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GOVERNMENTAL ORDER IN EARLY MEDIEVAL ICELAND



by Jesse L. Byock

Scholars have long recognized that medieval Icelandic society differs from the contemporary Norwegian society from which most of Iceland's settlers came in the period from approximately 870 to 930. Nevertheless, the nature of that difference as it applies to Iceland's governmental order has not been clearly defined. Although much of the factual information requisite to such a definition is available, the central concept of how early Iceland functioned as a cohesive body politic is still to be formulated.

In this article I attempt to provide such a concept, thereby moving at least a step closer to delineating the nature of the medieval Icelandic governmental order. In part I concentrate on what is distinctive about Iceland; in part I avoid what I see as a major stumbling block in the study of saga and society: scholarly efforts to define bits of Iceland's medieval experience by drawing analogies from conditions, institutions, or events characteristic of mainland societies.¹ The pitfall in relying upon isolated analogies is that, although individual aspects of Iceland and Scandinavia, Germany, France, England, or Ireland may show similarities, Iceland as a cultural entity functioned differently from any of these societies. Iceland formalized what was in more hierarchical European societies an informal mediation process. This development, I propose, produced an unusual system of consensual, lateral decision-making, a system established in the first centuries of the settlement in response to conditions different from those experienced by Norsemen living closer to the European continent.

In many ways Iceland was an acephalous society. It differs, however, from non-European leaderless societies in that the early Icelanders came from, and were aware of, complex European hierarchical systems. At a distance from the mainstream of their northern European cultures the immigrants adapted to life on a very large island (Iceland is bigger than Ireland). Living on fixed farmsteads, the Icelanders supported themselves chiefly by pasturing cattle and sheep and by fishing. Hunting and gathering the foods of the seaboard such as seal and birds' eggs were also of major importance. After a few generations the settlers learned that, because of the fragile subarctic ecology of the highlands and the intense cold in the interior during the winter, year-round habitation was possible only in the lowlands along the coast and in certain sheltered valley regions. The habitable regions received warmth from

¹ The issue of the social context of the sagas is taken up in more detail in J.L. Byock, "Saga Form, Oral Prehistory, and the Icelandic Social Context," *New Literary History* 16 (1984-1985) 153-173.

a surrounding arm of the Gulfstream and were often fertile and well grassed. In this environment the Icelanders refined their own social and governmental order. Rather than evolving from less structured forms, the Icelandic government was the product of an unusual de-stratifying change. Separated from the mainland by 600 miles of ocean, European settlers adopted the organization of *þing* meetings—the major element of consensus in Old Scandinavian (and Germanic) social order—and extended the mandate of such assemblies into a self-contained governmental entity.

Keeping these factors and reservations in mind, I examine in this article what we know about the chieftains (*goðar*, sing. *goði*) and the farmers (*bændr*, sing. *bóndi*) and explore those features of authority that distinguish Icelandic society of the tenth to the twelfth century from Scandinavian societies closer to the European mainland. In the process I review the effects of the following factors: the ideal of reciprocity; a historically recent well-remembered transmarine migration; the absence of a need for military defense; the creation of a new societal order; an allodial type of land ownership; an extensive court system; and the weak influence of religious hierarchy on the cultural norms of this immigrant country.

CHIEFTAINS AND FARMERS

The relative equality among *goðar* has caused many historians to assume that Iceland functioned like a union of petty states. Jon Jóhannesson, for example, writes: "Before the law all the chieftains were equal in power, so that none of them could claim authority over any other chieftain. To a certain extent the Icelandic Commonwealth may be likened to a union of many states (i.e., chieftaincies) where the administration of law and justice embraced the entire union but in which executive power was altogether lacking."² Ólafur Lárússon offers a similar definition: "Lýðveldið íslenska var alla stund einskonar sambandsríki. Til smárikjanna norsku svara höfðingjadæmin ískenzku, goðorðin" ("The Icelandic republic was at all times a kind of federation. The dominion of the Icelandic chieftaincies, the *goðorð*, corresponds to small Norwegian kingdoms").³ Njörður Njarðvík, in his very useful overview of Icelandic history in the Free State period, presents the chieftains as though they exercised the authority of a territorial lord: In their own districts the *goðar* rule more or less as local kings, assuming both political power and religious function."⁴

The concept of *goðar* as leaders of small states reflects the outward forms of the confrontational politics practiced by chieftains. The idea, however, fails to take into account the complex relationship between the *goðar* and the *bændr*, which relied not on a territorial definition but on negotiable bonds of obligation. A *goðorð* was not a discrete territorial unit. The chieftains lived interspersed among farmers who served as thingmen of different and sometimes rival *goðar*.⁵ The political map of

² Jón Jóhannesson, *A History of the Old Icelandic Commonwealth: Íslendinga saga*, trans. Haraldur Bessason (Winnipeg 1974) 62-63.

³ Ólafur Lárússon, *Lög og saga* (Reykjavík 1958) 61.

⁴ Njörður P. Njarðvík, *Birth of a Nation: The Story of the Icelandic Commonwealth*, trans. John Porter (Reykjavík 1978) 42.

⁵ J. L. Byock, *Feud in the Icelandic Saga* (Berkeley 1982) 82-86.

Iceland was a complex network of criss-crossing ties with chieftains relying for support on farmers, some of whom lived at considerable distances from their *goðar*.

An understanding of the chieftaincies as petty states does not take into account the control exercised by interest groups or the broad range of free farmers' rights, which were almost as extensive as the rights of *goðar*. These features were inherent in early tenth-century Iceland, when the second and third generations of Icelandic settlers formed a decentralized society based on a multicentered political and social order. The nationally leaderless governmental structure, established (ca. 930) with the creation of the Althing,⁶ displays only the faintest outlines of a hierarchical arrangement.

Far out in the North Atlantic and with no national or regional commanders to lead disputes with other countries over dynastic claims, territorial dominance, trade, or wealth, Iceland developed in semi-isolation. Beyond the consensus that it was wise to be on friendly terms with the Norwegian king, for centuries Iceland had no foreign policy. From the settlement until the mid-thirteenth century, Iceland's independence was an accepted fact. The island was never invaded nor to our knowledge did Iceland mount an attack against another country.⁷ The result was an inward-looking nation that was aware of, and at times influenced by, the cultures of other medieval lands but which depended on its own institutions and leaders to maintain viability and stability.

