practice (Jørgensen, 2007, 289–304). In seventeenth-century court

records, the term "murder" was often used by the prosecuting side alone (as seen in this article's introductory case study), and seldom by judges and juries (Netterstrøm, 2017).

As previously mentioned, violence could face condemnation as "undeclared" or "unwarned" (*uforvaret*, *uadvaret*), suggesting that the act might be deemed less reprehensible if declared in advance with proper justification. Conversely, violence was often condemned exactly because the perpetrator had earlier declared his intentions to do harm. In cases of non-lethal fights or assaults, the boundary between acceptable and unacceptable violence was crossed when the perpetrator became (discursively) "angry", employed violence at prohibited times or places, or resorted to the use of weapons. In some situations, these popular views influenced how the authorities assessed concrete instances of violence. All in all, seventeenth-century discourses reveal that certain homicides and acts of violence were seen as morally defensible or acceptable because they were righteous, justified, honourable, part of a mutual enmity, or performed in a correct manner or at the right time and place. These perceptions were no doubt founded in medieval notions of legitimate feud violence (Netterstrøm, 2007a; 2017).

EARLY MODERN FEUDING AND PEACEMAKING IN CONTEXT

Danish seventeenth-century court records contain enough evidence to suggest that a whole range of mentalities and practices were inherited from late medieval feuding and peacemaking. But how much did they matter in the big picture? There is a risk of "cherry picking" when we look for specific forms of behaviours and practices in early modern sources. Instances of "feud-like behaviour" are interesting and telling, even when they appear in limited quantities, but if we wish to assess their social and legal significance, we need to place these instances in larger contexts.

One way of doing so is to quantify them within the framework of large datasets, to see how prevalent feud-like practices were, as measured against comparable phenomena. One such dataset, which may be relevant for this endeavour, is a sample of 200 homicide cases from seventeenth-century Denmark that was recently investigated for a project on historical homicides in Scandinavia (which has also yielded many of the above-mentioned examples). The 200 cases comprise all homicides mentioned in extant verdict books of the high court of Jutland during the years 1608–22. Since any homicide committed in a rural jurisdiction was supposed to be adjudicated by the high court (rather than by local hundred courts), the verdict books treat, in principle, all homicides committed among rural commoners (c. 88 percent of a total population of around 260,000) within the high court's jurisdiction (Jutland north of the Kongeå River, i.e. not including the Duchy of Schleswig). For the purposes of the research project, these 200 cases were coded (by the author of this article) (in SPSS) according to the criteria of the Historical Homicide Monitor which measures c. 100 variables

for each homicide (time, place, gender, social status, motives, weapons etc.) and then analysed statistically (Kivivuori et al., 2022). Feud-like behaviour was not investigated systematically for this project, but still the sample of 200 cases can give indications of how typical such behaviour was. The idea is that if feuding and enmities were very widespread in Jutland in the first decades of the seventeenth century, a large part of the homicides would show signs of this.

The general impression is that while feud-like traits were present in many of the cases (precisely how many cannot be said), a large share of the cases does not exhibit significant elements, or any traits at all, of feuding. For example, only six cases were coded as "feud-related" in a variable ("type of homicide") where other coding options (e.g. "conflict over land rights" or "conflict over other economic matters") were more pertinent for the rest of the cases. A variable measuring "organised groups" did not reveal a single incidence of homicide perpetrated by a "feuding group". Under variables related to motives, 12 percent of homicides were claimed to be motivated by revenge, but it should be noted that revenge was defined broadly here (retaliation of any earlier physical injury, grave insult or allegation). There was not a single instance of a homicide being committed to avenge a previous killing. Among the 200 homicides, none was connected to a full-blown blood feud with open declarations of enmity, revenge cycles, involvement of feuding groups or the like (Kivivuori et al., 2022). This is, by the way, the reason why we can say with some certainty that the case described in the introduction to this article did not entail further killings.

On the other hand, the dataset shows a rather large share of cases motivated by long-standing property disputes, and a surprisingly large share of (more or less) premeditated homicides, indicating that killings related to enmities make up a larger part of the 200 homicides than revealed by the above-mentioned variables. Furthermore, the nature of the extant sources may obscure that feud-like practices were more widespread than what is apparent on the surface. High court judges and juries often focussed on the situational aspect of the homicide, i.e. the short-term events leading up to the fatal moment, e.g. assessing who had struck first or who had first drawn a weapon. These factors were often sufficient to pass a verdict, and juries and judges were therefore not always interested in previous conflicts. Finally, trial parties were often impelled to conceal revenge motives or relatedness to enmities in order to be able to settle the case by compensation and avoid the death penalty (Kivivuori et al., 2022).