In contrast with the major leaders of other medieval societies, who were often separated from their supporters by intermediaries, Iceland's fifty or so chieftains,⁸ each of whom owned or shared ownership of a *goðorð*, dealt directly with their followers. *Grágás* (hereafter abbreviated GG),⁹ the thirteenth-century collections of Free State law, clearly define the freeman's right to choose his *goði*, a right characteristic of a nonterritorial concept of authority.¹⁰

⁶ While one might expect the settlers to have established many local assemblies. *Íslendingabók*, *Land námabók*, and the sagas together offer evidence that only two local assemblies, the Kjalarnes Thing and the Þórsnes Thing, preceded the creation of the Althing.

⁷ The sagas contain many references to adventurous individuals who went abroad and joined viking or mercenary bands. *Hungrvaka*, however, contains an interesting short statement that during the episcopate of Iceland's first bishop Ísleifr Gizurarson (1056-1080) some Icelanders became vikings: "lögðust sumir menn út í viking ok á herskap"; *Hungrvaka, in Byskupa sögur* 1, ed. Guðni Jónsson (Reykjavík 1953), chap. 2, p. 5.

⁸ The number of chieftaincies established with the creation of the Althing is not clear, although scholars often assume it was thirty-six. A major constitutional reform (ca. 965) set the number of *goðorð* at thirty-nine, but the actual number of chieftains at any particular time may have been higher. Several people might share a *goðorð*, while in the eleventh century several new chieftaincies were instituted. For a discussion of the different types of *goðorð* see Björn Sigfússon, "Full goðorð og farn og heimildir frá 12. öld," *Saga* 3 (1960) 48-75.

⁹ The standard edition of *Grágás* was edited by Vilhjálmur Finsen and published in three volumes. 1a and 1b: *Grágás: Islændernes Lovbog i Fristatens Tid*, udgivet efter dei kongelige Bibliotheks Haandskrift (Copenhagen 1852); 2: *Grágás efter det Arnamagnænske Haandskrift Nr. 334 fol.* Staðarhólsbók (Copenhagen 1879); and 3: *Grágás: Stykker, sum findes i det Arnamagnænske Haandskrift Nr. 351 fol.* Skálholtsbók og en Række andre Haandskrifter (Copenhagen 1883). *Grágás* is abbreviated GG, and citations are given by volume and page number.

¹⁰ The major territorial restriction was that a farmer could not choose a chieftain outside of his quarter of the island. There were, however, a few exceptions: *bændr* who lived on Hrutafjörðr were allowed to cross the fjord and a chieftain could accept a thingman outside of his quarter if permitted to do so at the *lögberg* at the Althing (GG ía.140-141).

A man shall declare himself in thing [part of a chieftain's assembly group] with whatever *goði* he wishes. Both he and the chieftain shall name for themselves witnesses in order to witness that he [the farmer] declares himself there, along with his family and household and livestock, in thing [with the chieftain]. And that the other accepts him. (GG 1a.137)¹¹

Once a farmer had chosen a *goði* he was not bound to him, hut had the right to change.

If a man wants to declare himself out of the thing [relationship with his *goði*], it is the law that he declare himself so at the springtime thing, if he enters into a thing relationship with another *goði*, who is a *goði* of the same springtime thing. So also if he enters into a thing relationship with another *goði* who has an assembly group within the same thing district. It is the law that at the Althing he declare himself out of the chieftain's assembly third [a chieftain's following] at the high court at the *lögberg* [the lawrock], if the *goði* hears [or listens]. If the *goði* does not hear, then he must say it to him directly, and in that instance it is the law that he declare himself out of the thing in the presence of witnesses for himself. And on the same day he must declare himself to be in a thing relationship with another *goði*. (GG 1a.140)¹²

By the same token, the chieftains could break off a relationship with a thingman.

If a *goði* wishes to declare himself out of thing with a thingman [thus ending their thing relationships then he shall notify him [the thingman] a fortnight before the springtime thing or with more notice. And then it is the law that he should tell the man at the springtime thing. (GG 1a.141)¹³

In practice, the free exercise of the right to change leaders was tempered by traditions of personal and family loyalty, as well as by practical considerations, such as proximity to a chieftain. Probably freemen did not change chieftains frequently. Yet, the option was available, and farmers, particularly rich and important ones, could, if dissatisfied, shift their allegiance; in extreme instances, some moved.¹⁴ Because of the weak hold of *goðar* on their thingman and the competition among chieftains for the allegiance of *bændr*, individual chieftains were unable to impose taxes successfully on their followers. The only significant tax collected by chieftains from their thingmen was the unremunerative *þing* attendance tax (*þingfararkaup*)¹⁵

¹¹ The Icelandic text reads: "Maðr skal segiaz íþing með goða þeim er hann vill. scolo þeir nefna ser vatta baþir hann oc goðinn. At því vætte. at hann segz þar íþing och hans oc bu. oc fe. en hinn teer við."

¹² The Icelandic text reads: "Ef maðr vill segiaz or þingi. oc er rett at hann segiz or avarþingi ef hann fer i þess goða þing er samþingis goðe er við hin. sva oc of hann fer við han goða íþing er þing á ieno sama þingmarke. Rett er at hann segize or þriþiungi goða a alþingi at háðom domum at lögbergi ef goði heyrir. Ef goði heyrir eigi oc skal hann segia honom til enda er rétt at hann segize brott með vatta fyrir honom siálfom. en in sama dag skal hann segia sic íþing við anan goða." See also GG 2,277--278.

¹³ The Icelandic text reads: "Ef goði vill segia þing man sin abrott or þingi við sic. or scal hann segia honom xiiii, nóttom fyrir varþing eða meira meli. enda er rett at hann segi honom avarþingi." See also GG 2.278-279; 3.426-427.

¹⁴ *Sturlunga saga*, ed. Jón Jóhannesson, Magnús Finnbogason, and Kristján Eldjárn, 1 (Reykjavík 1946), offers many examples of farmers moving in the later centuries of the Free State, a time when the territorial authority of the *goðar* was increasing: *Sturlu saga*, chaps. 3, 6, 9, 23, 26; *Gudmundar saga dýra*, chap. 4; *Hrafns saga Sveinbjarnarsonar*, chap. 13; *Íslendinga saga*, chaps. 6, 13, 18, 32, 33, 52, 53, 56, 59, 81, 83, 146, 166.

¹⁵ *Þingfararkaup* has two meanings. It refers not only to the tax levied on the farmers staying home

which covered at best some of the travel expenses to the Althing incurred by a chieftain and his thingmen.

Leaders in other Norse settlements were not so constrained as were the Icelandic chieftains. In Orkney, leaders had the right to impose taxes and to demand services from the farmers. Like Iceland, the Orkney islands were settled by Norwegians during the Viking period. Orkney, however, was closer to Norway and to the British Isles and was threatened by both. From early on, the Orkneys were ruled by jans. *Orkneyinga saga* relates the following about Einarr Sigurðarson who took control over two-thirds of Orkney sometime after 1014 when his father the jarl was killed while aiding Viking allies against the Irish in the battle of Clontarf near Dublin:¹⁶

Einarr became a strong ruler and assembled a large band of followers. During the summers he was often out raiding and called out large levies of ships and men from throughout the land. The resulting plunder, however, was not consistently rewarding. The farmers became tired of this duty, but the jarl held them harshly to their duties and taxes and made sure that no one spoke publicly against him. Einarr was a thoroughly dominating man and all the payments and services that he imposed on the farmers caused a serious famine in his part of the earldom [*jarldómr*]. (chap. 13)

In Iceland the *goðar* did not have the authority of lords, and the lord-peasant relationship, so widespread elsewhere in Europe, barely existed. Although there were differences among farmers in wealth and influence, even tenant farmers retained most freemen's rights. According to *Grágás* only hired hands and impoverished fishermen were denied the right to choose their own *goði*, although the extent to which a tenant farmer felt free to exercise his rights must have varied with the landlord.

A man who begins householding in the spring shall declare himself in thing wherever he wishes; it is a household where a man has milking stock. However, if a man is a landowner, he shall declare himself in thing even if he has no milking stock. If he is not a landowner and has no milking stock he follows the thing choice of the householder in whose care he places himself. If he is living in fishing huts, then he follows the thing choice of the man who owns the land on which he is living. (GG Ia. 136)¹⁷

Rather than flowing into the hands of *goðar*, power remained in the hands of stubborn farmers who jealously guarded their own rights and interests. Since the

from) the Althing but also indicates the funds the *goði* paid out to those farmers who accompanied him to the Althing. The expenses seem to have canceled out profits. For views on the profitability of *þingfarar kaup* see GG 3.702, "Ordregister"; Sigurður Nordal, *Íslenzk menning* 1 (Reykjavík 1942) 124; Jóhannesson (n. 2 above) 67; Lárusson (n. 3 above) 71; Jakob Benediktsson, "Landnám og upphaf allsherjarríkis," in *Saga Íslands*, ed. Sigurður Linda], 3 vols. (Reykjavík 1974-1978) 1.174; Björn Þorsteinsson, *Íslenzka þjóðveldið* (Reykjavík 1953) 101, and *Ný Íslandssaga: Þjóðveldisöld* (Reykjavík 1966) 85.

¹⁶ *Orkneyinga saga*, ed. Finnboði Guðmundsson, Íslenzk fornrit (hereafter abbreviated ÍF) 34 (Reykjavík 1965) 28-29.

¹⁷ The Icelandic text reads: "Maðr sa er by görir vin vár scal segia sic iþing þar er hann vill. þat er by er maðr hefir málnytan smala. þo scal hann segia sic i þing þótt hann hatfe eigi mal nyto of hann er landeigande. Ef hann erat landeigande oc hefirat málnyto oc verðr hann þar i þingi er sa boande er er hann felr sec ini um. Ef hann er ifssei scáлом oc verðr hann þar iþingi er sa maðr er. er lanð þat á er hann býr á." A line from "Skipan Sæmundar Ormssonar" (1245) corroborates the fact that the chieftains drew their thing-tax-paying followers (see note below) from both landowners and tenant farmers: "... scal hveirr bonde sa er þing farar kavpe gegnir hvart sem hann er landeigande æða leiglingingr ..."; *Diplomatarium islandicum: Íslenzkt fornbréfasafn* 1.2 (Copenhagen 1859) 536. The extent of the Icelandic landowners' power over their tenants is an issue which needs to be further investigated.

goðar did not have the claim to obedience, they functioned by gaining the consent, often through gifts and other forms of solicitation, of the society's politically important populace, the *þingfararkaupsbændr*.¹⁸ These 4,000 or 5,000¹⁹ substantial heads of households controlled most of the island's productive land, and almost all the population, estimated at 60,000, lived on their farms. The relationship between a *goði* and his thingman was a personal bond, a contract for mutual support and aid between two parties which was unhampered by executive institutions.

In the absence of a policing apparatus, public authority was maintained by personal agreements usually arrived at between leaders acting as advocates for an individual or a group. Such decisions usually took place at a local *þing*, at the Althing, or at a meeting between two or more important leaders. The settlement of disputes and the process of government in early Iceland were not characterized by the command of an authoritative individual, or by organized warfare, but by intricate negotiation and compromise. The courts which met routinely served as governmental institutions ad hoc, that is, they did not engage in acts of governance until called upon to provide judgments in response to specific situations. In such an atmosphere the *goðar* assumed the role of legal middlemen, specialists in feud, who—because of self-interest, preexisting kin or political obligations, or payment—were willing to help a farmer embroiled in a dispute. The compensations to the *goðar* for their services, descriptions of which are found throughout the family and the Sturlunga sagas, formed a major source of income for the chieftains and made up for the lack of taxation revenues. Until recently scholars have not recognized this profitable source of income for the chieftains.

The law in Iceland held out the promise of equal rights, but the political reality was that only consensus among the *goðar* (acting as representatives of their followers) was sufficient to make the complex legal system work routinely. From the early tenth century until the twelfth century Iceland's unusual governmental system functioned well in response to the needs of the insular society. Even in the thirteenth century, when the emergence of a small group of powerful chieftain families strained the balance of decision-making, the older governmental forms were not replaced.