Another way of contextualising seventeenth-century evidence of feuding and peacemaking, and of continuities from late medieval practices, is to place it within a wider societal setting and a long historical perspective. In short, society had changed significantly between the late Middle Ages and the seventeenth century. The state had grown much stronger, and the nobility, whose feuding practices had sustained peasant feuding, had lost much of its previous power. The enmities, defiances, *orfejder*, offers of wergeld and other feud-like traits that we encounter in seventeenth-century court records took place in a

social context marked by growing state intervention in peasant communities, pacification, disciplining, juridification and criminalisation. In the Middle Ages, feuding had played a major role as a means of securing the rights of individuals and families, and "private" peacemaking had been decisive for the resolution of conflicts (Fenger, 1971). In the early modern period, the state was rapidly taking over these functions (Netterstrøm, 2007a; 2017).

Returning to the case outlined at the beginning of this article, despite its abundance of feud-like characteristics, we may emphasise that state institutions and representatives were very much involved, and that they defined the boundaries that constrained the possibilities available to the peasants: The conflict was played out within the state's legal system and according to the state's legislation on homicide; despite offers of wergeld, and instead of exacting private vengeance, the victim's family opted to seek an outlawry conviction with the purpose of getting the killer executed by royal officers; and even if the victim's family clearly had the upper hand at the local level, the high court acquitted the killer's wife and a third man of complicity, signalling the dominance of the state's law courts over local power struggles. There was still space for peasants to manoeuvre: Feuding and enmities could be concealed, illegal settlements could be veiled, and law courts could even be utilised for these purposes. But there was no longer room for unconstrained feuding among peasants in seventeenth-century Denmark.

In the wider European context, on the other hand, the case of Denmark is interesting because it offers an example of the persistence of feuding in an early modern realm that was comparably stable. Whereas continuities, and even surges, of feud violence in other parts of early modern Europe may be explained as consequences of civil wars, religious divisions or social upheaval (Carroll, 2023), early modern Denmark was characterised, after the civil war of 1534–36, by dynastic stability and religious homogeneity, and by the absence of factional violence, civil wars and commoners' revolts (Jespersen, 2000; Vogt, 2014). The Danish state was not stronger or more centralised than most of its European counterparts, and its legal system was indeed relatively conservative and underdeveloped, but it was successful in preventing the kind of political and social conflicts that caused private enmities to flourish elsewhere. That feuding and peacemaking to some degree persisted in early modern Denmark, in spite of these stabilising forces, may be taken to indicate the tenacity of medieval modes and mentalities of conflict resolution.

FAJDE IN POMIRITVE MED KMETI NA DANSKEM V 17. STOLETJU

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POVZETEK

Članek obravnava primere fajdi podobnega vedênja, sovražnosti in pomiritve med kmeti na Danskem v 17. stoletju. Avtor predstavi primere, ko so zgodnje novoveški kmetje napovedali sovražnost, se maščevali, izvajali različne oblike s fajdo povezanega nasilja in sklepali zasebne mirovne sporazume, ter razpravlja o tem, ali je mogoče take prakse razumeti kot nadaljevanje poznosrednjeveških kmečkih fajd. Razprava sklene, da sta tako ravnanje in mentaliteta sicer izhajala iz zgodnejših paradigem reševanja sporov, vendar jih je treba interpretirati v kontekstu družbenih sprememb, nenazadnje izgradnje države, pacifikacije in kriminalizacije, da bi lahko ocenili njihov pomen in se izognili selektivni rabi dokazov. Vzpon države je vse bolj postavljal meje, ki so omejevale možnosti ravnanja kmetom, vpletenim v spore. Na podlagi obsežnega nabora podatkov o 200 ubojih iz Jutlandije v 17. stoletju se zdijo primeri fajdi podobnega vedenja manj izraziti, vendar se je treba zavedati, da so kmetje prav zaradi kriminalizacije takšno vedenje pogosto skrivali pred sodišči ter da so bile zato sovražnosti in zasebne poravnave morda bolj razširjene, kot se zdi na prvi pogled.

Ključne besede: fajda, pomiritev, srednji vek, zgodnji novi vek, uboj

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