Without the revenue generated by consistent trade, town life, or systematic taxation in a given territorial area, the Icelandic chieftain's power and the resources available to him were not built on the concept of an exploitable realm. Rather, *goðar* and prosperous farmers operated as leaders of interest groups continually jockeying for power. The negotiations, political maneuverings, and compromises, strikingly portrayed in the family and Sturlunga sagas, followed a pattern of action in which

¹⁸ *Þingfararkaupsbændr* (thing-tax-paying farmers) were those farmers who owned a certain minimum of property—a cow, a boat, or a net – for each person in their charge (GG 1a.159; 2.320; 3.173, 431-432). The specifics and requirements of *þingfararkaup* have been the subject of much scholarly discussion. See Sveinbjörn Rafnsson, *Studier i Landnámabók: Kritiska bidrag till den isländska fristatstidens historia*, Bibliotheca historiae Lundensis 31 (Lund 1974) 135, esp. n. 9; Jakob Benediktsson, ed., *Íslendingabók, landnámabók*, ÍF 1 (Reykjavík 1968) 23, n. 5.

¹⁹ According to Ari Froði in *Íslendingabók* (chap. 10), ÍF 1.23, Bishop Gizurr Ísleifsson (1082-1118) carried out a census around the year 1100 and determined that there were thirty-eight "hundred" *þingfararkaupsbændr*. If the term "hundred" stood for 120 as was the custom, then the number of substantial farmers at this time was approximately 4560. Gunnar Karlsson, "Frá þjóðveldi til konungsríkis," in *Saga íslands* (n. 15 above) 2.5.

prominent individuals gained their ends by brokering their power on behalf of themselves, of others for whom they were acting as advocates, or of their interest groups.²⁰ Rarely did one leader succeed in imposing his will on others for very long.

The lateral system of decision-making depended upon a standard of moderation, termed *hóf*. One who applied this standard was called a *hófsmaðr*, a person of justice and temperance. The opposite of *hóf*, failure to observe restraint, was termed *óhóf*, meaning excess or intemperance. Adherence to *óhóf* alarmed both friend and foe and led to the exercise of peer pressure; frequently the sagas say that people in a district expressed disapproval of one action or another. When carried to extremes the practice of *óhóf* was termed *ójafnaðr*, meaning unevenness, unfairness, or injustice. *Ójafnaðr* disturbed the consensual nature of decision-making and set in motion a series of coercive responses; for example, when an important individual's greed or ambition threatened the balance of power, other leaders banded together in an effort to counter immoderate behavior. Action against an unruly individual (often called an *ójafnaðarmaðr*, a man of *ójafnaðr*), instead of causing civil unrest or an upheaval in governmental authority, led to the small adjustments in the balance of power which form the basis of many saga stories.

RECIPROCITY

Central to the operation of Icelandic interest groups was the ideal of stability through reciprocity rather than control by command. Kinship often played a secondary role in such groupings: neighboring farmers and members of the same kin group served as thingmen of different and sometimes rival *goðar*. Icelandic kinship arrangements were decidedly different from the traditional ancestor-oriented kinship structures in the mother country, Norway. With emphasis on patrilineal descent, the Icelandic kinship system was usually egocentric and the families were basically nuclear.²¹ Icelandic kinship arrangements provided categories of kinsmen rather than corporate groups. Unlike a Norwegian who could often expect distant kinsmen to aid him, an Icelander could assume support only from his nearest relations—siblings, maternal and paternal uncles, brothers-in-law. The sagas repeatedly stress the distinction between blood kinsmen (*frændr*) and the nearest affinal male relatives such as fathers-in-law and sons-in-law (*mágar*).²²

The weakened protective umbrella of the extended family or clan was compensated for by a well-developed system of political alliances. The sagas often speak of *vinfengi* and *vinátta*, contractual "friendship" alliances that formed a vital network of obligations supplementing the non-blood kinship bonds resulting from marriage, fosterage, and sworn brotherhood. These formal political friendships allied, often for short periods of time and for specific court cases, chieftains and farmers to counter an opposing, usually encroaching, claim. A large part of family saga narrative is devoted to describing the process of promising aid and establishing temporary alliances.

²⁰ Byock (n. 5 above) 37- 38 and 74-92.

²¹ Preben Meulengracht Sorensen. *Saga og samfund* (Copenhagen 1977) 30-36.

²² *Mágar* (pl., fern. *Mágkonur*) constituted a category of *sifjar*, a broader term designating general relationship by marriage. *Frændsemi* (blood relationship) is contrasted to *sifjar* (affinity).

Reciprocity has operated in many early and modern societies. Its role becomes more dominant in societies that rely upon bonds of obligations rather than upon a formal arrangement of institutions. The absence of dominant leaders does not in itself mean an absence of order; rather, it suggests a lateral social control with decisions made according to community norms instead of administrative orders. In Iceland reciprocity served as the primary structuring mechanism of society.

MILITARY DEFENSE.

Isolated in the North Atlantic, Iceland was so distant from other European lands that it did not need to develop a military chain of command for defense against invasion,²³ Further, the Icelanders did not divide up their island into independent antagonistic regions as in Norway, Sweden, and Denmark or into competing territorial clans as in Ireland. Nowhere do the Free State laws deal with questions of military preparation, and Iceland had no army or coastal defense, not even regional military arrangements.

In its freedom from external threat, Iceland was different from the rest of the Norse world and from Europe, where the possibility of attack was often a decisive factor in the formation of governmental structures. In Norway the ever-present need for defense caused regional communities to create cohesive military and political units. For instance, the necessity to mobilize rapidly in times of danger imposed a discipline on the groups that survived. In such regional entities, each stratum of society knew its place and rank under the leadership of petty kings, jalls, or local military commanders (*hersar*, sing. *hersir*). Local areas were required to equip and to man all or part of a ship or to raise a band of soldiers. After Harald Fine Hair (ca. 870-930) had united all of Norway, the existing military arrangements were expanded into a system of national defense, the Old Norwegian levy (*leiðangr*), in which farmers from the different regions often formed separate units.

THE EFFECT OF LEAVING EUROPE

As a people the Icelanders existed only because of an overseas migration; their lives, their ambitions, and perhaps their goals were shaped not by dynamics analogous to those found in Norwegian petty kingdoms, but by the forces endemic in their new society. This society, Richard Tomasson argues, shares some of the traits and dynamics of other "new societies" formed by overseas migrations of Europeans to distant lands: New societies—at least at first—are characterized by the lessened influence of kin and traditional community. The Hobbesian war of all against all so latent in new societies has a tendency to be mitigated by the development of law

²³ According to Snorri Sturluson's account in *Óláfs saga helga*, King Óláfr tried to overcome the distance by asking the Icelanders to give him Grímsey, a small island north of Iceland. The Icelanders refused the king's request, Fearing he would use the island as a military base: *Heimskringla 2*, ÍF 27. ed. Bjarni Aðalbjarnarson (Reykjavík 1945) 216-217.

over kinship as the source of authority. Law tends to assume a central role in new societies, a role greater than in mother countries."²⁴

Like countries formed by later European transmarine migrations, medieval Iceland was a "fragment society," a type of society that by detaching itself from a "whole society" lacks the stimulation for taking part in the developing social issues of the mother culture.²⁵ As Louis Hartz has observed, fragment societies experience "a rich interior development";²⁶ issues current in the mother country at the time of separation are elaborated on in a manner not possible in the homeland within the confines of the European continuum. Inward-looking and freed from those confines, the fragment society often develops in a form "unrecognizable in European terms."²⁷

Iceland was, as Kurt Schier points out, a "terra nova," a land where "a new beginning of a community, the creation of new political, legal, and social orders"²⁸ was possible. Its innovative societal model may be traced to the conditions of the settlement. The fundamental ingredient in the development of the Icelandic systems of governmental order and of decision-making is that Iceland was an immigrant society of free farmers formed at a time when Scandinavian kings were enlarging their authority at the expense of the traditional rights of freemen.

LAND

Landownership was another means of enforcing hierarchical control, but the apportionment of land in early Iceland did not encourage a system of vassalage. Some of the earliest settlers certainly had the ambition of becoming regional lords and claimed enormous areas, sometimes entire fjords. But these first *landnámsmenn* (landtakers) lacked the means to defend their princely land claims from newcomers demanding land. Although the later sources tell of duels fought over land on the challenge of men who arrived after the first settlers, we do not know how much violence accompanied the second phase of the settlement. The sagas and *Landnámabók* (the Book of Settlements) also tell of many generous grants of property. Most probably the earliest *landnámsmenn* (a term which indicates both men and women) rapidly saw the wisdom in granting or in selling at a reasonable price the land which the newly arrived immigrants had come so far to acquire. Within a generation or two a social leveling took place; as new settlers arrived the original landtakes were divided up into relatively equal estates.

²⁴ Richard F. Tomasson, *Iceland: The First New Society* (Minneapolis 1980) 12. Tomasson places medieval Iceland in the category of "fragment new societies like America or Australia, New Zealand or Argentina," noting that medieval Iceland "is the first 'new nation' to have come into being in the full light of history. and it is the only European society whose origins are known" (p. 4).

²⁵ At every point, from medievalism to modernity, and within modernity itself, ... Europe renews itself out of its own materials. Under these circumstances it is not hard to see why the extrication of the fragment from Europe at any point should have fateful consequences for its future conservatism. When it leaves Europe, it cuts short the process of the European contagion When it leaves its first antagonist, it leaves all of the future antagonists that the first inspires" (Louis Hartz, *The Founding of New Societies* [New York 1964] 7).

²⁶ *Ibid.* 6

²⁷ *Ibid.* 4

²⁸ Kurt Schier, "Iceland and the Rise of Literature in Terra Nova," *Gripla* 1 (1975) 171.

Once the land had been transferred to followers or to new settlers it was totally alienated from the family of the original settler and became through an allodial type of land ownership²⁹ the sole possession of the family to which it had been granted. Military or financial ties of interdependence agreed to when the first *landnámsmenn* transferred parcels of property to latecomers soon disappeared in the absence of any threat, internal or external, sufficient to bind the *bændr* of a fjord or inland valley into cohesive defensive units commanded by local aristocrats.³⁰ The leading families among the settlers soon faced a situation in which their claims to authority and regional hegemony had little viability in a dispersed rural society grouped around several thousand free and basically equal *bændr*.

THE ICELANDIC SOCIETAL MODEL

In early Norway lateral and vertical systems of decision-making were coexistent, but only with the understanding that a leader—usually one whose authority was assured by preexisting ties of loyalty—took precedence in wartime. This arrangement found its origin in the Germanic past. In spite of the old romantic ideas of primitive democracy, the forms of assembly and election that existed in ancient Germanic society functioned in a social order constructed around aristocrats.³¹ These individuals, mostly warriors but also administrators and priests, followed different leaders both "popular and military" such as the Gothic *reiks* and *þiudans*.³² During the earlier migration period a prince gathered a retinue of warriors and a following of women and children, with all their belongings. In large undertakings such as the conquering of new territory, several princes would pledge allegiance to a leader who, if the venture was successful, became a warlord.

The situation was not radically different in Viking Age Norway. There in times of peace the power of kings and jarls was moderated by the decisions of their subjects at

²⁹ Byock (n. 5 above) 148-149.

³⁰ Some of the initial settlers, such as Geirmundr Heljarskinn, a Norwegian of noble blood and a successful Viking captain, did try to live in a lordly fashion. According to probably exaggerated stories in *Landnámabók*, chaps. 113-116 (ÍF 1.152-157), and in *Sturlunga saga I, Geirmundar þáttur Heljarskins*, pp. 5-11, Geirmundr drew on the great wealth which he brought with him to Iceland, maintaining four large estates and traveling with a bodyguard of eighty men. At his death, Geirmundr's extensive holdings were broken up.

³¹ See Heinrich Mitteis's discussion of the place of folkmoths and the relationship between the 'ban' and folk-law in the early Frankish state in *The State in the Middle Ages*, trans. H. F. Orton (Amsterdam 1975) 42-47; see also Franz Irsigler. "On the Aristocratic Character of Early Frankish Society," in *The Medieval Nobility*, ed. and trans. Timothy Reuter (Amsterdam 1979) 105-136. The Germanic *comitatus* with a king or war leader at its head was early introduced into Anglo-Saxon England, affecting the hierarchical nature of Anglo-Saxon government, as Walter Schlesinger points out, long before feudal elements were introduced: Walter Schlesinger. "Lord and Follower in Germanic Institutional History," in *Lordship and Community in Medieval Europe*, ed. Fredric L. Cheyette (New York 1968) 84. Schlesinger (65-66) also notes similarities in social stratification between later Roman and Germanic societies. This similarity is stressed (perhaps overstressed) by Robert Fossier in his survey *Histoire sociale de l'Occident médiéval* (Paris 1970), pp. 28-34. See also Herwig Wolfram, "Gotisches Königtum und römisches Kaisertum von Theo, dosius dem Grossen bis Justinian I.," *Frühmittelalterliche Studien* 13 (1979) 1-28,

³² Herwig Wolfram discusses distinctions among the higher ranks of early Germanic leaders, "popular and military," in "The Shaping of the Early Medieval Kingdom," *Viator* 1 (1970) 1-20.

the thing. In times of war, however, the power of these leaders increased significantly.³³ With no organized warfare to contend with, the Icelanders in the late ninth and early tenth centuries nurtured institutions designed to govern a whole country while eschewing the major elements of hierarchical governmental order prevalent in their Scandinavian homelands. The same insular development distinguished Iceland's emerging society from contemporary viking communities established around the edge of northern Europe in Orkney, Ireland, Caithness, England, and Normandy, among other places.³⁴

From early on, the possibility of regional fragmentation was a major threat to Iceland's internal cohesion, but the Althing system of government successfully countered this danger. When regional antagonisms arose, arbitrators, usually individuals with wide-ranging family and political alliances stepped in to separate the parties and arrange compromise agreements. In extreme instances, as in the major feud between Þórðr Gellir and Tungu Oddr in the mid-960s, the constitution was changed and new procedures were instituted to lessen the chance of future regional confrontations.³⁵

Arbitrators were interested not only in stopping regional antagonisms but in finding solutions to most destructive feuds. Arbitrators turn up constantly in the family and Sturlunga sagas,³⁶ where they are often called *góðgjarnirmenn*, men of good deeds, or *góðviljamenn*, men of goodwill. They did not constitute a separate class or a semi-official body; they were simply farmers and chieftains who were themselves often involved in their own feuds. Successful arbitration of the quarrels of others was a public demonstration of a commitment to *hóf*; it also compensated the individual by increasing his stature, leading to new alliances, and on occasion bringing in a money payment. To a degree the society was stabilized and order was maintained because leaders realized the benefits of increased power and profit in settling the feuds of others. The importance of this factor is reinforced when we remember that the free farmers upon whom a leader depended could also demand moderation in the conduct of feud. They were not members of a *comitatus* committed to dying for someone else's honor, but landowners and householders whose interests were better served by compromise solutions than by pitched battles.

In Iceland there was no operating concept of lordship. Closeness to the inner workings of the legal system was the advantage that the *goðar* had over the *bændr*. As advocates the *goðar* dealt in power politics and operated through channels of conflict resolution. The relationship between *goði* and *bóndi* was motivated by self-interest and tempered by an awareness of mutual dependency. The major vertical

³³Citing Rimbart, *Vita Anskarii*, ed. G. Waltz. *Scriptures rerum Germanicatum* (Hanover 1884), Erik Lönnroth notes that in times of war the Swedish kings exercised great power: Erik Lönnroth, "Government in Medieval Scandinavia," in *Gouvernés et gouvernants 3: Bas moyen âge et temps modernes* (I), Recueils de la Société. Jean Bodin pour l'histoire comparative des institutions 24 (Brussels 1966) 454.

³⁴The Faroe Islands, which are far smaller than Iceland, are also at a considerable distance from the mainland and developments there show some similarities to what transpired in Ireland.

³⁵Aspects of this feud are recounted in Ari Þorgilsson's *Íslendingabók* and in *Hænsa-Þóris saga*, ed. Sigurður Nordal and Guðni Jónsson in *Bargfirðinga sögur*. ÍF 3 (Reykjavík 1938) 1-47.

³⁶William Ian Miller, "Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland." *The American Journal of Legal History* 28 (1984) 95-134; J. L. Byock. "Dispute Resolution in the Sagas." *Gripla* 6 (1984) 86-100.

Step that existed was the distinction between farmer and chieftain. This distinction becomes less clear when we remember that the *goðar* were not a legally defined class. Norwegian law, unlike Icelandic law, distinguishes among many ranks of farmers, yeomen, and aristocrats (such as *árborinn maðr*, *reksþegn*, *hauldr*, *lendr maðr*, *hirð maðr*, *stallari*, and *jarl*) and assesses different monetary values to regress personal injury according to rank and class.³⁷ In Iceland, the right to lawful redress for injury and the amount prescribed, six marks (forty-eight legal ounces), were the same for all freemen, whether farmer or chieftain.³⁸ Especially in the early centuries the *goðar* were “farmer-chieftains,” that is leaders of farmers who lived like prosperous farmers among farmers. Chieftaincies could be bought, shared, traded, or inherited, and, through much of the Free State’s history, a *goðorð* was accessible to the most ambitious and successful *bændr*, a factor which further helped to stabilize the society.

The absence of firm class distinctions between Icelandic chieftains and farmers is corroborated by the terms of the treaty between the Icelanders and the Norwegian king Saint Óláfr Haraldsson (1014-1030). First made orally sometime during Óláfr’s reign, the agreement was committed to writing (ca. 1056-1057) when it was attested to by oaths for a second time.³⁹ The treaty is the oldest extant Old Norse document about Iceland and is preserved in *Grágás*.⁴⁰ The agreement, which remained in force, until the end of the Free state (1262-1264), does not differentiate between *goðar* and *bændr* but states that “Icelanders are to have the rights of *hauldar* in Norway”: “Islendingar eiga at hafa havllz rett i noregi.”⁴¹ The term “rights” (*réttr*) refers to lawful claim to redress possessed by and individual subjected to personal injury. *Hauldr* (pl. *hauldar*, Old Icelandic *holdr*) is a Norwegian legal term referring to a type of higher yeoman, an owner of allodial land.⁴²

Apparently the category of *hauldr* was acceptable to all Icelanders no matter how important. The older version of the Norwegian Gulathing law established a time period before and an Icelander’s social station was reevaluated: “Islendingar eigu haulldzrett meðan þeir ero i kaupforum. til þeir hava her verity vetr, iij, oc hava buit, her. þa scal hann hava slican rett sem mann bera hanom vitni til.” (“The Icelanders shall have the rights of *hauldar* while here, passing three winters, then the individual shall be accorded such rights as men bear witness to.”)⁴³ The treaty with Saint Óláfr also granted rights to subjects of the king when in Iceland. Without distinction of Norwegian rank, the Icelanders gave the Norwegians “the same rights enjoyed by Icelanders” (“slikan sem landz menn”).⁴⁴

³⁷ There were noteworthy variations between the different provinces with their diverse laws. See for example “Um rettarfar manna” section of *Den ældre Gulathingis-Lov in Norges gamle Love indtil 1387* I, ed. R. Keyser and P. A. Munch (Christiania [Oslo] 1847) 71.

³⁸ GG Ia 155; 2.202, 313-314, 350, 369, 390; 3.434. Bjarni Einarsson, “On the Status of Free Men in Society and Saga,” *Mediaeval Scandinavia* 7 (1974) 47.

³⁹ Jóhannesson (n. 2 above) 109-117.

⁴⁰ GG Ib. 195-197; 3.463-466.

⁴¹ GG 3.464.

⁴² Arne Bøe, “Hauld,” *Kulturhistoriskt lexicon för nordisk medeltid* (hereafter abbreviated as KHL), 22 vols. (Malmö 1956-1978) 6.251-254.

⁴³ *Den ældre Gulathingis-Lov* (n. 37 above) 71.

⁴⁴ GG 3.464.

COURT SYSTEMS

The functioning of the Icelandic system of lateral decision-making relied upon the country's extensive court structure. Courts both in the home districts and at the Althing were not convened in response to specific circumstances but operated on a set, public schedule.⁴⁵ As a result of the constitutional reforms of the mid-960s the island was divided into quarters. Each quarter was arranged into local thing district: three in the Southern, Eastern, and Western Quarters and four in the Northern Quarter. The holding of each district assembly was the joint responsibility of the three local chieftains. Each springtime assembly (*várþing*) was held approximately five weeks before the Althing. It was the most important local assembly because it included both judicial and regulatory functions. All local farmers and *goðar* were required to attend the *várþing* and together they participated in disputes, resolutions, and alliances. A generally political atmosphere must have prevailed.

At the same time that the island was divided into quarters, a system of "quarter courts" (*fjóðrungsdómar*) was established at the Althing. The four *fjóðrungsdómar* heard cases of the first instance of cases on appeal from the *várþing*. In order to induce impartiality, the four farmers appointed by each chieftain as judges to these Althing courts would be assigned by lot to one of the courts. Judges might be disqualified because of kinship or other reasons that might prejudice their decision. The system of seating judges further discouraged regionalism; farmers became acquainted with the issues and disputed of other quarters, and decisions were standardized throughout the country. The final reform of the court system was the establishment of the court of appeals (the *fimtardómr*) at the Althing (ca. 1005). Cases referred to the *fimtardómr* from the quarter courts were decided by a majority vote of the *bændr* judges.⁴⁶ The regularity and the dependability of the Icelandic courts reveal the society's desire that parties quickly find acceptable and publicly approved solutions to disputes. Both local and Althing courts offered Icelandic leaders an outlet for their ambitions, and to a large extent the events at these courts reflected the political situation of the country. Not only did freemen and chieftains meet there to settle differences, but at legal assemblies leaders tested each other.

Focusing on the traditional Norse-Germanic rights of freemen, the Icelanders in the tenth century developed those rights in isolation from the privileges of kings and the other state of Viking society. They expanded the ancient Norse-Germanic concept of the local freemen's assembly and, in the process, created a body of law that in its entirety was unlike anything that had previously existed in Scandinavia. Freemen in Norway as well as in the rest of Scandinavia and in Anglo-Saxon England possessed many rights analogous to those enjoyed by Icelandic farmers. These rights, however, were valid in a more limited sphere than in Iceland. The relationship between farmers and their leaders in Norway was part of a local and national system of

⁴⁵ All Icelandic *things* were *skapþing* (GG 1.140; 2.227). This means they were governed by established procedure and met at regular legally designated intervals, at a predetermined meeting place. No special announcement was required each time the *thing* should meet. For discussions of courts, see: Lárusson (n. 3 above) 55-118; Jóhannesson (n. 2 above) 66-83; and Eyvind Fjeld Halvorsen, "Dómr: Island," KHL 3.217-218.

⁴⁶ GG 1a.77.

decision-making that took into consideration the prerogatives and designs of kings and other military, political, and, later, clerical leaders.

The presence in Norway of *hersar* and their transformation into royal liegemen is an example. Although we do not know for certain when the *hersar* first became powerful local leaders, it is clear that they were already present in the Viking Age before the settlement of Iceland. *Herr*, the first part of this hereditary title, means "a military troop," reflecting the military nature of the position. In the eleventh century with the growth of the power of Norway's national kings, the title was phased out and a new title *lendir maðr* (landed man, pl. *lendir menn*) took its place. This change most likely did not involve new families, for in organizing a network of sworn liegemen throughout the realm, the kings apparently saw the wisdom of incorporating rather than replacing the traditional figures of local authority. Writing about the struggle between King Óláfr Haraldsson and Jarl Sveinn Hákonarson for control of Norway in 1015-1016, Snorri Sturluson gives in *Óláfs saga helga* a picture of the role played by the *lendir menn*.⁴⁷

Jarl Sveinn (the son of Jarl Hákon) assembled troops from throughout all of the Trondheim region immediately after Yule; he called out the levy and also prepared the ships. At that time there were many *lendir menn* in Norway. Many of them were powerful and so high-born that they were directly descended from the blood of kings and jarls, and were only a few generations distant. They were also extremely wealthy. Whoever governed the land, whether king or jarl, was dependent upon the *lendir menn* because in each region the landed men guided the farmers' army. Jarl Sveinn was very friendly with the landed men and had plenty of troops. His brother-in-law Einarr Þambarskelfir [paunch-shaker], a powerful local leader,⁴⁸ had joined the jarl as well as many other landed men. (chap. 46)

In much the same way that the Norwegian yeomen feared the power of the king and his royal servants such as the *ármenn* (stewards of wealthy royal estates), the farmers were wary of the potential encroachments of the *lendir menn*. The old Norwegian laws give us a sense of the farmers' unease in their relationship with these local aristocrats. According to the older *Frostaping* law written in the thirteenth century, "It is old law that . . . , *lendir menn* shall not enter the *lögrretta* [a form of law court] unless the free farmers give their consent" ("Þat er fornt rétt at ... eigi scola lendir menn koma í lögrétto nema búendr gefi leyfi til," 1.2).⁴⁹ Although we are not in a position to determine whether *lendir menn* always observed such a restriction on their power, it is nevertheless dear that aristocratic leaders made many important decisions and enjoyed vital prerogatives, immunities, and exemptions.

The chieftains in Iceland did not possess the rights exercised by aristocrats in other lands. In Iceland from the ninth to the twelfth century the concerns of the free farmers dominated the spectrum of governmental activity. Legal and administrative decisions were fashioned within the context of a general belief in the inviolability of the rights of freemen. These rights were guaranteed to the point where chieftains as late as the twelfth century had no legal charge to maintain law and order. The *goðar*

⁴⁷ Snorri Sturluson, *Óláfs saga helga* (n. 23 above).

⁴⁸ Einart Þambarskelfir plays an important role in *Óláfs saga helga*, and in *Haralds saga Sigurðarsonar in Heimskringla* 3, ÍF 28, ed. Bjarni Aðalbjarnarson (Reykjavík 1951).

⁴⁹ Den ældre Frostathings-Lov, in *Norges gamle Love* (n. 37 above) 1.127.

enjoyed no special legal rights empowering them to act in the defense of their supporters, and conversely were under no obligation to do so. When a chieftain acted in his own interest or in the interest of another, it was as a private individual. This situation left a *goði* open to prosecution by other freemen, a factor which apparently dampened rashness. Being a *goði* was not a professional vocation that carried with it rights to an official income. Rather, being a chieftain was an opportunity to offer services as an advocate. The position had a certain entrepreneurial air to it. In an island society with limited economic opportunity, *goðorðsmenn* (chieftains) were individuals most ready to be asked to intervene in the disputes of others. Without stepping into the realm of *ójafnaðr*, such individuals sought to see what profit, status, and perhaps good might be reaped.

Until recently, scholars have tended to assume that a strong similarity existed between Old Norwegian and Old Icelandic laws. The chief evidence for this view comes from the historian Ari fróði (1067-1148). According to Ari's *Íslendingabók* (written ca. 1122-1133), a man named Úlfljótr was sent (ca. 930) back to western Norway to learn the law of the Gulapíng. For many reasons scholars today doubt the authenticity of Ari's story.⁵⁰ An important figure in Ari's account, Porleifr inn spaki, and the age of the Gulapíng are questioned. Rather than being ancient tradition, the Gulapíng and its law probably were the products of late political reorganizations. Ari's intent in telling the story also raises questions. Because of his own political and family ties, Ari may well have exaggerated in his writings the importance of Norwegian influence.

If Úlfljótr did exist and did undertake such a trip, his task was probably to seek clarification on certain matters about which the Icelanders, in fashioning their own laws, were unsure, rather than to bring back a whole legal code. Most important, the laws of the Gulapíng, parts of which are extant in late manuscripts, and the Free State's *Grágás* are so different that consistent similarities between the two are few. Jakob Benediktsson sums up the dissimilarity between these two legal formulations: "Norwegian legal traditions applied only to a limited extent in the society which was being created in Iceland. In many areas establishing new constitutional arrangements and new legal procedures was unavoidable. The innovations were then little by little hallowed by custom."⁵¹

RELIGIOUS ORGANIZATION

Along with the absence of a military chain of command, early Iceland functioned without a religious hierarchy. In pre-Christian times the individual chieftains were responsible for maintaining a temple for their followers and the term *goði* is derived from the Old Norse word *goð* (god) reflecting the religious function of the original position. After the formal acceptance of Christianity in the year 999 (or 1000), the

⁵⁰ Sigurður Línal, "Sendiför Úlfljórs: Ásamt nokkrum arhugasemdum um landnám Ingólfs Árnarsonar." *Skírnir* 143 (1969) 5-26.

⁵¹ Jakob Benediktsson (n. 15 above) 1.171: "norskur venjuréttur gar ekki átt við nema að nokkru leyri í því þtódfélagi sem var á skapast á Íslandi: á mörgum sviðum hefur verið óhjálkaæmilegt að skapa nýtt skipulag, nýjar réttarreglur, sem hafa síðan smám saman helgazz af venju."

new religion was absorbed into the functioning social structures, as many chieftains took holy orders and exchanged the upkeep of pagan temples for that of churches. Only in the last decades of the eleventh century did the church establish a separate organization, but by then the normative patterns of Icelandic decision-making had been in place for more than a century and a half.⁵²

Church authority in Iceland was divided almost equally between two bishoprics, one in the south at Skálholt (established 1057) and the other in the north at Hólar (established 1107). The two bishops were often prominent and prestigious men; however, beyond governing the internal life of the church, these religious leaders exercised little real authority. This reality is underscored by the failure of Iceland's two reform bishops, Þorlákr Þorhallsson (the saint, 1178-1193) and Guðmundr Arason (1203-1237), to effect lasting increase in the church's political, economic, or governmental roles. Through a consensus formalized at the Althing, Icelandic secular leaders selected the country's two bishops, a practice which ignored the policy of the Roman Church (especially in the wake of the Second Lateran Council in 1139). Chieftains and influential farmers met at the assemblies and regulated almost all points of contention between the church and lay society.

Virtually nowhere in medieval Europe, especially in the twelfth and thirteenth centuries, did laymen exercise as much control over the church as they did in Iceland. Secular courts heard all cases, including those stemming from breaches of the Christian law, contained in *kristinna laga þáttir* (the Christian law section) of *Grágás*. The bishops' powers did not include judicial authority except in instances when a priest disobeyed his superior. Even in this situation the church in Iceland was ill equipped to exercise its prerogatives. Each trial required the formation of a new church court, and at times cases were turned over to secular courts because churchmen were unable to execute their own judgments.⁵³

CONCLUSION

With the boundaries of leadership severely constrained the new society functioned by means of collective agreement among nonterritorial interest groups. A group gathered around a leader, usually a *goði*, and remained cohesive because of overt and consciously expressed self-interest. Without the traditional requirements for central leadership, the self-contained Icelandic state had no need for an authoritative ruling class. Under Iceland's unique circumstances, the potential aristocrats of the early tenth century adapted their ambitions to a situation in which they were not lords and functioned as territorial leaders only in the most limited sense. The result was an unusual system of lateral order.

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⁵² J. L. Byock, "Cultural Continuity, the Church, and the Concept of Independent Ages in Medieval Iceland." *Skandinavistik* 15.1 (1985).

⁵³ Magnas Stefánsson, "Kirkjuvald eflist," in *Saga bland'* (n. 15 above) 2.70-71.